

Insurance & Banking Subcommittee

Tuesday, March 21, 2023
11:30 AM - 1:30 PM
Morris Hall (17 HOB)

Meeting Packet

Paul Renner
Speaker

Wyman Duggan
Chair

The Florida House of Representatives

Commerce Committee

Insurance & Banking Subcommittee

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Meeting Agenda

Tuesday, March 21, 2023
11:30 am – 1:30 pm
Morris Hall (17 HOB)

I. Call to Order

II. Roll Call

III. Welcome and Opening Remarks

IV. Consideration of the following bill(s):

- HB 487 Department of Financial Services by Salzman
- HB 743 Estoppel Letters by Fabricio
- HB 901 Secured Transactions by Fabricio
- HB 1185 Consumer Protection by Giallombardo
- HB 1575 Public Safety Emergency Communications Systems by Brackett

Consideration of the following proposed committee substitute(s):

- PCS for HB 253 -- Regulation of Securities
- PCS for HB 1111 -- Value-added Insurance Products

V. Closing Remarks

VI. Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 487 Department of Financial Services
SPONSOR(S): Salzman
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Lloyd	Lloyd
2) Appropriations Committee			
3) Commerce Committee			

SUMMARY ANALYSIS

The Chief Financial Officer (CFO) is an elected member of the Cabinet, serves as the state's chief fiscal officer,[1] and is designated as the State Fire Marshal. The CFO is the head of the Department of Financial Services (DFS). Changes made by the bill include:

- Authorizing the Div. of Accounting and Auditing to issue electronic payments of salary without exception for hardship; increase medical payment timeline from 35 days to 40 days;
- Reducing the time an insurer may cancel a policy during the post-issuance underwriting period; requiring insurers to bear certain costs and make certain elections prior to mediation of claims;
- Authorizing the suspension of agent appointments by insurers for non-payment of costs;
- Increasing the value of motor vehicle claims eligible for the DFS mediation program; making certain procedural changes related to the DFS mediation program;
- Reducing certain administrative obligations of title agents and agencies; changing certain continuing education requirements; reducing barriers to licensing;
- Expanding the circumstances when DFS can suspend, revoke, or refuse to renew or continue the licenses and the types of criminal offenses that can disqualify an insurance agent licensee;
- Allowing reciprocal non-resident licenses in certain circumstances; eliminating temporary bail bond licenses and creating a means to convert to regular bail bond agent licenses; specifying the qualifications of a primary bail bond agent;
- Converting bail bond agency registration to licensure;
- Improving processing of insolvent insurer estates;
- Authorizing a State Fire Marshal direct support organization;
- Allowing any governmental employee to participate in the Deferred Compensation Plan;
- Ratifying the 2020 Workers' Compensation Health Care Provider Reimbursement Manual; eliminating the need for future Reimbursement Manual ratifications;
- Creating term limits, ethical requirements, and other improvements to specified Boards; authorizing the CFO to remove Board members in certain circumstances; allowing DFS to provide legal services to the Boards;
- Prohibiting certain practices in the issuance of collateral protection insurance;
- Increasing the reserve requirement for warranty associations;
- Requiring remission of bail bonds in certain circumstances.

The bill has an insignificant impact on state government revenues and expenditures and no impact on local government. It has indeterminate impacts on the private sector. Except as specified in the bill, it is effective upon becoming law.

[1] Art. IV, s. 4, Fla. Const.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

ORGANIZATION OF THE DEPARTMENT OF FINANCIAL SERVICES

The Chief Financial Officer (CFO) is an elected member of the Cabinet, serves as the state's chief fiscal officer,[2] and is designated as the State Fire Marshal. The CFO is the head of the Department of Financial Services (DFS). Effective January 2003, the Department of Insurance, Treasury, State Fire Marshal, and the Department of Banking and Finance merged to form DFS. DFS consists of 13 divisions and several specialized offices.[3] DFS is composed of the following divisions and independent office:

- Accounting and Auditing;
- Consumer Services;
- Funeral, Cemetery, and Consumer Services;
- Insurance Agent and Agency Services;
- Investigative and Forensic Services;[4]
- Public Assistance Fraud;
- Rehabilitation and Liquidation;
- Risk Management;
- State Fire Marshal;
- Treasury;
- Unclaimed Property;
- Workers' Compensation;
- Administration; and the
- Office of Insurance Consumer Advocate.

Division of Accounting and Auditing

The mission of the Division of Accounting and Auditing is to safeguard public assets, settle the state's financial obligations, report financial information, and improve accountability of the state.[5] The Division includes the Bureau of Unclaimed Property and the Office of Fiscal Integrity. It is also empowered by statute to "examine, audit, adjust, and settle the accounts of all the officers of this state, and any other person in anywise entrusted with, or who may have received any property, funds, or moneys of this state, or who may be in anywise indebted or accountable to this state for any property, funds, or moneys, and require such officer or persons to render full accounts thereof, and to yield up such property or funds according to law, or pay such moneys into the treasury of this state, or to such officer or agent of the state as may be appointed to receive the same, and on failure so to do, to cause to be instituted and prosecuted proceedings, criminal or civil, at law or in equity, against such persons, according to law."[6] In executing this power, the Division has the authority to conduct investigations, as necessary inside and outside of the state, and refer any suspected criminal conduct to the appropriate law enforcement and prosecutorial agency.

Every state and local government entity provides its financial information to DFS annually, so DFS can prepare annual financial statements for the state of Florida and provide an online clearinghouse for the financial statements of every county, municipality, and special district in Florida. The Florida Open Financial Statement System is open to public inspection.[7]

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[2] Art. IV, s. 4, Fla. Const.
[3] S. 20.121, F.S.
[4] This division includes the Bureau of Forensic Services; Bureau of Fire, Arson, and Explosives Investigations; Office of Fiscal Integrity; Bureau of Insurance Fraud; and Bureau of Workers' Compensation Fraud.
[5] FLORIDA DEPARTMENT OF FINANCIAL SERVICES, *Accounting & Auditing*, http://www.myfloridacfo.com/Division/AA/ (last visited Mar. 19, 2023).
[6] S. 17.04, F.S.
[7] S. 218.32(1)(h), F.S.

Effect of the Bill

The bill makes the following changes within the purview of the Division of Accounting and Auditing:

- For the purposes of direct deposit of paychecks, removes the authority for an employee to request a paper paycheck due to a hardship.
- For the purposes of a payment by a state agency or the judicial branch to a health care provider or hospital, directly or indirectly, an additional five days is added to the prompt pay period; changing it from 35 days to 40 days. This would mirror the generally applicable state prompt pay law, which provides for a 40-day period.[8]
- Adds county agencies, municipalities, and special districts[9] to those public entities that must have adequate controls over tangible property.

Division of Consumer Services

The Division of Consumer Services deals with consumer issues and complaints related to the jurisdiction of DFS and the Office of Insurance Regulation (OIR). The Division:

- Receives inquiries and complaints from consumers;
- Prepares and disseminates information as DFS deems appropriate to inform or assist consumers;
- Provides direct assistance and advocacy for consumers; and
- Reports potential violations of law or applicable rules by a person or entity licensed by DFS or OIR to the appropriate division within DFS or OIR, as appropriate.[10]

FINANCIAL LITERACY FOR FOSTER YOUTH

Foster care transition plans must be developed during the year after a child reaches 16 years of age. The transition plan must be developed by the child, with assistance from the Department of Children and Families (DCF) and the community-based care provider, in collaboration with the caregiver and any other individual the child would like to include. The transition plan is in addition to standard case management requirements and must address specific options for the child to use in obtaining services, including housing, health insurance, education, a driver license, and workforce support and employment services.[11]

The transition plan also addresses financial literacy. It requires that DCF and the community-based provider provide information for the financial literacy curriculum for foster youth offered by DFS. Additionally, the financial literacy skills training available under aftercare services shall be the curriculum offered by DFS.

Effect of the Bill

The bill:

- Removes the requirement that DCF and the community-based care lead agency provide DFS curriculum for youth in developing and updating the transition plan. DFS asserts that this is duplicative to high school graduation requirements passed in 2022.[12]
- Reduces the time period in which a property and casualty insurer may cancel or terminate a policy that has just gone into effect. It allows the insurer 60 days, rather than 90 days, to cancel or terminate a policy for reasons other than non-payment. The required 20 days' notice of such cancellation or termination remains unchanged.
- Prohibits a liability insurer from cancelling a motor vehicle property damage and bodily injury policy solely on the basis that an insured is not cooperating with the insurer in an investigation,

[8] S. 215.422(3), F.S.
[9] As defined in s. 189.12, F.S.
[10] S. 20.121(2)(h), F.S.
[11] S. 39.6035(1), F.S.
[12] See 2022 HB 1115, High School Graduation Requirements in Personal Finance. Ch. 2022-17, Laws of Fla. However, this law does not affect youths not in high school, which may include certain foster children.

unless the non-cooperation results in actual prejudice to the insurer. The insurer is required to establish the prejudicial conduct of the insured by a preponderance of the evidence.
- Mandates that a property insurer either make a claim determination or elect to repair under applicable law prior to participating in mediation allowed by statute.
- Allows DFS to suspend an insurer's ability to appoint agents to represent the insurer if the insurer does not pay required mediation fees timely.
- Removes a requirement that DFS adopt rules governing qualifications, denials of application, suspension, revocation of approval, and penalties applicable to mediators related to DFS property insurance claim mediation program.
- Expands eligibility for the DFS mediation program for motor vehicle personal injury claims from those under $10,000 in value to those under $50,000 in value.
- Provides that mediation costs must be reasonable, that the insurer bears all such costs, but requires the policyholder must pay the costs of rescheduling mediations in certain circumstances. If an insurer representative attends a mediation, but lacks authority to settle the claim, the insurer is deemed to have not appeared, in which case the insurer must pay the insured's actual costs of attendance and the cost of rescheduling the mediation, including DFS' costs. If the per-mediation-event administrative fee is not paid timely, the mediation administrator may request that DFS suspend the insurer's ability to appoint agents to represent the insurer.
- Removes mediation-related tolling of time to file a lawsuit on the disputed claim.
- Deletes a requirement that the policy include details on requirements for filing of first-party claims mediation.
- Repeals mediation program requirements, including:
    - That the mediation must be a formal process;
    - Mediators be randomly selected, with options and process to handle rejections of the selected mediator; and,
    - Equal sharing of costs.

Division of Insurance Agent and Agency Services

The DFS Division of Insurance Agent and Agency Services is responsible for the licensing and regulation of insurance agents, adjusters, insurance agencies, as well as related personnel and business entities.[13]

No person may be, act as, or advertise, or hold himself/herself out to be an insurance agent, insurance adjuster, or customer representative unless he or she is currently licensed by DFS and appointed by an appropriate appointing entity or person.[14] There are several types of insurance representatives. These include:
- General lines agents,
- Life insurance agents,
- Health insurance agents,
- Title insurance agents,
- Personal lines agents, and
- Unaffiliated insurance agents.[15]

General Lines Agent

A general lines agent[16] is one who sells the following lines of insurance: property;[17] casualty,[18] including commercial liability insurance underwritten by a risk retention group, a commercial self-insurance

[13] Ch. 626, parts I, II, III, IV, V, VI, VIII, IX, and XIII, F.S.
[14] S. 626.112, F.S.
[15] S. 626.015, F.S.
[16] S. 626.015(5), F.S.
[17] S. 624.604, F.S.
[18] S. 624.605, F.S.

fund,[19] or a workers' compensation self-insurance fund;[20] surety;[21] health;[22] and, marine.[23] The general lines agent may only transact health insurance for an insurer that the general lines agent also represents for property and casualty insurance. If the general lines agent wishes to represent health insurers that are not also property and casualty insurers, they must be licensed as a health insurance agent.[24]

Title Agents and Agencies

Title insurance insures owners of real property (owner's policy) or others having an interest in real property, as well as lenders (mortgagee policies) against loss by encumbrance, defective title, invalidity, or adverse claim to title. It is a policy issued by a title insurer that, after evaluating a search of title, insures against a number of covered risks, including title defects or liens that are not identified as exceptions. In Florida, title insurers operate on a monoline basis, meaning that the insurer can only transact title insurance and cannot transact any other type of insurance.[25]

Bail Bond Agents

Currently, a person may not act as a bail bond agent or temporary bail bond agent unless qualified, licensed, and appointed.[26] A person also may not represent himself or herself to be a bail enforcement agent, bounty hunter, or other similar title, and a person, other than a certified law enforcement officer, may not apprehend, detain, or arrest a principal on a bond unless qualified, licensed, and appointed.[27]

Effect of the Bill

The bill makes the following changes related to agents and agencies:

Generally –

- Removes the requirement that applicants be fingerprinted at a designated examination center; but, retains the remaining fingerprinting options that include a law enforcement agency or other DFS-approved entity.
- Relieves title insurance, life insurance, and annuity insurance agents and agencies from the requirement that they notice all active policyholders of an office closure that is more than 30 days because the related policies are not continually serviced by the agent or agency.
- Clarifies that a licensee that possesses an advanced degree beyond a Bachelor's degree is eligible for a reduced continuing education requirement; six hours every two years, rather than 20 hours every two years, or other variations thereof depending on experience and credential.
- Removes a prohibition on licensees holding a limited license in motor vehicle damage and mechanical breakdown insurance, industrial fire insurance, burglary insurance, or credit insurance from holding multiple licenses.
- Expands the type of criminal background that allows DFS to suspend, revoke, or refuse to renew or continue the license or appointment of a licensee to include a misdemeanor related to the financial services business, this is in addition to any felony or crime punishable by one year or more in prison.
- Allows DFS to suspend, revoke, or refuse to renew or continue the license or appointment of a licensee who has lost their resident license in another state.
- Permits DFS to suspend, revoke, or refuse to renew or continue the license or appointment of a title agent or agency that:

[19] As defined in s. 624.462, F.S.
[20] Pursuant to s. 624.4621, F.S.
[21] S. 626.606, F.S.
[22] Ss. 624.603 and 627.6482, F.S.
[23] S. 624.607, F.S.
[24] S. 626.829, F.S.
[25] S. 627.786, F.S.
[26] S. 648.30(1), F.S.
[27] S. 648.30(2) and (3), F.S.

    - Misappropriates, converts, or unlawfully withholds funds related to an escrow agreement, real estate sales contract, or settlement of a real estate transaction; or
    - Is the subject of an adverse action against a license or similar credential in another state, a court of competent jurisdiction, or federal agency, or similar.
- Reduces a reinsurance intermediary credential from a license to an appointment and removes the $50 application and license fee for a reinsurance intermediary; such intermediaries are otherwise licensed as another type of insurance licensee.
- Allows DFS to cancel an insurer's ability to appoint agents when an insurer fails to timely pay the exchange of business fee that the insurer is beholden to pay for the agent and applicable to reported agent production activity.
- For the purposes of title agents and agencies;
    - Defines the term "closing services" which is currently used in statute, but is not defined.
    - Changes the authority to act as an escrow agent from the title agent to the title agency and removes the obligation to invest the escrow funds consistent with the requirements applicable to state investment of funds.
- Broadens the qualifying continuing education courses that public adjusters may take from those specially designed for public adjusters to any related to commercial and residential property and casualty coverage, claim adjusting, and any other adjuster courses approved by DFS.
- Allows DFS to deny the privileges of a temporary adjuster who has been lawfully appointed during a catastrophe or emergency for any violation described in Ch. 626, F.S., rather than only those in ss. 626.611 and 626.621, F.S.
- Provides for expiration of a health insurance navigator's registration if the navigator's fails to maintain a valid, active federal registration.
- Allows for reciprocal licensing of warranty salespersons on a non-resident licensing basis and for conversion of the license to a resident license in specified circumstances. Provision is also made for discipline and removal of this license consistent with the means and methods applicable to similar licenses. This applies the each of the warranty-related licenses: motor vehicle service agreement companies, home warranty associations, and service warranty associations.

Bail Bonds –

- Eliminates the "temporary bail bond agent" license type; ends issuance of such licenses as of January 1, 2024; and expires all such licenses as of June 30, 2025.
- Removes authority to grant temporary licensure to the surviving spouse of a licensee to facilitate transfer or wrap-up of the deceased's bail bond operations.
- Allows DFS to share complaint and investigatory information with other qualified law enforcement or regulatory agencies.
- Converts bail bond agency registration to licensure; requires all commensurate filings and actions consistent with such licensure and other similar types of licensure.
- Clarifies that bail bond agents and agencies must have insurer appointments to conduct business.
- Requires bail bond agencies to pay a fee; however, the referenced statute does not specify such fee, the bill does not amend that statute to create the fee, and there is no associated fee bill to create the fee.
- Allows required classroom instruction to be conducted in in-person and virtual formats consistent with the format allowed for other lines.
- Establishes qualifications for designation as the primary bail bond agent of an agency, which includes 24 months of experience as a bail bond agent immediately preceding the appointment.
- Allows permissible in-jail advertising to include and email address and web address.
- Prohibits all in-person or telephone contacts by bail bond agents or agencies between 9:00 pm and 8:00 am, rather just those related to domestic violence cases.

Division of Rehabilitation and Liquidation

Part I of ch. 631, F.S., relates to insurer insolvency and governs the receivership process for insurance companies in Florida. Federal law specifies that insurance companies cannot file for bankruptcy.[28] Instead, they are either "rehabilitated" or "liquidated" by the state. In Florida, the Division of Rehabilitation and Liquidation of DFS is responsible for rehabilitating or liquidating insurance companies.[29] This process involves the initiation of a delinquency proceeding and the placement of an insurer under the control of DFS as the Receiver. The typical causes of insurer insolvency include undercapitalization, uncollectible or inflated assets, insufficient loss reserves for risks assumed, fraudulent transactions, failure to monitor agents, and mismanagement by directors and/or officers.[30]

Upon a determination by OIR that one or more grounds exist for the initiation of delinquency proceedings and that such proceedings must be initiated, OIR must notify DFS of such determination and must provide DFS with all necessary documentation and evidence.[31] DFS subsequently initiates delinquency proceedings by either applying to the appropriate court for an order directing such an insurer to show cause why the proceedings should not be initiated or petitioning the court for the entry of a consent order.[32]

Effect of the Bill

The bill:

- Authorizes DFS as the Receiver to transfer estate property to a solvent insurer and share records with a prospective assuming insurer to extent necessary to conduct due diligence in the possible transfer of obligations.
- Permits the Receivership Court to set a date requested by the Receiver for policy cancellation as an earlier alternative to dates currently specified in statute.

Division of State Fire Marshal

Chapter 633, F.S., Fire Prevention and Control, designates the CFO as the State Fire Marshal (SFM). The SFM, through the Division of the State Fire Marshal within DFS, is charged with enforcing the provisions of ch. 633, F.S., and all other applicable laws relating to fire safety.[33] The SFM also has the responsibility to minimize the loss of life and property due to fire.[34] Pursuant to this authority, the SFM regulates, trains, and certifies fire service personnel and firesafety inspectors; investigates the causes of fires; enforces arson laws; regulates the installation of fire equipment; conducts firesafety inspections of state property; and operates the Florida State Fire College.

The State Fire Marshal has two bureaus:

- The Bureau of Fire Prevention conducts safety inspections and reviews construction plans for all state-owned buildings, regulates fireworks and the fire sprinkler industry, inspects and licenses boilers, and certifies persons working in the fire suppression industry; and
- The Bureau of Firefighter Standards and Training approves curricula and training at the Florida State Fire College and certifies that fire service members meet industry standards. Persons may be certified as a volunteer firefighter, firefighter, or administrator of a fire service provider (*i.e.* fire chief, fire coordinator, fire director, or fire administrator).[35]

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[28] The Bankruptcy Code expressly provides that "a domestic insurance company" may not be the subject of a federal bankruptcy proceeding. 11 U.S.C. § 109(b)(2). The exclusion of insurers from the federal bankruptcy court process is consistent with federal policy generally allowing states to regulate the business of insurance. See 15 U.S.C. § 1012 (McCarran-Ferguson Act).

[29] Typically, insurers are put into liquidation when the company is insolvent whereas insurers are put into rehabilitation for numerous reasons, one of which is an unsound financial condition. The goal of rehabilitation is to return the insurer to a sound financial condition. The goal of liquidation, however, is to dissolve the insurer. *See* s. 631.051, F.S., for the grounds for rehabilitation and s. 631.061, F.S., for the grounds for liquidation.

[30] Department of Financial Services, Agency Analysis of 2017 House Bill 837, p.2 (Feb. 20, 2017).

[31] S. 631.031, F.S.

[32] *Id.*

[33] S. 633.104 F.S.

[34] *Id.*

[35] Department of Financial Services, Division of State Fire Marshal, *What We Do*, https://myfloridacfo.com/Division/SFM/ (last visited Mar. 19, 2023).

Effect of the Bill

The bill authorizes the Division of State Fire Marshal to create a direct support organization to be known as the "State Fire Marshal Safety and Training Force" to support the safety and training of firefighters and recognize exemplary service.

Division of Treasury

The division keeps a record of the warrants and other orders of the CFO.[36] The division also pays warrants and accounts for all state funds and securities.[37] Under current law, the Division of Treasury is required to turn over all warrants paid by the division which were drawn by the CFO or the Comptroller, to the Division of Accounting and Auditing.[38] The general records schedule for state and local government requires that warrants be maintained for a minimum of five fiscal years after the transaction is completed.[39]

The CFO, with approval of the State Board of Administration, is required to establish a deferred compensation plan for state employees under the "Government Employees' Deferred Compensation Act." A deferred compensation plan is a retirement savings plan that allows eligible employees to supplement any existing retirement and pension benefits by saving and investing before-tax dollars through a tax-deferred voluntary salary contribution. The Deferred Compensation Plan is open to employees of state agencies, State University System, State Board of Administration, and other special district employers (subject to employer election). These various constituencies are delineated in statute and represented by a member of the Deferred Compensation Advisory Council. The Deferred Compensation Plan has been in operation for over 35 years and offers a reasonably priced supplemental retirement savings program.

Effect of the Bill

The bill:

- Allows a governmental employee of any governmental unit of the state to participate in the Deferred Compensation Plan.
- Expands the membership of the Deferred Compensation Advisory Council from seven members to eight members. The additional member will be an executive branch appointee made by the Chancellor of the Florida College System who must be an employee of the system.

Division of Workers' Compensation

Florida's Workers' Compensation Law[40] requires employers to provide injured employees all medically necessary remedial treatment, care, and attendance for such period as the nature of the injury or the process of recovery may require.[41] The Department of Financial Services, Division of Workers' Compensation (DFS), provides regulatory oversight of Florida's workers' compensation system, including the workers' compensation health care delivery system. The law specifies certain reimbursement formulas and methodologies to compensate workers' compensation health care providers[42] that provide medical services to injured employees. Where a reimbursement amount or methodology is not specifically included in statute, the Three-Member Panel is authorized to annually adopt statewide schedules of maximum reimbursement allowances (MRAs) to provide uniform fee

[36] *Id.*
[37] *Id.*
[38] S. 17.56, F.S.
[39] Florida Department of State, *General Records Schedule GS1-SL for State and Local Government Agencies,* (2017).
[40] Ch. 440, F.S.
[41] S. 440.13(2)(a), F.S.
[42] The term "health care provider" includes a physician or any recognized practitioner licensed to provide skilled services pursuant to a prescription or under the supervision or direction of a physician. It also includes any hospital licensed under chapter 395 and any health care institution licensed under chapter 400 or chapter 429. S. 440.13(1)(g), F.S.

schedules for the reimbursement of various medical services.[43] DFS incorporates the MRAs approved by the Three-Member Panel in reimbursement manuals[44] through the rulemaking process provided by the Administrative Procedures Act.[45]

Medical Services

DWC is responsible for ensuring that employers provide medically necessary treatment, care, and attendance for injured workers. Healthcare providers must receive authorization from the insurer before providing treatment and submit treatment reports to the insurer. Insurers must reimburse healthcare providers based on statewide schedules of maximum reimbursement allowances developed by the DWC or an agreed-upon contract price. DWC mediates utilization and reimbursement disputes.[46]

In 1980, the Legislature delegated authority over maximum reimbursement allowances to a Three-Member-Panel which consists of the Insurance Commissioner (as a representative of the Chief Financial Officer) and two others appointed by the Governor and subject to confirmation by the Senate. Section 440.13(12)(a), F.S., states: "Annually, the three-member panel shall adopt schedules of maximum reimbursement allowances for physicians, hospital inpatient care, hospital outpatient care, ambulatory surgical centers, work-hardening programs, and pain programs."

The Medical Services Section within the DWC provides administrative support to the panel, which is statutorily charged with collecting data to evaluate the adequacy of the fee schedule, surveying healthcare providers to determine the availability and accessibility of healthcare, and surveying carriers to determine the impact of changes to the reimbursement schedule.[47] According to DWC, medical costs represent 67 percent of all workers' compensation costs in Florida.

Maximum reimbursements approved by the Three-Member Panel must be based on the following statutory requirements:

- For inpatient treatment, hospitals must be reimbursed 75 percent of the usual and customary charges;[48]
- For schedule surgeries, hospitals must be reimbursed 60 percent of the charges;[49]
- For physicians, reimbursement is 110 percent of the reimbursement allowed by Medicare for an office visit and 140 percent of the reimbursement allowed by Medicare for a surgical procedure.[50]
- For prescription medications, reimbursement is the wholesale price plus a $4.18 dispensing fee; but for repackaged or relabeled prescription medications, reimbursement is 112.5 percent of the average wholesale price plus an $8 dispensing fee.[51]

Healthcare providers cannot recover fees that are higher than those outlined in the schedule. This applies to treatment, care, and attendance provided by any hospital or other healthcare provider, ambulatory surgical center, work-hardening program, or pain program.[52] Florida courts have enforced fee schedule limits against healthcare providers who sought higher fees for their services.[53]

The law requires reimbursement to medical providers at either the agreed-upon contract price or the maximum reimbursement allowed in the appropriate schedule.

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[43] S. 440.13(12), F.S.
[44] Ss. 440.13(12) and (13), F.S., and Ch. 69L-7, F.A.C.
[45] Ch. 120, F.S.
[46] S. 440.13, F.S.
[47] S. 440.13(12)(e), F.S.
[48] S. 440.13(12)(a), F.S.
[49] S. 440.13(12)(b), F.S.
[50] *Id.*
[51] S. 440.13(12)(c), F.S
[52] S. 440.13(12)(d), F.S.
[53] *Sun Bank/South Florida, N.A. v. Baker*, 632 So. 2d 669 (Fla. 4th DCA 1994), cause dismissed, 639 So. 2d 982 (Fla. 1994); citing, *Easter Elevator Co. v. Hedman,* 290 So. 2d 56, 58 (Fla. 1974).

The Three-Member Panel adopts the schedules as an independent entity, but DWC relies on the schedules when rendering determinations in reimbursement disputes between healthcare providers and insurance carriers,[54] and when adopting fee schedules for services rendered by medical providers.[55] As a result, DWC adopts the maximum reimbursement schedules through rulemaking, and, when the cost of a schedule exceeds $1 million in the aggregate within a five-year period, the adopted rule is subject to legislative ratification.

The Administrative Procedures Act requires a statement of regulatory cost that includes an economic analysis showing whether the rule directly or indirectly:

1. Is likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of $1 million in the aggregate within 5 years after the implementation of the rule;
2. Is likely to have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of $1 million in the aggregate within 5 years after the implementation of the rule; or
3. Is likely to increase regulatory costs, including any transactional costs, in excess of $1 million in the aggregate within 5 years after the implementation of the rule.[56]

The law provides three exemptions to the ratification requirement. Legislative ratification does not apply to triennial updates of the Florida Building Code and Florida Fire Prevention Code, which are expressly authorized by statute, or when a state agency adopts federal standards or rules that are needed to receive federal funds or other benefits under federal law.[57]

The Legislature ratified the 2016 manual for healthcare providers, which increased the overall cost of the workers' compensation system by 1.8 percent, or $64 million.[58]

The Legislature declined to ratify reimbursement manuals for:

- Ambulatory surgical centers – the 2016 manual proposed an increase of 0.6 percent or $22 million; the 2017 manual proposed an increase of 1.1 percent or $40 million.[59]
- Healthcare providers – the 2017 manual proposed an increase of 0.1 percent, or $4 million.[60]
- Hospitals – the 2016 and 2017 manuals proposed increases of 2.2 percent, or $80 million.[61]

On October 22, 2020, DFS filed a rule adopting the 2020 Health Care Reimbursement Manual approved by the Three-Member Panel setting a revised uniform schedule of MRAs for physicians and other recognized practitioners.[62] According to the National Council on Compensation Insurance, the revisions to MRAs in the 2020 Edition will result in increased costs to the overall compensation system of $8 million over the next five years, as of November 16, 2020.[63]

Effect of the Bill

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[54] S. 440.13(7), F.S.
[55] S. 440.13(13), F.S.
[56] S. 120.541(2)(a), F.S.
[57] S. 120.541(4), F.S.
[58] Three Member Panel, 2019 Biennial Report, https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjjgNuTnun9AhWIr4QIHYLrBecQFnoECA8QAQ&url=https%3A%2F%2Fwww.myfloridacfo.com%2Fdocs-sf%2Fworkers-compensation-libraries%2Fworkers-comp-documents%2Freports%2Fthree-member-panel%2F2019-biennial-report.pdf%3Fsfvrsn%3Db3c08839_4&usg=AOvVaw20P1pPOhVMVyfoJ2TFEMvc , at 18 (last visited Mar. 19, 2023).
[59] *Id.*
[60] *Id.*
[61] *Id.*
[62] Email from Austin Stowers, Legislative Affairs Director, Department of Financial Services, RE: . Department of Financial Services Rule 69L-7.020, F.A.C. (Jan. 30, 2023).
[63] The National Council on Compensation Insurance, Inc., *Analysis of Florida Medial Fee Schedule Changes Proposed to be Effective July 1, 2021* (Nov. 16, 2020).

The bill:

- Ratifies Rule 69L-7.020, F.A.C., allowing the rule to go into effect. The Rule incorporates by reference the 2020 Edition of the Manual, which provides for reimbursement of health care providers under the increased MRAs approved by the Three-Member Panel. The National Council on Compensation Insurance estimates that this will produce a 0.2 percent increase in workers' compensation rates, as of November 16, 2020. This increase would likely be incorporated into the next annual rate filing for OIR approval, to become effective January 1, 2024, which could be an overall increase or decrease in total rate, after considering the entirety of the annual rate filing.
- Removes the authority of the Three-Member Panel to adopt maximum reimbursement allowances for individually licensed health care providers, work-hardening programs, pain programs, and durable medical equipment providers. Rather, it requires DFS to post the maximum reimbursement allowance for physician and non-hospital reimbursements on its website by July 1st each year, to become effective the following January 1st. This seeks to remove the health care provider reimbursements from rulemaking and the applicable legislative rule ratification requirement for rules that increase private sector costs by more than $1 million in the aggregate over five years.[64]
- Repeals the statutory incorporation of an outdated medical practice and parameters requirement.[65]

Miscellaneous

Effect of the Bill

The bill also makes the following changes:

Boards within the CFO's Appointment Authority:

Florida Self-Insurers Guaranty Association, Inc. (Section 8)
Florida Insurance Guaranty Association (Section 41)
Florida Life and Health Insurance Guaranty Association (Section 42)
Florida Health Maintenance Organization Consumer Assistance Plan (Section 43)
Florida Workers' Compensation Insurance Guaranty Association (Section 44)
Medical Malpractice Risk Apportionment Plan (Section 32)

- Limits board members to eight consecutive years of service, they currently serve four-year terms without a term limitation;
- Allows the CFO to consider board appointment recommendations from persons with experience in applicable subject matter, in addition to current recommendation sources;
- Authorizes the CFO removal of board members based on misconduct, malfeasance, misfeasance, or neglect of duty;
- Subjects board members to the code of ethics under part III of ch. 112, F.S., with specifications regarding application of the code to the board members;
- Creates gift restrictions for board members;
- Provides penalties for board member ethical and gift acceptance violations;
- Creates a public records exemption for certain records;
- Establishes board meeting notice requirements; and,
- Authorizes DFS to provide legal services to any board or commission over which the CFO has appointment authority, including authorizing the outsourcing of legal services to be paid from the Insurance Regulatory Trust Fund.

DFS, Division of Investigative and Forensic Services (DIFS)

[64] It is unclear if this provision abrogates DFS' obligation under Ch. 120, F.S., the Administrative Procedures Act, to adopt policy and interpretations of statute via rulemaking.
[65] S. 440.13(14), F.S., requires workers' compensation medical practice parameters and protocols to adhere to the United States Agency for Healthcare Research and Quality practice parameters and protocols in effect on January 1, 2003.

- Allows DIFS to initiate, not just conduct, investigations and specifies that such investigations may cover any matter under the jurisdiction of the CFO, including the CFO's role as State Fire Marshal; and,
- Expands DIFS authority to refer suspected criminal violations for prosecution to include criminal violation of federal law, in addition to state law criminal violations.

Strategic Markets Research and Assessment Unit

- Repeals the unit and its required quarterly report on the state of the financial services industry in the state.[66]

Board of Accountancy

- Requires the board to adopt rules for specific continuing education requirements related to insurance for certified public accountants engaged in audits of insurers.

Insurer Annual Statements

- Removes a limitation that prohibits an insurer from using the same accountant or partner of an accounting firm to prepare its annual statement that is filed with OIR for more than five consecutive years, but retains the limitation applicable to an accounting firm; and,
- Removes the five-year waiting period before an accountant or partner can again be used for this purpose.

Insurance Field Representatives (Agents)

- Corrects the name of a referenced association to reflect their current name.

Continuing Education Requirements

- Authorizes the Professional in Claims (PIC) designation from 2021 Training, LLC, to be accepted for a permitted exemption from examination.

Health Insurance Notice and Disclosure Requirements

- Limits required mental health-related notices and disclosures to those health insurers that offer behavioral health insurance coverage.

Collateral Protection Insurance Practices

- Prohibits an insurer or insurance agent from:
    - Issuing collateral protection insurance on a property:
        - They or an affiliate own;
        - They or an affiliate perform the servicing; or
        - If the servicing right is owned by them or an affiliate.
    - Compensating specified entities, including through commissions, on such a policy issued by the insurer;
    - Sharing premium or risk with such entities that obtained such insurance;
    - Offering compensation based on profitability or loss ratios with affiliates;
    - Making any payments, including expense reimbursement, to such entities for securing insurance business or related services; or,
    - Providing free or below-cost services to such entities or outsource its own services on an above-cost bases to such entities.

Service Warranty Association Solvency and Surplus

- Removes the requirement that a service warranty association's debt obligation meet a specified rating standard.
- Increases the associations required minimum net worth of $100 million, rather than $10 million.

Continuing Care Retirement Communities

[66] DFS asserts that this report is duplicative and out of date. Department of Financial Services, Agency Bill Analysis HB 487, p. 3 (Feb. 15, 2023).

- Repeals the Financial Services' Commission's rulemaking authority to establish alternative dispute resolution procedures.

Court Remission or Forfeiture of Bail Bonds

- Requires remission of the bail bond when the defendant dies or extradition is not pursued.

B. SECTION DIRECTORY:

Section 1: Amends s. 20.121, F.S., relating to Department of Financial Services.

Section 2: Amends s. 39.6035, F.S., relating to transition plan.

Section 3: Amends s. 110.113, F.S., relating to pay periods for state officers and employees; salary payments by direct deposit.

Section 4: Amends s. 112.215, F.S., relating to government employees; deferred compensation program.

Section 5: Amends s. 215.422, F.S., relating to payments, warrants, and invoices; processing time limits; dispute resolution; agency or judicial branch compliance.

Section 6: Amends s. 274.01, F.S., relating to definitions.

Section 7: Amends s. 440.13, F.S., relating to medical services and supplies; penalty for violations; limitations.

Section 8: Amends s. 440.385, F.S., relating to Florida Self-Insurers Guaranty Association, Incorporated.

Section 9: Amends s. 473.312, F.S., relating to continuing education.

Section 10: Amends s. 624.424, F.S., relating to annual statement and other information.

Section 11: Amends s. 624.501, F.S., relating to filing, license, appointment, and miscellaneous fees.

Section 12: Amends s. 626.015, F.S., relating to definitions.

Section 13: Amends s. 626.171, F.S., relating to application for license as an agent, customer representative, adjuster, service representative, or reinsurance intermediary.

Section 14: Amends s. 626.173, F.S., relating to insurance agency closure; cancellation of licenses.

Section 15: Amends s. 626.221, F.S., relating to examination requirement; exemptions.

Section 16: Amends s. 626.2815, F.S., relating to continuing education requirements.

Section 17: Amends s. 626.321, F.S., relating to limited licenses and registration.

Section 18: Amends s. 626.611, F.S., relating to grounds for compulsory refusal, suspension, or revocation of agent's, title agency's, adjuster's, customer representative's, service representative's, or managing general agent's license or appointment.

Section 19: Amends s. 626.621, F.S., relating to grounds for discretionary refusal, suspension, or revocation of agent's, adjuster's, customer representative's, service representative's, or managing general agent's license or appointment.

Section 20: Amends s. 626.7492, F.S., relating to reinsurance intermediaries.

Section 21: Amends s. 626.752, F.S., relating to exchange of business.

Section 22: Amends s. 626.793, F.S., relating to excess or rejected business.

Section 23: Amends s. 626.837, F.S., relating to excess or rejected business.

Section 24: Amends s. 626.841, F.S., relating to definitions.

Section 25: Amends s. 626.8411, F.S., relating to application of Florida Insurance Code provisions to title insurance agents or agencies.

Section 26: Amends s. 626.8437, F.S., relating to grounds for denial, suspension, revocation, or refusal to renew license or appointment.

Section 27: Amends s. 626.844, F.S., relating to grounds for discretionary refusal, suspension, or revocation of license or appointment.

Section 28: Amends s. 626.8473, F.S., relating to escrow; trust fund.

Section 29: Amends s. 626.854, F.S., relating to "public adjuster" defined; prohibitions.

Section 30: Amends s. 626.874, F.S., relating to catastrophe or emergency adjusters.

Section 31: Amends s. 626.9957, F.S., relating to conduct prohibited; denial, revocation, or suspension of registration.

Section 32: Amends s. 627.351, F.S., relating to insurance risk apportionment plans.

Section 33: Amends s. 627.4133, F.S., relating to notice of cancellation, nonrenewal, or renewal premium.

Section 34: Amends s. 627.4215, F.S., relating to disclosures to policyholders; coverage of behavioral health care services.

Section 35: Amends s. 627.426, F.S., relating to claims administration.

Section 36: Amends s. 627.7015, F.S., relating to alternative procedure for resolution of disputed property insurance claims.

Section 37: Creates s. 627.7155, F.S., relating to collateral protection property insurance; prohibited practices.

Section 38: Amends s. 627.745 , F.S., relating to mediation of claims.

Section 39: Amends s. 631.141, F.S., relating to conduct of delinquency proceeding; domestic and alien insurers.

Section 40: Amends s. 631.252, F.S., relating to continuation of coverage.

Section 41: Amends s. 631.56, F.S., relating to board of directors.

Section 42: Amends s. 631.716, F.S., relating to board of directors.

Section 43: Amends s. 631.816, F.S., relating to board of directors.

Section 44: Amends s. 631.912, F.S., relating to board of directors.

Section 45: Creates s. 633.1423, F.S., relating to State Fire Marshal direct-support organization.

Section 46: Amends s. 634.171, F.S., relating to salesperson to be licensed and appointed.

Section 47: Amends s. 634.181, F.S., relating to grounds for compulsory refusal, suspension, or revocation of license or appointment of salespersons.

Section 48: Amends s. 634.191, F.S., relating to grounds for discretionary refusal, suspension, or revocation of license or appointment of salespersons.

Section 49: Amends s. 634.320, F.S., relating to grounds for compulsory refusal, suspension, or revocation of license or appointment of sales representatives.

Section 50: Amends s. 634.321, F.S., relating to grounds for discretionary refusal, suspension, or revocation of license or appointment of sales representatives.

Section 51: Amends s. 634.401, F.S., relating to definitions.

Section 52: Amends s. 634.406, F.S., relating to financial requirements.

Section 53: Amends s. 634.422, F.S., relating to grounds for compulsory refusal, suspension, or revocation of license or appointment of sales representatives.

Section 54: Amends s. 634.423, F.S., relating to grounds for discretionary refusal, suspension, or revocation of license or appointment of sales representatives.

Section 55: Amends s. 648.25, F.S., relating to definitions.

Section 56: Amends s. 648.26, F.S., relating to Department of Financial Services; administration.

Section 57: Amends s. 648.27, F.S., relating to licenses and appointments; general.

Section 58: Amends s. 648.285, F.S., relating to bond agency; ownership requirements.

Section 59: Amends s. 648.30, F.S., relating to licensure and appointment required; prohibited acts; penalties.

Section 60: Amends s. 648.31, F.S., relating to appointment taxes and fees.

Section 61: Amends s. 648.34, F.S., relating to bail bond agents; qualifications.

Section 62: Amends s. 648.355, F.S., relating to temporary limited license as Limited surety agent or professional bail bond agent; qualifications pending examination.

Section 63: Amends s. 648.382, F.S., relating to appointment of bail bond agents and temporary bail bond agents; effective date of appointment.

Section 64: Amends s. 648.386, F.S., relating to qualifications for prelicensing and continuing education schools and instructors.

Section 65: Creates s. 648.3875, F.S., relating to primary bail bond agents; qualifications.

Section 66: Amends s. 648.39, F.S., relating to termination of appointment of managing general agents, bail bond agents, and temporary bail bond agents.

Section 67: Repeals s. 648.41, F.S., relating to termination of appointment of temporary bail bond agents.

Section 68: Amends s. 648.42, F.S., relating to registration of bail bond agents.

Section 69: Amends s. 648.44, F.S., relating to prohibitions; penalty.

Section 70: Amends s. 648.441, F.S., relating to furnishing supplies to unlicensed bail bond agent prohibited; civil liability and penalty.

Section 71: Amends s. 648.50, F.S., relating to effect of suspension, revocation upon associated licenses and licensees.

Section 72: Repeals s. 651.123, F.S., relating to alternative dispute resolution.

Section 73: Amends s. 843.021, F.S., relating to unlawful possession of a concealed handcuff key.

Section 74: Amends s. 903.28, F.S., relating to remission of forfeiture; conditions.

Section 75: Amends s. 28.2221, F.S., relating to Electronic access to official records.

Section 76: Amends s. 119.071, F.S., relating to general exemptions from inspection or copying of public records.

Section 77: Amends s. 631.152, F.S., relating to conduct of delinquency proceeding; foreign insurers.

Section 78: Amends s. 631.398, F.S., relating to prevention of insolvencies.

Section 79: Amends s. 903.09, F.S., relating to justification of sureties.

Section 80: Ratifies the Workers' Compensation Health Care Providers Reimbursement Manual adopted under Rule 69L-7.020, F.A.C.

Section 81: Provides an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill eliminates certain fees that may reduce revenues an indeterminate, but likely insignificant amount.

2. Expenditures:

The bill makes numerous changes that will require systems and process changes in DFS and other agencies. The amount of the impact has not been estimated.[67]

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill requires warranty associations to have a reserve of $100 million, instead of $10 million. The bill requires motor vehicle insurers bear the entire cost of mediation. It makes various other changes that have an indeterminate, negative fiscal impact.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

The following sections of the bill present a single subject concern or violate separate bill requirements of the Florida Constitution:

- Section 2 – Department of Children and Families administration of foster child transition plans.
- Section 5 – Prompt payment of medical bills by state agencies.
- Sections 8, 32, and 41-44 – Public record exemptions and public meeting requirements applicable to various boards.
- Section 9 – Board of Accountancy continuing education requirements for certified public accountants.
- Section 10 – Limitations on insurer use of specified accountants for preparation of annual statements.
- Section 33 – Insurer terminations of coverage during the allowed underwriting period.
- Section 34 – Insurer notice requirements related to behavior health services.
- Section 35 – Insurer claims administration; limitation on cancellation for non-cooperation.

[67] See note 66, supra, p. 11.

- Section 36 – 627.7015(2) not within DFS jurisdiction, also incorrect cross-reference.
- Section 51 – Warranty association reserve requirements.
- Section 60 – New bail bond agency fee.
- Section 72 – Repeal of the Financial Services Commission rulemaking authority.

B. RULE-MAKING AUTHORITY:

The Department of Financial Services is provided rulemaking authority to implement provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to the Department of Financial Services; amending s. 20.121, F.S.; revising duties of the Division of Investigative and Forensic Services within the Department of Financial Services; authorizing the department to provide legal services to certain boards and commissions; authorizing such boards and commissions to retain independent legal services under a specified circumstances; requiring fees and costs of such independent legal services to be paid from a specified trust fund; deleting provisions relating to a specified unit within the department; amending s. 39.6035, F.S.; deleting a provision relating to the department's duty to provide certain information for transition plans for children with case plans prepared by the Department of Children and Families; amending s. 110.113, F.S.; revising circumstances under which persons appointed to state government positions may request exemptions from the direct deposit program; amending s. 112.215, F.S.; defining the term "government employee" rather than the term "employee"; specifying that the Chief Financial Officer is required to establish state plans of deferred compensation for government employees; revising the membership of the Deferred Compensation

Advisory Council; amending s. 215.422, F.S.; revising the timeframe that payments to health care providers must be made by state agencies or the judicial branch; amending s. 274.01, F.S.; revising the definition of the term "governmental unit"; amending s. 440.13, F.S.; revising the list of health care providers for the determination of statewide schedules of maximum reimbursement allowance under workers' compensation; deleting and revising provisions relating to maximum reimbursement allowances for health care services; deleting provisions relating to legislative intent; requiring the department to notify carriers and self-insurers of certain schedules of maximum reimbursement allowances; providing construction; revising factors that must be considered for the uniform schedule of maximum reimbursement allowances; deleting provisions relating to practice parameters and protocols for medical services and supplies under workers' compensation; amending s. 440.385, F.S.; limiting the number of years that members may serve on the board of directors of the Florida Self-Insurers Guaranty Association, Incorporated; revising the process for appointing members for the board; authorizing the Chief Financial Officer to remove board members from office for specified causes; providing that board

members are subject to a specified code of ethics; prohibiting board members from certain acts; providing penalties; providing that board meetings are subject to public meetings requirements; providing that certain documents are open to the public; providing exceptions; providing notice requirements for board meetings; providing exceptions; amending s. 473.312, F.S.; providing rulemaking authority relating to continuing education requirements for license renewals for specified Florida certified public accountants; requiring the Board of Accountancy to approve certain subjects for continuing education requirements for such public accountants; amending s. 624.424, F.S.; revising requirements relating to the use by insurers of accountants and accounting firm partners responsible for preparing specified reports; amending s. 624.501, F.S.; deleting a provision relating to the application filing and license fee for reinsurance intermediaries; amending s. 626.015, F.S.; revising the definition of the term "association"; amending s. 631.716, F.S.; amending s. 626.171, F.S.; deleting provisions relating to designated examination centers that provided fingerprints for certain license applications; amending s. 626.173, F.S.; providing nonapplicability of certain requirements in cases of

insurance agency closure; amending s. 626.221, F.S.; revising examination waivers for applicants for insurance agent or adjuster licenses; amending s. 626.2815, F.S.; revising continuing education requirements for certain licensees engaged in the sales of insurance or adjustments of insurance claims; amending s. 626.321, F.S.; deleting provisions prohibiting individuals holding specified insurance licenses from holding certain other insurance licenses; deleting a requirement for requests for duplicate licenses and for payments of a fee for credit insurance licensees under certain circumstances; amending s. 626.611, F.S.; providing additional grounds for refusal, suspension, and revocation of an agent's, title agency's, adjuster's, customer representative's, service representative's, and managing general agent's licenses and appointments; amending s. 626.621, F.S.; providing additional grounds for discretionary refusal, suspension, and revocation of an agent's, adjuster's, customer representative's, service representative's, and managing general agent's licenses and appointments; amending s. 626.7492, F.S.; revising the definition of the terms "producer" and "reinsurance intermediary manager"; revising circumstances under

which persons are prohibited from acting as reinsurance intermediary brokers or reinsurance intermediary managers; providing that specified requirements apply to reinsurance intermediary appointments rather than licenses; deleting the Department of Financial Services' authority to refuse to issue reinsurance intermediary licenses under certain circumstances; deleting exemptions for reinsurance intermediaries from certain requirements; deleting reinsurance intermediary license fees; conforming a provision to changes made by the act; amending ss. 626.752, 626.793, and 626.837, F.S.; requiring the department to cancel exchanges of business appointment if fees for agents are not paid by insurers within a specified timeframe under certain circumstances; amending s. 626.841, F.S.; defining the term "closing services"; amending s. 626.8411, F.S.; providing that notice to policyholders of agency closure does not apply to title insurance agents and agencies; amending s. 626.8437, F.S.; providing additional grounds for denial, suspension, revocation, and refusal to renew or continue licenses and appointments of title insurance agents and agencies; amending s. 626.844, F.S.; providing additional grounds for discretionary refusal, suspension, and

revocation of a title insurance agent's and agency's licenses and appointments; amending s. 626.8473, F.S.; providing circumstances under which title insurance agencies may engage in business as escrow agents as to certain funds; deleting provisions relating to title insurance agents; providing disposition of funds received by title insurance agencies and funds required to be maintained in escrow trust accounts; requiring separate records of specified receipts and disbursements of escrow, settlement, and closing funds; providing penalties; amending s. 626.854, F.S.; exempting appointed public adjusters from certain insurance activities' prohibitions; amending s. 626.874, F.S.; revising requirements for the department to issue catastrophe and emergency adjuster licenses; revising circumstances under which the department may deny certain adjuster privileges; amending s. 626.9957, F.S.; requiring navigators' registrations to expire under certain circumstances; prohibiting navigators with expired registrations from being granted subsequent registrations; amending s. 627.351, F.S.; revising the process for selecting members for the board of governors of the Joint Underwriting Association; providing terms; limiting the number of years that members may serve on the

board; providing for vacancy fillings; authorizing the Chief Financial Officer to remove board members for specified causes; providing that board members are subject to specified code of ethics; prohibiting board members from certain acts; providing penalties; providing that board meetings are subject to public meetings requirements; providing that certain documents are confidential and exempt from public records requirements; providing notice requirements for board meetings; providing exceptions; amending s. 627.4133, F.S.; revising the timeframe of specified insurers' insurance policy cancellation and termination for a specified notice; amending s. 627.4215, F.S.; specifying that health insurers that offer specified behavioral health insurance coverages, rather than all health insurers, make certain information available on their websites; requiring health insurers to provide certain notice to insureds who have specified behavioral health insurance coverages, rather than to all insureds; amending s. 627.426, F.S.; prohibiting liability insurers from denying coverage for property and bodily injury liability claims up to specified limits based on a specified reason; providing an exception; amending s. 627.7015, F.S.; providing requirements that insurers

must meet before participating in disputed property insurance claims mediation; authorizing the department to suspend property insurers' authority to appoint licensees if the insurers do not timely pay certain fees; deleting some requirements for special rules adopted by the department in cases of an emergency; creating s. 627.7155, F.S.; prohibiting insurers and insurance agents from engaging in specified practices relating to collateral protection property insurance under certain circumstances; prohibiting insurers from providing free or below-cost outsourced services and from outsourcing their own functions on an above-cost basis to specified entities; amending s. 627.745, F.S.; increasing the amount limit in claims in which either party may demand mediation for personal injury or for property damage under motor vehicle insurance policies; providing requirements for mediation costs and fees and their payment; providing that the insurers' authority to appoint licensees may be suspended if the insurers do not timely pay administrative fees; deleting certain requirements relating to mediation and to department rules; requiring the department to adopt a motor vehicle insurance mediation program; requiring the department to adopt special rules applicable in cases of state

emergencies; providing requirements for such rules; authorizing the department to designate an entity or person to serve as administrator; authorizing the department to make such designation through a contract or agreement; amending s. 631.141, F.S.; authorizing the department to take certain actions to preserve the right and interest of policyholders whose insurance policies and similar contracts are affected by receivership proceedings; amending s. 631.252, F.S.; providing exceptions to cancellation of insurance policies or similar contracts of coverage under certain circumstances; revising the dates of such cancellation; providing a cross-reference; providing circumstances under which the insurance coverage continuation period after the date of entry of a liquidation order may be extended; amending ss. 631.56, 631.716, 631.816, and 631.912, F.S.; revising the process for appointing members for the board of directors of Florida Insurance Guaranty Association, Incorporated, the Florida Life and Health Insurance Guaranty Association, the Florida Health Maintenance Organization Consumer Assistance Plan, and the Florida Workers' Compensation Insurance Guaranty Association, Incorporated, respectively; limiting the number of years that members may serve on the board; authorizing

the Chief Financial Officer to remove board members for specified causes; providing that board members are subject to specified code of ethics; prohibiting board members from certain acts; providing penalties; providing that board meetings are subject to public meetings requirements; providing that certain documents are open to the public; providing exceptions; providing notice requirements for board meetings; providing exceptions; creating s. 633.1423, F.S.; defining the term "organization"; authorizing the Division of State Fire Marshal to establish the State Fire Marshal Safety and Training Force for a specified purpose; providing requirements for the organization; requiring the organization to operate under written contract with the division; providing requirements for the contract; requiring the organization to be governed by a board of directors; requiring the State Fire Marshal to appoint the board's president; requiring board members to be appointed by the president; authorizing the organization to use the division's fixed property and facilities under certain circumstances; prohibiting the department from authorizing the organization to use the division's property and facilities under certain circumstances; requiring the department to

adopt rules; requiring moneys received by the organization to be held in a separate depository account in the name of the organization and to be subject to the contract with the division; requiring the organization to submit to the division certain information and documents; requiring an annual financial audit; requiring proceeds received by the division from the organization to be deposited into a specified trust fund; amending s. 634.171, F.S.; authorizing the department to issue licenses as salespersons for motor vehicle service agreements and insurers to nonresident applicants under certain circumstances; providing duties for such nonresident licensees; providing requirements for resident licenses within certain timeframes; amending s. 634.181, F.S.; providing additional grounds for the department's compulsory refusal, suspension, and revocation of licenses and appointments of certain salespersons; requiring the department to temporarily suspend licenses and appointments immediately upon receipt of information on or indictment for certain felonies; requiring such suspension to continue under certain circumstances; authorizing the department to adopt rules; amending s. 634.191, F.S.; revising grounds for the department's discretionary refusal,

suspension, and revocation of licenses and appointments of certain salespersons; requiring certain salespersons to submit specified orders and legal documents to the department; authorizing the department to adopt rules; amending s. 634.320, F.S.; providing additional grounds for the department's compulsory refusal, suspension, and revocation of licenses and appointments of certain sales representatives; requiring the department to temporarily suspend licenses and appointments immediately upon receipt of information on or indictment for certain felonies; requiring such suspension to continue under certain circumstances; authorizing the department to adopt rules; amending s. 634.321, F.S.; revising grounds for the department's discretionary refusal, suspension, and revocation of licenses and appointments of certain sales representatives; requiring sales representatives to submit certain orders and legal documents to the department; authorizing the department to adopt rules; amending s. 634.401, F.S.; revising the definition of the term "manufacturer"; amending s. 634.406, F.S.; deleting certain financial requirements for warranty associations and parent corporations; amending s. 634.422, F.S.; providing additional grounds for the

department's compulsory refusal, suspension, and revocation of licenses and appointments of certain sales representatives; requiring the department to temporarily suspend licenses and appointments immediately upon receipt of information on or indictment for certain felonies; requiring such suspension to continue under certain circumstances; authorizing the department to adopt rules; amending s. 634.423, F.S.; revising grounds for the department's discretionary refusal, suspension, and revocation of licenses and appointments of certain sales representatives; requiring sales representatives to submit certain orders and legal documents to the department; authorizing the department to adopt rules; amending s. 648.25, F.S.; defining the term "appointment" and revising the definition of the term "temporary bail bond agent"; amending s. 648.26, F.S.; providing construction for certain investigatory records of the department; amending s. 648.285, F.S.; providing that persons who manage bail bond agencies are subject to certain requirements; revising requirements for persons who own, control, or have pecuniary interests in bail bond agencies; authorizing the department to issue bail bond agencies to certain persons; providing requirements for applications for

bail bond agency licenses; requiring public displays of such licenses; providing nonapplicability of licensing disqualification provisions based on criminal conviction; deleting provisions relating to temporary bail bond permits; amending s. 648.30, F.S.; conforming provisions to changes made by the act; revising requirements for persons to act or preform as bail bond agents; providing requirements for persons and entities to act or perform as bail bond agencies; prohibiting bail bond agents from selling certain bail bonds; amending s. 648.34, F.S.; conforming provisions to changes made by the act; revising requirements for bail bond agent qualifications; amending s. 648.355, F.S.; providing requirements for licensure, rather than temporary licensure, of limited surety agents and professional bail bond agents; providing the timeframe for an applicant's completion of specified coursework before applying for licensure; providing requirements and fees for license application; revising the conditions under which individuals licensed as temporary bail bond agents may take bail bond agent's licensure examinations and apply for bail bond agent's licenses; prohibiting the department from issuing temporary bail bond agent's licenses on or after a specified date; authorizing individuals licensed as

temporary bail bond agents to continue to be licensed; prohibiting temporary bail bond's licenses from being reinstated; amending s. 648.386, F.S.; defining the term "classroom instruction"; revising criteria for approval and certification as an approved limited surety agent and professional bail bond agent continuing education school to require continuing education classes to be classroom instruction; creating s. 648.3875, F.S.; specifying requirements for applications for designation as primary bail bond agents; specifying qualifications for primary bail bond agents; repealing s. 648.41, F.S., relating to termination of appointment of temporary bail bond agents; amending s. 648.42, F.S.; revising the entities from whom a bail bond agent must receive appointment before registering as a bail bond agent; conforming provisions to changes made by the act; amending s. 648.44, F.S.; conforming provisions to changes made by the act; revising activities that are prohibited to bail bond agents; amending ss. 648.27, 648.31, 648.382, 648.39, 648.441, and 648.50, F.S.; conforming provisions to changes made by the act; repealing s. 651.123, F.S., relating to alternative dispute resolutions; amending s. 843.021, F.S.; conforming a provision to changes made by the act;

revising a defense to the charge of unlawful possession of a concealed handcuff key; amending s. 903.28, F.S.; revising the amounts of forfeitures that must be remitted; specifying procedures for remission of forfeitures of deceased defendants; revising the circumstances under which forfeitures must be remitted; specifying procedures for remission of forfeitures of defendants for whom the state is unwilling to seek extradition; amending ss. 28.2221, 119.071, 631.152, 631.398, and 903.09, F.S.; conforming cross-references; ratifying a specific rule relating to the Florida Workers' Compensation Health Care Provider Reimbursement Manual, for the sole and exclusive purpose of satisfying any condition on effectiveness pursuant to s. 120.541(3), F.S., which requires ratification of any rule meeting any specified thresholds for likely adverse impact or increase in regulatory costs; providing applicability; providing effective dates.

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

Section 1. Subsections (3), (4), and (5) of section 20.121, Florida Statutes, are renumbered as subsections (4), (5), and (6), respectively, paragraph (e) of subsection (2) and

present subsection (6) are amended, and a new subsection (3) is added to that section, to read:

20.121 Department of Financial Services.—There is created a Department of Financial Services.

(2) DIVISIONS.—The Department of Financial Services shall consist of the following divisions and office:

(e) The Division of Investigative and Forensic Services, which shall function as a criminal justice agency for purposes of ss. 943.045-943.08. The division may initiate and conduct investigations into any matter under the jurisdiction of the Chief Financial Officer and Fire Marshal within or outside of this state as it deems necessary. If, during an investigation, the division has reason to believe that any criminal law of this state or the United States has or may have been violated, it shall refer any records tending to show such violation to state ~~or federal~~ law enforcement and, if applicable, federal ~~or~~ prosecutorial agencies and shall provide investigative assistance to those agencies as appropriate ~~required~~. The division shall include the following bureaus and office:

1. The Bureau of Forensic Services;

2. The Bureau of Fire, Arson, and Explosives Investigations;

3. The Office of Fiscal Integrity, which shall have a separate budget;

4. The Bureau of Insurance Fraud; and

5. The Bureau of Workers' Compensation Fraud.

(3) LEGAL SERVICES.—The Department of Financial Services may provide legal services to any board or commission over which the department or the Chief Financial Officer has appointment authority. Upon approval of the Chief Financial Officer, the board or commission may retain independent legal services to provide legal services to the board or commission. Fees and costs of such independent legal services shall be paid from the Regulatory Trust Fund.

~~(6) STRATEGIC MARKETS RESEARCH AND ASSESSMENT UNIT.—The Strategic Markets Research and Assessment Unit is established within the Department of Financial Services. The Chief Financial Officer or his or her designee shall report on September 1, 2008, and quarterly thereafter, to the Cabinet, the President of the Senate, and the Speaker of the House of Representatives on the status of the state's financial services markets. At a minimum, the report must include a summary of issues, trends, and threats that broadly impact the condition of the financial services industries, along with the effect of such conditions on financial institutions, the securities industries, other financial entities, and the credit market. The Chief Financial Officer shall also provide findings and recommendations regarding regulatory and policy changes to the Cabinet, the President of the Senate, and the Speaker of the House of Representatives.~~

Section 2. Paragraph (c) of subsection (1) of section 39.6035, Florida Statutes, is amended to read:

39.6035 Transition plan.—

(1) During the year after a child reaches 16 years of age, the department and the community-based care lead agency, in collaboration with the caregiver and any other individual whom the child would like to include, shall assist the child in developing a transition plan. The required transition plan is in addition to standard case management requirements. The transition plan must address specific options for the child to use in obtaining services, including housing, health insurance, education, financial literacy, a driver license, and workforce support and employment services. The plan must also include tasks to establish and maintain naturally occurring mentoring relationships and other personal support services. The transition plan may be as detailed as the child chooses. This plan must be updated as needed before the child reaches 18 years of age and after the child reaches 18 years of age if he or she is receiving funding under s. 409.1451(2). In developing and updating the transition plan, the department and the community-based care lead agency shall:

~~(c) Provide information for the financial literacy curriculum for youth offered by the Department of Financial Services.~~

Section 3. Subsection (2) of section 110.113, Florida

Statutes, is amended to read:

110.113 Pay periods for state officers and employees; salary payments by direct deposit.—

(2) As a condition of employment, a person appointed to a position in state government is required to participate in the direct deposit program pursuant to s. 17.076. An employee may request an exemption from the provisions of this subsection ~~when such employee can demonstrate a hardship or~~ when such employee is in an other-personal-services position.

Section 4. Subsection (2), paragraphs (a), (c), and (d) of subsection (4), paragraph (a) of subsection (8), and subsection (12) of section 112.215, Florida Statutes, are amended to read:

112.215 Government employees; deferred compensation program.—

(2) For the purposes of this section, the term "government employee" means any person employed, whether appointed, elected, or under contract, by ~~providing services for~~ the state or any governmental unit of the state, including, but not limited to,~~;~~ any state agency; any ~~or~~ county, municipality, or other political subdivision of the state; any special district or water management district, as the terms are defined in s. 189.012 ~~municipality~~; any state university or Florida college system institution, as the terms are defined in s. 1000.21(6) and (3), respectively ~~board of trustees~~; or any constitutional county officer under s. 1(d), Art. VIII of the State

Constitution for which compensation or statutory fees are paid.

(4)(a) The Chief Financial Officer, with the approval of the State Board of Administration, shall establish a state ~~such~~ plan or plans of deferred compensation for government ~~state~~ employees ~~and may include persons employed by a state university as defined in s. 1000.21, a special district as defined in s. 189.012, or a water management district as defined in s. 189.012~~, including all such investment vehicles or products incident thereto, as may be available through, or offered by, qualified companies or persons, and may approve one or more such plans for implementation ~~by and on behalf of the state and its agencies and employees~~.

(c) The Chief Financial Officer, with the approval of the State Board of Administration, may delegate responsibility for administration of the state plan to a person the Chief Financial Officer determines to be qualified, compensate such person, and, directly or through such person or pursuant to a collective bargaining agreement, contract with a private corporation or institution to provide such services as may be part of any such plan or as may be deemed necessary or proper by the Chief Financial Officer or such person, including, but not limited to, providing consolidated billing, individual and collective recordkeeping and accountings, asset purchase, control, and safekeeping, and direct disbursement of funds to employees or other beneficiaries. The Chief Financial Officer may authorize a

person, private corporation, or institution to make direct disbursement of funds under the state plan to an employee or other beneficiary.

(d) In accordance with such approved plan, and upon contract or agreement with an eligible government employee, deferrals of compensation may be accomplished by payroll deductions made by the appropriate officer or officers of the state, with such funds being thereafter held and administered in accordance with the plan.

(8)(a) There is created a Deferred Compensation Advisory Council composed of eight ~~seven~~ members.

1. One member shall be appointed by the Speaker of the House of Representatives and the President of the Senate jointly and shall be an employee of the legislative branch.

2. One member shall be appointed by the Chief Justice of the Supreme Court and shall be an employee of the judicial branch.

3. One member shall be appointed by the chair of the Public Employees Relations Commission and shall be a nonexempt public employee.

4. The remaining five ~~four~~ members shall be employed by the executive branch and shall be appointed as follows:

a. One member shall be appointed by the Chancellor of the State University System and shall be an employee of the university system.

b. One member shall be appointed by the Chief Financial Officer and shall be an employee of the Chief Financial Officer.

c. One member shall be appointed by the Governor and shall be an employee of the executive branch.

d. One member shall be appointed by the Executive Director of the State Board of Administration and shall be an employee of the State Board of Administration.

e. One member shall be appointed by the Chancellor of the Florida College System and shall be an employee of the Florida College System.

(12) The Chief Financial Officer may adopt any rule necessary to administer and implement this act with respect to the state deferred compensation plan or plans ~~for state employees and persons employed by a state university as defined in s. 1000.21, a special district as defined in s. 189.012, or a water management district as defined in s. 189.012~~.

Section 5. Subsection (13) of section 215.422, Florida Statutes, is amended to read:

215.422 Payments, warrants, and invoices; processing time limits; dispute resolution; agency or judicial branch compliance.—

(13) Notwithstanding the provisions of subsections (3) and (12), in order to alleviate any hardship that may be caused to a health care provider as a result of delay in receiving reimbursement for services, any payment or payments for

hospital, medical, or other health care services which are to be reimbursed by a state agency or the judicial branch, either directly or indirectly, shall be made to the health care provider not more than 40 ~~35~~ days from the date eligibility for payment of such claim is determined. If payment is not issued to a health care provider within 40 ~~35~~ days after the date eligibility for payment of the claim is determined, the state agency or the judicial branch shall pay the health care provider interest at a rate of 1 percent per month calculated on a calendar day basis on the unpaid balance from the expiration of such 40-day ~~35-day~~ period until such time as payment is made to the health care provider, unless a waiver in whole has been granted by the Department of Financial Services pursuant to subsection (1) or subsection (2).

Section 6. Subsection (1) of section 274.01, Florida Statutes, is amended to read:

274.01 Definitions.—The following words as used in this act have the meanings set forth in the below subsections, unless a different meaning is required by the context:

(1) "Governmental unit" means the governing board, commission, or authority of a county, a county agency, a municipality, a special district as defined in s. 189.012 or taxing district of the state, or the sheriff of the county.

Section 7. Subsections (15) and (16) of section 440.13, Florida Statutes, are renumbered as subsections (14) and (15),

respectively, and subsection (12) and present subsection (14) of that section are amended, to read:

440.13 Medical services and supplies; penalty for violations; limitations.—

(12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM REIMBURSEMENT ALLOWANCES.—

(a) A three-member panel is created, consisting of the Chief Financial Officer, or the Chief Financial Officer's designee, and two members to be appointed by the Governor, subject to confirmation by the Senate, one member who, on account of present or previous vocation, employment, or affiliation, shall be classified as a representative of employers, the other member who, on account of previous vocation, employment, or affiliation, shall be classified as a representative of employees. The panel shall determine statewide schedules of maximum reimbursement allowances for medically necessary treatment, care, and attendance provided by ~~physicians,~~ hospitals and~~,~~ ambulatory surgical centers~~, work-hardening programs, pain programs, and durable medical equipment~~. The maximum reimbursement allowances for inpatient hospital care shall be based on a schedule of per diem rates, to be approved by the three-member panel no later than March 1, 1994, to be used in conjunction with a precertification manual as determined by the department, including maximum hours in which an outpatient may remain in observation status, which

shall not exceed 23 hours. All compensable charges for hospital outpatient care shall be reimbursed at 75 percent of usual and customary charges, except as otherwise provided by this subsection. Annually, the three-member panel shall adopt schedules of maximum reimbursement allowances for ~~physicians,~~ hospital inpatient care, hospital outpatient care, and ambulatory surgical centers~~, work-hardening programs, and pain programs~~. A ~~An individual physician,~~ hospital or~~,~~ ambulatory surgical center~~, pain program, or work-hardening program~~ shall be reimbursed:

1. ~~either~~ The agreed-upon contract price; or

2. If there is no agreed-upon contract price, the lesser of the provider's billed charge or the maximum reimbursement allowance in the appropriate schedule.

~~(b) It is the intent of the Legislature to increase the schedule of maximum reimbursement allowances for selected physicians effective January 1, 2004, and to pay for the increases through reductions in payments to hospitals. Revisions developed pursuant to this subsection are limited to the following:~~

(b)~~1.~~ Payments for outpatient physical, occupational, and speech therapy provided by hospitals shall be ~~reduced to~~ the schedule of maximum reimbursement allowances for these services which applies to nonhospital providers.

(c)~~2.~~ Payments for scheduled outpatient nonemergency

radiological and clinical laboratory services that are not provided in conjunction with a surgical procedure shall be ~~reduced to~~ the schedule of maximum reimbursement allowances for these services which applies to nonhospital providers.

(d)~~3.~~ Outpatient reimbursement for scheduled surgeries shall be ~~reduced from 75 percent of charges to~~ 60 percent of charges.

(e)1. By July 1 of each year, the department shall notify carriers and self-insurers of the physician and nonhospital services schedule of maximum reimbursement allowances. The notice must include publication of this schedule of maximum reimbursement allowances on the division's website. This schedule is not subject to approval by the three-member panel and does not include reimbursement for prescription medication.

2. Subparagraph 1. shall take effect January 1, following the July 1, 2024, notice of the physician and nonhospital services schedule of maximum reimbursement allowances that the department provides to carriers and self-insurers.

(f)~~4.~~ Maximum reimbursement for a physician licensed under chapter 458 or chapter 459 shall be ~~increased to~~ 110 percent of the reimbursement allowed by Medicare, using appropriate codes and modifiers ~~or the medical reimbursement level adopted by the three-member panel as of January 1, 2003, whichever is greater~~.

(g)~~5.~~ Maximum reimbursement for surgical procedures shall be ~~increased to~~ 140 percent of the reimbursement allowed by

Medicare ~~or the medical reimbursement level adopted by the three-member panel as of January 1, 2003, whichever is greater~~.

(h) ~~(c)~~ As to reimbursement for a prescription medication, the reimbursement amount for a prescription shall be the average wholesale price plus $4.18 for the dispensing fee. For repackaged or relabeled prescription medications dispensed by a dispensing practitioner as provided in s. 465.0276, the fee schedule for reimbursement shall be 112.5 percent of the average wholesale price, plus $8.00 for the dispensing fee. For purposes of this subsection, the average wholesale price shall be calculated by multiplying the number of units dispensed times the per-unit average wholesale price set by the original manufacturer of the underlying drug dispensed by the practitioner, based upon the published manufacturer's average wholesale price published in the Medi-Span Master Drug Database as of the date of dispensing. All pharmaceutical claims submitted for repackaged or relabeled prescription medications must include the National Drug Code of the original manufacturer. Fees for pharmaceuticals and pharmaceutical services shall be reimbursable at the applicable fee schedule amount except where the employer or carrier, or a service company, third party administrator, or any entity acting on behalf of the employer or carrier directly contracts with the provider seeking reimbursement for a lower amount.

(i) ~~(d)~~ Reimbursement for all fees and other charges for

such treatment, care, and attendance, including treatment, care, and attendance provided by any hospital or other health care provider, ambulatory surgical center, work-hardening program, or pain program, must not exceed the amounts provided by the uniform schedule of maximum reimbursement allowances as determined by the panel or as otherwise provided in this section. This subsection also applies to independent medical examinations performed by health care providers under this chapter. In determining the uniform schedule, the panel shall first approve the data which it finds representative of prevailing charges in the state for similar treatment, care, and attendance of injured persons. Each health care provider, health care facility, ambulatory surgical center, work-hardening program, or pain program receiving workers' compensation payments shall maintain records verifying their usual charges. In establishing the uniform schedule of maximum reimbursement allowances, the panel must consider:

1. The levels of reimbursement for similar treatment, care, and attendance made by other health care programs or third-party providers;

2. The impact upon cost to employers for providing a level of reimbursement for treatment, care, and attendance which will ensure the availability of treatment, care, and attendance required by injured workers; and

3. The financial impact of the reimbursement allowances

upon health care providers and health care facilities, including trauma centers as defined in s. 395.4001, and its effect upon their ability to make available to injured workers such medically necessary remedial treatment, care, and attendance. The uniform schedule of maximum reimbursement allowances must be reasonable, must promote health care cost containment and efficiency with respect to the workers' compensation health care delivery system, and must be sufficient to ensure availability of such medically necessary remedial treatment, care, and attendance to injured workers~~; and~~

~~4. The most recent average maximum allowable rate of increase for hospitals determined by the Health Care Board under chapter 408~~.

(j)~~(e)~~ In addition to establishing the uniform schedule of maximum reimbursement allowances, the panel shall:

1. Take testimony, receive records, and collect data to evaluate the adequacy of the workers' compensation fee schedule, nationally recognized fee schedules and alternative methods of reimbursement to health care providers and health care facilities for inpatient and outpatient treatment and care.

2. Survey health care providers and health care facilities to determine the availability and accessibility of workers' compensation health care delivery systems for injured workers.

3. Survey carriers to determine the estimated impact on carrier costs and workers' compensation premium rates by

implementing changes to the carrier reimbursement schedule or implementing alternative reimbursement methods.

4. Submit recommendations on or before January 15, 2017, and biennially thereafter, to the President of the Senate and the Speaker of the House of Representatives on methods to improve the workers' compensation health care delivery system.

The department, as requested, shall provide data to the panel, including, but not limited to, utilization trends in the workers' compensation health care delivery system. The department shall provide the panel with an annual report regarding the resolution of medical reimbursement disputes and any actions pursuant to subsection (8). The department shall provide administrative support and service to the panel to the extent requested by the panel. For prescription medication purchased under the requirements of this subsection, a dispensing practitioner shall not possess such medication unless payment has been made by the practitioner, the practitioner's professional practice, or the practitioner's practice management company or employer to the supplying manufacturer, wholesaler, distributor, or drug repackager within 60 days of the dispensing practitioner taking possession of that medication.

~~(14) PRACTICE PARAMETERS.—The practice parameters and protocols mandated under this chapter shall be the practice parameters and protocols adopted by the United States Agency for~~

~~Healthcare Research and Quality in effect on January 1, 2003.~~

Section 8. Effective January 1, 2024, subsection (2) of section 440.385, Florida Statutes, is amended to read:

440.385 Florida Self-Insurers Guaranty Association, Incorporated.—

(2) BOARD OF DIRECTORS; MEETINGS.—

(a) The board of directors of the association shall consist of nine persons and shall be organized as established in the plan of operation. Each director must ~~All board members shall~~ be experienced in self-insurance in this state. Each director shall serve for a 4-year term and may be reappointed; however, a director may not serve for more than 8 consecutive years. Appointments after January 1, 2002, shall be made by the department upon recommendation of members of the association or other persons with experience in self-insurance as determined by the Chief Financial Officer. Any vacancy on the board shall be filled for the remaining period of the term in the same manner as appointments other than initial appointments are made. Each director shall be reimbursed for expenses incurred in carrying out the duties of the board on behalf of the association.

1. The Chief Financial Officer may remove a director from office for misconduct, malfeasance, misfeasance, or neglect of duty. Any vacancy so created shall be filled as provided in this paragraph.

2. Directors are subject to the code of ethics under part

III of chapter 112, including, but not limited to, the code of ethics and public disclosure and reporting of financial interests, pursuant to s. 112.3145. For purposes of applying part III of chapter 112 to activities of members of the board of directors, those persons are considered public officers and the association is considered their agency. Notwithstanding s. 112.3143(2), a director may not vote on any measure that he or she knows would inure to his or her special private gain or loss; that he or she knows would inure to the special private gain or loss of any principal by which he or she is retained, other than an agency as defined in s. 112.312; or that he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Before the vote is taken, such director shall publicly state to the board the nature of his or her interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

3. Notwithstanding s. 112.3148, s. 112.3149, or any other law, an employee of the association or a director may not knowingly accept, directly or indirectly, any gift or expenditure from a person or entity, or an employee or representative of such person or entity, which has a contractual

relationship with the association or which is under consideration for a contract.

4. A director who fails to comply with subparagraph 2. or subparagraph 3. is subject to the penalties provided under ss. 112.317 and 112.3173.

(b)1. All meetings of the board of directors are subject to the requirements of s. 286.011, and all books, records, and audits of the plan are open to the public for reasonable inspection, except that a claim file in the possession of the association or its representative is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution until termination of litigation and settlement of all claims, although medical records and other portions of the claim file may remain confidential and exempt as otherwise provided by law.

2. Except in the case of emergency meetings, the association shall give notice of any board meeting by publication on the association's website at least 7 days before the meeting. The association shall prepare and publish a meeting agenda on its website, along with any meeting materials, excluding confidential and exempt information, at least 7 days before the meeting. The agenda shall contain the items to be considered in order of presentation and a telephone number for members of the public to participate telephonically at the board meeting, or login information for members of the public to

participate in a live video conference of the board meeting. After the agenda has been made available, a change shall be made only for good cause, as determined by the person designated to preside, and must be stated in the record. Notification of such change shall be at the earliest practicable time.

Section 9. Subsection (3) of section 473.312, Florida Statutes, is amended to read:

473.312 Continuing education.—

(3) The board shall adopt rules establishing the continuing education requirements for Florida certified public accountants who are engaged in the audit of:

(a) A governmental entity. The board shall approve subjects directly related to the governmental environment and to governmental auditing for purposes of satisfying the requirement of this paragraph ~~subsection~~.

(b) Insurers. The board shall approve subjects directly related to statutory accounting, indications of fraud, and indications of insolvency for purposes of satisfying the requirement of this paragraph.

Section 10. Paragraph (d) of subsection (8) of section 624.424, Florida Statutes, is amended to read:

624.424 Annual statement and other information.—

(8)

(d) An insurer may not use the same ~~accountant or partner of an~~ accounting firm responsible for preparing the report

required by this subsection for more than 5 consecutive years. ~~Following this period, the insurer may not use such accountant or partner for a period of 5 years, but may use another accountant or partner of the same firm. An insurer may request the office to waive this prohibition based upon an unusual hardship to the insurer and a determination that the accountant is exercising independent judgment that is not unduly influenced by the insurer considering such factors as the number of partners, expertise of the partners or the number of insurance clients of the accounting firm; the premium volume of the insurer; and the number of jurisdictions in which the insurer transacts business.~~

Section 11. Subsection (25) of section 624.501, Florida Statutes, is amended to read:

624.501 Filing, license, appointment, and miscellaneous fees.—The department, commission, or office, as appropriate, shall collect in advance, and persons so served shall pay to it in advance, fees, licenses, and miscellaneous charges as follows:

(25) Reinsurance intermediary:

~~(a) Application filing and license fee.....$50.00~~

~~(b)~~ Original appointment and biennial renewal or continuation thereof, appointment fee $60.00

Section 12. Subsection (5) of section 626.015, Florida Statutes, is amended to read:

626.015 Definitions.—As used in this part:

(5) "Association" includes the Florida Association of Insurance Agents (FAIA), the National Association of Insurance and Financial Advisors (NAIFA), the National Association of Benefits and Insurance Professionals Florida Chapter (NABIP Florida) ~~Florida Association of Health Underwriters (FAHU)~~, the Latin American Association of Insurance Agencies (LAAIA), the Florida Association of Public Insurance Adjusters (FAPIA), the Florida Bail Agents Association (FBAA), or the Professional Bail Agents of the United States (PBUS).

Section 13. Subsection (4) of section 626.171, Florida Statutes, is amended to read:

626.171 Application for license as an agent, customer representative, adjuster, service representative, or reinsurance intermediary.—

(4) An applicant for a license issued by the department under this chapter must submit a set of the individual applicant's fingerprints, or, if the applicant is not an individual, a set of the fingerprints of the sole proprietor, majority owner, partners, officers, and directors, to the department and must pay the fingerprint processing fee set forth in s. 624.501. Fingerprints must be processed in accordance with s. 624.34 and used to investigate the applicant's qualifications pursuant to s. 626.201. The fingerprints must be taken by a law enforcement agency~~, designated examination center,~~ or other

department-approved entity. ~~The department shall require all designated examination centers to have fingerprinting equipment and to take fingerprints from any applicant or prospective applicant who pays the applicable fee.~~ The department may not approve an application for licensure as an agent, customer service representative, adjuster, service representative, or reinsurance intermediary if fingerprints have not been submitted.

Section 14. Paragraph (c) of subsection (1) of section 626.173, Florida Statutes, is amended to read:

626.173 Insurance agency closure; cancellation of licenses.—

(1) If a licensed insurance agency permanently ceases the transacting of insurance or ceases the transacting of insurance for more than 30 days, the agent in charge, the director of the agency, or other officer listed on the original application for licensure must, within 35 days after the agency first ceases the transacting of insurance, do all of the following:

(c) Notify all policyholders currently insured by a policy written, produced, or serviced by the agency of the agency's cessation of operations; the date on which operations ceased; and the identity of the agency or agent to which the agency's current book of business has been transferred or, if no transfer has occurred, a statement directing the policyholder to contact the insurance company for assistance in locating a licensed

agent to service the policy. This paragraph does not apply to title insurance, life insurance, or annuity contracts.

Section 15. Paragraph (j) of subsection (2) of section 626.221, Florida Statutes, is amended to read:

626.221 Examination requirement; exemptions.—

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

(j) An applicant for license as an all-lines adjuster who has the designation of Accredited Claims Adjuster (ACA) from a regionally accredited postsecondary institution in this state; Certified All Lines Adjuster (CALA) from Kaplan Financial Education; Associate in Claims (AIC) from the Insurance Institute of America; Professional Claims Adjuster (PCA) from the Professional Career Institute; Professional Property Insurance Adjuster (PPIA) from the HurriClaim Training Academy; Certified Adjuster (CA) from ALL LINES Training; Certified Claims Adjuster (CCA) from AE21 Incorporated; Claims Adjuster Certified Professional (CACP) from WebCE, Inc.; Accredited Insurance Claims Specialist (AICS) from Encore Claim Services; Professional in Claims (PIC) from 2021 Training, LLC; or Universal Claims Certification (UCC) from Claims and Litigation Management Alliance (CLM) whose curriculum has been approved by the department and which includes comprehensive analysis of basic property and casualty lines of insurance and testing at least equal to that of standard department testing for the all-

lines adjuster license. The department shall adopt rules establishing standards for the approval of curriculum.

Section 16. Paragraphs (c) and (f) of subsection (3) of section 626.2815, Florida Statutes, are amended to read:

626.2815 Continuing education requirements.—

(3) Each licensee except a title insurance agent must complete a 4-hour update course every 2 years which is specific to the license held by the licensee. The course must be developed and offered by providers and approved by the department. The content of the course must address all lines of insurance for which examination and licensure are required and include the following subject areas: insurance law updates, ethics for insurance professionals, disciplinary trends and case studies, industry trends, premium discounts, determining suitability of products and services, and other similar insurance-related topics the department determines are relevant to legally and ethically carrying out the responsibilities of the license granted. A licensee who holds multiple insurance licenses must complete an update course that is specific to at least one of the licenses held. Except as otherwise specified, any remaining required hours of continuing education are elective and may consist of any continuing education course approved by the department under this section.

(c) A licensee who has been licensed for 25 years or more and is a CLU or a CPCU or has a Bachelor of Science degree or

higher in risk management or insurance with evidence of 18 or more semester hours in insurance-related courses must also complete a minimum of 6 hours of elective continuing education courses every 2 years.

(f) Elective continuing education courses for public adjusters may ~~must~~ be any course related to commercial and residential property coverages, claim adjusting practices, and any other adjuster elective courses ~~specifically designed for public adjusters and~~ approved by the department. Notwithstanding this subsection, public adjusters for workers' compensation insurance or health insurance are not required to take continuing education courses pursuant to this section.

Section 17. Paragraphs (a), (b), and (e) of subsection (1) of section 626.321, Florida Statutes, are amended to read:

626.321 Limited licenses and registration.—

(1) The department shall issue to a qualified applicant a license as agent authorized to transact a limited class of business in any of the following categories of limited lines insurance:

(a) Motor vehicle physical damage and mechanical breakdown insurance.—License covering insurance against only the loss of or damage to a motor vehicle that is designed for use upon a highway, including trailers and semitrailers designed for use with such vehicles. Such license also covers insurance against the failure of an original or replacement part to perform any

function for which it was designed. ~~A licensee under this paragraph may not hold a license as an agent for any other or additional kind or class of insurance coverage except a limited license for credit insurance as provided in paragraph (e).~~ Effective October 1, 2012, all licensees holding such limited license and appointment may renew the license and appointment, but no new or additional licenses may be issued pursuant to this paragraph, and a licensee whose limited license under this paragraph has been terminated, suspended, or revoked may not have such license reinstated.

(b) Industrial fire insurance or burglary insurance.—License covering only industrial fire insurance or burglary insurance. ~~A licensee under this paragraph may not hold a license as an agent for any other or additional kind or class of insurance coverage except for life insurance and health insurance.~~ Effective July 1, 2019, all licensees holding such limited license and appointment may renew the license and appointment, but no new or additional licenses may be issued pursuant to this paragraph, and a licensee whose limited license under this paragraph has been terminated, suspended, or revoked may not have such license reinstated.

(e) Credit insurance.—License covering credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection (GAP) insurance,

and any other form of insurance offered in connection with an extension of credit which is limited to partially or wholly extinguishing a credit obligation that the department determines should be designated a form of limited line credit insurance. Effective October 1, 2012, all valid licenses held by persons for any of the lines of insurance listed in this paragraph shall be converted to a credit insurance license. ~~Licensees who wish to obtain a new license reflecting such change must request a duplicate license and pay a $5 fee as specified in s. 624.501(15).~~ The license may be issued only to an individual employed by a life or health insurer as an officer or other salaried or commissioned representative, to an individual employed by or associated with a lending or financial institution or creditor, or to a lending or financial institution or creditor, and may authorize the sale of such insurance only with respect to borrowers or debtors of such lending or financing institution or creditor. However, only the individual or entity whose tax identification number is used in receiving or is credited with receiving the commission from the sale of such insurance shall be the licensed agent of the insurer. ~~No individual while so licensed shall hold a license as an agent as to any other or additional kind or class of life or health insurance coverage.~~

Section 18. Paragraph (n) of subsection (1) of section 626.611, Florida Statutes, is amended to read:

626.611 Grounds for compulsory refusal, suspension, or revocation of agent's, title agency's, adjuster's, customer representative's, service representative's, or managing general agent's license or appointment.—

(1) The department shall deny an application for, suspend, revoke, or refuse to renew or continue the license or appointment of any applicant, agent, title agency, adjuster, customer representative, service representative, or managing general agent, and it shall suspend or revoke the eligibility to hold a license or appointment of any such person, if it finds that as to the applicant, licensee, or appointee any one or more of the following applicable grounds exist:

(n) Having been found guilty of or having pleaded guilty or nolo contendere to a misdemeanor directly related to the financial services business, any felony, or any ~~a~~ crime punishable by imprisonment of 1 year or more under the law of the United States of America or of any state thereof or under the law of any other country, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of such cases.

Section 19. Subsection (18) is added to section 626.621, Florida Statutes, to read:

626.621 Grounds for discretionary refusal, suspension, or revocation of agent's, adjuster's, customer representative's, service representative's, or managing general agent's license or

appointment.—The department may, in its discretion, deny an application for, suspend, revoke, or refuse to renew or continue the license or appointment of any applicant, agent, adjuster, customer representative, service representative, or managing general agent, and it may suspend or revoke the eligibility to hold a license or appointment of any such person, if it finds that as to the applicant, licensee, or appointee any one or more of the following applicable grounds exist under circumstances for which such denial, suspension, revocation, or refusal is not mandatory under s. 626.611:

(18) Cancellation of the applicant's, licensee's, or appointee's resident license in a state other than Florida.

Section 20. Paragraphs (d) and (g) of subsection (2), paragraphs (a), (b), and (e) through (j) of subsection (3) of section 626.7492, Florida Statutes, are amended to read:

626.7492 Reinsurance intermediaries.—

(2) DEFINITIONS.—As used in this section:

(d) "Producer" means a licensed ~~an~~ agent, broker, or insurance agency that is appointed as a reinsurance intermediary ~~licensed~~ pursuant to the applicable provision of the Florida Insurance Code.

(g) "Reinsurance intermediary manager" means any person who has authority to bind, or manages all or part of, the assumed reinsurance business of a reinsurer, including the management of a separate division, department, or underwriting

office, and acts as a representative ~~an agent~~ for the reinsurer whether known as a reinsurance intermediary manager, manager, or other similar term. Notwithstanding the above, none of the following persons is a reinsurance intermediary manager with respect to the reinsurer for the purposes of this section:

1. An employee of the reinsurer;

2. A manager of the United States branch of an alien reinsurer;

3. An underwriting manager which, pursuant to contract, manages all the reinsurance operations of the reinsurer, is under common control with the reinsurer, subject to the holding company act, and whose compensation is not based on the volume of premiums written.

4. The manager of a group, association, pool, or organization of insurers which engage in joint underwriting or joint reinsurance and who are subject to examination by the insurance regulatory authority of the state in which the manager's principal business office is located.

(3) LICENSURE.—

(a) No person shall act as a reinsurance intermediary broker in this state if the reinsurance intermediary broker maintains an office either directly or as a member or employee of a firm or association, or an officer, director, or employee of a corporation:

1. In this state, unless the reinsurance intermediary

broker is a licensed producer in this state; or

2. In another state, unless the reinsurance intermediary broker is a licensed producer in this state or in another state having a law substantially similar to this section or the reinsurance intermediary broker is licensed in this state as an insurance agency and appointed as a ~~nonresident~~ reinsurance intermediary.

(b) No person shall act as a reinsurance intermediary manager:

1. For a reinsurer domiciled in this state, unless the reinsurance intermediary manager is a licensed producer in this state;

2. In this state, if the reinsurance intermediary manager maintains an office either directly or as a member or employee of a firm or association, or an officer, director, or employee of a corporation in this state, unless the reinsurance intermediary manager is a licensed producer in this state;

3. In another state for a nondomestic insurer, unless the reinsurance intermediary manager is a licensed producer in this state or another state having a law substantially similar to this section, or the person is licensed in this state as a producer ~~nonresident reinsurance intermediary~~.

(e) If the applicant for a reinsurance intermediary appointment ~~license~~ is a nonresident, the applicant, as a condition precedent to receiving or holding an appointment ~~a~~

~~license~~, must designate the Chief Financial Officer as agent for service of process in the manner, and with the same legal effect, provided for by this section for designation of service of process upon unauthorized insurers. Such applicant shall also furnish the department with the name and address of a resident of this state upon whom notices or orders of the department or process affecting the nonresident reinsurance intermediary may be served. The licensee shall promptly notify the department in writing of each change in its designated agent for service of process, and the change shall not become effective until acknowledged by the department.

~~(f) The department may refuse to issue a reinsurance intermediary license if, in its judgment, the applicant, anyone named on the application, or any member, principal, officer, or director of the applicant, has demonstrated a lack of fitness and trustworthiness, or that any controlling person of the applicant is not fit or trustworthy to act as a reinsurance intermediary, or that any of the foregoing has given cause for revocation or suspension of the license, or has failed to comply with any prerequisite for the issuance of the license.~~

(f) ~~(g)~~ Reinsurance intermediaries shall be licensed, appointed, renewed, continued, reinstated, or terminated as prescribed in this chapter for insurance representatives in general~~, except that they shall be exempt from the photo, education, and examination provisions~~. ~~License,~~ Appointment~~,~~ and

other fees shall be those prescribed in s. 624.501.

(g)~~(h)~~ The grounds and procedures for refusal of an ~~a license or~~ appointment or suspension or revocation of a license or appointment issued to a reinsurance intermediary under this section are as set forth in ss. 626.611-626.691 for insurance representatives in general.

(h)~~(i)~~ An attorney licensed in this state, when acting in a professional capacity, is exempt from this subsection.

(i)~~(j)~~ The department may develop necessary rules to carry out this section.

Section 21. Subsection (5) of section 626.752, Florida Statutes, is amended to read:

626.752 Exchange of business.—

(5) Within 15 days after the last day of each month, any insurer accepting business under this section shall report to the department the name, address, telephone number, and social security number of each agent from which the insurer received more than four personal lines risks during the calendar year, except for risks being removed from the Citizens Property Insurance Corporation and placed with that insurer by a brokering agent. Once the insurer has reported pursuant to this subsection an agent's name to the department, additional reports on the same agent shall not be required. However, the fee set forth in s. 624.501 must be paid for the agent by the insurer for each year until the insurer notifies the department that the

insurer is no longer accepting business from the agent pursuant to this section. The insurer may require that the agent reimburse the insurer for the fee. If the fee is not paid to the department within 30 days after the renewal date, the department shall cancel the exchange of business appointment.

Section 22. Subsection (4) of section 626.793, Florida Statutes, is amended to read:

626.793 Excess or rejected business.—

(4) Within 15 days after the last day of each month, any insurer accepting business under this section shall report to the department the name, address, telephone number, and social security number of each agent from which the insurer received more than four risks during the calendar year. Once the insurer has reported an agent's name to the department pursuant to this subsection, additional reports on the same agent shall not be required. However, the fee set forth in s. 624.501 must be paid for the agent by the insurer for each year until the insurer notifies the department that the insurer is no longer accepting business from the agent pursuant to this section. The insurer may require that the agent reimburse the insurer for the fee. If the fee is not paid to the department within 30 days after the renewal date, the department shall cancel the exchange of business appointment.

Section 23. Subsection (5) of section 626.837, Florida Statutes, is amended to read:

626.837 Excess or rejected business.—

(5) Within 15 days after the last day of each month, any insurer accepting business under this section shall report to the department the name, address, telephone number, and social security number of each agent from which the insurer received more than four risks during the calendar year. Once the insurer has reported pursuant to this subsection an agent's name to the department, additional reports on the same agent shall not be required. However, the fee set forth in s. 624.501 must be paid for the agent by the insurer for each year until the insurer notifies the department that the insurer is no longer accepting business from the agent pursuant to this section. The insurer may require that the agent reimburse the insurer for the fee. If the fee is not paid to the department within 30 days after the renewal date, the department shall cancel the exchange of business appointment.

Section 24. Section 626.841, Florida Statutes, is amended to read:

626.841 Definitions.—As used in this part, the term:

(1) "Closing services" means services performed by a title insurance agent or title insurance agency, or attorney agent in the agent's or agency's capacity as such, including, but not limited to, preparing documents necessary to close the transaction, conducting the closing, or handling the disbursing of funds related to the closing in a real estate closing

transaction.

(2) "Title insurance agency" means an insurance agency under which title insurance agents and other employees determine insurability in accordance with underwriting rules and standards prescribed by the title insurer represented by the agency, and issue and countersign commitments, endorsements, or policies of title insurance, on behalf of the appointing title insurer. The term does not include a title insurer.

(3) ~~(1)~~ "Title insurance agent" means a person appointed in writing by a title insurer to issue and countersign commitments or policies of title insurance in its behalf.

Section 25. Paragraph (e) is added to subsection (2) of section 626.8411, Florida Statutes, to read:

626.8411 Application of Florida Insurance Code provisions to title insurance agents or agencies.—

(2) The following provisions of part I do not apply to title insurance agents or title insurance agencies:

(e) Section 626.173(1)(c), relating to notifying policyholders of the agency closure.

Section 26. Subsections (8) through (11) of section 626.8437, Florida Statutes, are renumbered as subsection (9) through (12), respectively, and a new subsection (8) is added to that section, read:

626.8437 Grounds for denial, suspension, revocation, or refusal to renew license or appointment.—The department shall

deny, suspend, revoke, or refuse to renew or continue the license or appointment of any title insurance agent or agency, and it shall suspend or revoke the eligibility to hold a license or appointment of such person, if it finds that as to the applicant, licensee, appointee, or any principal thereof, any one or more of the following grounds exist:

(8) Misappropriation, conversion, or unlawful withholding of funds received in a fiduciary capacity and held as part of an escrow agreement, real estate sales contract, or as provided on a settlement statement in a real estate transaction.

Section 27. Subsections (7) and (8) are added to section 626.844, Florida Statutes, to read:

626.844 Grounds for discretionary refusal, suspension, or revocation of license or appointment.—The department may, in its discretion, deny, suspend, revoke, or refuse to renew or continue the license or appointment of any title insurance agent or agency, and it may suspend or revoke the eligibility to hold a license or appointment of any such title insurance agent or agency if it finds that as to the applicant or licensee or appointee, or any principal thereof, any one or more of the following grounds exist under circumstances for which such denial, suspension, revocation, or refusal is not mandatory under s. 626.8437:

(7) Having been the subject of, or having had a license, permit, appointment, registration, or other authority to conduct

business subject to, any decision, finding, injunction, suspension, prohibition, revocation, denial, judgment, final agency action, or administrative order by any court of competent jurisdiction, administrative law proceeding, state agency, federal agency, national securities, commodities, or option exchange, or national securities, commodities, or option association involving a violation of any federal or state securities or commodities law or any rule or regulation adopted thereunder, or a violation of any rule or regulation of any national securities, commodities, or options exchange or national securities, commodities, or options association.

(8) Cancellation of the applicant's, licensee's, or appointee's resident license in a state other than Florida.

Section 28. Section 626.8473, Florida Statutes, is amended to read:

626.8473 Escrow; trust fund.—

(1) A title insurance agency ~~agent~~ may engage in business as an escrow agent as to funds received from others to be subsequently disbursed ~~by the title insurance agent~~ in connection with real estate closing transactions ~~involving the issuance of title insurance binders, commitments, policies of title insurance, or guarantees of title~~, provided that a licensed and appointed title insurance agency ~~agent~~ complies with the requirements of s. 626.8419 ~~s. 626.8417~~, including such requirements added after the initial licensure of the agency

~~agent~~.

(2) All funds received by a title insurance agency ~~agent~~ as described in subsection (1) shall be trust funds received in a fiduciary capacity by the title insurance agency ~~agent~~ and shall be the property of the person or persons entitled thereto.

(3) All funds received by a title insurance agency ~~agent~~ to be held in trust shall be immediately placed in a financial institution that is located within this state and is a member of the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund~~. These funds shall be invested in an escrow account in accordance with the investment requirements and standards established for deposits and investments of state funds in s. 17.57~~, where the funds shall be kept until disbursement thereof is properly authorized.

(4) Funds required to be maintained in escrow trust accounts pursuant to this section shall not be subject to any debts of the title insurance agency ~~agent~~ and shall be used only in accordance with the terms of the individual, escrow, settlement, or closing instructions under which the funds were accepted.

(5) The title insurance agency ~~agents~~ shall maintain separate records of all receipts and disbursements of escrow, settlement, or closing funds.

(6) In the event that the department promulgates rules necessary to implement the requirements of this section pursuant

to s. 624.308, the department shall consider reasonable standards necessary for the protection of funds held in trust, including, but not limited to, standards for accounting of funds, standards for receipt and disbursement of funds, and protection for the person or persons to whom the funds are to be disbursed.

(7) A title insurance agency ~~agent~~, or any officer, director, or employee thereof, or any person associated therewith as an independent contractor for bookkeeping or similar purposes, who converts or misappropriates funds received or held in escrow or in trust by such title insurance agency ~~agent~~, or any person who knowingly receives or conspires to receive such funds, commits:

(a) If the funds converted or misappropriated are $300 or less, a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) If the funds converted or misappropriated are more than $300, but less than $20,000, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) If the funds converted or misappropriated are $20,000 or more, but less than $100,000, a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) If the funds converted or misappropriated are $100,000 or more, a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(8) An attorney shall deposit and maintain all funds received in connection with transactions in which the attorney is serving as a title or real estate settlement agent into a separate trust account that is maintained exclusively for funds received in connection with such transactions and permit the account to be audited by its title insurers, unless maintaining funds in the separate account for a particular client would violate applicable rules of The Florida Bar.

Section 29. Subsection (19) of section 626.854, Florida Statutes, is amended to read:

626.854 "Public adjuster" defined; prohibitions.—The Legislature finds that it is necessary for the protection of the public to regulate public insurance adjusters and to prevent the unauthorized practice of law.

(19) Except as otherwise provided in this chapter, no person, except an attorney at law or a licensed and appointed public adjuster, may for money, commission, or any other thing of value, directly or indirectly:

(a) Prepare, complete, or file an insurance claim for an insured or a third-party claimant;

(b) Act on behalf of or aid an insured or a third-party claimant in negotiating for or effecting the settlement of a claim for loss or damage covered by an insurance contract;

(c) Offer to initiate or negotiate a claim on behalf of an insured;

(d) Advertise services that require a license as a public adjuster; or

(e) Solicit, investigate, or adjust a claim on behalf of a public adjuster, an insured, or a third-party claimant.

Section 30. Section 626.874, Florida Statutes, is amended to read:

626.874 Catastrophe or emergency adjusters.—

(1) In the event of a catastrophe or emergency, the department may issue a license, for the purposes and under the conditions and for the period of emergency as it shall determine, to persons who are residents or nonresidents of this state, who are at least 18 years of age, who are United States citizens or legal aliens who possess work authorization from the United States Bureau of Citizenship and Immigration Services, and who are not licensed adjusters under this part but who have been designated and certified to it as qualified to act as adjusters by an authorized insurer to adjust claims, losses, or damages under policies or contracts of insurance issued by such insurers, or by a licensed ~~the primary adjuster of an~~ independent adjusting firm contracted with an authorized insurer to adjust claims on behalf of the insurer. The fee for the license is as provided in s. 624.501(12)(c).

(2) If any person not a licensed adjuster who has been permitted to adjust such losses, claims, or damages under the conditions and circumstances set forth in subsection (1),

engages in any of the misconduct described in or contemplated by chapter 626 ~~ss. 626.611 and 626.621~~, the department, without notice and hearing, shall be authorized to issue its order denying such person the privileges granted under this section; and thereafter it shall be unlawful for any such person to adjust any such losses, claims, or damages in this state.

Section 31. Subsections (7) through (12) of section 626.9957, Florida Statutes, are renumbered as subsections (8) through (13), respectively, and a new subsection (7) is added to that section, to read:

626.9957 Conduct prohibited; denial, revocation, termination, expiration, or suspension of registration.—

(7) If a navigator registered under this part fails to maintain an active, valid navigator's registration status with the federal government or an exchange, the navigator's registration issued under this part shall expire by operation of law. A navigator with an expired registration may not be granted subsequent registration until the navigator qualifies as a first-time applicant.

Section 32. Paragraphs (c) and (g) of subsection (4) of section 627.351, Florida Statutes, are amended to read:

627.351 Insurance risk apportionment plans.—

(4) MEDICAL MALPRACTICE RISK APPORTIONMENT.—

(c) The Joint Underwriting Association shall operate subject to the supervision and approval of a board of governors

consisting of representatives of five of the insurers participating in the Joint Underwriting Association, an attorney named by The Florida Bar, a physician named by the Florida Medical Association, a dentist named by the Florida Dental Association, and a hospital representative named by the Florida Hospital Association. The Chief Financial Officer shall select the representatives of the five insurers or other persons with experience in medical malpractice insurance as determined by the Chief Financial Officer. One insurer representative shall be selected from recommendations of the American Insurance Association. One insurer representative shall be selected from recommendations of the Property Casualty Insurers Association of America. One insurer representative shall be selected from recommendations of the Florida Insurance Council. Two insurer representatives shall be selected to represent insurers that are not affiliated with these associations. Each board member shall serve for a 4-year term and may be reappointed, but no member shall serve more than 8 consecutive years. Vacancies on the board shall be filled for the remaining period of the term in the same manner as the initial appointments. During the first meeting of the board after June 30 of each year, the board shall choose one of its members to serve as chair of the board and another member to serve as vice chair of the board. There is no liability on the part of, and no cause of action shall arise against, any member insurer, self-insurer, or its agents or

employees, the Joint Underwriting Association or its agents or employees, members of the board of governors, or the office or its representatives for any action taken by them in the performance of their powers and duties under this subsection.

1. The Chief Financial Officer may remove a board member from office for misconduct, malfeasance, misfeasance, or neglect of duty. Any vacancy so created shall be filled as provided in this paragraph.

2. Board members are subject to the code of ethics under part III of chapter 112, including, but not limited to, the code of ethics and public disclosure and reporting of financial interests, pursuant to s. 112.3145. For purposes of applying part III of chapter 112 to activities of members of the board of governors, those persons are considered public officers and the Joint Underwriting Association is considered their agency. Notwithstanding s. 112.3143(2), a board member may not vote on any measure that he or she knows would inure to his or her special private gain or loss; that he or she knows would inure to the special private gain or loss of any principal by which he or she is retained, other than an agency as defined in s. 112.312; or that he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Before the vote is taken, such board member shall publicly state to the board the nature of his or her interest in the matter from which he or she is abstaining from

voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

3. Notwithstanding s. 112.3148, s. 112.3149, or any other law, an board member may not knowingly accept, directly or indirectly, any gift or expenditure from a person or entity, or an employee or representative of such person or entity, which has a contractual relationship with the Joint Underwriting Association or which is under consideration for a contract.

4. A board member who fails to comply with subparagraph 2. or subparagraph 3. is subject to the penalties provided under ss. 112.317 and 112.3173.

(g)1. All books, records, documents, or audits relating to the Joint Underwriting Association or its operation shall be open to public inspection, except that a claim file in the possession of the Joint Underwriting Association is confidential and exempt from the provisions of s. 119.07(1) during the processing of that claim. Any information contained in these files that identifies an injured person is confidential and exempt from the provisions of s. 119.07(1).

2.a. All meetings of the board of governors are subject to the requirements of s. 286.011 and are open to the public for reasonable inspection, except that a claim file in the

possession of the Joint Underwriting Association or its representative is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution during the processing of the claim, although medical records and other portions of the claim file may remain confidential and exempt as otherwise provided by law.

b. Except in the case of emergency meetings, the Joint Underwriting Association shall give notice of any board meeting by publication on the association's website at least 7 days before the meeting. The association shall prepare and publish a meeting agenda on its website, along with any meeting materials, excluding confidential and exempt information, at least 7 days before the meeting. The agenda shall contain the items to be considered in order of presentation and a telephone number for members of the public to participate telephonically at the board meeting, or login information for members of the public to participate in a live video conference of the board meeting. After the agenda has been made available, a change shall be made only for good cause, as determined by the person designated to preside, and must be stated in the record. Notification of such change shall be at the earliest practicable time.

Section 33. Paragraph (b) of subsection (1) of section 627.4133, Florida Statutes, is amended to read:

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

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

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

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

the insurer. If a dishonored check represents the initial premium payment, the contract and all contractual obligations shall be void ab initio unless the nonpayment is cured within the earlier of 5 days after actual notice by certified mail is received by the applicant or 15 days after notice is sent to the applicant by certified mail or registered mail, and if the contract is void, any premium received by the insurer from a third party shall be refunded to that party in full; and

2. When such cancellation or termination occurs during the first 60 ~~90~~ days during which the insurance is in force and the insurance is canceled or terminated for reasons other than nonpayment of premium, at least 20 days' written notice of cancellation or termination accompanied by the reason therefor shall be given except where there has been a material misstatement or misrepresentation or failure to comply with the underwriting requirements established by the insurer.

After the policy has been in effect for 90 days, no such policy shall be canceled by the insurer except when there has been a material misstatement, a nonpayment of premium, a failure to comply with underwriting requirements established by the insurer within 90 days of the date of effectuation of coverage, or a substantial change in the risk covered by the policy or when the cancellation is for all insureds under such policies for a given class of insureds. This subsection does not apply to

individually rated risks having a policy term of less than 90 days.

Section 34. Section 627.4215, Florida Statutes, is amended to read:

627.4215 Disclosures to policyholders; coverage of behavioral health care services.—

(1) A health insurer that offers behavioral health insurance coverages required by federal and state law shall make all of the following information available on its website:

(a) The federal and state requirements for coverage of behavioral health care services.

(b) Contact information for the Division of Consumer Services of the department, including a hyperlink, for consumers to submit inquiries or complaints relating to health insurer products or services regulated by the department or the office.

(2) On an annual basis, a health insurer shall provide a direct notice to insureds with behavioral health insurance coverages required by federal and state law which must include a description of the federal and state requirements for coverage of behavioral health care services. Such notice must also include the website address and statewide toll-free telephone number of the Division of Consumer Services of the department for receiving and logging complaints.

Section 35. Subsection (3) is added to section 627.426, Florida Statutes, to read:

627.426 Claims administration.—

(3) A liability insurer is prohibited from denying coverage for property and bodily injury liability claims made against an insured for up to the property and bodily injury liability limits set in s. 324.021(9) solely based on the insured's failure to cooperate with the insurer's investigation unless the insurer can clearly demonstrate by a preponderance of the evidence that the insured's lack of cooperation has resulted in actual prejudice to the insurer.

Section 36. Paragraphs (c) through (f) of subsection (4) of section 627.7015, Florida Statutes, are redesignated as paragraphs (b) through (e), respectively, subsections (2) and (3) and present paragraph (b) of subsection (4) of that section are amended, to read:

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

(2) At the time of issuance and renewal of a policy or at the time a first-party claim within the scope of this section is filed by the policyholder, the insurer shall notify the policyholder of its right to participate in the mediation program under this section. An insurer is required to make a claim determination or elect to repair pursuant to s. 627.70131 before participating in mediation. The department shall prepare a consumer information pamphlet for distribution to persons participating in mediation.

(3) The costs of mediation must be reasonable, and the insurer must bear all of the cost of conducting mediation conferences, except as otherwise provided in this section. If a policyholder fails to appear at the conference, the conference must be rescheduled upon the policyholder's payment of the costs of a rescheduled conference. If the insurer fails to appear at the conference, the insurer must pay the policyholder's actual cash expenses incurred in attending the conference if the insurer's failure to attend was not due to a good cause acceptable to the department. An insurer will be deemed to have failed to appear if the insurer's representative lacks authority to settle the full value of the claim. The insurer shall incur an additional fee for a rescheduled conference necessitated by the insurer's failure to appear at a scheduled conference. The fees assessed by the department ~~administrator~~ must include a charge necessary to defray the expenses of the department related to its duties under this section and must be deposited in the Insurance Regulatory Trust Fund. The department may suspend the insurer's authority to appoint licensees if the insurer does not timely pay the required fees.

(4) The department shall adopt by rule a property insurance mediation program to be administered by the department or its designee. The department may also adopt special rules which are applicable in cases of an emergency within the state. The rules shall be modeled after practices and procedures set

forth in mediation rules of procedure adopted by the Supreme Court. The rules shall provide for:

~~(b) Qualifications, denial of application, suspension, revocation of approval, and other penalties for mediators as provided in s. 627.745 and the Florida Rules for Certified and Court-Appointed Mediators.~~

Section 37. Section 627.7155, Florida Statutes, is created to read:

627.7155 Collateral protection property insurance; prohibited practices.—

(1) An insurer or insurance agent may not:

(a) Issue collateral protection insurance on a mortgaged property:

1. That the insurer or insurance agent or an affiliate of the insurer or insurance agent owns;

2. For which the insurer or insurance agent or an affiliate of the insurer or insurance agent performs the servicing; or

3. If the servicing right to the property is owned by the insurer or insurance agent or an affiliate of the insurer or insurance agent;

(b) Compensate a lender, insurer, investor, or servicer, including through the payment of commissions, on a collateral protection property insurance policy issued by the insurer;

(c) Share collateral protection property insurance premium

or risk with the lender, investor, or servicer that obtained the collateral protection property insurance;

(d) Offer contingent commissions, profit sharing, or other payments dependent on profitability or loss ratios to any person affiliated with a servicer or the insurer in connection with collateral protection property insurance; or

(e) Make any payments, including, but not limited to, payments of expenses to a lender, insurer, investor, or servicer for the purpose of securing collateral protection property insurance business or related outsourced services.

(2) An insurer may not provide free or below-cost outsourced services to a lender, investor, or servicer, and an insurer may not outsource its own functions to a lender, insurance agent, investor, or servicer on an above-cost basis.

Section 38. Section 627.745, Florida Statutes, is amended to read:

627.745 Mediation of claims.—

(1)(a) In any claim filed with an insurer for personal injury in an amount of $50,000 ~~$10,000~~ or less or any claim for property damage in any amount, arising out of the ownership, operation, use, or maintenance of a motor vehicle, either party may demand mediation of the claim prior to the institution of litigation.

(b) The costs of mediation must be reasonable, and the insurer must bear all of the cost of conducting mediation

conferences, except as otherwise provided in this section. If a policyholder fails to appear at the conference, the conference must be rescheduled upon the policyholder's payment of the costs of a rescheduled conference. If the insurer fails to appear at the conference, the insurer must pay the policyholder's actual cash expenses incurred in attending the conference if the insurer's failure to attend was not due to a good cause acceptable to the department. An insurer is deemed to have failed to appear if the insurer's representative lacks authority to settle the full value of the claim. The insurer shall incur an additional fee for a rescheduled conference necessitated by the insurer's failure to appear at a scheduled conference. The fees assessed by the administrator must include a charge necessary to defray the expenses of the department related to its duties under this section and must be deposited in the Insurance Regulatory Trust Fund. The administrator may request that the department suspend the insurer's authority to appoint licensees if the insurer does not timely pay the per-mediation-event administrative fee.

~~(b) A request for mediation shall be filed with the department on a form approved by the department. The request for mediation shall state the reason for the request for mediation and the issues in dispute which are to be mediated. The filing of a request for mediation tolls the applicable time requirements for filing suit for a period of 60 days following~~

~~the conclusion of the mediation process or the time prescribed in s. 95.11, whichever is later.~~

~~(c) The insurance policy must specify in detail the terms and conditions for mediation of a first-party claim.~~

~~(d) The mediation shall be conducted as an informal process in which formal rules of evidence and procedure need not be observed. Any party participating in a mediation must have the authority to make a binding decision. All parties must mediate in good faith.~~

~~(e) The department shall randomly select mediators. Each party may once reject the mediator selected, either originally or after the opposing side has exercised its option to reject a mediator.~~

~~(f) Costs of mediation shall be borne equally by both parties unless the mediator determines that one party has not mediated in good faith.~~

(c)~~(g)~~ Only one mediation may be requested for each claim, unless all parties agree to further mediation.

~~(2) Upon receipt of a request for mediation, the department shall refer the request to a mediator. The mediator shall notify the applicant and all interested parties, as identified by the applicant, and any other parties the mediator believes may have an interest in the mediation, of the date, time, and place of the mediation conference. The conference may be held by telephone, if feasible. The mediation conference~~

~~shall be held within 45 days after the request for mediation.~~

(2)~~(3)~~(a) The department shall approve mediators to conduct mediations pursuant to this section. All mediators must file an application under oath for approval as a mediator.

(b) To qualify for approval as a mediator, an individual must meet one of the following qualifications:

1. Possess an active certification as a Florida Supreme Court certified circuit court mediator. A Florida Supreme Court certified circuit court mediator in a lapsed, suspended, sanctioned, or decertified status is not eligible to participate in the mediation program.

2. Be an approved department mediator as of July 1, 2014, and have conducted at least one mediation on behalf of the department within 4 years immediately preceding that date.

(3)~~(4)~~ The department shall deny an application, or suspend or revoke its approval, of a mediator to serve in such capacity if the department finds that one or more of the following grounds exist:

(a) Lack of one or more of the qualifications specified in this section for approval.

(b) Material misstatement, misrepresentation, or fraud in obtaining or attempting to obtain the approval.

(c) Demonstrated lack of fitness or trustworthiness to act as a mediator.

(d) Fraudulent or dishonest practices in the conduct of

mediation or in the conduct of business in the financial services industry.

(e) Violation of any provision of this code or of a lawful order or rule of the department, violation of the Florida Rules for Certified and Court-Appointed Mediators, or aiding, instructing, or encouraging another party in committing such a violation.

The department may adopt rules to administer this subsection.

(4) The department shall adopt by rule a motor vehicle claims insurance mediation program to be administered by the department or its designee. The department may also adopt special rules that are applicable in cases of an emergency within the state. The rules shall be modeled after practices and procedures set forth in mediation rules of procedure adopted by the Supreme Court. The rules must include:

(a) Reasonable requirements for processing and scheduling of requests for mediation.

(b) Provisions governing who may attend mediation conferences.

(c) Selection of mediators.

(d) Criteria for the conduct of mediation conferences.

(e) Right to legal counsel.

~~(5) The department must adopt rules of procedure for claims mediation, taking into consideration a system which:~~

~~(a) Is fair.~~

~~(b) Promotes settlement.~~

~~(c) Avoids delay.~~

~~(d) Is nonadversarial.~~

~~(e) Uses a framework for modern mediating technique~~.

(f) Controls of costs and expenses of mediation.

(5) The department may designate an entity or person to serve as an administrator to carry out any of the provisions of this section and may take this action by means of a written contract or agreement.

(6) Disclosures and information divulged in the mediation process are not admissible in any subsequent action or proceeding relating to the claim or to the cause of action giving rise to the claim. A person demanding mediation under this section may not demand or request mediation after a suit is filed relating to the same facts already mediated.

Section 39. Subsections (7) through (12) of section 631.141, Florida Statutes, are renumbered as subsections (8) through (13), respectively, and a new subsection (7) is added to that section, to read:

631.141 Conduct of delinquency proceeding; domestic and alien insurers.—

(7) In order to preserve as much as possible the right and interest of the policyholders whose insurance policies or similar contracts are affected by the receivership proceedings,

the department as a domiciliary receiver may:

(a) Use the property of the estate of the insurer to transfer the insurer's book of business, policies, or similar contracts of coverage, in whole or in part, to a solvent assuming insurer or insurers.

(b) Notwithstanding s. 631.195, share records of the insurer with the prospective solvent assuming insurer or insurers, but only to the extent necessary to undertake due diligence for a transfer contemplated under this section.

Section 40. Subsections (1) and (3) of section 631.252, Florida Statutes, are amended to read:

631.252 Continuation of coverage.—

(1) Unless another insurer, with approval of the receivership court, assumes or otherwise provides coverage for the policies of the insolvent insurer, all insurance policies or similar contracts of coverage, other than coverages defined in s. 631.713 or health maintenance organization coverage under part IV, issued by the insurer shall be canceled upon the earlier ~~earliest to occur~~ of the following:

(a) The date of entry of the liquidation or, if the court so provides in its order, the expiration of 30 days from the date of entry of the liquidation order;

(b) The normal expiration of the policy or contract coverage;

(c) The replacement of the coverage by the insured, or the

replacement of the policy or contract of coverage, with a policy or contract acceptable to the insured by the receiver with another insurer; ~~or~~

(d) The date proposed by the receiver and approved by the receivership court to cancel coverage; or

(e)~~(d)~~ The termination of the coverage by the insured.

(3) The 30-day coverage continuation period provided in paragraph (1)(a) and s. 631.57(1)(a)1. may not be extended unless the Chief Financial Officer ~~office~~ determines, based on a reasonable belief, that market conditions are such that policies of residential property insurance coverage cannot be placed with an authorized insurer within 30 days and that an additional 15 days is needed to place such coverage.~~; and~~ Failure of actual notice to the policyholder of the insolvency of the insurer, of commencement of a delinquency proceeding, or of expiration of the extension period does not affect such expiration.

Section 41. Subsection (1) of section 631.56, Florida Statutes, is amended, and subsections (5) through (10) are added to that section, to read:

631.56 Board of directors.—

(1) The board of directors of the association shall consist of not less than five or more than nine persons serving terms as established in the plan of operation. The department shall approve and appoint to the board persons recommended by the member insurers or other persons with experience in property

and casualty insurance as determined by the Chief Financial Officer. Of those persons recommended by the member insurers and appointed by the department, a majority shall be from domestic insurers. ~~In the event the department finds that any recommended person does not meet the qualifications for service on the board, the department shall request the member insurers to recommend another person.~~ Each member shall serve for a 4-year term and may be reappointed, but no member shall serve more than 8 consecutive years. Vacancies on the board shall be filled for the remaining period of the term in the same manner as initial appointments.

(5) The Chief Financial Officer may remove a board member from office for misconduct, malfeasance, misfeasance, or neglect of duty. Any vacancy so created shall be filled as provided in subsection (1).

(6) Board members are subject to the code of ethics under part III of chapter 112, including, but not limited to, the code of ethics and public disclosure and reporting of financial interests, pursuant to s. 112.3145. For purposes of applying part III of chapter 112 to activities of members of the board of directors, those persons are considered public officers and the association is considered their agency. Notwithstanding s. 112.3143(2), a board member may not vote on any measure that he or she knows would inure to his or her special private gain or loss; that he or she knows would inure to the special private

gain or loss of any principal by which he or she is retained, other than an agency as defined in s. 112.312; or that he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Before the vote is taken, such member shall publicly state to the board the nature of his or her interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

(7) Notwithstanding s. 112.3148, s. 112.3149, or any other law, a board member may not knowingly accept, directly or indirectly, any gift or expenditure from a person or entity, or an employee or representative of such person or entity, which has a contractual relationship with the association or which is under consideration for a contract.

(8) A board member who fails to comply with subsection (6) or subsection (7) is subject to the penalties provided under ss. 112.317 and 112.3173.

(9) All meetings of the board of directors are subject to the requirements of s. 286.011, and all books, records, and audits of the plan are open to the public for reasonable inspection, except that a claim file in the possession of the association or its representative is confidential and exempt

from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution until termination of litigation or settlement of the claim, although medical records and other portions of the claim file may remain confidential and exempt as otherwise provided by law.

(10) Except in the case of emergency meetings, the association shall give notice of any board meeting by publication on the association's website at least 7 days before the meeting. The association shall prepare and publish a meeting agenda on its website, along with any meeting materials, excluding confidential and exempt information, at least 7 days before the meeting. The agenda shall contain the items to be considered in order of presentation and a telephone number for members of the public to participate telephonically at the board meeting, or login information for members of the public to participate in a live video conference of the board meeting. After the agenda has been made available, a change shall be made only for good cause, as determined by the person designated to preside, and must be stated in the record. Notification of such change shall be at the earliest practicable time.

Section 42. Paragraph (a) of subsection (1) of section 631.716, Florida Statutes, is amended, and subsections (4) through (9) are added to that section, to read:

631.716 Board of directors.—

(1)(a) The board of directors of the association shall

have at least 9, but no more than 11, members. The members shall consist ~~be comprised~~ of member insurers serving terms as established in the plan of operation and 1 Florida Health Maintenance Organization Consumer Assistance Plan director confirmed pursuant to paragraph (b), or other persons with experience in life and annuity or accident and health insurance as determined by the Chief Financial Officer. At all times, at least 1 ~~member of the~~ board member must be a domestic insurer as defined in s. 624.06(1). The ~~members of the~~ board members who are member insurers shall be elected by member insurers, subject to the approval of the department. Each board member shall serve for a 4-year term and may be reappointed, but no member shall serve more than 8 consecutive years.

(4) The Chief Financial Officer may remove a board member from office for misconduct, malfeasance, misfeasance, or neglect of duty. Any vacancy so created shall be filled as provided in subsection (1).

(5) Board members are subject to the code of ethics under part III of chapter 112, including, but not limited to, the code of ethics and public disclosure and reporting of financial interests, pursuant to s. 112.3145. For purposes of applying part III of chapter 112 to activities of members of the board of directors, those persons are considered public officers and the association is considered their agency. Notwithstanding s. 112.3143(2), a board member may not vote on any measure that he

or she knows would inure to his or her special private gain or loss; that he or she knows would inure to the special private gain or loss of any principal by which he or she is retained, other than an agency as defined in s. 112.312; or that he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Before the vote is taken, such member shall publicly state to the board the nature of his or her interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

(6) Notwithstanding s. 112.3148, s. 112.3149, or any other law, a board member may not knowingly accept, directly or indirectly, any gift or expenditure from a person or entity, or an employee or representative of such person or entity, which has a contractual relationship with the association or which is under consideration for a contract.

(7) A board member who fails to comply with subsection (5) or subsection (6) is subject to the penalties provided under ss. 112.317 and 112.3173.

(8) All meetings of the board of directors are subject to the requirements of s. 286.011, and all books, records, and audits of the association are open to the public for reasonable

inspection, except that records of negotiations and meetings in which the association or its representatives discuss the activities of the association in carrying out its powers and duties may remain confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the termination of a delinquency proceeding, may remain confidential and exempt as otherwise provided by law.

(9) Except in the case of emergency meetings, the association shall give notice of any board meeting by publication on the association's website at least 7 days before the meeting. The association shall prepare and publish a meeting agenda on its website, along with any meeting materials, excluding confidential and exempt information, at least 7 days before the meeting. The agenda shall contain the items to be considered in order of presentation and a telephone number for members of the public to participate telephonically at the board meeting, or login information for members of the public to participate in a live video conference of the board meeting. After the agenda has been made available, a change shall be made only for good cause, as determined by the person designated to preside, and must be stated in the record. Notification of such change shall be at the earliest practicable time.

Section 43. Subsection (1) of section 631.816, Florida Statutes, is amended, and subsections (8) through (13) are added to that section, to read:

631.816 Board of directors.—

(1) The board of directors of the plan shall consist of not less than five or more than nine persons serving terms as established in the plan of operation. The department shall approve and appoint to the board persons recommended by the member HMOs or other persons with experience in health insurance as determined by the Chief Financial Officer. ~~In the event the department finds that any recommended person does not meet the qualifications for service on the board, the department shall request the member HMOs to recommend another person.~~ Each member shall serve for a 4-year term and may be reappointed, except that terms may be staggered as defined in the plan of operation. No member shall serve more than 8 consecutive years. Vacancies on the board shall be filled for the remaining period of the term in the same manner as initial appointments. In determining voting rights, each HMO is entitled to vote on the basis of cumulative weighted voting based on the net written premium for non-Medicare and non-Medicaid policies.

(8) The Chief Financial Officer may remove a board member from office for misconduct, malfeasance, misfeasance, or neglect of duty. Any vacancy so created shall be filled as provided in subsection (1).

(9) Board members are subject to the code of ethics under part III of chapter 112, including, but not limited to, the code of ethics and public disclosure and reporting of financial

interests, pursuant to s. 112.3145. For purposes of applying part III of chapter 112 to activities of members of the board of directors, those persons are considered public officers and the plan is considered their agency. Notwithstanding s. 112.3143(2), a board member may not vote on any measure that he or she knows would inure to his or her special private gain or loss; that he or she knows would inure to the special private gain or loss of any principal by which he or she is retained, other than an agency as defined in s. 112.312; or that he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Before the vote is taken, such member shall publicly state to the board the nature of his or her interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

(10) Notwithstanding s. 112.3148, s. 112.3149, or any other law, a board member may not knowingly accept, directly or indirectly, any gift or expenditure from a person or entity, or an employee or representative of such person or entity, which has a contractual relationship with the plan or which is under consideration for a contract.

(11) A board member who fails to comply with subsection

(9) or subsection (10) is subject to the penalties provided under ss. 112.317 and 112.3173.

(12) All meetings of the board of directors are subject to the requirements of s. 286.011, and all books, records, and audits of the plan are open to the public for reasonable inspection, except that records of an insolvent HMO in liquidation, rehabilitation, or revocation proceedings are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution until termination of the liquidation, rehabilitation, or revocation proceedings.

(13) Except in the case of emergency meetings, the plan shall give notice of any board meeting by publication on the plan's website at least 7 days before the meeting. The plan shall prepare and publish a meeting agenda on its website, along with any meeting materials, excluding confidential and exempt information, at least 7 days before the meeting. The agenda shall contain the items to be considered in order of presentation and a telephone number for members of the public to participate telephonically at the board meeting, or login information for members of the public to participate in a live video conference of the board meeting. After the agenda has been made available, a change shall be made only for good cause, as determined by the person designated to preside, and must be stated in the record. Notification of such change shall be at the earliest practicable time.

Section 44. Subsection (1) of section 631.912, Florida Statutes, is amended, and subsections (4) through (8) are added to that section, to read:

631.912 Board of directors.—

(1) The board of directors of the corporation shall consist of 11 persons, 1 of whom is the insurance consumer advocate appointed under s. 627.0613 or designee and 1 of whom is designated by the Chief Financial Officer. The department shall appoint to the board 6 persons selected by private carriers from among the 20 workers' compensation insurers with the largest amount of direct written premium as determined by the department, and 2 persons selected by the self-insurance funds or other persons with experience in workers' compensation insurance as determined by the Chief Financial Officer. The Governor shall appoint one person who has commercial insurance experience. At least two of the private carriers shall be foreign carriers authorized to do business in this state. The board shall elect a chairperson from among its members. The Chief Financial Officer may remove any board member for cause. Each board member shall be appointed to serve a 4-year term and may be reappointed, but no member shall serve more than 8 consecutive years. A vacancy on the board shall be filled for the remaining period of the term in the same manner by which the original appointment was made.

(4) Board members are subject to the code of ethics under

part III of chapter 112, including, but not limited to, the code of ethics and public disclosure and reporting of financial interests, pursuant to s. 112.3145. For purposes of applying part III of chapter 112 to activities of members of the board of directors, those persons are considered public officers and the corporation is considered their agency. Notwithstanding s. 112.3143(2), a board member may not vote on any measure that he or she knows would inure to his or her special private gain or loss; that he or she knows would inure to the special private gain or loss of any principal by which he or she is retained, other than an agency as defined in s. 112.312; or that he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Before the vote is taken, such member shall publicly state to the board the nature of his or her interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

(5) Notwithstanding s. 112.3148, s. 112.3149, or any other law, a board member may not knowingly accept, directly or indirectly, any gift or expenditure from a person or entity, or an employee or representative of such person or entity, which has a contractual relationship with the corporation or which is

under consideration for a contract.

(6) A board member who fails to comply with subsection (4) or subsection (5) is subject to the penalties provided under ss. 112.317 and 112.3173.

(7) All meetings of the board of directors are subject to the requirements of s. 286.011, and all books and records are open to the public for reasonable inspection, except that negotiations held between an insurer and the corporation are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and as otherwise provided by law.

(8) Except in the case of emergency meetings, the corporation shall give notice of any board meeting by publication on the corporation's website at least 7 days before the meeting. The corporation shall prepare and publish a meeting agenda on its website, along with any meeting materials, excluding confidential and exempt information, at least 7 days before the meeting. The agenda shall contain the items to be considered in order of presentation and a telephone number for members of the public to participate telephonically at the board meeting, or login information for members of the public to participate in a live video conference of the board meeting. After the agenda has been made available, a change shall be made only for good cause, as determined by the person designated to preside, and must be stated in the record. Notification of such

change shall be at the earliest practicable time.

Section 45. Section 633.1423, Florida Statutes, is created to read:

633.1423 State Fire Marshal direct-support organization.—

(1) DEFINITION.—As used in this section, the term "organization" means the direct-support organization established under this section.

(2) ORGANIZATION ESTABLISHED.—The division may establish a direct-support organization, to be known as the "State Fire Marshal Safety and Training Force," whose sole purpose is to support the safety and training of firefighters and to recognize exemplary service. The organization must:

(a) Be a not-for-profit corporation incorporated under chapter 617 and approved by the Department of State.

(b) Be organized and operated to raise funds; request and receive grants, gifts, and bequests of money; conduct programs and activities; acquire, receive, hold, invest, and administer, in its own name, securities, funds, or property; and make grants and expenditures to or for the direct or indirect benefit of the division. Grants and expenditures may include the cost of education or training of firefighters, or the recognition of exemplary service of firefighters.

(c) Be determined by the division to operate in a manner that is:

1. Consistent with the goals of the division and laws

relating to the safety and training of firefighters.

2. In the best interest of the state.

3. In accordance with the adopted goals and mission of the division.

(d) Use all of its grants and expenditures solely for the purpose of educating, training, and recognizing firefighters, and not for advertising using the likeness or name of any elected official nor for the purpose of lobbying as defined in s. 11.045(1).

(e) Be subject to an annual financial audit in accordance with s. 215.981.

(3) CONTRACT.—The organization shall operate under written contract with the division. The contract must provide for:

(a) Certification by the division that the organization is complying with the terms of the contract and in a manner consistent with the goals and purposes of the department and in the best interest of the state. Such certification must be made annually and reported in the official minutes of a meeting of the organization.

(b) The reversion of moneys and property held by the organization for firefighter safety, training, and recognition to the division if the organization is no longer approved to operate by the division or if the organization ceases to exist, or to the state if the division ceases to exist.

(4) BOARD OF DIRECTORS.—The organization shall be governed

by a board of directors. The State Fire Marshal, or his or her designee, shall appoint a president of the board. The board of directors shall be appointed by the president of the board.

(5) USE OF PROPERTY.—The division may authorize, without charge, appropriate use of fixed property and facilities of the division by the organization, subject to this subsection.

(a) The department may prescribe any condition with which the organization must comply in order to use the division's property or facilities.

(b) The department may not authorize the use of the division's property or facilities if the organization does not provide equal membership and employment opportunities to all persons regardless of race, religion, sex, age, or national origin.

(c) The department shall adopt rules prescribing the procedures by which the organization is governed and any conditions with which the organization must comply to use the division's property or facilities.

(6) DEPOSITORY ACCOUNT.—Any moneys received by the organization may be held in a separate depository account in the name of the organization and subject to the contract with the division.

(7) ANNUAL BUDGETS AND REPORTS.—The organization shall submit to the division its annual budget and financial reports, its federal Internal Revenue Service Application for Recognition

of Exemption form (Form 1023), and its federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990).

(8) ANNUAL AUDIT.—The organization shall provide for an annual financial audit in accordance with s. 215.981.

(9) DIVISION'S RECEIPT OF PROCEEDS.—Proceeds received by the division from the organization shall be deposited into the Insurance Regulatory Trust Fund.

Section 46. Section 634.171, Florida Statutes, is amended to read:

634.171 Salesperson to be licensed and appointed.—

(1) Salespersons for motor vehicle service agreement companies and insurers shall be licensed, appointed, renewed, continued, reinstated, or terminated as prescribed in chapter 626 for insurance representatives in general. However, they shall be exempt from all other provisions of chapter 626 including fingerprinting, photo identification, education, and examination provisions. License, appointment, and other fees shall be those prescribed in s. 624.501. A licensed and appointed salesperson shall be directly responsible and accountable for all acts of her or his employees and other representatives. Each service agreement company or insurer shall, on forms prescribed by the department, within 30 days after termination of the appointment, notify the department of such termination. No employee or salesperson of a motor vehicle

service agreement company or insurer may directly or indirectly solicit or negotiate insurance contracts, or hold herself or himself out in any manner to be an insurance agent, unless so qualified, licensed, and appointed therefor under the Florida Insurance Code. A motor vehicle service agreement company is not required to be licensed as a salesperson to solicit, sell, issue, or otherwise transact the motor vehicle service agreements issued by the motor vehicle service agreement company.

(2) The department may issue a license to a nonresident applicant if the applicant is licensed as a salesperson for motor vehicle service agreement companies and insurers in the applicant's home state and if the applicant's home state has entered into a reciprocal agreement with the department. A nonresident applicant must submit to the department a copy of a certificate or letter of authorization from the licensing authority of the applicant's home state stating that the applicant holds a current license to act as a salesperson for motor vehicle service agreement companies and insurers. A nonresident salesperson for motor vehicle service agreement companies and insurers shall, at all times while licensed in this state, maintain the salesperson's home state license as a salesperson for motor vehicle service agreement companies and insurers. A nonresident salesperson for motor vehicle service agreement companies and insurers shall notify the department of

any lapse, suspension, or revocation of the salesperson's home state license within 5 days after the lapse, suspension, or revocation.

(3) Upon becoming a resident of this state, an individual who holds a Florida nonresident salesperson for motor vehicle service agreement companies and insurers license may, for a period not to exceed 90 days, continue to transact in this state under the nonresident license. Such individual must apply for resident licensure and must become licensed as a resident salesperson for motor vehicle service agreement companies and insurers within 90 days after becoming a resident of this state.

Section 47. Section 634.181, Florida Statutes, is amended to read:

634.181 Grounds for compulsory refusal, suspension, or revocation of license or appointment of salespersons.—

(1) The department shall deny, suspend, revoke, or refuse to renew or continue the license or appointment of any such salesperson if it finds that as to the salesperson any one or more of the following applicable grounds exist:

(a) ~~(1)~~ Material misstatement, misrepresentation, or fraud in obtaining or attempting to obtain the license or appointment.

(b) ~~(2)~~ If the license or appointment is willfully used, or to be used, to circumvent any of the requirements or prohibitions of this part, any applicable provision of the Florida Insurance Code, or rule of the department or commission.

(c) ~~(3)~~ Willful misrepresentation of any service agreement or willful deception with regard to any agreement, done either in person or by any form of dissemination of information or advertising.

(d) ~~(4)~~ If in the adjustment of claims arising out of service agreements, she or he has materially misrepresented to a service agreement holder or other interested party the terms and coverage of a service agreement with intent and for the purpose of effecting settlement of the claim on less favorable terms than those provided in and contemplated by the service agreement.

(e) ~~(5)~~ For demonstrated lack of fitness or trustworthiness to engage in the service agreement business.

(f) ~~(6)~~ For demonstrated lack of adequate knowledge and technical competence to engage in the transactions authorized by the license or appointment.

(g) ~~(7)~~ Fraudulent or dishonest practices in the conduct of business under the license or appointment.

(h) ~~(8)~~ Misappropriation, conversion, or unlawful withholding of moneys belonging to a service agreement company, insurer, or service agreement holder or to others and received in the conduct of business under the license or appointment.

(i) ~~(9)~~ For unlawfully rebating, or attempt thereat, or for unlawfully dividing or offering to divide her or his commission with another.

(j) ~~(10)~~ Willful failure to comply with, or willful violation of any proper order of the department or office, or willful violation of any provision of this part, or of any applicable provision of the insurance code, or applicable rule of the department or commission.

(k) ~~(11)~~ Having been found guilty of, or having pleaded guilty or nolo contendere to, a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States of America or any state thereof or under the law of any other country which involves moral turpitude, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of the cases.

(l) ~~(12)~~ Failure to refund unearned pro rata commission to the agreement holder or the service agreement company, if the service agreement company is making a full unearned pro rata refund to the agreement holder.

(m) Having been the subject of, or having had a license, permit, appointment, registration, or other authority to conduct business subject to, any decision, finding, injunction, suspension, prohibition, revocation, denial, judgment, final agency action, or administrative order by any court of competent jurisdiction, administrative law proceeding, state agency, federal agency, national securities, commodities, or options exchange, or national securities, commodities, or options association involving a violation of any federal or state

securities or commodities law or any rule or regulation adopted thereunder, or a violation of any rule or regulation of any national securities, commodities, or options exchange or national securities, commodities, or options association.

(2) When a licensee is charged with a felony enumerated in s. 626.207(2), the department shall, immediately upon receipt of information on or indictment for the felony, temporarily suspend a license or appointment issued under this chapter. Such suspension shall continue if the licensee is found guilty of, or pleads guilty or nolo contendere to, the crime, regardless of whether a judgment or conviction is entered, during a pending appeal. A person may not transact insurance business after suspension of his or her license or appointment.

(3) The department may adopt rules to administer this section.

Section 48. Section 634.191, Florida Statutes, is amended to read:

634.191 Grounds for discretionary refusal, suspension, or revocation of license or appointment of salespersons.—

(1) The department may, in its discretion, deny, suspend, revoke, or refuse to renew or continue the license or appointment of any salesperson if it finds that as to the salesperson any one or more of the following applicable grounds exist under circumstances for which such denial, suspension, revocation, or refusal is not mandatory under s. 634.181:

(a)~~(1)~~ For any cause for which granting of the license or appointment could have been refused had it then existed and been known to the department.

(b)~~(2)~~ Violation of any provision of this part or of any other law applicable to the business of service agreements in the course of dealings under the license or appointment.

(c)~~(3)~~ Violation of ~~Has violated~~ any lawful order or rule of the department or commission.

(d)~~(4)~~ Failure or refusal, upon demand, to pay over to any company or insurer the salesperson represents or has represented any money coming into her or his hands belonging to the company or insurer.

(e)~~(5)~~ If, in the conduct of business under the license or appointment, the salesperson has engaged in unfair methods of competition or in unfair or deceptive acts or practices, as such methods, acts, or practices are or may be defined under this part, or has otherwise shown herself or himself to be a source of injury or loss to the public or detrimental to the public interest.

(f)~~(6)~~ Failure to report to the department within 30 days the final disposition of an administrative action taken against a salesperson by a governmental agency or other regulatory agency in this state or any other state or jurisdiction relating to the business of insurance, the sale of securities, or an activity involving fraud, dishonesty, trustworthiness, or breach

of a fiduciary duty. The salesperson must submit a copy of the order, consent to order, or other relevant legal documents to the department ~~Having been found guilty of, or having pleaded guilty or nolo contendere to, a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States of America or any state thereof or under the law of any other country, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of the cases~~.

(2) The department may adopt rules to administer this section.

Section 49. Section 634.320, Florida Statutes, is amended to read:

634.320 Grounds for compulsory refusal, suspension, or revocation of license or appointment of sales representatives.—

(1) The department shall deny, suspend, revoke, or refuse to renew or continue the license or appointment of any sales representative if it is found that any one or more of the following grounds applicable to the sales representative exist:

(a) ~~(1)~~ Material misstatement, misrepresentation, or fraud in obtaining or attempting to obtain a license or appointment.

(b) ~~(2)~~ The license or appointment is willfully used, or to be used, to circumvent any of the requirements or prohibitions of this part.

(c) ~~(3)~~ Willful misrepresentation of any warranty contract

or willful deception with regard to any such contract, done either in person or by any form of dissemination of information or advertising.

(d) ~~(4)~~ In the adjustment of claims arising out of warranties, material misrepresentation to a warranty holder or other interested party of the terms and coverage of a contract, with the intent and for the purpose of effecting settlement of such claim on less favorable terms than those provided in and contemplated by the contract.

(e) ~~(5)~~ Demonstrated lack of fitness or trustworthiness to engage in the business of home warranty.

(f) ~~(6)~~ Demonstrated lack of adequate knowledge and technical competence to engage in the transactions authorized by the license or appointment.

(g) ~~(7)~~ Fraudulent or dishonest practices in the conduct of business under the license or appointment.

(h) ~~(8)~~ Misappropriation, conversion, or unlawful withholding of moneys belonging to an association, insurer, or warranty holder, or to others, and received in the conduct of business under the license or appointment.

(i) ~~(9)~~ Unlawfully rebating, or attempting to unlawfully rebate, or unlawfully dividing, or offering to divide, her or his commission with another.

(j) ~~(10)~~ Willful failure to comply with, or willful violation of, any proper order or rule of the department or

commission or willful violation of any provision of this part.

(k) ~~(11)~~ Being found guilty of or pleading guilty or nolo contendere to a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States of America or any state thereof or under the law of any other country ~~involving moral turpitude~~, without regard to whether judgment of conviction has been entered by the court.

(l) Having been the subject of, or having had a license, permit, appointment, registration, or other authority to conduct business subject to, any decision, finding, injunction, suspension, prohibition, revocation, denial, judgment, final agency action, or administrative order by any court of competent jurisdiction, administrative law proceeding, state agency, federal agency, national securities, commodities, or options exchange, or national securities, commodities, or options association involving a violation of any federal or state securities or commodities law or any rule or regulation adopted thereunder, or a violation of any rule or regulation of any national securities, commodities, or options exchange or national securities, commodities, or options association.

(2) When a licensee is charged with a felony enumerated in s. 626.207(2), the department shall, immediately upon receipt of information on or indictment for the felony, temporarily suspend a license or appointment issued under this chapter. Such suspension shall continue if the licensee is found guilty of, or

pleads guilty or nolo contendere to, the crime, regardless of whether a judgment or conviction is entered, during a pending appeal. A person may not transact insurance business after suspension of his or her license or appointment.

(3) The department may adopt rules to administer this section.

Section 50. Section 634.321, Florida Statutes, is amended to read:

634.321 Grounds for discretionary refusal, suspension, or revocation of license or appointment of sales representatives.—

(1) The department may, in its discretion, deny, suspend, revoke, or refuse to renew or continue the license or appointment of any sales representative if it is found that any one or more of the following grounds applicable to the sales representative exist under circumstances for which such denial, suspension, revocation, or refusal is not mandatory under s. 634.320:

(a) ~~(1)~~ Any cause for which granting of the license or appointment could have been refused had it then existed and been known to the department.

(b) ~~(2)~~ Violation of any provision of this part, or of any other law applicable to the business of warranties, in the course of dealings under the license or appointment.

(c) ~~(3)~~ Violation of any lawful order or rule of the department or commission.

(d) ~~(4)~~ Failure or refusal to pay over, upon demand, to any home warranty association or insurer the sales representative represents or has represented any money coming into her or his hands which belongs to the association or insurer.

(e) ~~(5)~~ In the conduct of business under the license or appointment, engaging in unfair methods of competition or in unfair or deceptive acts or practices, as such methods, acts, or practices are or may be defined under this part, or otherwise showing herself or himself to be a source of injury or loss to the public or detriment to the public interest.

(f) ~~(6)~~ Failure to report to the department within 30 days the final disposition of an administrative action taken against a salesperson by a governmental agency or other regulatory agency in this state or any other state or jurisdiction relating to the business of insurance, the sale of securities, or an activity involving fraud, dishonesty, trustworthiness, or breach of a fiduciary duty. The sales representative must submit a copy of the order, consent to order, or other relevant legal documents to the department ~~Being found guilty of or pleading guilty or nolo contendere to a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States of America or any state thereof or under the law of any other country, without regard to whether a judgment of conviction has been entered by the court~~.

(2) The department may adopt rules to administer this

section.

Section 51. Paragraphs (d), (e), and (f) of subsection (17) of section 634.401, Florida Statutes, are amended to read:

634.401 Definitions.—As used in this part, the term:

(17) "Manufacturer" means any entity or its affiliate which:

~~(d) Maintains outstanding debt obligations, if any, rated in the top four rating categories by a recognized rating service;~~

(d)~~(e)~~ Has and maintains at all times, a minimum net worth of at least $100 ~~$10~~ million as evidenced by certified financial statements prepared by an independent certified public accountant in accordance with generally accepted accounting principles; and

(e)~~(f)~~ Is authorized to do business in this state.

Section 52. Paragraph (a) of subsection (7) of section 634.406, Florida Statutes, is amended to read:

634.406 Financial requirements.—

(7) An association licensed under this part and holding no other license under part I or part II of this chapter is not required to establish an unearned premium reserve or maintain contractual liability insurance and may allow its premiums to exceed the ratio to net assets limitation of this section if the association complies with the following:

(a) The association or, if the association is a direct or

indirect wholly owned subsidiary of a parent corporation, its parent corporation has, and maintains at all times, a minimum net worth of at least $100 million and provides the office with the following:

1. A copy of the association's annual audited financial statements or the audited consolidated financial statements of the association's parent corporation, prepared by an independent certified public accountant in accordance with generally accepted accounting principles, which clearly demonstrate the net worth of the association or its parent corporation to be $100 million and a quarterly written certification to the office that such entity continues to maintain the net worth required under this paragraph.

2. The association's, or its parent corporation's, Form 10-K, Form 10-Q, or Form 20-F as filed with the United States Securities and Exchange Commission or such other documents required to be filed with a recognized stock exchange, which shall be provided on a quarterly and annual basis within 10 days after the last date each such report must be filed with the Securities and Exchange Commission, the National Association of Security Dealers Automated Quotation system, or other recognized stock exchange.

Failure to timely file the documents required under this paragraph may, at the discretion of the office, subject the

association to suspension or revocation of its license under this part. ~~An association or parent corporation demonstrating compliance with subparagraphs 1. and 2. must maintain outstanding debt obligations, if any, rated in the top four rating categories by a recognized rating service.~~

Section 53. Section 634.422, Florida Statutes, is amended to read:

634.422 Grounds for compulsory refusal, suspension, or revocation of license or appointment of sales representatives.—

(1) The department shall deny, suspend, revoke, or refuse to renew or continue the license or appointment of any sales representative if it is found that any one or more of the following grounds applicable to the sales representative exist:

(a) ~~(1)~~ Material misstatement, misrepresentation, or fraud in obtaining or attempting to obtain a license or appointment.

(b) ~~(2)~~ The license or appointment is willfully used, or to be used, to circumvent any of the requirements or prohibitions of this part.

(c) ~~(3)~~ Willful misrepresentation of any service warranty contract or willful deception with regard to any such contract, done either in person or by any form of dissemination of information or advertising.

(d) ~~(4)~~ In the adjustment of claims arising out of warranties, material misrepresentation to a service warranty holder or other interested party of the terms and coverage of a

contract with the intent and for the purpose of effecting settlement of the claim on less favorable terms than those provided in and contemplated by the contract.

(e) ~~(5)~~ Demonstrated lack of fitness or trustworthiness to engage in the business of service warranty.

(f) ~~(6)~~ Demonstrated lack of adequate knowledge and technical competence to engage in the transactions authorized by the license or appointment.

(g) ~~(7)~~ Fraudulent or dishonest practices in the conduct of business under the license or appointment.

(h) ~~(8)~~ Misappropriation, conversion, or unlawful withholding of moneys belonging to an association, insurer, or warranty holder, or to others, and received in the conduct of business under the license or appointment.

(i) ~~(9)~~ Unlawfully rebating, or attempting to unlawfully rebate, or unlawfully dividing, or offering to divide, her or his commission with another.

(j) ~~(10)~~ Willful failure to comply with, or willful violation of, any proper order or rule of the department or commission, or willful violation of any provision of this part.

(k) ~~(11)~~ Being found guilty of or pleading nolo contendere to a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States of America or any state thereof or under the law of any other country ~~involving moral turpitude~~, without regard to whether judgment of conviction has

been entered by the court having jurisdiction of the case.

(l) Having been the subject of, or having had a license, permit, appointment, registration, or other authority to conduct business subject to, any decision, finding, injunction, suspension, prohibition, revocation, denial, judgment, final agency action, or administrative order by any court of competent jurisdiction, administrative law proceeding, state agency, federal agency, national securities, commodities, or options exchange, or national securities, commodities, or options association involving a violation of any federal or state securities or commodities law or any rule or regulation adopted thereunder, or a violation of any rule or regulation of any national securities, commodities, or options exchange or national securities, commodities, or options association.

(2) When a licensee is charged with a felony enumerated in s. 626.207(2), the department shall, immediately upon receipt of information on or indictment for the felony, temporarily suspend a license or appointment issued under this chapter. Such suspension shall continue if the licensee is found guilty of, or pleads guilty or nolo contendere to, the crime, regardless of whether a judgment or conviction is entered, during a pending appeal. A person may not transact insurance business after suspension of his or her license or appointment.

(3) The department may adopt rules to administer this section.

Section 54. Section 634.423, Florida Statutes, is amended to read:

634.423 Grounds for discretionary refusal, suspension, or revocation of license or appointment of sales representatives.—

(1) The department may deny, suspend, revoke, or refuse to renew or continue the license or appointment of any sales representative if it is found that any one or more of the following grounds applicable to the sales representative exist under circumstances for which such denial, suspension, revocation, or refusal is not mandatory under s. 634.422:

(a) ~~(1)~~ Any cause for which granting of the license or appointment could have been refused had it then existed and been known to the department.

(b) ~~(2)~~ Violation of any provision of this part, or of any other law applicable to the business of service warranties, in the course of dealings under the license or appointment.

(c) ~~(3)~~ Violation of any lawful order or rule of the department or commission.

(d) ~~(4)~~ Failure or refusal to pay over, upon demand, to any service warranty association or insurer the sales representative represents or has represented any money coming into her or his hands which belongs to the association or insurer.

(e) ~~(5)~~ In the conduct of business under the license or appointment, engaging in unfair methods of competition or in unfair or deceptive acts or practices, as such methods, acts, or

practices are or may be defined under this part, or otherwise showing herself or himself to be a source of injury or loss to the public or detriment to the public interest.

(f) ~~(6)~~ Failure to report to the department within 30 days the final disposition of an administrative action taken against a salesperson by a governmental agency or other regulatory agency in this state or any other state or jurisdiction relating to the business of insurance, the sale of securities, or an activity involving fraud, dishonesty, trustworthiness, or breach of a fiduciary duty. The sales representative must submit a copy of the order, consent to order, or other relevant legal documents to the department ~~Being found guilty of or pleading guilty or nolo contendere to a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States of America or any state thereof or under the law of any other country, without regard to whether judgment of conviction has been entered by the court having jurisdiction of such case~~.

(2) The department may adopt rules to administer this section.

Section 55. Section 648.25, Florida Statutes, is amended to read:

648.25 Definitions.—As used in this chapter, the term:

(1) "Appointment" means the authority given by an insurer or the managing general agent of an insurer through the department to a licensee to transact insurance or adjust claims

on behalf of the insurer or managing general agent.

(2)~~(1)~~ "Bail bond agency" means:

(a) The building where a licensee maintains an office and where all records required by ss. 648.34 and 648.36 are maintained; or

(b) An entity that:

1. Charges a fee or premium to release an accused defendant or detainee from jail; or

2. Engages in or employs others to engage in any activity that may be performed only by a licensed and appointed bail bond agent.

(3)~~(2)~~ "Bail bond agent" means a limited surety agent or a professional bail bond agent as hereafter defined.

(4) "Insurer" means any domestic, foreign, or alien surety company which has been authorized to transact surety business in this state.

(5) "Limited surety agent" means any individual appointed by an insurer by power of attorney to execute or countersign bail bonds in connection with judicial proceedings who receives or is promised money or other things of value therefor.

(6)~~(3)~~ "Managing general agent" means any individual, partnership, association, or corporation appointed or employed by an insurer to supervise or manage the bail bond business written in this state by limited surety agents appointed by the insurer.

(7)~~(6)~~ "Primary bail bond agent" means a licensed bail bond agent who is responsible for the overall operation and management of a bail bond agency location and whose responsibilities include hiring and supervising all individuals within that location. A bail bond agent may be designated as primary bail bond agent for only one bail bond agency location.

(8)~~(7)~~ "Professional bail bond agent" means any person who pledges United States currency, United States postal money orders, or cashier's checks as security for a bail bond in connection with a judicial proceeding and receives or is promised therefor money or other things of value.

(9)~~(8)~~ "Temporary bail bond agent" means a person licensed before January 1, 2024, who is employed by a bail bond agent or agency, insurer, or managing general agent, and such licensee has the same authority as a licensed bail bond agent, including presenting defendants in court; apprehending, arresting, and surrendering defendants to the proper authorities, while accompanied by a supervising bail bond agent or an agent from the same agency; and keeping defendants under necessary surveillance. However, a temporary licensee may not execute or sign bonds, handle collateral receipts, or deliver bonds to appropriate authorities. A temporary licensee may not operate an agency or branch agency separate from the location of the supervising bail bond agent, managing general agent, or insurer by whom the licensee is employed. This does not affect the right

of a bail bond agent or insurer to hire counsel or to obtain the assistance of law enforcement officers. A temporary bail bond agent license expires 18 months after issuance and is no longer valid on or after June 30, 2025.

Section 56. Subsection (3) of section 648.26, Florida Statutes, is amended to read:

648.26 Department of Financial Services; administration.—

(3) The papers, documents, reports, or any other investigatory records of the department are confidential and exempt from ~~the provisions of~~ s. 119.07(1) until such investigation is completed or ceases to be active. For the purpose of this section, an investigation is considered active ~~"active"~~ while the investigation is being conducted by the department with a reasonable, good faith belief that it may lead to the filing of administrative, civil, or criminal proceedings. An investigation does not cease to be active if the department is proceeding with reasonable dispatch and there is good faith belief that action may be initiated by the department or other administrative or law enforcement agency. This subsection does not prevent the department or office from disclosing the content of a complaint or such information as it deems necessary to conduct the investigation, to update the complainant as to the status and outcome of the complaint, or to share such information with any law enforcement agency or other regulatory body.

Section 57. Subsection (5) of section 648.27, Florida Statutes, is amended to read:

648.27 Licenses and appointments; general.—

(5)~~(a)~~ The license of a bail bond agent shall continue in force, without further examination unless deemed necessary by the department, until suspended, revoked, or otherwise terminated.

~~(b) The license of a temporary bail bond agent shall continue in force until suspended, revoked, or otherwise terminated.~~

Section 58. Section 648.285, Florida Statutes, is amended to read:

648.285 Bond agency; ownership requirements; applications for bail bond agency licenses.—

(1) A person may not own, control, manage, or otherwise have a pecuniary interest in a bail bond agency unless such individual is ~~a~~ licensed pursuant to s. 648.27, ~~and~~ appointed through the department, and actively engaged as a bail bond agent for at least the preceding 24 months. Any agency that is not in compliance with this subsection is ~~shall be~~ subject to the issuance of an immediate final order of suspension of its license and all operations until the agency achieves compliance.

(2) The department may issue a bail bond agency license to any person only after such person files a written application with the department and qualifies for such license.

(3) An application for a bail bond agency license must be signed by an individual required to be listed in the application under paragraph (a). A bail bond agency license may permit a third party to complete, submit, and sign an application on the bail bond agency's behalf; however, the bail bond agency is responsible for ensuring that the information on the application is true and correct, and the bail bond agency is accountable for any misstatements or misrepresentations. The application for a bail bond agency license must include:

(a) The name and license number of each owner, partner, officer, director, president, senior vice president, secretary, treasurer, and limited liability company member who directs or participates in the management or control of the bail bond agency, whether through ownership of voting securities, by contract, by ownership of any agency bank account, or otherwise.

(b) The residence address of each person required to be listed in the application under paragraph (a).

(c) The name, principal business street address, and valid e-mail address of the bail bond agency and the name, address, and e-mail address of the agency's registered agent or person or company authorized to accept service on behalf of the bail bond agency.

(d) The physical address of each branch bail bond agency, including its name, e-mail address, and telephone number, and the date that the branch location began transacting bail bond

business.

(e) The name of the bail bond agent in full-time charge of the agency office, including branch locations, and his or her corresponding location.

(f) The fingerprints, submitted in accordance with s. 626.171(4), of each of the following:

1. A sole proprietor.

2. Each individual required to be listed in the application under paragraph (a).

3. Each individual who directs or participates in the management or control of an incorporated agency whose shares are not traded on a securities exchange.

Fingerprints need not be filed for an individual who is currently licensed and appointed under this chapter. This paragraph does not apply to corporations whose voting shares are traded on a securities exchange.

(g) Such additional information as the department requires by rule to ascertain the trustworthiness and competence of persons required to be listed on the application and to ascertain that such persons meet the requirements of this code. However, the department may not require that credit or character reports be submitted for persons required to be listed on the application.

(4) The department must issue a license to each agency

upon approval of the application, and each agency location must display the license prominently in a manner that makes it clearly visible to any customer or potential customer who enters the agency location.

(5) The provisions of s. 112.011 do not apply to bail bond agencies or to applicants for licensure as owners of bail bond agencies.

~~(2) If the owner of a bail bond agency dies or becomes mentally incapacitated, a personal representative or legal guardian may be issued a temporary permit to manage the affairs of the bail bond agency. Such person must appoint or maintain the appointment of a primary bail bond agent, as provided in s. 648.387, and may not engage in any activities as a licensed bail bond agent but must comply with s. 648.387 during the administration of the estate or guardianship. A temporary permit is valid for a maximum of 24 months.~~

~~(3) Application for a temporary permit must be made by the personal representative or legal guardian upon statements and affidavits filed with the department on forms prescribed and furnished by it. The applicant must meet the qualifications for licensure as a bail bond agent, except for the residency, examination, education, and experience requirements.~~

Section 59. Subsection (1) of section 648.30, Florida Statutes, is amended to read:

648.30 Licensure and appointment required; prohibited

acts; penalties.—

(1)(a) A person or entity may not act in the capacity of a bail bond agent or ~~temporary~~ bail bond agency ~~agent~~ or perform any of the functions, duties, or powers prescribed for bail bond agents or ~~temporary~~ bail bond agencies ~~agents~~ under this chapter unless that person or entity is qualified, licensed, and appointed as provided in this chapter and employed by a bail bond agency.

(b) A bail bond agent may not sell a bail bond issued by an insurer for which the agent and the agent's bail bond agency do not hold a current appointment.

(c) Except as otherwise provided in this part, a person or entity, other than a bail bond agency or an employee of a bail bond agency, may not perform any of the functions of a bail bond agency without a bail bond agency license.

Section 60. Section 648.31, Florida Statutes, is amended to read:

648.31 Appointment taxes and fees.—The department shall collect in advance all appointment taxes and fees for the issuance of any appointment to a bail bond agent or temporary bail bond agency ~~agent,~~ as provided in s. 624.501.

Section 61. Subsection (2) of section 648.34, Florida Statutes, is amended to read:

648.34 Bail bond agents; qualifications.—

(2) To qualify as a bail bond agent, it must affirmatively

appear at the time of application and throughout the period of licensure that the applicant ~~has complied with the provisions of s. 648.355 and has obtained a temporary license pursuant to such section and~~:

(a) ~~The applicant~~ Is a natural person who has reached the age of 18 years and holds a high school diploma or its equivalent.

(b) ~~The applicant~~ Is a United States citizen or legal alien who possesses work authorization from the United States Bureau of Citizenship and Immigration Services and is a resident of this state. An individual who is a resident of this state shall be deemed to meet the residence requirement of this paragraph, notwithstanding the existence, at the time of application for license, of a license in the applicant's name on the records of another state as a resident licensee of such other state, if the applicant furnishes a letter of clearance satisfactory to the department that his or her resident licenses have been canceled or changed to a nonresident basis and that he or she is in good standing.

(c) Will maintain his or her ~~The~~ place of business ~~of the applicant will be located~~ in this state and in the county where the applicant will maintain his or her records and be actively engaged in the bail bond business and work with a licensed ~~maintain an~~ agency accessible to the public which is open for reasonable business hours.

(d) ~~The applicant~~ Is vouched for and recommended upon sworn statements filed with the department by at least three reputable citizens who are residents of the same counties in which the applicant proposes to engage in the bail bond business.

(e) ~~The applicant~~ Is a person of high character and approved integrity and has not been convicted of or pleaded guilty or no contest to a felony, a crime involving moral turpitude, or a crime punishable by imprisonment of 1 year or more under the law of any state, territory, or country, whether or not a judgment or conviction has been entered.

(f) Within 2 years immediately before applying for the license, has successfully completed a basic certification course in the criminal justice system which consists of at least 120 hours of classroom instruction with a passing grade of 80 percent or higher and has successfully completed a correspondence course for bail bond agents approved by the department.

(g)~~(f)~~ ~~The applicant~~ Has passed any required examination.

Section 62. Section 648.355, Florida Statutes, is amended to read:

648.355 ~~Temporary limited license as~~ Limited surety agents and ~~agent or~~ professional bail bond agents ~~agent~~; qualifications ~~pending examination~~.—

(1) The department may, in its discretion, issue a

~~temporary~~ license as a limited surety agent or professional bail bond agent, subject to the following conditions:

(a) The applicant is a natural person at least 18 years of age and holds a high school diploma or its equivalent.

(b) The applicant is a United States citizen or legal alien who possesses work authorization from the United States Bureau of Citizenship and Immigration Services and is a resident of this state. An individual who is a resident of this state shall be deemed to meet the residence requirement of this paragraph, notwithstanding the existence, at the time of application for a ~~temporary~~ license, of a license in the individual's name on the records of another state as a resident licensee of such other state, if the applicant furnishes a letter of clearance satisfactory to the department that the individual's resident licenses have been canceled or changed to a nonresident basis and that the individual is in good standing.

(c) The applicant is a person of high character and approved integrity and has never been convicted of or pleaded guilty or no contest to a felony, a crime involving moral turpitude, or a crime punishable by imprisonment of 1 year or more under the law of any state, territory, or country, whether or not a judgment or conviction is entered.

(d) Within 2 ~~4~~ years immediately preceding ~~prior to~~ the date of application for a ~~temporary~~ license, the applicant has successfully completed a basic certification course in the

criminal justice system, consisting of not less than 120 hours of classroom instruction with a passing grade of 80 percent or higher, and has successfully completed a correspondence course for bail bond agents approved by the department within the same time period.

~~(e) The applicant must be employed full time at the time of licensure, and at all times throughout the existence of the temporary license, by only one licensed and appointed supervising bail bond agent, who supervises the work of the applicant and is responsible for the licensee's conduct in the bail bond business. The applicant must be appointed by the same insurers as the supervising bail bond agent. The supervising bail bond agent shall certify monthly to the department under oath, on a form prescribed by the department, the names and hours worked each week of all temporary bail bond agents. Filing a false certification is grounds for the immediate suspension of the license and imposition of a $5,000 administrative fine. The department may adopt rules that establish standards for the employment requirements.~~

(e)~~(f)~~ The application must be accompanied by an affidavit verifying proposed employment and a report as to the applicant's integrity and moral character on a form prescribed by the department and executed by the proposed employer.

~~(g) The applicant must file with the department statements by at least three reputable citizens who are residents of the~~

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~~same counties in which the applicant proposes to engage as a temporary licensee.~~

~~(h) The applicant's employer is responsible for the bail bonding acts of any licensee under this section.~~

(2) All applicable license fees, as prescribed in s. 624.501, must be paid before issuance of the ~~temporary~~ license.

~~(3) The temporary license shall be effective for 18 months, subject to earlier termination at the request of the employer or if suspended or revoked by the department.~~

(3)~~(4)~~ The applicant shall furnish, with the application for ~~temporary~~ license, a complete set of the applicant's fingerprints in accordance with s. 626.171(4) and a recent credential-sized, fullface photograph of the applicant. The department may ~~shall~~ not issue a ~~temporary~~ license under this section until the department has received a report from the Department of Law Enforcement and the Federal Bureau of Investigation relative to the existence or nonexistence of a criminal history report based on the applicant's fingerprints.

(4)~~(5)~~ The department may collect a fee necessary to cover the cost of a character and credit report made by an established and reputable independent reporting service. The fee shall be deposited to the credit of the Insurance Regulatory Trust Fund.

(5)~~(6)~~ Effective July 1, 2023, any individual licensed by the department as a temporary bail bond agent may take the required bail bond agent's licensure examination and may file an

application for a bail bond agent's license if otherwise qualified for licensure ~~After licensure as a temporary licensee for at least 12 months, such licensee may file an application for and become eligible for a regular bail bond agent's license based on the licensee's experience in the bail bond business and education pursuant to paragraph (1)(d) and, if otherwise qualified, take the required bail bond agent's licensure examination. The applicant and supervising bail bond agent must each file an affidavit under oath, on a form prescribed by the department, verifying the required employment of the temporary agent before issuance of the license~~.

~~(7) In no event shall a temporary licensee licensed under this section perform any of the functions for which a bail bond agent's license is required after expiration of the temporary license without having passed the written examination as for a regular bail bond agent's license.~~

~~(8)(a) A temporary licensee has the same authority as a licensed bail bond agent, including presenting defendants in court; apprehending, arresting, and surrendering defendants to the proper authorities; and keeping defendants under necessary surveillance. However, a temporary licensee must be accompanied by a supervising bail bond agent or an agent from the same agency when apprehending, arresting, or surrendering defendants to authorities.~~

~~(b) A temporary licensee may not execute or sign bonds,~~

~~handle collateral receipts, deliver bonds to appropriate authorities, or operate an agency or branch agency separate from the location of the supervising bail bond agent, managing general agent, or insurer by whom the licensee is employed.~~

(6)~~(9)~~ Effective July 1, 2023, the department may not issue a temporary bail bond agent's license. An individual currently licensed as a temporary bail bond agent may continue to be licensed in accordance with this chapter. A temporary bail bond agent's license may not be reinstated if the license expires or is terminated, suspended, or revoked ~~The department shall not issue a temporary bail bond agent's license to any individual who has held such a temporary license in this state within 2 years after the expiration of such temporary bail bond agent's license~~.

Section 63. Subsections (1) through (4) of section 648.382, Florida Statutes, are amended to read:

648.382 Appointment of bail bond agents ~~and temporary bail bond agents~~; effective date of appointment.—

(1) Each insurer or ~~appointing a bail bond agent and each insurer,~~ managing general agent~~, or bail bond agent~~ appointing a ~~temporary~~ bail bond agent or bail bond agency in this state must file the appointment with the department and, at the same time, pay the applicable appointment fees and taxes. A person appointed under this section must hold a valid bail bond agent's or ~~temporary~~ bail bond agency's ~~agent's~~ license.

(2) Before ~~Prior to~~ any appointment, an appropriate officer or official of the appointing insurer ~~in the case of a bail bond agent or an insurer, managing general agent, or bail bond agent in the case of a temporary bail bond agent~~ must submit:

(a) A certified statement or affidavit to the department stating what investigation has been made concerning the proposed appointee and the proposed appointee's background and the appointing person's opinion to the best of his or her knowledge and belief as to the moral character and reputation of the proposed appointee. In lieu of such certified statement or affidavit, by authorizing the effectuation of an appointment for a licensee, the appointing entity certifies to the department that such investigation has been made and that the results of the investigation and the appointing person's opinion is that the proposed appointee is a person of good moral character and reputation and is fit to engage in the bail bond business;

(b) An affidavit under oath on a form prescribed by the department, signed by the proposed appointee, stating that premiums are not owed to any insurer and that the appointee will discharge all outstanding forfeitures and judgments on bonds previously written. If the appointee does not satisfy or discharge such forfeitures or judgments, the former insurer shall file a notice, with supporting documents, with the appointing insurer, the former agent or agency, and the

department, stating under oath that the licensee has failed to timely satisfy forfeitures and judgments on bonds written and that the insurer has satisfied the forfeiture or judgment from its own funds. Upon receipt of such notification and supporting documents, the appointing insurer shall immediately cancel the licensee's appointment. The licensee may be reappointed only upon certification by the former insurer that all forfeitures and judgments on bonds written by the licensee have been discharged. The appointing insurer or former agent or agency may, within 10 days, file a petition with the department seeking relief from this paragraph. Filing of the petition stays the duty of the appointing insurer to cancel the appointment until the department grants or denies the petition; and

(c) Any other information that the department reasonably requires concerning the proposed appointee.

(3) By authorizing the effectuation of an appointment for a licensee, the appointing insurer certifies to the department that the insurer will be bound by the acts of the bail bond agent or bail bond agency acting within the scope of the agent's or agency's ~~his or her~~ appointment~~, and, in the case of a temporary bail bond agent, the appointing insurer, managing general agent, or bail bond agent, as the case may be, must certify to the department that he or she will supervise the temporary bail bond agent's activities~~.

(4) Each appointing insurer or~~,~~ managing general agent~~, or~~

~~bail bond agent~~ must advise the department in writing within 5 days after receiving notice or learning that an appointee has been arrested for, pled guilty or nolo contendere to, or been found guilty of, a felony or other offense punishable by imprisonment of 1 year or more under the law of any jurisdiction, whether judgment was entered or withheld by the court.

Section 64. Subsections (1) through (4) of section 648.386, Florida Statutes, are renumbered as subsections (2) through (5), respectively, present subsection (2) of that section is amended, and a new subsection (1) is added to that section, to read:

648.386 Qualifications for prelicensing and continuing education schools and instructors.—

(1) DEFINITION OF "CLASSROOM INSTRUCTION".—As used in this section, the term "classroom instruction" means a course designed to be presented to a group of students by a live instructor using lecture, video, webcast, or virtual or other audio-video presentation.

(3) ~~(2)~~ SCHOOLS AND CURRICULUM FOR CONTINUING EDUCATION SCHOOLS.—In order to be considered for approval and certification as an approved limited surety agent and professional bail bond agent continuing education school, such entity must:

(a) Provide a minimum of three classroom-instruction

continuing education classes per calendar year.

(b) Submit a course curriculum to the department for approval.

(c) Offer continuing education classes that comprise ~~which are comprised of~~ a minimum of 2 hours of approved classroom-instruction coursework and are taught by an approved supervising instructor or guest lecturer approved by the entity or the supervising instructor.

Section 65. Section 648.3875, Florida Statutes, is created to read:

648.3875 Primary bail bond agents; qualifications.—

(1) An application for designation as a primary bail bond agent must be submitted on forms prescribed by the department. The application must include the applicant's full name and the number and date of issuance of the applicant's license issued pursuant to s. 648.27.

(2) To qualify as a primary bail bond agent, it must affirmatively appear that, at the time of application and throughout the period of licensure, the applicant has complied with s. 648.285 and that the applicant has been licensed as a bail bond agent for the 24 months immediately preceding the appointment as a primary bail bond agent.

Section 66. Section 648.39, Florida Statutes, is amended to read:

648.39 Termination of appointment of managing general

agents, bail bond agents, and ~~temporary~~ bail bond agencies ~~agents~~.—

(1) An insurer that ~~who~~ terminates the appointment of a managing general agent, bail bond agent, or ~~temporary~~ bail bond agency ~~agent~~ shall, within 10 days after such termination, file written notice thereof with the department together with a statement that it has given or mailed notice to the terminated agent or agency. Such notice filed with the department must state the reasons, if any, for such termination. Information so furnished to the department is confidential and exempt from ~~the provisions of~~ s. 119.07(1).

(2) Each insurer shall, within 5 days after terminating the appointment of any managing general agent, bail bond agent, or ~~temporary~~ bail bond agency ~~agent~~, give written notice thereof to each clerk of the circuit court and sheriff with whom such person is registered.

(3) An insurer that terminates the appointment of a managing general agent, bail bond agent, or ~~temporary~~ bail bond agency ~~agent~~ may authorize such person to continue to attempt the arrest and surrender of a defendant for whom a surety bond had been written by the bail bond agent or bail bond agency before ~~prior to~~ termination and to seek discharge of forfeitures and judgments as provided in chapter 903.

Section 67. Section 648.41, Florida Statutes, is repealed.

Section 68. Section 648.42, Florida Statutes, is amended

to read:

648.42 Registration of bail bond agents.—A bail bond agent may not become a surety on an undertaking unless he or she has registered in the office of the sheriff and with the clerk of the circuit court in the county in which the bail bond agent resides. The bail bond agent may register in a like manner in any other county, and any bail bond agent shall file a certified copy of his or her appointment by power of attorney from each insurer which he or she represents as a bail bond agent with each of such officers. Registration and filing of a certified copy of renewed power of attorney shall be performed by April 1 of each odd-numbered year. The clerk of the circuit court and the sheriff may ~~shall~~ not permit the registration of a bail bond agent unless such bail bond agent is currently licensed by the department and appointed by an insurer ~~the department~~. ~~Nothing in this section shall prevent the registration of a temporary licensee at the jail for the purposes of enabling the licensee to perform the duties under such license as set forth in this chapter.~~

Section 69. Subsections (1) and (2) and paragraphs (c) and (d) of subsection (8) of section 648.44, Florida Statutes, are amended to read:

648.44 Prohibitions; penalty.—

(1) A bail bond agent or ~~temporary~~ bail bond agency ~~agent~~ may not:

(a) Suggest or advise the employment of, or name for employment, any particular attorney or attorneys to represent his or her principal.

(b) Directly or indirectly solicit business in or on the property or grounds of a jail, prison, or other place where prisoners are confined or in or on the property or grounds of any court. The term "solicitation" includes the distribution of business cards, print advertising, or other written or oral information directed to prisoners or potential indemnitors, unless a request is initiated by the prisoner or a potential indemnitor. Permissible print advertising in the jail is strictly limited to a listing in a telephone directory and the posting of the bail bond agent's or agency's name, address, e-mail address, web address, and telephone number in a designated location within the jail.

(c) Initiate in-person or telephone solicitation after 9:00 p.m. or before 8:00 a.m.~~, in the case of domestic violence cases,~~ at the residence of the detainee or the detainee's family. Any solicitation ~~not prohibited by this chapter~~ must comply with the telephone solicitation requirements in ss. 501.059(2) and (4), 501.613, and 501.616(6).

(d) Wear or display any identification other than the department issued or approved license or approved department identification, which includes a citation of the licensee's arrest powers, in or on the property or grounds of a jail,

prison, or other place where prisoners are confined or in or on the property or grounds of any court.

(e) Pay a fee or rebate or give or promise anything of value to a jailer, police officer, peace officer, or committing trial court judge or any other person who has power to arrest or to hold in custody or to any public official or public employee in order to secure a settlement, compromise, remission, or reduction of the amount of any bail bond or estreatment thereof.

(f) Pay a fee or rebate or give anything of value to an attorney in a bail bond matter, except in defense of any action on a bond.

(g) Pay a fee or rebate or give or promise anything of value to the principal or anyone in his or her behalf.

(h) Participate in the capacity of an attorney at a trial or hearing of one on whose bond he or she is surety.

(i) Loiter in or about a jail, courthouse, or where prisoners are confined.

(j) Accept anything of value from a principal for providing a bail bond except the premium and transfer fee authorized by the office, except that the bail bond agent or bail bond agency may accept collateral security or other indemnity from the principal or another person in accordance with ~~the provisions of~~ s. 648.442, together with documentary stamp taxes, if applicable. No fees, expenses, or charges of any kind shall be permitted to be deducted from the collateral held

or any return premium due, except as authorized by this chapter or rule of the department or commission. A bail bond agent or bail bond agency may, upon written agreement with another party, receive a fee or compensation for returning to custody an individual who has fled the jurisdiction of the court or caused the forfeiture of a bond.

(k) Write more than one power of attorney per charge on a bond, except in the case of a cosurety, unless the power of attorney prohibits a cosurety.

(l) Execute a bond in this state on his or her own behalf.

(m) Execute a bond in this state if a judgment has been entered on a bond executed by the bail bond agent or bail bond agency, which has remained unpaid for 35 days, unless the full amount of the judgment is deposited with the clerk in accordance with s. 903.27(5).

(n) Make a statement or representation to a court, unless such statement or representation is under oath. Such statement or representation may not be false, misleading, or deceptive.

(o) Attempt to collect, through threat or coercion, amounts due for the payment of any indebtedness related to the issuance of a bail bond in violation of s. 559.72.

(p) Conduct bail bond business with any person, other than the defendant, on the grounds of the jail or courthouse for the purpose of executing a bond.

(2) The following persons or classes may ~~shall~~ not be bail

bond agents~~, temporary bail bond agents,~~ or employees of a bail bond agent or a bail bond agency ~~business~~ and may ~~shall~~ not directly or indirectly receive any benefits from the execution of any bail bond:

(a) Jailers or persons employed in any jail.

(b) Police officers or employees of any police department or law enforcement agency.

(c) Committing trial court judges, employees of a court, or employees of the clerk of any court.

(d) Sheriffs and deputy sheriffs or employees of any sheriff's department.

(e) Attorneys.

(f) Persons having the power to arrest or persons who have authority over or control of federal, state, county, or municipal prisoners.

(8)

(c) Any law enforcement agency, state attorney's office, court clerk, or insurer that is aware that a bail bond agent ~~or temporary bail bond agent~~ has been convicted of or who has pleaded guilty or no contest to a crime as described in paragraph (a) shall notify the department of this fact.

(d) Upon the filing of an information or indictment against a bail bond agent ~~or temporary bail bond agent~~, the state attorney or clerk of the circuit court shall immediately furnish the department a certified copy of the information or

indictment.

Section 70. Subsection (1) of section 648.441, Florida Statutes, is amended to read:

648.441 Furnishing supplies to unlicensed bail bond agent prohibited; civil liability and penalty.—

(1) An insurer, managing general agent, bail bond agent, or ~~temporary~~ bail bond agency ~~agent~~ appointed under this chapter may not furnish to any person any blank forms, applications, stationery, business card, or other supplies to be used in soliciting, negotiating, or effecting bail bonds until such person has received from the department a license to act as a bail bond agent and is appointed by the insurer. This section does not prohibit an unlicensed employee, under the direct supervision and control of a licensed and appointed bail bond agent, from possessing or executing in the bail bond agency, any forms, except for powers of attorney, bond forms, and collateral receipts, while acting within the scope of his or her employment.

Section 71. Section 648.50, Florida Statutes, is amended to read:

648.50 Effect of suspension, revocation upon associated licenses and licensees.—

(1) Upon the suspension, revocation, or refusal to renew or continue any license or appointment or the eligibility to hold a license or appointment of a bail bond agent or ~~temporary~~

bail bond agency ~~agent~~, the department shall at the same time likewise suspend or revoke all other licenses or appointments and the eligibility to hold any other such licenses or appointments which may be held by the licensee under the Florida Insurance Code.

(2) In case of the suspension or revocation of the license or appointment, or the eligibility to hold a license or appointment, of any bail bond agent, the license, appointment, or eligibility of any and all bail bond agents who are members of a bail bond agency, whether incorporated or unincorporated, ~~and any and all temporary bail bond agents employed by such bail bond agency,~~ who knowingly are parties to the act which formed the ground for the suspension or revocation may likewise be suspended or revoked.

(3) A ~~No~~ person whose license as a bail bond agent ~~or temporary bail bond agent~~ has been revoked or suspended may not ~~shall~~ be employed by any bail bond agent, have any ownership interest in any business involving bail bonds, or have any financial interest of any type in any bail bond business during the period of revocation or suspension.

Section 72. Section 651.123, Florida Statutes, is repealed.

Section 73. Paragraph (a) of subsection (4) of section 843.021, Florida Statutes, is amended to read:

843.021 Unlawful possession of a concealed handcuff key.—

(4)(a) It is a defense to a charge of violating this section that the person in custody and in possession of a concealed handcuff key is:

1. A federal, state, or local law enforcement officer, including a reserve or auxiliary officer, a licensed security officer, or a private investigator as defined in s. 493.6101; or

2. A professional bail bond agent~~, temporary bail bond agent, runner,~~ or limited surety agent as defined in s. 648.25.

Section 74. Section 903.28, Florida Statutes, is amended to read:

903.28 Remission of forfeiture; conditions.—

(1) On application within 2 years from forfeiture, the court shall order remission of the forfeiture if it determines that there was no breach of the bond.

(2) If the defendant surrenders or is apprehended or deceased within 90 days after forfeiture, the court, on motion at a hearing upon notice having been given to the clerk of the circuit court and the state attorney as required in subsection (9) ~~(8)~~, shall direct remission of ~~up to, but not more than,~~ 100 percent of a forfeiture if the surety apprehended and surrendered the defendant or if the apprehension or surrender of the defendant was substantially procured or caused by the surety;~~, or~~ the surety has substantially attempted to procure or cause the apprehension or surrender of the defendant; or the defendant is deceased~~, and the delay has not thwarted the proper~~

~~prosecution of the defendant~~. In addition, remission shall be granted when the surety did not substantially participate or attempt to participate in the apprehension or surrender of the defendant when the costs of returning the defendant to the jurisdiction of the court, as provided in s. 903.21(3), have been deducted from the remission ~~and when the delay has not thwarted the proper prosecution of the defendant~~.

(3) If the defendant surrenders or is apprehended or deceased within 180 days after forfeiture, the court, on motion at a hearing upon notice having been given to the clerk of the circuit court and the state attorney as required in subsection (9) ~~(8)~~, shall direct remission of ~~up to, but not more than,~~ 95 percent of a forfeiture if the surety apprehended and surrendered the defendant or if the apprehension or surrender of the defendant was substantially procured or caused by the surety;~~, or~~ the surety has substantially attempted to procure or cause the apprehension or surrender of the defendant; or the defendant is deceased~~, and the delay has not thwarted the proper prosecution of the defendant~~. In addition, remission shall be granted when the surety did not substantially participate or attempt to participate in the apprehension or surrender of the defendant when the costs of returning the defendant to the jurisdiction of the court, as provided in s. 903.21(3), have been deducted from the remission ~~and when the delay has not thwarted the proper prosecution of the defendant~~.

(4) If the defendant surrenders or is apprehended or deceased within 270 days after forfeiture, the court, on motion at a hearing upon notice having been given to the clerk of the circuit court and the state attorney as required in subsection (9) ~~(8)~~, shall direct remission of ~~up to, but not more than,~~ 90 percent of a forfeiture if the surety apprehended and surrendered the defendant or if the apprehension or surrender of the defendant was substantially procured or caused by the surety;~~, or~~ the surety has substantially attempted to procure or cause the apprehension or surrender of the defendant; or the defendant is deceased~~, and the delay has not thwarted the proper prosecution of the defendant~~. In addition, remission shall be granted when the surety did not substantially participate or attempt to participate in the apprehension or surrender of the defendant when the costs of returning the defendant to the jurisdiction of the court, as provided in s. 903.21(3), have been deducted from the remission ~~and when the delay has not thwarted the proper prosecution of the defendant~~.

(5) If the defendant surrenders or is apprehended or deceased within 1 year after forfeiture, the court, on motion at a hearing upon notice having been given to the clerk of the circuit court and the state attorney as required in subsection (9) ~~(8)~~, shall direct remission of ~~up to, but not more than,~~ 85 percent of a forfeiture if the surety apprehended and surrendered the defendant or if the apprehension or surrender of

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the defendant was substantially procured or caused by the surety;~~, or~~ the surety has substantially attempted to procure or cause the apprehension or surrender of the defendant; or the defendant is deceased~~, and the delay has not thwarted the proper prosecution of the defendant~~. In addition, remission shall be granted when the surety did not substantially participate or attempt to participate in the apprehension or surrender of the defendant when the costs of returning the defendant to the jurisdiction of the court, as provided in s. 903.21(3), have been deducted from the remission ~~and when the delay has not thwarted the proper prosecution of the defendant~~.

(6) If the defendant surrenders or is apprehended or deceased within 2 years after forfeiture, the court, on motion at a hearing upon notice having been given to the clerk of the circuit court and the state attorney as required in subsection (9) ~~(8)~~, shall direct remission of ~~up to, but not more than,~~ 50 percent of a forfeiture if the surety apprehended and surrendered the defendant or if the apprehension or surrender of the defendant was substantially procured or caused by the surety;~~, or~~ the surety has substantially attempted to procure or cause the apprehension or surrender of the defendant; or the defendant is deceased~~, and the delay has not thwarted the proper prosecution of the defendant~~. In addition, remission shall be granted when the surety did not substantially participate or attempt to participate in the apprehension or surrender of the

defendant when the costs of returning the defendant to the jurisdiction of the court, as provided in s. 903.21(3), have been deducted from the remission ~~and when the delay has not thwarted the proper prosecution of the defendant~~.

(7) Within 2 years after the date of forfeiture, if the state is unwilling to seek extradition of the defendant from any jail or prison after a request by the surety agent or the surety company, and contingent upon the surety agent or surety company consenting to pay all costs incurred by an official in returning the defendant to the jurisdiction of the court, as provided in s. 903.21(3), up to the penal amount of the bond, the court shall direct remission of 100 percent of the forfeiture.

(8) The remission of a forfeiture may not be ordered for any reason other than as specified herein.

(9) ~~(8)~~ An application for remission must be accompanied by affidavits setting forth the facts on which it is founded; however, the surety must establish by further documentation or other evidence any claimed attempt at procuring or causing the apprehension or surrender of the defendant before the court may order remission based upon an attempt to procure or cause such apprehension or surrender. The clerk of the circuit court and the state attorney must be given 20 days' notice before a hearing on an application and be furnished copies of all papers, applications, and affidavits. Remission shall be granted on the condition of payment of costs, as provided in s. 903.21(3),

unless the ground for remission is that there was no breach of the bond.

(10) ~~(9)~~ The clerk of the circuit court may enter into a contract with a private attorney or into an interagency agreement with a governmental agency to represent the clerk of the court in an action for the remission of a forfeiture under this section.

(11) ~~(10)~~ The clerk of the circuit court is the real party in interest for all appeals arising from an action for the remission of a forfeiture under this section.

Section 75. Paragraph (b) of subsection (6) of section 28.2221, Florida Statutes, is amended to read:

28.2221 Electronic access to official records.—

(6)

(b)1. For the purpose of conducting a title search, as defined in s. 627.7711(4), of the Official Records, as described in s. 28.222(2), and upon presentation of photo identification and affirmation by sworn affidavit consistent with s. 92.50 to the county recorder, information restricted from public display, inspection, or copying under paragraph (5)(a) pursuant to a request for removal made under s. 119.071(4)(d) may be disclosed to:

a. A title insurer authorized pursuant to s. 624.401 and its affiliates as defined in s. 624.10;

b. A title insurance agent or title insurance agency as

these terms are defined in s. 626.841 ~~s. 626.841(1) and (2), respectively~~; or

c. An attorney duly admitted to practice law in this state and in good standing with The Florida Bar.

2. The photo identification and affirmation by sworn affidavit may be delivered in person, by mail, or by electronic transmission to the county recorder.

3. The affiant requestor must attest to his or her authority and the authorized purpose to access exempt information pursuant to this section for the property specified within the sworn affidavit.

4. The affiant requestor must identify the Official Records book and page number, instrument number, or the clerk's file number for each document requested within the sworn affidavit and must include a description of the lawful purpose and identify the individual or property that is the subject of the search within the sworn affidavit.

5. Affidavits submitted by a title insurer, title insurance agent, or title insurance agency must include the Florida Company Code or the license number, as applicable, and an attestation to the affiant requestor's authorization to transact business in this state. Affidavits submitted by an attorney authorized under this section must include the affiant requestor's Florida Bar number and a statement that the affiant requestor has an agency agreement with a title insurer directly

or through his or her law firm.

6. The county recorder must record such affidavit in the Official Records, as described in s. 28.222(2), but may not place the image or copy of the affidavit on a publicly available Internet website for general public display.

7. Upon providing a document disclosing redacted information to an affiant requestor under this section, the county recorder must provide a copy of the affidavit requesting disclosure of the redacted information to each affected party at the address listed on the document or on the request for removal made by the affected party under s. 119.071. The county recorder must prepare a certificate of mailing to be affixed to the affidavit and must receive the statutory service charges as prescribed by s. 28.24 from the affiant requestor.

8. Any party making a false attestation under this section is subject to the penalty of perjury under s. 837.012.

Section 76. Paragraph (d) of subsection (4) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.—

(4) AGENCY PERSONNEL INFORMATION.—

(d)1. For purposes of this paragraph, the term:

a. "Home addresses" means the dwelling location at which an individual resides and includes the physical address, mailing address, street address, parcel identification number, plot

identification number, legal property description, neighborhood name and lot number, GPS coordinates, and any other descriptive property information that may reveal the home address.

b. "Telephone numbers" includes home telephone numbers, personal cellular telephone numbers, personal pager telephone numbers, and telephone numbers associated with personal communications devices.

2.a. The home addresses, telephone numbers, dates of birth, and photographs of active or former sworn law enforcement personnel or of active or former civilian personnel employed by a law enforcement agency, including correctional and correctional probation officers, personnel of the Department of Children and Families whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect, and personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

b. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Department of Financial Services whose duties include the investigation of fraud, theft, workers' compensation coverage requirements and compliance, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

c. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Office of Financial Regulation's Bureau of Financial Investigations whose duties include the investigation of fraud, theft, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

d. The home addresses, telephone numbers, dates of birth, and photographs of current or former firefighters certified in

compliance with s. 633.408; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such firefighters; and the names and locations of schools and day care facilities attended by the children of such firefighters are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

e. The home addresses, dates of birth, and telephone numbers of current or former justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former justices and judges; and the names and locations of schools and day care facilities attended by the children of current or former justices and judges are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

f. The home addresses, telephone numbers, dates of birth, and photographs of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; and the names and locations of schools and day care facilities attended by the children of current or

former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

g. The home addresses, dates of birth, and telephone numbers of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; and the names and locations of schools and day care facilities attended by the children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

h. The home addresses, telephone numbers, dates of birth, and photographs of current or former human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers of any local government agency or water management district whose duties include hiring and firing employees, labor contract negotiation, administration, or

other personnel-related duties; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

i. The home addresses, telephone numbers, dates of birth, and photographs of current or former code enforcement officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

j. The home addresses, telephone numbers, places of employment, dates of birth, and photographs of current or former guardians ad litem, as defined in s. 39.820; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

k. The home addresses, telephone numbers, dates of birth, and photographs of current or former juvenile probation officers, juvenile probation supervisors, detention

superintendents, assistant detention superintendents, juvenile justice detention officers I and II, juvenile justice detention officer supervisors, juvenile justice residential officers, juvenile justice residential officer supervisors I and II, juvenile justice counselors, juvenile justice counselor supervisors, human services counselor administrators, senior human services counselor administrators, rehabilitation therapists, and social services counselors of the Department of Juvenile Justice; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

1. The home addresses, telephone numbers, dates of birth, and photographs of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; and the names and locations of schools and day care facilities attended by the children of current or former public defenders, assistant public defenders,

criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

m. The home addresses, telephone numbers, dates of birth, and photographs of current or former investigators or inspectors of the Department of Business and Professional Regulation; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such current or former investigators and inspectors; and the names and locations of schools and day care facilities attended by the children of such current or former investigators and inspectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

n. The home addresses, telephone numbers, and dates of birth of county tax collectors; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such tax collectors; and the names and locations of schools and day care facilities attended by the children of such tax collectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

o. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel of the Department of Health whose duties include, or result in, the determination or adjudication of eligibility for social security disability benefits, the investigation or prosecution of complaints filed

against health care practitioners, or the inspection of health care practitioners or health care facilities licensed by the Department of Health; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

p. The home addresses, telephone numbers, dates of birth, and photographs of current or former impaired practitioner consultants who are retained by an agency or current or former employees of an impaired practitioner consultant whose duties result in a determination of a person's skill and safety to practice a licensed profession; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such consultants or their employees; and the names and locations of schools and day care facilities attended by the children of such consultants or employees are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

q. The home addresses, telephone numbers, dates of birth, and photographs of current or former emergency medical technicians or paramedics certified under chapter 401; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such

emergency medical technicians or paramedics; and the names and locations of schools and day care facilities attended by the children of such emergency medical technicians or paramedics are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

r. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel employed in an agency's office of inspector general or internal audit department whose duties include auditing or investigating waste, fraud, abuse, theft, exploitation, or other activities that could lead to criminal prosecution or administrative discipline; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

s. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, nurses, and clinical employees of an addiction treatment facility; the home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s.

24(a), Art. I of the State Constitution. For purposes of this sub-subparagraph, the term "addiction treatment facility" means a county government, or agency thereof, that is licensed pursuant to s. 397.401 and provides substance abuse prevention, intervention, or clinical treatment, including any licensed service component described in s. 397.311(26).

t. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, and clinical employees of a child advocacy center that meets the standards of s. 39.3035(2) and fulfills the screening requirement of s. 39.3035(3), and the members of a Child Protection Team as described in s. 39.303 whose duties include supporting the investigation of child abuse or sexual abuse, child abandonment, child neglect, and child exploitation or to provide services as part of a multidisciplinary case review team; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel and members; and the names and locations of schools and day care facilities attended by the children of such personnel and members are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

u. The home addresses, telephone numbers, places of employment, dates of birth, and photographs of current or former staff and domestic violence advocates, as defined in s. 90.5036(1)(b), of domestic violence centers certified by the

Department of Children and Families under chapter 39; the names, home addresses, telephone numbers, places of employment, dates of birth, and photographs of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

3. An agency that is the custodian of the information specified in subparagraph 2. and that is not the employer of the officer, employee, justice, judge, or other person specified in subparagraph 2. must maintain the exempt status of that information only if the officer, employee, justice, judge, other person, or employing agency of the designated employee submits a written and notarized request for maintenance of the exemption to the custodial agency. The request must state under oath the statutory basis for the individual's exemption request and confirm the individual's status as a party eligible for exempt status.

4.a. A county property appraiser, as defined in s. 192.001(3), or a county tax collector, as defined in s. 192.001(4), who receives a written and notarized request for maintenance of the exemption pursuant to subparagraph 3. must comply by removing the name of the individual with exempt status and the instrument number or Official Records book and page number identifying the property with the exempt status from all

publicly available records maintained by the property appraiser or tax collector. For written requests received on or before July 1, 2021, a county property appraiser or county tax collector must comply with this sub-subparagraph by October 1, 2021. A county property appraiser or county tax collector may not remove the street address, legal description, or other information identifying real property within the agency's records so long as a name or personal information otherwise exempt from inspection and copying pursuant to this section are not associated with the property or otherwise displayed in the public records of the agency.

b. Any information restricted from public display, inspection, or copying under sub-subparagraph a. must be provided to the individual whose information was removed.

5. An officer, an employee, a justice, a judge, or other person specified in subparagraph 2. may submit a written request for the release of his or her exempt information to the custodial agency. The written request must be notarized and must specify the information to be released and the party authorized to receive the information. Upon receipt of the written request, the custodial agency must release the specified information to the party authorized to receive such information.

6. The exemptions in this paragraph apply to information held by an agency before, on, or after the effective date of the exemption.

7. Information made exempt under this paragraph may be disclosed pursuant to s. 28.2221 to a title insurer authorized pursuant to s. 624.401 and its affiliates as defined in s. 624.10; a title insurance agent or title insurance agency as these terms are defined in s. 626.841 ~~s. 626.841(1) or (2)~~, respectively; or an attorney duly admitted to practice law in this state and in good standing with The Florida Bar.

8. The exempt status of a home address contained in the Official Records is maintained only during the period when a protected party resides at the dwelling location. Upon conveyance of real property after October 1, 2021, and when such real property no longer constitutes a protected party's home address as defined in sub-subparagraph 1.a., the protected party must submit a written request to release the removed information to the county recorder. The written request to release the removed information must be notarized, must confirm that a protected party's request for release is pursuant to a conveyance of his or her dwelling location, and must specify the Official Records book and page, instrument number, or clerk's file number for each document containing the information to be released.

9. Upon the death of a protected party as verified by a certified copy of a death certificate or court order, any party can request the county recorder to release a protected decedent's removed information unless there is a related request

on file with the county recorder for continued removal of the decedent's information or unless such removal is otherwise prohibited by statute or by court order. The written request to release the removed information upon the death of a protected party must attach the certified copy of a death certificate or court order and must be notarized, must confirm the request for release is due to the death of a protected party, and must specify the Official Records book and page number, instrument number, or clerk's file number for each document containing the information to be released. A fee may not be charged for the release of any document pursuant to such request.

10. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 77. Subsection (4) of section 631.152, Florida Statutes, is amended to read:

631.152 Conduct of delinquency proceeding; foreign insurers.—

(4) Section 631.141(10)(b) ~~631.141(9)(b)~~ applies to ancillary delinquency proceedings opened for the purpose of obtaining records necessary to adjudicate the covered claims of Florida policyholders.

Section 78. Paragraph (b) of subsection (3) of section 631.398, Florida Statutes, is amended to read:

631.398 Prevention of insolvencies.—To aid in the detection and prevention of insurer insolvencies or impairments:

(3)

(b) For an insolvency involving a domestic property insurer, the department shall:

1. Begin an analysis of the history and causes of the insolvency once the department is appointed by the court as receiver.

2. Submit an initial report analyzing the history and causes of the insolvency to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the office. The initial report must be submitted no later than 4 months after the department is appointed as receiver. The initial report shall be updated at least annually until the submission of the final report. The report may not be used as evidence in any proceeding brought by the department or others to recover assets on behalf of the receivership estate as part of its duties under s. 631.141(9) ~~s. 631.141(8)~~. The submission of a report under this subparagraph shall not be considered a waiver of any evidentiary privilege the department may assert under state or federal law.

3. Provide a special report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the office, within 10 days upon identifying any condition or practice that may lead to insolvency in the property insurance

marketplace.

4. Submit a final report analyzing the history and causes of the insolvency and the review of the Office of Insurance Regulation's regulatory oversight of the insurer to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the office within 30 days of the conclusion of the insolvency proceeding.

5. Review the Office of Insurance Regulation's regulatory oversight of the insurer.

Section 79. Subsection (2) of section 903.09, Florida Statutes, is amended to read:

903.09 Justification of sureties.—

(2) A bond agent, as defined in s. 648.25 ~~s. 648.25(2)~~, shall justify her or his suretyship by attaching a copy of the power of attorney issued by the company to the bond or by attaching to the bond United States currency, a United States postal money order, or a cashier's check in the amount of the bond; but the United States currency, United States postal money order, or cashier's check cannot be used to secure more than one bond. Nothing herein shall prohibit two or more qualified sureties from each posting any portion of a bond amount, and being liable for only that amount, so long as the total posted by all cosureties is equal to the amount of bond required.

Section 80. (1) The following rule is ratified for the sole and exclusive purpose of satisfying any condition on the

effectiveness imposed under s. 120.541(3), Florida Statutes: Rule 69L-7.020, Florida Administrative Code, titled "Florida Workers' Compensation Health Care Provider Reimbursement Manual" as filed for adoption with the Department of State pursuant to the certification package dated October 22, 2021.

(2) This section serves no other purpose and may not be codified in the Florida Statutes. After this section becomes law, its enactment and effective dates shall be noted in the Florida Administrative Code, the Florida Administrative Register, or both, as appropriate. This section does not alter rulemaking additions delegated by prior law, does not constitute legislative preemption of or exception to any provision of law governing adoption or enforcement of the rule cited, and is intended to preserve the status of any cited rule as a rule under chapter 120, Florida Statutes. This section does not cure any rulemaking defect or preempt any challenge based on a lack of authority or a violation of the legal requirements governing the adoption of any rule cited.

(3) This section takes effect July 1, 2023.

Section 81. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

INSURANCE & BANKING SUBCOMMITTEE

HB 487 by Rep. Salzman
Department of Financial Services

AMENDMENT SUMMARY
March 21, 2023

Amendment 1 by Rep. Salzman (Strike-all): The amendment:

- Removes various sections of the bill to address single subject concerns.
- Sunsets the State Fire Marshal Direct Service Organization created by the bill, consistent with applicable statute. It will sunset on October 1, 2028, unless saved from repeal by the Legislature.
- Significant additions to the bill include:
    - Requires the Deferred Compensation Plan to be at least partially self-funded.
    - Requires Workers' Compensation Proof of Coverage to include certain data to help control for fraudulent use of check cashing business.
    - Creates a limited lines agent license for Preneed Funeral Agreement Insurance.
    - Increases certain regulatory authority over licensed insurance agents and agencies.
    - Reduces the standard for receipt of anti-fraud rewards by no longer requiring a conviction in the reported case.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___ (Y/N)
ADOPTED AS AMENDED	___ (Y/N)
ADOPTED W/O OBJECTION	___ (Y/N)
FAILED TO ADOPT	___ (Y/N)
WITHDRAWN	___ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Insurance & Banking Subcommittee

Representative Salzman offered the following:

Amendment

Remove everything after the enacting clause and insert:

Section 1. Paragraph (e) of subsection (2) and subsection (6) of section 20.121, Florida Statutes, are amended to read:

20.121 Department of Financial Services.—There is created a Department of Financial Services.

(2) DIVISIONS.—The Department of Financial Services shall consist of the following divisions and office:

(e) The Division of Investigative and Forensic Services, which shall function as a criminal justice agency for purposes of ss. 943.045-943.08. The division may initiate and conduct investigations into any matter under the jurisdiction of the

Chief Financial Officer and Fire Marshal within or outside of this state as it deems necessary. If, during an investigation, the division has reason to believe that any criminal law of this state or the United States has or may have been violated, it shall refer any records tending to show such violation to state ~~or federal~~ law enforcement and, if applicable, federal ~~or~~ prosecutorial agencies and shall provide investigative assistance to those agencies as appropriate ~~required~~. The division shall include the following bureaus and office:

1. The Bureau of Forensic Services;

2. The Bureau of Fire, Arson, and Explosives Investigations;

3. The Office of Fiscal Integrity, which shall have a separate budget;

4. The Bureau of Insurance Fraud; and

5. The Bureau of Workers' Compensation Fraud.

~~(6) STRATEGIC MARKETS RESEARCH AND ASSESSMENT UNIT.—The Strategic Markets Research and Assessment Unit is established within the Department of Financial Services. The Chief Financial Officer or his or her designee shall report on September 1, 2008, and quarterly thereafter, to the Cabinet, the President of the Senate, and the Speaker of the House of Representatives on the status of the state's financial services markets. At a minimum, the report must include a summary of issues, trends, and threats that broadly impact the condition of the financial~~

~~services industries, along with the effect of such conditions on financial institutions, the securities industries, other financial entities, and the credit market. The Chief Financial Officer shall also provide findings and recommendations regarding regulatory and policy changes to the Cabinet, the President of the Senate, and the Speaker of the House of Representatives.~~

Section 2. Subsections (2) and (4), paragraph (a) of subsection (8), and subsection (12) of section 112.215, Florida Statutes, are amended to read:

112.215 Government employees; deferred compensation program.—

(2) For the purposes of this section, the term "government employee" means any person employed, whether appointed, elected, or under contract, by ~~providing services for~~ the state or any governmental unit of the state, including, but not limited to,~~;~~ any state agency; any ~~or~~ county, municipality, or other political subdivision of the state; any special district or water management district, as the terms are defined in s. 189.012 ~~municipality~~; any state university or Florida College System institution, as the terms are defined in s. 1000.21(6) and (3), respectively ~~board of trustees~~; or any constitutional county officer under s. 1(d), Art. VIII of the State Constitution for which compensation or statutory fees are paid.

(4)(a) The Chief Financial Officer, with the approval of

the State Board of Administration, shall establish a state ~~such~~ plan or plans of deferred compensation for government ~~state~~ employees ~~and may include persons employed by a state university as defined in s. 1000.21, a special district as defined in s. 189.012, or a water management district as defined in s. 189.012~~, including all such investment vehicles or products incident thereto, as may be available through, or offered by, qualified companies or persons, and may approve one or more such plans for implementation ~~by and on behalf of the state and its agencies and employees~~.

(b) If the Chief Financial Officer deems it advisable, he or she shall have the power, with the approval of the State Board of Administration, to create a trust or other special funds for the segregation of funds or assets resulting from compensation deferred at the request of government employees participating in ~~of~~ the state plan ~~or its agencies and~~ for the administration of such program.

(c) The Chief Financial Officer, with the approval of the State Board of Administration, may delegate responsibility for administration of the state plan to a person the Chief Financial Officer determines to be qualified, compensate such person, and, directly or through such person or pursuant to a collective bargaining agreement, contract with a private corporation or institution to provide such services as may be part of any such plan or as may be deemed necessary or proper by the Chief

Financial Officer or such person, including, but not limited to, providing consolidated billing, individual and collective recordkeeping and accountings, asset purchase, control, and safekeeping, and direct disbursement of funds to employees or other beneficiaries. The Chief Financial Officer may authorize a person, private corporation, or institution to make direct disbursement of funds under the state plan to an employee or other beneficiary.

(d) In accordance with such approved plan, and upon contract or agreement with an eligible government employee, deferrals of compensation may be accomplished by payroll deductions made by the appropriate officer or officers of the state, with such funds being thereafter held and administered in accordance with the plan.

(e) The administrative costs of the deferred compensation plan must be wholly or partially self-funded. Fees for such self-funding of the plan shall be paid by investment providers and may be recouped from their respective plan participants. Such fees shall be deposited in the Deferred Compensation Trust Fund.

(8)(a) There is created a Deferred Compensation Advisory Council composed of eight ~~seven~~ members.

1. One member shall be appointed by the Speaker of the House of Representatives and the President of the Senate jointly and shall be an employee of the legislative branch.

2. One member shall be appointed by the Chief Justice of the Supreme Court and shall be an employee of the judicial branch.

3. One member shall be appointed by the chair of the Public Employees Relations Commission and shall be a nonexempt public employee.

4. The remaining five ~~four~~ members shall be employed by the executive branch and shall be appointed as follows:

a. One member shall be appointed by the Chancellor of the State University System and shall be an employee of the university system.

b. One member shall be appointed by the Chief Financial Officer and shall be an employee of the Chief Financial Officer.

c. One member shall be appointed by the Governor and shall be an employee of the executive branch.

d. One member shall be appointed by the Executive Director of the State Board of Administration and shall be an employee of the State Board of Administration.

e. One member shall be appointed by the Chancellor of the Florida College System and shall be an employee of the Florida College System.

(12) The Chief Financial Officer may adopt any rule necessary to administer and implement this act with respect to the state deferred compensation plan or plans ~~for state employees and persons employed by a state university as defined~~

~~in s. 1000.21, a special district as defined in s. 189.012, or a water management district as defined in s. 189.012~~.

Section 3. Subsection (1) of section 274.01, Florida Statutes, is amended to read:

274.01 Definitions.—The following words as used in this act have the meanings set forth in the below subsections, unless a different meaning is required by the context:

(1) "Governmental unit" means the governing board, commission, or authority of a county, a county agency, a municipality, a special district as defined in s. 189.012 or taxing district of the state, or the sheriff of the county.

Section 4. Subparagraph (c) of subsection (9) and Subsections (12) and (14) of section 440.13, Florida Statutes, are amended to read:

440.13 Medical services and supplies; penalty for violations; limitations.—

(9) EXPERT MEDICAL ADVISORS.—

(c) If there is disagreement in the opinions of the health care providers, if two health care providers disagree on medical evidence supporting the employee's complaints or the need for additional medical treatment, or if two health care providers disagree that the employee is able to return to work, the department may, and the judge of compensation claims ~~shall~~ may, upon his or her own motion or within 15 days after receipt of a written request by either the injured employee, the employer, or

the carrier, order the injured employee to be evaluated by an expert medical advisor. The injured employee and the employer or carrier may agree on the health care provider to serve as an expert medical advisor. If the parties do not agree, the judge of compensation claims shall select an expert medical advisor from the department's list of certified expert medical advisors. If a certified medical advisor within the relevant medical specialty is unavailable, the judge of compensation claims shall appoint any otherwise qualified health care provider to serve as an expert medical advisor without obtaining the department's certification. The opinion of the expert medical advisor is presumed to be correct unless there is clear and convincing evidence to the contrary as determined by the judge of compensation claims. The expert medical advisor appointed to conduct the evaluation shall have free and complete access to the medical records of the employee. An employee who fails to report to and cooperate with such evaluation forfeits entitlement to compensation during the period of failure to report or cooperate.

(12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM REIMBURSEMENT ALLOWANCES.—

(a) A three-member panel is created, consisting of the Chief Financial Officer, or the Chief Financial Officer's designee, and two members to be appointed by the Governor, subject to confirmation by the Senate, one member who, on

account of present or previous vocation, employment, or affiliation, shall be classified as a representative of employers, the other member who, on account of previous vocation, employment, or affiliation, shall be classified as a representative of employees. The panel shall determine statewide schedules of maximum reimbursement allowances for medically necessary treatment, care, and attendance provided by ~~physicians,~~ hospitals and~~,~~ ambulatory surgical centers~~, work-hardening programs, pain programs, and durable medical equipment~~. The maximum reimbursement allowances for inpatient hospital care shall be based on a schedule of per diem rates, to be approved by the three-member panel no later than March 1, 1994, to be used in conjunction with a precertification manual as determined by the department, including maximum hours in which an outpatient may remain in observation status, which shall not exceed 23 hours. All compensable charges for hospital outpatient care shall be reimbursed at 75 percent of usual and customary charges, except as otherwise provided by this subsection. Annually, the three-member panel shall adopt schedules of maximum reimbursement allowances for ~~physicians,~~ hospital inpatient care, hospital outpatient care, and ambulatory surgical centers~~, work-hardening programs, and pain programs~~. A ~~An individual physician,~~ hospital or~~,~~ ambulatory surgical center~~, pain program, or work-hardening program~~ shall be reimbursed the agreed-upon contract price or the maximum

reimbursement allowance in the appropriate schedule.

(b) ~~It is the intent of the Legislature to increase the schedule of maximum reimbursement allowances for selected physicians effective January 1, 2004, and to pay for the increases through reductions in payments to hospitals. Revisions developed pursuant to this subsection are limited to the following:~~

~~1.~~ Payments for outpatient physical, occupational, and speech therapy provided by hospitals shall be ~~reduced to~~ the schedule of maximum reimbursement allowances for these services which applies to nonhospital providers.

(c)~~2.~~ Payments for scheduled outpatient nonemergency radiological and clinical laboratory services that are not provided in conjunction with a surgical procedure shall be ~~reduced to~~ the schedule of maximum reimbursement allowances for these services which applies to nonhospital providers.

(d)~~3.~~ Outpatient reimbursement for scheduled surgeries shall be ~~reduced from 75 percent of charges to~~ 60 percent of charges.

(e)1. By July 1 of each year, the department shall notify carriers and self-insurers of the physician and nonhospital services schedule of maximum reimbursement allowances. The notice must include publication of this schedule of maximum reimbursement allowances on the division's website. This schedule is not subject to approval by the three-member panel

and does not include reimbursement for prescription medication.

2. Subparagraph 1. shall take effect January 1, following the July 1, 2024, notice of the physician and nonhospital services schedule of maximum reimbursement allowances which the department provides to carriers and self-insurers.

(f)~~4.~~ Maximum reimbursement for a physician licensed under chapter 458 or chapter 459 shall be ~~increased to~~ 110 percent of the reimbursement allowed by Medicare, using appropriate codes and modifiers ~~or the medical reimbursement level adopted by the three-member panel as of January 1, 2003, whichever is greater~~.

(g)~~5.~~ Maximum reimbursement for surgical procedures shall be ~~increased to~~ 140 percent of the reimbursement allowed by Medicare ~~or the medical reimbursement level adopted by the three-member panel as of January 1, 2003, whichever is greater~~.

(h)~~(c)~~ As to reimbursement for a prescription medication, the reimbursement amount for a prescription shall be the average wholesale price plus $4.18 for the dispensing fee. For repackaged or relabeled prescription medications dispensed by a dispensing practitioner as provided in s. 465.0276, the fee schedule for reimbursement shall be 112.5 percent of the average wholesale price, plus $8.00 for the dispensing fee. For purposes of this subsection, the average wholesale price shall be calculated by multiplying the number of units dispensed times the per-unit average wholesale price set by the original manufacturer of the underlying drug dispensed by the

practitioner, based upon the published manufacturer's average wholesale price published in the Medi-Span Master Drug Database as of the date of dispensing. All pharmaceutical claims submitted for repackaged or relabeled prescription medications must include the National Drug Code of the original manufacturer. Fees for pharmaceuticals and pharmaceutical services shall be reimbursable at the applicable fee schedule amount except where the employer or carrier, or a service company, third party administrator, or any entity acting on behalf of the employer or carrier directly contracts with the provider seeking reimbursement for a lower amount.

(i) ~~(d)~~ Reimbursement for all fees and other charges for such treatment, care, and attendance, including treatment, care, and attendance provided by any hospital or other health care provider, ambulatory surgical center, work-hardening program, or pain program, must not exceed the amounts provided by the uniform schedule of maximum reimbursement allowances as determined by the panel or as otherwise provided in this section. This subsection also applies to independent medical examinations performed by health care providers under this chapter. In determining the uniform schedule, the panel shall first approve the data which it finds representative of prevailing charges in the state for similar treatment, care, and attendance of injured persons. Each health care provider, health care facility, ambulatory surgical center, work-hardening

program, or pain program receiving workers' compensation payments shall maintain records verifying their usual charges. In establishing the uniform schedule of maximum reimbursement allowances, the panel must consider:

1. The levels of reimbursement for similar treatment, care, and attendance made by other health care programs or third-party providers;

2. The impact upon cost to employers for providing a level of reimbursement for treatment, care, and attendance which will ensure the availability of treatment, care, and attendance required by injured workers; and

3. The financial impact of the reimbursement allowances upon health care providers and health care facilities, including trauma centers as defined in s. 395.4001, and its effect upon their ability to make available to injured workers such medically necessary remedial treatment, care, and attendance. The uniform schedule of maximum reimbursement allowances must be reasonable, must promote health care cost containment and efficiency with respect to the workers' compensation health care delivery system, and must be sufficient to ensure availability of such medically necessary remedial treatment, care, and attendance to injured workers~~; and~~

~~4. The most recent average maximum allowable rate of increase for hospitals determined by the Health Care Board under chapter 408~~.

(j)~~(c)~~ In addition to establishing the uniform schedule of maximum reimbursement allowances, the panel shall:

1. Take testimony, receive records, and collect data to evaluate the adequacy of the workers' compensation fee schedule, nationally recognized fee schedules and alternative methods of reimbursement to health care providers and health care facilities for inpatient and outpatient treatment and care.

2. Survey health care providers and health care facilities to determine the availability and accessibility of workers' compensation health care delivery systems for injured workers.

3. Survey carriers to determine the estimated impact on carrier costs and workers' compensation premium rates by implementing changes to the carrier reimbursement schedule or implementing alternative reimbursement methods.

4. Submit recommendations on or before January 15, 2017, and biennially thereafter, to the President of the Senate and the Speaker of the House of Representatives on methods to improve the workers' compensation health care delivery system.

The department, as requested, shall provide data to the panel, including, but not limited to, utilization trends in the workers' compensation health care delivery system. The department shall provide the panel with an annual report regarding the resolution of medical reimbursement disputes and any actions pursuant to subsection (8). The department shall

provide administrative support and service to the panel to the extent requested by the panel. For prescription medication purchased under the requirements of this subsection, a dispensing practitioner shall not possess such medication unless payment has been made by the practitioner, the practitioner's professional practice, or the practitioner's practice management company or employer to the supplying manufacturer, wholesaler, distributor, or drug repackager within 60 days of the dispensing practitioner taking possession of that medication.

(14) ~~PRACTICE PARAMETERS.—The practice parameters and protocols mandated under this chapter shall be the practice parameters and protocols adopted by the United States Agency for Healthcare Research and Quality in effect on January 1, 2003.~~

Section 5. Subsection (8) of section 440.38, Florida Statutes, is created to read:

440.38 Security for compensation; insurance carriers and self-insurers.—

(8) Any form used by the department to evidence an employer's workers' compensation coverage under paragraph (1)(a) must contain the following:

(a) The governing class code or codes;

(b) Payroll information; and

(c) The total number of employees covered by the workers' compensation insurance policy.

Section 6. Effective January 1, 2024, subsection (2) of

section 440.385, Florida Statutes, is amended to read:

440.385 Florida Self-Insurers Guaranty Association, Incorporated.—

(2) BOARD OF DIRECTORS.—The board of directors of the association shall consist of nine persons and shall be organized as established in the plan of operation. Each director must ~~All board members shall~~ be experienced in self-insurance in this state. Each director shall serve for a 4-year term and may be reappointed. Appointments after January 1, 2002, shall be made by the department upon recommendation of members of the association or other persons with experience in self-insurance as determined by the Chief Financial Officer. Any vacancy on the board shall be filled for the remaining period of the term in the same manner as appointments other than initial appointments are made. Each director shall be reimbursed for expenses incurred in carrying out the duties of the board on behalf of the association.

(a) The Chief Financial Officer may remove a director from office for misconduct, malfeasance, misfeasance, or neglect of duty. Any vacancy so created shall be filled as provided in this subsection.

(b) Directors are subject to the code of ethics under part III of chapter 112, including, but not limited to, the code of ethics and public disclosure and reporting of financial interests, pursuant to s. 112.3145. For purposes of applying

part III of chapter 112 to activities of members of the board of directors, those persons are considered public officers and the association is considered their agency. Notwithstanding s. 112.3143(2), a director may not vote on any measure that he or she knows would inure to his or her special private gain or loss; that he or she knows would inure to the special private gain or loss of any principal by which he or she is retained, other than an agency as defined in s. 112.312; or that he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Before the vote is taken, such director shall publicly state to the board the nature of his or her interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

(c) Notwithstanding s. 112.3148, s. 112.3149, or any other law, an employee of the association or a director may not knowingly accept, directly or indirectly, any gift or expenditure from a person or entity, or an employee or representative of such person or entity, which has a contractual relationship with the association or which is under consideration for a contract.

(d) A director who fails to comply with paragraph (b) or

paragraph (c) is subject to the penalties provided under ss. 112.317 and 112.3173.

Section 7. Subsection (25) of section 624.501, Florida Statutes, is amended to read:

624.501 Filing, license, appointment, and miscellaneous fees.—The department, commission, or office, as appropriate, shall collect in advance, and persons so served shall pay to it in advance, fees, licenses, and miscellaneous charges as follows:

(25) Reinsurance intermediary:

~~(a) Application filing and license fee $50.00~~

~~(b)~~ Original appointment and biennial renewal or continuation thereof, appointment fee $60.00

Section 8. Subsection (5) of section 626.015, Florida Statutes, is amended to read:

626.015 Definitions.—As used in this part:

(5) "Association" includes the Florida Association of Insurance Agents (FAIA), the National Association of Insurance and Financial Advisors (NAIFA), the National Association of Benefits and Insurance Professionals Florida Chapter (NABIP Florida) ~~Florida Association of Health Underwriters (FAHU)~~, the Latin American Association of Insurance Agencies (LAAIA), the Florida Association of Public Insurance Adjusters (FAPIA), the Florida Bail Agents Association (FBAA), or the Professional Bail Agents of the United States (PBUS).

Section 9. Subsection (4) of section 626.171, Florida Statutes, is amended to read:

626.171 Application for license as an agent, customer representative, adjuster, service representative, or reinsurance intermediary.—

(4) An applicant for a license issued by the department under this chapter must submit a set of the individual applicant's fingerprints, or, if the applicant is not an individual, a set of the fingerprints of the sole proprietor, majority owner, partners, officers, and directors, to the department and must pay the fingerprint processing fee set forth in s. 624.501. Fingerprints must be processed in accordance with s. 624.34 and used to investigate the applicant's qualifications pursuant to s. 626.201. The fingerprints must be taken by a law enforcement agency~~, designated examination center,~~ or other department-approved entity. ~~The department shall require all designated examination centers to have fingerprinting equipment and to take fingerprints from any applicant or prospective applicant who pays the applicable fee.~~ The department may not approve an application for licensure as an agent, customer service representative, adjuster, service representative, or reinsurance intermediary if fingerprints have not been submitted.

Section 10. Paragraph (c) of subsection (1) of section 626.173, Florida Statutes, is amended to read:

626.173 Insurance agency closure; cancellation of licenses.—

(1) If a licensed insurance agency permanently ceases the transacting of insurance or ceases the transacting of insurance for more than 30 days, the agent in charge, the director of the agency, or other officer listed on the original application for licensure must, within 35 days after the agency first ceases the transacting of insurance, do all of the following:

(c) Notify all policyholders currently insured by a policy written, produced, or serviced by the agency of the agency's cessation of operations; the date on which operations ceased; and the identity of the agency or agent to which the agency's current book of business has been transferred or, if no transfer has occurred, a statement directing the policyholder to contact the insurance company for assistance in locating a licensed agent to service the policy. This paragraph does not apply to title insurance, life insurance, or annuity contracts.

Section 11. Subsection (8) of section 626.207, Florida Statutes, is amended to read:

626.207 Disqualification of applicants and licensees; penalties against licensees; rulemaking authority.—

(8) The department shall adopt rules establishing specific penalties against licensees in accordance with ss. 626.641 and 626.651 for violations of s. 626.112(7) or (9), s. 626.611, s. 626.6115, s. 626.621, s. 626.6215, s. 626.7451, s. 626.8437, s.

626.844, s. 626.8695, s. 626.8697, s. 626.8698, s. 626.935, s. 634.181, s. 634.191, s. 634.320, s. 634.321, s. 634.422, s. 634.423, s. 642.041, or s. 642.043. The purpose of the revocation or suspension is to provide a sufficient penalty to deter future violations of the Florida Insurance Code. The imposition of a revocation or the length of suspension shall be based on the type of conduct and the probability that the propensity to commit further illegal conduct has been overcome at the time of eligibility for relicensure. The length of suspension may be adjusted based on aggravating or mitigating factors, established by rule and consistent with this purpose.

Section 12. Paragraph (j) of subsection (2) of section 626.221, Florida Statutes, is amended to read:

626.221 Examination requirement; exemptions.—

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

(j) An applicant for license as an all-lines adjuster who has the designation of Accredited Claims Adjuster (ACA) from a regionally accredited postsecondary institution in this state; Certified All Lines Adjuster (CALA) from Kaplan Financial Education; Associate in Claims (AIC) from the Insurance Institute of America; Professional Claims Adjuster (PCA) from the Professional Career Institute; Professional Property Insurance Adjuster (PPIA) from the HurriClaim Training Academy; Certified Adjuster (CA) from ALL LINES Training; Certified

Claims Adjuster (CCA) from AE21 Incorporated; Claims Adjuster Certified Professional (CACP) from WebCE, Inc.; Accredited Insurance Claims Specialist (AICS) from Encore Claim Services; Professional in Claims (PIC) from 2021 Training, LLC; or Universal Claims Certification (UCC) from Claims and Litigation Management Alliance (CLM) whose curriculum has been approved by the department and which includes comprehensive analysis of basic property and casualty lines of insurance and testing at least equal to that of standard department testing for the all-lines adjuster license. The department shall adopt rules establishing standards for the approval of curriculum.

Section 13. Paragraphs (c) and (f) of subsection (3) of section 626.2815, Florida Statutes, are amended to read:

626.2815 Continuing education requirements.—

(3) Each licensee except a title insurance agent must complete a 4-hour update course every 2 years which is specific to the license held by the licensee. The course must be developed and offered by providers and approved by the department. The content of the course must address all lines of insurance for which examination and licensure are required and include the following subject areas: insurance law updates, ethics for insurance professionals, disciplinary trends and case studies, industry trends, premium discounts, determining suitability of products and services, and other similar insurance-related topics the department determines are relevant

to legally and ethically carrying out the responsibilities of the license granted. A licensee who holds multiple insurance licenses must complete an update course that is specific to at least one of the licenses held. Except as otherwise specified, any remaining required hours of continuing education are elective and may consist of any continuing education course approved by the department under this section.

(c) A licensee who has been licensed for 25 years or more and is a CLU or a CPCU or has a Bachelor of Science degree or higher in risk management or insurance with evidence of 18 or more semester hours in insurance-related courses must also complete a minimum of 6 hours of elective continuing education courses every 2 years.

(f) Elective continuing education courses for public adjusters may ~~must~~ be any course related to commercial and residential property coverages, claim adjusting practices, and any other adjuster elective courses ~~specifically designed for public adjusters and~~ approved by the department. Notwithstanding this subsection, public adjusters for workers' compensation insurance or health insurance are not required to take continuing education courses pursuant to this section.

Section 14. Paragraphs (a), (b), and (e) of subsection (1) of section 626.321, Florida Statutes, are amended, and paragraph (i) is added to that subsection, to read:

626.321 Limited licenses and registration.—

(1) The department shall issue to a qualified applicant a license as agent authorized to transact a limited class of business in any of the following categories of limited lines insurance:

(a) *Motor vehicle physical damage and mechanical breakdown insurance.*—License covering insurance against only the loss of or damage to a motor vehicle that is designed for use upon a highway, including trailers and semitrailers designed for use with such vehicles. Such license also covers insurance against the failure of an original or replacement part to perform any function for which it was designed. ~~A licensee under this paragraph may not hold a license as an agent for any other or additional kind or class of insurance coverage except a limited license for credit insurance as provided in paragraph (c).~~ Effective October 1, 2012, all licensees holding such limited license and appointment may renew the license and appointment, but no new or additional licenses may be issued pursuant to this paragraph, and a licensee whose limited license under this paragraph has been terminated, suspended, or revoked may not have such license reinstated.

(b) *Industrial fire insurance or burglary insurance.*—License covering only industrial fire insurance or burglary insurance. ~~A licensee under this paragraph may not hold a license as an agent for any other or additional kind or class of insurance coverage except for life insurance and health~~

~~insurance.~~ Effective July 1, 2019, all licensees holding such limited license and appointment may renew the license and appointment, but no new or additional licenses may be issued pursuant to this paragraph, and a licensee whose limited license under this paragraph has been terminated, suspended, or revoked may not have such license reinstated.

(e) *Credit insurance.*—License covering credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection (GAP) insurance, and any other form of insurance offered in connection with an extension of credit which is limited to partially or wholly extinguishing a credit obligation that the department determines should be designated a form of limited line credit insurance. Effective October 1, 2012, all valid licenses held by persons for any of the lines of insurance listed in this paragraph shall be converted to a credit insurance license. ~~Licensees who wish to obtain a new license reflecting such change must request a duplicate license and pay a $5 fee as specified in s. 624.501(15).~~ The license may be issued only to an individual employed by a life or health insurer as an officer or other salaried or commissioned representative, to an individual employed by or associated with a lending or financial institution or creditor, or to a lending or financial institution or creditor, and may authorize the sale of such

insurance only with respect to borrowers or debtors of such lending or financing institution or creditor. However, only the individual or entity whose tax identification number is used in receiving or is credited with receiving the commission from the sale of such insurance shall be the licensed agent of the insurer. ~~No individual while so licensed shall hold a license as an agent as to any other or additional kind or class of life or health insurance coverage.~~

(i) *Preneed funeral agreement insurance.*—Limited license for insurance covering only prearranged funeral, cremation, or cemetery agreements, or any combination thereof, funded by insurance and offered in connection with an establishment that holds a preneed license pursuant to s. 497.452. Such license may be issued without examination only to an individual who has filed with the department an application for a license in a form and manner prescribed by the department, who currently holds a valid preneed sales agent license pursuant to s. 497.466, who paid the applicable fees for a license as prescribed in s. 624.501, who has been appointed under s. 626.112, and who paid the prescribed appointment fee under s. 624.501.

Section 15. Paragraph (n) of subsection (1) of section 626.611, Florida Statutes, is amended to read:

626.611 Grounds for compulsory refusal, suspension, or revocation of agent's, title agency's, adjuster's, customer representative's, service representative's, or managing general

agent's license or appointment.—

(1) The department shall deny an application for, suspend, revoke, or refuse to renew or continue the license or appointment of any applicant, agent, title agency, adjuster, customer representative, service representative, or managing general agent, and it shall suspend or revoke the eligibility to hold a license or appointment of any such person, if it finds that as to the applicant, licensee, or appointee any one or more of the following applicable grounds exist:

(n) Having been found guilty of or having pleaded guilty or nolo contendere to a misdemeanor directly related to the financial services business, any felony, or any ~~a~~ crime punishable by imprisonment of 1 year or more under the law of the United States of America or of any state thereof or under the law of any other country, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of such cases.

Section 16. Subsection (18) is added to section 626.621, Florida Statutes, to read:

626.621 Grounds for discretionary refusal, suspension, or revocation of agent's, adjuster's, customer representative's, service representative's, or managing general agent's license or appointment.—The department may, in its discretion, deny an application for, suspend, revoke, or refuse to renew or continue the license or appointment of any applicant, agent, adjuster,

customer representative, service representative, or managing general agent, and it may suspend or revoke the eligibility to hold a license or appointment of any such person, if it finds that as to the applicant, licensee, or appointee any one or more of the following applicable grounds exist under circumstances for which such denial, suspension, revocation, or refusal is not mandatory under s. 626.611:

(18) Cancellation of the applicant's, licensee's, or appointee's resident license in a state other than Florida.

Section 17. Paragraphs (d) and (g) of subsection (2) and paragraphs (a), (b), and (e) through (j) of subsection (3) of section 626.7492, Florida Statutes, are amended to read:

626.7492 Reinsurance intermediaries.—

(2) DEFINITIONS.—As used in this section:

(d) "Producer" means a licensed ~~an~~ agent, broker, or insurance agency that is appointed as a reinsurance intermediary ~~licensed~~ pursuant to the applicable provision of the Florida Insurance Code.

(g) "Reinsurance intermediary manager" means any person who has authority to bind, or manages all or part of, the assumed reinsurance business of a reinsurer, including the management of a separate division, department, or underwriting office, and acts as a representative ~~an agent~~ for the reinsurer whether known as a reinsurance intermediary manager, manager, or other similar term. Notwithstanding the above, none of the

following persons is a reinsurance intermediary manager with respect to the reinsurer for the purposes of this section:

1. An employee of the reinsurer;

2. A manager of the United States branch of an alien reinsurer;

3. An underwriting manager which, pursuant to contract, manages all the reinsurance operations of the reinsurer, is under common control with the reinsurer, subject to the holding company act, and whose compensation is not based on the volume of premiums written.

4. The manager of a group, association, pool, or organization of insurers which engage in joint underwriting or joint reinsurance and who are subject to examination by the insurance regulatory authority of the state in which the manager's principal business office is located.

(3) LICENSURE.—

(a) No person shall act as a reinsurance intermediary broker in this state if the reinsurance intermediary broker maintains an office either directly or as a member or employee of a firm or association, or an officer, director, or employee of a corporation:

1. In this state, unless the reinsurance intermediary broker is a licensed producer in this state; or

2. In another state, unless the reinsurance intermediary broker is a licensed producer in this state or in another state

having a law substantially similar to this section or the reinsurance intermediary broker is licensed in this state as an insurance agency and appointed as a ~~nonresident~~ reinsurance intermediary.

(b) No person shall act as a reinsurance intermediary manager:

1. For a reinsurer domiciled in this state, unless the reinsurance intermediary manager is a licensed producer in this state;

2. In this state, if the reinsurance intermediary manager maintains an office either directly or as a member or employee of a firm or association, or an officer, director, or employee of a corporation in this state, unless the reinsurance intermediary manager is a licensed producer in this state;

3. In another state for a nondomestic insurer, unless the reinsurance intermediary manager is a licensed producer in this state or another state having a law substantially similar to this section, or the person is licensed in this state as a producer ~~nonresident reinsurance intermediary~~.

(e) If the applicant for a reinsurance intermediary appointment ~~license~~ is a nonresident, the applicant, as a condition precedent to receiving or holding an appointment ~~a license~~, must designate the Chief Financial Officer as agent for service of process in the manner, and with the same legal effect, provided for by this section for designation of service

of process upon unauthorized insurers. Such applicant shall also furnish the department with the name and address of a resident of this state upon whom notices or orders of the department or process affecting the nonresident reinsurance intermediary may be served. The licensee shall promptly notify the department in writing of each change in its designated agent for service of process, and the change shall not become effective until acknowledged by the department.

(f) ~~The department may refuse to issue a reinsurance intermediary license if, in its judgment, the applicant, anyone named on the application, or any member, principal, officer, or director of the applicant, has demonstrated a lack of fitness and trustworthiness, or that any controlling person of the applicant is not fit or trustworthy to act as a reinsurance intermediary, or that any of the foregoing has given cause for revocation or suspension of the license, or has failed to comply with any prerequisite for the issuance of the license.~~

~~(g)~~ Reinsurance intermediaries shall be ~~licensed,~~ appointed, renewed, continued, reinstated, or terminated as prescribed in this chapter for insurance representatives in general~~, except that they shall be exempt from the photo, education, and examination provisions~~. ~~License,~~ Appointment~~,~~ and other fees shall be those prescribed in s. 624.501.

(g)~~(h)~~ The grounds and procedures for refusal of an ~~a license or~~ appointment or suspension or revocation of a license

or appointment issued to a reinsurance intermediary under this section are as set forth in ss. 626.611-626.691 for insurance representatives in general.

(h)~~(i)~~ An attorney licensed in this state, when acting in a professional capacity, is exempt from this subsection.

(i)~~(j)~~ The department may develop necessary rules to carry out this section.

Section 18. Subsection (5) of section 626.752, Florida Statutes, is amended to read:

626.752 Exchange of business.—

(5) Within 15 days after the last day of each month, any insurer accepting business under this section shall report to the department the name, address, telephone number, and social security number of each agent from which the insurer received more than four personal lines risks during the calendar year, except for risks being removed from the Citizens Property Insurance Corporation and placed with that insurer by a brokering agent. Once the insurer has reported pursuant to this subsection an agent's name to the department, additional reports on the same agent shall not be required. However, the fee set forth in s. 624.501 must be paid for the agent by the insurer for each year until the insurer notifies the department that the insurer is no longer accepting business from the agent pursuant to this section. The insurer may require that the agent reimburse the insurer for the fee. If the insurer or employer

does not pay the fees and taxes due pursuant to this subsection within 21 days after notice by the department, the department must suspend the insurer's or employer's authority to appoint licensees until all outstanding fees and taxes have been paid.

Section 19. Subsection (3) of section 626.785, Florida Statutes, is amended to read:

626.785 Qualifications for license.—

(3) Notwithstanding any other provisions of this chapter, a funeral director, a direct disposer, or an employee of a funeral establishment that holds a preneed license pursuant to s. 497.452 may obtain an agent's license or a limited license to sell only policies of life insurance covering the expense of a prearrangement for funeral services or merchandise so as to provide funds at the time the services and merchandise are needed. The face amount of insurance covered by any such policy shall not exceed $21,000, plus an annual percentage increase based on the Annual Consumer Price Index compiled by the United States Department of Labor, beginning with the Annual Consumer Price Index announced by the United States Department of Labor for 2016.

Section 20. Subsection (4) of section 626.793, Florida Statutes, is amended to read:

626.793 Excess or rejected business.—

(4) Within 15 days after the last day of each month, any insurer accepting business under this section shall report to

the department the name, address, telephone number, and social security number of each agent from which the insurer received more than four risks during the calendar year. Once the insurer has reported an agent's name to the department pursuant to this subsection, additional reports on the same agent shall not be required. However, the fee set forth in s. 624.501 must be paid for the agent by the insurer for each year until the insurer notifies the department that the insurer is no longer accepting business from the agent pursuant to this section. The insurer may require that the agent reimburse the insurer for the fee. If the insurer or employer does not pay the fees and taxes due pursuant to this subsection within 21 days after notice by the department, the department must suspend the insurer's or employer's authority to appoint licensees until all outstanding fees and taxes have been paid.

Section 21. Subsection (5) of section 626.837, Florida Statutes, is amended to read:

626.837 Excess or rejected business.—

(5) Within 15 days after the last day of each month, any insurer accepting business under this section shall report to the department the name, address, telephone number, and social security number of each agent from which the insurer received more than four risks during the calendar year. Once the insurer has reported pursuant to this subsection an agent's name to the department, additional reports on the same agent shall not be

required. However, the fee set forth in s. 624.501 must be paid for the agent by the insurer for each year until the insurer notifies the department that the insurer is no longer accepting business from the agent pursuant to this section. The insurer may require that the agent reimburse the insurer for the fee. If the insurer or employer does not pay the fees and taxes due pursuant to this subsection within 21 days after notice by the department, the department must suspend the insurer's or employer's authority to appoint licensees until all outstanding fees and taxes have been paid.

Section 22. Paragraph (e) is added to subsection (2) of section 626.8411, Florida Statutes, to read:

626.8411 Application of Florida Insurance Code provisions to title insurance agents or agencies.—

(2) The following provisions of part I do not apply to title insurance agents or title insurance agencies:

(e) Section 626.173(1)(c), relating to notifying policyholders of the agency closure.

Section 23. Present subsections (8) through (11) of section 626.8437, Florida Statutes, are redesignated as subsections (9) through (12), respectively, and a new subsection (8) and subsection (13) are added to that section, read:

626.8437 Grounds for denial, suspension, revocation, or refusal to renew license or appointment.—The department shall deny, suspend, revoke, or refuse to renew or continue the

license or appointment of any title insurance agent or agency, and it shall suspend or revoke the eligibility to hold a license or appointment of such person, if it finds that as to the applicant, licensee, appointee, or any principal thereof, any one or more of the following grounds exist:

(8) Misappropriation, conversion, or improper withholding of funds not being legally entitled thereto and received in a fiduciary capacity and held as part of an escrow agreement, real estate sales contract, or as provided on a settlement statement in a real estate transaction.

(13) Revocation or cancellation of a licensee's resident license in a jurisdiction other than this state.

Section 24. Subsections (7) and (8) are added to section 626.844, Florida Statutes, to read:

626.844 Grounds for discretionary refusal, suspension, or revocation of license or appointment.—The department may, in its discretion, deny, suspend, revoke, or refuse to renew or continue the license or appointment of any title insurance agent or agency, and it may suspend or revoke the eligibility to hold a license or appointment of any such title insurance agent or agency if it finds that as to the applicant or licensee or appointee, or any principal thereof, any one or more of the following grounds exist under circumstances for which such denial, suspension, revocation, or refusal is not mandatory under s. 626.8437:

(7) Having been the subject of, or having had a license, permit, appointment, registration, or other authority to conduct business subject to, any decision, finding, injunction, suspension, prohibition, revocation, denial, judgment, final agency action, or administrative order by any court of competent jurisdiction, administrative law proceeding, state agency, federal agency, national securities, commodities, or option exchange, or national securities, commodities, or option association involving a violation of any federal or state securities or commodities law or any rule or regulation adopted thereunder, or a violation of any rule or regulation of any national securities, commodities, or options exchange or national securities, commodities, or options association.

(8) Revocation or cancellation of a licensee's resident license in a jurisdiction other than this state.

Section 25. Section 626.8473, Florida Statutes, is amended to read:

626.8473 Escrow; trust fund.—

(1) A title insurance agency ~~agent~~ may engage in business as an escrow agent as to funds received from others to be subsequently disbursed ~~by the title insurance agent~~ in connection with real estate closing transactions involving the issuance of title ~~insurance binders,~~ commitments, policies of title insurance, or guarantees of title, provided that a licensed and appointed title insurance agency ~~agent~~ complies

with the requirements of s. 626.8419 ~~s. 626.8417~~, including such requirements added after the initial licensure of the agency ~~agent~~.

(2) All funds received by a title insurance agency ~~agent~~ as described in subsection (1) shall be trust funds received in a fiduciary capacity by the title insurance agency ~~agent~~ and shall be the property of the person or persons entitled thereto.

(3) All funds received by a title insurance agency ~~agent~~ to be held in trust shall be immediately placed in a financial institution that is located within this state and is a member of the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund. These funds shall be invested in an escrow account in accordance with the investment requirements and standards established for deposits and investments of state funds in s. 17.57, where the funds shall be kept until disbursement thereof is properly authorized.

(4) Funds required to be maintained in escrow trust accounts pursuant to this section shall not be subject to any debts of the title insurance agency ~~agent~~ and shall be used only in accordance with the terms of the individual, escrow, settlement, or closing instructions under which the funds were accepted.

(5) The title insurance agency ~~agents~~ shall maintain separate records of all receipts and disbursements of escrow, settlement, or closing funds.

(6) In the event that the department promulgates rules necessary to implement the requirements of this section pursuant to s. 624.308, the department shall consider reasonable standards necessary for the protection of funds held in trust, including, but not limited to, standards for accounting of funds, standards for receipt and disbursement of funds, and protection for the person or persons to whom the funds are to be disbursed.

(7) A title insurance agency ~~agent~~, or any officer, director, or employee thereof, or any person associated therewith as an independent contractor for bookkeeping or similar purposes, who converts or misappropriates funds received or held in escrow or in trust by such title insurance agency ~~agent~~, or any person who knowingly receives or conspires to receive such funds, commits:

(a) If the funds converted or misappropriated are $300 or less, a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) If the funds converted or misappropriated are more than $300, but less than $20,000, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) If the funds converted or misappropriated are $20,000 or more, but less than $100,000, a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) If the funds converted or misappropriated are $100,000

or more, a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(8) An attorney shall deposit and maintain all funds received in connection with transactions in which the attorney is serving as a title or real estate settlement agent into a separate trust account that is maintained exclusively for funds received in connection with such transactions and permit the account to be audited by its title insurers, unless maintaining funds in the separate account for a particular client would violate applicable rules of The Florida Bar.

Section 26. Subsection (19) of section 626.854, Florida Statutes, is amended to read:

626.854 "Public adjuster" defined; prohibitions.—The Legislature finds that it is necessary for the protection of the public to regulate public insurance adjusters and to prevent the unauthorized practice of law.

(19) Except as otherwise provided in this chapter, no person, except an attorney at law or a licensed and appointed public adjuster, may for money, commission, or any other thing of value, directly or indirectly:

(a) Prepare, complete, or file an insurance claim for an insured or a third-party claimant;

(b) Act on behalf of or aid an insured or a third-party claimant in negotiating for or effecting the settlement of a claim for loss or damage covered by an insurance contract;

(c) Offer to initiate or negotiate a claim on behalf of an insured;

(d) Advertise services that require a license as a public adjuster; or

(e) Solicit, investigate, or adjust a claim on behalf of a public adjuster, an insured, or a third-party claimant.

Section 27. Section 626.874, Florida Statutes, is amended to read:

626.874 Catastrophe or emergency adjusters.—

(1) In the event of a catastrophe or emergency, the department may issue a license, for the purposes and under the conditions and for the period of emergency as it shall determine, to persons who are residents or nonresidents of this state, who are at least 18 years of age, who are United States citizens or legal aliens who possess work authorization from the United States Bureau of Citizenship and Immigration Services, and who are not licensed adjusters under this part but who have been designated and certified to it as qualified to act as adjusters by an authorized insurer to adjust claims, losses, or damages under policies or contracts of insurance issued by such insurers, or by a licensed ~~the primary adjuster of an~~ independent adjusting firm contracted with an authorized insurer to adjust claims on behalf of the insurer. The fee for the license is as provided in s. 624.501(12)(c).

(2) If any person not a licensed adjuster who has been

permitted to adjust such losses, claims, or damages under the conditions and circumstances set forth in subsection (1), engages in any of the misconduct described in or contemplated by chapter 626 ~~ss. 626.611 and 626.621~~, the department, without notice and hearing, shall be authorized to issue its order denying such person the privileges granted under this section; and thereafter it shall be unlawful for any such person to adjust any such losses, claims, or damages in this state.

Section 28. Subsection (2) of section 626.9892, Florida Statutes, is amended to read:

626.9892 Anti-Fraud Reward Program; reporting of insurance fraud.—

(2) The department may pay rewards of up to $25,000 to persons providing information leading to the arrest ~~and conviction~~ of persons committing crimes investigated by the department arising from violations of s. 400.9935, s. 440.105, s. 624.15, s. 626.112, s. 626.8473, s. 626.8738, s. 626.9541, s. 626.989, s. 790.164, s. 790.165, s. 790.166, s. 806.01, s. 806.031, s. 806.10, s. 806.111, s. 812.014, s. 817.034, s. 817.233, ~~or~~ s. 817.234, s. 817.236, s. 817.2361, s. 817.505, s. 817.568, s. 831.01, s. 895.03, s. 895.04, or s. 896.101.

Section 29. Present subsections (7) through (12) of section 626.9957, Florida Statutes, are redesignated as subsections (8) through (13), respectively, and a new subsection (7) is added to that section, to read:

626.9957 Conduct prohibited; denial, revocation, termination, expiration, or suspension of registration.—

(7) If a navigator registered under this part fails to maintain an active, valid navigator's registration status with the Federal Government or an exchange, the navigator's registration issued under this part shall expire by operation of law. A navigator with an expired registration may not be granted subsequent registration until the navigator qualifies as a first-time applicant.

Section 30. Paragraph (c) of subsection (4) of section 627.351, Florida Statutes, is amended to read:

627.351 Insurance risk apportionment plans.—

(4) MEDICAL MALPRACTICE RISK APPORTIONMENT.—

(c) The Joint Underwriting Association shall operate subject to the supervision and approval of a board of governors consisting of representatives of five of the insurers participating in the Joint Underwriting Association, an attorney named by The Florida Bar, a physician named by the Florida Medical Association, a dentist named by the Florida Dental Association, and a hospital representative named by the Florida Hospital Association. The Chief Financial Officer shall select the representatives of the five insurers or other persons with experience in medical malpractice insurance as determined by the Chief Financial Officer. One insurer representative shall be selected from recommendations of the American Insurance

Association. One insurer representative shall be selected from recommendations of the Property Casualty Insurers Association of America. One insurer representative shall be selected from recommendations of the Florida Insurance Council. Two insurer representatives shall be selected to represent insurers that are not affiliated with these associations. Vacancies on the board shall be filled for the remaining period of the term in the same manner as the initial appointments. During the first meeting of the board after June 30 of each year, the board shall choose one of its members to serve as chair of the board and another member to serve as vice chair of the board. There is no liability on the part of, and no cause of action shall arise against, any member insurer, self-insurer, or its agents or employees, the Joint Underwriting Association or its agents or employees, members of the board of governors, or the office or its representatives for any action taken by them in the performance of their powers and duties under this subsection.

1. The Chief Financial Officer may remove a board member from office for misconduct, malfeasance, misfeasance, or neglect of duty. Any vacancy so created shall be filled as provided in this paragraph.

2. Board members are subject to the code of ethics under part III of chapter 112, including, but not limited to, the code of ethics and public disclosure and reporting of financial interests, pursuant to s. 112.3145. For purposes of applying

part III of chapter 112 to activities of members of the board of governors, those persons are considered public officers and the Joint Underwriting Association is considered their agency. Notwithstanding s. 112.3143(2), a board member may not vote on any measure that he or she knows would inure to his or her special private gain or loss; that he or she knows would inure to the special private gain or loss of any principal by which he or she is retained, other than an agency as defined in s. 112.312; or that he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Before the vote is taken, such board member shall publicly state to the board the nature of his or her interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

3. Notwithstanding s. 112.3148, s. 112.3149, or any other law, an board member may not knowingly accept, directly or indirectly, any gift or expenditure from a person or entity, or an employee or representative of such person or entity, which has a contractual relationship with the Joint Underwriting Association or which is under consideration for a contract.

4. A board member who fails to comply with subparagraph 2.

or subparagraph 3. is subject to the penalties provided under ss. 112.317 and 112.3173.

Section 31. Subsections (2) and (3) of section 627.7015, Florida Statutes, are amended to read:

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

(2) At the time of issuance and renewal of a policy or at the time a first-party claim within the scope of this section is filed by the policyholder, the insurer shall notify the policyholder of its right to participate in the mediation program under this section. A claim is not eligible for mediation until an insurer has made a claim determination or elected to repair pursuant to s. 627.70131. The department shall prepare a consumer information pamphlet for distribution to persons participating in mediation.

(3) The costs of mediation must be reasonable, and the insurer must bear all of the cost of conducting mediation conferences, except as otherwise provided in this section. If a policyholder fails to appear at the conference, the conference must be rescheduled upon the policyholder's payment of the costs of a rescheduled conference. If the insurer fails to appear at the conference, the insurer must pay the policyholder's actual cash expenses incurred in attending the conference if the insurer's failure to attend was not due to a good cause acceptable to the department. An insurer will be deemed to have

failed to appear if the insurer's representative lacks authority to settle the full value of the claim. The insurer shall incur an additional fee for a rescheduled conference necessitated by the insurer's failure to appear at a scheduled conference. The fees assessed by the department ~~administrator~~ must include a charge necessary to defray the expenses of the department related to its duties under this section and must be deposited in the Insurance Regulatory Trust Fund. The department may suspend the insurer's authority to appoint licensees if the insurer does not timely pay the required fees.

Section 38. Subsection (18) is added to section 627.7074, Florida Statutes, to read:

627.7074 Alternative procedure for resolution of disputed sinkhole insurance claims.—

(18) The department may designate an entity or person to serve as administrator to carry out any of the provisions of this section and may take this action by means of a written contract or agreement.

Section 32. Section 627.745, Florida Statutes, is amended to read:

627.745 Mediation of claims.—

(1)(a) In any claim filed with an insurer for personal injury in an amount of $10,000 or less or any claim for property damage in any amount, arising out of the ownership, operation, use, or maintenance of a motor vehicle, either party may demand

mediation of the claim prior to the institution of litigation.

(b) The costs of mediation must be reasonable, and the insurer must bear all of the cost of conducting mediation conferences, except as otherwise provided in this section. If a policyholder fails to appear at the conference, the conference must be rescheduled upon the policyholder's payment of the costs of a rescheduled conference. If the insurer fails to appear at the conference, the insurer must pay the policyholder's actual cash expenses incurred in attending the conference if the insurer's failure to attend was not due to a good cause acceptable to the department. An insurer is deemed to have failed to appear if the insurer's representative lacks authority to settle the full value of the claim. The insurer shall incur an additional fee, paid to the mediator, for a rescheduled conference necessitated by the insurer's failure to appear at a scheduled conference. The fees assessed by the department or administrator must include a charge necessary to defray the expenses of the department related to its duties under this section and must be deposited in the Insurance Regulatory Trust Fund. The department or administrator may request that the department suspend the insurer's authority to appoint licensees if the insurer does not timely pay the per-mediation-event administrative fee.

~~(b) A request for mediation shall be filed with the department on a form approved by the department. The request for~~

~~mediation shall state the reason for the request for mediation and the issues in dispute which are to be mediated. The filing of a request for mediation tolls the applicable time requirements for filing suit for a period of 60 days following the conclusion of the mediation process or the time prescribed in s. 95.11, whichever is later.~~

(c) ~~The insurance policy must specify in detail the terms and conditions for mediation of a first-party claim.~~

~~(d) The mediation shall be conducted as an informal process in which formal rules of evidence and procedure need not be observed. Any party participating in a mediation must have the authority to make a binding decision. All parties must mediate in good faith.~~

~~(e) The department shall randomly select mediators. Each party may once reject the mediator selected, either originally or after the opposing side has exercised its option to reject a mediator.~~

~~(f) Costs of mediation shall be borne equally by both parties unless the mediator determines that one party has not mediated in good faith.~~

~~(g)~~ Only one mediation may be requested for each claim, unless all parties agree to further mediation.

~~(2) Upon receipt of a request for mediation, the department shall refer the request to a mediator. The mediator shall notify the applicant and all interested parties, as~~

~~identified by the applicant, and any other parties the mediator believes may have an interest in the mediation, of the date, time, and place of the mediation conference. The conference may be held by telephone, if feasible. The mediation conference shall be held within 45 days after the request for mediation.~~

(2)(a)~~(3)(a)~~ The department shall approve mediators to conduct mediations pursuant to this section. All mediators must file an application under oath for approval as a mediator.

(b) To qualify for approval as a mediator, an individual must meet one of the following qualifications:

1. Possess an active certification as a Florida Supreme Court certified circuit court mediator. A Florida Supreme Court certified circuit court mediator in a lapsed, suspended, sanctioned, or decertified status is not eligible to participate in the mediation program.

2. Be an approved department mediator as of July 1, 2014, and have conducted at least one mediation on behalf of the department within 4 years immediately preceding that date.

(3)~~(4)~~ The department shall deny an application, or suspend or revoke its approval, of a mediator to serve in such capacity if the department finds that one or more of the following grounds exist:

(a) Lack of one or more of the qualifications specified in this section for approval.

(b) Material misstatement, misrepresentation, or fraud in

obtaining or attempting to obtain the approval.

(c) Demonstrated lack of fitness or trustworthiness to act as a mediator.

(d) Fraudulent or dishonest practices in the conduct of mediation or in the conduct of business in the financial services industry.

(e) Violation of any provision of this code or of a lawful order or rule of the department, violation of the Florida Rules for Certified and Court-Appointed Mediators, or aiding, instructing, or encouraging another party in committing such a violation.

The department may adopt rules to administer this subsection.

(4) The department shall adopt by rule a motor vehicle claims insurance mediation program to be administered by the department or its designee. The department may also adopt special rules that are applicable in cases of an emergency within the state. The rules shall be modeled after practices and procedures set forth in mediation rules of procedure adopted by the Supreme Court. The rules must include:

(a) Reasonable requirements for processing and scheduling of requests for mediation.

(b) Provisions governing who may attend mediation conferences.

(c) Selection of mediators.

(d) Criteria for the conduct of mediation conferences.

(e) Right to legal counsel.

~~(5) The department must adopt rules of procedure for claims mediation, taking into consideration a system which:~~

~~(a) Is fair.~~

~~(b) Promotes settlement.~~

~~(c) Avoids delay.~~

~~(d) Is nonadversarial.~~

~~(e) Uses a framework for modern mediating technique.~~

(f) Controls of costs and expenses of mediation.

(5) The department may designate an entity or person to serve as an administrator to carry out any of the provisions of this section and may take this action by means of a written contract or agreement.

(6) Disclosures and information divulged in the mediation process are not admissible in any subsequent action or proceeding relating to the claim or to the cause of action giving rise to the claim. A person demanding mediation under this section may not demand or request mediation after a suit is filed relating to the same facts already mediated.

Section 33. Present subsections (7) through (12) of section 631.141, Florida Statutes, are redesignated as subsections (8) through (13), respectively, and a new subsection (7) is added to that section, to read:

631.141 Conduct of delinquency proceeding; domestic and

alien insurers.—

(7) In order to preserve as much as possible the right and interest of the policyholders whose insurance policies or similar contracts are affected by the receivership proceedings, the department as a domiciliary receiver may:

(a) Use the property of the estate of the insurer to transfer the insurer's book of business, policies, or similar contracts of coverage, in whole or in part, to a solvent assuming insurer or insurers.

(b) Notwithstanding s. 631.195, share records of the insurer with the prospective solvent assuming insurer or insurers, but only to the extent necessary to undertake due diligence for a transfer contemplated under this section.

Section 34. Subsections (1) and (3) of section 631.252, Florida Statutes, are amended to read:

631.252 Continuation of coverage.—

(1) Unless another insurer, with approval of the receivership court, assumes or otherwise provides coverage for the policies of the insolvent insurer, all insurance policies or similar contracts of coverage, other than coverages defined in s. 631.713 or health maintenance organization coverage under part IV, issued by the insurer shall be canceled upon the earlier ~~earliest to occur~~ of the following:

(a) The date of entry of the liquidation or, if the court so provides in its order, the expiration of 30 days from the

date of entry of the liquidation order;

(b) The normal expiration of the policy or contract coverage;

(c) The replacement of the coverage by the insured, or the replacement of the policy or contract of coverage, with a policy or contract acceptable to the insured by the receiver with another insurer; ~~or~~

(d) The date proposed by the receiver and approved by the receivership court to cancel coverage; or

(e)~~(d)~~ The termination of the coverage by the insured.

(3) The 30-day coverage continuation period provided in paragraph (1)(a) and s. 631.57(1)(a)1. may not be extended unless the Chief Financial Officer ~~office~~ determines, based on a reasonable belief, that market conditions are such that policies of residential property insurance coverage cannot be placed with an authorized insurer within 30 days and that an additional 15 days is needed to place such coverage.~~; and~~ Failure of actual notice to the policyholder of the insolvency of the insurer, of commencement of a delinquency proceeding, or of expiration of the extension period does not affect such expiration.

Section 35. Subsection (1) of section 631.56, Florida Statutes, is amended, and subsections (5) through (8) are added to that section, to read:

631.56 Board of directors.—

(1) The board of directors of the association shall

consist of not less than five or more than nine persons serving terms as established in the plan of operation. Three members of the board must be representatives from domestic insurers, appointed by the Chief Financial Officer. The department shall approve and appoint to the board persons recommended by the member insurers or other persons with experience in property and casualty insurance or motor vehicle insurance as determined by the Chief Financial Officer. ~~In the event the department finds that any recommended person does not meet the qualifications for service on the board, the department shall request the member insurers to recommend another person.~~ Each member shall serve for a 4-year term and may be reappointed. Vacancies on the board shall be filled for the remaining period of the term in the same manner as initial appointments.

(5) The Chief Financial Officer may remove a board member from office for misconduct, malfeasance, misfeasance, or neglect of duty. Any vacancy so created shall be filled as provided in subsection (1).

(6) Board members are subject to the code of ethics under part III of chapter 112, including, but not limited to, the code of ethics and public disclosure and reporting of financial interests, pursuant to s. 112.3145. For purposes of applying part III of chapter 112 to activities of members of the board of directors, those persons are considered public officers and the association is considered their agency. Notwithstanding s.

112.3143(2), a board member may not vote on any measure that he or she knows would inure to his or her special private gain or loss; that he or she knows would inure to the special private gain or loss of any principal by which he or she is retained, other than an agency as defined in s. 112.312; or that he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Before the vote is taken, such member shall publicly state to the board the nature of his or her interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

(7) Notwithstanding s. 112.3148, s. 112.3149, or any other law, a board member may not knowingly accept, directly or indirectly, any gift or expenditure from a person or entity, or an employee or representative of such person or entity, which has a contractual relationship with the association or which is under consideration for a contract.

(8) A board member who fails to comply with subsection (6) or subsection (7) is subject to the penalties provided under ss. 112.317 and 112.3173.

Section 36. Paragraph (a) of subsection (1) of section 631.716, Florida Statutes, is amended, and subsections (4)

through (7) are added to that section, to read:

631.716 Board of directors.—

(1)(a) The board of directors of the association shall have at least 9, but no more than 11, members. The members shall consist ~~be comprised~~ of member insurers serving terms as established in the plan of operation and 1 Florida Health Maintenance Organization Consumer Assistance Plan director confirmed pursuant to paragraph (b), or other persons with experience in life and annuity or accident and health insurance as determined by the Chief Financial Officer. At all times, at least 1 ~~member of the~~ board member must be a domestic insurer as defined in s. 624.06(1). The ~~members of the~~ board members who are member insurers shall be elected by member insurers, subject to the approval of the department. Each board member shall serve for a 4-year term and may be reappointed.

(4) The Chief Financial Officer may remove a board member from office for misconduct, malfeasance, misfeasance, or neglect of duty. Any vacancy so created shall be filled as provided in subsection (1).

(5) Board members are subject to the code of ethics under part III of chapter 112, including, but not limited to, the code of ethics and public disclosure and reporting of financial interests, pursuant to s. 112.3145. For purposes of applying part III of chapter 112 to activities of members of the board of directors, those persons are considered public officers and the

association is considered their agency. Notwithstanding s. 112.3143(2), a board member may not vote on any measure that he or she knows would inure to his or her special private gain or loss; that he or she knows would inure to the special private gain or loss of any principal by which he or she is retained, other than an agency as defined in s. 112.312; or that he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Before the vote is taken, such member shall publicly state to the board the nature of his or her interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

(6) Notwithstanding s. 112.3148, s. 112.3149, or any other law, a board member may not knowingly accept, directly or indirectly, any gift or expenditure from a person or entity, or an employee or representative of such person or entity, which has a contractual relationship with the association or which is under consideration for a contract.

(7) A board member who fails to comply with subsection (5) or subsection (6) is subject to the penalties provided under ss. 112.317 and 112.3173.

Section 37. Subsection (1) of section 631.816, Florida

Statutes, is amended, and subsections (8) through (11) are added to that section, to read:

631.816 Board of directors.—

(1) The board of directors of the plan shall consist of not less than five or more than nine persons serving terms as established in the plan of operation. The department shall approve and appoint to the board persons recommended by the member HMOs or other persons with experience in health insurance as determined by the Chief Financial Officer. ~~In the event the department finds that any recommended person does not meet the qualifications for service on the board, the department shall request the member HMOs to recommend another person.~~ Each member shall serve for a 4-year term and may be reappointed, except that terms may be staggered as defined in the plan of operation. Vacancies on the board shall be filled for the remaining period of the term in the same manner as initial appointments. In determining voting rights, each HMO is entitled to vote on the basis of cumulative weighted voting based on the net written premium for non-Medicare and non-Medicaid policies.

(8) The Chief Financial Officer may remove a board member from office for misconduct, malfeasance, misfeasance, or neglect of duty. Any vacancy so created shall be filled as provided in subsection (1).

(9) Board members are subject to the code of ethics under part III of chapter 112, including, but not limited to, the code

of ethics and public disclosure and reporting of financial interests, pursuant to s. 112.3145. For purposes of applying part III of chapter 112 to activities of members of the board of directors, those persons are considered public officers and the plan is considered their agency. Notwithstanding s. 112.3143(2), a board member may not vote on any measure that he or she knows would inure to his or her special private gain or loss; that he or she knows would inure to the special private gain or loss of any principal by which he or she is retained, other than an agency as defined in s. 112.312; or that he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Before the vote is taken, such member shall publicly state to the board the nature of his or her interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

(10) Notwithstanding s. 112.3148, s. 112.3149, or any other law, a board member may not knowingly accept, directly or indirectly, any gift or expenditure from a person or entity, or an employee or representative of such person or entity, which has a contractual relationship with the plan or which is under consideration for a contract.

(11) A board member who fails to comply with subsection (9) or subsection (10) is subject to the penalties provided under ss. 112.317 and 112.3173.

Section 38. Subsection (1) of section 631.912, Florida Statutes, is amended, and subsections (4), (5), and (6) are added to that section, to read:

631.912 Board of directors.—

(1) The board of directors of the corporation shall consist of 11 persons, 1 of whom is the insurance consumer advocate appointed under s. 627.0613 or designee and 1 of whom is designated by the Chief Financial Officer. The department shall appoint to the board 6 persons selected by private carriers from among the 20 workers' compensation insurers with the largest amount of direct written premium as determined by the department, and 2 persons selected by the self-insurance funds or other persons with experience in workers' compensation insurance as determined by the Chief Financial Officer. The Governor shall appoint one person who has commercial insurance experience. At least two of the private carriers shall be foreign carriers authorized to do business in this state. The board shall elect a chairperson from among its members. The Chief Financial Officer may remove any board member for cause. Each board member shall be appointed to serve a 4-year term and may be reappointed. A vacancy on the board shall be filled for the remaining period of the term in the same manner by which the

original appointment was made.

(4) Board members are subject to the code of ethics under part III of chapter 112, including, but not limited to, the code of ethics and public disclosure and reporting of financial interests, pursuant to s. 112.3145. For purposes of applying part III of chapter 112 to activities of members of the board of directors, those persons are considered public officers and the corporation is considered their agency. Notwithstanding s. 112.3143(2), a board member may not vote on any measure that he or she knows would inure to his or her special private gain or loss; that he or she knows would inure to the special private gain or loss of any principal by which he or she is retained, other than an agency as defined in s. 112.312; or that he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Before the vote is taken, such member shall publicly state to the board the nature of his or her interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

(5) Notwithstanding s. 112.3148, s. 112.3149, or any other law, a board member may not knowingly accept, directly or indirectly, any gift or expenditure from a person or entity, or

an employee or representative of such person or entity, which has a contractual relationship with the corporation or which is under consideration for a contract.

(6) A board member who fails to comply with subsection (4) or subsection (5) is subject to the penalties provided under ss. 112.317 and 112.3173.

Section 39. Section 633.1423, Florida Statutes, is created to read:

633.1423 State Fire Marshal direct-support organization.—

(1) DEFINITION.—As used in this section, the term "organization" means the direct-support organization established under this section.

(2) ORGANIZATION ESTABLISHED.—The division may establish a direct-support organization, to be known as the "State Fire Marshal Safety and Training Force," whose sole purpose is to support the safety and training of firefighters and to recognize exemplary service. The organization must:

(a) Be a not-for-profit corporation incorporated under chapter 617 and approved by the Department of State.

(b) Be organized and operated to raise funds; request and receive grants, gifts, and bequests of money; conduct programs and activities; acquire, receive, hold, invest, and administer, in its own name, securities, funds, or property; and make grants and expenditures to or for the direct or indirect benefit of the division. Grants and expenditures may include the cost of

education or training of firefighters, or the recognition of exemplary service of firefighters.

(c) Be determined by the division to operate in a manner that is:

1. Consistent with the goals of the division and laws relating to the safety and training of firefighters.

2. In the best interest of the state.

3. In accordance with the adopted goals and mission of the division.

(d) Use all of its grants and expenditures solely for the purpose of educating, training, and recognizing firefighters, and not for advertising using the likeness or name of any elected official nor for the purpose of lobbying as defined in s. 11.045(1).

(e) Be subject to an annual financial audit in accordance with s. 215.981.

(3) CONTRACT.—The organization shall operate under written contract with the division. The contract must provide for:

(a) Certification by the division that the organization is complying with the terms of the contract and in a manner consistent with the goals and purposes of the department and in the best interest of the state. Such certification must be made annually and reported in the official minutes of a meeting of the organization.

(b) The reversion of moneys and property held by the

organization for firefighter safety, training, and recognition to the division if the organization is no longer approved to operate by the division or if the organization ceases to exist, or to the state if the division ceases to exist.

(4) BOARD OF DIRECTORS.—The organization shall be governed by a board of directors. The State Fire Marshal, or his or her designee, shall appoint a president of the board. The board of directors shall be appointed by the president of the board.

(5) USE OF PROPERTY.—The division may authorize, without charge, appropriate use of fixed property and facilities of the division by the organization, subject to this subsection.

(a) The department may prescribe any condition with which the organization must comply in order to use the division's property or facilities.

(b) The department may not authorize the use of the division's property or facilities if the organization does not provide equal membership and employment opportunities to all persons regardless of race, religion, sex, age, or national origin.

(c) The department shall adopt rules prescribing the procedures by which the organization is governed and any conditions with which the organization must comply to use the division's property or facilities.

(6) DEPOSITORY ACCOUNT.—Any moneys received by the organization may be held in a separate depository account in the

name of the organization and subject to the contract with the division.

(7) ANNUAL BUDGETS AND REPORTS.—The organization shall submit to the division its annual budget and financial reports, its federal Internal Revenue Service Application for Recognition of Exemption Form 1023, and its federal Internal Revenue Service Return of Organization Exempt from Income Tax Form 990.

(8) ANNUAL AUDIT.—The organization shall provide for an annual financial audit in accordance with s. 215.981.

(9) DIVISION'S RECEIPT OF PROCEEDS.—Proceeds received by the division from the organization shall be deposited into the Insurance Regulatory Trust Fund.

(10) This section is repealed October 1, 2028, unless reviewed and saved from repeal by the Legislature.

Section 40. Section 634.181, Florida Statutes, is amended to read:

634.181 Grounds for compulsory refusal, suspension, or revocation of license or appointment of salespersons.—

(1) The department shall deny, suspend, revoke, or refuse to renew or continue the license or appointment of any such salesperson if it finds that as to the salesperson any one or more of the following applicable grounds exist:

(a) ~~(1)~~ Material misstatement, misrepresentation, or fraud in obtaining or attempting to obtain the license or appointment.

(b) ~~(2)~~ If the license or appointment is willfully used, or

to be used, to circumvent any of the requirements or prohibitions of this part, any applicable provision of the Florida Insurance Code, or rule of the department or commission.

(c) ~~(3)~~ Willful misrepresentation of any service agreement or willful deception with regard to any agreement, done either in person or by any form of dissemination of information or advertising.

(d) ~~(4)~~ If in the adjustment of claims arising out of service agreements, she or he has materially misrepresented to a service agreement holder or other interested party the terms and coverage of a service agreement with intent and for the purpose of effecting settlement of the claim on less favorable terms than those provided in and contemplated by the service agreement.

(e) ~~(5)~~ For demonstrated lack of fitness or trustworthiness to engage in the service agreement business.

(f) ~~(6)~~ For demonstrated lack of adequate knowledge and technical competence to engage in the transactions authorized by the license or appointment.

(g) ~~(7)~~ Fraudulent or dishonest practices in the conduct of business under the license or appointment.

(h) ~~(8)~~ Misappropriation, conversion, or unlawful withholding of moneys belonging to a service agreement company, insurer, or service agreement holder or to others and received in the conduct of business under the license or appointment.

(i) ~~(9)~~ For unlawfully rebating, or attempt thereat, or for unlawfully dividing or offering to divide her or his commission with another.

(j) ~~(10)~~ Willful failure to comply with, or willful violation of any proper order of the department or office, or willful violation of any provision of this part, or of any applicable provision of the insurance code, or applicable rule of the department or commission.

(k) ~~(11)~~ Having been found guilty of, or having pleaded guilty or nolo contendere to, a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States of America or any state thereof or under the law of any other country which involves moral turpitude, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of the cases.

(l) ~~(12)~~ Failure to refund unearned pro rata commission to the agreement holder or the service agreement company, if the service agreement company is making a full unearned pro rata refund to the agreement holder.

(m) Having been the subject of, or having had a license, permit, appointment, registration, or other authority to conduct business subject to, any decision, finding, injunction, suspension, prohibition, revocation, denial, judgment, final agency action, or administrative order by any court of competent jurisdiction, administrative law proceeding, state agency,

federal agency, national securities, commodities, or options exchange, or national securities, commodities, or options association involving a violation of any federal or state securities or commodities law or any rule or regulation adopted thereunder, or a violation of any rule or regulation of any national securities, commodities, or options exchange or national securities, commodities, or options association.

(2) When a licensee is charged with a felony enumerated in s. 626.207(2), the department shall, immediately upon receipt of information on or indictment for the felony, temporarily suspend a license or appointment issued under this chapter. Such suspension shall continue if the licensee is found guilty of, or pleads guilty or nolo contendere to, the crime, regardless of whether a judgment or conviction is entered, during a pending appeal. A person may not transact insurance business after suspension of his or her license or appointment.

(3) The department may adopt rules to administer this section.

Section 41. Section 634.191, Florida Statutes, is amended to read:

634.191 Grounds for discretionary refusal, suspension, or revocation of license or appointment of salespersons.—

(1) The department may, in its discretion, deny, suspend, revoke, or refuse to renew or continue the license or appointment of any salesperson if it finds that as to the

salesperson any one or more of the following applicable grounds exist under circumstances for which such denial, suspension, revocation, or refusal is not mandatory under s. 634.181:

(a) ~~(1)~~ For any cause for which granting of the license or appointment could have been refused had it then existed and been known to the department.

(b) ~~(2)~~ Violation of any provision of this part or of any other law applicable to the business of service agreements in the course of dealings under the license or appointment.

(c) ~~(3)~~ Violation of ~~Has violated~~ any lawful order or rule of the department or commission.

(d) ~~(4)~~ Failure or refusal, upon demand, to pay over to any company or insurer the salesperson represents or has represented any money coming into her or his hands belonging to the company or insurer.

(e) ~~(5)~~ If, in the conduct of business under the license or appointment, the salesperson has engaged in unfair methods of competition or in unfair or deceptive acts or practices, as such methods, acts, or practices are or may be defined under this part, or has otherwise shown herself or himself to be a source of injury or loss to the public or detrimental to the public interest.

(f) ~~(6)~~ Failure to report to the department within 30 days the final disposition of an administrative action taken against a salesperson by a governmental agency or other regulatory

agency in this state or any other state or jurisdiction relating to the business of insurance, the sale of securities, or an activity involving fraud, dishonesty, trustworthiness, or breach of a fiduciary duty. The salesperson must submit a copy of the order, consent to order, or other relevant legal documents to the department ~~Having been found guilty of, or having pleaded guilty or nolo contendere to, a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States of America or any state thereof or under the law of any other country, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of the cases~~.

(2) The department may adopt rules to administer this section.

Section 42. Section 634.320, Florida Statutes, is amended to read:

634.320 Grounds for compulsory refusal, suspension, or revocation of license or appointment of sales representatives.—

(1) The department shall deny, suspend, revoke, or refuse to renew or continue the license or appointment of any sales representative if it is found that any one or more of the following grounds applicable to the sales representative exist:

(a) ~~(1)~~ Material misstatement, misrepresentation, or fraud in obtaining or attempting to obtain a license or appointment.

(b) ~~(2)~~ The license or appointment is willfully used, or to

be used, to circumvent any of the requirements or prohibitions of this part.

(c) ~~(3)~~ Willful misrepresentation of any warranty contract or willful deception with regard to any such contract, done either in person or by any form of dissemination of information or advertising.

(d) ~~(4)~~ In the adjustment of claims arising out of warranties, material misrepresentation to a warranty holder or other interested party of the terms and coverage of a contract, with the intent and for the purpose of effecting settlement of such claim on less favorable terms than those provided in and contemplated by the contract.

(e) ~~(5)~~ Demonstrated lack of fitness or trustworthiness to engage in the business of home warranty.

(f) ~~(6)~~ Demonstrated lack of adequate knowledge and technical competence to engage in the transactions authorized by the license or appointment.

(g) ~~(7)~~ Fraudulent or dishonest practices in the conduct of business under the license or appointment.

(h) ~~(8)~~ Misappropriation, conversion, or unlawful withholding of moneys belonging to an association, insurer, or warranty holder, or to others, and received in the conduct of business under the license or appointment.

(i) ~~(9)~~ Unlawfully rebating, or attempting to unlawfully rebate, or unlawfully dividing, or offering to divide, her or

his commission with another.

(j)~~(10)~~ Willful failure to comply with, or willful violation of, any proper order or rule of the department or commission or willful violation of any provision of this part.

(k)~~(11)~~ Being found guilty of or pleading guilty or nolo contendere to a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States of America or any state thereof or under the law of any other country ~~involving moral turpitude~~, without regard to whether judgment of conviction has been entered by the court.

(l) Having been the subject of, or having had a license, permit, appointment, registration, or other authority to conduct business subject to, any decision, finding, injunction, suspension, prohibition, revocation, denial, judgment, final agency action, or administrative order by any court of competent jurisdiction, administrative law proceeding, state agency, federal agency, national securities, commodities, or options exchange, or national securities, commodities, or options association involving a violation of any federal or state securities or commodities law or any rule or regulation adopted thereunder, or a violation of any rule or regulation of any national securities, commodities, or options exchange or national securities, commodities, or options association.

(2) When a licensee is charged with a felony enumerated in s. 626.207(2), the department shall, immediately upon receipt of

information on or indictment for the felony, temporarily suspend a license or appointment issued under this chapter. Such suspension shall continue if the licensee is found guilty of, or pleads guilty or nolo contendere to, the crime, regardless of whether a judgment or conviction is entered, during a pending appeal. A person may not transact insurance business after suspension of his or her license or appointment.

(3) The department may adopt rules to administer this section.

Section 43. Section 634.321, Florida Statutes, is amended to read:

634.321 Grounds for discretionary refusal, suspension, or revocation of license or appointment of sales representatives.—

(1) The department may, in its discretion, deny, suspend, revoke, or refuse to renew or continue the license or appointment of any sales representative if it is found that any one or more of the following grounds applicable to the sales representative exist under circumstances for which such denial, suspension, revocation, or refusal is not mandatory under s. 634.320:

(a) ~~(1)~~ Any cause for which granting of the license or appointment could have been refused had it then existed and been known to the department.

(b) ~~(2)~~ Violation of any provision of this part, or of any other law applicable to the business of warranties, in the

course of dealings under the license or appointment.

(c) ~~(3)~~ Violation of any lawful order or rule of the department or commission.

(d) ~~(4)~~ Failure or refusal to pay over, upon demand, to any home warranty association or insurer the sales representative represents or has represented any money coming into her or his hands which belongs to the association or insurer.

(e) ~~(5)~~ In the conduct of business under the license or appointment, engaging in unfair methods of competition or in unfair or deceptive acts or practices, as such methods, acts, or practices are or may be defined under this part, or otherwise showing herself or himself to be a source of injury or loss to the public or detriment to the public interest.

(f) ~~(6)~~ Failure to report to the department within 30 days the final disposition of an administrative action taken against a sales representative by a governmental agency or other regulatory agency in this state or any other state or jurisdiction relating to the business of insurance, the sale of securities, or an activity involving fraud, dishonesty, trustworthiness, or breach of a fiduciary duty. The sales representative must submit a copy of the order, consent to order, or other relevant legal documents to the department ~~Being found guilty of or pleading guilty or nolo contendere to a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States of America or any state~~

~~thereof or under the law of any other country, without regard to whether a judgment of conviction has been entered by the court~~.

(2) The department may adopt rules to administer this section.

Section 44. Section 634.419, Florida Statutes, is amended to read:

634.419 License and appointment required.—No person or entity shall solicit, negotiate, advertise, or effectuate service warranty contracts in this state unless such person or entity is licensed and appointed as a sales representative. Sales representatives shall be responsible for the actions of persons under their supervision. However, a service warranty association licensed as such under this part shall not be required to be licensed and appointed as a sales representative to solicit, negotiate, advertise, or effectuate its products. Sections 501.021-501.055 do not apply to persons or entities licensed and appointed under this section, or their affiliates, that solicit the sale of a service warranty or related service or product in connection with a prearranged appointment at the request of the consumer.

Section 45. Section 634.422, Florida Statutes, is amended to read:

634.422 Grounds for compulsory refusal, suspension, or revocation of license or appointment of sales representatives.—

(1) The department shall deny, suspend, revoke, or refuse

to renew or continue the license or appointment of any sales representative if it is found that any one or more of the following grounds applicable to the sales representative exist:

(a) ~~(1)~~ Material misstatement, misrepresentation, or fraud in obtaining or attempting to obtain a license or appointment.

(b) ~~(2)~~ The license or appointment is willfully used, or to be used, to circumvent any of the requirements or prohibitions of this part.

(c) ~~(3)~~ Willful misrepresentation of any service warranty contract or willful deception with regard to any such contract, done either in person or by any form of dissemination of information or advertising.

(d) ~~(4)~~ In the adjustment of claims arising out of warranties, material misrepresentation to a service warranty holder or other interested party of the terms and coverage of a contract with the intent and for the purpose of effecting settlement of the claim on less favorable terms than those provided in and contemplated by the contract.

(e) ~~(5)~~ Demonstrated lack of fitness or trustworthiness to engage in the business of service warranty.

(f) ~~(6)~~ Demonstrated lack of adequate knowledge and technical competence to engage in the transactions authorized by the license or appointment.

(g) ~~(7)~~ Fraudulent or dishonest practices in the conduct of business under the license or appointment.

(h) ~~(8)~~ Misappropriation, conversion, or unlawful withholding of moneys belonging to an association, insurer, or warranty holder, or to others, and received in the conduct of business under the license or appointment.

(i) ~~(9)~~ Unlawfully rebating, or attempting to unlawfully rebate, or unlawfully dividing, or offering to divide, her or his commission with another.

(j) ~~(10)~~ Willful failure to comply with, or willful violation of, any proper order or rule of the department or commission, or willful violation of any provision of this part.

(k) ~~(11)~~ Being found guilty of or pleading nolo contendere to a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States of America or any state thereof or under the law of any other country ~~involving moral turpitude~~, without regard to whether judgment of conviction has been entered by the court having jurisdiction of the case.

(l) Having been the subject of, or having had a license, permit, appointment, registration, or other authority to conduct business subject to, any decision, finding, injunction, suspension, prohibition, revocation, denial, judgment, final agency action, or administrative order by any court of competent jurisdiction, administrative law proceeding, state agency, federal agency, national securities, commodities, or options exchange, or national securities, commodities, or options association involving a violation of any federal or state

securities or commodities law or any rule or regulation adopted thereunder, or a violation of any rule or regulation of any national securities, commodities, or options exchange or national securities, commodities, or options association.

(2) When a licensee is charged with a felony enumerated in s. 626.207(2), the department shall, immediately upon receipt of information on or indictment for the felony, temporarily suspend a license or appointment issued under this chapter. Such suspension shall continue if the licensee is found guilty of, or pleads guilty or nolo contendere to, the crime, regardless of whether a judgment or conviction is entered, during a pending appeal. A person may not transact insurance business after suspension of his or her license or appointment.

(3) The department may adopt rules to administer this section.

Section 46. Section 634.423, Florida Statutes, is amended to read:

634.423 Grounds for discretionary refusal, suspension, or revocation of license or appointment of sales representatives.—

(1) The department may deny, suspend, revoke, or refuse to renew or continue the license or appointment of any sales representative if it is found that any one or more of the following grounds applicable to the sales representative exist under circumstances for which such denial, suspension, revocation, or refusal is not mandatory under s. 634.422:

(a)~~(1)~~ Any cause for which granting of the license or appointment could have been refused had it then existed and been known to the department.

(b)~~(2)~~ Violation of any provision of this part, or of any other law applicable to the business of service warranties, in the course of dealings under the license or appointment.

(c)~~(3)~~ Violation of any lawful order or rule of the department or commission.

(d)~~(4)~~ Failure or refusal to pay over, upon demand, to any service warranty association or insurer the sales representative represents or has represented any money coming into her or his hands which belongs to the association or insurer.

(e)~~(5)~~ In the conduct of business under the license or appointment, engaging in unfair methods of competition or in unfair or deceptive acts or practices, as such methods, acts, or practices are or may be defined under this part, or otherwise showing herself or himself to be a source of injury or loss to the public or detriment to the public interest.

(f)~~(6)~~ Failure to report to the department within 30 days the final disposition of an administrative action taken against a sales representative by a governmental agency or other regulatory agency in this state or any other state or jurisdiction relating to the business of insurance, the sale of securities, or an activity involving fraud, dishonesty, trustworthiness, or breach of a fiduciary duty. The sales

representative must submit a copy of the order, consent to order, or other relevant legal documents to the department ~~Being found guilty of or pleading guilty or nolo contendere to a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States of America or any state thereof or under the law of any other country, without regard to whether judgment of conviction has been entered by the court having jurisdiction of such case~~.

(2) The department may adopt rules to administer this section.

Section 47. Section 648.25, Florida Statutes, is reordered and amended to read:

648.25 Definitions.—As used in this chapter, the term:

(1) "Appointment" means the authority given by an insurer or the managing general agent of an insurer through the department to a licensee to transact insurance or adjust claims on behalf of the insurer or managing general agent.

(2)~~(1)~~ "Bail bond agency" means:

(a) The building where a licensee maintains an office and where all records required by ss. 648.34 and 648.36 are maintained; or

(b) An entity that:

1. Charges a fee or premium to release an accused defendant or detainee from jail; or

2. Engages in or employs others to engage in any activity

that may be performed only by a licensed and appointed bail bond agent.

(3) ~~(2)~~ "Bail bond agent" means a limited surety agent or a professional bail bond agent as hereafter defined.

(7) ~~(3)~~ "Managing general agent" means any individual, partnership, association, or corporation appointed or employed by an insurer to supervise or manage the bail bond business written in this state by limited surety agents appointed by the insurer.

(5) ~~(4)~~ "Insurer" means any domestic, foreign, or alien surety company which has been authorized to transact surety business in this state.

(6) ~~(5)~~ "Limited surety agent" means any individual appointed by an insurer by power of attorney to execute or countersign bail bonds in connection with judicial proceedings who receives or is promised money or other things of value therefor.

(4) ~~(6)~~ "~~Primary~~ Bail bond agent in charge" means a licensed bail bond agent who is responsible for the overall operation and management of a bail bond agency location and whose responsibilities include hiring and supervising all individuals within that location. A bail bond agent may be designated as the ~~primary~~ bail bond agent in charge for only one bail bond agency location.

(8) ~~(7)~~ "Professional bail bond agent" means any person who

pledges United States currency, United States postal money orders, or cashier's checks as security for a bail bond in connection with a judicial proceeding and receives or is promised therefor money or other things of value.

(9)~~(8)~~ "Temporary bail bond agent" means a person licensed before January 1, 2024, who is employed by a bail bond agent or agency, insurer, or managing general agent, and such licensee has the same authority as a licensed bail bond agent, including presenting defendants in court; apprehending, arresting, and surrendering defendants to the proper authorities, while accompanied by a supervising bail bond agent or an agent from the same agency; and keeping defendants under necessary surveillance. However, a temporary licensee may not execute or sign bonds, handle collateral receipts, or deliver bonds to appropriate authorities. A temporary licensee may not operate an agency or branch agency separate from the location of the supervising bail bond agent, managing general agent, or insurer by whom the licensee is employed. This does not affect the right of a bail bond agent or insurer to hire counsel or to obtain the assistance of law enforcement officers. A temporary bail bond agent license expires 18 months after issuance and is no longer valid on or after June 30, 2025.

Section 48. Subsection (3) of section 648.26, Florida Statutes, is amended to read:

648.26 Department of Financial Services; administration.—

(3) The papers, documents, reports, or any other investigatory records of the department are confidential and exempt from ~~the provisions of~~ s. 119.07(1) until such investigation is completed or ceases to be active. For the purpose of this section, an investigation is considered active ~~"active"~~ while the investigation is being conducted by the department with a reasonable, good faith belief that it may lead to the filing of administrative, civil, or criminal proceedings. An investigation does not cease to be active if the department is proceeding with reasonable dispatch and there is good faith belief that action may be initiated by the department or other administrative or law enforcement agency. This subsection does not prevent the department or office from disclosing the content of a complaint or such information as it deems necessary to conduct the investigation, to update the complainant as to the status and outcome of the complaint, or to share such information with any law enforcement agency or other regulatory body.

Section 49. Subsection (5) of section 648.27, Florida Statutes, is amended to read:

648.27 Licenses and appointments; general.—

(5)~~(a)~~ The license of a bail bond agent shall continue in force, without further examination unless deemed necessary by the department, until suspended, revoked, or otherwise terminated.

~~(b) The license of a temporary bail bond agent shall continue in force until suspended, revoked, or otherwise terminated.~~

Section 50. Section 648.285, Florida Statutes, is amended to read:

648.285 Bond agency; ownership requirements; applications for bail bond agency licenses.—

(1) A person may not own, control, manage, or otherwise have a pecuniary interest in a bail bond agency unless such individual is ~~a~~ licensed pursuant to s. 648.27, ~~and~~ appointed through the department, and actively engaged as a bail bond agent for at least the preceding 24 months. Any agency that is not in compliance with this subsection is ~~shall be~~ subject to the issuance of an immediate final order of suspension of its license and all operations until the agency achieves compliance.

(2) Effective January 1, 2024, the department may issue a bail bond agency license to any person only after such person files a written application with the department and qualifies for such license.

(3) An application for a bail bond agency license must be signed by an individual required to be listed in the application under paragraph (a). A bail bond agency license may permit a third party to complete, submit, and sign an application on the bail bond agency's behalf; however, the bail bond agency is responsible for ensuring that the information on the application

is true and correct, and the bail bond agency is accountable for any misstatements or misrepresentations. The application for a bail bond agency license must include:

(a) The name and license number of each owner, partner, officer, director, president, senior vice president, secretary, treasurer, and limited liability company member who directs or participates in the management or control of the bail bond agency, whether through ownership of voting securities, by contract, by ownership of any agency bank account, or otherwise.

(b) The residence address of each person required to be listed in the application under paragraph (a).

(c) The name, principal business street address, and valid e-mail address of the bail bond agency and the name, address, and e-mail address of the agency's registered agent or person or company authorized to accept service on behalf of the bail bond agency.

(d) The physical address of each branch bail bond agency, including its name, e-mail address, and telephone number, and the date that the branch location began transacting bail bond business.

(e) The name of the full-time bail bond agent in charge of the agency office, including branch locations, and his or her corresponding location.

(f) Such additional information as the department requires by rule to ascertain the trustworthiness and competence of

persons required to be listed on the application and to ascertain that such persons meet the requirements of this code. However, the department may not require that credit or character reports be submitted for persons required to be listed on the application.

(4) The department must issue a license to each agency upon approval of the application, and each agency location must display the license prominently in a manner that makes it clearly visible to any customer or potential customer who enters the agency location.

(5) A bail bond agency that holds a current and valid registration number with the department shall have its registration automatically converted to a license on July 1, 2024.

(6) Section 112.011 does not apply to bail bond agencies or to applicants for licensure as owners of bail bond agencies.

(7)~~(2)~~ If the owner of a bail bond agency dies or becomes mentally incapacitated, a personal representative or legal guardian may be issued a temporary permit to manage the affairs of the bail bond agency. Such person must appoint or maintain the appointment of a ~~primary~~ bail bond agent in charge, as provided in s. 648.387, and may not engage in any activities as a licensed bail bond agent but must comply with s. 648.387 during the administration of the estate or guardianship. A temporary permit is valid for a maximum of 24 months.

(8)~~(3)~~ Application for a temporary permit must be made by the personal representative or legal guardian upon statements and affidavits filed with the department on forms prescribed and furnished by it. The applicant must meet the qualifications for licensure as a bail bond agent, except for the residency, examination, education, and experience requirements.

Section 51. Subsection (1) of section 648.30, Florida Statutes, is amended to read:

648.30 Licensure and appointment required; prohibited acts; penalties.—

(1)(a) A person or entity may not act in the capacity of a bail bond agent or ~~temporary~~ bail bond agency ~~agent~~ or perform any of the functions, duties, or powers prescribed for bail bond agents or ~~temporary~~ bail bond agencies ~~agents~~ under this chapter unless that person or entity is qualified, licensed, and appointed as provided in this chapter and employed by a bail bond agency.

(b) A bail bond agent may not sell a bail bond issued by an insurer for which the agent and the agent's bail bond agency do not hold a current appointment.

(c) Except as otherwise provided in this part, a person or entity, other than a bail bond agency or an employee of a bail bond agency, may not perform any of the functions of a bail bond agency without a bail bond agency license.

Section 52. Section 648.31, Florida Statutes, is amended

to read:

648.31 Appointment taxes and fees.—The department shall collect in advance all appointment taxes and fees for the issuance of any appointment to a bail bond agent ~~or temporary bail bond agent,~~ as provided in s. 624.501.

Section 53. Subsection (2) of section 648.34, Florida Statutes, is amended to read:

648.34 Bail bond agents; qualifications.—

(2) To qualify as a bail bond agent, it must affirmatively appear at the time of application and throughout the period of licensure that the applicant ~~has complied with the provisions of s. 648.355 and has obtained a temporary license pursuant to such section and~~:

(a) ~~The applicant~~ Is a natural person who has reached the age of 18 years and holds a high school diploma or its equivalent.

(b) ~~The applicant~~ Is a United States citizen or legal alien who possesses work authorization from the United States Bureau of Citizenship and Immigration Services and is a resident of this state. An individual who is a resident of this state shall be deemed to meet the residence requirement of this paragraph, notwithstanding the existence, at the time of application for license, of a license in the applicant's name on the records of another state as a resident licensee of such other state, if the applicant furnishes a letter of clearance

satisfactory to the department that his or her resident licenses have been canceled or changed to a nonresident basis and that he or she is in good standing.

(c) Will maintain his or her ~~The~~ place of business ~~of the applicant will be located~~ in this state and in the county where the applicant will maintain his or her records and be actively engaged in the bail bond business and work with a licensed ~~maintain an~~ agency accessible to the public which is open for reasonable business hours.

(d) ~~The applicant~~ Is vouched for and recommended upon sworn statements filed with the department by at least three reputable citizens who are residents of the same counties in which the applicant proposes to engage in the bail bond business.

(e) ~~The applicant~~ Is a person of high character and approved integrity and has not been convicted of or pleaded guilty or no contest to a felony, a crime involving moral turpitude, or a crime punishable by imprisonment of 1 year or more under the law of any state, territory, or country, whether or not a judgment or conviction has been entered.

(f) Within 2 years immediately before applying for the license, has successfully completed a basic certification course in the criminal justice system which consists of at least 120 hours of classroom instruction with a passing grade of 80 percent or higher and has successfully completed a

correspondence course for bail bond agents approved by the department.

(g)~~(f)~~ ~~The applicant~~ Has passed any required examination.

Section 54. Section 648.355, Florida Statutes, is amended to read:

648.355 ~~Temporary limited license as~~ Limited surety agents and ~~agent or~~ professional bail bond agents ~~agent~~; qualifications ~~pending examination~~.—

(1) ~~The department may, in its discretion, issue a temporary license as a limited surety agent or professional bail bond agent, subject to the following conditions:~~

~~(a) The applicant is a natural person at least 18 years of age and holds a high school diploma or its equivalent.~~

~~(b) The applicant is a United States citizen or legal alien who possesses work authorization from the United States Bureau of Citizenship and Immigration Services and is a resident of this state. An individual who is a resident of this state shall be deemed to meet the residence requirement of this paragraph, notwithstanding the existence, at the time of application for temporary license, of a license in the individual's name on the records of another state as a resident licensee of such other state, if the applicant furnishes a letter of clearance satisfactory to the department that the individual's resident licenses have been canceled or changed to a nonresident basis and that the individual is in good standing.~~

~~(c) The applicant is a person of high character and approved integrity and has never been convicted of or pleaded guilty or no contest to a felony, a crime involving moral turpitude, or a crime punishable by imprisonment of 1 year or more under the law of any state, territory, or country, whether or not a judgment or conviction is entered.~~

~~(d) Within 4 years prior to the date of application for a temporary license, the applicant has successfully completed a basic certification course in the criminal justice system, consisting of not less than 120 hours of classroom instruction with a passing grade of 80 percent or higher and has successfully completed a correspondence course for bail bond agents approved by the department.~~

~~(e) The applicant must be employed full time at the time of licensure, and at all times throughout the existence of the temporary license, by only one licensed and appointed supervising bail bond agent, who supervises the work of the applicant and is responsible for the licensee's conduct in the bail bond business. The applicant must be appointed by the same insurers as the supervising bail bond agent. The supervising bail bond agent shall certify monthly to the department under oath, on a form prescribed by the department, the names and hours worked each week of all temporary bail bond agents. Filing a false certification is grounds for the immediate suspension of the license and imposition of a $5,000 administrative fine. The~~

~~department may adopt rules that establish standards for the employment requirements.~~

~~(f) The application must be accompanied by an affidavit verifying proposed employment and a report as to the applicant's integrity and moral character on a form prescribed by the department and executed by the proposed employer.~~

~~(g) The applicant must file with the department statements by at least three reputable citizens who are residents of the same counties in which the applicant proposes to engage as a temporary licensee.~~

~~(h) The applicant's employer is responsible for the bail bonding acts of any licensee under this section.~~

~~(2) All applicable license fees, as prescribed in s. 624.501, must be paid before issuance of the temporary license.~~

~~(3) The temporary license shall be effective for 18 months, subject to earlier termination at the request of the employer or if suspended or revoked by the department.~~

~~(4)~~ The applicant shall furnish, with the application for ~~temporary~~ license, a complete set of the applicant's fingerprints in accordance with s. 626.171(4) and a recent credential-sized, fullface photograph of the applicant. The department may ~~shall~~ not issue a ~~temporary~~ license under this section until the department has received a report from the Department of Law Enforcement and the Federal Bureau of Investigation relative to the existence or nonexistence of a

criminal history report based on the applicant's fingerprints.

(2)~~(5)~~ The department may collect a fee necessary to cover the cost of a character and credit report made by an established and reputable independent reporting service. The fee shall be deposited to the credit of the Insurance Regulatory Trust Fund.

(3)~~(6)~~ Effective July 1, 2023, any individual licensed by the department as a temporary bail bond agent may take the required bail bond agent's licensure examination, may file an application for a bail bond agent's license if otherwise qualified for licensure, and may take the required bail bond agent's licensure examination ~~After licensure as a temporary licensee for at least 12 months, such licensee may file an application for and become eligible for a regular bail bond agent's license based on the licensee's experience in the bail bond business and education pursuant to paragraph (1)(d) and, if otherwise qualified, take the required bail bond agent's licensure examination. The applicant and supervising bail bond agent must each file an affidavit under oath, on a form prescribed by the department, verifying the required employment of the temporary agent before issuance of the license~~.

~~(7) In no event shall a temporary licensee licensed under this section perform any of the functions for which a bail bond agent's license is required after expiration of the temporary license without having passed the written examination as for a regular bail bond agent's license.~~

~~(8)(a) A temporary licensee has the same authority as a licensed bail bond agent, including presenting defendants in court; apprehending, arresting, and surrendering defendants to the proper authorities; and keeping defendants under necessary surveillance. However, a temporary licensee must be accompanied by a supervising bail bond agent or an agent from the same agency when apprehending, arresting, or surrendering defendants to authorities.~~

~~(b) A temporary licensee may not execute or sign bonds, handle collateral receipts, deliver bonds to appropriate authorities, or operate an agency or branch agency separate from the location of the supervising bail bond agent, managing general agent, or insurer by whom the licensee is employed.~~

(4)~~(9)~~ Effective July 1, 2023, the department may not issue a temporary bail bond agent's license. An individual currently licensed as a temporary bail bond agent may continue to be licensed in accordance with this chapter. A temporary bail bond agent's license may not be reinstated if the license expires or is terminated, suspended, or revoked ~~The department shall not issue a temporary bail bond agent's license to any individual who has held such a temporary license in this state within 2 years after the expiration of such temporary bail bond agent's license~~.

Section 55. Subsections (1) through (4) of section 648.382, Florida Statutes, are amended to read:

648.382 Appointment of bail bond agents and bail bond agencies ~~temporary bail bond agents~~; effective date of appointment.—

(1)(a) Each insurer or ~~appointing a bail bond agent and each insurer,~~ managing general agent~~, or bail bond agent~~ appointing a ~~temporary~~ bail bond agent or bail bond agency in this state must file the appointment with the department and, at the same time, pay the applicable appointment fees and taxes. A person appointed under this section must hold a valid bail bond agent's or ~~temporary~~ bail bond agency's ~~agent's~~ license.

(b) Effective July 1, 2025, each insurer or managing general agent appointing a bail bond agency in this state must file the appointment with the department. An entity appointed under this section must hold a valid bail bond agency's license.

(2) Before ~~Prior to~~ any appointment, an appropriate officer or official of the appointing insurer ~~in the case of a bail bond agent or an insurer, managing general agent, or bail bond agent in the case of a temporary bail bond agent~~ must submit:

(a) A certified statement or affidavit to the department stating what investigation has been made concerning the proposed appointee and the proposed appointee's background and the appointing person's opinion to the best of his or her knowledge and belief as to the moral character and reputation of the proposed appointee. In lieu of such certified statement or

affidavit, by authorizing the effectuation of an appointment for a licensee, the appointing entity certifies to the department that such investigation has been made and that the results of the investigation and the appointing person's opinion is that the proposed appointee is a person of good moral character and reputation and is fit to engage in the bail bond business;

(b) An affidavit under oath on a form prescribed by the department, signed by the proposed appointee, stating that premiums are not owed to any insurer and that the appointee will discharge all outstanding forfeitures and judgments on bonds previously written. If the appointee does not satisfy or discharge such forfeitures or judgments, the former insurer shall file a notice, with supporting documents, with the appointing insurer, the former agent or agency, and the department, stating under oath that the licensee has failed to timely satisfy forfeitures and judgments on bonds written and that the insurer has satisfied the forfeiture or judgment from its own funds. Upon receipt of such notification and supporting documents, the appointing insurer shall immediately cancel the licensee's appointment. The licensee may be reappointed only upon certification by the former insurer that all forfeitures and judgments on bonds written by the licensee have been discharged. The appointing insurer or former agent or agency may, within 10 days, file a petition with the department seeking relief from this paragraph. Filing of the petition stays the

duty of the appointing insurer to cancel the appointment until the department grants or denies the petition; ~~and~~

(c) Any other information that the department reasonably requires concerning the proposed appointee; and

(d) Effective January 1, 2025, a certification that the appointing entity obtained from each appointee the following sworn statement:

> Pursuant to section 648.382(2)(b), Florida Statutes, I do solemnly swear that I owe no premium to any insurer and that I will discharge all outstanding forfeitures and judgments on bonds that have been previously written. I acknowledge that failure to do this will result in my active appointments being canceled.

An appointed bail bond agency must have the attestation under this paragraph signed by its owner.

(3) By authorizing the effectuation of an appointment for a licensee, the appointing insurer certifies to the department that the insurer will be bound by the acts of the bail bond agent or bail bond agency acting within the scope of the agent's or agency's ~~his or her~~ appointment~~, and, in the case of a temporary bail bond agent, the appointing insurer, managing general agent, or bail bond agent, as the case may be, must certify to the department that he or she will supervise the~~

~~temporary bail bond agent's activities~~.

(4) Each appointing insurer or~~,~~ managing general agent~~, or bail bond agent~~ must advise the department in writing within 5 days after receiving notice or learning that an appointee has been arrested for, pled guilty or nolo contendere to, or been found guilty of, a felony or other offense punishable by imprisonment of 1 year or more under the law of any jurisdiction, whether judgment was entered or withheld by the court.

Section 56. Present subsections (1) through (4) of section 648.386, Florida Statutes, are redesignated as subsections (2) through (5), respectively, a new subsection (1) is added to that section, and present subsection (2) of that section is amended, to read:

648.386 Qualifications for prelicensing and continuing education schools and instructors.—

(1) DEFINITION OF "CLASSROOM INSTRUCTION".—As used in this section, the term "classroom instruction" means a course designed to be presented to a group of students by a live instructor using lecture, video, webcast, or virtual or other audio-video presentation.

(3)~~(2)~~ SCHOOLS AND CURRICULUM FOR CONTINUING EDUCATION SCHOOLS.—In order to be considered for approval and certification as an approved limited surety agent and professional bail bond agent continuing education school, such

entity must:

(a) Provide a minimum of three classroom-instruction continuing education classes per calendar year.

(b) Submit a course curriculum to the department for approval.

(c) Offer continuing education classes that comprise ~~which are comprised of~~ a minimum of 2 hours of approved classroom-instruction coursework and are taught by an approved supervising instructor or guest lecturer approved by the entity or the supervising instructor.

Section 57. Section 648.387, Florida Statutes, is amended to read:

648.387 ~~Primary~~ Bail bond agent in charge ~~agents~~; duties.—

(1) The owner or operator of a bail bond agency shall designate a ~~primary~~ bail bond agent in charge for each location, and shall file with the department the name and license number of the person and the address of the location on a form approved by the department. The designation of the ~~primary~~ bail bond agent in charge may be changed if the department is notified immediately. Failure to notify the department within 10 working days after such change is grounds for disciplinary action pursuant to s. 648.45.

(2) The ~~primary~~ bail bond agent in charge is responsible for the overall operation and management of a bail bond agency location, whose responsibilities may include, without

limitations, hiring and supervising of all individuals within the location, whether they deal with the public in the solicitation or negotiation of bail bond contracts or in the collection or accounting of moneys. A person may be designated as the ~~primary~~ bail bond agent in charge for only one agency and location.

(3) The department may suspend or revoke the license of the owner, bail bond agent in charge ~~operator~~, and ~~primary~~ bail bond agency ~~agent~~ if the ~~a~~ bail bond agency employs, contracts with, or uses the services of a person who has had a license denied or whose license is currently suspended or revoked. However, a person who has been denied a license for failure to pass a required examination may be employed to perform clerical or administrative functions for which licensure is not required.

(4) An owner, a bail bond agent in charge ~~operator~~, or a bail bond agency ~~primary agent~~ may not employ, contract with, or use the services of any person in a bail bond agency who has been charged with, found guilty of, or pled guilty or nolo contendere to a felony or a crime punishable by imprisonment of 1 year or more under the law of any jurisdiction, without regard to whether judgment was entered or withheld by the court.

(5) A bail bond agency location may not conduct surety business unless a ~~primary~~ bail bond agent in charge is designated by, and provides services to, the bail bond agency at all times. If the bail bond agent in charge designated with the

department ends his or her affiliation with the bail bond agency for any reason, and the bail bond agency fails to designate another bail bond agent in charge within the 10-day period under subsection (1) and such failure continues for 90 days, the bail bond agency license automatically expires on the 91st day after the date the designated bail bond agent in charge ended his or her affiliation with the agency ~~The failure to designate a primary agent on a form prescribed by the department, within 10 working days after an agency's inception or a change of primary agent, is a violation of this chapter, punishable as provided in s. 648.45~~.

Section 58. Section 648.3875, Florida Statutes, is created to read:

648.3875 Bail bond agent in charge; qualifications.—

(1) An application for designation as a bail bond agent in charge must be submitted on forms prescribed by the department. The application must include the applicant's full name and the applicant's license number issued pursuant to s. 648.27.

(2) To qualify as a bail bond agent in charge, it must affirmatively appear that, at the time of application and throughout the period of licensure, the applicant has complied with s. 648.285 and that the applicant has been licensed as a bail bond agent for the 24 months immediately preceding the appointment as the bail bond agent in charge.

Section 59. Section 648.39, Florida Statutes, is amended

to read:

648.39 Termination of appointment of managing general agents, bail bond agents, and ~~temporary~~ bail bond agencies ~~agents~~.—

(1) An insurer that ~~who~~ terminates the appointment of a managing general agent, bail bond agent, or ~~temporary~~ bail bond agency ~~agent~~ shall, within 10 days after such termination, file written notice thereof with the department together with a statement that it has given or mailed notice to the terminated agent or agency. Such notice filed with the department must state the reasons, if any, for such termination. Information so furnished to the department is confidential and exempt from ~~the provisions of~~ s. 119.07(1).

(2) Each insurer shall, within 5 days after terminating the appointment of any managing general agent, bail bond agent, or ~~temporary~~ bail bond agency ~~agent~~, give written notice thereof to each clerk of the circuit court and sheriff with whom such person is registered.

(3) An insurer that terminates the appointment of a managing general agent~~,~~ or bail bond agent~~, or temporary bail bond agency agent~~ may authorize such person to continue to attempt the arrest and surrender of a defendant for whom a surety bond had been written by the bail bond agent before ~~prior to~~ termination and to seek discharge of forfeitures and judgments as provided in chapter 903.

Section 60. Section 648.41, Florida Statutes, is repealed.

Section 61. Section 648.42, Florida Statutes, is amended to read:

648.42 Registration of bail bond agents.—A bail bond agent may not become a surety on an undertaking unless he or she has registered in the office of the sheriff and with the clerk of the circuit court in the county in which the bail bond agent resides. The bail bond agent may register in a like manner in any other county, and any bail bond agent shall file a certified copy of his or her appointment by power of attorney from each insurer which he or she represents as a bail bond agent with each of such officers. Registration and filing of a certified copy of renewed power of attorney shall be performed by April 1 of each odd-numbered year. The clerk of the circuit court and the sheriff may ~~shall~~ not permit the registration of a bail bond agent unless such bail bond agent is currently licensed by the department and appointed by an insurer ~~the department~~. ~~Nothing in this section shall prevent the registration of a temporary licensee at the jail for the purposes of enabling the licensee to perform the duties under such license as set forth in this chapter.~~

Section 62. Subsections (1) and (2) and paragraphs (c) and (d) of subsection (8) of section 648.44, Florida Statutes, are amended to read:

648.44 Prohibitions; penalty.—

(1) A bail bond agent or ~~temporary~~ bail bond agency ~~agent~~ may not:

(a) Suggest or advise the employment of, or name for employment, any particular attorney or attorneys to represent his or her principal.

(b) Directly or indirectly solicit business in or on the property or grounds of a jail, prison, or other place where prisoners are confined or in or on the property or grounds of any court. The term "solicitation" includes the distribution of business cards, print advertising, or other written or oral information directed to prisoners or potential indemnitors, unless a request is initiated by the prisoner or a potential indemnitor. Permissible print advertising in the jail is strictly limited to a listing in a telephone directory and the posting of the bail bond agent's or agency's name, address, e-mail address, web address, and telephone number in a designated location within the jail.

(c) Initiate in-person or telephone solicitation after 9:00 p.m. or before 8:00 a.m.~~, in the case of domestic violence cases,~~ at the residence of the detainee or the detainee's family. Any solicitation ~~not prohibited by this chapter~~ must comply with the telephone solicitation requirements in ss. 501.059(2) and (4), 501.613, and 501.616(6).

(d) Wear or display any identification other than the department issued or approved license or approved department

identification, which includes a citation of the licensee's arrest powers, in or on the property or grounds of a jail, prison, or other place where prisoners are confined or in or on the property or grounds of any court.

(e) Pay a fee or rebate or give or promise anything of value to a jailer, police officer, peace officer, or committing trial court judge or any other person who has power to arrest or to hold in custody or to any public official or public employee in order to secure a settlement, compromise, remission, or reduction of the amount of any bail bond or estreatment thereof.

(f) Pay a fee or rebate or give anything of value to an attorney in a bail bond matter, except in defense of any action on a bond.

(g) Pay a fee or rebate or give or promise anything of value to the principal or anyone in his or her behalf.

(h) Participate in the capacity of an attorney at a trial or hearing of one on whose bond he or she is surety.

(i) Loiter in or about a jail, courthouse, or where prisoners are confined.

(j) Accept anything of value from a principal for providing a bail bond except the premium and transfer fee authorized by the office, except that the bail bond agent or bail bond agency may accept collateral security or other indemnity from the principal or another person in accordance with ~~the provisions of~~ s. 648.442, together with documentary

stamp taxes, if applicable. No fees, expenses, or charges of any kind shall be permitted to be deducted from the collateral held or any return premium due, except as authorized by this chapter or rule of the department or commission. A bail bond agent or bail bond agency may, upon written agreement with another party, receive a fee or compensation for returning to custody an individual who has fled the jurisdiction of the court or caused the forfeiture of a bond.

(k) Write more than one power of attorney per charge on a bond, except in the case of a cosurety, unless the power of attorney prohibits a cosurety.

(l) Execute a bond in this state on his or her own behalf.

(m) Execute a bond in this state if a judgment has been entered on a bond executed by the bail bond agent or bail bond agency is a named party on the judgement, which has remained unpaid for 35 days, unless the full amount of the judgment is deposited with the clerk in accordance with s. 903.27(5).

(n) Make a statement or representation to a court, unless such statement or representation is under oath. Such statement or representation may not be false, misleading, or deceptive.

(o) Attempt to collect, through threat or coercion, amounts due for the payment of any indebtedness related to the issuance of a bail bond in violation of s. 559.72.

(p) Conduct bail bond business with any person, other than the defendant, on the grounds of the jail or courthouse for the

purpose of executing a bond.

(2) The following persons or classes may ~~shall~~ not be bail bond agents~~, temporary bail bond agents,~~ or employees of a bail bond agent or a bail bond agency ~~business~~ and may ~~shall~~ not directly or indirectly receive any benefits from the execution of any bail bond:

(a) Jailers or persons employed in any jail.

(b) Police officers or employees of any police department or law enforcement agency.

(c) Committing trial court judges, employees of a court, or employees of the clerk of any court.

(d) Sheriffs and deputy sheriffs or employees of any sheriff's department.

(e) Attorneys.

(f) Persons having the power to arrest or persons who have authority over or control of federal, state, county, or municipal prisoners.

(8)

(c) Any law enforcement agency, state attorney's office, court clerk, or insurer that is aware that a bail bond agent ~~or temporary bail bond agent~~ has been convicted of or who has pleaded guilty or no contest to a crime as described in paragraph (a) shall notify the department of this fact.

(d) Upon the filing of an information or indictment against a bail bond agent ~~or temporary bail bond agent~~, the

state attorney or clerk of the circuit court shall immediately furnish the department a certified copy of the information or indictment.

Section 63. Subsection (1) of section 648.441, Florida Statutes, is amended to read:

648.441 Furnishing supplies to unlicensed bail bond agent prohibited; civil liability and penalty.—

(1) An insurer, managing general agent, bail bond agent, or ~~temporary~~ bail bond agency ~~agent~~ appointed under this chapter may not furnish to any person any blank forms, applications, stationery, business card, or other supplies to be used in soliciting, negotiating, or effecting bail bonds until such person has received from the department a license to act as a bail bond agent and is appointed by the insurer. This section does not prohibit an unlicensed employee, under the direct supervision and control of a licensed and appointed bail bond agent, from possessing or executing in the bail bond agency, any forms, except for powers of attorney, bond forms, and collateral receipts, while acting within the scope of his or her employment.

Section 64. Subsection (3) of section 648.46, Florida Statutes, is amended to read:

648.46 Procedure for disciplinary action against licensees.—

(3) The complaint and all information obtained pursuant to

the investigation of the department are confidential and exempt from the provisions of s. 119.07(1) until such investigation is completed or ceases to be active. For the purpose of this section, an investigation is considered "active" while the investigation is being conducted by the department with a reasonable, good faith belief that it may lead to the filing of administrative, civil, or criminal proceedings. An investigation does not cease to be active if the department is proceeding with reasonable dispatch and there is good faith belief that action may be initiated by the department or other administrative or law enforcement agency. This subsection does not prevent the department or office from disclosing the complaint or such information as it deems necessary to conduct the investigation, to update the complainant as to the status and outcome of the complaint, or to share such information with any law enforcement agency or other regulatory body.

Section 65. Section 648.50, Florida Statutes, is amended to read:

648.50 Effect of suspension, revocation upon associated licenses and licensees.—

(1) Upon the suspension, revocation, or refusal to renew or continue any license or appointment or the eligibility to hold a license or appointment of a bail bond agent or ~~temporary~~ bail bond agency ~~agent~~, the department shall at the same time likewise suspend or revoke all other licenses or appointments

and the eligibility to hold any other such licenses or appointments which may be held by the licensee under the Florida Insurance Code.

(2) In case of the suspension or revocation of the license or appointment, or the eligibility to hold a license or appointment, of any bail bond agent, the license, appointment, or eligibility of any and all bail bond agents who are members of a bail bond agency, whether incorporated or unincorporated, ~~and any and all temporary bail bond agents employed by such bail bond agency,~~ who knowingly are parties to the act which formed the ground for the suspension or revocation may likewise be suspended or revoked.

(3) A ~~No~~ person whose license as a bail bond agent ~~or temporary bail bond agent~~ has been revoked or suspended may not ~~shall~~ be employed by any bail bond agent, have any ownership interest in any business involving bail bonds, or have any financial interest of any type in any bail bond business during the period of revocation or suspension.

Section 66. Subsections (4), (5), and (6) of section 717.135, Florida Statutes, is amended to read:

717.135 Recovery agreements and purchase agreements for claims filed by a claimant's representative; fees and costs.—

(4) A claimant's representative must use the Unclaimed Property Recovery Agreement or the Unclaimed Property Purchase Agreement as the exclusive means of engaging into an agreement

or contract with a claimant or seller to file a claim with the department.

(5) Fees and costs may be owed or paid to, or received by, a claimant's representative only after a filed claim has been approved and if the claimant's representative used an agreement authorized by this section.

(6) A claimant's representative may not use or distribute any other agreement of any type, conveyed by any method, ~~form, or other media~~ with respect to the claimant or seller which relates, directly or indirectly, to unclaimed property accounts held by the department or the Chief Financial Officer other than the agreements authorized by this section. Any engagement, authorization, recovery, or fee agreement that is not authorized by this section is void. A claimant's representative is subject to administrative and civil enforcement under s. 717.1322 if he or she uses an agreement that is not authorized by this section. Nothing herein is intended to inhibit lawful non-agreement, non-contractual or advertising communications between or among the parties.

Section 67. Paragraph (a) of subsection (4) of section 843.021, Florida Statutes, is amended to read:

843.021 Unlawful possession of a concealed handcuff key.—

(4)(a) It is a defense to a charge of violating this section that the person in custody and in possession of a concealed handcuff key is:

1. A federal, state, or local law enforcement officer, including a reserve or auxiliary officer, a licensed security officer, or a private investigator as defined in s. 493.6101; or

2. A professional bail bond agent~~, temporary bail bond agent, runner,~~ or limited surety agent as defined in s. 648.25.

Section 68. Paragraph (b) of subsection (6) of section 28.2221, Florida Statutes, is amended to read:

28.2221 Electronic access to official records.—

(6)

(b)1. For the purpose of conducting a title search, as defined in s. 627.7711(4), of the Official Records, as described in s. 28.222(2), and upon presentation of photo identification and affirmation by sworn affidavit consistent with s. 92.50 to the county recorder, information restricted from public display, inspection, or copying under paragraph (5)(a) pursuant to a request for removal made under s. 119.071(4)(d) may be disclosed to:

a. A title insurer authorized pursuant to s. 624.401 and its affiliates as defined in s. 624.10;

b. A title insurance agent or title insurance agency as these terms are defined in s. 626.841 ~~s. 626.841(1) and (2), respectively~~; or

c. An attorney duly admitted to practice law in this state and in good standing with The Florida Bar.

2. The photo identification and affirmation by sworn

affidavit may be delivered in person, by mail, or by electronic transmission to the county recorder.

3. The affiant requestor must attest to his or her authority and the authorized purpose to access exempt information pursuant to this section for the property specified within the sworn affidavit.

4. The affiant requestor must identify the Official Records book and page number, instrument number, or the clerk's file number for each document requested within the sworn affidavit and must include a description of the lawful purpose and identify the individual or property that is the subject of the search within the sworn affidavit.

5. Affidavits submitted by a title insurer, title insurance agent, or title insurance agency must include the Florida Company Code or the license number, as applicable, and an attestation to the affiant requestor's authorization to transact business in this state. Affidavits submitted by an attorney authorized under this section must include the affiant requestor's Florida Bar number and a statement that the affiant requestor has an agency agreement with a title insurer directly or through his or her law firm.

6. The county recorder must record such affidavit in the Official Records, as described in s. 28.222(2), but may not place the image or copy of the affidavit on a publicly available Internet website for general public display.

7. Upon providing a document disclosing redacted information to an affiant requestor under this section, the county recorder must provide a copy of the affidavit requesting disclosure of the redacted information to each affected party at the address listed on the document or on the request for removal made by the affected party under s. 119.071. The county recorder must prepare a certificate of mailing to be affixed to the affidavit and must receive the statutory service charges as prescribed by s. 28.24 from the affiant requestor.

8. Any party making a false attestation under this section is subject to the penalty of perjury under s. 837.012.

Section 69. Paragraph (d) of subsection (4) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.—

(4) AGENCY PERSONNEL INFORMATION.—

(d)1. For purposes of this paragraph, the term:

a. "Home addresses" means the dwelling location at which an individual resides and includes the physical address, mailing address, street address, parcel identification number, plot identification number, legal property description, neighborhood name and lot number, GPS coordinates, and any other descriptive property information that may reveal the home address.

b. "Telephone numbers" includes home telephone numbers, personal cellular telephone numbers, personal pager telephone

numbers, and telephone numbers associated with personal communications devices.

2.a. The home addresses, telephone numbers, dates of birth, and photographs of active or former sworn law enforcement personnel or of active or former civilian personnel employed by a law enforcement agency, including correctional and correctional probation officers, personnel of the Department of Children and Families whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect, and personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

b. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Department of Financial Services whose duties include the investigation of fraud, theft, workers' compensation coverage requirements and compliance, other related criminal

activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

c. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Office of Financial Regulation's Bureau of Financial Investigations whose duties include the investigation of fraud, theft, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

d. The home addresses, telephone numbers, dates of birth, and photographs of current or former firefighters certified in compliance with s. 633.408; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such firefighters; and the names and locations of schools and day care facilities attended by the children of such firefighters are exempt from s. 119.07(1) and

s. 24(a), Art. I of the State Constitution.

e. The home addresses, dates of birth, and telephone numbers of current or former justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former justices and judges; and the names and locations of schools and day care facilities attended by the children of current or former justices and judges are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

f. The home addresses, telephone numbers, dates of birth, and photographs of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; and the names and locations of schools and day care facilities attended by the children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

g. The home addresses, dates of birth, and telephone numbers of general magistrates, special magistrates, judges of

compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; and the names and locations of schools and day care facilities attended by the children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

h. The home addresses, telephone numbers, dates of birth, and photographs of current or former human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers of any local government agency or water management district whose duties include hiring and firing employees, labor contract negotiation, administration, or other personnel-related duties; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s.

24(a), Art. I of the State Constitution.

i. The home addresses, telephone numbers, dates of birth, and photographs of current or former code enforcement officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

j. The home addresses, telephone numbers, places of employment, dates of birth, and photographs of current or former guardians ad litem, as defined in s. 39.820; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

k. The home addresses, telephone numbers, dates of birth, and photographs of current or former juvenile probation officers, juvenile probation supervisors, detention superintendents, assistant detention superintendents, juvenile justice detention officers I and II, juvenile justice detention officer supervisors, juvenile justice residential officers, juvenile justice residential officer supervisors I and II, juvenile justice counselors, juvenile justice counselor

supervisors, human services counselor administrators, senior human services counselor administrators, rehabilitation therapists, and social services counselors of the Department of Juvenile Justice; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

l. The home addresses, telephone numbers, dates of birth, and photographs of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; and the names and locations of schools and day care facilities attended by the children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

m. The home addresses, telephone numbers, dates of birth, and photographs of current or former investigators or inspectors

of the Department of Business and Professional Regulation; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such current or former investigators and inspectors; and the names and locations of schools and day care facilities attended by the children of such current or former investigators and inspectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

n. The home addresses, telephone numbers, and dates of birth of county tax collectors; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such tax collectors; and the names and locations of schools and day care facilities attended by the children of such tax collectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

o. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel of the Department of Health whose duties include, or result in, the determination or adjudication of eligibility for social security disability benefits, the investigation or prosecution of complaints filed against health care practitioners, or the inspection of health care practitioners or health care facilities licensed by the Department of Health; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of

schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

p. The home addresses, telephone numbers, dates of birth, and photographs of current or former impaired practitioner consultants who are retained by an agency or current or former employees of an impaired practitioner consultant whose duties result in a determination of a person's skill and safety to practice a licensed profession; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such consultants or their employees; and the names and locations of schools and day care facilities attended by the children of such consultants or employees are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

q. The home addresses, telephone numbers, dates of birth, and photographs of current or former emergency medical technicians or paramedics certified under chapter 401; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such emergency medical technicians or paramedics; and the names and locations of schools and day care facilities attended by the children of such emergency medical technicians or paramedics are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

r. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel employed in an agency's office of inspector general or internal audit department whose duties include auditing or investigating waste, fraud, abuse, theft, exploitation, or other activities that could lead to criminal prosecution or administrative discipline; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

s. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, nurses, and clinical employees of an addiction treatment facility; the home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this sub-subparagraph, the term "addiction treatment facility" means a county government, or agency thereof, that is licensed pursuant to s. 397.401 and provides substance abuse prevention, intervention, or clinical treatment, including any licensed

service component described in s. 397.311(26).

t. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, and clinical employees of a child advocacy center that meets the standards of s. 39.3035(2) and fulfills the screening requirement of s. 39.3035(3), and the members of a Child Protection Team as described in s. 39.303 whose duties include supporting the investigation of child abuse or sexual abuse, child abandonment, child neglect, and child exploitation or to provide services as part of a multidisciplinary case review team; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel and members; and the names and locations of schools and day care facilities attended by the children of such personnel and members are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

u. The home addresses, telephone numbers, places of employment, dates of birth, and photographs of current or former staff and domestic violence advocates, as defined in s. 90.5036(1)(b), of domestic violence centers certified by the Department of Children and Families under chapter 39; the names, home addresses, telephone numbers, places of employment, dates of birth, and photographs of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt

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

3. An agency that is the custodian of the information specified in subparagraph 2. and that is not the employer of the officer, employee, justice, judge, or other person specified in subparagraph 2. must maintain the exempt status of that information only if the officer, employee, justice, judge, other person, or employing agency of the designated employee submits a written and notarized request for maintenance of the exemption to the custodial agency. The request must state under oath the statutory basis for the individual's exemption request and confirm the individual's status as a party eligible for exempt status.

4.a. A county property appraiser, as defined in s. 192.001(3), or a county tax collector, as defined in s. 192.001(4), who receives a written and notarized request for maintenance of the exemption pursuant to subparagraph 3. must comply by removing the name of the individual with exempt status and the instrument number or Official Records book and page number identifying the property with the exempt status from all publicly available records maintained by the property appraiser or tax collector. For written requests received on or before July 1, 2021, a county property appraiser or county tax collector must comply with this sub-subparagraph by October 1, 2021. A county property appraiser or county tax collector may

not remove the street address, legal description, or other information identifying real property within the agency's records so long as a name or personal information otherwise exempt from inspection and copying pursuant to this section are not associated with the property or otherwise displayed in the public records of the agency.

b. Any information restricted from public display, inspection, or copying under sub-subparagraph a. must be provided to the individual whose information was removed.

5. An officer, an employee, a justice, a judge, or other person specified in subparagraph 2. may submit a written request for the release of his or her exempt information to the custodial agency. The written request must be notarized and must specify the information to be released and the party authorized to receive the information. Upon receipt of the written request, the custodial agency must release the specified information to the party authorized to receive such information.

6. The exemptions in this paragraph apply to information held by an agency before, on, or after the effective date of the exemption.

7. Information made exempt under this paragraph may be disclosed pursuant to s. 28.2221 to a title insurer authorized pursuant to s. 624.401 and its affiliates as defined in s. 624.10; a title insurance agent or title insurance agency as these terms are defined in s. 626.841 ~~s. 626.841(1) or (2)~~,

respectively; or an attorney duly admitted to practice law in this state and in good standing with The Florida Bar.

8. The exempt status of a home address contained in the Official Records is maintained only during the period when a protected party resides at the dwelling location. Upon conveyance of real property after October 1, 2021, and when such real property no longer constitutes a protected party's home address as defined in sub-subparagraph 1.a., the protected party must submit a written request to release the removed information to the county recorder. The written request to release the removed information must be notarized, must confirm that a protected party's request for release is pursuant to a conveyance of his or her dwelling location, and must specify the Official Records book and page, instrument number, or clerk's file number for each document containing the information to be released.

9. Upon the death of a protected party as verified by a certified copy of a death certificate or court order, any party can request the county recorder to release a protected decedent's removed information unless there is a related request on file with the county recorder for continued removal of the decedent's information or unless such removal is otherwise prohibited by statute or by court order. The written request to release the removed information upon the death of a protected party must attach the certified copy of a death certificate or

court order and must be notarized, must confirm the request for release is due to the death of a protected party, and must specify the Official Records book and page number, instrument number, or clerk's file number for each document containing the information to be released. A fee may not be charged for the release of any document pursuant to such request.

10. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 70. Subsection (4) of section 631.152, Florida Statutes, is amended to read:

631.152 Conduct of delinquency proceeding; foreign insurers.—

(4) Section 631.141(10)(b) ~~631.141(9)(b)~~ applies to ancillary delinquency proceedings opened for the purpose of obtaining records necessary to adjudicate the covered claims of Florida policyholders.

Section 71. Paragraph (b) of subsection (3) of section 631.398, Florida Statutes, is amended to read:

631.398 Prevention of insolvencies.—To aid in the detection and prevention of insurer insolvencies or impairments:

(3)

(b) For an insolvency involving a domestic property insurer, the department shall:

1. Begin an analysis of the history and causes of the insolvency once the department is appointed by the court as receiver.

2. Submit an initial report analyzing the history and causes of the insolvency to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the office. The initial report must be submitted no later than 4 months after the department is appointed as receiver. The initial report shall be updated at least annually until the submission of the final report. The report may not be used as evidence in any proceeding brought by the department or others to recover assets on behalf of the receivership estate as part of its duties under s. 631.141(9) ~~s. 631.141(8)~~. The submission of a report under this subparagraph shall not be considered a waiver of any evidentiary privilege the department may assert under state or federal law.

3. Provide a special report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the office, within 10 days upon identifying any condition or practice that may lead to insolvency in the property insurance marketplace.

4. Submit a final report analyzing the history and causes of the insolvency and the review of the Office of Insurance Regulation's regulatory oversight of the insurer to the Governor, the President of the Senate, the Speaker of the House

of Representatives, and the office within 30 days of the conclusion of the insolvency proceeding.

5. Review the Office of Insurance Regulation's regulatory oversight of the insurer.

Section 72. Subsection (2) of section 903.09, Florida Statutes, is amended to read:

903.09 Justification of sureties.—

(2) A bond agent, as defined in s. 648.25 ~~s. 648.25(2)~~, shall justify her or his suretyship by attaching a copy of the power of attorney issued by the company to the bond or by attaching to the bond United States currency, a United States postal money order, or a cashier's check in the amount of the bond; but the United States currency, United States postal money order, or cashier's check cannot be used to secure more than one bond. Nothing herein shall prohibit two or more qualified sureties from each posting any portion of a bond amount, and being liable for only that amount, so long as the total posted by all cosureties is equal to the amount of bond required.

Section 73. (1) The following rule is ratified for the sole and exclusive purpose of satisfying any condition on the effectiveness imposed under s. 120.541(3), Florida Statutes: Rule 69L-7.020, Florida Administrative Code, titled "Florida Workers' Compensation Health Care Provider Reimbursement Manual" as filed for adoption with the Department of State pursuant to the certification package dated October 22, 2021.

(2) This section serves no other purpose and may not be codified in the Florida Statutes. After this section becomes law, its enactment and effective dates shall be noted in the Florida Administrative Code, the Florida Administrative Register, or both, as appropriate. This section does not alter rulemaking additions delegated by prior law, does not constitute legislative preemption of or exception to any provision of law governing adoption or enforcement of the rule cited, and is intended to preserve the status of any cited rule as a rule under chapter 120, Florida Statutes. This section does not cure any rulemaking defect or preempt any challenge based on a lack of authority or a violation of the legal requirements governing the adoption of any rule cited.

(3) This section takes effect July 1, 2023.

Section 74. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

HB 743

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 743 Estoppel Letters
SPONSOR(S): Fabricio
TIED BILLS: **IDEN./SIM. BILLS:** SB 708

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Fletcher	Lloyd
2) Civil Justice Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

A mortgagor selling collateralized property, refinancing a mortgage, or paying off a mortgage may request an estoppel letter from the mortgagee or mortgage servicer (lender). Florida law currently defines an "estoppel letter" as a statement of the amount of the unpaid balance of a loan secured by a mortgage, including principal, interest, and any other charges due under or secured by the mortgage, and the interest on a per-day basis for the unpaid balance.

In some estoppel letters, lenders expressly reserve the right to change the amounts listed and disclaim the reliance of others on the letter. Further, if after sending an estoppel letter the lender determines the mortgagor owes additional funds than those stated in the letter, some lenders return payments made in reliance on the letter. Until the discrepancy in amounts owed is resolved, interest and potential fees continue to accrue and title to the property remains unclear.

Among other things, the bill:

- Reduces from 14 days to 10 days the timeframe within which a lender must send a requested estoppel letter;
- Prohibits a lender from qualifying, reserving the right to change, or conditioning or disclaiming the reliance of others on information provided in an estoppel letter;
- Allows a lender to send a corrected estoppel letter to supersede prior estoppel letters if the corrected letter is received by 3 p.m. at least one business day before any payment is made in reliance on a previous estoppel letter;
- Prohibits a lender from denying the accuracy of an estoppel letter against anyone who relied on it, but permits recovery of the sum owed from the mortgagor;
- Requires a lender to accept payment received in reliance on an estoppel letter and promptly apply such payment to the unpaid balance of the loan;
- Requires a lender to execute and record an instrument confirming release of the mortgage in the official records of the proper county, and send the recorded instrument to the mortgagor, within 60 days of receiving full payment of the loan secured by the mortgage; and
- Revises the definition of "estoppel letter."

The bill has no fiscal impact on state or local governments and has an indeterminate fiscal impact on the private sector.

The bill provides an effective date of October 1, 2023.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Florida law currently defines an "estoppel letter" as a statement of the amount of the unpaid balance of a loan secured by a mortgage, including principal, interest, and any other charges due under or secured by the mortgage, and the interest on a per-day basis for the unpaid balance.[1] An estoppel letter is often requested when selling property that is collateral for a mortgage, refinancing a mortgage, or paying off a mortgage. The request may be made by the mortgagor,[2] the record title owner of the property, a fiduciary or trustee lawfully acting on behalf of the record title owner, or any other person lawfully authorized to act on behalf of the mortgagor or record title owner.[3]

Depending on who requests the estoppel letter, the following information must be included:

- If the requesting party is the mortgagor or someone lawfully authorized to act on behalf of the mortgagor, the estoppel letter *must* include an itemization of the principal, interest, and any other charges properly due under or secured by the mortgage and interest on a per-day basis for the unpaid balance.[4]
- If the requesting party is the record title owner of the property or someone lawfully authorized to act on behalf of the record title owner, the estoppel letter may include the itemization of the information required above, but at a minimum must include the total unpaid balance due under or secured by the mortgage on a per-day basis.[5]

Where the amount of money owed on a mortgage loan has been fully paid, the mortgagee or mortgage servicer (lender) must execute in writing an instrument confirming release of the mortgage, have the instrument acknowledged, and record the executed, acknowledged instrument in the official records of the property county.[6] Within 60 days of receiving full payment of the mortgage loan, the lender must send the recorded release to the person who made the full payment.[7] In the case of a civil action arising out of this requirement, the prevailing party is entitled to attorney fees and costs.[8]

Some estoppel letters include language reserving the lender's right to change the amounts listed in the estoppel letter and disclaiming the reliance of others on the information included in the estoppel letter. If the lender determines after sending the estoppel letter that the mortgagor owes additional money, some lenders return the funds received from the closing which were sent in reliance on the amount stated in the estoppel letter. This results in the continued accrual of interest and potential fees during the time period it takes to resolve the discrepancy in amount owed. Further, prior to resolution of the discrepancy, there is not clear title to the property.

Effect of the Bill

[1] S. 701.041(1)(a), F.S.
[2] Mortgagor means "[s]omeone who mortgages property; the mortgage-debtor or borrower." Black's Law Dictionary (11th ed. 2019).
[3] S. 701.04(1), F.S.
[4] S. 704.04(1)(a), F.S.
[5] S. 704.04(1)(b), F.S.
[6] S. 704.04(2), F.S.
[7] *Id.*
[8] *Id.*

The bill reduces from 14 days to 10 days the timeframe within which a lender must send a requested estoppel letter setting forth the unpaid balance of the mortgage loan. If the request for an estoppel letter is made by a person other than the mortgagor, the request must include a copy of the instrument showing such person's title in the property or other lawful authorization, and the lender must notify the mortgagor of the request.

The bill standardizes the information that must be contained in the estoppel letter, regardless of whether the requestor is the mortgagor, a record title owner, or a person lawfully authorized to act on behalf of the mortgagor or record title owner. The letter must at a minimum include:

- The unpaid balance of the loan secured by the mortgage as of the date specified in the letter, including an itemization of the principal, interest, and any other charges comprising the unpaid balance; and
- Interest accruing on a per-day basis for the unpaid balance, if applicable.

The bill prohibits the lender from qualifying, reserving the right to change, or conditioning or disclaiming the reliance of others on the information provided in an estoppel letter, and any attempt to do so is void and unenforceable. However, this prohibition does not apply to mortgages for which a notice of lis pendens in a foreclosure action or a suggestion of bankruptcy has been properly filed and recorded.

If the lender determines that any of the information in the estoppel letter was inaccurate, the lender may send a corrected estoppel letter. The corrected estoppel letter will supersede any prior estoppel letter so long as the corrected estoppel is received by 3 p.m. at least one business day before payment is made in reliance on the estoppel letter.

If any of the information in the estoppel letter was inaccurate and there was not a timely corrected estoppel letter, the bill prohibits the lender from denying the accuracy of the estoppel letter as against any person who relied on it. However, this does not affect the lender's right to recover any sum not included in the estoppel letter, nor does it limit any claim or defense to recovery that the borrower may have.

If a payment is received at the location and in the manner specified by the lender, the lender must accept and may not return any payment received in reliance on the estoppel letter, and the lender must promptly apply such payment to the unpaid balance of the mortgage loan. This will prevent accrual of interest and potential fees while the lender and the borrower work through any discrepancy as to the amount owed.

The bill specifies the process for requesting an estoppel letter. A written request for a mortgage payoff letter must be sent to the lender by first-class mail, postage prepaid; by common carrier delivery service; or by e-mail, facsimile, or other electronic means at the address made available by the mortgage lender or servicer for such purpose, or through an automated system provided by the lender for requesting an estoppel letter. The request is considered received:

- Five days after the request sent by first-class mail is deposited with the United States Postal Service;
- The day the request is delivered by a common carrier delivery service; or
- The day the request is sent by e-mail, facsimile, or other electronic means or through an automated system provided by the lender for requesting an estoppel letter.

If any of the foregoing days fall on a Saturday, Sunday, or holiday, the request for an estoppel letter is considered timely received by the lender on the next business day.

The bill also specifies the process by which an estoppel letter may be sent. The lender or servicer must send an estoppel letter by first-class mail; by common carrier delivery service; or by e-mail, facsimile, or other electronic means, as directed in the written request, or through an automated system provided by the lender for this purpose. However, the lender is not required to pay for a common carrier delivery service. If the 10-day period after a written request is received by the lender ends on a Saturday, Sunday, or holiday, the estoppel letter is considered timely if it is sent by the close of business on the next business day.

The bill requires the lender, within 60 days after the mortgage loan has been fully paid or paid pursuant to the estoppel letter, to execute, have duly entered in the official records of the proper county, and send to the mortgagor or record title owner an instrument acknowledging release of the mortgage (i.e., a satisfaction of mortgage or a release of mortgage). The prevailing party in a civil action brought against the mortgage lender or servicer to enforce this requirement is entitled to reasonable attorney fees and costs. The recorded release of the mortgage does not relieve the mortgagor, or the mortgagor's successors or assigns, from any personal liability on the mortgage loan. In the event of a discrepancy in the amount owed on the mortgage loan, this provision will ensure clear title to the property while maintaining the mortgage lender's or servicer's ability to recover sums properly owed under the mortgage loan.

The bill conforms the definition of "estoppel letter" in s. 701.041, F.S., to the estoppel letter requirements in s. 701.04, F.S.

The bill provides an effective date of October 1, 2023.

B. SECTION DIRECTORY:

Section 1. Amends s. 701.04, F.S., relating to cancellation of mortgages, liens, and judgments.

Section 2. Amends s. 701.041, F.S., relating to title insurer; mortgage release certificate.

Section 3. Provides legislative findings.

Section 4. Provides the bill applies to all mortgages, and all loans secured by such mortgages, existing as of, or entered into on or after, October 1, 2023.

Section 5. Provides an effective date of October 1, 2023.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill has an indeterminate impact on the private sector. The bill may lead to smoother real estate closings to the extent that lenders provide more accurate information in estoppel letters. In the event of a discrepancy in the amount owed on the mortgage loan, the bill will prevent accrual of interest and potential fees while the lender and the borrower work through the issue. Additionally, the bill will ensure clear title to the property while maintaining the lender's ability to recover sums properly owed under the mortgage loan.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to estoppel letters; amending s. 701.04, F.S.; revising the timeframe within which a mortgagee or mortgage servicer must send or cause to be sent an estoppel letter containing specified information; revising the circumstances under which a copy of the instrument showing title in the property or other lawful authorization must be included in a request for an estoppel letter; requiring notice to the mortgagor of a request for an estoppel letter under certain circumstances; revising requirements for an estoppel letter; prohibiting certain actions by the mortgagee or mortgage servicer; authorizing the mortgagee or mortgage servicer to send a corrected estoppel letter under certain circumstances; requiring a mortgagee or mortgage servicer to provide a copy of a corrected estoppel letter to a mortgagor under certain circumstances; providing that a corrected estoppel letter supersedes any previous estoppel letter under certain circumstances; prohibiting the mortgagee or mortgage servicer from denying the accuracy of certain information provided in an estoppel letter under certain circumstances; providing construction; prohibiting payments received pursuant to an estoppel letter from being returned and

requiring such payments to be promptly applied to any unpaid balance of the loan properly due under or secured by a mortgage; providing methods for sending a written request for an estoppel letter and for sending an estoppel letter; providing that the mortgagee or mortgage servicer is not required to pay for a common carrier delivery service; requiring the mortgagee or mortgage servicer to take certain actions within a specified time after the unpaid balance of a loan properly secured by a mortgage has been fully paid or paid pursuant to an estoppel letter; authorizing reasonable attorney fees and costs for specified parties in certain civil actions; providing that certain persons may still be personally liable for a loan or other obligation after the recording of a release of a mortgage; conforming provisions to changes made by the act; amending s. 701.041, F.S.; revising the definition of the term "estoppel letter"; conforming provisions to changes made by the act; providing legislative findings; providing for retroactive applicability; providing an effective date.

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

Section 1. Section 701.04, Florida Statutes, is amended to read:

701.04 Cancellation of mortgages, liens, and judgments.—

(1)(a) Within 10 ~~14~~ days after receipt of the written request of a mortgagor, a record title owner of the property, a fiduciary or trustee lawfully acting on behalf of a record title owner, or any other person lawfully authorized to act on behalf of a mortgagor or record title owner of the property, the mortgagee ~~holder of a mortgage shall deliver~~ or mortgage ~~cause the~~ servicer shall send or cause to be sent ~~of the mortgage to deliver to the person making the request at a place designated in the written request~~ an estoppel letter setting forth the unpaid balance of the loan secured by the mortgage. If the written request is made by a person other than the mortgagor, the request must include a copy of the instrument showing such person's title in the property or other lawful authorization, and the mortgagee or mortgage servicer must notify the mortgagor of the request.

~~(a) If the mortgagor, or any person lawfully authorized to act on behalf of the mortgagor, makes the request, the estoppel letter must include an itemization of the principal, interest, and any other charges properly due under or secured by the mortgage and interest on a per-day basis for the unpaid balance.~~

(b) ~~If a record title owner of the property, or any person lawfully authorized to act on behalf of a mortgagor or record~~

~~title owner of the property, makes the request:~~

~~1. The request must include a copy of the instrument showing title in the property or lawful authorization.~~

~~2.~~ The estoppel letter ~~may include the itemization of information required under paragraph (a), but~~ must at a minimum include:

1. The ~~total~~ unpaid balance of the loan ~~due under or~~ secured by the mortgage as of the date specified in the estoppel letter, including an itemization of the principal, interest, and any other charges comprising the unpaid balance; and

2. Interest accruing on a per-day basis for the unpaid balance from and after the date specified in the estoppel letter, if applicable.

(c)1. Except for mortgages for which a notice of lis pendens in a foreclosure action or a suggestion of bankruptcy has been properly filed and recorded, the mortgagee or mortgage servicer may not qualify, reserve the right to change, or condition or disclaim the reliance of others on the information provided in an estoppel letter under paragraph (b), and any attempt to do so is void and unenforceable. However, if the mortgagee or mortgage servicer determines that any of the information provided in the estoppel letter under paragraph (b) was inaccurate, the mortgagee or mortgage servicer may send a corrected estoppel letter to the person who requested the estoppel letter in the same manner as used to respond to the

original written request. If the original written request is made by a person other than the mortgagor, the mortgagee or mortgage servicer must also provide a copy of any corrected estoppel letter to the mortgagor.

2. If the person who requested the original estoppel letter under paragraph (a) receives a corrected estoppel letter by 3 p.m. in such person's time zone at least 1 business day before a payment is issued in reliance on the previous estoppel letter, the corrected estoppel letter supersedes all prior estoppel letters.

3. If any of the information provided in the estoppel letter under paragraph (b) was inaccurate, but the person who requested the estoppel letter did not timely receive a corrected estoppel letter as provided in subparagraph 2., the mortgagee or mortgage servicer may not deny the accuracy of such information as against any person who relied on it. This subparagraph does not affect the right of a mortgagee to recover any sum that it did not include in an estoppel letter from any person liable for payment of the loan or other obligations secured by the mortgage, nor does it limit any claim or defense to recovery which such person may have at law or in equity ~~on a per-day basis~~.

(d)~~3.~~ The mortgagee or mortgage servicer ~~of the mortgagee~~ acting in accordance with a request in substantial compliance with this subsection ~~paragraph~~ is expressly discharged from any

obligation or liability to any person on account of the release of the requested information, other than the obligation to comply with the terms of the estoppel letter.

(e) If a payment is received at the location and in the manner specified by the mortgagee or mortgage servicer, the mortgagee or mortgage servicer must accept and may not return any payment received in reliance on an estoppel letter and must promptly apply such payment to the unpaid balance of the loan properly due under or secured by the mortgage.

(f)1. A written request for an estoppel letter under paragraph (a) must be sent to the mortgagee or mortgage servicer by first-class mail, postage prepaid; by common carrier delivery service; or by e-mail, facsimile, or other electronic means at the address made available by the mortgagee or mortgage servicer for such purpose or through an automated system provided by the mortgagee or mortgage servicer for requesting an estoppel letter. The written request is considered received by the mortgagee or mortgage servicer:

a. Five business days after the request sent by first-class mail is deposited with the United States Postal Service;

b. The day the request is delivered by a common carrier delivery service; or

c. The day the request is sent by e-mail, facsimile, or other electronic means or through an automated system provided by the mortgagee or mortgage servicer for requesting an estoppel

letter.

If any of the days in sub-subparagraph a., sub-subparagraph b., or sub-subparagraph c. fall on a Saturday, Sunday, or holiday specified in s. 110.117(1) or the laws of the United States, the request for an estoppel letter is considered timely received by the mortgagee or mortgage servicer on the next business day.

2. The mortgagee or mortgage servicer must send an estoppel letter by first-class mail, postage prepaid; by common carrier delivery service; or by e-mail, facsimile, or other electronic means, as directed in the written request, or through an automated system provided by the mortgagee or mortgage servicer for this purpose. However, the mortgagee or mortgage servicer is not required to pay for a common carrier delivery service. If the 10-day period after a written request is received by the mortgagee or mortgage servicer ends on a Saturday, Sunday, or holiday specified in s. 110.117(1) or the laws of the United States, the estoppel letter is considered timely if it is sent by the close of business on the next business day.

(g) ~~(c)~~ Notwithstanding s. 655.059, a mortgagee or mortgage servicer ~~mortgage holder~~ may provide the financial information required under this subsection to a person authorized under this subsection to request the financial information ~~notwithstanding s. 655.059~~.

(2)(a) Within 60 days after the unpaid balance of a loan secured by a mortgage has been fully paid or paid pursuant to an estoppel letter under subsection (1), whichever is earlier, the mortgagee or mortgage servicer shall execute in writing an instrument acknowledging release of the mortgage; have the instrument acknowledged, or proven, and send it or cause it to be sent for recording in the official records of the proper county; and send or cause to be sent the recorded release to the mortgagor or record title owner of the property. The prevailing party in a civil action brought against the mortgagee or mortgage servicer to enforce the requirements of this paragraph is entitled to reasonable attorney fees and costs.

(b) The recorded release of the mortgage does not relieve the mortgagor, or the mortgagor's successors or assigns, from any personal liability on the loan or other obligations previously secured by the mortgage.

(3) ~~(2)~~ Within 60 days after the unpaid balance ~~Whenever the amount of money due~~ on a ~~any mortgage,~~ lien~~,~~ or judgment has been fully paid to the person ~~or party~~ entitled to the payment thereof, the ~~mortgagee,~~ creditor~~,~~ or assignee, or the attorney of record in the case of a judgment, to whom the payment was made~~,~~ shall execute in writing an instrument acknowledging satisfaction of the ~~mortgage,~~ lien~~,~~ or judgment; ~~and~~ have the instrument acknowledged, or proven, and send it or cause it to be sent for recording ~~duly entered~~ in the official records of

the proper county; and~~. Within 60 days after the date of receipt of the full payment of the mortgage, lien, or judgment, the person required to acknowledge satisfaction of the mortgage, lien, or judgment shall~~ send or cause to be sent the recorded satisfaction to the person who has made the full payment. ~~In the case of a civil action arising out of this section,~~ The prevailing party in a civil action brought against the creditor or assignee, or the attorney of record in the case of a judgment, to enforce the requirements of this subsection is entitled to reasonable attorney fees and costs.

(4)~~(3)~~ When ~~Whenever~~ a writ of execution has been issued, docketed, and indexed with a sheriff and the judgment upon which it was issued has been fully paid, it is the responsibility of the person ~~party~~ receiving payment to request, in writing, addressed to the sheriff, return of the writ of execution as fully satisfied.

Section 2. Paragraph (a) of subsection (1) and subsection (2) of section 701.041, Florida Statutes, are amended to read:

701.041 Title insurer; mortgage release certificate.—

(1) DEFINITIONS.—For purposes of this section:

(a) "Estoppel letter" means a statement containing, at a minimum, the information required in s. 701.04(1)(b) ~~of the amount of:~~

~~1. The unpaid balance of a loan secured by a mortgage, including principal, interest, and any other charges properly~~

~~due under or secured by the mortgage.~~

~~2. Interest on a per-day basis for the unpaid balance~~.

(2) CERTIFICATE OF RELEASE.—An officer or duly appointed agent of a title insurer may, on behalf of a mortgagor or a person who acquired from the mortgagor title to all or a part of the property described in a mortgage, execute a certificate of release that complies with the requirements of this section and record the certificate of release in the real property records of each county in which the mortgage is recorded if a satisfaction or release of the mortgage has not been executed and recorded after the date payment in full of the loan properly due under or secured by the mortgage was made in accordance with an estoppel letter ~~a payoff statement~~ furnished by the mortgagee or ~~the~~ mortgage servicer.

Section 3. The Legislature finds that the timeliness and accuracy of an estoppel letter is critical because the parties to a real estate transaction must rely on the estoppel letter to establish the loan payoff amount necessary to release the mortgage, which in turn will allow the owner to confer clean title to a buyer or to refinance the property. The Legislature further finds that estoppel letters increasingly contain conditional language disclaiming the ability of an owner to rely on the stated loan payoff amounts, extending even to the return of such payments submitted by owners. These practices create unnecessary delays in the efficient operation of this state's

real estate market, which is a vital economic contributor to this state, and impose needless costs and burdens on property owners and buyers. In addition, the Legislature finds that real estate lending, mortgages, real estate transactions, and estoppel letters are extensively regulated under both Florida and federal law. The Legislature finds and determines that this act makes changes to state law which appropriately balance the parties' interests, are reasonable and necessary to serve and achieve an important state interest, are necessary for the prosperity and welfare of the state and its property owners and inhabitants, and must be applied to existing mortgages in order to provide effective relief.

Section 4. This act applies to all mortgages, and all loans secured by such mortgages, existing as of, or entered into on or after, October 1, 2023.

Section 5. This act shall take effect October 1, 2023.

HB 901

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 901 Secured Transactions
SPONSOR(S): Fabricio
TIED BILLS: **IDEN./SIM. BILLS:** SB 978

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice Subcommittee	18 Y, 0 N	Mawn	Jones
2) Insurance & Banking Subcommittee		Fletcher	Lloyd
3) Judiciary Committee			

SUMMARY ANALYSIS

A security interest arises when, in exchange for a loan, a borrower pledges as collateral in a security agreement specified assets he or she owns that the lender may take if the borrower defaults on the loan. A security interest also assures the lender that, if the borrower enters bankruptcy, the lender may be able to recover the loan's value by taking the asset. Under Florida law, a description of an asset, whether or not the description is specific, is sufficient to pledge the asset under a security agreement if it reasonably identifies what is described. However, a description of assets in general terms, such as "all the debtor's assets," "all the debtor's personal property," or similar phrasing, does not sufficiently identify the collateral for purposes of a security interest.

Florida Law protects certain assets from legal process so that they remain out of a creditor's reach, including:

- Funds held in individual retirement accounts ("IRA") and other tax-exempt accounts.
- The cash surrender value of a life insurance policy and the proceeds of an annuity contract.
- Funds held in qualified tuition programs and medical, Coverdell education, and hurricane savings accounts.
- Disability income benefits.
- A deceased person's wages and unemployment compensation benefits.
- Homestead property and certain personal property items.
- Social security benefits; unemployment compensation, or public assistance benefits; veterans' benefits; alimony, support, or separate maintenance; and stock or pension plans under specified circumstances.

Historically, exempt assets not specifically pledged in a security agreement remained exempt from a creditor's reach. However, a recent Eleventh Circuit Court of Appeals decision broke with this rule by holding that a security agreement granting a security interest in "all assets and rights of the Pledgor" pledged the debtor's IRA as collateral for a loan even though the IRA was not specifically identified in the agreement. This decision may have significant federal tax consequences for Floridians, as the use of certain tax-exempt accounts as collateral for a loan is considered distribution of the funds to the owner, who then owes federal income tax on the money and may owe a tax penalty for early distribution.

HB 901 provides that a general description only by type of collateral is an insufficient description to pledge certain statutorily-exempt assets for the purposes of a security agreement.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Security Interests

A security interest arises when, in exchange for a loan, a borrower pledges as collateral[1] in a security agreement[2] specified assets owned by the borrower that the lender may take if the borrower defaults on the loan.[3] A security interest also assures the lender that, if the borrower enters bankruptcy, the lender may be able to recover the loan's value by taking possession of the pledged assets.[4]

Under Florida law, a description of personal or real property, whether or not it is specific, is sufficient for the purposes of a security agreement if it reasonably identifies what is described.[5] An effective description of collateral pledged in a security agreement identifies the asset by:

- Specific listing;
- Category;
- Type of collateral;
- Quantity;
- Computational or allocational formula or procedure; or
- Any method under which the collateral's identity is objectively determinable.[6]

However, a general description of collateral as "all the debtor's assets," "all the debtor's personal property," or similar phraseology does not sufficiently identify the collateral for purposes of creating a security interest.[7] Further, a description only by type of collateral is an insufficient description of:

- A commercial tort claim;
- In a consumer transaction, consumer goods, a security entitlement, a securities account, or a commodity account; or
- An account consisting of a right to payment of a monetary obligation for the sale of real property that is the debtor's homestead under Florida law.[8]

Asset Exemptions

Florida law protects certain assets from legal process so that they generally remain out of a creditor's reach, including:

- Funds held in an individual retirement account ("IRA") and other tax-exempt accounts.[9]
- A life insurance policy's proceeds.[10]
- A life insurance policy's cash surrender value.[11]
- An annuity contract's proceeds.[12]
- Funds held in qualified tuition programs, medical savings accounts, Coverdell education accounts, and hurricane savings accounts.[13]

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[1] "Collateral" means the property subject to a security interest. The term includes proceeds to which a security interest attaches; accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and goods that are the subject of consignment. S. 679.1021(1)(*l*), F.S.
[2] "Security agreement" means an agreement that creates or provides for a security interest. S. 679.1021(1)(uuu), F.S.
[3] Legal Information Institute, *Secured Transactions*, https://www.law.cornell.edu/wex/secured_transactions (last visited March 9, 2023).
[4] *Id.*
[5] S. 679.1081(1), F.S.
[6] S. 679.1081(2), F.S.
[7] S. 679.1081(3), F.S.
[8] S. 679.1081(5), F.S.
[9] S. 222.21, F.S.
[10] S. 222.13, F.S.
[11] S. 222.14, F.S.
[12] *Id.*
[13] S. 222.22, F.S.

- Disability income benefits.[14]
- A deceased person's wages, travel expenses, and reemployment assistance or unemployment compensation payments.[15]
- Homestead property.[16]
- Certain personal property items.[17]
- A debtor's interest in a motor vehicle, up to $1,000 in value, and any professionally prescribed health aides.[18]
- Social security benefits; unemployment compensation, or public assistance benefits; veterans' benefits; alimony, support, or separate maintenance; and stock or pension plans under specified circumstances.[19]

The purpose behind such exemptions is to prevent a debtor from being left destitute, and therefore unable to participate productively in society, or from being unable to meet specified medical, educational, housing, and other needs, after defaulting on a loan or owing on a judgment.[20] Historically, exempt assets have remained exempt from a creditor's reach unless specifically pledged as collateral in a security agreement.[21]

Recent Case Law

In *Kearney Constr. Co., LLC v. Travelers Casualty & Surety Co. of America*, the federal Eleventh Circuit Court of Appeals broke with the historic tradition of maintaining asset exemptions unless the asset is specifically pledged.[22] In *Kearney*, the debtor obtained a line of credit and pledged the following collateral in the security agreement:

> [A]ll assets and rights of the Pledgor, wherever located, whether now owned or hereafter acquired or arising, and all proceeds and products thereof, all goods (including inventory, equipment and any accessories thereto), instruments (including promissory notes)[,] documents, accounts, chattel paper, deposit accounts, letters of credit, rights, securities and all other investment property, supporting obligation[s], and contract or contract rights or rights to the payment of money, insurance claims, and proceeds, and general intangibles.[23]

The Court held that this language was an "unambiguous pledge" of "all assets and rights" of the debtor, including the debtor's IRA, even though the IRA was not specifically identified in the agreement.[24]

Practically speaking, the *Kearney* decision makes it possible for a borrower to inadvertently pledge as collateral for a security agreement an asset historically exempt from the reach of creditors under Florida law.[25] This may affect Florida consumers with security agreements containing general language similar to the language at issue in *Kearney*.

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[14] S. 222.18, F.S.
[15] Ss. 225.15 and 225.16, F.S.
[16] Ss. 222.01-222.05, F.S.; Art. X, s. 4, Fla. Const.
[17] S. 222.061, F.S.
[18] S. 222.25, F.S.
[19] Ss. 222.201 and 222.21(1), F.S.
[20] National Bankruptcy Review Commission, *Property Exemptions*, https://govinfo.library.unt.edu/nbrc/report/05ccons.html (last visited March 9, 2023).
[21] Real Property, Probate, and Trust Law Section of the Florida Bar ("RPPTL"), *White Paper* (Jan. 26, 2021); *see, e.g., Havoco of Am. Ltd. v. Hill*, 790 So. 2d 1018 (Fla. 2001); *Connor v. Seaside Nat'l Bank*, 135 So. 3d 508 (Fla. 5th DCA 2014); *Killian v. Lawson*, 387 So. 2d 960 (Fla. 1980).
[22] *See* 795 Fed. Appx. 671 (11th Cir. 2019). The *Kearney* case is an unpublished opinion of the Federal Court of Appeals for the Eleventh Circuit. Opinions that the Eleventh Circuit's panel of judges believes to have no precedential value are not published. Although unpublished opinions may be cited as persuasive authority, they are not considered binding precedent. Fed. Re. App. P. 36, Internal Operating Procedure 6; *see also* 11th Cir. R. 36-2.
[23] 795 Fed. Appx. at 673-74.
[24] *Id.* at 674. The borrower testified that he did not intend to pledge the IRA; however, the lower court rejected such testimony because it was inconsistent with the borrower's earlier court filings. *Id*.
[25] The exception is homestead property, as a waiver of such rights must be "knowing, voluntary, and intelligent" to have any effect. *See* RPPTL, *supra* note 21; *see also Chames v. DeMayo*, 972 So. 2d 850 (Fla. 2007) (citing *State v. Upton*, 658 So. 2d 86 (Fla. 1995)).

The decision could also have significant federal tax implications, as the use of certain tax-exempt accounts as collateral for a loan is considered a distribution of the funds in the account to the owner, who then may owe federal income tax on the distribution.[26] The Tax Code also imposes a 10 percent tax penalty for early distributions from certain tax-exempt accounts.[27]

Effect of Proposed Changes

HB 901 provides that a general description only by type of collateral is an insufficient description to pledge as collateral, for the purposes of a security agreement, accounts and other entitlements set forth in ss. 222.13-222.16, 222.18, and 222.201-222.22, F.S. These include:

- Funds held in an IRA and other tax-exempt accounts.
- A life insurance policy's proceeds or cash surrender value.
- An annuity contract's proceeds.
- Funds held in qualified tuition programs, medical savings accounts, Coverdell education accounts, and hurricane savings accounts.
- Disability income benefits.
- A deceased person's wages, travel expenses, and reemployment assistance or unemployment compensation payments.
- Social security benefits; unemployment compensation; public assistance benefits; veterans' benefits; alimony, support, or separate maintenance; and stock or pension plans under specified circumstances.

The bill also:

- Specifies that the changes made by the bill are meant to clarify existing law.
- Provides an effective date of upon becoming a law.

B. SECTION DIRECTORY:

Section 1: Amends s. 679.1081, F.S., relating to sufficiency of description.
Section 2: Provides that the amendment made by the bill is meant to clarify existing law.
Section 3: Provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

[26] I.R.C. 408(e)(4) and (d)(1); I.R.C. 72(p)(1)(B).
[27] I.R.C. 72(t).

The bill may prevent Floridians from inadvertently pledging as security specified exempt assets and suffering any related federal tax consequences.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to secured transactions; amending s. 679.1081, F.S.; providing that a description of certain accounts and entitlements by a certain type of collateral is insufficient for the purpose of security agreements; providing applicability; providing an effective date.

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

Section 1. Subsection (5) of section 679.1081, Florida Statutes, is amended to read:

679.1081 Sufficiency of description.—

(5) A description only by type of collateral defined in this chapter is an insufficient description of:

(a) A commercial tort claim;

(b) In a consumer transaction, consumer goods, a security entitlement, a securities account, or a commodity account; ~~or~~

(c) An account consisting of a right to payment of a monetary obligation for the sale of real property that is the debtor's homestead under the laws of this state; or

(d) Accounts and other entitlements set forth in ss. 222.13-222.16, s. 222.18, and ss. 222.201-222.22.

Section 2. The amendment made by this act to s. 679.1081, Florida Statutes, is intended to clarify existing law.

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

Section 3. This act shall take effect upon becoming a law.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1185 Consumer Protection
SPONSOR(S): Giallombardo
TIED BILLS: **IDEN./SIM. BILLS:** SB 1398

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Fortenberry	Lloyd
2) State Administration & Technology Appropriations Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

The bill makes changes related to consumer protection, including:

- **Mortgage lender locations:** Adds remote location to the definition of a mortgage broker's or lender's branch office; allows loan originators to work from a remote location if certain criteria are met.
- **Crowd-funding campaigns:** creates a statutory framework for unlawful acts and practices regarding online crowd-funding campaigns.
- **Distributed energy generation system (DEGS) disclosures:** adds to the information and disclosures that must be provided to customers when they purchase or lease DEGS.
- **Insurance agent address changes:** requires that a licensed insurance agent notify DFS of changes to his or her name, address, telephone number, or other contact information within five days after the change, rather than within the 30-day period currently specified in law.
- **Insurance Agency and Adjusting Firm names:** Department of Financial Services may disapprove adjusting firm names on the same grounds under which it can disapprove of insurance agency names
- **Public adjusters:** significantly alters the requirements for contracts between public adjusters and insureds or claimants; provides for additional disclosures to accompany such contracts; provides for recordkeeping requirements for public adjusters; changes the methods for insurers to issue payment when an insured has a contract with a public adjuster.
- **Insurer advertisements:** establishes it is an unfair method of competition, or an unfair or deceptive act or practice if an insurer fails to disclose a third party that receives royalties, referral fees, or other money for sponsorship, marketing, or use of third-party branding for a health insurance contract.
- **Insurance Coverage for Hurricanes:** reduces the statutory timeframe for the duration of a hurricane; defines hurricane deductible as the deductible applicable to loss caused by a hurricane.
- **Insurer underwriting timeframes:** reduces the time that an insurer has to cancel a policy for reasons other than material misstatement, nonpayment of premium, or failure to comply with underwriting requirements from 90 days to 60 days.
- **Annuities:** revises the statutory framework for the issuance of annuities in Florida to reflect the most recent changes to the National Association of Insurance Commissioners' Annuity Transactions Model Regulation.
- **Service agreements:** a service agreement policy that maintains a contractual liability insurance policy in lieu of maintaining unearned premium reserve may pay 100 percent of claims as they are incurred or 100 percent of claims due in the event of the failure of the service agreement company to pay claims when due.

The bill has no impact on local or state government revenues or expenditures. It has an indeterminate positive and negative direct economic impact on the private sector.

Except as otherwise provided, the bill is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Mortgage Lender Locations

Background

The Office of Financial Regulation (OFR) is responsible for the regulation of banks, credit unions, and other financial institutions, finance companies, and the security industry.[1] OFR is responsible for the administration an enforcement of ch. 494, F.S., relating to loan originators and mortgage brokers. OFR licenses and regulates the practice of these individuals.

A loan originator is an individual who, directly or indirectly:[2]

- Solicits or offers to solicit a mortgage loan;
- Accepts or offers to accept an application for a mortgage loan;
- Negotiates or offers to negotiate the terms or conditions of a new or existing mortgage loan on behalf of a borrower or lender; or
- Negotiates or offers to negotiate the sale of an existing mortgage loan to a noninstitutional investor for compensation or gain.

The term loan originator does not include an employee of a mortgage broker or lender who only handles a completed application form or transmits a completed application form to a lender on behalf of a prospective borrower.[3]

A mortgage broker conducts loan originator activities through one or more licensed loan originators employed by the mortgage broker or as independent contractors to the mortgage broker.[4] In contrast, a mortgage lender makes a mortgage loan or services a mortgage loan for others, or, for compensation or gain, directly or indirectly, sells or offers to sell a mortgage loan to a noninstitutional investor.[5] A mortgage lender may act as a mortgage broker.[6]

Each mortgage broker and lender must maintain, and transact business from, a principal place of business,[7] which is a primary office with a street address or physical location designated on a licensure application.[8] A mortgage broker or lender may also operate out of a branch office,[9] but each branch office must be separately licensed[10] and operated by a branch manager[11] who must be licensed as a loan originator. Currently, mortgage brokers and lenders are not legally authorized to work from remote locations and doing so may result in administrative action by OFR.

[1] S. 20.121(3)(a)2., F.S.
[2] S. 494.001(18), F.S.
[3] *Id.*
[4] S. 494.001(23), F.S.
[5] S. 494.001(24), F.S.
[6] *See* s. 494.0073, F.S.
[7] Ss. 494.0039, and 494.0073, F.S.
[8] S. 494.001(31), F.S.
[9] *See* s. 494.001(3), F.S.
[10] Ss. 494.0036(1) and 494.0066(1), F.S.
[11] Ss. 494.0035(2) and 494.00665(2), F.S.

Effect of the Bill

The bill adds a remote location to the definition of a mortgage broker's or lender's branch office. It defines a remote location as:

- A location, other than a principal place of business or a branch office;
- At which a loan originator of a licensee may conduct business.

Licensees may allow loan originators to work from a remote location if:

- The licensee has written policies and procedures for supervision of loan originators working from a remote location;
- Access to company platforms and customer information meets the licensee's comprehensive written information security plan;
- An in-person customer interaction does not occur at a loan originator's residence, unless the residence is a licensed location;
- Physical records are not maintained at a remote location;
- Customer interactions and conversations about consumers comply with federal and state information security requirements;
- Loan originators working at a remote location access the company's secure systems via a virtual private network or comparable system;
- The licensee ensures that appropriate security updates, patches, or other security alterations used at remote locations are installed and maintained;
- The licensee has the ability to remotely lock or erase company-related contents of any device or remotely limit access to secure systems; and
- The Nationwide Multistate Licensing System and Registry's[12] record of a loan originator who works from a remote location designates the principal place of business as the loan originator's registered location or the loan originator has elected a licensed branch office as a registered location.

The bill changes the locations where a mortgage lender may lawfully conduct business to include a branch office or remote location in addition to a principal place of business.

Crowd-funding Campaigns

Background information

Responses to natural disasters, including hurricanes, often include crowd-funding campaigns to raise money to help those who have been affected.[13] Unfortunately, some of these campaigns are scams that prey on people's willingness to help disaster victims.[14] Online crowd-funding platforms receive donations and distribute them without oversight and may be unable to determine whether the funds received were used appropriately.[15]

Effect of the Bill

The bill creates a statutory framework for unlawful acts and practices regarding online crowd-funding campaigns. It provides relevant definitions for crowd-funding campaign, crowd-funding platform, disaster, and organizer. The bill defines crowd-funding campaign as an online fundraising initiative that is:

- Intended to receive monetary donations; and
- Created by an organizer in the interest of a beneficiary.

[12] The Nationwide Multistate Licensing System is centralized online database that is used by mortgage and finance regulatory agencies to maintain state licensing programs. Rocket Mortgage, *What is NMLS?*, https://www.rocketmortgage.com/learn/what-is-nmls (last visited Mar. 19, 2023).
[13] Florida Department of Financial Services (DFS), Agency Analysis of 2023 House Bill 1185, p. 2 (Feb. 27, 2023).
[14] *Id.*
[15] *Id.* at p. 3.

A disaster must satisfy all of the following criteria to meet the statutory definition of disaster set forth in the bill:

- Natural, technological, or civil emergency;
- Occurs in Florida; and
- Causes damage of sufficient severity and magnitude to result in a declaration of a state of emergency by a county, the Governor, or the President of the United States.

The bill requires that, when an organizer arranges a crowd-funding campaign related to a disaster, the organizer must produce to the crowd-funding platform a complete and accurate accounting of all the donations received and expended by the campaign. The crowd-funding platform must publish all of these accountings on its website.

Distributed Energy Generation System Disclosures

Background

Under current law, when a customer purchases or leases a distributed energy generation system (DEGS), including solar panels, certain information and disclosures must be provided to the customer, including contact information for the installer, cost and rebate information, and financial considerations.[16] However, contact information for the regulator of the system installer is not included.[17] Disclosures about how these DEGS may impact a customer's homeowners' insurance premiums and coverage or the life of their roof is also not provided.[18]

Effect of the Bill

The bill adds to the information and disclosures that must be provided to customers when they purchase or lease DEGS. The customer must be given phone number for the Department of Business and Professional Regulation's customer contact center.

Customers must be informed that they should consider the age and remaining life of their roofs before installing DEGS and that replacement of their roofs may require reinstallation of the DEGS. The bill also requires that customers be given a statement informing them that:

- Placing DEGS on their roof may impact their future insurance premiums; and
- Customers are responsible for contacting their insurers prior to entering a purchase or lease agreement for the DEGS to determine whether their current policy or coverage needs modification upon installing the DEGS onto their dwelling.

Insurance Agent Address Changes

Background

Insurance agents are currently required to notify the Department of Financial Services (DFS), in writing, of changes to their name, residential address, principal business street address, mailing address, contact telephone numbers, and email address within 30 days of a change.[19]

Effect of the Bill

The bill requires that a licensed insurance agent notify DFS of changes to his or her name, address, telephone number, or other contact information within five days after the change, rather than within the 30-day period currently specified in law.

[16] S. 520.23, F.S.
[17] DFS, *supra,* note 13 at p. 3.
[18] *Id.*
[19] S. 626.551, F.S.

Insurance Agency and Adjusting Firm names

Background

DFS recently began licensing adjusting firms.[20] However, unlike the authority to disapprove names of insurance agencies, DFS does not have the authority to disapprove misleading names of adjusting firms.[21] If the adjusting firm name contains certain words, such as a city, county, or government name, that could lead customers to believe they are doing business with a governmental entity.[22]

Current law allows insurance agencies to use the words "Medicare" and "Medicaid" in their names.[23] However, the provision of law allowing the use of those words is set to expire on June 30, 2023.[24]

Effect of the Bill

The bill establishes that DFS may disapprove the use of adjusting firm names on the same grounds under which it can disapprove of insurance agency names. As of July 1, 2023, the bill also repeals the statutory provision that allows an insurance agency to use the word "Medicare" or "Medicaid" in its name, because the provision allowing the use of those words is set to expire.

Public adjusters

Background

Public adjusters are regulated under ch. 626, part VI, F.S. Florida law defines a public adjuster as someone who, for something of value, directly or indirectly, prepares, completes, or files an insurance claim for an insured or third-party claimant, or who, for something of value, acts on behalf of, or aids, an insured or third-party claimant in settling a claim for loss or damage covered by an insurance contract, or who advertises for employment as an adjuster of such claims.[25] In general, a claimant executes a contract for the public adjuster to provide claims adjusting services.[26] At present, such a contract may only be canceled within ten days after the date the contract was executed.[27]

Public adjusters who have contracted with claimants must also provide to the claimant a written estimate of loss to assist the claimant with obtaining a claim payment from the insurance company. According to information received from DFS, following the hurricanes that have affected Florida in recent years, consumers have complained about claims resolution delays due to the lack of responsiveness of public adjusters they hired and the inability to cancel contracts they have executed with these adjusters.[28]

Effect of the Bill

The bill clarifies that certain actions constitute the practice of public adjusting regardless of how a public adjuster describes or presents his or her services. The bill establishes that, after July 1, 2023, whether a public adjuster enters a contract to provide public adjusting services, the public adjuster is prohibited from contracting with anyone other than a named insured unless the named insured provides written consent. If a public adjuster contracts with a third party in settling the named insured's claim, without first obtaining the insured's written consent, the third party must be paid from the public adjuster's fees.

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[20] DFS, *supra,* note 13 at p. 3.
[21] *See* s. 626.602, F.S.
[22] DFS, *supra,* note 13 at p. 3.
[23] S. 626.602(4)(b), F.S.
[24] *Id.*
[25] S. 626.854, F.S.
[26] *See id.*
[27] *Id.*
[28] DFS, Agency Analysis of 2021 House Bill 717, p. 3 (Feb. 25, 2021).

The bill allows an insured or claimant to cancel a contract with a public adjuster without penalty or obligation within 30 days after signing the contract if the insured or claimant signed the contract based on events that were the subject of an emergency declaration by the Governor. The public adjuster's contract must contain information regarding the 30-day cancellation period and must also notify the insured or claimant that he or she may cancel the contract if the public adjuster fails to provide the insured or claimant and the insurer a copy of a written estimate of damages within 45 days of the execution of the contract.

The bill changes many of the requirements for the contracts for services between public adjusters and insureds or claimants, including the following:

- The contract must be titled "Public Adjuster Contract" in at least 12-point font.
- The anti-fraud statement required in the contract must be in at least 18-point bold font and placed in the space above the insured or claimant's signature.
- A copy of the executed contract must be provided to the insured or claimant at the time of execution and to the insurer within three days thereafter.
- The public adjuster shall not provide services until both the insured and insurer have been provided with unaltered copies of the executed contract.
- Before signing the contract, the public adjuster must provide the insured with a separate disclosure that the insured must sign that does the following:
    - Defines the types of adjusters who may be involved in the claims process, including company adjuster, independent adjuster, and public adjuster.
    - Explains that the public adjuster is not a representative or employee of the insurer.
    - Explains that the insured is not required to hire a public adjuster.
    - Explains that the insured has the right to communicate directly with the insured's attorney, the insurer, the company adjuster, the insurer's attorney, or any person regarding the settlement of the claim.
    - Explains that public adjuster's salary, fee, commission, or other consideration to be paid to the public adjuster is the insured's responsibility.

Any public adjuster contract that does not comply with these requirements is invalid and unenforceable.

Under the bill, if the insurer, no later than 14 days after the date on which the loss is reported to the insurer, pays or commits in writing to pay the insured the policy limit of the insurance policy, the public adjuster shall:

- Inform the insured that, due to the insurer's payment or commitment to pay the policy limit, the loss recovery amount might not be increased by the insurer.
- Not receive a commission consisting of a percentage of the total amount that the insurer paid to resolve the claim.
- Be entitled only to reasonable compensation from the insured for the time spent and expenses that the public adjuster incurred on the claim until the claim is paid or the insurer provided a written agreement to pay.

The bill establishes that if a public adjuster enters into a contract with an insured or claimant after the insured or claimant unsuccessfully negotiates an insurance claim payment and the public adjuster successfully obtains a higher insurance claim payment, the public adjuster shall receive a commission consisting of 10 percent of:

- the difference between the initial insurance claim payment offer made to the insured; and
- the final insurance claim payment obtained through the public adjuster's work after the insured or claimant signed the public adjuster's contract.

The bill alters the way in which insurers issue claims payments when a public adjuster is involved. When a claim is settled while the insured is represented by a public adjuster, the insurer must issue the payment in check form. The insurer must issue one check made payable to the public adjuster for the amount of his or her fee. The second check issued by the insurer must be for the balance of the proceeds and payable to the insured.

The bill clarifies that the statutory exemption that allows attorneys at law to adjust claims without being licensed as adjusters does not extend to the employees, interns, volunteers, or contractors of an attorney or law firm.

The bill prohibits anyone who has been found guilty of, or pleaded guilty or nolo contendere to, any crime involving theft or dishonesty, regardless of adjudication within ten years of application from becoming licensed as a public adjuster. It requires that an applicant for a public adjuster's license must file with DFS a current certificate of an errors and omissions policy issued by an authorized insurer with a minimum coverage of $500,000 per occurrence.

The bill states that appointed independent adjusters and licensed public adjusters must post their licenses in a conspicuous place in their principal places of business or have the licenses in their possession if they are conducting business away from the principal places of business. It mandates that adjusters have their records available for inspection by DFS at all times.

The bill also requires that adjusters maintain the following records for at least five years:

- The name, address, phone number, and email address of the insured, and name of the insured's attorney if applicable.
- The date, location, and amount of the loss.
- An unaltered copy of the signed document containing the disclosures that the public adjuster is required to give the insured.
- A copy of the estimate of damages provided to the insurer.
- Name of the insurer, claims representative, amount, expiration date, and number of each policy under which the loss is covered.
- An itemized statement of all compensation received by the public adjuster in connection with the loss.
- A register of all money received, deposited, disbursed, and withdrawn in connection with a transaction with the insured, including fees, transfer, and disbursements in connection with the loss.

Insurer Advertisements

Background

The Unfair Insurance Trade Practices Act (Act),[29] among other things, defines unfair methods of competition and unfair or deceptive acts in the business of insurance.[30] It provides an extensive list of prohibited methods and acts. Among these are prohibitions on certain advertisements, inducements to the purchase of insurance, including rebates, dividends, stock, and contracts that promise to return profits to the prospective insurance purchaser. An insurer is prohibited from knowingly making, issuing, circulating any estimate, illustration, circular, statement, sales presentation, omission, comparison, or altered property or casualty insurance certificate that falsely advertises insurance policies.[31]

Effect of the Bill

The bill establishes that it is an unfair method of competition, or an unfair or deceptive act or practice, by misrepresentation or false advertising of an insurance policy, if an insurer fails to disclose a third party that receives royalties, referral fees, or other money for sponsorship, marketing, or use of third-party branding for a health insurance contract.[32]

Insurance Coverage for Hurricanes

[29] Ch. 626, F.S., part IX.
[30] S. 626.9541, F.S.
[31] S. 626.9541(1)(a), F.S.
[32] The health insurance contract is defined in s. 624.603, F.S., as "insurance of human beings against bodily injury, disablement, or death by accident or accidental means, or the expense thereof, or against disablement or expense resulting from sickness, and every insurance appertaining thereto." It does not include workers' compensation insurance.

Background

Property insurance policies in Florida typically include a separate deductible applicable to hurricane losses.[33] Hurricane deductibles are often higher than the deductibles applicable to all other covered losses. Current law provides a broad timeframe under which a hurricane is considered to be affecting the state.[34] A hurricane deductible can be applied during this timeframe, which may lead to significant out-of-pocket expenditures by policyholders.

The timeframe for a hurricane begins when a hurricane watch or warning is issued anywhere in Florida and ends 72 hours after the termination of the last hurricane watch or warning.[35] A hurricane watch may be issued up to 48 hours before the anticipated onset of tropical-storm-force winds in an area.[36]

Effect of the Bill

The bill reduces the statutory timeframe for the duration of a hurricane as follows:

- It excludes a hurricane watch.
- It deletes the provision that a hurricane continues for the time period during which hurricane conditions exist anywhere in Florida.
- It reduces the timeframe during which a hurricane exists to 24 hours following the termination of the last hurricane watch or warning issued for any part of Florida.

Based upon these changes, a hurricane deductible would apply from the issuance of a hurricane warning until 24 hours past the issuance of the last hurricane warning issued for the state.
The bill also defines hurricane deductible as the deductible applicable to loss caused by a hurricane.

Insurer Underwriting Timeframes

Background

Once coverage has been bound[37] and a premium is quoted and paid, an insurer issuing property or casualty insurance has 90 days to complete its underwriting process to determine whether an applicant meets its guidelines.[38] Coverage is extended to the policyholder during the underwriting period and the insurer has earned the premium for the number of days that the coverage was available during that period.[39] Once the underwriting period is complete, the insurer will either accept or decline the risk.[40]

After the conclusion of the underwriting period, an insurer may only cancel the policy for the following reasons:[41]

- Material misstatement.
- Nonpayment of premium.
- Failure to comply with underwriting requirements established within 90 days of the effective date of coverage.
- Substantial change in the risk covered by the policy.

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[33] *See* s. 627.701, F.S.
[34] *See* s. 627.4025(2), F.S.
[35] S. 627.4025(2), F.S.; DFS, *supra*, note 13 at p. 3.
[36] National Ocean Service, *What is the Difference Between a Hurricane Watch and Hurricane Warning?*, https://oceanservice.noaa.gov/facts/watch-warning.html#:~:text=A%20hurricane%20watch%20is%20issued,to%20instructions%20from%20local%20officials (last visited Mar. 20, 2023). A hurricane watch means that hurricane conditions (sustained winds of 74 miles per hour or greater) are *possible* within a specified area. A hurricane warning means that hurricane conditions are *expected* somewhere within the specified area.
[37] The term bound refers to confirmation that coverage is in place.
[38] DFS, *supra*, note 13 at p. 3.
[39] *Id.*
[40] *Id.*
[41] S. 627.4133, F.S.

- When the cancellation is for all insureds in a given class.[42]

Of the 50 states: 38 have a homeowners' insurance underwriting period of 60 days; five have less than 60-day periods; one has a 70-day period; five states, including Florida, have 90-day periods; and one state has a period greater than 90 days.[43]

Effect of the Bill

The bill reduces the time that an insurer has to cancel a property or casualty policy for reasons other than those detailed immediately above from 90 days to 60 days.

Motor Vehicle Service Agreements

Background

Motor vehicle service agreements provide vehicle owners with protection when a manufacturer's warranty has run out. Companies that sell such agreements are regulated by the Office of Insurance Regulation (OIR), and must currently establish and maintain an unearned premium reserve equal to a minimum of 50 percent of the unearned gross written premium on each service agreement.[44] Additionally, these companies must maintain net assets of at least $500,000.[45] In lieu of maintaining an unearned premium reserve, the company may secure and maintain a contractual liability insurance policy (CLIP),[46] which protects business owners against the financial consequences of liabilities assumed from entering a contract.[47]

Effect of the Bill

The bill establishes that a service agreement policy that maintains a CLIP in lieu of maintaining unearned premium reserve may either pay 100 percent of claims as they are incurred or 100 percent of claims due in the event of the failure of the service agreement company to pay claims when due.

Annuities

Background[48]

An annuity is a contract between a buyer and an insurance company that provides guaranteed payments over a period of time. Annuities are designed to meet retirement and long-range planning goals and are long-term contracts that typically restrict an investor's ability to access his/her money.

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[42] A class is a group of insureds with similar exposures and experience that are grouped together for rating purposes. IRMI, *Class*, https://www.irmi.com/term/insurance-definitions/class#:~:text=A%20class%20is%20a%20group,grouped%20together%20for%20rating%20purposes (last visited Mar. 20, 2023).
[43] DFS, *supra,* note 13 at p. 4.
[44] S. 634.041, F.S.
[45] *Id.*
[46] *Id.*
[47] The Hartford, *Contractual Liability Insurance*, https://www.thehartford.com/general-liability-insurance/contractual-liability-insurance#:~:text=Contractual%20liability%20insurance%20helps%20cover,with%20contracts%2C%20such%20as%20contractors (last visited Mar. 20, 2023).
[48] *See Annuities a Guide for Consumers*, https://www.myfloridacfo.com/docs-sf/consumer-services-libraries/consumerservices-documents/understanding-coverage/consumer-guides/annuities-guide.pdf?sfvrsn=93cf03d5_2 (last visited Mar. 20, 2023); *See also* National Association of Insurance Commissioners (NAIC), *Annuities,* https://content.naic.org/cipr-topics/annuities#:~:text=The%20NAIC%20Suitability%20in%20Annuity,the%20time%20of%20the%20transaction. (last visited Mar. 20, 2023).

There are two basic types of annuities, fixed and variable. Fixed annuities guarantee both the rate of return and the amount of payout. Variable annuities do not guarantee the rate of return, which can fluctuate based on the performance of underlying investment options chosen by the purchaser. Another product, equity indexed annuities, is considered a hybrid of both fixed and variable annuities.

Annuities can be either immediate or deferred. With immediate annuities, the premium is paid in a single lump sum, and the purchaser receives an immediate and regular stream of payments for a period of time. By contrast, purchasers of deferred annuities pay one or more premiums over time (the accumulation period) and begin to receive annuity payments at a future point in time (the payout period or annuitization phase).

Fixed annuities are considered insurance contracts because of the mortality risk associated with payout options, and are regulated by state insurance departments. With a variable annuity, premium dollars are placed into a variety of investment options called subaccounts. Because variable annuities involve risk and provide no guarantee of principal, they are considered investments and fall within the jurisdiction of both securities regulators and state insurance departments. Agents selling variable annuities must hold a variable annuity license from the state and also possess a securities license and hold an active securities registration with a broker dealer. As investments, variable annuities also have accompanying prospectuses with disclosures regarding risk. All sales of variable annuities are subject to suitability standards established by the Financial Industry Regulatory Authority (FINRA).[49] Variable annuities generally involve an accumulation phase and a payout phase.

Equity indexed annuities provide a minimum guaranteed interest rate in combination with an index-linked component. A guaranteed minimum interest rate may still create a loss of principal if the guarantee is based on an amount less than the amount of premium or initial payment. Investors who find it necessary to cancel an annuity to access funds prior to maturity of the contract may also lose principal through detrimental features such as surrender charges, hidden penalties, costs, fees, and massive multi-year surrender charges.

In 2003, the National Association of Insurance Commissioners (NAIC) adopted "Senior Protection in Annuity Transactions Model Regulation" (Senior Protection Model Regulation), designed to help protect senior citizens when they purchase or exchange annuity products. In 2004, Florida adopted the Senior Protection Model Regulation in s. 627.4554, F.S. This section provides protection for senior citizens in annuity transactions, requiring insurance companies and agents offering these products to clearly document the basis for selling the product, including consideration of a senior citizen's financial and tax status, as well as investment objectives. In 2006, the NAIC removed the age restriction from its Model Regulation, extending the annuity protections to consumers of any age.

In 2008, Florida amended s. 627.4554, F.S. Although the legislation did not incorporate the 2006 change to the Senior Protection Model Regulation, it provided additional safeguards for senior consumers, including:

- Requiring insurers and agents to have an "objectively" reasonable basis for recommending a particular annuity product.
- Specifying the minimum information that an insurer or agent must obtain and use to determine the suitability of a recommendation before executing a purchase or exchange of a policy.
- Requiring suitability information obtained from a consumer to be recorded on a Department of Financial Services' (DFS) form, which must be completed and signed by the applicant and the agent, with a copy given to the consumer.
- Requiring the insurer or agent, in exchange situations, to provide the consumer with specified information on a DFS form concerning differences between the policy being recommended for purchase and an existing policy that would be surrendered or replaced.
- Increasing the "free look" refund period.

[49] The Financial Industry Regulatory Authority (FINRA) is the largest independent regulator for all securities firms doing business in the United States.

- Authorizing the OIR to rescind an annuity and provide a full refund of premiums paid or the accumulation value, whichever is greater, when a consumer is harmed by a violation of the suitability statute.

In 2010, the Legislature also increased the unconditional refund period for senior consumers in annuity transactions to 21 days and required insurers to attach a cover page with specified information, including notice of the refund period, contact information, and the name of the issuing company and selling agent, to each annuity sold.[50]

In March 2010, the NAIC revised its Senior Protection Model Regulation to clarify that insurers are responsible for compliance with the model's requirements, even if the insurer contracts with a third party; requiring insurers to review all annuity transactions; and establishing both general and product-specific training requirements for insurance agents. The Legislature incorporated these changes to the Senior Protection Model Regulation in 2013.

In 2020, the NAIC issued the Suitability in Annuity Transactions Model Regulation (Suitability Model Regulation), to set forth standards and procedures for recommendations to consumers that result in an annuity transaction.[51]

Effect of the Bill

The bill revises the statutory framework for the issuance of annuities in Florida, based upon the Suitability Model Regulation. It requires that agents act in consumers' best interests when recommending an annuity to a consumer and that insurers establish and maintain a system of supervision over agents to make sure that the consumers' insurance needs and financial objectives are effectively addressed.

The bill defines an agent as a person or entity required to be licensed under Florida law to sell, solicit, or negotiate insurance, including annuities. It defines cash compensation as any discount, concession, fee, service fee, commission, sales charge, loan, override, or cash benefit that an agent receives in connection with the recommendation or sale of an annuity from an insurer, intermediary, or directly from a consumer. The bill defines consumer profile information, which includes various information about the consumer's financial needs, net worth and financial resources, and risk tolerance.

The bill defines intermediary as an entity contracted directly with an insurer or with another entity contracted with an insurer to facilitate the sale of the insurer's annuities by agents. It defines material conflict of interest as financial interest of the agent in the sale of an annuity that a reasonable person would expect to influence the impartiality of a recommendation, but it does not include cash or noncash compensation.

Under the bill nonguaranteed elements means the premiums, credited interest rates, including any bonus, benefits, values, dividends, noninterest based credits, charges, or elements of formulas used to determine any of these. Such nonguaranteed elements are subject to company discretion and are not guaranteed at issue.

The bill revises the statutory definition of recommendation so that it refers to advice provided by an agent to an individual consumer that was intended to result, or does result, in a purchase, an exchange, or a replacement of an annuity. Recommendation does not include general communication to the public, generalized customer services, assistance or administrative support, general educational information and tools, prospectuses, or other product and sales material. The bill also provides additional definitions, clarification of existing definitions, and deletes unnecessary definitions, related to annuities.

[50] Section 626.99, F.S.
[51] NAIC, *Annuities*, https://content.naic.org/cipr-topics/annuities#:~:text=The%20NAIC%20Suitability%20in%20Annuity,the%20time%20of%20the%20transaction (last visited Mar. 20, 2023); NAIC, *Suitability in Annuity Transactions Model Regulation*, https://content.naic.org/sites/default/files/inline-files/MDL-275.pdf (last visited Mar. 20, 2023).

The bill requires that, when recommending an annuity, an agent must act in the best interests of the consumer under the circumstances known at the time the recommendation is made, without placing the agent's or insurer's financial interest ahead of the consumer's interest. The bill considers an agent to have acted in the consumer's best interest if the agent has met the following obligations and documentation requirements:

- The agent exercised reasonable diligence, care, and skill to:
  - Know the consumer's financial situation, insurance needs, and financial objectives.
  - Understand the available options after making a reasonable inquiry into the options available to the agent.
  - Have a reasonable basis to believe the recommended option effectively addresses the consumer's financial situation, insurance needs, and financial objectives over the life of the product.
  - Communicate the reasons for the recommendation.
- The agent must also:
  - Make reasonable efforts to obtain consumer profile information from the consumer before recommending an annuity.
  - Consider the types of products the agent may recommend or sell that address the consumer's financial situation, insurance needs, and financial objectives.
  - Have a reasonable basis to believe the consumer would benefit from certain features of the annuity recommended.
- If an annuity is being exchanged or replaced, the agent must consider whether:
  - The consumer will incur a surrender charge; be subject to a new surrender period; lose existing benefits; or be subject to increased fees or charges.
  - The replacement annuity would substantially benefit the consumer in comparison to the replaced product.
  - The consumer has had another annuity exchange or replacement, including one within the preceding 60 months.
- Before the recommendation or sale of an annuity, the agent must disclose the following:
  - A description of the scope and terms of the relationship with the consumer and the role of the agent in the transaction.
  - A statement regarding the types of annuities and other products that the agent is licensed and authorized to sell.
  - A statement describing the insurers for which the agent is authorized, contracted or appointed, or otherwise able to sell insurance products.
  - A description of the sources and types of cash and noncash compensation the agent will receive.
  - A notice of the consumer's right to request additional information regarding the cash compensation to be received by the agent.

The bill requires that an agent identify and avoid or reasonably manage and disclose material conflicts of interest, including those related to an ownership interest. At the time of recommendation or sale, an agent shall:

- Make a written record of any recommendation and the basis for it.
- Obtain a statement signed by a consumer documenting the following, as applicable:
  - A consumer's refusal to provide consumer profile information; and
  - A consumer's understanding of the ramifications of not providing sufficient consumer profile information.
  - If an annuity transaction is not based on the agent's recommendation, a consumer's acknowledgment that the annuity transaction is not recommended.

The bill obligates an insurer to establish and maintain reasonable procedures to:

- Assess, prior to, or upon issuance and delivery of, an annuity, whether the agent provided the required information to the consumer.
- Identify and address suspicious consumer refusals to provide consumer profile information.
- Identify and eliminate any sales contests, sales quotas, bonuses, and noncash compensation based on the sales of specific annuities within a limited time period.

While an insurer is required to have a system to supervise agents, the system is not required to include consideration of, or comparison to, options available to the agent or other products offered by the insurer. However, an insurer's supervision system must include supervision of contractual performance.

The bill provides a safe harbor for recommendations made by an agent in compliance with business rules, controls, and procedures that satisfy a comparable standard even if such standard would not otherwise apply to the product or recommendation at issue. However, OIR or DFS can still investigate potential violations of the statutes relating to the sales of annuities.

The bill defines comparable standards as:

- With respect to broker-dealers and registered representatives of broker-dealers, applicable Securities and Exchange Commission and FINRA rules related to best interest obligations and supervision of annuity recommendations;
- With respect to investment advisers registered under federal or state securities laws or investment adviser representatives, the fiduciary duties and all other requirements imposed on such investment adviser representatives; and
- With respect to plan fiduciaries, the duties, obligations, prohibitions and all other requirements attendant to such status under ERISA,[52] or the Internal Revenue Code.

Under the bill, the insurer is responsible for monitoring registered financial professionals and providing the information gathered to others who are responsible for supervising financial professionals. Financial professional is defined as an agent that is regulated and acting as:

- A broker dealer registered under federal or state securities laws or a registered representative of a broker dealer;
- An investment adviser registered under federal or state securities laws or an investment adviser representative associated with the registered adviser;
- A plan fiduciary under ERISA or fiduciary under the Internal Revenue Code.

The bill establishes detailed training requirements for agents who sell annuities. An agent is prohibited from selling an annuity product unless the agent has adequate knowledge of the produce to recommend the annuity and the agent is compliant with the insurer's product knowledge training standards.

The bill requires that an agent who sells annuity products must complete a one-time four-hour training course separate from an agent's continuing education requirements. Under the bill, agents who hold life insurance sales authority, and who wish to sell annuities, must complete the annuity training course, as well. Agents who completed an OIR-approved training course prior to the four-hour course requirement set forth in the bill must either complete a new four-hour training course approved by OIR, or an additional one-time one-credit course approved by OIR.

The required training course must include information on the following topics:

- Types and classifications of annuities.
- Identification of the parties to an annuity.
- How product-specific annuity contract features affect consumers.
- The application of income taxation of qualified and nonqualified annuities.
- The primary use of annuities.
- Appropriate standard of conduct, sales practices, replacement, and disclosure requirements.

Providers of the annuity training course must register with the state as a continuing education provider and comply with the applicable rules and guidelines set forth for continuing education providers in the

[52] ERISA is the Employee Retirement Income Security Act of 1974, but is commonly referred to by its acronym. It sets minimum standards for most voluntarily established retirement and health plans in private industry to provide protection for individuals in these plans. United States Department of Labor, *Employee Retirement Income Security Act (ERISA)*, https://www.dol.gov/general/topic/retirement/erisa#:~:text=The%20Employee%20Retirement%20Income%20Security,for%20individuals%20in%20these%20plans (last visited Mar. 19, 2023).

Florida Insurance Code. Annuity training courses may be completed in a classroom or by self-study. Other courses, including those from other states, that are substantially similar to the four-hour training course described in the bill may satisfy the training requirements established by the bill.

The bill requires that the insurer verify that an agent has completed the required annuity training course before allowing the agent to sell an annuity product for that insurer. An insurer may satisfy this requirement by obtaining certificates of completion of the training course by an agent or by obtaining reports provided by approved continuing education providers.

B. SECTION DIRECTORY:

Section 1. Amends s. 494.001, F.S. relating to definitions.

Section 2. Amends s. 494.0067, F.S., relating to requirements of mortgage lenders.

Section 3. Creates s. 501.2042, F.S., relating to unlawful acts and practices by online crowd-funding campaigns.

Section 4. Amends s. 520.23, F.S., relating to disclosures required.

Section 5. Amends s. 626.551, F.S., relating to notice of change of address, name.

Section 6. Amends s. 626.602, F.S., relating to insurance agency names.

Section 7. Amends s. 626.854, F.S., relating to “public adjuster” defined; prohibitions.

Section 8. Amends s. 626.850, F.S., relating to attorneys at law; exemption.

Section 9. Amends s. 626.865, F.S., relating to public adjuster’s qualifications; bond.

Section 10. Amends s. 626.875, F.S. relating to office and records.

Section 11. Creates s. 626.8751, F.S. relating to payment of claim.

Section 12. Amends s. 626.8796, F.S. relating to public adjuster contracts; fraud statement.

Section 13. Amends s. 626.8797, F.S. relating to proof of loss; fraud statement.

Section 14. Amends s. 626.9541, F.S. relating to unfair methods of competition and unfair or deceptive acts or practices defined.

Section 15. Amends s. 627.4025, F.S. relating to residential coverage and hurricane coverage defined.

Section 16. Amends s. 627.4133, F.S. relating to notice of cancellation, nonrenewal, or renewal premium.

Section 17. Amends s. 627.4554, F.S. relating to annuity investments.

Section 18. Amends s. 634.041, F.S. relating to qualifications for license.

Section 19. Provides uncoded directory language.

Section 20. Provides an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill has an indeterminate positive and negative direct economic impact on the private sector. As a result of the public adjuster provisions set forth in the bill, public adjusters may receive less compensation for their services. As such, consumers who use the services of public adjusters may save money on those services.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides DFS with the authority necessary to implement rules to administer the portions of the bill where rulemaking is required, including the changes to the requirements for a public adjuster's contract with an insured.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to consumer protection; amending s. 494.001, F.S.; providing and revising definitions; amending s. 494.0067, F.S.; revising the locations mortgage lenders may transact business; creating s. 501.2042, F.S.; providing definitions; providing requirements for crowd-funding campaigns relating to disasters; amending s. 520.23, F.S.; providing additional requirements for distributed energy systems; amending s. 626.551, F.S.; reducing the time in which licensees must notify the department of changes in specified information; amending s. 626.602, F.S.; providing requirements for the names of adjusting firms; amending s. 626.854, F.S.; revising the definition of the term "public adjuster"; prohibiting certain contracts by public adjusters; providing requirements for public adjuster contracts; prohibiting certain public adjuster contracts until demonstrated to the insured that it will not issue a satisfactory claims payment within a specified period; providing duties of a public adjuster if an insurer either pays or commits in writing to pay to the insured the policy limit within a specified period; providing requirements for public adjuster commissions; providing for cancellation of public

adjuster contracts without fee or penalty in certain circumstances; amending s. 626.860, F.S.; limiting the application of an exemption of regulation for attorneys in the negotiation of insurance claims; amending s. 626.865, F.S.; providing an additional requirement for a public adjuster's license; requiring public adjusters to have a specified minimum amount of errors and omissions insurance; amending s. 626.875, F.S.; requiring the posting of public adjuster licenses in principal places of business; requiring such licensees to have a specified license in his or her possession at certain times; providing additional recordkeeping requirements for adjusters; creating s. 626.8751, F.S.; providing requirements for payment of claims settled by public adjusters; amending s. 626.8796, F.S.; providing requirements for public adjuster contracts; authorizing recession of the contract by the insured in certain circumstances; requiring specified disclosures by a public adjuster; authorizing rulemaking; amending s. 626.8797, F.S.; providing additional requirements for proof of loss statements; amending s. 626.9541, F.S.; specifying additional conduct that constitutes unfair methods of competition and unfair or deceptive acts or practices; amending s. 627.4025, F.S.; revising provisions

relating to hurricane deductibles; amending s. 627.4133, F.S.; reducing the period in which an insurer may cancel a property insurance policy in certain circumstances; amending s. 627.4554, F.S.; providing and revising definitions; revising the duties of insurers and agents concerning the sale of annuities; requiring insurers to maintain certain procedures; providing training and education requirements for agents; amending s. 634.041, F.S.; providing additional requirements for a service agreement policy; providing a directive to the Division of Law Revision; providing an effective date.

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

Section 1. Subsections (35) through (38) of section 494.001, Florida Statutes, are renumbered as subsections (36) through (39), respectively, subsection (3) is amended, and a new subsection (35) is added to that section, to read:

494.001 Definitions.—As used in this chapter, the term:

(3) "Branch office" means a location, other than a mortgage broker's or mortgage lender's principal place of business: or a remote location

(a) The address of which appears on business cards, stationery, or advertising used by the licensee in connection

with business conducted under this chapter;

(b) At which the licensee's name, advertising or promotional materials, or signage suggests that mortgage loans are originated, negotiated, funded, or serviced; or

(c) At which mortgage loans are originated, negotiated, funded, or serviced by a licensee.

(35) "Remote location" means a location, other than a principal place of business or a branch office, at which a loan originator of a licensee may conduct business. Licensees may allow loan originators to work from a remote location if:

(a) The licensee has written policies and procedures for supervision of loan originators working from a remote location.

(b) Access to company platforms and customer information is in accordance with the licensee's comprehensive written information security plan.

(c) An in-person customer interaction does not occur at a loan originator's residence, unless such residence is a licensed location.

(d) Physical records are not maintained at a remote location.

(e) Customer interactions and conversations about consumers will be in compliance with federal and state information security requirements, including applicable provisions under the Gramm-Leach-Bliley Act and the Safeguards Rule established by the Federal Trade Commission, set forth at

16 CFR Part 314, as such requirements may be amended from time to time.

(f) Loan originators working at a remote location access the company's secure systems, including a cloud-based system, directly from any out-of-office device such employee uses, including a laptop, telephones desktop computer, and tablet, via a virtual private network (VPN) or comparable system that ensures secure connectivity and requires passwords or other forms of authentication to access.

(g) Licensee ensures that appropriate security updates, patches, or other alterations to the security of all devices used at remote locations are installed and maintained.

(h) Licensee has an ability to remotely lock or erase company-related contents of any device or otherwise remotely limit all access to a company's secure systems.

(i) The Nationwide Multistate Licensing System and Registry's record of a loan originator who works from a remote location designates the principal place of business as the loan originator's registered location or the loan originator has elected a licensed branch office as a registered location.

Section 2. Subsection (1) of section 494.0067, Florida Statutes, is amended to read:

494.0067 Requirements of mortgage lenders.—

(1) A mortgage lender that makes mortgage loans on real estate in this state shall transact business from a principal

place of business, branch office, or remote location. Each principal place of business, ~~and~~ each branch office, and remote location shall be operated under the full charge, control, and supervision of the licensee pursuant to this part.

Section 3. Section 501.2042, Florida Statutes, is created to read:

501.2042 Unlawful acts and practices by online crowd-funding campaigns.—

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

(a) "Crowd-funding campaign" means an online fundraising initiative that is intended to receive monetary donations from donors and is created by an organizer in the interest of a beneficiary.

(b) "Crowd-funding platform" means an entity doing business in this state and that provides an online medium for the creation and facilitation of a crowd-funding campaign.

(c) "Disaster" means any natural, technological, or civil emergency that occurs in this state and that causes damage of sufficient severity and magnitude to result in a declaration of a state of emergency by a county, the Governor, or the President of the United States.

(d) "Organizer" means a person who:

1. Resides or is domiciled in this state.

2. Has an account on a crowd-funding platform and has created a crowd-funding campaign either as a beneficiary or on

behalf of a beneficiary, regardless of whether the beneficiary or the crowd-funding campaign has received donations.

(2) When an organizer arranges a crowd-funding campaign related to a disaster, the organizer must produce to the crowd-funding platform a complete and accurate accounting of all donations received and expended by the crowd-funding campaign. The crowd-funding platform must publish all received accountings on its website.

Section 4. Section 520.23, Florida Statutes, is amended to read:

520.23 Disclosures required.—Each agreement governing the sale or lease of a distributed energy generation system shall, at a minimum, include a written statement printed in at least 12-point type that is separate from the agreement, is separately acknowledged by the buyer or lessee, and includes the following information and disclosures, if applicable:

(1) The name, address, telephone number, and e-mail address of the buyer or lessee.

(2) The name, address, telephone number, e-mail address, and valid state contractor license number of the person responsible for installing the distributed energy generation system.

(3) The name, address, telephone number, e-mail address, and valid state contractor license number of the distributed energy generation system maintenance provider, if different from

the person responsible for installing the distributed energy generation system.

(4) The customer contact center phone number for the Department of Business and Professional Regulation.

(5) ~~(4)~~ A written statement indicating whether the distributed energy generation system is being purchased or leased.

(a) If the distributed energy generation system will be leased, the written statement must include a disclosure in substantially the following form: "You are entering into an agreement to lease a distributed energy generation system. You will lease (not own) the system installed on your property."

(b) If the distributed energy generation system will be purchased, the written statement must include a disclosure in substantially the following form: "You are entering into an agreement to purchase a distributed energy generation system. You will own (not lease) the system installed on your property."

(6) ~~(5)~~ The total cost to be paid by the buyer or lessee, including any interest, installation fees, document preparation fees, service fees, or other fees.

(7) ~~(6)~~ A payment schedule, including any amounts owed at contract signing, at the commencement of installation, at the completion of installation, and any final payments. If the distributed energy generation system is being leased, the written statement must include the frequency and amount of each

payment due under the lease and the total estimated lease payments over the term of the lease.

(8) ~~(7)~~ Each state or federal tax incentive or rebate, if any, relied upon by the seller in determining the price of the distributed energy generation system.

(9) ~~(8)~~ A description of the assumptions used to calculate any savings estimates provided to the buyer or lessee, and if such estimates are provided, a statement in substantially the following form: "It is important to understand that future electric utility rates are estimates only. Your future electric utility rates may vary."

(10) ~~(9)~~ A description of any one-time or recurring fees, including, but not limited to, estimated system removal fees, maintenance fees, Internet connection fees, and automated clearinghouse fees. If late fees may apply, the description must describe the circumstances triggering such late fees.

(11) ~~(10)~~ A statement notifying the buyer whether the distributed energy generation system is being financed and, if so, a statement in substantially the following form: "If your system is financed, carefully read any agreements and/or disclosure forms provided by your lender. This statement does not contain the terms of your financing agreement. If you have any questions about your financing agreement, contact your finance provider before signing a contract."

(12) ~~(11)~~ A statement notifying the buyer whether the

seller is assisting in arranging financing of the distributed energy generation system and, if so, a statement in substantially the following form: "If your system is financed, carefully read any agreements and/or disclosure forms provided by your lender. This statement does not contain the terms of your financing agreement. If you have any questions about your financing agreement, contact your finance provider before signing a contract."

(13) ~~(12)~~ A provision notifying the buyer or lessee of the right to rescind the agreement for a period of at least 3 business days after the agreement is signed. This subsection does not apply to a contract to sell or lease a distributed energy generation system in a solar community in which the entire community has been marketed as a solar community and all of the homes in the community are intended to have a distributed energy generation system, or a solar community in which the developer has incorporated solar technology for purposes of meeting the Florida Building Code in s. 553.73.

(14) ~~(13)~~ A description of the distributed energy generation system design assumptions, including the make and model of the major components, system size, estimated first-year energy production, and estimated annual energy production decreases, including the overall percentage degradation over the estimated life of the distributed energy generation system, and the status of utility compensation for excess energy generated

by the system at the time of contract signing. A seller who provides a warranty or guarantee of the energy production output of the distributed energy generation system may provide a description of such warranty or guarantee in lieu of a description of the system design and components.

(15) ~~(14)~~ A description of any performance or production guarantees.

(16) ~~(15)~~ A description of the ownership and transferability of any tax credits, rebates, incentives, or renewable energy certificates associated with the distributed energy generation system, including a disclosure as to whether the seller will assign or sell any associated renewable energy certificates to a third party.

(17) ~~(16)~~ A statement in substantially the following form: "You are responsible for property taxes on property you own. Consult a tax professional to understand any tax liability or eligibility for any tax credits that may result from the purchase of your distributed energy generation system."

(18) ~~(17)~~ The approximate start and completion dates for the installation of the distributed energy generation system.

(19) ~~(18)~~ A disclosure as to whether maintenance and repairs of the distributed energy generation system are included in the purchase price.

(20) ~~(19)~~ A disclosure as to whether any warranty or maintenance obligations related to the distributed energy

generation system may be sold or transferred by the seller to a third party and, if so, a statement in substantially the following form: "Your contract may be assigned, sold, or transferred without your consent to a third party who will be bound to all the terms of the contract. If a transfer occurs, you will be notified if this will change the address or phone number to use for system maintenance or repair requests."

(21) ~~(20)~~ If the distributed energy generation system will be purchased, a disclosure notifying the buyer of the requirements for interconnecting the system to the utility system.

(22) ~~(21)~~ A disclosure notifying the buyer or lessee of the party responsible for obtaining interconnection approval.

(23) ~~(22)~~ A description of any roof warranties.

(24) A statement in substantially the following form: "You should consider the age and remaining life of your roof prior to installing a distributed energy generation system. Replacement of your roof may require re-installment of the distributed energy generation system."

(25) ~~(23)~~ A disclosure notifying the lessee whether the seller will insure a leased distributed energy generation system against damage or loss and, if applicable, the circumstances under which the seller will not insure the system against damage or loss.

(26) ~~(24)~~ A statement~~, if applicable,~~ in substantially the

following form: "You are responsible for obtaining insurance policies or coverage for any loss of or damage to the system. Consult an insurance professional to understand how to protect against the risk of loss or damage to the system."

(27) A statement in substantially the following form: "Placing a distributed energy generation system on your roof may impact your future insurance premiums. You are responsible for contacting your insurance carrier, prior to entering into a purchase or lease agreement, to confirm whether your current policy or coverage will need to be modified upon installing the distributed energy generation system onto your dwelling."

(28) ~~(25)~~ A disclosure notifying the buyer or lessee whether the seller or lessor will place a lien on the buyer's or lessee's home or other property as a result of entering into a purchase or lease agreement for the distributed energy generation system.

(29) ~~(26)~~ A disclosure notifying the buyer or lessee whether the seller or lessor will file a fixture filing or a State of Florida Uniform Commercial Code Financing Statement Form (UCC-1) on the distributed energy generation system.

(30) ~~(27)~~ A disclosure identifying whether the agreement contains any restrictions on the buyer's or lessee's ability to modify or transfer ownership of a distributed energy generation system, including whether any modification or transfer is subject to review or approval by a third party.

(31) ~~(28)~~ A disclosure as to whether the lease agreement may be transferred to a purchaser upon sale of the home or real property to which the system is affixed, and any conditions for such transfer.

(32) ~~(29)~~ A blank section that allows the seller to provide additional relevant disclosures or explain disclosures made elsewhere in the disclosure form.

The requirement to provide a written statement under this section may be satisfied by the electronic delivery of a document within 24 hours of execution of the written statement containing the required statement if the intended recipient of the electronic document affirmatively acknowledges its receipt. An electronic document satisfies the font and other formatting standards required for the written statement if the format and the relative size of characters of the electronic document are reasonably similar to those required in the written document or if the information is otherwise displayed in a reasonably conspicuous manner.

Section 5. Section 626.551, Florida Statutes, is amended to read:

626.551 Notice of change of address, name.—A licensee must notify the department, in writing, within 5 ~~30~~ days after a change of name, residence address, principal business street address, mailing address, contact telephone numbers, including a

business telephone number, or e-mail address. A licensee who has moved his or her principal place of residence and principal place of business from this state shall have his or her license and all appointments immediately terminated by the department. Failure to notify the department within the required time shall result in a fine not to exceed $250 for the first offense and a fine of at least $500 or suspension or revocation of the license pursuant to s. 626.611, s. 626.6115, s. 626.621, or s. 626.6215 for a subsequent offense. The department may adopt rules to administer and enforce this section.

Section 6. Section 626.602, Florida Statutes, is amended to read:

626.602 Insurance agency and adjusting firm names; disapproval.—The department may disapprove the use of any true or fictitious name, other than the bona fide natural name of an individual, by any insurance agency or adjusting firm on any of the following grounds:

(1) The name interferes with or is too similar to a name already filed and in use by another agency, or adjusting firm, or insurer.

(2) The use of the name may mislead the public in any respect.

(3) The name states or implies that the agency or adjusting firm is an insurer, motor club, hospital service plan, state or federal agency, charitable organization, or entity that

primarily provides advice and counsel rather than sells or solicits insurance, settles claims, or is entitled to engage in insurance activities not permitted under licenses held or applied for. This provision does not prohibit the use of the word "state" or "states" in the name of the agency. The use of the word "state" or "states" in the name of an agency or adjusting firm does not in and of itself imply that the agency or adjusting firm is a state agency.

(4)(a) The name contains the word "Medicare" or "Medicaid."

(b) An insurance agency whose name contains the word "Medicare" or "Medicaid" but which is licensed as of July 1, 2021, may continue to use that name until June 30, 2023, provided that the agency's license remains valid. If the agency's license expires or is suspended or revoked, the agency may not be relicensed using that name. Licenses for agencies with names containing either of these words automatically expire on July 1, 2023, unless these words are removed from the name. This paragraph is repealed July 1, 2023.

Section 7. Section 626.854, Florida Statutes, is amended to read:

626.854 "Public adjuster" defined; prohibitions.—The Legislature finds that it is necessary for the protection of the public to regulate public insurance adjusters and to prevent the unauthorized practice of law.

(1) A "public adjuster" is any person, except a duly licensed attorney at law as exempted under s. 626.860, who, for money, commission, or any other thing of value, directly or indirectly prepares, completes, or files an insurance claim for an insured or third-party claimant, regardless of how that person describes or presents his or her services, or who, for money, commission, or any other thing of value, acts on behalf of, or aids an insured or third-party claimant in negotiating for or effecting the settlement of a claim or claims for loss or damage covered by an insurance contract, regardless of how that person describes or presents his or her services, or who advertises for employment as an adjuster of such claims. The term also includes any person who, for money, commission, or any other thing of value, directly or indirectly solicits, investigates, or adjusts such claims on behalf of a public adjuster, an insured, or a third-party claimant. The term does not include a person who photographs or inventories damaged personal property or business personal property or a person performing duties under another professional license, if such person does not otherwise solicit, adjust, investigate, or negotiate for or attempt to effect the settlement of a claim.

(2) This definition does not apply to:

(a) A licensed health care provider or employee thereof who prepares or files a health insurance claim form on behalf of a patient.

(b) A licensed health insurance agent who assists an insured with coverage questions, medical procedure coding issues, balance billing issues, understanding the claims filing process, or filing a claim, as such assistance relates to coverage under a health insurance policy.

(c) A person who files a health claim on behalf of another and does so without compensation.

(3) A public adjuster may not give legal advice or act on behalf of or aid any person in negotiating or settling a claim relating to bodily injury, death, or noneconomic damages.

(4) For purposes of this section, the term "insured" includes only the policyholder and any beneficiaries named or similarly identified in the policy.

(5) A public adjuster may not directly or indirectly through any other person or entity solicit an insured or claimant by any means except on Monday through Saturday of each week and only between the hours of 8 a.m. and 8 p.m. on those days.

(6)(a) When entering a contract for adjuster services after July 1, 2023, a public adjuster is prohibited from contracting with anyone other than the named insured unless the named insured provides written consent, subsequent to entering a contract for public adjusting services.

(b) In the event a public adjuster contracts with a third party in settling the named insured's claim, without first

obtaining the insured's written consent, payment of the third party's fees shall be made from the public adjuster's fee.

(7) ~~(6)~~ An insured or claimant may cancel a public adjuster's contract to adjust a claim without penalty or obligation within 10 days after the date on which the contract is executed. If the contract was entered into based on events that are the subject of a declaration of a state of emergency by the Governor, an insured or claimant may cancel the public adjuster's contract to adjust a claim without penalty or obligation within 30 days after the date on which the contract is executed. The public adjuster's contract must contain the following language in minimum 18-point bold type immediately before the space reserved in the contract for the signature of the insured or claimant: "You, the insured, may cancel this contract for any reason without penalty or obligation to you within 10 days after the date of this contract. If this contract was entered into based on events that are the subject of a declaration of a state of emergency by the Governor, you may cancel this contract for any reason without penalty or obligation to you within 30 days after the date of this contract. You may also cancel the contract without penalty or obligation to you if I, as your public adjuster, fail to provide you and your insurer a copy of a written estimate within 45 days of the execution of the contract in accordance with s. 626.854(15)(b), Florida Statutes." The ~~by providing~~ notice of

cancellation shall be provided to ...(name of public adjuster)..., submitted in writing and sent by certified mail, return receipt requested, or other form of mailing that provides proof thereof, at the address specified in the contract.

(8) ~~(7)~~ It is an unfair and deceptive insurance trade practice pursuant to s. 626.9541 for a public adjuster or any other person to circulate or disseminate any advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the business of insurance which is untrue, deceptive, or misleading.

(a) The following statements, made in any public adjuster's advertisement or solicitation, are considered deceptive or misleading:

1. A statement or representation that invites an insured policyholder to submit a claim when the policyholder does not have covered damage to insured property.

2. A statement or representation that invites an insured policyholder to submit a claim by offering monetary or other valuable inducement.

3. A statement or representation that invites an insured policyholder to submit a claim by stating that there is "no risk" to the policyholder by submitting such claim.

4. A statement or representation, or use of a logo or shield, that implies or could mistakenly be construed to imply that the solicitation was issued or distributed by a

governmental agency or is sanctioned or endorsed by a governmental agency.

(b) For purposes of this paragraph, the term "written advertisement" includes only newspapers, magazines, flyers, and bulk mailers. The following disclaimer, which is not required to be printed on standard size business cards, must be added in bold print and capital letters in typeface no smaller than the typeface of the body of the text to all written advertisements by a public adjuster:

"THIS IS A SOLICITATION FOR BUSINESS. IF YOU HAVE HAD A CLAIM FOR AN INSURED PROPERTY LOSS OR DAMAGE AND YOU ARE SATISFIED WITH THE PAYMENT BY YOUR INSURER, YOU MAY DISREGARD THIS ADVERTISEMENT."

(9) ~~(8)~~ A public adjuster, a public adjuster apprentice, or any person or entity acting on behalf of a public adjuster or public adjuster apprentice may not give or offer to give a monetary loan or advance to a client or prospective client.

(10) ~~(9)~~ A public adjuster, public adjuster apprentice, or any individual or entity acting on behalf of a public adjuster or public adjuster apprentice may not give or offer to give, directly or indirectly, any article of merchandise having a value in excess of $25 to any individual for the purpose of advertising or as an inducement to entering into a contract with a public adjuster.

(11) If the insurer, not later than 14 days after the date

on which the loss is reported to the insurer, either pays or commits in writing to pay to the insured the policy limit of the insurance policy, the public adjuster shall:

(a) Inform the insured that, due to the insurer's payment or commitment to pay the policy limit, the loss recovery amount might not be increased by the insurer.

(b) Not receive a commission consisting of a percentage of the total amount paid by an insurer to resolve the claim.

(c) Be entitled only to reasonable compensation from the insured for the time spent and expenses incurred on the claim by the public adjuster, until the claim is paid or the insured receives a written commitment to pay from the insurer.

(12) If the public adjuster enters into a contract with an insured or claimant after the insured or claimant unsuccessfully negotiates an insurance claim payment and the public adjuster is successful in obtaining a higher insurance claim payment, the public adjuster shall receive a commission consisting of 10 percent of the difference between the initial insurance claim payment offer made to the insured and the final insurance claim payment obtained through the work of the public adjuster after entering into the contract with the insured or claimant.

(13) ~~(10)~~ (a) If a public adjuster enters into a contract with an insured or claimant to reopen a claim or file a supplemental claim that seeks additional payments for a claim that has been previously paid in part or in full or settled by

the insurer, the public adjuster may not charge, agree to, or accept from any source compensation, payment, commission, fee, or any other thing of value based on a previous settlement or previous claim payments by the insurer for the same cause of loss. The charge, compensation, payment, commission, fee, or any other thing of value must be based only on the claim payments or settlements paid to the insured, exclusive of attorney fees and costs, obtained through the work of the public adjuster after entering into the contract with the insured or claimant. Compensation for the reopened or supplemental claim may not exceed 20 percent of the reopened or supplemental claim payment. In no event shall the contracts described in this paragraph exceed the limitations in paragraph (b).

(b) A public adjuster may not charge, agree to, or accept from any source compensation, payment, commission, fee, or any other thing of value in excess of:

1. Ten percent of the amount of insurance claim payments or settlements, exclusive of attorney fees and costs, paid to the insured by the insurer for claims based on events that are the subject of a declaration of a state of emergency by the Governor. This provision applies to claims made during the year after the declaration of emergency. After that year, the limitations in subparagraph 2. apply.

2. Twenty percent of the amount of insurance claim payments or settlements, exclusive of attorney fees and costs,

paid to the insured by the insurer for claims that are not based on events that are the subject of a declaration of a state of emergency by the Governor.

(c) Insurance claim payments made by the insurer do not include policy deductibles, and public adjuster compensation may not be based on the deductible portion of a claim.

(d) Public adjuster compensation may not be based on amounts attributable to additional living expenses, unless such compensation is affirmatively agreed to in a separate agreement that includes a disclosure in substantially the following form: "I agree to retain and compensate the public adjuster for adjusting my additional living expenses and securing payment from my insurer for amounts attributable to additional living expenses payable under the policy issued on my (home/mobile home/condominium unit)."

(e) Public adjuster rate of compensation may not be increased based solely on the fact that the claim is litigated.

(f) Any maneuver, shift, or device through which the limits on compensation set forth in this subsection are exceeded is a violation of this chapter punishable as provided under s. 626.8698.

(14)(a) ~~(11)~~ Each public adjuster must provide to the claimant or insured a written estimate of the loss to assist in the submission of a proof of loss or any other claim for payment of insurance proceeds within 60 days after the date of the

contract. The written estimate must include an itemized, per-unit estimate of the repairs, including itemized information on equipment, materials, labor, and supplies, in accordance with accepted industry standards. The public adjuster shall retain such written estimate for at least 5 years and shall make the estimate available to the claimant or insured, the insurer, and the department upon request.

(b) An insured may cancel the contract with no additional penalties or fees charged by the public adjuster if such an estimate is not provided within 45 days, subject to the cancellation notice requirement in this section.

(15) ~~(12)~~ A public adjuster, public adjuster apprentice, or any person acting on behalf of a public adjuster or apprentice may not accept referrals of business from any person with whom the public adjuster conducts business if there is any form or manner of agreement to compensate the person, directly or indirectly, for referring business to the public adjuster. A public adjuster may not compensate any person, except for another public adjuster, directly or indirectly, for the principal purpose of referring business to the public adjuster.

(16) ~~(13)~~ A company employee adjuster, independent adjuster, attorney, investigator, or other persons acting on behalf of an insurer that needs access to an insured or claimant or to the insured property that is the subject of a claim must provide at least 48 hours' notice to the insured or claimant,

public adjuster, or legal representative before scheduling a meeting with the claimant or an onsite inspection of the insured property. The insured or claimant may deny access to the property if the notice has not been provided. The insured or claimant may waive the 48-hour notice.

(17) ~~(14)~~ The public adjuster must ensure that prompt notice is given of the claim to the insurer, the public adjuster's contract is provided to the insurer, the property is available for inspection of the loss or damage by the insurer, and the insurer is given an opportunity to interview the insured directly about the loss and claim. The insurer must be allowed to obtain necessary information to investigate and respond to the claim.

(a) The insurer may not exclude the public adjuster from its in-person meetings with the insured. The insurer shall meet or communicate with the public adjuster in an effort to reach agreement as to the scope of the covered loss under the insurance policy. The public adjuster shall meet or communicate with the insurer in an effort to reach agreement as to the scope of the covered loss under the insurance policy. This section does not impair the terms and conditions of the insurance policy in effect at the time the claim is filed.

(b) A public adjuster may not restrict or prevent an insurer, company employee adjuster, independent adjuster, attorney, investigator, or other person acting on behalf of the

insurer from having reasonable access at reasonable times to any insured or claimant or to the insured property that is the subject of a claim.

(c) A public adjuster may not act or fail to reasonably act in any manner that obstructs or prevents an insurer or insurer's adjuster from timely conducting an inspection of any part of the insured property for which there is a claim for loss or damage. The public adjuster representing the insureds may be present for the insurer's inspection, but if the unavailability of the public adjuster otherwise delays the insurer's timely inspection of the property, the public adjuster or the insureds must allow the insurer to have access to the property without the participation or presence of the public adjuster or insureds in order to facilitate the insurer's prompt inspection of the loss or damage.

(18) ~~(15)~~ A licensed contractor under part I of chapter 489, or a subcontractor of such licensee, may not advertise, solicit, offer to handle, handle, or perform public adjuster services as provided in subsection (1) unless licensed and compliant as a public adjuster under this chapter. The prohibition against solicitation does not preclude a contractor from suggesting or otherwise recommending to a consumer that the consumer consider contacting his or her insurer to determine if the proposed repair is covered under the consumer's insurance policy, except as it relates to solicitation prohibited in s.

489.147. In addition, the contractor may discuss or explain a bid for construction or repair of covered property with the residential property owner who has suffered loss or damage covered by a property insurance policy, or the insurer of such property, if the contractor is doing so for the usual and customary fees applicable to the work to be performed as stated in the contract between the contractor and the insured.

(19) ~~(16)~~ A public adjuster shall not acquire any interest in salvaged property, except with the written consent and permission of the insured through a signed affidavit.

(20) ~~(17)~~ A public adjuster, a public adjuster apprentice, or a person acting on behalf of an adjuster or apprentice may not enter into a contract or accept a power of attorney that vests in the public adjuster, the public adjuster apprentice, or the person acting on behalf of the adjuster or apprentice the effective authority to choose the persons or entities that will perform repair work in a property insurance claim or provide goods or services that will require the insured or third-party claimant to expend funds in excess of those payable to the public adjuster under the terms of the contract for adjusting services.

(21) ~~(18)~~ Subsections (5)-(20) ~~(5)-(17)~~ apply only to residential property insurance policies and condominium unit owner policies as described in s. 718.111(11).

(22) ~~(19)~~ Except as otherwise provided in this chapter, no

person, except an attorney at law or a licensed public adjuster, may for money, commission, or any other thing of value, directly or indirectly:

(a) Prepare, complete, or file an insurance claim for an insured or a third-party claimant;

(b) Act on behalf of or aid an insured or a third-party claimant in negotiating for or effecting the settlement of a claim for loss or damage covered by an insurance contract;

(c) Offer to initiate or negotiate a claim on behalf of an insured;

(d) Advertise services that require a license as a public adjuster; or

(e) Solicit, investigate, or adjust a claim on behalf of a public adjuster, an insured, or a third-party claimant.

(23) ~~(20)~~ The department may take administrative actions and impose fines against any persons performing claims adjusting, soliciting, or any other services described in this section without the licensure required under this section or s. 626.112.

(24) ~~(21)~~ A public adjuster, public adjuster apprentice, or public adjusting firm that solicits a claim and does not enter into a contract with an insured or a third-party claimant pursuant to paragraph (13)(a) ~~(10)(a)~~ may not charge an insured or a third-party claimant or receive payment by any other source for any type of service related to the insured or third-party

claimant's claim.

(25) ~~(22)~~ (a) Any following act by a public adjuster, a public adjuster apprentice, or a person acting on behalf of a public adjuster or public adjuster apprentice is prohibited and shall result in discipline as applicable under this part:

1. Offering to a residential property owner a rebate, gift, gift card, cash, coupon, waiver of any insurance deductible, or any other thing of value in exchange for:

a. Allowing a contractor, a public adjuster, a public adjuster apprentice, or a person acting on behalf of a public adjuster or public adjuster apprentice to conduct an inspection of the residential property owner's roof; or

b. Making an insurance claim for damage to the residential property owner's roof.

2. Offering, delivering, receiving, or accepting any compensation, inducement, or reward for the referral of any services for which property insurance proceeds would be used for roofing repairs or replacement.

(b) Notwithstanding the fine set forth in s. 626.8698, a public adjuster or public adjuster apprentice may be subject to a fine not to exceed $10,000 per act for a violation of this subsection and a fine not to exceed $20,000 per act for a violation of this subsection that occurs during a state of emergency declared by executive order or proclamation of the Governor pursuant to s. 252.36.

(c) A person who engages in an act prohibited by this subsection and who is not a public adjuster or a public adjuster apprentice, or is not otherwise exempt from licensure, is guilty of the unlicensed practice of public adjusting and may be:

1. Subject to all applicable penalties set forth in this part.

2. Notwithstanding subparagraph 1., subject to a fine not to exceed $10,000 per act for a violation of this subsection and a fine not to exceed $20,000 per act for a violation of this subsection that occurs during a state of emergency declared by executive order or proclamation of the Governor pursuant to s. 252.36.

Section 8. Section 626.860, Florida Statutes, is amended to read:

626.860 Attorneys at law; exemption.—Attorneys at law duly licensed to practice law in the courts of this state, and in good standing with The Florida Bar, shall not be required to be licensed under ~~the provisions of~~ this code to authorize them to adjust or participate in the adjustment of any claim, loss, or damage arising under policies or contracts of insurance. This exemption does not extend to the employees, interns, volunteers, or contractors of an attorney or of a law firm.

Section 9. Section 626.865, Florida Statutes, is amended to read:

626.865 Public adjuster's qualifications;~~,~~ bond; errors

and omissions insurance.—

(1) The department shall issue a license to an applicant for a public adjuster's license upon determining that the applicant has paid the applicable fees specified in s. 624.501 and possesses the following qualifications:

(a) Is a natural person at least 18 years of age.

(b) Is a United States citizen or legal alien who possesses work authorization from the United States Bureau of Citizenship and Immigration Services.

(c) Is trustworthy and has such business reputation as would reasonably assure that the applicant will conduct his or her business as insurance adjuster fairly and in good faith and without detriment to the public.

(d) Has not been found guilty of or has not pleaded guilty or nolo contendere to any crime involving theft or dishonesty, regardless of adjudication, within the last 10 years.

(e) ~~(d)~~ Has had sufficient experience, training, or instruction concerning the adjusting of damages or losses under insurance contracts, other than life and annuity contracts, is sufficiently informed as to the terms and effects of the provisions of those types of insurance contracts, and possesses adequate knowledge of the laws of this state relating to such contracts as to enable and qualify him or her to engage in the business of insurance adjuster fairly and without injury to the public or any member thereof with whom the applicant may have

business as a public adjuster.

(f) ~~(e)~~ Has been licensed and appointed in this state as a nonresident public adjuster on a continual basis for the previous 6 months, or has been licensed as an all-lines adjuster, and has been appointed on a continual basis for the previous 6 months as a public adjuster apprentice under s. 626.8561, as an independent adjuster under s. 626.855, or as a company employee adjuster under s. 626.856.

(2) At the time of application for license as a public adjuster, the applicant shall file with the department a bond executed and issued by a surety insurer authorized to transact such business in this state, in the amount of $50,000, conditioned for the faithful performance of his or her duties as a public adjuster under the license for which the applicant has applied, and thereafter maintain the bond unimpaired throughout the existence of the license.

(a) The bond must be in favor of the department and must specifically authorize recovery by the department of the damages sustained in case the licensee is guilty of fraud or unfair practices in connection with his or her business as public adjuster.

(b) The bond must remain in effect for 1 year after the expiration or termination of the license.

(c) The aggregate liability of the surety for all such damages may not exceed the amount of the bond. The bond may not

be terminated unless at least 30 days' written notice is given to the licensee and filed with the department.

(3) At the time of application for license as a public adjuster, the applicant must file with the department a current certificate of an errors and omissions policy executed by and issued by an admitted insurer authorized to issue errors and omissions policies in this state, which shall be in the minimum amount of $500,000 per occurrence.

(4)~~(3)~~ The department may not issue a license as a public adjuster to any individual who has not passed the examination for a public adjuster's license. Any individual who is applying for reinstatement of a license after completion of a period of suspension and any individual who is applying for a new license after termination, cancellation, revocation, or expiration of a prior license as a public adjuster must pass the examination required for licensure as a public adjuster after approval of the application for reinstatement or for a new license regardless of whether the applicant passed an examination prior to issuance of the license that was suspended, terminated, canceled, revoked, or expired.

Section 10. Section 626.875, Florida Statutes, is amended to read:

626.875 Office and records.—

(1)(a) Each appointed independent adjuster and licensed public adjuster must maintain a place of business in this state

which is accessible to the public and keep therein the usual and customary records pertaining to transactions under the license. This provision does not prohibit maintenance of such an office in the home of the licensee.

(b) A license issued under this chapter must at all times be posted in a conspicuous place in the principal place of business of the license holder. If the licensee is conducting business away from the place of business such that the license cannot be posted, the licensee shall have such license in his or her actual possession at the time of carrying on such business.

(2) The records of the adjuster relating to a particular claim or loss shall be so retained in the adjuster's place of business for a period of not less than 5 years after completion of the adjustment and shall be available for inspection by the department at all times. This provision shall not be deemed to prohibit return or delivery to the insurer or insured of documents furnished to or prepared by the adjuster and required by the insurer or insured to be returned or delivered thereto. At a minimum, the following records must be maintained for a period of not less than 5 years:

(a) Name, address, telephone number, and e-mail address of the insured, and the name of the attorney representing the insured, if applicable.

(b) The date, location, and amount of the loss.

(c) An unaltered copy of the executed disclosure document

required by s. 626.8796.

(d) An unaltered copy of the executed public adjuster contract required by s. 626.8796.

(e) A copy of the estimate of damages provided to the insurer.

(f) The name of the insurer; the name of the claims representative of the insurer; and the amount, expiration date, and number of each policy under which the loss is covered.

(g) An itemized statement of the recoveries by the insured from the sources known to the adjuster.

(h) An itemized statement of all compensation received by the public adjuster from any source, in connection with the loss.

(i) A register of all money received, deposited, disbursed, and withdrawn in connection with a transaction with the insured, including fees, transfers, and disbursements in connection with the loss.

Section 11. Section 626.8751, Florida Statutes, is created to read:

626.8751 Payment of claim.—When a claim is settled while the insured is represented by a public adjuster, the insurer shall issue the payment in check form. A total of two checks shall be issued. The first check shall be made payable to the public adjuster as payee, but not in excess of the amount of the public adjuster's fee, as indicated in the executed public

adjuster contract signed by the insured and submitted to the insurer. The second check must reflect the balance of the proceeds and be payable to the insured as the payee in the form of a separate check.

Section 12. Section 626.8796, Florida Statutes, is amended to read:

626.8796 Public adjuster contracts; disclosure statement; fraud statement.—

(1) All contracts for public adjuster services must be in writing in at least 12-point font, titled "Public Adjuster Contract" and prominently display the following statement on the contract in minimum 18-point bold type before the space reserved for in the contract for the signature of the insured: "Pursuant to s. 817.234, Florida Statutes, any person who, with the intent to injure, defraud, or deceive an insurer or insured, prepares, presents, or causes to be presented a proof of loss or estimate of cost or repair of damaged property in support of a claim under an insurance policy knowing that the proof of loss or estimate of claim or repairs contains false, incomplete, or misleading information concerning any fact or thing material to the claim commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, Florida Statutes."

(2) A public adjuster contract relating to a property and casualty claim must contain the full name, permanent business

address, phone number, e-mail address, and license number of the public adjuster; the full name of the public adjusting firm; and the insured's full name, ~~and~~ street address, phone number, and e-mail address, together with a brief description of the loss. The contract must state the percentage of compensation for the public adjuster's services in minimum 18-point bold type before the space reserved for in the contract for the signature of the insured; the type of claim, including an emergency claim, nonemergency claim, or supplemental claim; the initials of the named insured on each page that does not contain the insured's signature; the signatures of the public adjuster and all named insureds; and the signature date. If all of the named insureds' signatures are not available, the public adjuster must submit an affidavit signed by the available named insureds attesting that they have authority to enter into the contract and settle all claim issues on behalf of the named insureds. An unaltered copy of the executed contract must be remitted to the insured at the time of execution and to the insurer within 3 ~~30~~ days after execution. A public adjusting firm that adjusts claims primarily for commercial entities with operations in more than one state and that does not directly or indirectly perform adjusting services for insurers or individual homeowners is deemed to comply with the requirements of this subsection if, at the time a proof of loss is submitted, the public adjusting firm remits to the insurer an affidavit signed by the public adjuster or

public adjuster apprentice that identifies:

(a) The full name, permanent business address, phone number, e-mail address, and license number of the public adjuster or public adjuster apprentice.

(b) The full name of the public adjusting firm.

(c) The insured's full name, ~~and~~ street address, phone number, and e-mail address together with a brief description of the loss.

(d) An attestation that the compensation for public adjusting services will not exceed the limitations provided by law.

(e) The type of claim, including an emergency claim, nonemergency claim, or supplemental claim.

(3) The public adjuster shall not provide services until both the insured and insurer have been provided with unaltered copies of the executed contract.

(4) The insured may rescind the contract for public adjuster services if the public adjuster has not submitted a written estimate to the insurer within 45 days of executing the contract.

(5) Before the signing of the contract, the public adjuster shall provide the insured with a separate disclosure document to be signed by the insured, on a form adopted by the department, regarding the claim process that accomplishes the following:

(a) Defines the following types of adjusters who may be involved in the claim process: company adjuster, independent adjuster, and public adjuster.

(b) Explains that the public adjuster is not a representative or employee of the insurer.

(c) Explains that the insured is not required to hire a public adjuster, but has a right to do so.

(d) Explains that an insured has a right to initiate direct communications with the insured's attorney, the insurer, the company adjuster, the insurer's attorney, or any person regarding the settlement of the insured's claim.

(e) Explains that the public adjuster's salary, fee, commission, or other consideration to be paid to a public adjuster is the insured's responsibility.

(f) Explains that the public adjuster is required to provide the insured an unaltered copy of the executed contract at the time of execution.

(g) Explains that if the contract was entered based on events that are the subject of a declaration of a state of emergency by the Governor, the insured has a right to rescind the contract within 30 days.

(h) The public adjuster shall provide an unaltered copy of the executed disclosure document to the insured at the time of execution.

(6) A contract that does not comply with this section is

invalid and unenforceable.

(7) The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this section, including rules to adopt forms required by this section.

Section 13. Section 626.8797, Florida Statutes, is amended to read:

626.8797 Proof of loss; fraud statement.—All proof-of-loss statements must prominently display the following statement in minimum 18-point bold type before the space reserved in the contract for the signature of the insured: "Pursuant to s. 817.234, Florida Statutes, any person who, with the intent to injure, defraud, or deceive any insurer or insured, prepares, presents, or causes to be presented a proof of loss or estimate of cost or repair of damaged property in support of a claim under an insurance policy knowing that the proof of loss or estimate of claim or repairs contains any false, incomplete, or misleading information concerning any fact or thing material to the claim commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, Florida Statutes."

Section 14. Paragraph (a) of subsection (1) of section 626.9541, Florida Statutes, is amended to read:

626.9541 Unfair methods of competition and unfair or deceptive acts or practices defined.—

(1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE

ACTS.—The following are defined as unfair methods of competition and unfair or deceptive acts or practices:

(a) Misrepresentations and false advertising of insurance policies.—Knowingly making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, statement, sales presentation, omission, comparison, or property and casualty certificate of insurance altered after being issued, which:

1. Misrepresents the benefits, advantages, conditions, or terms of any insurance policy.

2. Misrepresents the dividends or share of the surplus to be received on any insurance policy.

3. Makes any false or misleading statements as to the dividends or share of surplus previously paid on any insurance policy.

4. Is misleading, or is a misrepresentation, as to the financial condition of any person or as to the legal reserve system upon which any life insurer operates.

5. Uses any name or title of any insurance policy or class of insurance policies misrepresenting the true nature thereof.

6. Is a misrepresentation for the purpose of inducing, or tending to induce, the lapse, forfeiture, exchange, conversion, or surrender of any insurance policy.

7. Is a misrepresentation for the purpose of effecting a pledge or assignment of, or effecting a loan against, any

insurance policy.

8. Misrepresents any insurance policy as being shares of stock or misrepresents ownership interest in the company.

9. Uses any advertisement that would mislead or otherwise cause a reasonable person to believe mistakenly that the state or the Federal Government is responsible for the insurance sales activities of any person or stands behind any person's credit or that any person, the state, or the Federal Government guarantees any returns on insurance products or is a source of payment of any insurance obligation of or sold by any person.

10. Fails to disclose a third party that receives royalties, referral fees, or other remuneration for sponsorship, marketing, or use of third-party branding for a health insurance contract as defined in s. 624.603.

Section 15. Paragraph (c) of subsection (2) of section 627.4025, Florida Statutes, is amended, and paragraph (d) is added to that subsection, to read:

627.4025 Residential coverage and hurricane coverage defined.—

(2) As used in policies providing residential coverage:

(c) "Hurricane" for purposes of paragraphs (a) and (b) means a storm system that has been declared to be a hurricane by the National Hurricane Center of the National Weather Service. The duration of the hurricane includes the time period, in Florida:

1. Beginning at the time a ~~hurricane watch or~~ hurricane warning is issued for any part of Florida by the National Hurricane Center of the National Weather Service; and

~~2. Continuing for the time period during which the hurricane conditions exist anywhere in Florida; and~~

2.~~3.~~ Ending 24 ~~72~~ hours following the termination of the last hurricane watch or hurricane warning issued for any part of Florida by the National Hurricane Center of the National Weather Service.

(d) "Hurricane deductible" means the deductible applicable to loss caused by a hurricane.

Section 16. Paragraph (b) of subsection (1) and paragraph (b) of subsection (2) of section 627.4133, Florida Statutes, are amended to read:

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

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

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

that:

1. When cancellation is for nonpayment of premium, at least 10 days' written notice of cancellation accompanied by the reason therefor shall be given. As used in this subparagraph and s. 440.42(3), the term "nonpayment of premium" means failure of the named insured to discharge when due any of her or his obligations in connection with the payment of premiums on a policy or any installment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit, or failure to maintain membership in an organization if such membership is a condition precedent to insurance coverage. "Nonpayment of premium" also means the failure of a financial institution to honor an insurance applicant's check after delivery to a licensed agent for payment of a premium, even if the agent has previously delivered or transferred the premium to the insurer. If a dishonored check represents the initial premium payment, the contract and all contractual obligations shall be void ab initio unless the nonpayment is cured within the earlier of 5 days after actual notice by certified mail is received by the applicant or 15 days after notice is sent to the applicant by certified mail or registered mail, and if the contract is void, any premium received by the insurer from a third party shall be refunded to that party in full; and

2. When such cancellation or termination occurs during the

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

After the policy has been in effect for 60 ~~90~~ days, no such policy shall be canceled by the insurer except when there has been a material misstatement, a nonpayment of premium, a failure to comply with underwriting requirements established by the insurer within 90 days of the date of effectuation of coverage, or a substantial change in the risk covered by the policy or when the cancellation is for all insureds under such policies for a given class of insureds. This subsection does not apply to individually rated risks having a policy term of less than 90 days.

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

(b) The insurer shall give the first-named insured written

notice of nonrenewal, cancellation, or termination at least 120 days before the effective date of the nonrenewal, cancellation, or termination. The notice must include the reason for the nonrenewal, cancellation, or termination, except that:

1. If cancellation is for nonpayment of premium, at least 10 days' written notice of cancellation accompanied by the reason therefor must be given. As used in this subparagraph, the term "nonpayment of premium" means failure of the named insured to discharge when due her or his obligations for paying the premium on a policy or an installment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under a premium finance plan or extension of credit, or failure to maintain membership in an organization if such membership is a condition precedent to insurance coverage. The term also means the failure of a financial institution to honor an insurance applicant's check after delivery to a licensed agent for payment of a premium even if the agent has previously delivered or transferred the premium to the insurer. If a dishonored check represents the initial premium payment, the contract and all contractual obligations are void ab initio unless the nonpayment is cured within the earlier of 5 days after actual notice by certified mail is received by the applicant or 15 days after notice is sent to the applicant by certified mail or registered mail. If the contract is void, any premium received by the insurer from a third party must be

refunded to that party in full.

2. If cancellation or termination occurs during the first 90 days the insurance is in force and the insurance is canceled or terminated for reasons other than nonpayment of premium, at least 20 days' written notice of cancellation or termination accompanied by the reason therefor must be given unless there has been a material misstatement or misrepresentation or a failure to comply with the underwriting requirements established by the insurer.

3. After the policy has been in effect for 60 ~~90~~ days, the policy may not be canceled by the insurer unless there has been a material misstatement; a nonpayment of premium; a failure to comply, within 90 days after the date of effectuation of coverage, with underwriting requirements established by the insurer before the date of effectuation of coverage; or a substantial change in the risk covered by the policy or unless the cancellation is for all insureds under such policies for a given class of insureds. This subparagraph does not apply to individually rated risks that have a policy term of less than 90 days.

4. After a policy or contract has been in effect for more than 90 days, the insurer may not cancel or terminate the policy or contract based on credit information available in public records.

5. A policy that is nonrenewed by Citizens Property

Insurance Corporation, pursuant to s. 627.351(6), for a policy that has been assumed by an authorized insurer offering replacement coverage to the policyholder is exempt from the notice requirements of paragraph (a) and this paragraph. In such cases, the corporation must give the named insured written notice of nonrenewal at least 45 days before the effective date of the nonrenewal.

6. Notwithstanding any other provision of law, an insurer may cancel or nonrenew a property insurance policy after at least 45 days' notice if the office finds that the early cancellation of some or all of the insurer's policies is necessary to protect the best interests of the public or policyholders and the office approves the insurer's plan for early cancellation or nonrenewal of some or all of its policies. The office may base such finding upon the financial condition of the insurer, lack of adequate reinsurance coverage for hurricane risk, or other relevant factors. The office may condition its finding on the consent of the insurer to be placed under administrative supervision pursuant to s. 624.81 or to the appointment of a receiver under chapter 631.

7. A policy covering both a home and a motor vehicle may be nonrenewed for any reason applicable to the property or motor vehicle insurance after providing 90 days' notice.

Section 17. Section 627.4554, Florida Statutes, is amended to read:

627.4554 Annuity investments.—

(1) PURPOSE.—The purpose of this section is to require agents to act in the best interest of the consumer when making a recommendation of an annuity and to require insurers to establish and maintain a system to supervise so ~~set forth standards and procedures for making recommendations to consumers which result in transactions involving annuity products, and to establish a system for supervising such recommendations in order to ensure~~ that the insurance needs and financial objectives of consumers are effectively ~~appropriately~~ addressed at the time of the transaction.

(2) SCOPE.—This section applies to any sale or recommendation of ~~made to a consumer to purchase, exchange, or replace~~ an annuity ~~by an insurer or its agent, and which results in the purchase, exchange, or replacement recommended~~.

(3) DEFINITIONS.—As used in this section, the term:

(a) "Agent" means a person or entity required to be licensed under the laws of this state to sell, solicit, or negotiate insurance, including annuities. For purposes of this section, the term includes an insurer where no agent is involved ~~has the same meaning as provided in s. 626.015~~.

(b) "Annuity" means an insurance product under state law which is individually solicited, whether classified as an individual or group annuity.

(c) "Cash compensation" means any discount, concession,

fee, service fee, commission, sales charge, loan, override, or cash benefit received by an agent in connection with the recommendation or sale of an annuity from an insurer, intermediary, or directly from the consumer.

(d) "Consumer profile information" means information that is reasonably appropriate to determine whether a recommendation addresses the consumer's financial situation, insurance needs and financial objectives, including, at a minimum, the following:

1. Age.

2. Annual income.

3. Financial situation and needs, including debts and other obligations.

4. Financial experience.

5. Insurance needs.

6. Financial objectives.

7. Intended use of the annuity.

8. Financial time horizon.

9. Existing assets or financial products, including investment, annuity, and insurance holdings.

10. Liquidity needs.

11. Liquid net worth.

12. Risk tolerance, including, but not limited to, willingness to accept nonguaranteed elements in the annuity.

13. Financial resources used to fund the annuity.

14. Tax status.

(e) ~~(c)~~ "FINRA" means the Financial Industry Regulatory Authority or a succeeding agency.

(f) ~~(d)~~ "Insurer" has the same meaning as provided in s. 624.03.

(g) "Intermediary" means an entity contracted directly with an insurer or with another entity contracted with an insurer to facilitate the sale of the insurer's annuities by agents.

(h) "Material conflict of interest" means a financial interest of the agent in the sale of an annuity that a reasonable person would expect to influence the impartiality of a recommendation. The term does not include cash compensation or noncash compensation.

(i) "Noncash compensation" means any form of compensation that is not cash compensation, including, but not limited to, health insurance, office rent, office support, and retirement benefits.

(j) "Nonguaranteed elements" means the premiums, credited interest rates, including any bonus; benefits; values; dividends; noninterest based credits; charges; or elements of formulas used to determine any of these, that are subject to company discretion and are not guaranteed at issue. An element is considered nonguaranteed if any of the underlying nonguaranteed elements are used in its calculation.

(k) ~~(c)~~ "Recommendation" means advice provided by an ~~insurer or its~~ agent to an individual ~~a~~ consumer that was intended to result or does result ~~which would result~~ in a ~~the~~ purchase, an exchange, or a replacement of an annuity in accordance with that advice. The term does not include general communication to the public, generalized customer services, assistance or administrative support, general educational information and tools, prospectuses, or other product and sales material.

(l) ~~(f)~~ "Replacement" means a transaction in which a new annuity ~~policy or contract~~ is to be purchased and it is known or should be known to the proposing ~~insurer or its~~ agent, or to the proposing insurer whether or not an agent is involved, that by reason of such transaction an existing annuity or other insurance policy has been or is to be any of the following ~~or contract will be~~:

1. Lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer, or otherwise terminated;

2. Converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value due to the use of nonforfeiture benefits or other policy values;

3. Amended so as to effect a reduction in benefits or the term for which coverage would otherwise remain in force or for which benefits would be paid;

4. Reissued with a reduction in cash value; or

5. Used in a financed purchase.

(m) "SEC" means the United States Securities and Exchange Commission.

~~(g) "Suitability information" means information related to the consumer which is reasonably appropriate to determine the suitability of a recommendation made to the consumer, including the following:~~

~~1. Age;~~

~~2. Annual income;~~

~~3. Financial situation and needs, including the financial resources used for funding the annuity;~~

~~4. Financial experience;~~

~~5. Financial objectives;~~

~~6. Intended use of the annuity;~~

~~7. Financial time horizon;~~

~~8. Existing assets, including investment and life insurance holdings;~~

~~9. Liquidity needs;~~

~~10. Liquid net worth;~~

~~11. Risk tolerance; and~~

~~12. Tax status.~~

(4) EXEMPTIONS.—Unless otherwise specifically included, this section does not apply to transactions involving:

(a) Direct-response solicitations where there is no

recommendation based on information collected from the consumer pursuant to this section;

(b) Contracts used to fund:

1. An employee pension or welfare benefit plan that is covered by the federal Employee Retirement and Income Security Act;

2. A plan described by s. 401(a), s. 401(k), s. 403(b), s. 408(k), or s. 408(p) of the Internal Revenue Code, if established or maintained by an employer;

3. A government or church plan defined in s. 414 of the Internal Revenue Code, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax-exempt organization under s. 457 of the Internal Revenue Code; or

4. A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

(c) ~~5.~~ Settlements or assumptions of liabilities associated with personal injury litigation or a dispute or claim-resolution process; or

(d) ~~6.~~ Formal prepaid funeral contracts.

(5) DUTIES OF INSURERS AND AGENTS.—

(a) An agent, when making a recommendation of an annuity, shall act in the best interest of the consumer under the circumstances known at the time the recommendation is made, without placing the financial interest of the agent or insurer

ahead of the consumer's interest. An agent has acted in the best interest of the consumer if the agent has satisfied the following obligations regarding care, disclosure, conflict of interest, and documentation:

1. a. The agent, in making a recommendation, shall exercise reasonable diligence, care, and skill to:

(I) Know the financial situation, insurance needs, and financial objectives of the customer.

(II) Understand the available options after making a reasonable inquiry into options available to the agent.

(III) Have a reasonable basis to believe the recommended option effectively addresses the consumer's financial situation, insurance needs, and financial objectives over the life of the product, as evaluated in light of the consumer profile information.

(IV) Communicate the reason or reasons for the recommendation.

b. The requirements of subparagraph a. include:

(I) Making reasonable efforts to obtain consumer profile information from the consumer before the recommendation of an annuity.

(II) Requiring an agent to consider the types of products the agent is authorized and licensed to recommend or sell that address the consumer's financial situation, insurance needs and financial objectives. This does not require analysis or

consideration of any products outside the authority and license of the agent or other possible alternative products or strategies available in the market at the time of the recommendation. Agents shall be held to standards applicable to agents with similar authority and licensure.

(III) Having a reasonable basis to believe the consumer would benefit from certain features of the annuity, such as annuitization, death or living benefit or other insurance-related features.

c. The requirements of this subsection do not create a fiduciary obligation or relationship and only create a regulatory obligation as provided in this section.

d. The consumer profile information, characteristics of the insurer and product costs, rates, benefits and features are those factors generally relevant in making a determination whether an annuity effectively addresses the consumer's financial situation, insurance needs, and financial objectives but the level of importance of each factor under the care obligation of this paragraph may vary depending on the facts and circumstances of a particular case. However, each factor may not be considered in isolation.

e. The requirements under subparagraph a. apply to the particular annuity as a whole and the underlying subaccounts to which funds are allocated at the time of purchase or exchange of an annuity, and riders and similar product enhancements, if any.

f. Subparagraph a. does not require that the annuity with the lowest one-time occurrence compensation structure or multiple occurrence compensation structure shall necessarily be recommended.

g. Subparagraph a. does require the agent to have ongoing monitoring obligations under the care obligation, although such an obligation may be separately owed under the terms of a fiduciary, consulting, investment, advising, or financial planning agreement between the consumer and the agent.

h. In the case of an exchange or replacement of an annuity, the agent shall consider the whole transaction, which includes taking into consideration whether:

(I) The consumer will incur a surrender charge; be subject to the commencement of a new surrender period; lose existing benefits, such as death, living or other contractual benefits; or be subject to increased fees, investment advisory fees, or charges for riders and similar product enhancements.

(II) The replacing product would substantially benefit the consumer in comparison to the replaced product over the life of the product.

(III) The consumer has had another annuity exchange or replacement and, in particular, an exchange or replacement within the preceding 60 months.

i. This section does not require an agent to obtain any license other than an agent license with the appropriate line of

authority to sell, solicit, or negotiate insurance in this state, including, but not limited to, any securities license, in order to fulfill the duties and obligations contained in this section; provided the agent does not give advice or provide services that are otherwise subject to securities laws or engage in any other activity requiring other professional licenses.

2. Disclosure obligation.

a. Before the recommendation or sale of an annuity, the agent shall prominently disclose to the consumer on a form substantially similar to that posted on the office website as Appendix A:

(I) A description of the scope and terms of the relationship with the consumer and the role of the agent in the transaction.

(II) An affirmative statement on whether the agent is licensed and authorized to sell the following products:

(A) Fixed annuities.

(B) Fixed indexed annuities.

(C) Variable annuities.

(D) Life insurance.

(E) Mutual funds.

(F) Stocks and bonds.

(G) Certificates of deposit.

(III) An affirmative statement describing the insurers for which the agent is authorized, contracted or appointed, or

otherwise able to sell insurance products, using the following descriptions:

(A) From one insurer;

(B) From two or more insurers; or

(C) From two or more insurers, although primarily contracted with one insurer.

(IV) A description of the sources and types of cash compensation and noncash compensation to be received by the agent, including whether the agent is to be compensated for the sale of a recommended annuity by commission as part of premium or other remuneration received from the insurer, intermediary or other agent, or by fee as a result of a contract for advice or consulting services; and

(V) A notice of the consumer's right to request additional information regarding cash compensation described in subparagraph b.

b. Upon request of the consumer or the consumer's designated representative, the agent shall disclose:

(I) A reasonable estimate of the amount of cash compensation to be received by the agent, which may be stated as a range of amounts or percentages.

(II) Whether the cash compensation is a one-time or multiple occurrence amount, and if a multiple occurrence amount, the frequency and amount of the occurrence, which may be stated as a range of amounts or percentages; and ~~When recommending the~~

~~purchase or exchange of an annuity to a consumer which results in an insurance transaction or series of insurance transactions, the agent, or the insurer where no agent is involved, must have reasonable grounds for believing that the recommendation is suitable for the consumer, based on the consumer's suitability information, and that there is a reasonable basis to believe all of the following:~~

c.1. Before or at the time of the recommendation or sale of an annuity, the agent shall have a reasonable basis to believe the consumer has been ~~reasonably~~ informed of various features of the annuity, such as the potential surrender period and surrender charge; potential tax penalty if the consumer sells, exchanges, surrenders, or annuitizes the annuity; mortality and expense fees; any annual fees; investment advisory fees; potential charges for and features of riders or other options of the annuity; limitations on interest returns; potential changes in nonguaranteed elements of the annuity; insurance and investment components; and market risk.

2. The consumer would benefit from certain features of the annuity, such as tax-deferred growth, annuitization, or the death or living benefit.

3. An agent shall identify and avoid or reasonably manage and disclose material conflicts of interest, including material conflicts of interest related to an ownership interest.

4. An agent shall at the time of the recommendation or

sale:

a. Make a written record of any recommendation and the basis for the recommendation, subject to this section.

b. Obtain a consumer signed statement on a form substantially similar to that posted on the office website as Appendix B, documenting:

(I) A customer's refusal to provide the consumer profile information, if any.

(II) A customer's understanding of the ramifications of not providing his or her consumer profile information or providing insufficient consumer profile information.

c. Obtain a consumer signed statement on a form substantially similar to that posted on the office website as Appendix C, acknowledging the annuity transaction is not recommended if a customer decides to enter into an annuity transaction that is not based on the agent's recommendation.

5. Application of the best interest obligation. Any requirement applicable to an agent under this subsection shall apply to every agent who has exercised material control or influence in the making of a recommendation and has received direct compensation as a result of the recommendation or sale, regardless of whether the agent has had any direct contact with the consumer. Activities such as providing or delivering marketing or education materials, product wholesaling or other back office product support, and general supervision of an agent

do not, in and of themselves, constitute material control or influence.

~~3. The particular annuity as a whole, the underlying subaccounts to which funds are allocated at the time of purchase or exchange of the annuity, and riders and similar product enhancements, if any, are suitable; and, in the case of an exchange or replacement, the transaction as a whole is suitable for the particular consumer based on his or her suitability information.~~

~~4. In the case of an exchange or replacement of an annuity, the exchange or replacement is suitable after considering whether the consumer:~~

~~a. Will incur a surrender charge; be subject to the commencement of a new surrender period; lose existing benefits, such as death, living, or other contractual benefits; or be subject to increased fees, investment advisory fees, or charges for riders and similar product enhancements;~~

~~b. Would benefit from product enhancements and improvements; and~~

~~c. Has had another annuity exchange or replacement, including an exchange or replacement within the preceding 36 months.~~

~~(b) Before executing a purchase, exchange, or replacement of an annuity resulting from a recommendation, an insurer or its agent must make reasonable efforts to obtain the consumer's~~

~~suitability information. The information shall be collected on form DFS-H1-1980, which is hereby incorporated by reference, and completed and signed by the applicant and agent. Questions requesting this information must be presented in at least 12-point type and be sufficiently clear so as to be readily understandable by both the agent and the consumer. A true and correct executed copy of the form must be provided by the agent to the insurer, or to the person or entity that has contracted with the insurer to perform this function as authorized by this section, within 10 days after execution of the form, and shall be provided to the consumer no later than the date of delivery of the contract or contracts.~~

~~(c) Except as provided under paragraph (d), an insurer may not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity is suitable based on the consumer's suitability information.~~

(b) ~~(d)~~ 1. Except as provided under subparagraph 2, ~~An insurer's issuance of an annuity must be reasonable based on all the circumstances actually known to the insurer at the time the annuity is issued. However,~~ an ~~insurer or its~~ agent shall not have ~~does not have~~ an obligation to a consumer related to an annuity transaction under paragraph (a)1. ~~(a) or paragraph (c)~~ if:

a. ~~1.~~ A recommendation has not been made;

b. ~~2.~~ A recommendation was made and is later found to have

been based on materially inaccurate information provided by the consumer;

c.~~3.~~ A consumer refuses to provide relevant suitability information and the annuity transaction is not recommended; or

d.~~4.~~ A consumer decides to enter into an annuity transaction that is not based on a recommendation of an insurer or its agent.

2. An insurer's issuance of an annuity subject to subparagraph 1. shall be reasonable under all the circumstances actually known to the insurer at the time the annuity is issued.

(c)1. Except as permitted under paragraph (b), an insurer may not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity would effectively address the particular consumer's financial situation, insurance needs, and financial objectives based on the consumer's consumer profile information.

~~(c) At the time of sale, the agent or the agent's representative must:~~

~~1. Make a record of any recommendation made to the consumer pursuant to paragraph (a);~~

~~2. Obtain the consumer's signed statement documenting his or her refusal to provide suitability information, if applicable; and~~

~~3. Obtain the consumer's signed statement acknowledging that an annuity transaction is not recommended if he or she~~

~~decides to enter into an annuity transaction that is not based on the insurer's or its agent's recommendation, if applicable.~~

~~(f) Before executing a replacement or exchange of an annuity contract resulting from a recommendation, the agent must provide on form DFS-H1-1981, which is hereby incorporated by reference, information that compares the differences between the existing annuity contract and the annuity contract being recommended in order to determine the suitability of the recommendation and its benefit to the consumer. A true and correct executed copy of this form must be provided by the agent to the insurer, or to the person or entity that has contracted with the insurer to perform this function as authorized by this section, within 10 days after execution of the form, and must be provided to the consumer no later than the date of delivery of the contract or contracts.~~

2.~~(g)~~ An insurer shall establish and maintain a supervision system that is reasonably designed to achieve the insurer's and its agent's compliance with this section including, but not limited to, the following:~~.~~

~~1. Such system must include, but is not limited to:~~

a. The insurer shall establish and maintain ~~Maintaining~~ reasonable procedures to inform its agents of the requirements of this section and incorporating those requirements into relevant agent training manuals.~~;~~

b. The insurer shall establish and maintain ~~Establishing~~

standards for agent product training and shall establish and maintain reasonable procedures to require its agents to comply with the requirements of subsection (6).~~;~~

c. The insurer shall provide ~~Providing~~ product-specific training and training materials that explain all material features of its annuity products to its agents.~~;~~

d. The insurer shall establish and maintain ~~Maintaining~~ procedures for the review of each recommendation before issuance of an annuity which are designed to ensure that there is a reasonable basis to determine the recommended annuity would effectively address the particular consumer's financial situation, insurance needs, and financial objectives ~~for determining that a recommendation is suitable~~. Such review procedures may use a screening system for identifying selected transactions for additional review and may be accomplished electronically or through other means, including, but not limited to, physical review. Such electronic or other system may be designed to require additional review only of those transactions identified for additional review using established selection criteria.~~;~~

e. The insurer shall establish and maintain ~~Maintaining~~ reasonable procedures to detect recommendations that are not in compliance with paragraphs (a), (b), (d), and (e). This may include, but is not limited to ~~suitable~~, such as confirmation of consumer suitability information, systematic customer surveys,

agent and consumer interviews, confirmation letters, agent statements or attestations, and internal monitoring programs. This sub-subparagraph does not prevent an insurer from using sampling procedures or from confirming the consumer profile ~~suitability~~ information after the issuance or delivery of the annuity.~~; and~~

f. The insurer shall establish and maintain reasonable procedures to assess, prior to, or upon issuance or delivery of, an annuity, whether an agent has provided to the consumer the information required to be provided under this subsection.

g. The insurer shall establish and maintain reasonable procedures to identify and address suspicious consumer refusals to provide consumer profile information.

h. The insurer shall establish and maintain reasonable procedures to identify and eliminate any sales contests, sales quotas, bonuses, and noncash compensation that are based on the sales of specific annuities within a limited period of time. The requirements of this subparagraph are not intended to prohibit the receipt of health insurance, office rents, office support, retirement benefits, or other employee benefits by employees as long as those benefits are not based upon the volume of sales of a specific annuity within a limited period of time.

i.~~f.~~ The insurer shall annually provide ~~providing~~ a written report to senior managers, including the senior manager who is responsible for audit functions, which details a review,

along with appropriate testing, which is reasonably designed to determine the effectiveness of the supervision system, the exceptions found, and corrective action taken or recommended, if any.

3.~~2.~~ An insurer is not required to include in its supervision system:

a. Agent recommendations to consumers of products other than the annuities offered by the insurer;

b. Consideration of or comparison to options available to the agent or compensation relating to those options other than annuities or other products offered by the insurer.

4.~~3.~~ An insurer may contract for performance of a function, including maintenance of procedures, required under subparagraph 1.

a. An insurer's supervision system under this subsection shall include supervision of contractual performance under this subsection ~~If an insurer contracts for the performance of a function, the insurer must include the supervision of contractual performance as part of those procedures listed in subparagraph 1~~. These include, but are not limited to:

(I) Monitoring and, as appropriate, conducting audits to ensure that the contracted function is properly performed; and

(II) Annually obtaining a certification from a senior manager who has responsibility for the contracted function that the manager has a reasonable basis to represent, and does not

represent ~~for representing~~ that the function is being properly performed.

b. An insurer is responsible for taking appropriate corrective action and may be subject to sanctions and penalties pursuant to subsection (8) ~~(7)~~ regardless of whether the insurer contracts for performance of a function and regardless of the insurer's compliance with sub-subparagraph a.

(d) ~~(h)~~ Neither an agent nor an insurer shall ~~may not~~ dissuade, or attempt to dissuade, a consumer from:

1. Truthfully responding to an insurer's request for confirmation of consumer profile ~~suitability~~ information;

2. Filing a complaint; or

3. Cooperating with the investigation of a complaint.

(e)1. ~~(i)~~ Recommendations and sales made in compliance with comparable standards shall ~~FINRA requirements pertaining to the suitability and supervision of annuity transactions~~ satisfy the requirements of this section. This applies to all recommendations and ~~FINRA broker-dealer~~ sales of ~~variable~~ annuities made by financial professionals in compliance with business rules, controls, and procedures that satisfy a comparable standard even if such standard would not otherwise apply to the product or recommendation at issue ~~and fixed annuities if the suitability and supervision is similar to those applied to variable annuity sales.~~ However, this paragraph does not limit the ability of the office or the department to

investigate and enforce~~, including investigate, the provisions of~~ this section.

2. Subparagraph 1. shall not limit the insurer's obligation to comply with subsection (5)(c)1., although the insurer may base its analysis on information received from either the financial professional or the entity supervising the financial professional.

3. For this paragraph to apply, an insurer shall ~~must~~:

a.~~1.~~ Monitor relevant conduct of the financial professional seeking to rely on subparagraph 1. or the entity responsible for supervising the financial professional, such as the financial professional's broker-dealer or an investment adviser registered under federal or state securities law, ~~the FINRA member broker-dealer~~ using information collected in the normal course of an insurer's business; and

b.~~2.~~ Provide to the entity responsible for supervising the financial professional seeking to rely on subparagraph 1., such as the financial professional's broker dealer or investment adviser registered under federal or state securities laws, ~~FINRA member broker-dealer~~ information and reports that are reasonably appropriate to assist such entity ~~the FINRA member broker-dealer~~ in maintaining its supervision system.

4. For purposes of this paragraph, the term:

a. "Comparable standards" means:

(I) With respect to broker-dealers and registered

representatives of broker-dealers, applicable SEC and FINRA rules pertaining to best interest obligations and supervision of annuity recommendations and sales including, but not limited to, Regulation Best Interest, 17 C.F.R. s. 240.15l-1, and any amendments or successor regulations thereto;

(II) With respect to investment advisers registered under federal or state securities laws or investment adviser representatives, the fiduciary duties and all other requirements imposed on such investment advisers or investment adviser representatives by contract or under the Investment Advisers Act of 1940 or applicable state securities laws, including, but not limited to, Form ADV and interpretations; and

(III) With respect to plan fiduciaries or fiduciaries, the duties, obligations, prohibitions and all other requirements attendant to such status under ERISA, or the IRC and any amendments or successor statutes thereto.

b. "Financial professional" means an agent that is regulated and acting as:

(I) A broker dealer registered under federal or state securities laws or a registered representative of a broker-dealer;

(II) An investment adviser registered under federal or state securities laws or an investment adviser representative associated with the federal or state registered investment adviser; or

(III) A plan fiduciary under Section 3(21) of the Employee Retirement Income Security Act of 1974 (ERISA) or fiduciary under Section 4975(e)(3) of the Internal Revenue Code (IRC) or any amendments or successor statutes thereto.

(6) AGENT TRAINING.—

(a) An agent shall not solicit the sale of an annuity product unless the agent has adequate knowledge of the product to recommend the annuity and the agent is in compliance with the insurer's standards for product training. An agent may rely on insurer-provided product-specific training standards and materials to comply with this subsection.

(b)1.a. An agent who engages in the sale of annuity products shall complete a one-time 4 hour training course. This requirement is not part of an agent's continuing education requirement in s. 626.2815; however, if a course provider submits and receives approval from the Department of Financial Services, then the course could also be eligible for continuing education credit pursuant to s. 626.2815.

b. Agents who hold a life insurance line of authority on the effective date of this act and who desire to sell annuities shall complete the requirements of this subsection within 6 months after the effective date of this act. Individuals who obtain a life insurance line of authority after the effective date of this act may not engage in the sale of annuities until the annuity training course required under this subsection has

been completed.

2. The minimum length of the training required under this subsection is 4 hours.

3. The training required under this subsection shall include information on the following topics:

a. The types of annuities and various classifications of annuities.

b. Identification of the parties to an annuity.

c. How product-specific annuity contract features affect consumers.

d. The application of income taxation of qualified and nonqualified annuities.

e. The primary uses of annuities.

f. Appropriate standard of conduct, sales practices, replacement, and disclosure requirements.

4. Providers of courses intended to comply with this subsection shall cover all topics listed in the prescribed outline and shall not present any marketing information or provide training on sales techniques or provide specific information about a particular insurer's products. Additional topics may be offered in conjunction with and in addition to the required outline.

5. A provider of an annuity training course intended to comply with this subsection shall register as a continuing education provider in this state and comply with the rules and

guidelines applicable to agent continuing education courses as set forth in s. 626.2815.

6. An agent who has completed an annuity training course approved by the Office of Insurance Regulation prior to the effective date of this act shall, within 6 months after the effective date of this act, complete either:

a. A new four credit training course approved by Office of Insurance Regulation after the effective date of this act; or

b. An additional one-time one credit training course approved by Office of Insurance Regulation and provided by the Office of Insurance Regulation-approved education provider on appropriate sales practices, replacement and disclosure requirements under this section.

7. Annuity training courses may be conducted and completed by classroom or self-study methods in accordance with s. 626.2815.

8. Providers of annuity training shall comply with the reporting requirements and shall issue certificates of completion in accordance with s. 626.2815.

9. The satisfaction of the training requirements of another state that are substantially similar to the provisions of this subsection shall be deemed to satisfy the training requirements of this subsection in this state.

10. The satisfaction of the training requirements of any course or courses with components substantially similar to the

provisions of this subsection shall be deemed to satisfy the training requirements of this subsection in this state.

11. An insurer shall verify that an agent has completed the annuity training course required under this subsection before allowing the agent to sell an annuity product for that insurer. An insurer may satisfy its responsibility under this subsection by obtaining certificates of completion of the training course or obtaining reports provided by commissioner-sponsored database systems or vendors or from a reasonably reliable commercial database vender that has a reporting arrangement with approved insurance education providers.

(7)~~(6)~~ RECORDKEEPING.—

(a) Insurers and agents must maintain or be able to make available to the office or department records of the information collected from the consumer and other information used in making the recommendations that were the basis for insurance transactions for 5 years after the insurance transaction is completed by the insurer. An insurer may maintain the documentation on behalf of its agent.

(b) Records required to be maintained under this subsection may be maintained in paper, photographic, microprocess, magnetic, mechanical, or electronic media, or by any process that accurately reproduces the actual document.

(8)~~(7)~~ COMPLIANCE MITIGATION; PENALTIES.—

(a) An insurer is responsible for compliance with this

section. If a violation occurs because of the action or inaction of the insurer or its agent which results in harm to a consumer, the office may order the insurer to take reasonably appropriate corrective action for the consumer and may impose appropriate penalties and sanctions.

(b) The department may order:

1. An ~~insurance~~ agent to take reasonably appropriate corrective action for a consumer harmed by a violation of this section by the ~~insurance~~ agent, including monetary restitution of penalties or fees incurred by the consumer, and impose appropriate penalties and sanctions.

2. A managing general agency or insurance agency that employs or contracts with an ~~insurance~~ agent to sell or solicit the sale of annuities to consumers to take reasonably appropriate corrective action for a consumer harmed by a violation of this section by the ~~insurance~~ agent.

(c) In addition to any other penalty authorized under chapter 626, the department shall order an insurance agent to pay restitution to a consumer who has been deprived of money by the agent's misappropriation, conversion, or unlawful withholding of moneys belonging to the consumer in the course of a transaction involving annuities. The amount of restitution required to be paid may not exceed the amount misappropriated, converted, or unlawfully withheld. This paragraph does not limit or restrict a person's right to seek other remedies as provided

by law.

(d) Any applicable penalty under the Florida Insurance Code for a violation of this section shall be reduced or eliminated according to a schedule adopted by the office or the department, as appropriate, if corrective action for the consumer was taken promptly after a violation was discovered.

(e) A violation of this section does not create or imply a private cause of action.

(9)~~(8)~~ PROHIBITED CHARGES.—An annuity contract issued to a senior consumer age 65 or older may not contain a surrender or deferred sales charge for a withdrawal of money from an annuity exceeding 10 percent of the amount withdrawn. The charge shall be reduced so that no surrender or deferred sales charge exists after the end of the 10th policy year or 10 years after the date of each premium payment if multiple premiums are paid, whichever is later. This subsection does not apply to annuities purchased by an accredited investor, as defined in Regulation D as adopted by the United States Securities and Exchange Commission, or to those annuities specified in paragraph (4)(b).

(10)~~(9)~~ RULES.—The department and the commission may adopt rules to administer this section.

Section 18. Paragraph (b) of subsection (8) of section 634.041, Florida Statutes, is amended to read:

634.041 Qualifications for license.—To qualify for and hold a license to issue service agreements in this state, a

service agreement company must be in compliance with this part, with applicable rules of the commission, with related sections of the Florida Insurance Code, and with its charter powers and must comply with the following:

(8)

(b) A service agreement company does not have to establish and maintain an unearned premium reserve if it secures and maintains contractual liability insurance in accordance with the following:

1. Coverage of 100 percent of the claim exposure is obtained from an insurer approved by the office, which holds a certificate of authority under s. 624.401 to do business within this state, or secured through a risk retention group, which is authorized to do business within this state under s. 627.943 or s. 627.944. Such insurer or risk retention group must maintain a surplus as regards policyholders of at least $15 million.

2. If the service agreement company does not meet its contractual obligations, the contractual liability insurance policy binds its issuer to pay or cause to be paid to the service agreement holder all legitimate claims and cancellation refunds for all service agreements issued by the service agreement company while the policy was in effect. This requirement also applies to those service agreements for which no premium has been remitted to the insurer.

3. If the issuer of the contractual liability policy is

fulfilling the service agreements covered by the contractual liability policy and the service agreement holder cancels the service agreement, the issuer must make a full refund of unearned premium to the consumer, subject to the cancellation fee provisions of s. 634.121(3). The sales representative and agent must refund to the contractual liability policy issuer their unearned pro rata commission.

4. The policy may not be canceled, terminated, or nonrenewed by the insurer or the service agreement company unless a 90-day written notice thereof has been given to the office by the insurer before the date of the cancellation, termination, or nonrenewal.

5. The service agreement company must provide the office with the claims statistics.

6. A policy issued in compliance with this subparagraph may either pay 100 percent of claims as they are incurred, or 100 percent of claims due in the event of the failure of the service agreement company to pay such claims when due.

All funds or premiums remitted to an insurer by a motor vehicle service agreement company under this part shall remain in the care, custody, and control of the insurer and shall be counted as an asset of the insurer; provided, however, this requirement does not apply when the insurer and the motor vehicle service agreement company are affiliated companies and members of an

insurance holding company system. If the motor vehicle service agreement company chooses to comply with this paragraph but also maintains a reserve to pay claims, such reserve shall only be considered an asset of the covered motor vehicle service agreement company and may not be simultaneously counted as an asset of any other entity.

Section 19. The Division of Law Revision is directed to replace the phrase "the effective date of this act" wherever it occurs in this act with the date this act becomes a law.

Section 20. This act shall take effect upon becoming a law.

COMMERCE COMMITTEE

HB 1185 by Rep. Giallombardo
Consumer Protection

AMENDMENT SUMMARY
March 21, 2023

Amendment 1 by Giallombardo (Strike-all): The strike-all amendment makes the following modifications and clarifications to the bill as filed:

- Prohibits certain acts by check-cashing businesses.
- Changes the timeframes for cancellation public adjuster contracts consumers entered into based on events that were the subject of a declared state of emergency.
- Changes the commission that a public adjuster can collect for services rendered when an insurer agrees to pay policy limits to an insured to a flat fee of $1,000, rather than reasonable compensation, because reasonable is an undefined term.
- Increases the proposed number of days that a public adjuster has to provide an estimate to an insured and an insurer from 45 days to 60 days to conform with other statutory provisions regarding public adjusters.
- Removes a proposed prohibition on the issuance of a public adjuster license to someone who has pleaded guilty or nolo contendere to a crime involving theft or dishonesty within the ten years preceding application. Current prohibitions are retained.
- Deletes the proposed requirement that an applicant for a public adjuster's license provide proof of an errors and omissions policy in the amount of $500,000 at the time of application.
- Removes the proposed requirement that an insurer issue separate checks to an insured and a public adjuster when a public adjuster is involved in the resolution of a claim.
- Increases the proposed number of days that a public adjuster has to provide an executed contract to an insurer from three days to ten days.
- Changes solvency requirements for motor vehicle manufacturers who sell service warranties.
- Establishes that the annuity-related portions of the bill are effective January 1, 2024.
- Changes the bill from being effective upon becoming law to being effective July 1, 2023, except as otherwise provided.
- Makes other clarifying changes and technical changes to conform with bill drafting conventions.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	____	(Y/N)
ADOPTED AS AMENDED	____	(Y/N)
ADOPTED W/O OBJECTION	____	(Y/N)
FAILED TO ADOPT	____	(Y/N)
WITHDRAWN	____	(Y/N)
OTHER		

Committee/Subcommittee hearing bill: Insurance & Banking Subcommittee

Representative Giallombardo offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsections (35) through (38) of section 494.001, Florida Statutes, are renumbered as subsections (36) through (39), respectively, subsection (3) is amended, and a new subsection (35) is added to that section, to read:

494.001 Definitions.—As used in this chapter, the term:

(3) "Branch office" means a location, other than a mortgage broker's or mortgage lender's principal place of business or a remote location:

(a) The address of which appears on business cards, stationery, or advertising used by the licensee in connection with business conducted under this chapter;

(b) At which the licensee's name, advertising or promotional materials, or signage suggests that mortgage loans are originated, negotiated, funded, or serviced; or

(c) At which mortgage loans are originated, negotiated, funded, or serviced by a licensee.

(35) "Remote location" means a location, other than a principal place of business or a branch office, at which a loan originator of a licensee may conduct business. Licensees may allow loan originators to work from remote locations if:

(a) The licensee has written policies and procedures for supervision of loan originators working from remote locations.

(b) Access to company platforms and customer information is in accordance with the licensee's comprehensive written information security plan.

(c) An in-person customer interaction does not occur at a loan originator's residence, unless such residence is a licensed location.

(d) Physical records are not maintained at a remote location.

(e) Customer interactions and conversations about consumers will be in compliance with federal and state information security requirements, including applicable

provisions under the Gramm-Leach-Bliley Act and the Safeguards Rule established by the Federal Trade Commission, set forth at 16 CFR Part 314, as such requirements may be amended from time to time.

(f) Loan originators working at remote locations access the company's secure systems, including a cloud-based system, directly from any out-of-office device such employee uses, including a laptop, telephones desktop computer, and tablet, via a virtual private network or comparable system that ensures secure connectivity and requires passwords or other forms of authentication to access.

(g) Licensee ensures that appropriate security updates, patches, or other alterations to the security of all devices used at remote locations are installed and maintained.

(h) Licensee has an ability to remotely lock or erase company-related contents of any device or otherwise remotely limit all access to a company's secure systems.

(i) The Nationwide Multistate Licensing System and Registry's record of a loan originator who works from a remote location designates the principal place of business as the loan originator's registered location or the loan originator has elected a licensed branch office as a registered location.

Section 2. Subsection (1) of section 494.0067, Florida Statutes, is amended to read:

494.0067 Requirements of mortgage lenders.—

(1) A mortgage lender that makes mortgage loans on real estate in this state shall transact business from a principal place of business, branch office, or remote location. Each principal place of business, ~~and~~ each branch office, and remote location shall be operated under the full charge, control, and supervision of the licensee pursuant to this part.

Section 3. Section 501.2042, Florida Statutes, is created to read:

501.2042 Unlawful acts and practices by online crowd-funding campaigns.—

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

(a) "Crowd-funding campaign" means an online fundraising initiative that is intended to receive monetary donations from donors and is created by an organizer in the interest of a beneficiary.

(b) "Crowd-funding platform" means an entity doing business in this state and that provides an online medium for the creation and facilitation of a crowd-funding campaign.

(c) "Disaster" means any natural, technological, or civil emergency that occurs in this state and that causes damage of sufficient severity and magnitude to result in a declaration of a state of emergency by a county, the Governor, or the President of the United States.

(d) "Organizer" means a person who:

1. Resides or is domiciled in this state.

2. Has an account on a crowd-funding platform and has created a crowd-funding campaign either as a beneficiary or on behalf of a beneficiary who resides in the state, regardless of whether the beneficiary or the crowd-funding campaign has received donations.

(2) When an organizer arranges a crowd-funding campaign related to a disaster, the organizer must produce to the crowd-funding platform a complete and accurate accounting of all donations received and expended by the crowd-funding campaign for the benefit of state residents. The crowd-funding platform must publish all received accountings on its website.

Section 4. Section 520.23, Florida Statutes, is amended to read:

520.23 Disclosures required.—Each agreement governing the sale or lease of a distributed energy generation system shall, at a minimum, include a written statement printed in at least 12-point type that is separate from the agreement, is separately acknowledged by the buyer or lessee, and includes the following information and disclosures, if applicable:

(1) The name, address, telephone number, and e-mail address of the buyer or lessee.

(2) The name, address, telephone number, e-mail address, and valid state contractor license number of the person responsible for installing the distributed energy generation system.

(3) The name, address, telephone number, e-mail address, and valid state contractor license number of the distributed energy generation system maintenance provider, if different from the person responsible for installing the distributed energy generation system.

(4) The customer contact center phone number for the Department of Business and Professional Regulation.

(5)~~(4)~~ A written statement indicating whether the distributed energy generation system is being purchased or leased.

(a) If the distributed energy generation system will be leased, the written statement must include a disclosure in substantially the following form: "You are entering into an agreement to lease a distributed energy generation system. You will lease (not own) the system installed on your property."

(b) If the distributed energy generation system will be purchased, the written statement must include a disclosure in substantially the following form: "You are entering into an agreement to purchase a distributed energy generation system. You will own (not lease) the system installed on your property."

(6)~~(5)~~ The total cost to be paid by the buyer or lessee, including any interest, installation fees, document preparation fees, service fees, or other fees.

(7)~~(6)~~ A payment schedule, including any amounts owed at contract signing, at the commencement of installation, at the

completion of installation, and any final payments. If the distributed energy generation system is being leased, the written statement must include the frequency and amount of each payment due under the lease and the total estimated lease payments over the term of the lease.

(8) ~~(7)~~ Each state or federal tax incentive or rebate, if any, relied upon by the seller in determining the price of the distributed energy generation system.

(9) ~~(8)~~ A description of the assumptions used to calculate any savings estimates provided to the buyer or lessee, and if such estimates are provided, a statement in substantially the following form: "It is important to understand that future electric utility rates are estimates only. Your future electric utility rates may vary."

(10) ~~(9)~~ A description of any one-time or recurring fees, including, but not limited to, estimated system removal fees, maintenance fees, Internet connection fees, and automated clearinghouse fees. If late fees may apply, the description must describe the circumstances triggering such late fees.

(11) ~~(10)~~ A statement notifying the buyer whether the distributed energy generation system is being financed and, if so, a statement in substantially the following form: "If your system is financed, carefully read any agreements and/or disclosure forms provided by your lender. This statement does not contain the terms of your financing agreement. If you have

any questions about your financing agreement, contact your finance provider before signing a contract."

(12) ~~(11)~~ A statement notifying the buyer whether the seller is assisting in arranging financing of the distributed energy generation system and, if so, a statement in substantially the following form: "If your system is financed, carefully read any agreements and/or disclosure forms provided by your lender. This statement does not contain the terms of your financing agreement. If you have any questions about your financing agreement, contact your finance provider before signing a contract."

(13) ~~(12)~~ A provision notifying the buyer or lessee of the right to rescind the agreement for a period of at least 3 business days after the agreement is signed. This subsection does not apply to a contract to sell or lease a distributed energy generation system in a solar community in which the entire community has been marketed as a solar community and all of the homes in the community are intended to have a distributed energy generation system, or a solar community in which the developer has incorporated solar technology for purposes of meeting the Florida Building Code in s. 553.73.

(14) ~~(13)~~ A description of the distributed energy generation system design assumptions, including the make and model of the major components, system size, estimated first-year energy production, and estimated annual energy production

decreases, including the overall percentage degradation over the estimated life of the distributed energy generation system, and the status of utility compensation for excess energy generated by the system at the time of contract signing. A seller who provides a warranty or guarantee of the energy production output of the distributed energy generation system may provide a description of such warranty or guarantee in lieu of a description of the system design and components.

(15) ~~(14)~~ A description of any performance or production guarantees.

(16) ~~(15)~~ A description of the ownership and transferability of any tax credits, rebates, incentives, or renewable energy certificates associated with the distributed energy generation system, including a disclosure as to whether the seller will assign or sell any associated renewable energy certificates to a third party.

(17) ~~(16)~~ A statement in substantially the following form: "You are responsible for property taxes on property you own. Consult a tax professional to understand any tax liability or eligibility for any tax credits that may result from the purchase of your distributed energy generation system."

(18) ~~(17)~~ The approximate start and completion dates for the installation of the distributed energy generation system.

(19)~~(18)~~ A disclosure as to whether maintenance and repairs of the distributed energy generation system are included in the purchase price.

(20)~~(19)~~ A disclosure as to whether any warranty or maintenance obligations related to the distributed energy generation system may be sold or transferred by the seller to a third party and, if so, a statement in substantially the following form: "Your contract may be assigned, sold, or transferred without your consent to a third party who will be bound to all the terms of the contract. If a transfer occurs, you will be notified if this will change the address or phone number to use for system maintenance or repair requests."

(21)~~(20)~~ If the distributed energy generation system will be purchased, a disclosure notifying the buyer of the requirements for interconnecting the system to the utility system.

(22)~~(21)~~ A disclosure notifying the buyer or lessee of the party responsible for obtaining interconnection approval.

(23)~~(22)~~ A description of any roof warranties.

(24) A statement in substantially the following form: "You should consider the age and remaining life of your roof prior to installing a distributed energy generation system. Replacement of your roof may require reinstallation of the distributed energy generation system."

(25)~~(23)~~ A disclosure notifying the lessee whether the seller will insure a leased distributed energy generation system against damage or loss and, if applicable, the circumstances under which the seller will not insure the system against damage or loss.

(26)~~(24)~~ A statement~~, if applicable,~~ in substantially the following form: "You are responsible for obtaining insurance policies or coverage for any loss of or damage to the system. Consult an insurance professional to understand how to protect against the risk of loss or damage to the system."

(27) A statement in substantially the following form: "Placing a distributed energy generation system on your roof may impact your future insurance premiums. You are responsible for contacting your insurance carrier, prior to entering into a purchase or lease agreement, to confirm whether your current policy or coverage will need to be modified upon installing the distributed energy generation system onto your dwelling."

(28)~~(25)~~ A disclosure notifying the buyer or lessee whether the seller or lessor will place a lien on the buyer's or lessee's home or other property as a result of entering into a purchase or lease agreement for the distributed energy generation system.

(29)~~(26)~~ A disclosure notifying the buyer or lessee whether the seller or lessor will file a fixture filing or a

State of Florida Uniform Commercial Code Financing Statement Form (UCC-1) on the distributed energy generation system.

(30) ~~(27)~~ A disclosure identifying whether the agreement contains any restrictions on the buyer's or lessee's ability to modify or transfer ownership of a distributed energy generation system, including whether any modification or transfer is subject to review or approval by a third party.

(31) ~~(28)~~ A disclosure as to whether the lease agreement may be transferred to a purchaser upon sale of the home or real property to which the system is affixed, and any conditions for such transfer.

(32) ~~(29)~~ A blank section that allows the seller to provide additional relevant disclosures or explain disclosures made elsewhere in the disclosure form.

The requirement to provide a written statement under this section may be satisfied by the electronic delivery of a document within 24 hours after execution of the written statement containing the required statement if the intended recipient of the electronic document affirmatively acknowledges its receipt. An electronic document satisfies the font and other formatting standards required for the written statement if the format and the relative size of characters of the electronic document are reasonably similar to those required in the written

document or if the information is otherwise displayed in a reasonably conspicuous manner.

Section 5. Subsection (6) of section 560.111, Florida Statutes, is amended to read:

560.111 Prohibited acts.—

(6) A person who knowingly and willfully violates s. 560.309(11), s. 560.310(2)(d) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 6. Subsection (11) of section 560.309, Florida Statutes, is amended to read:

560.309 Conduct of business.—

(11) A licensee shall not cash corporate checks where the aggregate face amount of all corporate check(s) cashed for each payee exceeds 200% of the payee's workers' compensation policy coverage amount during the same dates as the workers' compensation policy coverage period.

Section 7. Section 626.551, Florida Statutes, is amended to read:

626.551 Notice of change of address, name.—A licensee must notify the department, in writing, within 5 ~~30~~ days after a change of name, residence address, principal business street address, mailing address, contact telephone numbers, including a business telephone number, or e-mail address. A licensee who has moved his or her principal place of residence and principal

place of business from this state shall have his or her license and all appointments immediately terminated by the department. Failure to notify the department within the required time shall result in a fine not to exceed $250 for the first offense and a fine of at least $500 or suspension or revocation of the license pursuant to s. 626.611, s. 626.6115, s. 626.621, or s. 626.6215 for a subsequent offense. The department may adopt rules to administer and enforce this section.

Section 8. Section 626.602, Florida Statutes, is amended to read:

626.602 Insurance agency and adjusting firm names; disapproval.—The department may disapprove the use of any true or fictitious name, other than the bona fide natural name of an individual, by any insurance agency or adjusting firm on any of the following grounds:

(1) The name interferes with or is too similar to a name already filed and in use by another agency, or adjusting firm, or insurer.

(2) The use of the name may mislead the public in any respect.

(3) The name states or implies that the agency or adjusting firm is an insurer, motor club, hospital service plan, state or federal agency, charitable organization, or entity that primarily provides advice and counsel rather than sells or solicits insurance, settles claims, or is entitled to engage in

insurance activities not permitted under licenses held or applied for. This provision does not prohibit the use of the word "state" or "states" in the name of the agency. The use of the word "state" or "states" in the name of an agency or adjusting firm does not in and of itself imply that the agency or adjusting firm is a state agency.

(4)(a) The name contains the word "Medicare" or "Medicaid."

(b) An insurance agency whose name contains the word "Medicare" or "Medicaid" but which is licensed as of July 1, 2021, may continue to use that name until June 30, 2023, provided that the agency's license remains valid. If the agency's license expires or is suspended or revoked, the agency may not be relicensed using that name. Licenses for agencies with names containing either of these words automatically expire on July 1, 2023, unless these words are removed from the name. This paragraph is repealed July 1, 2023.

Section 9. Section 626.854, Florida Statutes, is amended to read:

626.854 "Public adjuster" defined; prohibitions.—The Legislature finds that it is necessary for the protection of the public to regulate public insurance adjusters and to prevent the unauthorized practice of law.

(1) A "public adjuster" is any person, except a duly licensed attorney at law as exempted under s. 626.860, who, for

money, commission, or any other thing of value, directly or indirectly prepares, completes, or files an insurance claim for an insured or third-party claimant, regardless of how that person describes or presents his or her services, or who, for money, commission, or any other thing of value, acts on behalf of, or aids an insured or third-party claimant in negotiating for or effecting the settlement of a claim or claims for loss or damage covered by an insurance contract, regardless of how that person describes or presents his or her services, or who advertises for employment as an adjuster of such claims. The term also includes any person who, for money, commission, or any other thing of value, directly or indirectly solicits, investigates, or adjusts such claims on behalf of a public adjuster, an insured, or a third-party claimant. The term does not include a person who photographs or inventories damaged personal property or business personal property or a person performing duties under another professional license, if such person does not otherwise solicit, adjust, investigate, or negotiate for or attempt to effect the settlement of a claim.

(2) This definition does not apply to:

(a) A licensed health care provider or employee thereof who prepares or files a health insurance claim form on behalf of a patient.

(b) A licensed health insurance agent who assists an insured with coverage questions, medical procedure coding

issues, balance billing issues, understanding the claims filing process, or filing a claim, as such assistance relates to coverage under a health insurance policy.

(c) A person who files a health claim on behalf of another and does so without compensation.

(3) A public adjuster may not give legal advice or act on behalf of or aid any person in negotiating or settling a claim relating to bodily injury, death, or noneconomic damages.

(4) For purposes of this section, the term "insured" includes only the policyholder and any beneficiaries named or similarly identified in the policy.

(5) A public adjuster may not directly or indirectly through any other person or entity solicit an insured or claimant by any means except on Monday through Saturday of each week and only between the hours of 8 a.m. and 8 p.m. on those days.

(6)(a) When entering a contract for adjuster services after July 1, 2023, a public adjuster is prohibited from contracting with anyone other than the named insured unless the named insured provides written consent, subsequent to entering a contract for public adjusting services.

(b) In the event a public adjuster contracts with a third party in settling the named insured's claim, without first obtaining the insured's written consent, payment of the third party's fees shall be made from the public adjuster's fee.

(7)~~(6)~~ An insured or claimant may cancel a public adjuster's contract to adjust a claim without penalty or obligation within 10 days after the date on which the contract is executed. If the contract was entered into based on events that are the subject of a declaration of a state of emergency by the Governor, an insured or claimant may cancel the public adjuster's contract to adjust a claim without penalty or obligation within 30 days after the date of the event, or 10 days after the date on which the contract is executed, whichever is longer. The public adjuster's contract must contain the following language in minimum 18-point bold type immediately before the space reserved in the contract for the signature of the insured or claimant: "You, the insured, may cancel this contract for any reason without penalty or obligation to you within 10 days after the date of this contract. If this contract was entered into based on events that are the subject of a declaration of a state of emergency by the Governor, you may cancel this contract for any reason without penalty or obligation to you within 30 days after the date of the event, or 10 days after the date on which the contract is executed, whichever is longer. You may also cancel the contract without penalty or obligation to you if I, as your public adjuster, fail to provide you and your insurer a copy of a written estimate within 60 days of the execution of the contract in accordance with s. 626.854(14)(b), Florida Statutes." The ~~by providing~~

notice <u>of cancellation shall be provided</u> to ...(name of public adjuster)..., submitted in writing and sent by certified mail, return receipt requested, or other form of mailing that provides proof thereof, at the address specified in the contract.

<u>(8)</u> ~~(7)~~ It is an unfair and deceptive insurance trade practice pursuant to s. 626.9541 for a public adjuster or any other person to circulate or disseminate any advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the business of insurance which is untrue, deceptive, or misleading.

(a) The following statements, made in any public adjuster's advertisement or solicitation, are considered deceptive or misleading:

1. A statement or representation that invites an insured policyholder to submit a claim when the policyholder does not have covered damage to insured property.

2. A statement or representation that invites an insured policyholder to submit a claim by offering monetary or other valuable inducement.

3. A statement or representation that invites an insured policyholder to submit a claim by stating that there is "no risk" to the policyholder by submitting such claim.

4. A statement or representation, or use of a logo or shield, that implies or could mistakenly be construed to imply that the solicitation was issued or distributed by a

460 governmental agency or is sanctioned or endorsed by a
461 governmental agency.
462 (b) For purposes of this paragraph, the term "written
463 advertisement" includes only newspapers, magazines, flyers, and
464 bulk mailers. The following disclaimer, which is not required to
465 be printed on standard size business cards, must be added in
466 bold print and capital letters in typeface no smaller than the
467 typeface of the body of the text to all written advertisements
468 by a public adjuster:
469 "THIS IS A SOLICITATION FOR BUSINESS. IF YOU HAVE HAD A
470 CLAIM FOR AN INSURED PROPERTY LOSS OR DAMAGE AND YOU ARE
471 SATISFIED WITH THE PAYMENT BY YOUR INSURER, YOU MAY
472 DISREGARD THIS ADVERTISEMENT."
473 (9)~~(8)~~ A public adjuster, a public adjuster apprentice, or
474 any person or entity acting on behalf of a public adjuster or
475 public adjuster apprentice may not give or offer to give a
476 monetary loan or advance to a client or prospective client.
477 (10)~~(9)~~ A public adjuster, public adjuster apprentice, or
478 any individual or entity acting on behalf of a public adjuster
479 or public adjuster apprentice may not give or offer to give,
480 directly or indirectly, any article of merchandise having a
481 value in excess of $25 to any individual for the purpose of
482 advertising or as an inducement to entering into a contract with
483 a public adjuster.

(11) If the insurer, not later than 14 days after the date on which the loss is reported to the insurer, either pays or commits in writing to pay to the insured the policy limit of the insurance policy, the public adjuster shall:

(a) Inform the insured that, due to the insurer's payment or commitment to pay the policy limit, the loss recovery amount might not be increased by the insurer.

(b) Not receive a commission consisting of a percentage of the total amount of the paid by an insurer to resolve the claim.

(c) Be entitled only to $1,000 from the insured for the time spent and expenses incurred on the claim by the public adjuster, until the claim is paid or the insured receives a written commitment to pay from the insurer.

(12) If the public adjuster enters into a contract with an insured or claimant after the insured or claimant unsuccessfully negotiates an insurance claim payment and the public adjuster is successful in obtaining a higher insurance claim payment, the public adjuster shall receive a commission consisting of 10 percent of the difference between the last insurance claim payment offer made to the insured before the insured signed a contract with the public adjuster and the final insurance claim payment obtained through the work of the public adjuster after entering into the contract with the insured or claimant.

(13)~~(10)~~(a) If a public adjuster enters into a contract with an insured or claimant to reopen a claim or file a

supplemental claim that seeks additional payments for a claim that has been previously paid in part or in full or settled by the insurer, the public adjuster may not charge, agree to, or accept from any source compensation, payment, commission, fee, or any other thing of value based on a previous settlement or previous claim payments by the insurer for the same cause of loss. The charge, compensation, payment, commission, fee, or any other thing of value must be based only on the claim payments or settlements paid to the insured, exclusive of attorney fees and costs, obtained through the work of the public adjuster after entering into the contract with the insured or claimant. Compensation for the reopened or supplemental claim may not exceed 20 percent of the reopened or supplemental claim payment. In no event shall the contracts described in this paragraph exceed the limitations in paragraph (b).

(b) A public adjuster may not charge, agree to, or accept from any source compensation, payment, commission, fee, or any other thing of value in excess of:

1. Ten percent of the amount of insurance claim payments or settlements, exclusive of attorney fees and costs, paid to the insured by the insurer for claims based on events that are the subject of a declaration of a state of emergency by the Governor. This provision applies to claims made during the year after the declaration of emergency. After that year, the limitations in subparagraph 2. apply.

2. Twenty percent of the amount of insurance claim payments or settlements, exclusive of attorney fees and costs, paid to the insured by the insurer for claims that are not based on events that are the subject of a declaration of a state of emergency by the Governor.

(c) Insurance claim payments made by the insurer do not include policy deductibles, and public adjuster compensation may not be based on the deductible portion of a claim.

(d) Public adjuster compensation may not be based on amounts attributable to additional living expenses, unless such compensation is affirmatively agreed to in a separate agreement that includes a disclosure in substantially the following form: "I agree to retain and compensate the public adjuster for adjusting my additional living expenses and securing payment from my insurer for amounts attributable to additional living expenses payable under the policy issued on my (home/mobile home/condominium unit)."

(e) Public adjuster rate of compensation may not be increased based solely on the fact that the claim is litigated.

(f) Any maneuver, shift, or device through which the limits on compensation set forth in this subsection are exceeded is a violation of this chapter punishable as provided under s. 626.8698.

(14)(a) ~~(11)~~ Each public adjuster must provide to the claimant or insured a written estimate of the loss to assist in

the submission of a proof of loss or any other claim for payment of insurance proceeds within 60 days after the date of the contract. The written estimate must include an itemized, per-unit estimate of the repairs, including itemized information on equipment, materials, labor, and supplies, in accordance with accepted industry standards. The public adjuster shall retain such written estimate for at least 5 years and shall make the estimate available to the claimant or insured, the insurer, and the department upon request.

(b) An insured may cancel the contract with no additional penalties or fees charged by the public adjuster if such an estimate is not provided within 60 days after executing the contract, subject to the cancellation notice requirement in this section.

(15) ~~(12)~~ A public adjuster, public adjuster apprentice, or any person acting on behalf of a public adjuster or apprentice may not accept referrals of business from any person with whom the public adjuster conducts business if there is any form or manner of agreement to compensate the person, directly or indirectly, for referring business to the public adjuster. A public adjuster may not compensate any person, except for another public adjuster, directly or indirectly, for the principal purpose of referring business to the public adjuster.

(16) ~~(13)~~ A company employee adjuster, independent adjuster, attorney, investigator, or other persons acting on

behalf of an insurer that needs access to an insured or claimant or to the insured property that is the subject of a claim must provide at least 48 hours' notice to the insured or claimant, public adjuster, or legal representative before scheduling a meeting with the claimant or an onsite inspection of the insured property. The insured or claimant may deny access to the property if the notice has not been provided. The insured or claimant may waive the 48-hour notice.

(17) ~~(14)~~ The public adjuster must ensure that prompt notice is given of the claim to the insurer, the public adjuster's contract is provided to the insurer, the property is available for inspection of the loss or damage by the insurer, and the insurer is given an opportunity to interview the insured directly about the loss and claim. The insurer must be allowed to obtain necessary information to investigate and respond to the claim.

(a) The insurer may not exclude the public adjuster from its in-person meetings with the insured. The insurer shall meet or communicate with the public adjuster in an effort to reach agreement as to the scope of the covered loss under the insurance policy. The public adjuster shall meet or communicate with the insurer in an effort to reach agreement as to the scope of the covered loss under the insurance policy. This section does not impair the terms and conditions of the insurance policy in effect at the time the claim is filed.

(b) A public adjuster may not restrict or prevent an insurer, company employee adjuster, independent adjuster, attorney, investigator, or other person acting on behalf of the insurer from having reasonable access at reasonable times to any insured or claimant or to the insured property that is the subject of a claim.

(c) A public adjuster may not act or fail to reasonably act in any manner that obstructs or prevents an insurer or insurer's adjuster from timely conducting an inspection of any part of the insured property for which there is a claim for loss or damage. The public adjuster representing the insureds may be present for the insurer's inspection, but if the unavailability of the public adjuster otherwise delays the insurer's timely inspection of the property, the public adjuster or the insureds must allow the insurer to have access to the property without the participation or presence of the public adjuster or insureds in order to facilitate the insurer's prompt inspection of the loss or damage.

(18) ~~(15)~~ A licensed contractor under part I of chapter 489, or a subcontractor of such licensee, may not advertise, solicit, offer to handle, handle, or perform public adjuster services as provided in subsection (1) unless licensed and compliant as a public adjuster under this chapter. The prohibition against solicitation does not preclude a contractor from suggesting or otherwise recommending to a consumer that the

consumer consider contacting his or her insurer to determine if the proposed repair is covered under the consumer's insurance policy, except as it relates to solicitation prohibited in s. 489.147. In addition, the contractor may discuss or explain a bid for construction or repair of covered property with the residential property owner who has suffered loss or damage covered by a property insurance policy, or the insurer of such property, if the contractor is doing so for the usual and customary fees applicable to the work to be performed as stated in the contract between the contractor and the insured.

(19) ~~(16)~~ A public adjuster shall not acquire any interest in salvaged property, except with the written consent and permission of the insured through a signed affidavit.

(20) ~~(17)~~ A public adjuster, a public adjuster apprentice, or a person acting on behalf of an adjuster or apprentice may not enter into a contract or accept a power of attorney that vests in the public adjuster, the public adjuster apprentice, or the person acting on behalf of the adjuster or apprentice the effective authority to choose the persons or entities that will perform repair work in a property insurance claim or provide goods or services that will require the insured or third-party claimant to expend funds in excess of those payable to the public adjuster under the terms of the contract for adjusting services.

(21)~~(18)~~ Subsections (5)-(20) ~~(5)-(17)~~ apply only to residential property insurance policies and condominium unit owner policies as described in s. 718.111(11).

(22)~~(19)~~ Except as otherwise provided in this chapter, no person, except an attorney at law or a licensed public adjuster, may for money, commission, or any other thing of value, directly or indirectly:

(a) Prepare, complete, or file an insurance claim for an insured or a third-party claimant;

(b) Act on behalf of or aid an insured or a third-party claimant in negotiating for or effecting the settlement of a claim for loss or damage covered by an insurance contract;

(c) Offer to initiate or negotiate a claim on behalf of an insured;

(d) Advertise services that require a license as a public adjuster; or

(e) Solicit, investigate, or adjust a claim on behalf of a public adjuster, an insured, or a third-party claimant.

(23)~~(20)~~ The department may take administrative actions and impose fines against any persons performing claims adjusting, soliciting, or any other services described in this section without the licensure required under this section or s. 626.112.

(24)~~(21)~~ A public adjuster, public adjuster apprentice, or public adjusting firm that solicits a claim and does not enter

into a contract with an insured or a third-party claimant pursuant to paragraph (13)(a) ~~(10)(a)~~ may not charge an insured or a third-party claimant or receive payment by any other source for any type of service related to the insured or third-party claimant's claim.

(25) ~~(22)~~(a) Any following act by a public adjuster, a public adjuster apprentice, or a person acting on behalf of a public adjuster or public adjuster apprentice is prohibited and shall result in discipline as applicable under this part:

1. Offering to a residential property owner a rebate, gift, gift card, cash, coupon, waiver of any insurance deductible, or any other thing of value in exchange for:

a. Allowing a contractor, a public adjuster, a public adjuster apprentice, or a person acting on behalf of a public adjuster or public adjuster apprentice to conduct an inspection of the residential property owner's roof; or

b. Making an insurance claim for damage to the residential property owner's roof.

2. Offering, delivering, receiving, or accepting any compensation, inducement, or reward for the referral of any services for which property insurance proceeds would be used for roofing repairs or replacement.

(b) Notwithstanding the fine set forth in s. 626.8698, a public adjuster or public adjuster apprentice may be subject to a fine not to exceed $10,000 per act for a violation of this

subsection and a fine not to exceed $20,000 per act for a violation of this subsection that occurs during a state of emergency declared by executive order or proclamation of the Governor pursuant to s. 252.36.

(c) A person who engages in an act prohibited by this subsection and who is not a public adjuster or a public adjuster apprentice, or is not otherwise exempt from licensure, is guilty of the unlicensed practice of public adjusting and may be:

1. Subject to all applicable penalties set forth in this part.

2. Notwithstanding subparagraph 1., subject to a fine not to exceed $10,000 per act for a violation of this subsection and a fine not to exceed $20,000 per act for a violation of this subsection that occurs during a state of emergency declared by executive order or proclamation of the Governor pursuant to s. 252.36.

Section 10. Section 626.860, Florida Statutes, is amended to read:

626.860 Attorneys at law; exemption.—Attorneys at law duly licensed to practice law in the courts of this state, and in good standing with The Florida Bar, shall not be required to be licensed under ~~the provisions of~~ this code to authorize them to adjust or participate in the adjustment of any claim, loss, or damage arising under policies or contracts of insurance. This

exemption does not extend to the employees, interns, volunteers, or contractors of an attorney or of a law firm.

Section 11. Section 626.875, Florida Statutes, is amended to read:

626.875 Office and records.—

(1)(a) Each appointed independent adjuster and licensed public adjuster must maintain a place of business in this state which is accessible to the public and keep therein the usual and customary records pertaining to transactions under the license. This provision does not prohibit maintenance of such an office in the home of the licensee.

(b) A license issued under this chapter must at all times be posted in a conspicuous place in the principal place of business of the license holder. If the licensee is conducting business away from the place of business such that the license cannot be posted, the licensee shall have such license in his or her actual possession at the time of carrying on such business.

(2) The records of the adjuster relating to a particular claim or loss shall be so retained in the adjuster's place of business for a period of not less than 5 years after completion of the adjustment and shall be available for inspection by the department at all times. This provision shall not be deemed to prohibit return or delivery to the insurer or insured of documents furnished to or prepared by the adjuster and required by the insurer or insured to be returned or delivered thereto.

At a minimum, the following records must be maintained for a period of not less than 5 years:

(a) Name, address, telephone number, and e-mail address of the insured, and the name of the attorney representing the insured, if applicable.

(b) The date, location, and amount of the loss.

(c) An unaltered copy of the executed disclosure document required by s. 626.8796.

(d) An unaltered copy of the executed public adjuster contract required by s. 626.8796.

(e) A copy of the estimate of damages provided to the insurer.

(f) The name of the insurer; the name of the claims representative of the insurer; and the amount, expiration date, and number of each policy under which the loss is covered.

(g) An itemized statement of the recoveries by the insured from the sources known to the adjuster.

(h) An itemized statement of all compensation received by the public adjuster from any source, in connection with the loss.

(i) A register of all money received, deposited, disbursed, and withdrawn in connection with a transaction with the insured, including fees, transfers, and disbursements in connection with the loss.

781 Section 12. Section 626.8796, Florida Statutes, is amended
782 to read:
783 626.8796 Public adjuster contracts; disclosure statement;
784 fraud statement.—
785 (1) All contracts for public adjuster services must be in
786 writing in at least 12-point font, titled "Public Adjuster
787 Contract" and prominently display the following statement on the
788 contract in minimum 18-point bold type before the space reserved
789 for in the contract for the signature of the insured: "Pursuant
790 to s. 817.234, Florida Statutes, any person who, with the intent
791 to injure, defraud, or deceive an insurer or insured, prepares,
792 presents, or causes to be presented a proof of loss or estimate
793 of cost or repair of damaged property in support of a claim
794 under an insurance policy knowing that the proof of loss or
795 estimate of claim or repairs contains false, incomplete, or
796 misleading information concerning any fact or thing material to
797 the claim commits a felony of the third degree, punishable as
798 provided in s. 775.082, s. 775.083, or s. 775.084, Florida
799 Statutes."
800 (2) A public adjuster contract relating to a property and
801 casualty claim must contain the full name, permanent business
802 address, phone number, e-mail address, and license number of the
803 public adjuster; the full name of the public adjusting firm; and
804 the insured's full name, ~~and~~ street address, phone number, and
805 e-mail address, together with a brief description of the loss.

The contract must state the percentage of compensation for the public adjuster's services in minimum 18-point bold type before the space reserved for in the contract for the signature of the insured; the type of claim, including an emergency claim, nonemergency claim, or supplemental claim; the initials of the named insured on each page that does not contain the insured's signature; the signatures of the public adjuster and all named insureds; and the signature date. If all of the named insureds' signatures are not available, the public adjuster must submit an affidavit signed by the available named insureds attesting that they have authority to enter into the contract and settle all claim issues on behalf of the named insureds. An unaltered copy of the executed contract must be remitted to the insured at the time of execution and to the insurer within 10 ~~30~~ days after execution. A public adjusting firm that adjusts claims primarily for commercial entities with operations in more than one state and that does not directly or indirectly perform adjusting services for insurers or individual homeowners is deemed to comply with the requirements of this subsection if, at the time a proof of loss is submitted, the public adjusting firm remits to the insurer an affidavit signed by the public adjuster or public adjuster apprentice that identifies:

(a) The full name, permanent business address, phone number, e-mail address, and license number of the public adjuster or public adjuster apprentice.

(b) The full name of the public adjusting firm.

(c) The insured's full name, ~~and~~ street address, phone number, and e-mail address, together with a brief description of the loss.

(d) An attestation that the compensation for public adjusting services will not exceed the limitations provided by law.

(e) The type of claim, including an emergency claim, nonemergency claim, or supplemental claim.

(3) The public adjuster shall not provide services until both the insured and insurer have been provided with unaltered copies of the executed contract.

(4) The insured may rescind the contract for public adjuster services if the public adjuster has not submitted a written estimate to the insurer within 60 days of executing the contract.

(5) Before the signing of the contract, the public adjuster shall provide the insured with a separate disclosure document to be signed by the insured, on a form adopted by the department, regarding the claim process that accomplishes the following:

(a) Defines the following types of adjusters who may be involved in the claim process: company adjuster, independent adjuster, and public adjuster.

(b) Explains that the public adjuster is not a representative or employee of the insurer.

(c) Explains that the insured is not required to hire a public adjuster, but has a right to do so.

(d) Explains that an insured has a right to initiate direct communications with the insured's attorney, the insurer, the company adjuster, the insurer's attorney, or any person regarding the settlement of the insured's claim.

(e) Explains that the public adjuster's salary, fee, commission, or other consideration to be paid to a public adjuster is the insured's responsibility.

(f) Explains that the public adjuster is required to provide the insured an unaltered copy of the executed contract at the time of execution.

(g) Explains that if the contract was entered based on events that are the subject of a declaration of a state of emergency by the Governor, the insured has a right to rescind the contract within 30 days.

(6) A contract that does not comply with this section is invalid and unenforceable.

(7) The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this section, including rules to adopt forms required by this section.

Section 13. Section 626.8797, Florida Statutes, is amended to read:

626.8797 Proof of loss; fraud statement.—All proof-of-loss statements must prominently display the following statement in minimum 18-point bold type before the space reserved in the contract for the signature of the insured: "Pursuant to s. 817.234, Florida Statutes, any person who, with the intent to injure, defraud, or deceive any insurer or insured, prepares, presents, or causes to be presented a proof of loss or estimate of cost or repair of damaged property in support of a claim under an insurance policy knowing that the proof of loss or estimate of claim or repairs contains any false, incomplete, or misleading information concerning any fact or thing material to the claim commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, Florida Statutes."

Section 14. Paragraph (a) of subsection (1) of section 626.9541, Florida Statutes, is amended to read:

626.9541 Unfair methods of competition and unfair or deceptive acts or practices defined.—

(1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS.—The following are defined as unfair methods of competition and unfair or deceptive acts or practices:

(a) Misrepresentations and false advertising of insurance policies.—Knowingly making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, statement, sales presentation, omission, comparison,

or property and casualty certificate of insurance altered after being issued, which:

1. Misrepresents the benefits, advantages, conditions, or terms of any insurance policy.

2. Misrepresents the dividends or share of the surplus to be received on any insurance policy.

3. Makes any false or misleading statements as to the dividends or share of surplus previously paid on any insurance policy.

4. Is misleading, or is a misrepresentation, as to the financial condition of any person or as to the legal reserve system upon which any life insurer operates.

5. Uses any name or title of any insurance policy or class of insurance policies misrepresenting the true nature thereof.

6. Is a misrepresentation for the purpose of inducing, or tending to induce, the lapse, forfeiture, exchange, conversion, or surrender of any insurance policy.

7. Is a misrepresentation for the purpose of effecting a pledge or assignment of, or effecting a loan against, any insurance policy.

8. Misrepresents any insurance policy as being shares of stock or misrepresents ownership interest in the company.

9. Uses any advertisement that would mislead or otherwise cause a reasonable person to believe mistakenly that the state or the Federal Government is responsible for the insurance sales

activities of any person or stands behind any person's credit or that any person, the state, or the Federal Government guarantees any returns on insurance products or is a source of payment of any insurance obligation of or sold by any person.

10. Fails to disclose a third party that receives royalties, referral fees, or other remuneration for sponsorship, marketing, or use of third-party branding for a policy of health insurance as defined in s. 624.603.

Section 15. Paragraph (c) of subsection (2) of section 627.4025, Florida Statutes, is amended, and paragraph (d) is added to that subsection, to read:

627.4025 Residential coverage and hurricane coverage defined.—

(2) As used in policies providing residential coverage:

(c) "Hurricane" for purposes of paragraphs (a) and (b) means a storm system that has been declared to be a hurricane by the National Hurricane Center of the National Weather Service. The duration of the hurricane includes the time period, in Florida:

1. Beginning at the time a ~~hurricane watch or~~ hurricane warning is issued for any part of Florida by the National Hurricane Center of the National Weather Service; and

~~2. Continuing for the time period during which the hurricane conditions exist anywhere in Florida; and~~

~~3.~~ Ending 24 ~~72~~ hours following the termination of the last hurricane watch or hurricane warning issued for any part of Florida by the National Hurricane Center of the National Weather Service.

(d) "Hurricane deductible" means the deductible applicable to loss caused by a hurricane.

Section 16. Paragraph (b) of subsection (1) and paragraph (b) of subsection (2) of section 627.4133, Florida Statutes, are amended to read:

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

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

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

1. When cancellation is for nonpayment of premium, at least 10 days' written notice of cancellation accompanied by the reason therefor shall be given. As used in this subparagraph and s. 440.42(3), the term "nonpayment of premium" means failure of

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

2. When such cancellation or termination occurs during the first 90 days during which the insurance is in force and the insurance is canceled or terminated for reasons other than nonpayment of premium, at least 20 days' written notice of cancellation or termination accompanied by the reason therefor shall be given except where there has been a material

misstatement or misrepresentation or failure to comply with the underwriting requirements established by the insurer.

After the policy has been in effect for 60 ~~90~~ days, no such policy shall be canceled by the insurer except when there has been a material misstatement, a nonpayment of premium, a failure to comply with underwriting requirements established by the insurer within 90 days of the date of effectuation of coverage, or a substantial change in the risk covered by the policy or when the cancellation is for all insureds under such policies for a given class of insureds. This subsection does not apply to individually rated risks having a policy term of less than 90 days.

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

(b) The insurer shall give the first-named insured written notice of nonrenewal, cancellation, or termination at least 120 days before the effective date of the nonrenewal, cancellation, or termination. The notice must include the reason for the nonrenewal, cancellation, or termination, except that:

1. If cancellation is for nonpayment of premium, at least 10 days' written notice of cancellation accompanied by the reason therefor must be given. As used in this subparagraph, the term "nonpayment of premium" means failure of the named insured to discharge when due her or his obligations for paying the premium on a policy or an installment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under a premium finance plan or extension of credit, or failure to maintain membership in an organization if such membership is a condition precedent to insurance coverage. The term also means the failure of a financial institution to honor an insurance applicant's check after delivery to a licensed agent for payment of a premium even if the agent has previously delivered or transferred the premium to the insurer. If a dishonored check represents the initial premium payment, the contract and all contractual obligations are void ab initio unless the nonpayment is cured within the earlier of 5 days after actual notice by certified mail is received by the applicant or 15 days after notice is sent to the applicant by certified mail or registered mail. If the contract is void, any premium received by the insurer from a third party must be refunded to that party in full.

2. If cancellation or termination occurs during the first 90 days the insurance is in force and the insurance is canceled or terminated for reasons other than nonpayment of premium, at

least 20 days' written notice of cancellation or termination accompanied by the reason therefor must be given unless there has been a material misstatement or misrepresentation or a failure to comply with the underwriting requirements established by the insurer.

3. After the policy has been in effect for 60 ~~90~~ days, the policy may not be canceled by the insurer unless there has been a material misstatement; a nonpayment of premium; a failure to comply, within 90 days after the date of effectuation of coverage, with underwriting requirements established by the insurer before the date of effectuation of coverage; or a substantial change in the risk covered by the policy or unless the cancellation is for all insureds under such policies for a given class of insureds. This subparagraph does not apply to individually rated risks that have a policy term of less than 90 days.

4. After a policy or contract has been in effect for more than 90 days, the insurer may not cancel or terminate the policy or contract based on credit information available in public records.

5. A policy that is nonrenewed by Citizens Property Insurance Corporation, pursuant to s. 627.351(6), for a policy that has been assumed by an authorized insurer offering replacement coverage to the policyholder is exempt from the notice requirements of paragraph (a) and this paragraph. In such

cases, the corporation must give the named insured written notice of nonrenewal at least 45 days before the effective date of the nonrenewal.

6. Notwithstanding any other provision of law, an insurer may cancel or nonrenew a property insurance policy after at least 45 days' notice if the office finds that the early cancellation of some or all of the insurer's policies is necessary to protect the best interests of the public or policyholders and the office approves the insurer's plan for early cancellation or nonrenewal of some or all of its policies. The office may base such finding upon the financial condition of the insurer, lack of adequate reinsurance coverage for hurricane risk, or other relevant factors. The office may condition its finding on the consent of the insurer to be placed under administrative supervision pursuant to s. 624.81 or to the appointment of a receiver under chapter 631.

7. A policy covering both a home and a motor vehicle may be nonrenewed for any reason applicable to the property or motor vehicle insurance after providing 90 days' notice.

Section 17. Effective January 1, 2024, section 627.4554, Florida Statutes, is amended to read:

627.4554 Suitability in Annuity Transactions.—

(1) PURPOSE.—The purpose of this section is to require agents to act in the best interest of the consumer when making a recommendation of an annuity and to require insurers to

establish and maintain a system to supervise so ~~set forth standards and procedures for making recommendations to consumers which result in transactions involving annuity products, and to establish a system for supervising such recommendations in order to ensure~~ that the insurance needs and financial objectives of consumers are effectively ~~appropriately~~ addressed at the time of the transaction.

(2) SCOPE.—This section applies to any sale or recommendation of ~~made to a consumer to purchase, exchange, or replace~~ an annuity ~~by an insurer or its agent, and which results in the purchase, exchange, or replacement recommended~~.

(3) DEFINITIONS.—As used in this section, the term:

(a) "Agent" means a person or entity required to be licensed under the laws of this state to sell, solicit, or negotiate insurance, including annuities. For purposes of this section, the term includes an insurer where no agent is involved ~~has the same meaning as provided in s. 626.015~~.

(b) "Annuity" means an insurance product under state law which is individually solicited, whether classified as an individual or group annuity.

(c) "Cash compensation" means any discount, concession, fee, service fee, commission, sales charge, loan, override, or cash benefit received by an agent in connection with the recommendation or sale of an annuity from an insurer, intermediary, or directly from the consumer.

(d) "Consumer profile information" means information that is reasonably appropriate to determine whether a recommendation addresses the consumer's financial situation, insurance needs and financial objectives, including, at a minimum, the following:

1. Age.

2. Annual income.

3. Financial situation and needs, including debts and other obligations.

4. Financial experience.

5. Insurance needs.

6. Financial objectives.

7. Intended use of the annuity.

8. Financial time horizon.

9. Existing assets or financial products, including investment, annuity, and insurance holdings.

10. Liquidity needs.

11. Liquid net worth.

12. Risk tolerance, including, but not limited to, willingness to accept nonguaranteed elements in the annuity.

13. Financial resources used to fund the annuity.

14. Tax status.

(e)~~(c)~~ "FINRA" means the Financial Industry Regulatory Authority or a succeeding agency.

(f) ~~(d)~~ "Insurer" has the same meaning as provided in s. 624.03.

(g) "Intermediary" means an entity contracted directly with an insurer or with another entity contracted with an insurer to facilitate the sale of the insurer's annuities by agents.

(h) "Material conflict of interest" means a financial interest of the agent in the sale of an annuity that a reasonable person would expect to influence the impartiality of a recommendation. The term does not include cash compensation or noncash compensation.

(i) "Noncash compensation" means any form of compensation that is not cash compensation, including, but not limited to, health insurance, office rent, office support, and retirement benefits.

(j) "Nonguaranteed elements" means the premiums, credited interest rates, including any bonus; benefits; values; dividends; noninterest based credits; charges; or elements of formulas used to determine any of these, that are subject to company discretion and are not guaranteed at issue. An element is considered nonguaranteed if any of the underlying nonguaranteed elements are used in its calculation.

(k) ~~(e)~~ "Recommendation" means advice provided by an ~~insurer or its~~ agent to an individual ~~a~~ consumer that was intended to result or does result ~~which would result~~ in a ~~the~~

purchase, an exchange, or a replacement of an annuity in accordance with that advice. The term does not include general communication to the public, generalized customer services, assistance or administrative support, general educational information and tools, prospectuses, or other product and sales material.

(l) ~~(f)~~ "Replacement" means a transaction in which a new annuity ~~policy or contract~~ is to be purchased and it is known or should be known to the proposing ~~insurer or its~~ agent, or to the proposing insurer whether or not an agent is involved, that by reason of such transaction an existing annuity or other insurance policy has been or is to be any of the following ~~or contract will be~~:

1. Lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer, or otherwise terminated;

2. Converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value due to the use of nonforfeiture benefits or other policy values;

3. Amended so as to effect a reduction in benefits or the term for which coverage would otherwise remain in force or for which benefits would be paid;

4. Reissued with a reduction in cash value; or

5. Used in a financed purchase.

(m) "SEC" means the United States Securities and Exchange Commission.

~~(g) "Suitability information" means information related to the consumer which is reasonably appropriate to determine the suitability of a recommendation made to the consumer, including the following:~~

~~1. Age;~~

~~2. Annual income;~~

~~3. Financial situation and needs, including the financial resources used for funding the annuity;~~

~~4. Financial experience;~~

~~5. Financial objectives;~~

~~6. Intended use of the annuity;~~

~~7. Financial time horizon;~~

~~8. Existing assets, including investment and life insurance holdings;~~

~~9. Liquidity needs;~~

~~10. Liquid net worth;~~

~~11. Risk tolerance; and~~

~~12. Tax status.~~

(4) EXEMPTIONS.—Unless otherwise specifically included, this section does not apply to transactions involving:

(a) Direct-response solicitations where there is no recommendation based on information collected from the consumer pursuant to this section;

(b) Contracts used to fund:

1. An employee pension or welfare benefit plan that is covered by the federal Employee Retirement and Income Security Act;

2. A plan described by s. 401(a), s. 401(k), s. 403(b), s. 408(k), or s. 408(p) of the Internal Revenue Code, if established or maintained by an employer;

3. A government or church plan defined in s. 414 of the Internal Revenue Code, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax-exempt organization under s. 457 of the Internal Revenue Code; or

4. A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

(c)~~5.~~ Settlements or assumptions of liabilities associated with personal injury litigation or a dispute or claim-resolution process; or

(d)~~6.~~ Formal prepaid funeral contracts.

(5) DUTIES OF INSURERS AND AGENTS.—

(a) An agent, when making a recommendation of an annuity, shall act in the best interest of the consumer under the circumstances known at the time the recommendation is made, without placing the financial interest of the agent or insurer ahead of the consumer's interest. An agent has acted in the best interest of the consumer if the agent has satisfied the

following obligations regarding care, disclosure, conflict of interest, and documentation:

1.a. The agent, in making a recommendation, shall exercise reasonable diligence, care, and skill to:

(I) Know the financial situation, insurance needs, and financial objectives of the consumer.

(II) Understand the available options after making a reasonable inquiry into options available to the agent.

(III) Have a reasonable basis to believe the recommended option effectively addresses the consumer's financial situation, insurance needs, and financial objectives over the life of the product, as evaluated in light of the consumer profile information.

(IV) Communicate the reason or reasons for the recommendation.

b. The requirements of subparagraph a. include:

(I) Making reasonable efforts to obtain consumer profile information from the consumer before the recommendation of an annuity.

(II) Requiring an agent to consider the types of products the agent is authorized and licensed to recommend or sell address the consumer's financial situation, insurance needs, and financial objectives. This does not require analysis or consideration of any products outside the authority and license of the agent or other possible alternative products or

strategies available in the market at the time of the recommendation. Agents shall be held to standards applicable to agents with similar authority and licensure.

(III) Having a reasonable basis to believe the consumer would benefit from certain features of the annuity, such as annuitization, death or living benefit or other insurance-related features.

c. The requirements of this subsection do not create a fiduciary obligation or relationship and only create a regulatory obligation as provided in this section.

d. The consumer profile information, characteristics of the insurer and product costs, rates, benefits and features are those factors generally relevant in making a determination whether an annuity effectively addresses the consumer's financial situation, insurance needs, and financial objectives but the level of importance of each factor under the care obligation of this paragraph may vary depending on the facts and circumstances of a particular case. However, each factor may not be considered in isolation.

e. The requirements under subparagraph a. apply to the particular annuity as a whole and the underlying subaccounts to which funds are allocated at the time of purchase or exchange of an annuity, and riders and similar product enhancements, if any.

f. Subparagraph a. does not require that the annuity with the lowest one-time occurrence compensation structure or

multiple occurrence compensation structure shall necessarily be recommended.

g. Subparagraph a. does not require the agent to have ongoing monitoring obligations under the care obligation, although such an obligation may be separately owed under the terms of a fiduciary, consulting, investment, advising, or financial planning agreement between the consumer and the agent.

h. In the case of an exchange or replacement of an annuity, the agent shall consider the whole transaction, which includes taking into consideration whether:

(I) The consumer will incur a surrender charge; be subject to the commencement of a new surrender period; lose existing benefits, such as death, living or other contractual benefits; or be subject to increased fees, investment advisory fees, or charges for riders and similar product enhancements.

(II) The replacing product would substantially benefit the consumer in comparison to the replaced product over the life of the product.

(III) The consumer has had another annuity exchange or replacement and, in particular, an exchange or replacement within the preceding 60 months.

i. This section does not require an agent to obtain any license other than an agent license with the appropriate line of authority to sell, solicit, or negotiate insurance in this state, including, but not limited to, any securities license, in

order to fulfill the duties and obligations contained in this section; provided, the agent does not give advice or provide services that are otherwise subject to securities laws or engage in any other activity requiring other professional licenses.

2.a. Before the recommendation or sale of an annuity, the agent shall prominently disclose to the consumer on a form substantially similar to that posted on the office website as Appendix A:

(I) A description of the scope and terms of the relationship with the consumer and the role of the agent in the transaction.

(II) An affirmative statement on whether the agent is licensed and authorized to sell the following products:

(A) Fixed annuities.

(B) Fixed indexed annuities.

(C) Variable annuities.

(D) Life insurance.

(E) Mutual funds.

(F) Stocks and bonds.

(G) Certificates of deposit.

(III) An affirmative statement describing the insurers for which the agent is authorized, contracted or appointed, or otherwise able to sell insurance products, using the following descriptions:

(A) From one insurer;

(B) From two or more insurers; or

(C) From two or more insurers, although primarily contracted with one insurer.

(IV) A description of the sources and types of cash compensation and noncash compensation to be received by the agent, including whether the agent is to be compensated for the sale of a recommended annuity by commission as part of premium or other remuneration received from the insurer, intermediary or other agent, or by fee as a result of a contract for advice or consulting services; and

(V) A notice of the consumer's right to request additional information regarding cash compensation described in subparagraph b.

b. Upon request of the consumer or the consumer's designated representative, the agent shall disclose:

(I) A reasonable estimate of the amount of cash compensation to be received by the agent, which may be stated as a range of amounts or percentages.

(II) Whether the cash compensation is a one-time or multiple occurrence amount, and if a multiple occurrence amount, the frequency and amount of the occurrence, which may be stated as a range of amounts or percentages; and ~~When recommending the purchase or exchange of an annuity to a consumer which results in an insurance transaction or series of insurance transactions, the agent, or the insurer where no agent is involved, must have~~

~~reasonable grounds for believing that the recommendation is suitable for the consumer, based on the consumer's suitability information, and that there is a reasonable basis to believe all of the following:~~

c.1. Before or at the time of the recommendation or sale of an annuity, the agent shall have a reasonable basis to believe the consumer has been ~~reasonably~~ informed of various features of the annuity, such as the potential surrender period and surrender charge; potential tax penalty if the consumer sells, exchanges, surrenders, or annuitizes the annuity; mortality and expense fees; any annual fees; investment advisory fees; potential charges for and features of riders or other options of the annuity; limitations on interest returns; potential changes in nonguaranteed elements of the annuity; insurance and investment components; and market risk.

2. The consumer would benefit from certain features of the annuity, such as tax-deferred growth, annuitization, or the death or living benefit.

3. An agent shall identify and avoid or reasonably manage and disclose material conflicts of interest, including material conflicts of interest related to an ownership interest.

4. An agent shall at the time of the recommendation or sale:

a. Make a written record of any recommendation and the basis for the recommendation, subject to this section.

b. Obtain a consumer signed statement on a form substantially similar to that posted on the office website as Appendix B, documenting:

(I) A consumer's refusal to provide the consumer profile information, if any.

(II) A consumer's understanding of the ramifications of not providing his or her consumer profile information or providing insufficient consumer profile information.

c. Obtain a consumer signed statement on a form substantially similar to that posted on the office website as Appendix C, acknowledging the annuity transaction is not recommended if a consumer decides to enter into an annuity transaction that is not based on the agent's recommendation.

5. Application of the best interest obligation. Any requirement applicable to an agent under this subsection shall apply to every agent who has exercised material control or influence in the making of a recommendation and has received direct compensation as a result of the recommendation or sale, regardless of whether the agent has had any direct contact with the consumer. Activities such as providing or delivering marketing or education materials, product wholesaling or other back office product support, and general supervision of an agent do not, in and of themselves, constitute material control or influence.

~~3. The particular annuity as a whole, the underlying subaccounts to which funds are allocated at the time of purchase or exchange of the annuity, and riders and similar product enhancements, if any, are suitable; and, in the case of an exchange or replacement, the transaction as a whole is suitable for the particular consumer based on his or her suitability information.~~

~~4. In the case of an exchange or replacement of an annuity, the exchange or replacement is suitable after considering whether the consumer:~~

~~a. Will incur a surrender charge; be subject to the commencement of a new surrender period; lose existing benefits, such as death, living, or other contractual benefits; or be subject to increased fees, investment advisory fees, or charges for riders and similar product enhancements;~~

~~b. Would benefit from product enhancements and improvements; and~~

~~c. Has had another annuity exchange or replacement, including an exchange or replacement within the preceding 36 months.~~

~~(b) Before executing a purchase, exchange, or replacement of an annuity resulting from a recommendation, an insurer or its agent must make reasonable efforts to obtain the consumer's suitability information. The information shall be collected on form DFS-H1-1980, which is hereby incorporated by reference, and~~

~~completed and signed by the applicant and agent. Questions requesting this information must be presented in at least 12-point type and be sufficiently clear so as to be readily understandable by both the agent and the consumer. A true and correct executed copy of the form must be provided by the agent to the insurer, or to the person or entity that has contracted with the insurer to perform this function as authorized by this section, within 10 days after execution of the form, and shall be provided to the consumer no later than the date of delivery of the contract or contracts.~~

~~(c) Except as provided under paragraph (d), an insurer may not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity is suitable based on the consumer's suitability information.~~

(b)~~(d)~~ 1. Except as provided under subparagraph 2, ~~An insurer's issuance of an annuity must be reasonable based on all the circumstances actually known to the insurer at the time the annuity is issued. However,~~ an ~~insurer or its~~ agent shall not have ~~does not have~~ an obligation to a consumer related to an annuity transaction under paragraph (a)1.~~(a) or paragraph (c)~~ if:

a.~~1.~~ A recommendation has not been made;

b.~~2.~~ A recommendation was made and is later found to have been based on materially inaccurate information provided by the consumer;

c.~~3.~~ A consumer refuses to provide relevant consumer profile ~~suitability~~ information and the annuity transaction is not recommended; or

d.~~4.~~ A consumer decides to enter into an annuity transaction that is not based on a recommendation of an insurer or its agent.

2. An insurer's issuance of an annuity subject to subparagraph 1. shall be reasonable under all the circumstances actually known to the insurer at the time the annuity is issued.

(c)1. Except as permitted under paragraph (b), an insurer may not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity would effectively address the particular consumer's financial situation, insurance needs, and financial objectives based on the consumer's consumer profile information.

~~(c) At the time of sale, the agent or the agent's representative must:~~

~~1. Make a record of any recommendation made to the consumer pursuant to paragraph (a);~~

~~2. Obtain the consumer's signed statement documenting his or her refusal to provide suitability information, if applicable; and~~

~~3. Obtain the consumer's signed statement acknowledging that an annuity transaction is not recommended if he or she~~

~~decides to enter into an annuity transaction that is not based on the insurer's or its agent's recommendation, if applicable.~~

~~(f) Before executing a replacement or exchange of an annuity contract resulting from a recommendation, the agent must provide on form DFS-H1-1981, which is hereby incorporated by reference, information that compares the differences between the existing annuity contract and the annuity contract being recommended in order to determine the suitability of the recommendation and its benefit to the consumer. A true and correct executed copy of this form must be provided by the agent to the insurer, or to the person or entity that has contracted with the insurer to perform this function as authorized by this section, within 10 days after execution of the form, and must be provided to the consumer no later than the date of delivery of the contract or contracts.~~

2.~~(g)~~ An insurer shall establish and maintain a supervision system that is reasonably designed to achieve the insurer's and its agent's compliance with this section including, but not limited to, the following:~~.~~

~~1. Such system must include, but is not limited to:~~

a. The insurer shall establish and maintain ~~Maintaining~~ reasonable procedures to inform its agents of the requirements of this section and incorporating those requirements into relevant agent training manuals.~~;~~

b. The insurer shall establish and maintain ~~Establishing~~ standards for agent product training and shall establish and maintain reasonable procedures to require its agents to comply with the requirements of subsection (6).~~;~~

c. The insurer shall provide ~~Providing~~ product-specific training and training materials that explain all material features of its annuity products to its agents.~~;~~

d. The insurer shall establish and maintain ~~Maintaining~~ procedures for the review of each recommendation before issuance of an annuity which are designed to ensure that there is a reasonable basis to determine the recommended annuity would effectively address the particular consumer's financial situation, insurance needs, and financial objectives ~~for determining that a recommendation is suitable~~. Such review procedures may use a screening system for identifying selected transactions for additional review and may be accomplished electronically or through other means, including, but not limited to, physical review. Such electronic or other system may be designed to require additional review only of those transactions identified for additional review using established selection criteria.~~;~~

e. The insurer shall establish and maintain ~~Maintaining~~ reasonable procedures to detect recommendations that are not in compliance with paragraphs (a), (b), (d), and (e). This may include, but is not limited to ~~suitable, such as~~ confirmation of

consumer profile information, systematic customer surveys, agent and consumer interviews, confirmation letters, agent statements or attestations, and internal monitoring programs. This sub-subparagraph does not prevent an insurer from using sampling procedures or from confirming the consumer profile ~~suitability~~ information after the issuance or delivery of the annuity.~~; and~~

f. The insurer shall establish and maintain reasonable procedures to assess, prior to, or upon issuance or delivery of, an annuity, whether an agent has provided to the consumer the information required to be provided under this subsection.

g. The insurer shall establish and maintain reasonable procedures to identify and address suspicious consumer refusals to provide consumer profile information.

h. The insurer shall establish and maintain reasonable procedures to identify and eliminate any sales contests, sales quotas, bonuses, and noncash compensation that are based on the sales of specific annuities within a limited period of time. The requirements of this subparagraph are not intended to prohibit the receipt of health insurance, office rents, office support, retirement benefits, or other employee benefits by employees as long as those benefits are not based upon the volume of sales of a specific annuity within a limited period of time.

i.~~f.~~ The insurer shall annually provide ~~providing~~ a written report to senior managers, including the senior manager who is responsible for audit functions, which details a review,

along with appropriate testing, which is reasonably designed to determine the effectiveness of the supervision system, the exceptions found, and corrective action taken or recommended, if any.

3.~~2.~~ An insurer is not required to include in its supervision system:

a. Agent recommendations to consumers of products other than the annuities offered by the insurer;

b. Consideration of or comparison to options available to the agent or compensation relating to those options other than annuities or other products offered by the insurer.

4.~~3.~~ An insurer may contract for performance of a function, including maintenance of procedures, required under subparagraph 1.

a. An insurer's supervision system under this subsection shall include supervision of contractual performance under this subsection ~~If an insurer contracts for the performance of a function, the insurer must include the supervision of contractual performance as part of those procedures listed in subparagraph 1~~. These include, but are not limited to:

(I) Monitoring and, as appropriate, conducting audits to ensure that the contracted function is properly performed; and

(II) Annually obtaining a certification from a senior manager who has responsibility for the contracted function that the manager has a reasonable basis to represent, and does not

represent ~~for representing~~ that the function is being properly performed.

b. An insurer is responsible for taking appropriate corrective action and may be subject to sanctions and penalties pursuant to subsection (8) ~~(7)~~ regardless of whether the insurer contracts for performance of a function and regardless of the insurer's compliance with sub-subparagraph a.

(d) ~~(h)~~ Neither an agent nor an insurer shall ~~may not~~ dissuade, or attempt to dissuade, a consumer from:

1. Truthfully responding to an insurer's request for confirmation of consumer profile ~~suitability~~ information;

2. Filing a complaint; or

3. Cooperating with the investigation of a complaint.

(e)1. ~~(i)~~ Recommendations and sales made in compliance with comparable standards shall ~~FINRA requirements pertaining to the suitability and supervision of annuity transactions~~ satisfy the requirements of this section. This applies to all recommendations and ~~FINRA broker-dealer~~ sales of ~~variable~~ annuities made by financial professionals in compliance with business rules, controls, and procedures that satisfy a comparable standard even if such standard would not otherwise apply to the product or recommendation at issue ~~and fixed annuities if the suitability and supervision is similar to those applied to variable annuity sales.~~ However, this paragraph does not limit the ability of the office or the department to

investigate and enforce~~, including investigate, the provisions of~~ this section.

2. Subparagraph 1. shall not limit the insurer's obligation to comply with subsection (5)(c)1., although the insurer may base its analysis on information received from either the financial professional or the entity supervising the financial professional.

3. For this paragraph to apply, an insurer shall ~~must~~:

a.~~1.~~ Monitor relevant conduct of the financial professional seeking to rely on subparagraph 1. or the entity responsible for supervising the financial professional, such as the financial professional's broker-dealer or an investment adviser registered under federal or state securities law, ~~the FINRA member broker-dealer~~ using information collected in the normal course of an insurer's business; and

b.~~2.~~ Provide to the entity responsible for supervising the financial professional seeking to rely on subparagraph 1., such as the financial professional's broker dealer or investment adviser registered under federal or state securities laws, ~~FINRA member broker-dealer~~ information and reports that are reasonably appropriate to assist such entity ~~the FINRA member broker-dealer~~ in maintaining its supervision system.

4. For purposes of this paragraph, the term:

a. "Comparable standards" means:

(I) With respect to broker-dealers and registered representatives of broker-dealers, applicable SEC and FINRA rules pertaining to best interest obligations and supervision of annuity recommendations and sales including, but not limited to, Regulation Best Interest, 17 C.F.R. s. 240.15l-1, and any amendments or successor regulations thereto;

(II) With respect to investment advisers registered under federal or state securities laws or investment adviser representatives, the fiduciary duties and all other requirements imposed on such investment advisers or investment adviser representatives by contract or under the Investment Advisers Act of 1940 or applicable state securities laws, including, but not limited to, Form ADV and interpretations; and

(III) With respect to plan fiduciaries or fiduciaries, the duties, obligations, prohibitions and all other requirements attendant to such status under ERISA, or the IRC and any amendments or successor statutes thereto.

b. "Financial professional" means an agent that is regulated and acting as:

(I) A broker dealer registered under federal or state securities laws or a registered representative of a broker-dealer;

(II) An investment adviser registered under federal or state securities laws or an investment adviser representative

associated with the federal or state registered investment adviser; or

(III) A plan fiduciary under Section 3(21) of the Employee Retirement Income Security Act of 1974 (ERISA) or fiduciary under Section 4975(e)(3) of the Internal Revenue Code (IRC) or any amendments or successor statutes thereto.

(6) AGENT TRAINING.—

(a) An agent shall not solicit the sale of an annuity product unless the agent has adequate knowledge of the product to recommend the annuity and the agent is in compliance with the insurer's standards for product training. An agent may rely on insurer-provided product-specific training standards and materials to comply with this subsection.

(b)1.a. An agent who engages in the sale of annuity products shall complete a one-time 4 hour training course. This requirement is not part of an agent's continuing education requirement in s. 626.2815; however, if a course provider submits and receives approval from the Department of Financial Services, then the course could also be eligible for continuing education credit pursuant to s. 626.2815.

b. Agents who hold a life insurance line of authority on the effective date of this act and who desire to sell annuities shall complete the requirements of this subsection within 6 months after the effective date of this act. Individuals who obtain a life insurance line of authority after the effective

date of this act may not engage in the sale of annuities until the annuity training course required under this subsection has been completed.

2. The minimum length of the training required under this subsection is 4 hours.

3. The training required under this subsection shall include information on the following topics:

a. The types of annuities and various classifications of annuities.

b. Identification of the parties to an annuity.

c. How product-specific annuity contract features affect consumers.

d. The application of income taxation of qualified and nonqualified annuities.

e. The primary uses of annuities.

f. Appropriate standard of conduct, sales practices, replacement, and disclosure requirements.

4. Providers of courses intended to comply with this subsection shall cover all topics listed in the prescribed outline and shall not present any marketing information or provide training on sales techniques or provide specific information about a particular insurer's products. Additional topics may be offered in conjunction with and in addition to the required outline.

5. An agent who has completed an annuity training course prior to the effective date of this act shall, within 6 months after the effective date of this act, complete either:

a. A new 4-hour training course; or

b. An additional one-hour training course on appropriate sales practices, replacement, and disclosure requirements under this section.

6. Annuity training courses may be conducted and completed by classroom or self-study methods.

7. Providers of annuity training shall issue certificates of completion.

8. The satisfaction of the training requirements of another state that are substantially similar to the provisions of this subsection shall be deemed to satisfy the training requirements of this subsection in this state.

9. The satisfaction of the training requirements of any course or courses with components substantially similar to the provisions of this subsection shall be deemed to satisfy the training requirements of this subsection in this state.

10. An insurer shall verify that an agent has completed the annuity training course required under this subsection before allowing the agent to sell an annuity product for that insurer.

(7)~~(6)~~ RECORDKEEPING.—

(a) Insurers and agents must maintain or be able to make available to the office or department records of the information collected from the consumer and other information used in making the recommendations that were the basis for insurance transactions for 5 years after the insurance transaction is completed by the insurer. An insurer may maintain the documentation on behalf of its agent.

(b) Records required to be maintained under this subsection may be maintained in paper, photographic, microprocess, magnetic, mechanical, or electronic media, or by any process that accurately reproduces the actual document.

(8) ~~(7)~~ COMPLIANCE MITIGATION; PENALTIES.—

(a) An insurer is responsible for compliance with this section. If a violation occurs because of the action or inaction of the insurer or its agent which results in harm to a consumer, the office may order the insurer to take reasonably appropriate corrective action for the consumer and may impose appropriate penalties and sanctions.

(b) The department may order:

1. An ~~insurance~~ agent to take reasonably appropriate corrective action for a consumer harmed by a violation of this section by the ~~insurance~~ agent, including monetary restitution of penalties or fees incurred by the consumer, and impose appropriate penalties and sanctions.

2. A managing general agency or insurance agency that employs or contracts with an ~~insurance~~ agent to sell or solicit the sale of annuities to consumers to take reasonably appropriate corrective action for a consumer harmed by a violation of this section by the ~~insurance~~ agent.

(c) In addition to any other penalty authorized under chapter 626, the department shall order an insurance agent to pay restitution to a consumer who has been deprived of money by the agent's misappropriation, conversion, or unlawful withholding of moneys belonging to the consumer in the course of a transaction involving annuities. The amount of restitution required to be paid may not exceed the amount misappropriated, converted, or unlawfully withheld. This paragraph does not limit or restrict a person's right to seek other remedies as provided by law.

(d) Any applicable penalty under the Florida Insurance Code for a violation of this section shall be reduced or eliminated according to a schedule adopted by the office or the department, as appropriate, if corrective action for the consumer was taken promptly after a violation was discovered.

(e) A violation of this section does not create or imply a private cause of action.

(9)~~(8)~~ PROHIBITED CHARGES.—An annuity contract issued to a senior consumer age 65 or older may not contain a surrender or deferred sales charge for a withdrawal of money from an annuity

exceeding 10 percent of the amount withdrawn. The charge shall be reduced so that no surrender or deferred sales charge exists after the end of the 10th policy year or 10 years after the date of each premium payment if multiple premiums are paid, whichever is later. This subsection does not apply to annuities purchased by an accredited investor, as defined in Regulation D as adopted by the United States Securities and Exchange Commission, or to those annuities specified in paragraph (4)(b).

(10) ~~(9)~~ RULES.—The department and the commission may adopt rules to administer this section.

(11) The Department is authorized to adopt by rulemaking the three forms prescribed in Appendix A through C of the National Association of Insurance Commissioners Suitability in Annuity Transactions Model Regulation as follows:
INSURANCE AGENT (PRODUCER) DISCLOSURE FOR ANNUITIES;
CONSUMER REFUSAL TO PROVIDE INFORMATION; and
Consumer Decision to Purchase an Annuity NOT Based on a Recommendation.

Section 18. Paragraph (b) of subsection (8) of section 634.041, Florida Statutes, is amended to read:

634.041 Qualifications for license.—To qualify for and hold a license to issue service agreements in this state, a service agreement company must be in compliance with this part, with applicable rules of the commission, with related sections

of the Florida Insurance Code, and with its charter powers and must comply with the following:

(8)

(b) A service agreement company does not have to establish and maintain an unearned premium reserve if it secures and maintains contractual liability insurance in accordance with the following:

1. Coverage of 100 percent of the claim exposure is obtained from an insurer approved by the office, which holds a certificate of authority under s. 624.401 to do business within this state, or secured through a risk retention group, which is authorized to do business within this state under s. 627.943 or s. 627.944. Such insurer or risk retention group must maintain a surplus as regards policyholders of at least $15 million.

2. If the service agreement company does not meet its contractual obligations, the contractual liability insurance policy binds its issuer to pay or cause to be paid to the service agreement holder all legitimate claims and cancellation refunds for all service agreements issued by the service agreement company while the policy was in effect. This requirement also applies to those service agreements for which no premium has been remitted to the insurer.

3. If the issuer of the contractual liability policy is fulfilling the service agreements covered by the contractual liability policy and the service agreement holder cancels the

service agreement, the issuer must make a full refund of unearned premium to the consumer, subject to the cancellation fee provisions of s. 634.121(3). The sales representative and agent must refund to the contractual liability policy issuer their unearned pro rata commission.

4. The policy may not be canceled, terminated, or nonrenewed by the insurer or the service agreement company unless a 90-day written notice thereof has been given to the office by the insurer before the date of the cancellation, termination, or nonrenewal.

5. The service agreement company must provide the office with the claims statistics.

6. A policy issued in compliance with this subparagraph may either pay 100 percent of claims as they are incurred, or 100 percent of claims due in the event of the failure of the service agreement company to pay such claims when due.

All funds or premiums remitted to an insurer by a motor vehicle service agreement company under this part shall remain in the care, custody, and control of the insurer and shall be counted as an asset of the insurer; provided, however, this requirement does not apply when the insurer and the motor vehicle service agreement company are affiliated companies and members of an insurance holding company system. If the motor vehicle service agreement company chooses to comply with this paragraph but also

maintains a reserve to pay claims, such reserve shall only be considered an asset of the covered motor vehicle service agreement company and may not be simultaneously counted as an asset of any other entity.

Section 19. Paragraphs (d), (e), and (f) of subsection (17) of section 634.401, Florida Statutes, are amended to read:

634.401 Definitions.—As used in this part, the term:

(17) "Manufacturer" means any entity or its affiliate which:

~~(d) Maintains outstanding debt obligations, if any, rated in the top four rating categories by a recognized rating service;~~

(d)~~(e)~~ Has and maintains at all times, a minimum net worth of at least $100 ~~$10~~ million as evidenced by certified financial statements prepared by an independent certified public accountant in accordance with generally accepted accounting principles; and

(e)~~(f)~~ Is authorized to do business in this state.

Section 20. The Division of Law Revision is directed to replace the phrase "the effective date of this act" wherever it occurs in this act with the date this act becomes a law.

Section 21. Except as otherwise expressly provided, this act shall take effect July 1, 2023.

T I T L E A M E N D M E N T

Remove everything before the enacting clause and insert:

An act relating to consumer protection; amending s. 494.001, F.S.; revising the definition of the term "branch office"; defining the term "remote location"; authorizing a licensee under ch. 494, F.S., to allow loan originators to work from remote locations if specified conditions are met; amending s. 494.0067, F.S.; specifying that mortgage lenders may transact business from branch offices and remote locations; providing a requirement for operating remote locations; creating s. 501.2042, F.S.; defining terms; providing requirements for organizers of crowd-funding campaigns related to disasters and for crowd-funding platforms; amending s. 520.23, F.S.; revising disclosure requirements for agreements governing the sale or lease of a distributed energy generation system; amending s. 626.551, F.S.; revising the timeframe in which an insurance representative must notify the Department of Financial Services of certain changes in information; amending s. 626.602, F.S.; providing applicability of provisions relating to the disapproval of insurance agency names to adjusting firms; revising grounds on which such names may be disapproved by the department; providing for repeal of a provision upon becoming obsolete; amending s. 626.854, F.S.; revising the definition of "public adjuster"; prohibiting public adjusters from contracting

with anyone other than the named insured without the insured's written consent; specifying a penalty for noncompliance; specifying timeframes in which an insured or a claimant may cancel a public adjuster's contract without penalty or contract under certain circumstances; revising requirements for public adjuster's contracts; specifying requirements for public adjusters if the insurer, within a certain timeframe, pays or commits in writing to pay to the insured the policy limit of the policy; specifying the commission a public adjuster receives under certain circumstances; amending s. 626.860, F.S.; providing that an attorney's exemption from public adjuster licensure requirements do not apply to certain persons; amending s. 626.875, F.S.; revising recordkeeping requirements for appointed independent adjusters and licensed public adjusters; amending s. 626.8796, F.S.; revising requirements for public adjuster contracts; specifying requirements for and prohibitions on public adjusters relating to such contracts; providing construction; authorizing the department to adopt rules; amending s. 626.8797, F.S.; revising a fraud statement requirement in proof-of-loss statements; amending s. 626.9541, F.S.; adding a unfair or deceptive insurance act relating to health insurance contracts; amending s. 627.4025, F.S.; revising the definition of the term "hurricane," and defining the term "hurricane deductible," as used in policies providing residential coverage; amending s. 627.4133, F.S.; revising the

timeframe after which certain insurers may not cancel policies except for specified reasons; amending s. 627.4554, F.S.; revising legislative purpose; revising applicability; revising and defining terms; revising and specifying duties of insurers and agents relating to the recommendation and sale of annuity investments; specifying comparable standards that comply with such requirements; specifying agent training requirements; providing and revising construction; amending s. 634.041, F.S.; specifying authorized methods of paying claims for motor vehicle service agreements; amending s. 634.401, F.S.; revising the definition of the term "manufacturer"; providing a directive to the Division of Law Revision; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1575 Public Safety Emergency Communications Systems
SPONSOR(S): Brackett
TIED BILLS: **IDEN./SIM. BILLS:** SB 1614

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Fortenberry	Lloyd
2) Local Administration, Federal Affairs & Special Districts Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

The State Fire Marshal (SFM), within the Department of Financial Services (DFS), enforces the provisions of ch. 633, F.S., and all other applicable laws relating to fire safety. The SFM adopts by rule the Florida Fire Prevention Code (FFPC), which is the minimum fire prevention code deemed adopted in each municipality, county, and special district with firesafety responsibilities. Local authorities having jurisdiction (LAHJs) set standards for radio signal strength in buildings within their jurisdiction to ensure consistent fire and rescue communication capabilities. Two-way radio communication enhancement systems (enhancement systems) are post-construction systems installed that accept and amplify radio signals used by first responders so that the radio signal strength at ground level, where a fire rescue operation might be based, is equal to the radio signal strength in all locations throughout the building.

LAHJs must determine minimum radio signal strength for fire department communications in all new and existing high-rise buildings. The FFPC defines a high-rise building as a building where the floor of an occupiable story is greater than 75 feet above the lowest level of fire department vehicle access. In 2022, the Legislature clarified that the LAHJ has jurisdiction over buildings of any height, not just high-rise buildings. Enhancement systems, or equivalent systems may be used to comply with the minimum radio signal strength requirements for fire department communications, but systems are not required in apartment buildings that are 75 feet or less in height that also meet all of the following criteria: constructed using wood framing; has 150 or less dwelling units; and all dwelling units discharge to the exterior or to a corridor that leads directly to an exit as defined in the Florida Building Code (Code).

The bill creates a framework for determining whether an enhancement system must be installed in a new or existing building. Before an LAHJ may require an assessment of the need for, or the installation of, a enhancement system in a new or existing building (assessment), a qualified third party must certify that the LAHJ's public safety emergency communications systems meets or exceeds the minimum radio coverage design criteria for emergency services communications systems in the current edition of the NFPA. The certification is valid until the next triennial adoption of the FFPC, which will incorporate changes made to the NFPA.

The bill establishes that, if an LAHJ has a valid radio coverage design certification, the LAHJ may only require an assessment to determine the need for an enhancement system once: every three years for high-rise buildings; or every 5 years for all other buildings. If an assessment determines that the installation of enhancement system is required, the LAHJ may not withhold the issuance of a certificate of occupancy for the building if the registered architect or professional engineer who designed the building determined that a enhancement system is not necessary for the building to meet the minimum standards for interior radio coverage and signal strength. Finally, the bill prohibits an LAHJ from requiring the installation of a enhancement system until at least 90 days after the building's interior radio coverage and signal strength assessment report is completed.

The bill has no impact on state government revenues or expenditures or local government revenues. It has an indeterminate effect on local government expenditures and an indeterminate direct economic impact on the private sector.

The bill is effective on July 1, 2023.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

State Fire Marshal

Chapter 633, F.S., Fire Prevention and Control, designates the Chief Financial Officer (CFO) as the State Fire Marshal (SFM). The SFM, through the Division of the State Fire Marshal within the Department of Financial Services (DFS), is charged with enforcing the provisions of ch. 633, F.S., and all other applicable laws relating to fire safety.[1] The SFM also has the responsibility to minimize the loss of life and property due to fire.[2] Pursuant to this authority, the SFM regulates, trains, and certifies fire service personnel and firesafety inspectors; investigates the causes of fires; enforces arson laws; regulates the installation of fire equipment; conducts firesafety inspections of state property; and operates the Florida State Fire College.

Florida Fire Prevention Code

The SFM adopts by rule the Florida Fire Prevention Code (FFPC), which contains all fire safety laws and rules that pertain to the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and the enforcement of such fire safety laws and rules.[3] The SFM adopts a new edition of the FFPC every three years[4] and the 7th edition of the FFPC took effect on December 31, 2020.[5] The FFPC is largely based on the *National Fire Protection Association's (NFPA) Standard 1, Fire Prevention Code,* along with the current edition of the *NFPA's Life Safety Code, NFPA 101*.[6]

The FFPC is the minimum fire prevention code deemed adopted in each municipality, county, and special district with firesafety responsibilities, and applies to every building and structure throughout the state with few exceptions.[7] Municipalities, counties, and special districts with firesafety responsibilities may supplement the FFPC with more stringent standards.[8] Local fire authorities (authorities having jurisdiction or LAHJs) set standards for radio signal strength throughout buildings within their jurisdiction to ensure consistent fire and rescue communication capabilities.

Radio Signal Strength for Fire Department Communications

The life safety of firefighters and citizens depends on reliable, functional communication tools that work in the harshest and most hostile of environments.[9] "All firefighters, professional and volunteer, operate in extreme environments that are markedly different from those of any other radio users."[10] The radio connects the firefighters to command and outside assistance in the most desperate of situations.[11] The focus on radio signal strength stems from difficulties firefighters experienced when attempting rescue

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[1] S. 633.104 F.S.
[2] *Id.*
[3] Ch. 69A, F.A.C.
[4] S. 633.202, F.S.
[5] *See* Florida Fire Prevention Code (FFPC), https://www.myfloridacfo.com/division/sfm/bfp/florida-fire-prevention-code (last visited Mar. 17, 2023).
[6] S. 633.202(2), F.S.
[7] S. 633.208, F.S. and R. 69A-60.002(1), F.A.C.
[8] S. 633.208(3), F.S., and R. 69A-60.002(2), F.A.C.
[9] U.S. Fire Administration, *Voice Radio Communications Guide for the Fire Service* (June 2016), https://www.usfa.fema.gov/downloads/pdf/publications/Voice_Radio_Communications_Guide_for_the_Fire_Service.pdf (last visited Mar. 18, 2023).
[10] *Id.*
[11] *Id.*

operations on September 11, 2001, in the World Trade Center Towers.[12] These firefighters found that in certain areas of the buildings their radio signal degraded, making live communications difficult or impossible.[13]

Two-way radio communication enhancement systems (enhancement systems) are devices installed after a building is constructed that accept, and then amplify, radio signals used by first responders. A radio frequency site survey may be conducted in a building to determine areas where radio signal strength drops due to materials used in construction, such as thick walls, metal construction, underground structures, and low-emissivity glass windows. The generally desired effect is that the radio signal strength at ground level, where a fire rescue operation might be based, is equal to the radio signal strength in all locations throughout the building, to ensure consistent communication. Several devices are available to boost signal strength to meet required radio signal strength. These include bi-directional amplifiers and networks of indoor antennae, referred to collectively as a distributed antenna system.[14]

Florida Fire Code Minimum Radio Signal Strength

Amendments to the FFPC, effective January 1, 2018, provided that all new and existing buildings must maintain minimum radio signal strength at a level determined by the local authority having jurisdiction (LAHJ).[15] Where required by a local fire authority, signal enhancement systems must comply with federal standards for installation and upkeep.[16] Additionally, if an enhancement system would have a negative impact on the operations of a facility, the local fire authority may accept an automatically activated emergency responder radio coverage system in the alternative.[17]

Minimum Radio Signal Strength for High-Rise Buildings

Section 633.202(18), F.S., enacted in 2016,[18] provides that local LAHJ have to determine minimum radio signal strength for fire department communications in all new and existing high-rise buildings. The FFPC defines a high-rise building as a building where the floor of an occupiable story is greater than 75 feet above the lowest level of fire department vehicle access.[19] Existing high-rise buildings are not required to comply with minimum radio strength for fire department communications and enhancement systems as required by the FFPC until January 1, 2025.[20] By January 1, 2024, an existing building that is not in compliance with the requirements for minimum radio strength for fire department communications must apply to the local government agency having jurisdiction for an appropriate permit for the required system installation.[21] Such an existing building must demonstrate that the building will become compliant with the FFPC by January 1, 2025.[22]

2022 Changes to the FFPC

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[12] *See* National Fire Protection Association, *Assessment of Total Evacuation Systems for Tall Buildings: Literature Review*, evacsystemstallbuildingsliteraturereviewexecsum.ashx (nfpa.org) (last visited Mar. 17, 2023).
[13] *Id.*
[14] *See* City of Treasure Island, Florida, *Enhancement Radio Communications Enhancement Systems Requirements* (Apr. 20, 2019), High-Rise Public Safety System Integrators (mytreasureisland.org) (last visited Mar. 17, 2023); *see also* East Lake Tarpon Special Fire Control District, *Information Bulletin: Enhancement Radio Communication Enhancement System Requirements*, Bulletin+East+Lake+Two+Way+Communications.pdf (elfr.org) (last visited Mar. 17, 2023).
[15] Florida Fire Prevention Code (7th ed. 2020) s. 11.10.1, https://www.nfpa.org/codes-and-standards/all-codes-and-standards/codes-and-standards/free-access?mode=view (last visited Mar. 17, 2023).
[16] Florida Fire Prevention Code (7th ed. 2020) s. 11.10.2, https://www.nfpa.org/codes-and-standards/all-codes-and-standards/codes-and-standards/free-access?mode=view (last visited Mar. 17, 2023).
[17] Florida Fire Prevention Code (7th ed. 2020) s. 11.10.3, https://www.nfpa.org/codes-and-standards/all-codes-and-standards/codes-and-standards/free-access?mode=view (last visited Mar. 17, 2023).
[18] Ch. 2016-129, s. 27, Laws of Fla.
[19] Florida Fire Prevention Code (7th ed. 2020) s. 3.3.29.6, https://www.nfpa.org/codes-and-standards/all-codes-and-standards/codes-and-standards/free-access?mode=view (last visited Mar. 17, 2023).
[20] Prior to July 1, 2022, the compliance dates for existing apartment buildings were the same as those for all other high-rise buildings.
[21] *Id.*
[22] *Id.*

During the 2022 session, the Legislature clarified that the LAHJ has jurisdiction over buildings of any height, not just high-rise buildings. It established that enhancement systems, or equivalent systems, may be used to comply with the minimum radio signal strength requirements for fire department communications. It also established that these systems are not required in apartment buildings that are 75 feet or less in height that also meet all of the following criteria:

- Constructed using wood framing;
- Has 150 or less dwelling units; and
- All dwelling units discharge to the exterior or to a corridor that leads directly to an exit as defined in the Florida Building Code (Code).

Evidence of wood frame construction is shown by the property owner providing building permit documentation that confirms this type of construction. Existing high-rise buildings, as defined in the Code, are not required to comply with minimum radio signal strength for fire department communications and enhancement systems until January 1, 2025, but they must apply for the appropriate permit for installation by January 1, 2024. However, existing high-rise apartment buildings are subject to the same installation deadlines as all other existing high-rise buildings.

Effect of the Bill

The bill creates a framework for determining whether an enhancement system but be installed in a new or existing building. Before an LAHJ may require an assessment of the need for, or the installation of, a enhancement system in a new or existing building (assessment), a qualified third party must certify that the LAHJ's public safety emergency communications systems meets or exceeds the minimum radio coverage design criteria for emergency services communications systems in the current edition of the NFPA. The certification is valid until the next triennial adoption of the FFPC, which will incorporate changes made to the NFPA.

The bill establishes that, if an LAHJ has a valid radio coverage design certification, the LAHJ may only require an assessment to determine the need for an enhancement system once:

- Every three years for high-rise buildings; or
- Every five years for all other buildings.

If an assessment determines that the installation of an enhancement system is required, the LAHJ may not withhold the issuance of a certificate of occupancy for the building if the registered architect or professional engineer who designed the building determined that a enhancement system is not necessary for the building to meet the minimum standards for interior radio coverage and signal strength. Finally, the bill prohibits an LAHJ from requiring the installation of a enhancement system until at least 90 days after the building's interior radio coverage and signal strength assessment report is completed.

B. SECTION DIRECTORY:

Section 1. Amends s. 633.202, F.S. relating to Florida Fire Prevention Code.

Section 2. Provides an effective date of July 1, 2023.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Indeterminate. LAHJs may need to spend money to hire a third parties to certify that the public safety emergency communications system meets or exceeds the minimum radio coverage design criteria. The specific cost of the certification process has not been determined.

Additionally, LAHJs with noncompliant systems must upgrade their systems if they wish to use assessments to require installation of signal enhancement systems. System upgrades would require the expenditure of funds.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill has an indeterminate, but potentially positive impact on the private sector. If it is determined that certain apartment buildings are exempt from putting in enhancement systems, they save the money that would have been spent to install the systems.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Line 43: This line states that a "qualified third party" must certify that an LAHJ's public safety emergency communications system meets or exceeds minimum radio coverage design criteria, but does not describe the qualifications necessary for the third party. Consideration should be given to specifying the qualifications within the bill.

Lines 67-68: These lines mention the minimum standards for interior radio coverage and signal strength. However, the FFPC does not set minimum standards for enhancement radio strength. Consideration should be given to amending the bill to be more specific about the minimum signal strength required. Alternatively, the bill could specify that the minimum standards mentioned in those lines will be set by the LAHJ.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to public safety emergency communications systems; amending s. 633.202, F.S.; requiring a qualified third party to make a specified certification before a local authority having jurisdiction may require an assessment of the need for or the installation of a two-way radio communications enhancement system in certain buildings; specifying the length of time such certification is valid; limiting the number of times, under certain circumstances, that the local authority having jurisdiction may require a specified assessment; prohibiting the local authority having jurisdiction from withholding a certificate of occupancy under certain circumstances and from requiring the installation of a specified system within a certain time period after completion of a specified report; providing an effective date.

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

Section 1. Subsection (18) of section 633.202, Florida Statutes, is amended to read:

633.202 Florida Fire Prevention Code.—

(18)(a) The authority having jurisdiction shall determine

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

the minimum radio signal strength for fire department communications in all new and existing buildings.

(b) Two-way radio communication enhancement systems or equivalent systems may be used to comply with the minimum radio signal strength requirements. However, two-way radio communication enhancement systems or equivalent systems are not required in apartment buildings 75 feet or less in height that are constructed using wood framing, provided that the building has less than 150 dwelling units and that all dwelling units discharge to the exterior or to a corridor that leads directly to an exit as defined by the Florida Building Code. Evidence of wood frame construction shall be shown by the owner providing building permit documentation which identifies the construction type as wood frame.

(c) Before a local authority having jurisdiction may require an assessment of the need for or the installation of a two-way radio communications enhancement system in a new or existing building, a qualified third party must certify that the jurisdiction's public safety emergency communications system meets or exceeds the minimum radio coverage design criteria for emergency services communications systems in the current edition of the National Fire Protection Association (NFPA) 1221: Standard for the Installation, Maintenance, and Use of Emergency Services Communications Systems. Such certification is valid until the next triennial adoption of the Florida Fire Prevention

Code which incorporates any changes made to NFPA 1221.

(d) If a jurisdiction has a valid radio coverage design certification under paragraph (c), the local authority having jurisdiction may only require an assessment of a new or existing building's interior radio coverage and signal strength in such building once every 3 years for high-rise buildings or once every 5 years for any other buildings in order to determine the need for a two-way radio communications enhancement system.

(e)1. If an assessment of a new building's interior radio coverage and signal strength determines that installation of a two-way radio communications enhancement system is required, the local authority having jurisdiction may not withhold the issuance of a certificate of occupancy for the building if the registered architect or professional engineer who designed the building determines, in his or her professional judgment, that a two-way radio communications enhancement system is not necessary in order for the building to meet the minimum standards for interior radio coverage and signal strength.

2. The local authority having jurisdiction may not require the installation of a two-way radio communications enhancement system until at least 90 days after the building's interior radio coverage and signal strength assessment report is completed.

(f) Existing high-rise buildings as defined by the Florida Building Code are not required to comply with minimum radio

strength for fire department communications and two-way radio communication enhancement systems as required by the Florida Fire Prevention Code until January 1, 2025. However, by January 1, 2024, an existing high-rise building that is not in compliance with the requirements for minimum radio strength for fire department communications must apply for an appropriate permit for the required installation with the local government agency having jurisdiction and must demonstrate that the building will become compliant by January 1, 2025. Existing high-rise apartment buildings are not required to comply until January 1, 2025. However, existing high-rise apartment buildings are required to apply for the appropriate permit for the required communications installation by January 1, 2024.

Section 2. This act shall take effect July 1, 2023.

PCS for HB 253

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 253 Regulation of Securities
SPONSOR(S): Insurance & Banking Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Insurance & Banking Subcommittee		Fletcher	Lloyd

SUMMARY ANALYSIS

In Florida, the Securities and Investor Protection Act, ch. 517, F.S. (Act), regulates securities issued, offered, and sold in the state of Florida. The Florida Office of Financial Regulation's (OFR) Division of Securities regulates and registers the offer and sale of securities in, to, or from Florida by firms, branch offices, and individuals affiliated with these firms. The Act currently prohibits dealers, associated persons, and issuers from offering or selling securities in this state unless registered with the OFR or specifically exempted. Additionally, all securities in Florida must be registered with the OFR unless they meet one of the exemptions in ss. 517.051 or 517.061, F.S., or are federally covered (i.e., under the exclusive jurisdiction of the United States Securities Exchange Commission (SEC)).

The bill eliminates the requirement for an issuer to register with OFR when selling securities. The bill also eliminates the escrow agreement section of ch. 517, F.S. Additionally, the bill reduces the issuer filing fee for security offerings below a certain monetary value, as determined by the SEC.

The bill creates a continuing education requirement, based on the North American Securities Administration Association (NASAA) model rule, for associated persons of investment advisers and federal covered advisers. Under this new section an associated person for an investment adviser is required to take twelve (12) credits of continuing education annually. Six (6) of these credits must be on ethics and regulatory obligations while the remaining six (6) credits must focus on knowledge and skills relating to financial products. Currently, 12 states have adopted continuing education rules based on the NASAA model rule.

Various sections throughout ch. 517, F.S. have been updated to provide technical updates, clarity, and the modernization of the language used within the Chapter. Definitions have been introduced and amended, in part, to account for these changes. Limited liability companies have been expressly included throughout the statute and have been provided parallel descriptions to corporations when relevant.

The bill has no impact on local governments, an insignificant negative impact on state government, and an indeterminate fiscal impact on the private sector.

The bill provides an effective date of October 1, 2023.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Federal Securities Regulation

The federal Securities Exchange Act of 1934 (1934 Act) requires registration of securities market participants like broker-dealers and exchanges.[1] Generally, any person acting as "broker" or "dealer" as defined in the 1934 Act must be registered with the United States Securities and Exchange Commission (SEC) and join a self-regulatory organization (SRO), like the Financial Industry Regulatory Authority (FINRA) or a national securities exchange. The 1934 Act broadly defines "broker" as "any person engaged in the business of effecting transactions in securities for the account of others," which the SEC has interpreted to include involvement in any of the key aspects of a securities transaction, including solicitation, negotiation, and execution.[2] A "dealer" is "any person engaged in the business of buying and selling securities for such person's own account through a broker or otherwise.[3]

Certain entities in the securities industry are often referred to as "broker-dealers" because such entities are considered "brokers" when executing trades on behalf of customers, but are "dealers" when executing trades for their own account. In addition to being registered with the SEC, broker-dealers must comply with state registration requirements.

State Securities Regulation

In addition to federal securities laws, "Blue Sky Laws" are state laws that protect the investing public from fraudulent sales practices and activities.[4] In Florida, the Securities and Investor Protection Act, ch. 517, F.S. (Act), regulates securities issued, offered, and sold in the state of Florida. The Florida Office of Financial Regulation's (OFR) Division of Securities (Division) regulates and registers the offer and sale of securities in, to, or from Florida by firms, branch offices, and individuals affiliated with these firms in accordance with the Act and Rule Chapter 69W, Florida Administrative Code. [5]

As of December 31, 2022, the Division had total registrants in the following areas:

- Dealers: 2,421
- Investment advisers: 8,096
- Branch offices: 11,435
- Associated Persons: 361,200[6]

The Act prohibits dealers, associated persons, and issuers from offering or selling securities in this state unless registered with OFR or specifically exempted.[7] Additionally, all securities in Florida must be registered with OFR unless they meet one of the exemptions in ss. 517.051 or 517.061, F.S., or are federally covered (i.e., under the exclusive jurisdiction of the SEC).[8] Failure to meet the precise

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[1] 15 U.S.C. §§ 78c(a)(4) and 78o; U.S. Securities and Exchange Commission, *Guide to Broker-Dealer Registration*, http://www.sec.gov/divisions/marketreg/bdguide.htm#II (last visited Mar. 19, 2023).
[2] *Id.*
[3] 15 U.S.C. § 78c(a)(5).
[4] U.S. SECURITIES & EXCHANGE COMMISSION, *Blue Sky Laws*, http://www.sec.gov/answers/bluesky.htm (last visited Mar. 19, 2023).
[5] Pursuant to s. 20.121(3), F.S., the Financial Services Commission (the Governor and Cabinet) serves as the OFR's agency head for purposes of rulemaking and appoints the OFR's Commissioner, who serves as the agency head for purposes of final agency action for all areas within the OFR's regulatory authority.
[6] Office of Financial Regulation, Agency Analysis of 2023 House Bill 253, p. 2 (Mar. 1, 2023).
[7] s. 517.12, F.S.
[8] S. 517.07, F.S. If a security is registered with the SEC, s. 517.082, F.S., requires the broker or issuer to notify OFR that the security is registered with the SEC.

requirements of these exemptions can subject the issuer to civil, criminal, and administrative liability for the sale of unregistered securities, which is a third-degree felony in Florida.[9] Civil remedies under the Act include rescission and damages.[10] In addition, issuers must comply with disclosure requirements in state and federal laws that provide potential investors with full and fair disclosures regarding the securities.

The Act requires the following individuals or businesses to be registered with OFR under s. 517.12, F.S., before selling or offering to sell any securities in or from offices in this state, or selling securities to persons in this state from offices outside this state:[11]

- Dealers, which include:[12]
  - Any person, other than an associated person registered under ch. 517, F.S., who engages as a broker or principal in the business of offering, buying, selling, or otherwise dealing or trading in securities issued by another person.
  - Any issuer who through persons directly compensated or controlled by the issuer engages in the business of offering or selling securities which are issued (or proposed to be issued) by the issuer.
- Investment advisers, which include any person who receives compensation and engages in the business of advising others as to the value of securities or as to the advisability of investments in, purchasing of, or selling of securities, except a dealer whose performance of these services is solely incidental to the conduct their business as a dealer and who receives no special compensation for such services.[13] Investment advisors do not include a "federal covered adviser."[14]
- Associated persons, which include:[15]
  - With respect to a *dealer or investment adviser*, any of the following:
    - Any partner, officer, director, or branch manager of a dealer or investment adviser or any person occupying a similar status or performing similar functions;
    - Any individual directly or indirectly controlling or controlled by such dealer or investment adviser, other than an employee whose function is only clerical or ministerial; or
    - Any individual, other than a dealer, employed, appointed, or authorized by a dealer, investment adviser, or issuer to sell securities in any manner or act as an investment adviser as defined in s. 517.021, F.S.
  - With respect to a *federal covered adviser*, any person who is an investment adviser representative and who has a place of business in this state.

Self-Regulatory Organizations

Formed as a result of a 2007 merger between the National Association of Securities Dealers and certain operational arms of the New York Stock Exchange,[16] FINRA is the largest private self-regulatory organization for all securities firms doing business in the United States.[17] In addition to operating the largest securities arbitration forum in the United States, FINRA operates the Central Registration Depository and the Investment Adviser Registration Depository, both which are central databases for registration, reporting, and disclosure information for the securities industry.[18]

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[9] S. 517.302(1), F.S.
[10] S. 517.211(3-5), F.S.
[11] S. 517.12(1), F.S.
[12] S. 517.021(6)(a), F.S. The term "dealer", as defined under Florida law, encompasses the definitions of "broker" and "dealer" under federal law.
[13] S. 517.021(14)(a), F.S.
[14] S. 517.021(9), (14)(b)9., F.S. A federal covered adviser must be registered under federal law and must provide a notice-filing to OFR. Ss. 517.021 and 517.1201, F.S.
[15] S. 517.021(2), F.S.
[16] FINRA, *NASD and NYSE Member Regulation Combine to Form the Financial Industry Regulatory Authority,* https://www.finra.org/media-center/news-releases/2007/nasd-and-nyse-member-regulation-combine-form-financial-industry (last visited Mar. 19, 2023).
[17] FINRA, https://www.finra.org/#/ (last visited Mar. 19, 2023).
[18] NASAA, *CRD & IARD*, https://www.nasaa.org/industry-resources/crd-iard/ (last visited Mar. 19, 2023).

NASAA's Model Rule on Investment Adviser Representative Continuing Education

The North American Securities Administrators Association (NASAA) is a voluntary, international, association whose membership consists of 67 state, provincial, and territorial securities administrators.[19] Formed in 1919, NASAA is the "oldest international organization devoted to investor protection."[20] NASAA advocates on behalf of state securities agencies in the United States that are responsible for capital formation and investor protection.[21] NASAA also coordinates training and education seminars for securities agency staff[22] and creates model rules for implementation amongst its members.[23]

On November 30, 2020, NASAA adopted a model rule for the implementation of continuing education (CE) programs for investment adviser representatives (IARs).[24] Among other things, the model rule:

- Requires IARs of both state-registered and federal covered investment advisers seeking registration or renewal of IAR registration to complete 12 CE credits each year;
- Provides IARs must complete six credits of regulatory and ethics content and six credits of compliance and practice content;
- Allows IARs to select courses that appeal to their interests and suit their business models, so long as such courses meet the credit requirements and are approved content for the CE program;
- Permits IARs to satisfy either some or all of the model rule's CE requirements through completion of the IAR's home state's CE requirements and completion of CE courses required to be completed by IARs who maintain certain professional designations and those required to be completed for registration as an agent of a dealer, provided certain criteria are met; and
- Provides course providers and course content must be approved by NASAA;
- Requires an IAR who does not complete the CE requirement by the annual deadline to renew as "CE inactive;"

Under the model rule, IARs are responsible for ensuring that completed CE credits are reported to FINRA, NASAA's vendor for program tracking. NASAA has implemented a course reporting fee of $3 per credit hour. Individual course costs will vary depending on the course and provider selected.

Currently, 12 NASAA member jurisdictions have adopted CE requirements similar to those proposed in the rule, namely, Arkansas, Colorado, Kentucky, Maryland, Michigan, Mississippi, Oklahoma, Oregon, South Carolina, Vermont, Washington, D.C., and Wisconsin. [25]

Effect of the Bill

Definitions

The bill creates the following definitions:

- "Accredited investor" has the same definition as that in SEC Rule 501, 17 C.F.R. s. 230.501, which includes:
  - Any bank, savings and loan associations, other institutions defined in section 3(a) of the federal Securities Act of 1933 (1933 Act), brokers or dealers, investment advisers, insurance companies, or investment companies;

[19] NASAA, *Welcome to NASAA*, https://www.nasaa.org/about-us/ (last visited Mar. 19, 2023).
[20] *Id.*
[21] *Id.*
[22] *Id.*
[23] *See* NASAA, *NASAA Model Rule on Investment Adviser Representative Continuing Education (Model Rule 2002-411(h) or 1956-204(B)(6)-CE)*, https://www.nasaa.org/wp-content/uploads/2020/10/NASAA-IAR-CE-Model-Rule.pdf (last visited, Mar. 19, 2023).
[24] *Id.*
[25] NASAA, https://www.nasaa.org/industry-resources/investment-advisers/investment-adviser-representative-continuing-education/iar-ce-map/ (last visited, Mar. 19, 2023).

    - Any private business development company as defined in section 202(a)(22) of the Investment Advisers Act of 1940;
    - Any organization described in section 501(c)(3) of the Internal Revenue Code that is not formed for the specific purpose of acquiring securities offered with total assets in excess of $5,000,000;
    - Any director, executive officer, or general partner of the issuer of the securities being offered or sold, or any director, executive officer, or general partner of a general partner of that issuer; or
    - Any natural person whose individual net worth, or joint net worth with that person's spouse or spousal equivalent, exceeds $1,000,000 (subject to specific calculation restrictions).
- "Control Person" means, with respect to a money services business, any of the following:
    - A person who holds the title of president, treasurer, chief executive officer, chief financial officer, chief operations officer, chief legal officer, or compliance officer;
    - A person who holds any of the officer, general partner, manager, or managing member positions named in the money services business's governing documents;
    - A director of the money services business's board of directors;
    - A shareholder whose name shares are registered in the records of a corporation for profit who owns 25% or more of a class of the company's equity securities;
    - A general, limited, or special partner who has a 25% or greater interest of a limited partnership, limited liability limited partnership, foreign limited partnership, or foreign limited liability limited partnership;
    - A member who holds 25% or greater membership interest in a limited liability company or a foreign limited liability company;
    - A beneficial owner of any legal entity referred to above.
- "Natural person" is defined as an individual.

The bill amends the following definitions:

- "Associated person" is now defined by a party's relation to a dealer or to an investment adviser.
    - With respect to a dealer, an associated person is a natural person who is employed, appointed, or authorized by a dealer and who represents the dealer in effecting the purchase or sale of a security.
        - The term does not include a dealer or a partner, officer, or director of a dealer unless such person is specified in the group above. The term also does not include a dealer's employee whose function is only clerical or ministerial.
    - With respect to an investment adviser, an associated person is an individual, including, but not limited to, a partner, officer, director, or branch manager who is employed by or associated with, or is subject to the supervision or control of an investment adviser registered under this chapter, and such person:
        - Makes recommendations or otherwise gives investment advice regarding securities;
        - Manages client accounts or portfolios;
        - Determines which recommendations or advice regarding securities should be given;
        - Receives compensation to solicit, offer, or negotiate for the sale of investment advisory services; or
        - Supervises employees who perform a function outlined above.
    - With respect to an investment adviser, associated person does not include an investment adviser or an employee whose function is only clerical or ministerial.
- "Control" is amended to replace "under common control with" with "under control with."
- "Dealer" is defined as any person, other than an associated person of a dealer, that engages, for all or part of the person's time, directly or indirectly, as agent or principal in the business of offering, buying, selling, or otherwise dealing or trading in securities issued by another person. The term does not include the following:
    - A licensed practicing attorney who renders or performs any services in connection with the regular practice of the attorney's profession.
    - A bank authorized to do business in the state, except a nonbank subsidiary of a bank.

    - A trust company having trust powers that it is authorized to exercise in this state, which renders or performs services in a fiduciary capacity incidental to the exercise of its trust powers.
    - A wholesaler selling exclusively to dealers.
    - A person buying and selling for the person's own account exclusively through a registered dealer or stock exchange.
    - An issuer.
    - A natural person representing an issuer in the purchase, sale, or distribution of the issuer's own securities if such person meets certain criteria.
- "Guaranty" is amended to clarify that a "writing" means "an agreement in writing."
- "Intermediary" is amended to clarify that an intermediary facilitates an offer or sale of a security of an issuer with a principal place of business in Florida through the intermediary's website.
- "Investment adviser" is amended to have a parallel structure to the new definition of "dealer."

The bill also amends various definitions to include the use of gender-neutral terms, to provide inclusion of any amendments to referenced federal securities law, and to specifically include references to limited liability companies.

Viatical Settlements

The bill amends s. 517.072, F.S. to include provisions relating to viatical settlements for organizational purposes that use to reside in s. 517.081, F.S. The provisions were not substantially changed.

Registration Procedure

The bill amends s. 517.081, F.S. to allow for all issuers meeting certain criteria, instead of just corporations, to use simplified offering circular to register securities. The bill reduces the issuer filling fee of $1,000 to $200 for offerings that are below the amount provided in s. 3(b) of the 1933 Act. The bill also provides that the office shall deem an application to register a security abandoned if the issuer has failed to complete a timely application, as specified by commission rule.

Registration by Notification; Federal Registration Statements

The bill provides that the office will consider an application for registration by notification abandoned if the SEC has not declared effective the applicant's federal registration statement within 180 days after the applicant's filing.

Revocation or Denial of Registration of Securities

The bill amends this section to include "investigations" in addition to "examinations" in various provisions as these provisions are applicable to both examinations and investigations conducted by the office.

The bill replaces the "demonstrated any evidence of unworthiness" standard for revocation or denial of a securities registration with the "engaged in any action that would be grounds for revocation, denial, or suspension under s. 517.161(1), F.S." standard.

The bill removes the standard of "is in any other way dishonest." The bill also removes the standard of revoking or denying a registration based on an issuer failing to timely complete any application for registration filed with the office. This provision is, instead, incorporated within ss. 517.081 and 517.082, F.S.

The bill requires that the office must provide notice of the entry of an order suspending the rights to sell securities to the issuer personally or by mail. This amendment eliminates the ability of the office to provide such notice by telephone confirmed in writing or by telegraph.

Registration of Dealers, Associated Persons, Intermediaries, and Investment Advisers

The bill eliminates the requirement that issuers register with the office to sell securities. The bill also clarifies which exempt transactions the registration requirement applies to as well as the meaning of "securities business."

The bill eliminates the requirement that the office finds the applicant to be of "good repute and character." Instead, the office is tasked with finding that the applicant complied with the "applicable registration provisions." The bill provides the office shall register the application "unless the applicant is otherwise disqualified for registration pursuant to law."

Continuing Education Requirements for Associated Persons of Investment Advisers and Federal Covered Advisers

The bill creates s. 517.1214, F.S. which provides a continuing education requirement for the associated persons of an investment adviser or a federally covered adviser. Starting in the year ending December 31, 2024, the associated person of an investment adviser or a federal covered investment adviser shall complete continuing educational content offered by a person that NASAA or NASAA's designee has authorized to provide the continuing education content required. The continuing education requirement follows an annual reporting period that starts on January 1 and ends on December 31. An associated person's initial reporting period commences the first day of the first full reporting period after the individual is required to be registered with the state.

The continuing education requirement consists of a total of 12 hours of continuing education content split into two broad categories:

- Six credits of approved continuing education content that addresses ethical and regulatory obligations, with at least 3 hours of the content covering the topic of ethics; and
- Six credits of approved continuing educational content that addresses an associated person's skills and knowledge regarding financial products, investment features, and practices in the investment advisory industry.

An associated person who is also a registered associated person of a FINRA member dealer and is in compliance with FINRA's continuing education requirements will be considered to be in compliance with the continuing education requirements of this section provided that the FINRA continuing education content is approved by NASAA.

Credits of continuing education completed by an associated person who currently holds a credential that qualifies for an examination waiver by passing any test prescribed in s. 15(b)(7) of the Securities Exchange Act of 1934 will be found to comply with the continuing education requirement upon meeting certain conditions. This condition entails that the associated person completes the credits of continuing education as a condition for maintaining the credential during the relevant reporting period; the credits of continuing education completed were mandatory to maintain the credential; and the continuing education content provided by the credentialing organization during the relevant reporting period is approved by NASAA.

The bill provides that an associated person is responsible for ensuring that the provider of continuing education content reports the associated person's completion of the requirements. Additionally, completed continuing education content that exceeds the requirements of this section cannot be carried over into a following year.

An associated person that fails to comply with this section by the end of a reporting period must register as "CE Inactive" and must complete the continuing education content requirements for the year they failed to comply with the requirements and the current reporting year in order to register as an associated person again. If the associated person renews as "CE Inactive" at the close of the calendar year and fails to complete and report all required CE credits for all reporting periods required by the close of the next calendar year, the associated person becomes unregistered.

An associated person required to be registered in Florida who is registered as an associated person in the individual's home state is considered to be in compliance with this section if the associated person meets Florida's annual 12-hour CE requirements explained above and such person is in compliance with the home state's CE requirements.

An associated person who was previously registered under s. 517.12, F.S. and became unregistered must complete the continuing education requirements for all reporting periods that occurred between the time that the associated person become unregistered and when the person became registered again under s. 517.12, F.S. unless the associated person takes and passes the required examinations or the examination requirements are waived in connection with the subsequent application for registration.

Rules of Conduct and Prohibited Business Practices for Dealers, Dealers' Associated Persons and Intermediaries

The bill amends this section to include intermediaries.

Revocation, Denial, or Suspension of Registration of Dealer, Investment Adviser, Intermediary, or Associated Person

The bill amends this section to add failure to pay, or attempting to avoid paying, certain final judgments, arbitration awards, fines, civil penalties, orders of restitution and disgorgement, or similar monetary payment obligations as grounds for denying, suspending, or revoking a registration.

Escrow Agreement

The bill repeals s. 517.181, F.S. which allowed the office to require an escrow agreement for securities that had been issued for certain intangible assets. The escrow agreement would require that the security be delivered in escrow to the office or other depository satisfactory to the office. The security would be released from escrow upon showing that the issuer is currently operating a sound business.

Criminal Punishment Code; Offense Severity Ranking Chart

The bill removes issuers from the listed parties that would face felony charges for violating s. 517.12(1), F.S. as issuers are no longer required to register with the office.

Miscellaneous

The bill eliminates the bad business repute and the unworthiness standard from various sections of the chapter. The bill also eliminates the use of the term "small loan companies" in various sections of the chapter.

The bill amends various sections to:

- Replace the term "insolvent" with "cannot pay its debts as they become due in the usual course of business;"
- Replace "person directly or indirectly controlling" with "control person;"
- Replace the term "advisors" with "advisers" and gendered language with gender-neutral language;
- Provide clarity by specifically including limited liabilities companies in the regulations throughout ch. 517, F.S.; and
- Update cross-references.

B. SECTION DIRECTORY:

Section 1: Amends s. 517.021, F.S., relating to definitions.

Section 2: Amends s. 517.072, F.S., relating to viatical settlement investment.

Section 3: Amends s. 517.081, F.S., relating to registration procedure.

Section 4: Amends s. 517.082, F.S., relating to registration by notification; federal registration statements.

Section 5: Amends s. 517.111, F.S., relating to revocation or denial of registration of securities.

Section 6: Amends s. 517.12, F.S., relating to registration of dealers, associated persons, intermediaries, and investment advisers.

Section 7: Creates s. 517.1214, F.S., relating to continuing education requirements for associated persons of investment advisers and federal covered advisers.

Section 8: Amends s. 517.1217, F.S., relating to rules of conduct and prohibited business practices for dealers and their associated persons and for intermediaries.

Section 9: Amends s. 517.161, F.S., relating to revocation, denial, or suspension of registration of dealer, investment adviser, intermediary, or associated person.

Section 10: Amends s. 517.1611, F.S., relating to guidelines.

Section 11: Repeals s. 517.181, F.S., relating to escrow agreement.

Section 12: Amends s. 517.201, F.S., relating to investigations; examinations; subpoenas; hearings; witnesses.

Section 13: Amends s. 921.0022, F.S., relating to Criminal Punishment Code; offense severity ranking chart.

Section 14: Amends s. 517.1215, F.S., relating to requirements, rules of conduct, and prohibited business practices for investment advisers and their associated persons.

Section 15: Amends s. 517.075, F.S., relating to Cuba, prospectus disclosure of doing business with, required.

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Section 16: Amends s. 517.131, F.S., relating to Securities Guaranty Fund.

Section 17: Amends s. 517.211, F.S., relating to remedies available in cases of unlawful sale.

Section 18: Amends s. 517.315, F.S., relating to fees.

Section 19: Amends s. 626.9911, F.S., relating to definitions.

Section 20: Amends s. 744.351, F.S., relating to bond of guardian.

Section 21: Amends s. 517.1205, F.S., relating to registration of associated persons specific as to securities dealer, investment adviser, or federal covered adviser identified at time of registration approval.

Section 22: Provides an effective date of October 1, 2023.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill would have a negative, although insignificant, fiscal effect on state government as the bill reduces the issuer fee for certain transactions.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill has an indeterminate fiscal impact on the private sector. Specifically, the bill requires associated persons of investment advisers and federal covered advisers to complete continuing education requirements on an annual basis. Costs incurred by associated persons who are required to comply with the requirement will vary. NASAA has implemented a course reporting fee of $3 per credit hour. Therefore, an associated person will be required to pay a minimum of $36 per year in addition to any training costs to meet the CE requirements. Training costs are indeterminable and will vary depending on the selected continuing education course and provider, whether the associated person is in compliance with FINRA CE requirements, and whether the associated person holds and maintains certain professional designations.[26]

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

[26] Florida Office of Financial Regulation, Agency Analysis of 2023 House Bill 253, p. 7 (Mar. 1, 2023).

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to regulation of securities; reordering and amending s. 517.021, F.S.; adding and revising definitions; requiring the Financial Services Commission to define the term "accredited investor"; amending s. 517.072, F.S.; authorizing the commission to adopt certain rules relating to viatical settlement investments; conforming a provision to changes made by the act; amending s. 517.081, F.S.; revising requirements for the registration of securities; revising application fees for certain securities registrations; requiring the office to deem an application abandoned under certain circumstances; conforming provisions to changes made by the act; amending s. 517.082, F.S.; requiring the office to deem applications for registration by notification abandoned under certain circumstances; making technical changes; amending s. 517.111, F.S.; revising grounds on which the office may revoke, suspend, or deny the registration of securities; specifying the office's powers in investigations of issuers; revising the methods by which the office may enter an order suspending an issuer's right to sell securities; amending s. 517.12, F.S.; revising applicability of registration requirements; revising requirements for

applying for registration as a dealer, an associated person of a dealer, or an investment adviser; conforming provisions to changes made by the act; making technical changes; creating s. 517.1214, F.S.; defining terms; specifying continuing education requirements for associated persons of investment advisers and federal covered advisers; providing that certain education credits satisfy such requirements if certain conditions are met; prohibiting associated persons from carrying forward credits to subsequent reporting periods; specifying a restriction on associated persons who fail to meet such requirements; specifying requirements for certain previously registered associated persons; amending s. 517.1217, F.S.; revising the commission's rulemaking authority as to rules of conduct and prohibited business practices of dealers, associated persons, and intermediaries; amending s. 517.161, F.S.; revising grounds on which the office may deny, revoke, restrict, or suspend registrations of dealers, investment advisers, intermediaries, or associated persons; amending s. 517.1611, F.S.; conforming a provision to changes made by the act; repealing s. 517.181, F.S., relating to escrow agreements; amending s. 517.201, F.S.; conforming a provision to changes

made by the act; amending s. 921.0022, F.S.; revising applicability of a criminal penalty for certain registration violations; amending 517.1215, F.S.; making technical changes; amending ss. 517.075, 517.131, 517.211, 517.315, 626.9911, and 744.351, F.S.; conforming cross-references and making technical changes; amending s. 517.1205, F.S.; revising a statement of legislative intent; providing an effective date.

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

Section 1. Section 517.021, Florida Statutes, is reordered and amended to read:

517.021 Definitions.—When used in this chapter, unless the context otherwise indicates, the following terms have the following respective meanings:

(1) "Accredited investor" shall be defined by rule of the commission in accordance with Securities and Exchange Commission Rule 501 (17 C.F.R. s. 230.501).

(2) "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with an applicant or registrant.

(3) ~~(2)~~ "Associated person" means:

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

(a)1. With respect to a dealer, an individual who is employed, appointed, or authorized by a dealer and who represents the dealer in effecting or attempting to effect purchases or sales of securities.

2. The term does not include the following:

a. A dealer.

b. A partner, officer, or director of a dealer or a person having a similar status or performing similar functions as a dealer, unless such person is specified in subparagraph 1.

c. A dealer's employee whose function is only clerical or ministerial.

d. A person whose transactions in this state are limited to those transactions described in s. 15(i)(3) of the Securities Exchange Act of 1934, as amended.

(b)1. With respect to an investment adviser, an individual, including, but not limited to, a partner, officer, director, or branch manager, or a person occupying a similar status or performing similar functions, who:

a. Is employed by or associated with, or is subject to the supervision and control of, an investment adviser registered or required to be registered under this chapter; and

b. Does any of the following:

(I) Makes any recommendation or otherwise gives investment advice regarding securities.

(II) Manages accounts or portfolios of clients.

(III) Determines which recommendation or advice regarding securities should be given.

(IV) Receives compensation to solicit, offer, or negotiate for the sale of investment advisory services.

(V) Supervises employees who perform a function under this sub-subparagraph.

2. The term does not include the following:

a. An investment adviser.

b. An employee whose function is only clerical or ministerial

~~or investment adviser, any of the following:~~

~~1. Any partner, officer, director, or branch manager of a dealer or investment adviser or any person occupying a similar status or performing similar functions;~~

~~2. Any natural person directly or indirectly controlling or controlled by such dealer or investment adviser, other than an employee whose function is only clerical or ministerial; or~~

~~3. Any natural person, other than a dealer, employed, appointed, or authorized by a dealer, investment adviser, or issuer to sell securities in any manner or act as an investment adviser as defined in this section~~.

~~The partners of a partnership and the executive officers of a corporation or other association registered as a dealer, and any person whose transactions in this state are limited to those~~

~~transactions described in s. 15(h)(2) of the Securities Exchange Act of 1934, are not "associated persons" within the meaning of this definition~~.

(c)~~(b)~~ With respect to a federal covered adviser, a natural ~~any~~ person who is an investment adviser representative and who has a place of business in this state, as such terms are defined in Rule 203A-3 of the Securities and Exchange Commission adopted under the Investment Advisers Act of 1940, as amended.

(4)~~(3)~~ "Boiler room" means an enterprise in which two or more persons engage in telephone communications with members of the public using two or more telephones at one location, or at more than one location in a common scheme or enterprise.

(5)~~(4)~~ "Branch office" means any location in this state of a dealer or investment adviser at which one or more associated persons regularly conduct the business of rendering investment advice or effecting any transactions in, or inducing or attempting to induce the purchase or sale of, any security or any location that is held out as such. The commission may adopt by rule exceptions to this definition for dealers in order to maintain consistency with the definition of a branch office used by self-regulatory organizations authorized by the Securities and Exchange Commission, including, but not limited to, the Financial Industry Regulatory Authority. The commission may adopt by rule exceptions to this definition for investment advisers.

(6)~~(5)~~ "Control," ~~including the terms~~ "controlling," "controlled by," or "under control with" ~~and "under common control with,"~~ means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

(7) "Control person" means, with respect to a money services business, any of the following:

(a) A person who holds the title of president, treasurer, chief executive officer, chief financial officer, chief operations officer, chief legal officer, or compliance officer for a money services business.

(b) A person who holds any of the officer, general partner, manager, or managing member positions named in the money services business's governing documents. As used in this paragraph, the term "governing documents" includes bylaws, articles of incorporation or organization, partnership agreements, shareholder agreements, and management or operating agreements.

(c) A director of the money services business's board of directors.

(d) A shareholder whose name shares are registered in the records of a corporation for profit, whether incorporated under the laws of this state or organized under the laws of any other jurisdiction and existing in that legal form, who owns 25

percent or more of a class of the company's equity securities.

(e) A general partner or a limited partner, as those terms are defined in s. 620.1102, or a special partner who has a 25 percent or greater transferable interest, as defined in s. 620.1102, of a limited partnership, limited liability limited partnership, foreign limited partnership, or foreign limited liability limited partnership, as those terms are defined in s. 620.1102. For purposes of this paragraph, a special partner has the same meaning as a person that has rights, powers, and obligations similar to those of a limited partner, as defined in s. 620.1102, in a limited partnership.

(f) A member, as defined in s. 605.0102, who holds a 25 percent or greater membership interest in a limited liability company or a foreign limited liability company, as those terms are defined in s. 605.0102. As used in this subsection, the term "membership interest" means a member's right to receive distributions or other rights, such as voting rights or management rights, under the articles of organization.

(g) A beneficial owner of any legal entity referred to in paragraphs (d)-(f). As used in this paragraph, the term "beneficial owner" means each individual, if any, who, directly or indirectly, through any contract, arrangement, understanding, or relationship other than a revocable proxy, owns 25 percent or more of the shares or stock interest, transferable interest as defined in s. 620.1102, or membership interest of a legal

entity.

(8) ~~(6)(a)~~ "Dealer" includes, unless otherwise specified, ~~any of the following:~~

~~1. Any person, other than an associated person registered under this chapter, who engages, either for all or part of her or his time, directly or indirectly, as broker or principal in the business of offering, buying, selling, or otherwise dealing or trading in securities issued by another person~~.

~~2. Any issuer who through persons directly compensated or controlled by the issuer engages, either for all or part of her or his time, directly or indirectly, in the business of offering or selling securities which are issued or are proposed to be issued by the issuer.~~ a person, other than an associated person of a dealer, that engages, for all or part of the person's time, directly or indirectly, as agent or principal in the business of offering, buying, selling, or otherwise dealing or trading in securities issued by another person.

~~(b)~~ The term ~~"dealer"~~ does not include the following:

(a) A licensed practicing attorney who renders or performs any such services in connection with the regular practice of the attorney's profession.

(b) A bank authorized to do business in this state, except nonbank subsidiaries of a bank.

(c) A trust company having trust powers that it is authorized to exercise in this state, which renders or performs

services in a fiduciary capacity incidental to the exercise of its trust powers.

(d) A wholesaler selling exclusively to dealers.

(e) A person buying and selling for the person's own account exclusively through a registered dealer or stock exchange.

(f) An issuer.

(g) An individual representing an issuer in the purchase, sale, or distribution of the issuer's own securities if such person:

1. Is an officer, a director, a limited liability company manager or managing member, or a bona fide employee of the issuer;

2. Has not participated in the distribution or sale of securities for any issuer for which such person was, within the preceding 12 months, an officer, a director, a limited liability company manager or managing member, or a bona fide employee;

3. Primarily performs, or is intended to perform at the end of the distribution, substantial duties for, or on behalf of, the issuer other than in connection with transactions in securities; and

4. Does not receive a commission, compensation, or other consideration for the completed sale of the issuer's securities apart from the compensation received for regular duties to the issuer.

~~1. Any licensed practicing attorney who renders or performs any of such services in connection with the regular practice of her or his profession;~~

~~2. Any bank authorized to do business in this state, except nonbank subsidiaries of a bank;~~

~~3. Any trust company having trust powers which it is authorized to exercise in this state, which renders or performs services in a fiduciary capacity incidental to the exercise of its trust powers;~~

~~4. Any wholesaler selling exclusively to dealers;~~

~~5. Any person buying and selling for her or his own account exclusively through a registered dealer or stock exchange; or~~

~~6. Pursuant to s. 517.061(11), any person associated with an issuer of securities if such person is a bona fide employee of the issuer who has not participated in the distribution or sale of any securities within the preceding 12 months and who primarily performs, or is intended to perform at the end of the distribution, substantial duties for, or on behalf of, the issuer other than in connection with transactions in securities.~~

(9) ~~(7)~~ "Commission" means the Financial Services Commission.

(10) ~~(8)~~ "Office" means the Office of Financial Regulation of the commission.

(11) ~~(9)~~ "Federal covered adviser" means a person that ~~who~~

is registered or required to be registered under s. 203 of the Investment Advisers Act of 1940, as amended. The term ~~"federal covered adviser"~~ does not include any person that ~~who~~ is excluded from the definition of investment adviser under subparagraphs (18)(b)1.-8. ~~(14)(b)1.-8.~~

(12) ~~(10)~~ "Federal covered security" means a ~~any~~ security that is a covered security under s. 18(b) of the Securities Act of 1933, as amended, or rules and regulations adopted thereunder.

(13) ~~(11)~~ "Guarantor" means a person that ~~who~~ agrees in writing, or that ~~who~~ holds itself out to the public as agreeing, to pay the indebtedness of another when due, including, without limitation, payments of principal and interest on a bond, debenture, note, or other evidence of indebtedness, without resort by the holder to any other obligor, whether or not such writing expressly states that the person signing is signing as a guarantor. The obligation of a guarantor hereunder shall be a continuing, absolute, and unconditional guaranty of payment, without regard to the validity, regularity, or enforceability of the underlying indebtedness.

(14) ~~(12)~~ "Guaranty" means an agreement in ~~a~~ writing in which one party either agrees, or holds itself out to the public as agreeing, to pay the indebtedness of another when due, including, without limitation, payments of principal and interest on a bond, debenture, note, or other evidence of

indebtedness, without resort by the holder to any other obligor, whether or not such writing expressly states that the person signing is signing as a guarantor. An agreement that is not specifically denominated as a guaranty shall nevertheless constitute a guaranty if the holder of the underlying indebtedness or the holder's ~~her or his~~ representative or trustee has the right to sue to enforce the guarantor's obligations under the guaranty. Words of guaranty or equivalent words that ~~which~~ otherwise do not specify guaranty of payment create a presumption that payment, rather than collection, is guaranteed by the guarantor. Any guaranty in writing is enforceable notwithstanding any statute of frauds.

(15) ~~(13)~~ "Intermediary" means a natural person residing in this ~~the~~ state or a corporation, trust, partnership, limited liability company, association, or other legal entity registered with the Secretary of State to do business in this ~~the~~ state, which facilitates through its website the offer or sale of securities of an issuer with a principal place of business in this state ~~under s. 517.0611~~.

(16)(a) ~~(14)(a)~~ "Investment adviser" means a ~~includes any~~ person, other than an associated person of an investment adviser or a federal covered adviser, that ~~who~~ receives compensation, directly or indirectly, and engages for all or part of the person's ~~her or his~~ time, directly or indirectly, or through publications or writings, in the business of advising others as

to the value of securities or as to the advisability of investments in, purchasing of, or selling of securities~~, except a dealer whose performance of these services is solely incidental to the conduct of her or his business as a dealer and who receives no special compensation for such services~~.

(b) The term ~~"investment adviser"~~ does not include the following:

1. A dealer or associated person of a dealer whose performance of services in paragraph (a) is solely incidental to the conduct of the dealer's or associated person's business as a dealer and who does not receive special compensation for those services.

2. A ~~Any~~ licensed practicing attorney or certified public accountant whose performance of such services is solely incidental to the practice of the attorney's or accountant's ~~her or his~~ profession.~~;~~

~~2. Any licensed certified public accountant whose performance of such services is solely incidental to the practice of her or his profession;~~

3. A ~~Any~~ bank authorized to do business in this state.~~;~~

4. A ~~Any~~ bank holding company as defined in the Bank Holding Company Act of 1956, as amended, authorized to do business in this state.~~;~~

5. A ~~Any~~ trust company having trust powers, as defined in s. 658.12, which it is authorized to exercise in this ~~the~~ state,

which trust company renders or performs investment advisory services in a fiduciary capacity incidental to the exercise of its trust powers.~~;~~

6. A ~~Any~~ person that ~~who~~ renders investment advice exclusively to insurance or investment companies.~~;~~

7. A ~~Any~~ person that ~~who~~ does not hold itself ~~herself or himself~~ out to the general public as an investment adviser and has no more than 15 clients within 12 consecutive months in this state.~~;~~

8. A ~~Any~~ person whose transactions in this state are limited to those transactions described in s. 222(d) of the Investment Advisers Act of 1940, as amended. Those clients listed in subparagraph 6. may not be included when determining the number of clients of an investment adviser for purposes of s. 222(d) of the Investment Advisers Act of 1940, as amended.~~;~~ ~~or~~

9. A federal covered adviser.

(17)~~(15)~~ "Issuer" means a ~~any~~ person that ~~who~~ proposes to issue, has issued, or shall hereafter issue any security. A ~~Any~~ person that ~~who~~ acts as a promoter for and on behalf of a corporation, trust, ~~or unincorporated association or~~ partnership, limited liability company, association, or other legal entity of any kind to be formed shall be deemed an issuer.

(18) "Natural person" means an individual.

(19)~~(16)~~ "Offer to sell," "offer for sale," or "offer"

means an ~~any~~ attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security, or an investment or interest in an investment, for value.

(20) ~~(17)~~ "Predecessor" means a person whose ~~the~~ major portion of ~~whose~~ assets has ~~have~~ been acquired directly or indirectly by an issuer.

(21) ~~(18)~~ "Principal" means an executive officer of a corporation, partner of a partnership, sole proprietor of a sole proprietorship, trustee of a trust, or any other person with similar supervisory functions with respect to any organization, whether incorporated or unincorporated.

(22) ~~(19)~~ "Promoter" includes the following:

(a) A ~~Any~~ person that ~~who~~, acting alone or in conjunction with one or more other persons, directly or indirectly takes the initiative in founding and organizing the business or enterprise of an issuer.

(b) A ~~Any~~ person that ~~who~~, in connection with the founding or organizing of the business or enterprise of an issuer, directly or indirectly receives in consideration of services or property, or both services and property, 10 percent or more of any class of securities of the issuer or 10 percent or more of the proceeds from the sale of any class of securities. However, a person that ~~who~~ receives such securities or proceeds either solely as underwriting commissions or solely in connection with property shall not be deemed a promoter if such person does not

otherwise take part in founding and organizing the enterprise.

(23) ~~(20)~~ "Qualified institutional buyer" means a ~~any~~ qualified institutional buyer, as defined in ~~United States~~ Securities and Exchange Commission Rule 144A, 17 C.F.R. s. 230.144A(a), under the Securities Act of 1933, as amended, or any foreign buyer that satisfies the minimum financial requirements set forth in such rule.

(24) ~~(21)~~ "Sale" or "sell" means a ~~any~~ contract of sale or disposition of an ~~any~~ investment, security, or interest in a security, for value. With respect to a security or interest in a security, the term ~~defined in this subsection~~ does not include preliminary negotiations or agreements between an issuer or any person on whose behalf an offering is to be made and any underwriter or among underwriters who are or are to be in privity of contract with an issuer. Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing shall be conclusively presumed to constitute a part of the subject of such purchase and to have been offered and sold for value. Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer of a security which gives the holder a present or future right or privilege to convert into another security or another issuer, is considered to include an offer of the other security.

(25) ~~(22)~~ "Security" includes any of the following:

(a) A note.

(b) A stock.

(c) A treasury stock.

(d) A bond.

(e) A debenture.

(f) An evidence of indebtedness.

(g) A certificate of deposit.

(h) A certificate of deposit for a security.

(i) A certificate of interest or participation.

(j) A whiskey warehouse receipt or other commodity warehouse receipt.

(k) A certificate of interest in a profit-sharing agreement or the right to participate therein.

(l) A certificate of interest in an oil, gas, petroleum, mineral, or mining title or lease or the right to participate therein.

(m) A collateral trust certificate.

(n) A reorganization certificate.

(o) A preorganization subscription.

(p) A ~~Any~~ transferable share.

(q) An investment contract.

(r) A beneficial interest in title to property, profits, or earnings.

(s) An interest in or under a profit-sharing or participation agreement or scheme.

(t) An ~~Any~~ option contract that ~~which~~ entitles the holder to purchase or sell a given amount of the underlying security at a fixed price within a specified period of time.

(u) Any other instrument commonly known as a security, including an interim or temporary bond, debenture, note, or certificate.

(v) A ~~Any~~ receipt for a security, or for subscription to a security, or a ~~any~~ right to subscribe to or purchase any security.

(w) A viatical settlement investment.

(26) ~~(23)~~ "Underwriter" means a person that ~~who~~ has purchased from an issuer or an affiliate of an issuer with a view to, or offers or sells for an issuer or an affiliate of an issuer in connection with, the distribution of any security, or participates or has a direct or indirect participation in any such undertaking, or participates or has a participation in the direct or indirect underwriting of any such undertaking; except that a person is ~~shall be~~ presumed not to be an underwriter with respect to any security which it ~~she or he~~ has owned beneficially for at least 1 year; and, further, a dealer is ~~shall~~ not ~~be~~ considered an underwriter with respect to any securities which do not represent part of an unsold allotment to or subscription by the dealer as a participant in the distribution of such securities by the issuer or an affiliate of the issuer; and, further, in the case of securities acquired on

the conversion of another security without payment of additional consideration, the length of time such securities have been beneficially owned by a person includes the period during which the convertible security was beneficially owned and the period during which the security acquired on conversion has been beneficially owned.

(27) ~~(24)~~ "Viatical settlement investment" means an agreement for the purchase, sale, assignment, transfer, devise, or bequest of all or any portion of a legal or equitable interest in a viaticated policy as defined in chapter 626.

Section 2. Paragraph (d) of subsection (3) of section 517.072, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

517.072 Viatical settlement investments.—

(3) The registration provisions of ss. 517.07 and 517.12 do not apply to any of the following transactions in viatical settlement investments; however, such transactions in viatical settlement investments are subject to the provisions of ss. 517.301, 517.311, and 517.312:

(d) The transfer or assignment of a viaticated policy to a bank, trust company, savings institution, insurance company, dealer, investment company as defined in the Investment Company Act of 1940, as amended, pension or profit-sharing trust, ~~or~~ qualified institutional buyer ~~as defined in United States Securities and Exchange Commission Rule 144A, 17 C.F.R. s.~~

~~230.144A(a)~~, or to an accredited investor ~~as defined by Rule 501 of Regulation D of the Securities Act Rules~~, provided such transfer or assignment is not for the direct or indirect promotion of any scheme or enterprise with the intent of violating or evading any provision of this chapter.

(4) The commission may establish by rule requirements and standards for disclosures to purchasers of viatical settlement investments and recordkeeping requirements for sellers of viatical settlement investments.

Section 3. Paragraphs (a), (g), and (n) of subsection (3) and subsections (6) and (8) of section 517.081, Florida Statutes, are amended to read:

517.081 Registration procedure.—

(3) The office may require the applicant to submit to the office the following information concerning the issuer and such other relevant information as the office may in its judgment deem necessary to enable it to ascertain whether such securities shall be registered pursuant to the provisions of this section:

(a) The names and addresses of:

1. All the directors, trustees, and officers, if the issuer is ~~be~~ a corporation, association, or trust.

2. All the managers or managing members, if the issuer is a limited liability company.

3. ~~; of~~ All the partners, if the issuer is ~~be~~ a partnership.

4. ~~; or of~~ The issuer, if the issuer is a sole proprietorship or individual ~~be an individual~~.

(g)1. A specimen copy of the securities certificate, if applicable, ~~security~~ and a copy of any circular, prospectus, advertisement, or other description of such securities.

2. The commission shall adopt a form for a simplified offering circular ~~to be used solely by corporations~~ to register, under this section, securities ~~of the corporation~~ that are sold in offerings in which the aggregate offering price in any consecutive 12-month period does not exceed the amount provided in s. 3(b) of the Securities Act of 1933, as amended. The following issuers shall not be eligible to submit a simplified offering circular adopted pursuant to this subparagraph:

a. An issuer seeking to register securities for resale by persons other than the issuer.

b. An issuer that ~~who~~ is subject to any of the disqualifications described in 17 C.F.R. s. 230.262, adopted pursuant to the Securities Act of 1933, as amended, or that ~~who~~ has been or is engaged or is about to engage in an activity that would be grounds for denial, revocation, or suspension under s. 517.111. For purposes of this subparagraph, an issuer includes an issuer's director, officer, manager or managing member, or equity owner ~~shareholder~~ who owns at least 10 percent of the ownership interests ~~shares~~ of the issuer, promoter, or selling agent of the securities to be offered or any officer, director,

or partner of such selling agent.

c. An issuer that ~~who~~ is a development-stage company that either has no specific business plan or purpose or has indicated that its business plan is to merge with an unidentified company or companies.

d. An issuer of offerings in which the specific business or properties cannot be described.

e. Any issuer the office determines is ineligible because ~~if~~ the form does ~~would~~ not provide full and fair disclosure of material information for the type of offering to be registered by the issuer.

f. Any issuer that ~~corporation which~~ has failed to provide the office the reports required for a previous offering registered pursuant to this subparagraph.

As a condition precedent to qualifying for use of the simplified offering circular, an issuer ~~a corporation~~ shall agree to provide the office with an annual financial report containing a balance sheet as of the end of the issuer's fiscal year and a statement of income for such year, prepared in accordance with United States generally accepted accounting principles and accompanied by an independent accountant's report. If the issuer has more than 100 security holders at the end of a fiscal year, the financial statements must be audited. Annual financial reports must be filed with the office within 90 days after the

close of the issuer's fiscal year for each of the first 5 years following the effective date of the registration.

(n) If the issuer is a corporation, there shall be filed with the application a copy of its articles of incorporation with all amendments and of its existing bylaws, if not already on file in the office. If the issuer is a limited liability company, there shall be filed with the application a copy of the articles of organization with all the amendments and a copy of the company's operating agreement, if not already on file with the office. If the issuer is a trustee, there shall be filed with the application a copy of all instruments by which the trust is created or declared and in which it is accepted and acknowledged. If the issuer is a partnership, unincorporated association, joint-stock company, or any other form of organization whatsoever, there shall be filed with the application a copy of its articles of partnership or association and all other papers pertaining to its organization, if not already on file in the office.

(6) An issuer filing an application under this section shall, at the time of filing, pay the office a nonreturnable fee of $1,000 per application for each offering that exceeds the amount provided in s. 3(b) of the Securities Act of 1933, as amended, or $200 per application for each offering that does not exceed the amount provided in s. 3(b) of the Securities Act of 1933, as amended.

(8) The office shall deem an application to register securities filed with the office abandoned if the issuer or any person acting on behalf of the issuer has failed to timely complete an application specified by commsion rule. ~~The commission may by rule establish requirements and standards for:~~

~~(a) Disclosures to purchasers of viatical settlement investments.~~

~~(b) Recordkeeping requirements for sellers of viatical settlement investments.~~

Section 4. Section 517.082, Florida Statutes, is amended to read:

517.082 ~~Notification~~ Registration by notification; federal registration statements.—

(1) ~~Except as provided in subsection (3),~~ Securities offered or sold pursuant to a registration statement filed under the Securities Act of 1933, as amended, are ~~shall be~~ entitled to registration by notification in the manner provided in subsection (2), provided that before ~~prior to~~ the offer or sale the registration statement has become effective.

(2) An application for registration by notification shall be filed with the office, shall contain the following information, and shall be accompanied by all of the following:

(a) An application to sell executed by the issuer, any person on whose behalf the offering is made, a dealer registered under this chapter, or any duly authorized agent of any such

person, setting forth the name and address of the applicant, the name and address of the issuer, and the title of the securities to be offered and sold.~~;~~

(b) Copies of such documents filed with the Securities and Exchange Commission as the Financial Services Commission may by rule require.~~;~~

(c) An irrevocable written consent to service as required by s. 517.101.~~; and~~

(d) A nonreturnable fee of $1,000 per application.

A registration under this section becomes effective when the federal registration statement becomes effective or as of the date the application is filed with the office, whichever is later, provided that, in addition to the items listed in paragraphs (a)-(d), the office has received written notification of effective registration under the Securities Act of 1933, as amended, or the Investment Company Act of 1940, as amended, within 10 business days after ~~from~~ the date federal registration is granted. Failure to provide all the information required by this subsection to the office within 60 days after ~~of~~ the date the registration statement becomes effective with the Securities and Exchange Commission shall be a violation of this chapter.

(3) Except for units of limited partnership interests or such other securities as the commission describes by rule as exempt from this subsection due to high investment quality, the

provisions of this section may not be used to register securities if the offering price at the time of effectiveness with the Securities and Exchange Commission is $5 or less per share, unless such securities are listed or designated, or approved for listing or designation upon notice of issuance, on a stock exchange registered pursuant to the Securities Exchange Act of 1934, as amended, or on the National Association of Securities Dealers Automated Quotation (NASDAQ) System, or unless such securities are of the same issuer and of senior or substantially equal rank to securities so listed or designated.

(4) In lieu of filing with the office the application, fees, and documents for registration required by subsection (2), the commission may establish, by rule, procedures for depositing fees and filing documents by electronic means, provided such procedures provide the office with the information and data required by this section.

(5) If the Securities and Exchange Commission has not declared effective the applicant's federal registration statement within 180 days after the applicant's filing with the office of an application for registration by notification, the office must deem the application abandoned.

Section 5. Subsections (1) through (4) of section 517.111, Florida Statutes, are amended to read:

517.111 Revocation or denial of registration of securities.—

(1) The office may revoke or suspend the registration of any security, or may deny any application to register securities, if, upon examination or investigation into the affairs of the issuer of such security, the office determines ~~it shall appear~~ that:

(a) The issuer cannot pay its debts as they become due in the usual course of business ~~is insolvent~~;

(b) The issuer or any officer, director, manager or managing member, or control person of the issuer has violated any provision of this chapter or any rule made hereunder or any order of the office of which such issuer has notice;

(c) The issuer or any officer, director, manager or managing member, or control person of the issuer has been or is engaged or is about to engage in fraudulent transactions;

(d) The issuer or any officer, director, manager or managing member, or control person of the issuer has been found guilty of a fraudulent act in connection with any sale of securities, has engaged, is engaged, or is about to engage, in making a fictitious sale or purchase of any security, or in any practice or sale of any security which is fraudulent or a violation of any law;

(e) The issuer or any officer, director, manager or managing member, or control person of the issuer has had a final judgment entered against such issuer or person in a civil action on the grounds of fraud, embezzlement, misrepresentation, or

deceit;

(f) The issuer or any officer, director, manager or managing member, or control person of the issuer has engaged in any action that would be grounds for revocation, denial, or suspension under s. 517.161(1) ~~demonstrated any evidence of unworthiness~~;

(g) The issuer or any officer, director, manager or managing member, or control person of the issuer ~~is in any other way dishonest or~~ has made any fraudulent representations or failed to disclose any material information in any prospectus or in any circular or other literature that has been distributed concerning the issuer or its securities;

(h) The security registered or sought to be registered is the subject of an injunction entered by a court of competent jurisdiction or is the subject of an administrative stop-order or similar order prohibiting the offer or sale of the security; or

(i) For any security for which registration has been applied pursuant to s. 517.081, the terms of the offer or sale of such securities would not be fair, just, or equitable~~; or~~

~~(j) The issuer or any person acting on behalf of the issuer has failed to timely complete any application for registration filed with the office pursuant to the provisions of s. 517.081 or s. 517.082 or any rule adopted under such sections~~.

(2) In making such examination or investigation, the office shall have access to and may compel the production of all the books and papers of such issuer and may administer oaths to and examine the officers of such issuer or any other person connected therewith as to its business and affairs and may also require a balance sheet exhibiting the assets and liabilities of any such issuer or its income statement, or both, to be certified to by a public accountant either of this state or of any other state where the issuer's business is located. Whenever the office deems it necessary, it may also require such balance sheet or income statement, or both, to be made more specific in such particulars as the office may require.

(3) ~~(2)~~ If any issuer refuses ~~shall refuse~~ to permit an examination or investigation to be made by the office, it shall be proper ground for revocation of registration.

(4) ~~(3)~~ If the office deems it necessary, it may enter an order suspending the right to sell securities pending any examination or investigation, provided that the order shall state the office's grounds for taking such action.

(5) ~~(4)~~ Notice of the entry of such order shall be given personally or by mail~~, personally, by telephone confirmed in writing, or by telegraph~~ to the issuer. Before such order is made final, the issuer ~~applying for registration~~ shall, on application, be entitled to a hearing.

Section 6. Subsections (1), (2), and (3), paragraph (b) of

subsection (6), subsections (7) and (11), paragraph (b) of subsection (15), and subsections (20) and (21) of section 517.12, Florida Statutes, are amended to read:

517.12 Registration of dealers, associated persons, intermediaries, and investment advisers.—

(1) No dealer or associated person shall ~~No dealer, associated person, or issuer of securities shall~~ sell or offer for sale any securities in or from offices in this state~~,~~ or sell securities to persons in this state from offices outside this state, by mail or otherwise, unless the person is ~~has been~~ registered with the office as a dealer or as an associated person of a dealer pursuant to ~~the provisions of~~ this section. The office shall not register any person as an associated person of a dealer unless the dealer with which the applicant seeks registration is lawfully registered with the office pursuant to this chapter.

(2) ~~The registration requirements of this section do not apply to the issuers of securities exempted by s. 517.051(1)-(8) and (10).~~

~~(3) Except as otherwise provided in s. 517.061(11)(a)4., (13), (16), (17), or (19),~~ The registration requirements of this section do not apply in a transaction exempted by s. 517.061(1)-(10) and (12), ~~s. 517.061(1)-(12),~~ (14), and (15).

(5)~~(6)~~ A dealer, associated person, or investment adviser, in order to obtain registration, must file with the office a

written application, on a form which the commission may by rule prescribe. The commission may establish, by rule, procedures for depositing fees and filing documents by electronic means provided such procedures provide the office with the information and data required by this section. Each dealer or investment adviser must also file an irrevocable written consent to service of civil process similar to that provided for in s. 517.101. The application shall contain such information as the commission or office may require concerning such matters as:

(b) The applicant's form and place of organization; and, if the applicant is:

1. A corporation, a copy of its articles of incorporation and amendments to the articles of incorporation;

2. A limited liability company, a copy of its articles of organization with amendments to its articles; or

3. ~~, if~~ A partnership, a copy of the partnership agreement.

(6)~~(7)~~ The application must also contain such information as the commission or office may require about the applicant; any member, principal, or director of the applicant or any person having a similar status or performing similar functions; any control person of ~~directly or indirectly controlling~~ the applicant; or any employee of a dealer or of an investment adviser rendering investment advisory services. Each applicant and any direct owners, principals, or indirect owners that are

required to be reported on Form BD or Form ADV pursuant to subsection (14) ~~(15)~~ shall submit fingerprints for live-scan processing in accordance with rules adopted by the commission. The fingerprints may be submitted through a third-party vendor authorized by the Department of Law Enforcement to provide live-scan fingerprinting. The costs of fingerprint processing shall be borne by the person subject to the background check. The Department of Law Enforcement shall conduct a state criminal history background check, and a federal criminal history background check must be conducted through the Federal Bureau of Investigation. The office shall review the results of the state and federal criminal history background checks and determine whether the applicant meets licensure requirements. The commission may waive, by rule, the requirement that applicants, including any direct owners, principals, or indirect owners that are required to be reported on Form BD or Form ADV pursuant to subsection (14) ~~(15)~~, submit fingerprints or the requirement that such fingerprints be processed by the Department of Law Enforcement or the Federal Bureau of Investigation. The commission or office may require information about any such applicant or person concerning such matters as:

(a) The applicant's or person's ~~His or her~~ full name, and any other names by which the applicant or person ~~he or she~~ may have been known, and the applicant's or person's ~~his or her~~ age, social security number, photograph, qualifications, and

educational and business history.

(b) Any injunction or administrative order by a state or federal agency, national securities exchange, or national securities association involving a security or any aspect of a dealer's or investment adviser's regulated ~~the securities~~ business and any injunction or administrative order by a state or federal agency regulating banking, insurance, finance, or small loan companies, real estate, mortgage brokers, or other related or similar industries, which injunctions or administrative orders relate to such person.

(c) The applicant's or person's ~~His or her~~ conviction of, or plea of nolo contendere to, a criminal offense or his or her commission of any acts which would be grounds for refusal of an application under s. 517.161.

(d) The names and addresses of other persons of whom the office may inquire as to his or her character, reputation, and financial responsibility.

(10)(a) ~~(11)(a)~~ If the office finds that the applicant ~~is of good repute and character and~~ has complied with the applicable registration provisions of this chapter and the rules made pursuant hereto, it shall register the applicant unless the applicant is otherwise disqualified for registration pursuant to law. The registration of each dealer, investment adviser, and associated person expires on December 31 of the year the registration became effective unless the registrant has renewed

its ~~his or her~~ registration on or before that date. Registration may be renewed by furnishing such information as the commission may require, together with payment of the fee required in paragraph (9)(a) ~~(10)(a)~~ for dealers, investment advisers, or associated persons and the payment of any amount lawfully due and owing to the office pursuant to any order of the office or pursuant to any agreement with the office. Any dealer, investment adviser, or associated person who has not renewed a registration by the time the current registration expires may request reinstatement of such registration by filing with the office, on or before January 31 of the year following the year of expiration, such information as may be required by the commission, together with payment of the fee required in paragraph (9)(a) ~~(10)(a)~~ for dealers, investment advisers, or associated persons and a late fee equal to the amount of such fee. Any reinstatement of registration granted by the office during the month of January shall be deemed effective retroactive to January 1 of that year.

(b) The office shall waive the $50 assessment fee for an associated person required by paragraph (9)(a) ~~(10)(a)~~ for a registrant renewing his or her registration who:

1. Is an active duty member of the United States Armed Forces or the spouse of such member;

2. Is or was a member of the United States Armed Forces and served on active duty within the 2 years preceding the

expiration date of the registration pursuant to paragraph (a). To qualify for the fee waiver, a registrant who is a former member of the United States Armed Forces who served on active duty within the 2 years preceding the expiration date of the registration must have received an honorable discharge upon separation or discharge from the United States Armed Forces; or

3. Is the surviving spouse of a member of the United States Armed Forces if the member was serving on active duty at the time of death and died within the 2 years preceding the surviving spouse's registration expiration date pursuant to paragraph (a).

A registrant seeking such fee waiver must submit proof, in a form prescribed by commission rule, that the registrant meets one of the qualifications in this paragraph.

(14) ~~(15)~~

(b) In lieu of filing with the office the applications specified in subsection (5) ~~(6)~~, the fees required by subsection (9) ~~(10)~~, the renewals required by subsection (10) ~~(11)~~, and the termination notices required by subsection (11) ~~(12)~~, the commission may by rule establish procedures for the deposit of such fees and documents with the Central Registration Depository or the Investment Adviser Registration Depository of the Financial Industry Regulatory Authority, as developed under contract with the North American Securities Administrators

Association, Inc.

(19) ~~(20)~~ An intermediary may not engage in business in this state unless the intermediary is registered as a dealer or as an intermediary with the office pursuant to this section to facilitate the offer or sale of securities in accordance with s. 517.0611. An intermediary, in order to obtain registration, must file with the office a written application on a form prescribed by commission rule and pay a registration fee of $200. The fees under this subsection shall be deposited into the Regulatory Trust Fund of the office. The commission may establish by rule procedures for depositing fees and filing documents by electronic means if such procedures provide the office with the information and data required by this section. Each intermediary must also file an irrevocable written consent to service of civil process, as provided in s. 517.101.

(a) The application must contain such information as the commission or office may require concerning:

1. The name of the applicant and address of its principal office and each office in this state.

2. The applicant's form and place of organization; and, if the applicant is:

a. A corporation, a copy of its articles of incorporation and amendments to the articles of incorporation;

b. A limited liability company, a copy of its articles of organization and amendments to the articles and a copy of the

company's operating agreement; or

c. ~~, if~~ A partnership, a copy of the partnership agreement.

3. The website address where securities of the issuer will be offered.

4. Contact information.

(b) The application must also contain such information as the commission may require by rule about the applicant; any member, principal, or director of the applicant or any person having a similar status or performing similar functions; or any control person of ~~persons directly or indirectly controlling~~ the applicant. Each applicant and any direct owners, principals, or indirect owners that are required to be reported on a form adopted by commission rule shall submit fingerprints for live-scan processing in accordance with rules adopted by the commission. The fingerprints may be submitted through a third-party vendor authorized by the Department of Law Enforcement to provide live-scan fingerprinting. The costs of fingerprint processing shall be borne by the person subject to the background check. The Department of Law Enforcement shall conduct a state criminal history background check, and a federal criminal history background check must be conducted through the Federal Bureau of Investigation. The office shall review the results of the state and federal criminal history background checks and determine whether the applicant meets registration

requirements. The commission may waive, by rule, the requirement that applicants, including any direct owners, principals, or indirect owners, which are required to be reported on a form adopted by commission rule, submit fingerprints or the requirement that such fingerprints be processed by the Department of Law Enforcement or the Federal Bureau of Investigation. The commission, by rule, or the office may require information about any applicant or person, including:

1. The applicant's or person's ~~His or her~~ full name and any other names by which the applicant or person ~~he or she~~ may have been known and the applicant's or person's ~~his or her~~ age, social security number, photograph, qualifications, and educational and business history.

2. Any injunction or administrative order by a state or federal agency, national securities exchange, or national securities association involving a security or any aspect of an intermediary's regulated ~~the securities~~ business and any injunction or administrative order by a state or federal agency regulating banking, insurance, finance, ~~or small loan companies,~~ real estate, mortgage brokers, or other related or similar industries, which relate to such person.

3. The applicant's or person's ~~His or her~~ conviction of, or plea of nolo contendere to, a criminal offense or the applicant's or person's ~~his or her~~ commission of any acts that would be grounds for refusal of an application under s. 517.161.

(c) The application must be amended within 30 days if any information contained in the form becomes inaccurate for any reason.

(d) An intermediary or persons affiliated with the intermediary are not subject to any disqualification described in s. 517.1611 or ~~United States~~ Securities and Exchange Commission Rule 506(d), 17 C.F.R. 230.506(d), adopted pursuant to the Securities Act of 1933, as amended. Each director, officer, manager or managing member, control person of the issuer, any person occupying a similar status or performing a similar function, and each person holding more than 20 percent of the ownership interests ~~shares~~ of the intermediary is subject to this requirement.

(e) If the office finds that the applicant ~~is of good repute and character and~~ has complied with the applicable registration provisions of this chapter and the rules adopted thereunder, it shall register the applicant. The registration of each intermediary expires on December 31 of the year the registration became effective unless the registrant renews his or her registration on or before that date. Registration may be renewed by furnishing such information as the commission may require by rule, together with payment of a $200 fee and the payment of any amount due to the office pursuant to any order of the office or pursuant to any agreement with the office. An intermediary who has not renewed a registration by the time that

the current registration expires may request reinstatement of such registration by filing with the office, on or before January 31 of the year following the year of expiration, such information as required by the commission, together with payment of the $200 fee and a late fee of $200. Any reinstatement of registration granted by the office during the month of January is deemed effective retroactive to January 1 of that year.

(20) ~~(21)~~ The registration requirements of this section do not apply to any general lines insurance agent or life insurance agent licensed under chapter 626, for the sale of a security as defined in s. 517.021(28)(g) ~~s. 517.021(22)(g)~~, if the individual is directly authorized by the issuer to offer or sell the security on behalf of the issuer and the issuer is a federally chartered savings bank subject to regulation by the Federal Deposit Insurance Corporation. Actions under this subsection shall constitute activity under the insurance agent's license for purposes of ss. 626.611 and 626.621.

Section 7. Section 517.1214, Florida Statutes, is created to read:

517.1214 Continuing education requirements for associated persons of investment advisers and federal covered advisers.—

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

(a) "Approved continuing education content" means the materials, written, oral, or otherwise, which have been approved by NASAA or its designee and which make up the educational

program provided to an associated person under this section.

(b) "Credit" means a unit designated by NASAA or its designee as at least 50 minutes of educational instruction.

(c) "Home state" means the state in which an associated person of an investment adviser or a federal covered adviser has his or her principal office and place of business.

(d) "NASAA" means the North American Securities Administrators Association, Inc.

(e) "Reporting period" means one 12-month period beginning January 1 and ending December 31. An associated person's initial reporting period with this state commences the first day of the first full reporting period after the individual is registered or required to be registered with this state.

(2) By December 31, 2024, and each December 31 thereafter, each associated person of an investment adviser or a federal covered adviser shall complete the following continuing education content requirements offered by a person that NASAA or its designee has authorized to provide the continuing education content required by this section:

(a) Six credits of approved continuing education content that addresses an associated person's ethical and regulatory obligations, with at least 3 hours covering the topic of ethics; and

(b) Six credits of approved continuing education content that addresses an associated person's skills and knowledge

regarding financial products, investment features, and practices in the investment advisory industry.

(3) An associated person of an investment adviser or federal covered adviser who is also registered as an associated person of a Financial Industry Regulatory Authority (FINRA) member dealer and who complies with FINRA's continuing education requirements is considered to be in compliance with this section's products and practice requirement for each applicable reporting period, provided that the FINRA continuing education content is approved continuing education content.

(4) Credits of continuing education completed by an associated person who was awarded and currently holds a credential that qualifies for examination waiver by passing any tests as prescribed in s. 15(b)(7) of the Securities Exchange Act of 1934, as amended, comply with paragraphs (2)(a) and (b), provided all of the following conditions are met:

(a) The associated person completes the credits of continuing education as a condition of maintaining the credential for the relevant reporting period.

(b) The credits of continuing education completed during the relevant reporting period by the associated person are mandatory to maintain the credential.

(c) The continuing education content provided by the credentialing organization during the relevant reporting period is approved continuing education content.

(5) Each associated person is responsible for ensuring that the authorized provider reports the associated person's completion of the applicable continuing education requirements.

(6) An associated person who completes credits of continuing education in excess of the credits required for the reporting period may not carry forward excess credits to a subsequent reporting period.

(7) An associated person who fails to comply with this section by the end of a reporting period shall renew as "CE inactive" at the close of the calendar year in this state until the associated person completes and reports all required continuing education credits for all reporting periods as required by this section. If an associated person renews as “CE inactive” at the close of the calendar year and fails to complete and report all required continuing education credits for all reporting periods as required by this section by the close of the next calendar year, the associated person becomes unregistered for purposes of this chapter.

(8) An associated person registered or required to be registered in this state who is registered as an associated person of an investment adviser or federal covered adviser in the individual's home state is considered to be in compliance with this section if:

(a) By December 24, 2024, and each December 31 thereafter, the associated person completes the continuing education

requirements set forth in s. 517.1214(2); and

(b) The associated person is in compliance with the home state's associated person of an investment adviser or federal covered adviser continuing education requirements.

(9) An associated person who was previously registered under s. 517.12 and became unregistered must complete continuing education for all reporting periods that occurred between the time that the associated person became unregistered and when the person became registered again under s. 517.12, unless the associated person takes and passes the required examinations or the examination requirements are waived in connection with the subsequent application for registration.

Section 8. Section 517.1217, Florida Statutes, is amended to read:

517.1217 Rules of conduct and prohibited business practices for dealers and their associated persons and for intermediaries.—

The commission by rule may establish rules of conduct and prohibited business practices for dealers and their associated persons and for intermediaries. In adopting the rules, the commission shall consider general industry standards as expressed in the rules and regulations of the various federal and self-regulatory agencies and regulatory associations, including, but not limited to, the ~~United States~~ Securities and Exchange Commission, the Financial Industry Regulatory

Authority, and the North American Securities Administrators Association, Inc.

Section 9. Subsections (1), (4), and (5) of section 517.161, Florida Statutes, are amended to read:

517.161 Revocation, denial, or suspension of registration of dealer, investment adviser, intermediary, or associated person.—

(1) Registration under s. 517.12 may be denied or any registration granted may be revoked, restricted, or suspended by the office if the office determines that such applicant or registrant; any member, principal, or director of the applicant or registrant or any person having a similar status or performing similar functions; or any control person of ~~directly or indirectly controlling~~ the applicant or registrant:

(a) Has violated any provision of this chapter or any rule or order made under this chapter;

(b) Has made a material false statement in the application for registration;

(c) Has been guilty of a fraudulent act in connection with rendering investment advice or in connection with any sale of securities, has been or is engaged or is about to engage in making fictitious or pretended sales or purchases of any such securities or in any practice involving the rendering of investment advice or the sale of securities which is fraudulent or in violation of the law;

(d) Has made a misrepresentation or false statement to, or concealed any essential or material fact from, any person in the rendering of investment advice or the sale of a security to such person;

(e) Has failed to account to persons interested for all money and property received;

(f) Has not delivered, after a reasonable time, to persons entitled thereto securities held or agreed to be delivered by the dealer~~, broker,~~ or investment adviser, as and when paid for, and due to be delivered;

(g) Is rendering investment advice or selling or offering for sale securities through any associated person not registered in compliance with ~~the provisions of~~ this chapter;

(h) ~~Has demonstrated unworthiness to transact the business of dealer, investment adviser, intermediary, or associated person;~~

~~(i)~~ Has exercised management or policy control over or owned 10 percent or more of the securities of any dealer, intermediary, or investment adviser that has been declared bankrupt, or had a trustee appointed under the Securities Investor Protection Act; or is, in the case of a dealer, intermediary, or investment adviser, unable to pay its debts as they become due in the usual course of business ~~insolvent~~;

(i)~~(j)~~ Has been convicted of, or has entered a plea of guilty or nolo contendere to, regardless of whether adjudication

was withheld, a crime against the laws of this state or any other state or of the United States or of any other country or government which relates to registration as a dealer, investment adviser, issuer of securities, intermediary, or associated person; which relates to the application for such registration; or which involves moral turpitude or fraudulent or dishonest dealing;

(j) ~~(k)~~ Has had a final judgment entered against her or him in a civil action upon grounds of fraud, embezzlement, misrepresentation, or deceit;

~~(l) Is of bad business repute;~~

(k) ~~(m)~~ Has been the subject of any decision, finding, injunction, suspension, prohibition, revocation, denial, judgment, or administrative order by any court of competent jurisdiction, administrative law judge, or by any state or federal agency, national securities, commodities, or option exchange, or national securities, commodities, or option association, involving a violation of any federal or state securities or commodities law or any rule or regulation promulgated thereunder, or any rule or regulation of any national securities, commodities, or options exchange or national securities, commodities, or options association, or has been the subject of any injunction or adverse administrative order by a state or federal agency regulating banking, insurance, finance ~~or small loan companies~~, real estate,

mortgage brokers or lenders, money transmitters, or other related or similar industries. For purposes of this subsection, the office may not deny registration to any applicant who has been continuously registered with the office for 5 years after the date of entry of such decision, finding, injunction, suspension, prohibition, revocation, denial, judgment, or administrative order provided such decision, finding, injunction, suspension, prohibition, revocation, denial, judgment, or administrative order has been timely reported to the office pursuant to the commission's rules; ~~or~~

(l) ~~(n)~~ Made payment to the office for a registration with a check or electronic transmission of funds that is dishonored by the applicant's or registrant's financial institution;

(m) Failed to pay and fully satisfy any final judgment or arbitration award resulting from an investment-related, client- or customer-initiated arbitration or court proceeding, unless alternative payment arrangements are agreed to in writing between the client or customer and the investment adviser, dealer, or associated person and the investment adviser, dealer, or associated person complies with the terms of the alternative payment arrangement;

(n) Attempted to avoid payment of any final judgment or arbitration award resulting from an investment-related, client- or customer-initiated arbitration or court proceeding, unless alternative payment arrangements are agreed to in writing

between the client or customer and the investment adviser, dealer, or associated person and the investment adviser, dealer, or associated person complies with the terms of the alternative payment arrangements; or

(o) Failed to pay and fully satisfy any fine, civil penalty, order of restitution, order of disgorgement, or similar monetary payment obligation imposed upon the investment adviser, dealer, or associated person by the Securities and Exchange Commission, the securities regulator or other financial services regulator of any state or province, or any securities industry self-regulatory organization.

(4) It shall be sufficient cause for denial of an application or revocation of registration, in the case of a partnership, corporation, limited liability company, or unincorporated association, if any member of the partnership, any manager or managing member of the limited liability company, or any officer, director, or ultimate equitable owner of the corporation or association has committed any act or omission which would be cause for denying, revoking, restricting, or suspending the registration of an individual dealer, investment adviser, intermediary, or associated person. As used in this subsection, the term "ultimate equitable owner" means a natural person who directly or indirectly owns or controls an ownership interest in the corporation, partnership, association, or other legal entity however organized, regardless of whether such

natural person owns or controls such ownership interest through one or more proxies, powers of attorney, nominees, corporations, associations, partnerships, trusts, joint stock companies, or other entities or devices, or any combination thereof.

(5) The office may deny any request to terminate or withdraw any application or registration if the office believes that an act that ~~which~~ would be a ground for denial, suspension, restriction, or revocation under this chapter has been committed.

Section 10. Subsection (2) of section 517.1611, Florida Statutes, is amended to read:

517.1611 Guidelines.—

(2) The commission shall adopt by rule disqualifying periods pursuant to which an applicant will be disqualified from eligibility for registration based upon criminal convictions, pleas of nolo contendere, or pleas of guilt, regardless of whether adjudication was withheld, by the applicant; any partner, member, officer, or director of the applicant or any person having a similar status or performing similar functions; or any control person of ~~directly or indirectly controlling~~ the applicant.

(a) The disqualifying periods shall be 15 years for a felony and 5 years for a misdemeanor.

(b) The disqualifying periods shall be related to crimes involving registration as a dealer, investment adviser, issuer

of securities, or associated person or the application for such registration or involving moral turpitude or fraudulent or dishonest dealing.

(c) The rules may also address mitigating factors, an additional waiting period based upon dates of imprisonment or community supervision, an additional waiting period based upon commitment of multiple crimes, and other factors reasonably related to the consideration of an applicant's criminal history.

(d) An applicant is not eligible for registration until the expiration of the disqualifying period set by rule. Section 112.011 does not apply to the registration provisions under this chapter. Nothing in this section changes or amends the grounds for denial under s. 517.161.

Section 11. Section 517.181, Florida Statutes, is repealed.

Section 12. Paragraph (a) of subsection (4) of section 517.201, Florida Statutes, is amended to read:

517.201 Investigations; examinations; subpoenas; hearings; witnesses.—

(4)(a) In the event of substantial noncompliance with a subpoena or subpoena duces tecum issued or caused to be issued by the office pursuant to this section, the office may petition the circuit court of the county in which the person subpoenaed resides or has its principal place of business for an order requiring the subpoenaed person to appear and testify and to

produce such books, records, and documents as are specified in such subpoena duces tecum. The court may grant injunctive relief restraining the issuance, sale or offer for sale, purchase or offer to purchase, promotion, negotiation, advertisement, or distribution ~~in or from offices in this state~~ of securities or investments in or from this state by the noncompliant ~~a~~ person or its agent, employee, broker, partner, officer, director, manager, managing member, control person, or equity holder ~~stockholder thereof~~, and may grant such other relief, including, but not limited to, the restraint, by injunction or appointment of a receiver, of any transfer, pledge, assignment, or other disposition of such person's assets or any concealment, alteration, destruction, or other disposition of subpoenaed books, records, or documents, as the court deems appropriate, until such person has fully complied with such subpoena or subpoena duces tecum and the office has completed its investigation or examination. The office is entitled to the summary procedure provided in s. 51.011, and the court shall advance the cause on its calendar. Costs incurred by the office to obtain an order granting, in whole or in part, such petition for enforcement of a subpoena or subpoena duces tecum shall be taxed against the subpoenaed person, and failure to comply with such order shall be a contempt of court.

Section 13. Paragraph (d) of subsection (3) of section 921.0022, Florida Statutes, is amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(d) LEVEL 4

Florida Statute	Felony Degree	Description
316.1935(3)(a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
499.0051(1)	3rd	Failure to maintain or deliver transaction history, transaction information, or transaction statements.
499.0051(5)	2nd	Knowing sale or delivery,

			or possession with intent to sell, contraband prescription drugs.
517.07(1)	3rd	Failure to register securities.	
517.12(1)	3rd	Failure of dealer or~~,~~ associated person of a dealer~~, or issuer~~ of securities to register.	
784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, etc.	
784.074(1)(c)	3rd	Battery of sexually violent predators facility staff.	
784.075	3rd	Battery on detention or commitment facility staff.	
784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or	

			materials.
784.08(2)(c)		3rd	Battery on a person 65 years of age or older.
784.081(3)		3rd	Battery on specified official or employee.
784.082(3)		3rd	Battery by detained person on visitor or other detainee.
784.083(3)		3rd	Battery on code inspector.
784.085		3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
787.03(1)		3rd	Interference with custody; wrongly takes minor from appointed guardian.

787.04(2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
787.04(3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
787.07	3rd	Human smuggling.
790.115(1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
790.115(2)(b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
790.115(2)(c)	3rd	Possessing firearm on

			school property.
794.051(1)	3rd		Indecent, lewd, or lascivious touching of certain minors.
800.04(7)(c)	3rd		Lewd or lascivious exhibition; offender less than 18 years.
806.135	2nd		Destroying or demolishing a memorial or historic property.
810.02(4)(a)	3rd		Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
810.02(4)(b)	3rd		Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.

810.06	3rd	Burglary; possession of tools.
810.08(2)(c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
812.014(2)(c)3.	3rd	Grand theft, 3rd degree $10,000 or more but less than $20,000.
812.014 (2)(c)4.-10.	3rd	Grand theft, 3rd degree; specified items.
812.0195(2)	3rd	Dealing in stolen property by use of the Internet; property stolen $300 or more.
817.505(4)(a)	3rd	Patient brokering.
817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5)

			drugs.
817.568(2)(a)	3rd	Fraudulent use of personal identification information.	
817.625(2)(a)	3rd	Fraudulent use of scanning device, skimming device, or reencoder.	
817.625(2)(c)	3rd	Possess, sell, or deliver skimming device.	
828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.	
836.14(2)	3rd	Person who commits theft of a sexually explicit image with intent to promote it.	

836.14(3)	3rd	Person who willfully possesses a sexually explicit image with certain knowledge, intent, and purpose.
837.02(1)	3rd	Perjury in official proceedings.
837.021(1)	3rd	Make contradictory statements in official proceedings.
838.022	3rd	Official misconduct.
839.13(2)(a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
839.13(2)(c)	3rd	Falsifying records of the Department of Children and Families.
843.021	3rd	Possession of a concealed

			handcuff key by a person in custody.
843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.	
843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).	
847.0135(5)(c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.	
870.01(3)	2nd	Aggravated rioting.	
870.01(5)	2nd	Aggravated inciting a riot.	
874.05(1)(a)	3rd	Encouraging or recruiting another to join a	

			criminal gang.
893.13(2)(a)1.	2nd	Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), (2)(a), (2)(b), or (2)(c)5. drugs).
914.14(2)	3rd	Witnesses accepting bribes.
914.22(1)	3rd	Force, threaten, etc., witness, victim, or informant.
914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
916.1085 (2)(c)1.	3rd	Introduction of specified contraband into certain DCF facilities.
918.12	3rd	Tampering with jurors.

934.215	3rd	Use of two-way communications device to facilitate commission of a crime.
944.47(1)(a)6.	3rd	Introduction of contraband (cellular telephone or other portable communication device) into correctional institution.
951.22(1)(h), (j) & (k)	3rd	Intoxicating drug, instrumentality or other device to aid escape, or cellular telephone or other portable communication device introduced into county detention facility.

Section 14. Section 517.1215, Florida Statutes, is amended to read:

517.1215 Requirements, rules of conduct, and prohibited business practices for investment advisers ~~advisors~~ and their associated persons.—

(1) The commission shall specify by rule requirements for

investment advisers ~~advisors~~ deemed to have custody of client funds which concern the following:

(a) Notification of custody of, maintenance of, and safeguards for client funds.

(b) Communications with clients and independent representatives.

(c) Requirements for investment advisers who have custody of pooled investments.

(d) Exceptions to the custody requirements.

In adopting the rules, the commission shall consider the rules and regulations of the federal regulatory authority and the North American Securities Administrators Association, Inc.

(2) The commission shall by rule establish rules of conduct and prohibited business practices for investment advisers and their associated persons. In adopting the rules, the commission shall consider general industry standards as expressed in the rules and regulations of the various federal and self-regulatory agencies and regulatory associations, including, but not limited to, the ~~United States~~ Securities and Exchange Commission, the Financial Industry Regulatory Authority, and the North American Securities Administrators Association, Inc.

Section 15. Subsection (1) of section 517.075, Florida Statutes, is amended to read:

517.075 Cuba, prospectus disclosure of doing business with, required.—

(1) Any issuer of securities that will be sold in this state pursuant to a prospectus must disclose in the prospectus if the issuer or any affiliate thereof~~, as defined in s. 517.021(1),~~ does business with the government of Cuba or with any person or affiliate located in Cuba. The prospectus disclosure required by this subsection does not apply with respect to prospectuses prepared before April 10, 1992.

Section 16. Paragraph (a) of subsection (1) of section 517.131, Florida Statutes, is amended to read:

517.131 Securities Guaranty Fund.—

(1)(a) The Chief Financial Officer shall establish a Securities Guaranty Fund. An amount not exceeding 20 percent of all revenues received as assessment fees pursuant to s. 517.12(9) and (10) ~~s. 517.12(10) and (11)~~ for dealers and investment advisers or s. 517.1201 for federal covered advisers and an amount not exceeding 10 percent of all revenues received as assessment fees pursuant to s. 517.12(9) and (10) ~~s. 517.12(10) and (11)~~ for associated persons shall be part of the regular license fee and shall be transferred to or deposited in the Securities Guaranty Fund.

Section 17. Subsection (1) of section 517.211, Florida Statutes, is amended to read:

517.211 Remedies available in cases of unlawful sale.—

(1) Every sale made in violation of either s. 517.07 or s. 517.12(1), (3), (4), (8), (10), (12), (15), or (17) ~~(4), (5), (9), (11), (13), (16), or (18)~~ may be rescinded at the election of the purchaser, except a sale made in violation of the provisions of s. 517.1202(3) relating to a renewal of a branch office notification shall not be subject to this section, and a sale made in violation of the provisions of s. 517.12(12) ~~s. 517.12(13)~~ relating to filing a change of address amendment shall not be subject to this section. Each person making the sale and every director, officer, partner, or agent of or for the seller, if the director, officer, partner, or agent has personally participated or aided in making the sale, is jointly and severally liable to the purchaser in an action for rescission, if the purchaser still owns the security, or for damages, if the purchaser has sold the security. No purchaser otherwise entitled will have the benefit of this subsection who has refused or failed, within 30 days of receipt, to accept an offer made in writing by the seller, if the purchaser has not sold the security, to take back the security in question and to refund the full amount paid by the purchaser or, if the purchaser has sold the security, to pay the purchaser an amount equal to the difference between the amount paid for the security and the amount received by the purchaser on the sale of the security, together, in either case, with interest on the full amount paid for the security by the purchaser at the legal rate,

pursuant to s. 55.03, for the period from the date of payment by the purchaser to the date of repayment, less the amount of any income received by the purchaser on the security.

Section 18. Section 517.315, Florida Statutes, is amended to read:

517.315 Fees.—All fees of any nature collected by the office pursuant to this chapter shall be disbursed as follows:

(1) The office shall transfer the amount of fees required to be deposited into the Securities Guaranty Fund pursuant to s. 517.131.~~;~~

(2) After the transfer required in subsection (1), the office shall transfer the $50 assessment fee collected from each associated person under s. 517.12(9) and (10) ~~s. 517.12(10) and (11)~~ and 30.44 percent of the $100 assessment fee paid by dealers and investment advisers ~~advisors~~ for each office in the state under s. 517.12(9) and (10) ~~s. 517.12(10) and (11)~~ to the Regulatory Trust Fund.~~; and~~

(3) All remaining fees shall be deposited into the General Revenue Fund.

Section 19. Subsection (5) of section 626.9911, Florida Statutes, is amended to read:

626.9911 Definitions.—As used in this act, the term:

(5) "Life expectancy provider" means a person who determines, or holds himself or herself out as determining, life expectancies or mortality ratings used to determine life

expectancies:

(a) On behalf of a viatical settlement provider, viatical settlement broker, life agent, or person engaged in the business of viatical settlements;

(b) In connection with a viatical settlement investment as defined in s. 517.021~~, pursuant to s. 517.021(24)~~; or

(c) On residents of this state in connection with a viatical settlement contract or viatical settlement investment.

Section 20. Subsection (6) of section 744.351, Florida Statutes, is amended to read:

744.351 Bond of guardian.—

(6) When it is expedient in the judgment of any court having jurisdiction of any guardianship property, because the size of the bond required of the guardian is burdensome, or for other cause, the court may order, in lieu of a bond or in addition to a lesser bond, that the guardian place all or part of the property of the ward in a designated financial institution under the same conditions and limitations as are contained in s. 69.031. A designated financial institution shall also include a dealer~~,~~ as defined in s. 517.021 ~~s. 517.021(6),~~ if the dealer is a member of the Security Investment Protection Corporation and is doing business in the state.

Section 21. Section 517.1205, Florida Statutes, is amended to read:

517.1205 Registration of associated persons specific as to

securities dealer, investment adviser, or federal covered adviser identified at time of registration approval.—Inasmuch as this chapter is intended to protect investors in securities offerings and other investment transactions regulated by that chapter, its provisions are to be construed to require full and fair disclosure of all, but only, those matters material to the investor's evaluation of the offering or other transaction. It should, furthermore, be construed to impose the standards provided by law on all those seeking to participate in the state's securities industry through registration as a securities dealer, investment adviser, or associated person. To this end, it is declared to be the intent of the Legislature that the registration of associated persons required by law is specific to the securities dealer, investment adviser, or federal covered adviser identified at the time such registration is approved. Notwithstanding any interpretation of law to the contrary, the historical practice of the Department of Banking and Finance, reflected in its rules, that requires a new application for registration from a previously registered associated person when that person seeks to be associated with a new securities dealer or investment adviser is hereby ratified and approved as consistent with legislative intent. It is, finally, declared to be the intent of the Legislature that while approval of an application for registration of a securities dealer, investment adviser, or associated person requires a finding of compliance

with the applicable registration provisions of this chapter and applicable rules ~~the applicant's good repute and character~~, such finding is precluded by a determination that the applicant may be denied registration on grounds provided by law.

Section 22. This act shall take effect October 1, 2023.

INSURANCE & BANKING SUBCOMMITTEE

HB 253 by Rep. Barnaby
Relating to Regulation of Securities

AMENDMENT SUMMARY
March 21, 2023

Amendment 1 by Rep. Barnaby (Line 76): The amendment:

- Removes a proposed change to the definition of “control” and reverts this to the statutory definition.
- Removes a proposed definition of the term “control person” from the bill.
- Regarding the terms “natural person” and “individual” the wording is reverted to the language used in the bill as originally filed.
- Reverts certain continuing education-related language to the bill as originally filed.
- Provides technical and grammatical corrections, as needed.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___ (Y/N)
ADOPTED AS AMENDED	___ (Y/N)
ADOPTED W/O OBJECTION	___ (Y/N)
FAILED TO ADOPT	___ (Y/N)
WITHDRAWN	___ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Insurance & Banking Subcommittee

Representative Barnaby offered the following:

Amendment

Remove lines 76-1308 and insert:

(a)1. With respect to a dealer, a natural person who is employed, appointed, or authorized by a dealer and who represents the dealer in effecting or attempting to effect purchases or sales of securities.

2. The term does not include the following:

a. A dealer.

b. A partner, officer, or director of a dealer or a person having a similar status or performing similar functions as a dealer, unless such person is specified in subparagraph 1.

c. A dealer's employee whose function is only clerical or

ministerial.

d. A person whose transactions in this state are limited to those transactions described in s. 15(i)(3) of the Securities Exchange Act of 1934, as amended.

(b)1. With respect to an investment adviser, a natural person, including, but not limited to, a partner, officer, director, or branch manager, or a person occupying a similar status or performing similar functions, who:

a. Is employed by or associated with, or is subject to the supervision and control of, an investment adviser registered or required to be registered under this chapter; and

b. Does any of the following:

(I) Makes any recommendation or otherwise gives investment advice regarding securities.

(II) Manages accounts or portfolios of clients.

(III) Determines which recommendation or advice regarding securities should be given.

(IV) Receives compensation to solicit, offer, or negotiate for the sale of investment advisory services.

(V) Supervises employees who perform a function under this sub-subparagraph.

2. The term does not include the following:

a. An investment adviser.

b. An employee whose function is only clerical or ministerial

~~or investment adviser, any of the following:~~

~~1. Any partner, officer, director, or branch manager of a dealer or investment adviser or any person occupying a similar status or performing similar functions;~~

~~2. Any natural person directly or indirectly controlling or controlled by such dealer or investment adviser, other than an employee whose function is only clerical or ministerial; or~~

~~3. Any natural person, other than a dealer, employed, appointed, or authorized by a dealer, investment adviser, or issuer to sell securities in any manner or act as an investment adviser as defined in this section~~.

~~The partners of a partnership and the executive officers of a corporation or other association registered as a dealer, and any person whose transactions in this state are limited to those transactions described in s. 15(h)(2) of the Securities Exchange Act of 1934, are not "associated persons" within the meaning of this definition~~.

(c)~~(b)~~ With respect to a federal covered adviser, a natural ~~any~~ person who is an investment adviser representative and who has a place of business in this state, as such terms are defined in Rule 203A-3 of the Securities and Exchange Commission adopted under the Investment Advisers Act of 1940, as amended.

(4)~~(3)~~ "Boiler room" means an enterprise in which two or more persons engage in telephone communications with members of

the public using two or more telephones at one location, or at more than one location in a common scheme or enterprise.

(5) ~~(4)~~ "Branch office" means any location in this state of a dealer or investment adviser at which one or more associated persons regularly conduct the business of rendering investment advice or effecting any transactions in, or inducing or attempting to induce the purchase or sale of, any security or any location that is held out as such. The commission may adopt by rule exceptions to this definition for dealers in order to maintain consistency with the definition of a branch office used by self-regulatory organizations authorized by the Securities and Exchange Commission, including, but not limited to, the Financial Industry Regulatory Authority. The commission may adopt by rule exceptions to this definition for investment advisers.

(6) ~~(5)~~ "Control," including the terms "controlling," "controlled by," and "under common control with," means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

(7) ~~(6)(a)~~ "Dealer" includes, unless otherwise specified, ~~any of the following:~~

~~1. Any person, other than an associated person registered under this chapter, who engages, either for all or part of her~~

~~or his time, directly or indirectly, as broker or principal in the business of offering, buying, selling, or otherwise dealing or trading in securities issued by another person~~.

~~2. Any issuer who through persons directly compensated or controlled by the issuer engages, either for all or part of her or his time, directly or indirectly, in the business of offering or selling securities which are issued or are proposed to be issued by the issuer.~~ a person, other than an associated person of a dealer, that engages, for all or part of the person's time, directly or indirectly, as agent or principal in the business of offering, buying, selling, or otherwise dealing or trading in securities issued by another person.

~~(b)~~ The term ~~"dealer"~~ does not include the following:

(a) A licensed practicing attorney who renders or performs any such services in connection with the regular practice of the attorney's profession.

(b) A bank authorized to do business in this state, except nonbank subsidiaries of a bank.

(c) A trust company having trust powers that it is authorized to exercise in this state, which renders or performs services in a fiduciary capacity incidental to the exercise of its trust powers.

(d) A wholesaler selling exclusively to dealers.

(e) A person buying and selling for the person's own account exclusively through a registered dealer or stock

exchange.

(f) An issuer.

(g) A natural person representing an issuer in the purchase, sale, or distribution of the issuer's own securities if such person:

1. Is an officer, a director, a limited liability company manager or managing member, or a bona fide employee of the issuer;

2. Has not participated in the distribution or sale of securities for any issuer for which such person was, within the preceding 12 months, an officer, a director, a limited liability company manager or managing member, or a bona fide employee;

3. Primarily performs, or is intended to perform at the end of the distribution, substantial duties for, or on behalf of, the issuer other than in connection with transactions in securities; and

4. Does not receive a commission, compensation, or other consideration for the completed sale of the issuer's securities apart from the compensation received for regular duties to the issuer.

~~1. Any licensed practicing attorney who renders or performs any of such services in connection with the regular practice of her or his profession;~~

~~2. Any bank authorized to do business in this state, except nonbank subsidiaries of a bank;~~

~~3. Any trust company having trust powers which it is authorized to exercise in this state, which renders or performs services in a fiduciary capacity incidental to the exercise of its trust powers;~~

~~4. Any wholesaler selling exclusively to dealers;~~

~~5. Any person buying and selling for her or his own account exclusively through a registered dealer or stock exchange; or~~

~~6. Pursuant to s. 517.061(11), any person associated with an issuer of securities if such person is a bona fide employee of the issuer who has not participated in the distribution or sale of any securities within the preceding 12 months and who primarily performs, or is intended to perform at the end of the distribution, substantial duties for, or on behalf of, the issuer other than in connection with transactions in securities.~~

(8)~~(7)~~ "Commission" means the Financial Services Commission.

(9)~~(8)~~ "Office" means the Office of Financial Regulation of the commission.

(10)~~(9)~~ "Federal covered adviser" means a person that ~~who~~ is registered or required to be registered under s. 203 of the Investment Advisers Act of 1940, as amended. The term ~~"federal covered adviser"~~ does not include any person that ~~who~~ is excluded from the definition of investment adviser under subparagraphs (18)(b)1.-8. ~~(14)(b)1.-8.~~

(11) ~~(10)~~ "Federal covered security" means a ~~any~~ security that is a covered security under s. 18(b) of the Securities Act of 1933, as amended, or rules and regulations adopted thereunder.

(12) ~~(11)~~ "Guarantor" means a person that ~~who~~ agrees in writing, or that ~~who~~ holds itself out to the public as agreeing, to pay the indebtedness of another when due, including, without limitation, payments of principal and interest on a bond, debenture, note, or other evidence of indebtedness, without resort by the holder to any other obligor, whether or not such writing expressly states that the person signing is signing as a guarantor. The obligation of a guarantor hereunder shall be a continuing, absolute, and unconditional guaranty of payment, without regard to the validity, regularity, or enforceability of the underlying indebtedness.

(13) ~~(12)~~ "Guaranty" means an agreement in ~~a~~ writing in which one party either agrees, or holds itself out to the public as agreeing, to pay the indebtedness of another when due, including, without limitation, payments of principal and interest on a bond, debenture, note, or other evidence of indebtedness, without resort by the holder to any other obligor, whether or not such writing expressly states that the person signing is signing as a guarantor. An agreement that is not specifically denominated as a guaranty shall nevertheless constitute a guaranty if the holder of the underlying

indebtedness or the holder's ~~her or his~~ representative or trustee has the right to sue to enforce the guarantor's obligations under the guaranty. Words of guaranty or equivalent words that ~~which~~ otherwise do not specify guaranty of payment create a presumption that payment, rather than collection, is guaranteed by the guarantor. Any guaranty in writing is enforceable notwithstanding any statute of frauds.

(14) ~~(13)~~ "Intermediary" means a natural person residing in this ~~the~~ state or a corporation, trust, partnership, limited liability company, association, or other legal entity registered with the Secretary of State to do business in this ~~the~~ state, which facilitates through its website the offer or sale of securities of an issuer with a principal place of business in this state ~~under s. 517.0611~~.

(15)(a) ~~(14)(a)~~ "Investment adviser" means a ~~includes any~~ person, other than an associated person of an investment adviser or a federal covered adviser, that ~~who~~ receives compensation, directly or indirectly, and engages for all or part of the person's ~~her or his~~ time, directly or indirectly, or through publications or writings, in the business of advising others as to the value of securities or as to the advisability of investments in, purchasing of, or selling of securities~~, except a dealer whose performance of these services is solely incidental to the conduct of her or his business as a dealer and who receives no special compensation for such services~~.

(b) The term ~~"investment adviser"~~ does not include the following:

1. A dealer or associated person of a dealer whose performance of services in paragraph (a) is solely incidental to the conduct of the dealer's or associated person's business as a dealer and who does not receive special compensation for those services.

2. A ~~Any~~ licensed practicing attorney or certified public accountant whose performance of such services is solely incidental to the practice of the attorney's or accountant's ~~her or his~~ profession.~~;~~

~~2. Any licensed certified public accountant whose performance of such services is solely incidental to the practice of her or his profession;~~

3. A ~~Any~~ bank authorized to do business in this state.~~;~~

4. A ~~Any~~ bank holding company as defined in the Bank Holding Company Act of 1956, as amended, authorized to do business in this state.~~;~~

5. A ~~Any~~ trust company having trust powers, as defined in s. 658.12, which it is authorized to exercise in this ~~the~~ state, which trust company renders or performs investment advisory services in a fiduciary capacity incidental to the exercise of its trust powers.~~;~~

6. A ~~Any~~ person that ~~who~~ renders investment advice exclusively to insurance or investment companies.~~;~~

7. A ~~Any~~ person that ~~who~~ does not hold itself ~~herself or himself~~ out to the general public as an investment adviser and has no more than 15 clients within 12 consecutive months in this state.~~;~~

8. A ~~Any~~ person whose transactions in this state are limited to those transactions described in s. 222(d) of the Investment Advisers Act of 1940, as amended. Those clients listed in subparagraph 6. may not be included when determining the number of clients of an investment adviser for purposes of s. 222(d) of the Investment Advisers Act of 1940, as amended.~~;~~ ~~or~~

9. A federal covered adviser.

(16)~~(15)~~ "Issuer" means a ~~any~~ person that ~~who~~ proposes to issue, has issued, or shall hereafter issue any security. A ~~Any~~ person that ~~who~~ acts as a promoter for and on behalf of a corporation, trust, ~~or unincorporated association or~~ partnership, limited liability company, association, or other legal entity of any kind to be formed shall be deemed an issuer.

(17)~~(16)~~ "Offer to sell," "offer for sale," or "offer" means an ~~any~~ attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security, or an investment or interest in an investment, for value.

(18)~~(17)~~ "Predecessor" means a person whose ~~the~~ major portion of ~~whose~~ assets has ~~have~~ been acquired directly or indirectly by an issuer.

(19)~~(18)~~ "Principal" means an executive officer of a corporation, partner of a partnership, sole proprietor of a sole proprietorship, trustee of a trust, or any other person with similar supervisory functions with respect to any organization, whether incorporated or unincorporated.

(20)~~(19)~~ "Promoter" includes the following:

(a) A ~~Any~~ person that ~~who~~, acting alone or in conjunction with one or more other persons, directly or indirectly takes the initiative in founding and organizing the business or enterprise of an issuer.

(b) A ~~Any~~ person that ~~who~~, in connection with the founding or organizing of the business or enterprise of an issuer, directly or indirectly receives in consideration of services or property, or both services and property, 10 percent or more of any class of securities of the issuer or 10 percent or more of the proceeds from the sale of any class of securities. However, a person that ~~who~~ receives such securities or proceeds either solely as underwriting commissions or solely in connection with property shall not be deemed a promoter if such person does not otherwise take part in founding and organizing the enterprise.

(21)~~(20)~~ "Qualified institutional buyer" means a ~~any~~ qualified institutional buyer, as defined in ~~United States~~ Securities and Exchange Commission Rule 144A, 17 C.F.R. s. 230.144A(a), under the Securities Act of 1933, as amended, or any foreign buyer that satisfies the minimum financial

requirements set forth in such rule.

(22)~~(21)~~ "Sale" or "sell" means a ~~any~~ contract of sale or disposition of an ~~any~~ investment, security, or interest in a security, for value. With respect to a security or interest in a security, the term ~~defined in this subsection~~ does not include preliminary negotiations or agreements between an issuer or any person on whose behalf an offering is to be made and any underwriter or among underwriters who are or are to be in privity of contract with an issuer. Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing shall be conclusively presumed to constitute a part of the subject of such purchase and to have been offered and sold for value. Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer of a security which gives the holder a present or future right or privilege to convert into another security or another issuer, is considered to include an offer of the other security.

(23)~~(22)~~ "Security" includes any of the following:

(a) A note.

(b) A stock.

(c) A treasury stock.

(d) A bond.

(e) A debenture.

(f) An evidence of indebtedness.

(g) A certificate of deposit.

(h) A certificate of deposit for a security.

(i) A certificate of interest or participation.

(j) A whiskey warehouse receipt or other commodity warehouse receipt.

(k) A certificate of interest in a profit-sharing agreement or the right to participate therein.

(l) A certificate of interest in an oil, gas, petroleum, mineral, or mining title or lease or the right to participate therein.

(m) A collateral trust certificate.

(n) A reorganization certificate.

(o) A preorganization subscription.

(p) A ~~Any~~ transferable share.

(q) An investment contract.

(r) A beneficial interest in title to property, profits, or earnings.

(s) An interest in or under a profit-sharing or participation agreement or scheme.

(t) An ~~Any~~ option contract that ~~which~~ entitles the holder to purchase or sell a given amount of the underlying security at a fixed price within a specified period of time.

(u) Any other instrument commonly known as a security, including an interim or temporary bond, debenture, note, or certificate.

(v) A ~~Any~~ receipt for a security, or for subscription to a security, or a ~~any~~ right to subscribe to or purchase any security.

(w) A viatical settlement investment.

(24) ~~(23)~~ "Underwriter" means a person that ~~who~~ has purchased from an issuer or an affiliate of an issuer with a view to, or offers or sells for an issuer or an affiliate of an issuer in connection with, the distribution of any security, or participates or has a direct or indirect participation in any such undertaking, or participates or has a participation in the direct or indirect underwriting of any such undertaking; except that a person is ~~shall be~~ presumed not to be an underwriter with respect to any security which it ~~she or he~~ has owned beneficially for at least 1 year; and, further, a dealer is ~~shall~~ not ~~be~~ considered an underwriter with respect to any securities which do not represent part of an unsold allotment to or subscription by the dealer as a participant in the distribution of such securities by the issuer or an affiliate of the issuer; and, further, in the case of securities acquired on the conversion of another security without payment of additional consideration, the length of time such securities have been beneficially owned by a person includes the period during which the convertible security was beneficially owned and the period during which the security acquired on conversion has been beneficially owned.

(25)~~(24)~~ "Viatical settlement investment" means an agreement for the purchase, sale, assignment, transfer, devise, or bequest of all or any portion of a legal or equitable interest in a viaticated policy as defined in chapter 626.

Section 2. Paragraph (d) of subsection (3) of section 517.072, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

517.072 Viatical settlement investments.—

(3) The registration provisions of ss. 517.07 and 517.12 do not apply to any of the following transactions in viatical settlement investments; however, such transactions in viatical settlement investments are subject to the provisions of ss. 517.301, 517.311, and 517.312:

(d) The transfer or assignment of a viaticated policy to a bank, trust company, savings institution, insurance company, dealer, investment company as defined in the Investment Company Act of 1940, as amended, pension or profit-sharing trust, ~~or~~ qualified institutional buyer ~~as defined in United States Securities and Exchange Commission Rule 144A, 17 C.F.R. s. 230.144A(a)~~, or to an accredited investor ~~as defined by Rule 501 of Regulation D of the Securities Act Rules~~, provided such transfer or assignment is not for the direct or indirect promotion of any scheme or enterprise with the intent of violating or evading any provision of this chapter.

(4) The commission may establish by rule requirements and

standards for disclosures to purchasers of viatical settlement investments and recordkeeping requirements for sellers of viatical settlement investments.

Section 3. Paragraphs (a), (g), and (n) of subsection (3) and subsections (6) and (8) of section 517.081, Florida Statutes, are amended to read:

517.081 Registration procedure.—

(3) The office may require the applicant to submit to the office the following information concerning the issuer and such other relevant information as the office may in its judgment deem necessary to enable it to ascertain whether such securities shall be registered pursuant to the provisions of this section:

(a) The names and addresses of:

1. All the directors, trustees, and officers, if the issuer is ~~be~~ a corporation, association, or trust.

2. All the managers or managing members, if the issuer is a limited liability company.

3. ~~; of~~ All the partners, if the issuer is ~~be~~ a partnership.

4. ~~; or of~~ The issuer, if the issuer is a sole proprietorship or natural person ~~be an individual~~.

(g)1. A specimen copy of the securities certificate, if applicable, ~~security~~ and a copy of any circular, prospectus, advertisement, or other description of such securities.

2. The commission shall adopt a form for a simplified

offering circular ~~to be used solely by corporations~~ to register, under this section, securities ~~of the corporation~~ that are sold in offerings in which the aggregate offering price in any consecutive 12-month period does not exceed the amount provided in s. 3(b) of the Securities Act of 1933, as amended. The following issuers shall not be eligible to submit a simplified offering circular adopted pursuant to this subparagraph:

a. An issuer seeking to register securities for resale by persons other than the issuer.

b. An issuer that ~~who~~ is subject to any of the disqualifications described in 17 C.F.R. s. 230.262, adopted pursuant to the Securities Act of 1933, as amended, or that ~~who~~ has been or is engaged or is about to engage in an activity that would be grounds for denial, revocation, or suspension under s. 517.111. For purposes of this subparagraph, an issuer includes an issuer's director, officer, manager or managing member, or equity owner ~~shareholder~~ who owns at least 10 percent of the ownership interests ~~shares~~ of the issuer, promoter, or selling agent of the securities to be offered or any officer, director, or partner of such selling agent.

c. An issuer that ~~who~~ is a development-stage company that either has no specific business plan or purpose or has indicated that its business plan is to merge with an unidentified company or companies.

d. An issuer of offerings in which the specific business

or properties cannot be described.

e. Any issuer the office determines is ineligible because ~~if~~ the form does ~~would~~ not provide full and fair disclosure of material information for the type of offering to be registered by the issuer.

f. Any issuer that ~~corporation which~~ has failed to provide the office the reports required for a previous offering registered pursuant to this subparagraph.

As a condition precedent to qualifying for use of the simplified offering circular, an issuer ~~a corporation~~ shall agree to provide the office with an annual financial report containing a balance sheet as of the end of the issuer's fiscal year and a statement of income for such year, prepared in accordance with United States generally accepted accounting principles and accompanied by an independent accountant's report. If the issuer has more than 100 security holders at the end of a fiscal year, the financial statements must be audited. Annual financial reports must be filed with the office within 90 days after the close of the issuer's fiscal year for each of the first 5 years following the effective date of the registration.

(n) If the issuer is a corporation, there shall be filed with the application a copy of its articles of incorporation with all amendments and of its existing bylaws, if not already on file in the office. If the issuer is a limited liability

company, there shall be filed with the application a copy of the articles of organization with all the amendments and a copy of the company's operating agreement, if not already on file with the office. If the issuer is a trustee, there shall be filed with the application a copy of all instruments by which the trust is created or declared and in which it is accepted and acknowledged. If the issuer is a partnership, unincorporated association, joint-stock company, or any other form of organization whatsoever, there shall be filed with the application a copy of its articles of partnership or association and all other papers pertaining to its organization, if not already on file in the office.

(6) An issuer filing an application under this section shall, at the time of filing, pay the office a nonreturnable fee of $1,000 per application for each offering that exceeds the amount provided in s. 3(b) of the Securities Act of 1933, as amended, or $200 per application for each offering that does not exceed the amount provided in s. 3(b) of the Securities Act of 1933, as amended.

(8) The office shall deem an application to register securities filed with the office abandoned if the issuer or any person acting on behalf of the issuer has failed to timely complete an application specified by commission rule. ~~The commission may by rule establish requirements and standards for:~~

~~(a) Disclosures to purchasers of viatical settlement~~

~~investments.~~

~~(b) Recordkeeping requirements for sellers of viatical settlement investments.~~

Section 4. Section 517.082, Florida Statutes, is amended to read:

517.082 ~~Notification~~ Registration by notification; federal registration statements.—

(1) ~~Except as provided in subsection (3),~~ Securities offered or sold pursuant to a registration statement filed under the Securities Act of 1933, as amended, are ~~shall be~~ entitled to registration by notification in the manner provided in subsection (2), provided that before ~~prior to~~ the offer or sale the registration statement has become effective.

(2) An application for registration by notification shall be filed with the office, shall contain the following information, and shall be accompanied by all of the following:

(a) An application to sell executed by the issuer, any person on whose behalf the offering is made, a dealer registered under this chapter, or any duly authorized agent of any such person, setting forth the name and address of the applicant, the name and address of the issuer, and the title of the securities to be offered and sold.~~;~~

(b) Copies of such documents filed with the Securities and Exchange Commission as the Financial Services Commission may by rule require.~~;~~

(c) An irrevocable written consent to service as required by s. 517.101.~~; and~~

(d) A nonreturnable fee of $1,000 per application.

A registration under this section becomes effective when the federal registration statement becomes effective or as of the date the application is filed with the office, whichever is later, provided that, in addition to the items listed in paragraphs (a)-(d), the office has received written notification of effective registration under the Securities Act of 1933, as amended, or the Investment Company Act of 1940, as amended, within 10 business days after ~~from~~ the date federal registration is granted. Failure to provide all the information required by this subsection to the office within 60 days after ~~of~~ the date the registration statement becomes effective with the Securities and Exchange Commission shall be a violation of this chapter.

(3) Except for units of limited partnership interests or such other securities as the commission describes by rule as exempt from this subsection due to high investment quality, the provisions of this section may not be used to register securities if the offering price at the time of effectiveness with the Securities and Exchange Commission is $5 or less per share, unless such securities are listed or designated, or approved for listing or designation upon notice of issuance, on a stock exchange registered pursuant to the Securities Exchange

Act of 1934, as amended, or on the National Association of Securities Dealers Automated Quotation (NASDAQ) System, or unless such securities are of the same issuer and of senior or substantially equal rank to securities so listed or designated.

(4) In lieu of filing with the office the application, fees, and documents for registration required by subsection (2), the commission may establish, by rule, procedures for depositing fees and filing documents by electronic means, provided such procedures provide the office with the information and data required by this section.

(5) If the Securities and Exchange Commission has not declared effective the applicant's federal registration statement within 180 days after the applicant's filing with the office of an application for registration by notification, the office must deem the application abandoned.

Section 5. Subsections (1) through (4) of section 517.111, Florida Statutes, are amended to read:

517.111 Revocation or denial of registration of securities.—

(1) The office may revoke or suspend the registration of any security, or may deny any application to register securities, if, upon examination or investigation into the affairs of the issuer of such security, the office determines ~~it shall appear~~ that:

(a) The issuer cannot pay its debts as they become due in

the usual course of business ~~is insolvent~~;

(b) The issuer or any officer, director, manager or managing member, or control person of the issuer has violated any provision of this chapter or any rule made hereunder or any order of the office of which such issuer has notice;

(c) The issuer or any officer, director, manager or managing member, or control person of the issuer has been or is engaged or is about to engage in fraudulent transactions;

(d) The issuer or any officer, director, manager or managing member, or control person of the issuer has been found guilty of a fraudulent act in connection with any sale of securities, has engaged, is engaged, or is about to engage, in making a fictitious sale or purchase of any security, or in any practice or sale of any security which is fraudulent or a violation of any law;

(e) The issuer or any officer, director, manager or managing member, or control person of the issuer has had a final judgment entered against such issuer or person in a civil action on the grounds of fraud, embezzlement, misrepresentation, or deceit;

(f) The issuer or any officer, director, manager or managing member, or control person of the issuer has engaged in any action that would be grounds for revocation, denial, or suspension under s. 517.161(1) ~~demonstrated any evidence of unworthiness~~;

(g) The issuer or any officer, director, manager or managing member, or control person of the issuer ~~is in any other way dishonest or~~ has made any fraudulent representations or failed to disclose any material information in any prospectus or in any circular or other literature that has been distributed concerning the issuer or its securities;

(h) The security registered or sought to be registered is the subject of an injunction entered by a court of competent jurisdiction or is the subject of an administrative stop-order or similar order prohibiting the offer or sale of the security; or

(i) For any security for which registration has been applied pursuant to s. 517.081, the terms of the offer or sale of such securities would not be fair, just, or equitable~~; or~~

~~(j) The issuer or any person acting on behalf of the issuer has failed to timely complete any application for registration filed with the office pursuant to the provisions of s. 517.081 or s. 517.082 or any rule adopted under such sections~~.

(2) In making such examination or investigation, the office shall have access to and may compel the production of all the books and papers of such issuer and may administer oaths to and examine the officers of such issuer or any other person connected therewith as to its business and affairs and may also require a balance sheet exhibiting the assets and liabilities of

any such issuer or its income statement, or both, to be certified to by a public accountant either of this state or of any other state where the issuer's business is located. Whenever the office deems it necessary, it may also require such balance sheet or income statement, or both, to be made more specific in such particulars as the office may require.

(3)~~(2)~~ If any issuer refuses ~~shall refuse~~ to permit an examination or investigation to be made by the office, it shall be proper ground for revocation of registration.

(4)~~(3)~~ If the office deems it necessary, it may enter an order suspending the right to sell securities pending any examination or investigation, provided that the order shall state the office's grounds for taking such action.

(5)~~(4)~~ Notice of the entry of such order shall be given personally or by mail~~, personally, by telephone confirmed in writing, or by telegraph~~ to the issuer. Before such order is made final, the issuer ~~applying for registration~~ shall, on application, be entitled to a hearing.

Section 6. Subsections (1), (2), and (3), paragraph (b) of subsection (6), subsections (7) and (11), paragraph (b) of subsection (15), and subsections (20) and (21) of section 517.12, Florida Statutes, are amended to read:

517.12 Registration of dealers, associated persons, intermediaries, and investment advisers.—

(1) No dealer or associated person shall ~~No dealer,~~

~~associated person, or issuer of securities shall~~ sell or offer for sale any securities in or from offices in this state~~,~~ or sell securities to persons in this state from offices outside this state, by mail or otherwise, unless the person is ~~has been~~ registered with the office as a dealer or as an associated person of a dealer pursuant to ~~the provisions of~~ this section. The office shall not register any person as an associated person of a dealer unless the dealer with which the applicant seeks registration is lawfully registered with the office pursuant to this chapter.

(2) ~~The registration requirements of this section do not apply to the issuers of securities exempted by s. 517.051(1)-(8) and (10).~~

~~(3) Except as otherwise provided in s. 517.061(11)(a)4., (13), (16), (17), or (19),~~ The registration requirements of this section do not apply in a transaction exempted by s. 517.061(1)-(10) and (12), ~~s. 517.061(1)-(12),~~ (14), and (15).

(5)~~(6)~~ A dealer, associated person, or investment adviser, in order to obtain registration, must file with the office a written application, on a form which the commission may by rule prescribe. The commission may establish, by rule, procedures for depositing fees and filing documents by electronic means provided such procedures provide the office with the information and data required by this section. Each dealer or investment adviser must also file an irrevocable written consent to service

of civil process similar to that provided for in s. 517.101. The application shall contain such information as the commission or office may require concerning such matters as:

(b) The applicant's form and place of organization; and, if the applicant is:

1. A corporation, a copy of its articles of incorporation and amendments to the articles of incorporation;

2. A limited liability company, a copy of its articles of organization with amendments to its articles; or

3. ~~, if~~ A partnership, a copy of the partnership agreement.

(6)~~(7)~~ The application must also contain such information as the commission or office may require about the applicant; any member, principal, or director of the applicant or any person having a similar status or performing similar functions; any person directly or indirectly controlling the applicant; or any employee of a dealer or of an investment adviser rendering investment advisory services. Each applicant and any direct owners, principals, or indirect owners that are required to be reported on Form BD or Form ADV pursuant to subsection (14) ~~(15)~~ shall submit fingerprints for live-scan processing in accordance with rules adopted by the commission. The fingerprints may be submitted through a third-party vendor authorized by the Department of Law Enforcement to provide live-scan fingerprinting. The costs of fingerprint processing shall be

borne by the person subject to the background check. The Department of Law Enforcement shall conduct a state criminal history background check, and a federal criminal history background check must be conducted through the Federal Bureau of Investigation. The office shall review the results of the state and federal criminal history background checks and determine whether the applicant meets licensure requirements. The commission may waive, by rule, the requirement that applicants, including any direct owners, principals, or indirect owners that are required to be reported on Form BD or Form ADV pursuant to subsection (14) ~~(15)~~, submit fingerprints or the requirement that such fingerprints be processed by the Department of Law Enforcement or the Federal Bureau of Investigation. The commission or office may require information about any such applicant or person concerning such matters as:

(a) The applicant's or person's ~~His or her~~ full name, and any other names by which the applicant or person ~~he or she~~ may have been known, and the applicant's or person's ~~his or her~~ age, social security number, photograph, qualifications, and educational and business history.

(b) Any injunction or administrative order by a state or federal agency, national securities exchange, or national securities association involving a security or any aspect of a dealer's or investment adviser's regulated ~~the securities~~ business and any injunction or administrative order by a state

or federal agency regulating banking, insurance, finance, or small loan companies, real estate, mortgage brokers, or other related or similar industries, which injunctions or administrative orders relate to such person.

(c) The applicant's or person's ~~His or her~~ conviction of, or plea of nolo contendere to, a criminal offense or his or her commission of any acts which would be grounds for refusal of an application under s. 517.161.

(d) The names and addresses of other persons of whom the office may inquire as to his or her character, reputation, and financial responsibility.

(10)(a) ~~(11)(a)~~ If the office finds that the applicant ~~is of good repute and character and~~ has complied with the applicable registration provisions of this chapter and the rules made pursuant hereto, it shall register the applicant unless the applicant is otherwise disqualified for registration pursuant to law. The registration of each dealer, investment adviser, and associated person expires on December 31 of the year the registration became effective unless the registrant has renewed its ~~his or her~~ registration on or before that date. Registration may be renewed by furnishing such information as the commission may require, together with payment of the fee required in paragraph (9)(a) ~~(10)(a)~~ for dealers, investment advisers, or associated persons and the payment of any amount lawfully due and owing to the office pursuant to any order of the office or

pursuant to any agreement with the office. Any dealer, investment adviser, or associated person who has not renewed a registration by the time the current registration expires may request reinstatement of such registration by filing with the office, on or before January 31 of the year following the year of expiration, such information as may be required by the commission, together with payment of the fee required in paragraph (9)(a) ~~(10)(a)~~ for dealers, investment advisers, or associated persons and a late fee equal to the amount of such fee. Any reinstatement of registration granted by the office during the month of January shall be deemed effective retroactive to January 1 of that year.

(b) The office shall waive the $50 assessment fee for an associated person required by paragraph (9)(a) ~~(10)(a)~~ for a registrant renewing his or her registration who:

1. Is an active duty member of the United States Armed Forces or the spouse of such member;

2. Is or was a member of the United States Armed Forces and served on active duty within the 2 years preceding the expiration date of the registration pursuant to paragraph (a). To qualify for the fee waiver, a registrant who is a former member of the United States Armed Forces who served on active duty within the 2 years preceding the expiration date of the registration must have received an honorable discharge upon separation or discharge from the United States Armed Forces; or

3. Is the surviving spouse of a member of the United States Armed Forces if the member was serving on active duty at the time of death and died within the 2 years preceding the surviving spouse's registration expiration date pursuant to paragraph (a).

A registrant seeking such fee waiver must submit proof, in a form prescribed by commission rule, that the registrant meets one of the qualifications in this paragraph.

(14) ~~(15)~~

(b) In lieu of filing with the office the applications specified in subsection (5) ~~(6)~~, the fees required by subsection (9) ~~(10)~~, the renewals required by subsection (10) ~~(11)~~, and the termination notices required by subsection (11) ~~(12)~~, the commission may by rule establish procedures for the deposit of such fees and documents with the Central Registration Depository or the Investment Adviser Registration Depository of the Financial Industry Regulatory Authority, as developed under contract with the North American Securities Administrators Association, Inc.

(19) ~~(20)~~ An intermediary may not engage in business in this state unless the intermediary is registered as a dealer or as an intermediary with the office pursuant to this section to facilitate the offer or sale of securities in accordance with s. 517.0611. An intermediary, in order to obtain registration, must

file with the office a written application on a form prescribed by commission rule and pay a registration fee of $200. The fees under this subsection shall be deposited into the Regulatory Trust Fund of the office. The commission may establish by rule procedures for depositing fees and filing documents by electronic means if such procedures provide the office with the information and data required by this section. Each intermediary must also file an irrevocable written consent to service of civil process, as provided in s. 517.101.

(a) The application must contain such information as the commission or office may require concerning:

1. The name of the applicant and address of its principal office and each office in this state.

2. The applicant's form and place of organization; and, if the applicant is:

a. A corporation, a copy of its articles of incorporation and amendments to the articles of incorporation;

b. A limited liability company, a copy of its articles of organization and amendments to the articles and a copy of the company's operating agreement; or

c. ~~, if~~ A partnership, a copy of the partnership agreement.

3. The website address where securities of the issuer will be offered.

4. Contact information.

(b) The application must also contain such information as the commission may require by rule about the applicant; any member, principal, or director of the applicant or any person having a similar status or performing similar functions; or any persons directly or indirectly controlling the applicant. Each applicant and any direct owners, principals, or indirect owners that are required to be reported on a form adopted by commission rule shall submit fingerprints for live-scan processing in accordance with rules adopted by the commission. The fingerprints may be submitted through a third-party vendor authorized by the Department of Law Enforcement to provide live-scan fingerprinting. The costs of fingerprint processing shall be borne by the person subject to the background check. The Department of Law Enforcement shall conduct a state criminal history background check, and a federal criminal history background check must be conducted through the Federal Bureau of Investigation. The office shall review the results of the state and federal criminal history background checks and determine whether the applicant meets registration requirements. The commission may waive, by rule, the requirement that applicants, including any direct owners, principals, or indirect owners, which are required to be reported on a form adopted by commission rule, submit fingerprints or the requirement that such fingerprints be processed by the Department of Law Enforcement or the Federal Bureau of Investigation. The

commission, by rule, or the office may require information about any applicant or person, including:

1. The applicant's or person's ~~His or her~~ full name and any other names by which the applicant or person ~~he or she~~ may have been known and the applicant's or person's ~~his or her~~ age, social security number, photograph, qualifications, and educational and business history.

2. Any injunction or administrative order by a state or federal agency, national securities exchange, or national securities association involving a security or any aspect of an intermediary's regulated ~~the securities~~ business and any injunction or administrative order by a state or federal agency regulating banking, insurance, finance, ~~or small loan companies,~~ real estate, mortgage brokers, or other related or similar industries, which relate to such person.

3. The applicant's or person's ~~His or her~~ conviction of, or plea of nolo contendere to, a criminal offense or the applicant's or person's ~~his or her~~ commission of any acts that would be grounds for refusal of an application under s. 517.161.

(c) The application must be amended within 30 days if any information contained in the form becomes inaccurate for any reason.

(d) An intermediary or persons affiliated with the intermediary are not subject to any disqualification described in s. 517.1611 or ~~United States~~ Securities and Exchange

Commission Rule 506(d), 17 C.F.R. 230.506(d), adopted pursuant to the Securities Act of 1933, as amended. Each director, officer, manager or managing member, control person of the issuer, any person occupying a similar status or performing a similar function, and each person holding more than 20 percent of the ownership interests ~~shares~~ of the intermediary is subject to this requirement.

(e) If the office finds that the applicant ~~is of good repute and character and~~ has complied with the applicable registration provisions of this chapter and the rules adopted thereunder, it shall register the applicant. The registration of each intermediary expires on December 31 of the year the registration became effective unless the registrant renews his or her registration on or before that date. Registration may be renewed by furnishing such information as the commission may require by rule, together with payment of a $200 fee and the payment of any amount due to the office pursuant to any order of the office or pursuant to any agreement with the office. An intermediary who has not renewed a registration by the time that the current registration expires may request reinstatement of such registration by filing with the office, on or before January 31 of the year following the year of expiration, such information as required by the commission, together with payment of the $200 fee and a late fee of $200. Any reinstatement of registration granted by the office during the month of January

is deemed effective retroactive to January 1 of that year.

(20)~~(21)~~ The registration requirements of this section do not apply to any general lines insurance agent or life insurance agent licensed under chapter 626, for the sale of a security as defined in s. 517.021(28)(g) ~~s. 517.021(22)(g)~~, if the individual is directly authorized by the issuer to offer or sell the security on behalf of the issuer and the issuer is a federally chartered savings bank subject to regulation by the Federal Deposit Insurance Corporation. Actions under this subsection shall constitute activity under the insurance agent's license for purposes of ss. 626.611 and 626.621.

Section 7. Section 517.1214, Florida Statutes, is created to read:

517.1214 Continuing education requirements for associated persons of investment advisers and federal covered advisers.—

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

(a) "Approved continuing education content" means the materials, written, oral, or otherwise, which have been approved by NASAA or its designee and which make up the educational program provided to an associated person under this section.

(b) "Credit" means a unit designated by NASAA or its designee as at least 50 minutes of educational instruction.

(c) "Home state" means the state in which an associated person of an investment adviser or a federal covered adviser has his or her principal office and place of business.

(d) "NASAA" means the North American Securities Administrators Association, Inc.

(e) "Reporting period" means one 12-month period beginning January 1 and ending December 31. An associated person's initial reporting period with this state commences the first day of the first full reporting period after the individual is registered or required to be registered with this state.

(2) By December 31, 2024, and each December 31 thereafter, each associated person of an investment adviser or a federal covered adviser shall complete the following continuing education content requirements offered by a person that NASAA or its designee has authorized to provide the continuing education content required by this section:

(a) Six credits of approved continuing education content that addresses an associated person's ethical and regulatory obligations, with at least 3 hours covering the topic of ethics; and

(b) Six credits of approved continuing education content that addresses an associated person's skills and knowledge regarding financial products, investment features, and practices in the investment advisory industry.

(3) An associated person of an investment adviser or federal covered adviser who is also registered as an associated person of a Financial Industry Regulatory Authority (FINRA) member dealer and who complies with FINRA's continuing education

requirements is considered to be in compliance with this section's products and practice requirement for each applicable reporting period, provided that the FINRA continuing education content is approved continuing education content.

(4) Credits of continuing education completed by an associated person who was awarded and currently holds a credential that qualifies for examination waiver by passing any tests as prescribed in s. 15(b)(7) of the Securities Exchange Act of 1934, as amended, comply with paragraphs (2)(a) and (b), provided all of the following conditions are met:

(a) The associated person completes the credits of continuing education as a condition of maintaining the credential for the relevant reporting period.

(b) The credits of continuing education completed during the relevant reporting period by the associated person are mandatory to maintain the credential.

(c) The continuing education content provided by the credentialing organization during the relevant reporting period is approved continuing education content.

(5) Each associated person is responsible for ensuring that the authorized provider reports the associated person's completion of the applicable continuing education requirements.

(6) An associated person who completes credits of continuing education in excess of the credits required for the reporting period may not carry forward excess credits to a

subsequent reporting period.

(7) An associated person who fails to comply with this section by the end of a reporting period shall renew as "CE inactive" at the close of the calendar year in this state until the associated person completes and reports all required continuing education credits for all reporting periods as required by this section. If an associated person renews as "CE inactive" at the close of the calendar year and fails to complete and report all required continuing education credits for all reporting periods as required by this section by the close of the next calendar year, the associated person becomes unregistered for purposes of this chapter.

(8) An associated person registered or required to be registered in this state who is registered as an associated person of an investment adviser or federal covered adviser in the individual's home state is considered to be in compliance with this section if:

(a) The associated person's home state has a continuing education requirement of at least 12 hours annually; and

(b) The associated person is in compliance with the home state's associated person of an investment adviser or federal covered adviser continuing education requirements.

(9) An associated person who was previously registered under s. 517.12 and became unregistered must complete continuing education for all reporting periods that occurred between the

time that the associated person became unregistered and when the person became registered again under s. 517.12, unless the associated person takes and passes the required examinations or the examination requirements are waived in connection with the subsequent application for registration.

Section 8. Section 517.1217, Florida Statutes, is amended to read:

517.1217 Rules of conduct and prohibited business practices for dealers and their associated persons and for intermediaries.—

The commission by rule may establish rules of conduct and prohibited business practices for dealers and their associated persons and for intermediaries. In adopting the rules, the commission shall consider general industry standards as expressed in the rules and regulations of the various federal and self-regulatory agencies and regulatory associations, including, but not limited to, the ~~United States~~ Securities and Exchange Commission, the Financial Industry Regulatory Authority, and the North American Securities Administrators Association, Inc.

Section 9. Subsections (1), (4), and (5) of section 517.161, Florida Statutes, are amended to read:

517.161 Revocation, denial, or suspension of registration of dealer, investment adviser, intermediary, or associated person.—

(1) Registration under s. 517.12 may be denied or any registration granted may be revoked, restricted, or suspended by the office if the office determines that such applicant or registrant; any member, principal, or director of the applicant or registrant or any person having a similar status or performing similar functions; or any person directly or indirectly controlling the applicant or registrant:

(a) Has violated any provision of this chapter or any rule or order made under this chapter;

(b) Has made a material false statement in the application for registration;

(c) Has been guilty of a fraudulent act in connection with rendering investment advice or in connection with any sale of securities, has been or is engaged or is about to engage in making fictitious or pretended sales or purchases of any such securities or in any practice involving the rendering of investment advice or the sale of securities which is fraudulent or in violation of the law;

(d) Has made a misrepresentation or false statement to, or concealed any essential or material fact from, any person in the rendering of investment advice or the sale of a security to such person;

(e) Has failed to account to persons interested for all money and property received;

(f) Has not delivered, after a reasonable time, to persons

entitled thereto securities held or agreed to be delivered by the dealer~~, broker,~~ or investment adviser, as and when paid for, and due to be delivered;

(g) Is rendering investment advice or selling or offering for sale securities through any associated person not registered in compliance with ~~the provisions of~~ this chapter;

(h) ~~Has demonstrated unworthiness to transact the business of dealer, investment adviser, intermediary, or associated person;~~

~~(i)~~ Has exercised management or policy control over or owned 10 percent or more of the securities of any dealer, intermediary, or investment adviser that has been declared bankrupt, or had a trustee appointed under the Securities Investor Protection Act; or is, in the case of a dealer, intermediary, or investment adviser, unable to pay its debts as they become due in the usual course of business ~~insolvent~~;

(i)~~(j)~~ Has been convicted of, or has entered a plea of guilty or nolo contendere to, regardless of whether adjudication was withheld, a crime against the laws of this state or any other state or of the United States or of any other country or government which relates to registration as a dealer, investment adviser, issuer of securities, intermediary, or associated person; which relates to the application for such registration; or which involves moral turpitude or fraudulent or dishonest dealing;

(j)~~(k)~~ Has had a final judgment entered against her or him in a civil action upon grounds of fraud, embezzlement, misrepresentation, or deceit;

~~(l) Is of bad business repute;~~

(k)~~(m)~~ Has been the subject of any decision, finding, injunction, suspension, prohibition, revocation, denial, judgment, or administrative order by any court of competent jurisdiction, administrative law judge, or by any state or federal agency, national securities, commodities, or option exchange, or national securities, commodities, or option association, involving a violation of any federal or state securities or commodities law or any rule or regulation promulgated thereunder, or any rule or regulation of any national securities, commodities, or options exchange or national securities, commodities, or options association, or has been the subject of any injunction or adverse administrative order by a state or federal agency regulating banking, insurance, finance ~~or small loan companies~~, real estate, mortgage brokers or lenders, money transmitters, or other related or similar industries. For purposes of this subsection, the office may not deny registration to any applicant who has been continuously registered with the office for 5 years after the date of entry of such decision, finding, injunction, suspension, prohibition, revocation, denial, judgment, or administrative order provided such decision, finding,

injunction, suspension, prohibition, revocation, denial, judgment, or administrative order has been timely reported to the office pursuant to the commission's rules; ~~or~~

(l)~~(n)~~ Made payment to the office for a registration with a check or electronic transmission of funds that is dishonored by the applicant's or registrant's financial institution;

(m) Failed to pay and fully satisfy any final judgment or arbitration award resulting from an investment-related, client- or customer-initiated arbitration or court proceeding, unless alternative payment arrangements are agreed to in writing between the client or customer and the investment adviser, dealer, or associated person and the investment adviser, dealer, or associated person complies with the terms of the alternative payment arrangement;

(n) Attempted to avoid payment of any final judgment or arbitration award resulting from an investment-related, client- or customer-initiated arbitration or court proceeding, unless alternative payment arrangements are agreed to in writing between the client or customer and the investment adviser, dealer, or associated person and the investment adviser, dealer, or associated person complies with the terms of the alternative payment arrangements; or

(o) Failed to pay and fully satisfy any fine, civil penalty, order of restitution, order of disgorgement, or similar monetary payment obligation imposed upon the investment adviser,

dealer, or associated person by the Securities and Exchange Commission, the securities regulator or other financial services regulator of any state or province, or any securities industry self-regulatory organization.

(4) It shall be sufficient cause for denial of an application or revocation of registration, in the case of a partnership, corporation, limited liability company, or unincorporated association, if any member of the partnership, any manager or managing member of the limited liability company, or any officer, director, or ultimate equitable owner of the corporation or association has committed any act or omission which would be cause for denying, revoking, restricting, or suspending the registration of an individual dealer, investment adviser, intermediary, or associated person. As used in this subsection, the term "ultimate equitable owner" means a natural person who directly or indirectly owns or controls an ownership interest in the corporation, partnership, association, or other legal entity however organized, regardless of whether such natural person owns or controls such ownership interest through one or more proxies, powers of attorney, nominees, corporations, associations, partnerships, trusts, joint stock companies, or other entities or devices, or any combination thereof.

(5) The office may deny any request to terminate or withdraw any application or registration if the office believes that an act that ~~which~~ would be a ground for denial, suspension,

restriction, or revocation under this chapter has been committed.

Section 10. Subsection (2) of section 517.1611, Florida Statutes, is amended to read:

517.1611 Guidelines.—

(2) The commission shall adopt by rule disqualifying periods pursuant to which an applicant will be disqualified from eligibility for registration based upon criminal convictions, pleas of nolo contendere, or pleas of guilt, regardless of whether adjudication was withheld, by the applicant; any partner, member, officer, or director of the applicant or any person having a similar status or performing similar functions; or any person directly or indirectly controlling the applicant.

(a) The disqualifying periods shall be 15 years for a felony and 5 years for a misdemeanor.

(b) The disqualifying periods shall be related to crimes involving registration as a dealer, investment adviser, issuer of securities, or associated person or the application for such registration or involving moral turpitude or fraudulent or dishonest dealing.

(c) The rules may also address mitigating factors, an additional waiting period based upon dates of imprisonment or community supervision, an additional waiting period based upon commitment of multiple crimes, and other factors reasonably related to the consideration of an applicant's criminal history.

(d) An applicant is not eligible for registration until the expiration of the disqualifying period set by rule. Section 112.011 does not apply to the registration provisions under this chapter. Nothing in this section changes or amends the grounds for denial under s. 517.161.

Section 11. Section 517.181, Florida Statutes, is repealed.

Section 12. Paragraph (a) of subsection (4) of section 517.201, Florida Statutes, is amended to read:

517.201 Investigations; examinations; subpoenas; hearings; witnesses.—

(4)(a) In the event of substantial noncompliance with a subpoena or subpoena duces tecum issued or caused to be issued by the office pursuant to this section, the office may petition the circuit court of the county in which the person subpoenaed resides or has its principal place of business for an order requiring the subpoenaed person to appear and testify and to produce such books, records, and documents as are specified in such subpoena duces tecum. The court may grant injunctive relief restraining the issuance, sale or offer for sale, purchase or offer to purchase, promotion, negotiation, advertisement, or distribution ~~in or from offices in this state~~ of securities or investments in or from this state by the noncompliant ~~a~~ person or its agent, employee, broker, partner, officer, director,

manager, managing member, equity holder, or any person directly or indirectly controlling the noncompliant person

PCS for HB 1111

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 1111 Value-added Insurance Products
SPONSOR(S): Insurance & Banking Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Insurance & Banking Subcommittee		Fortenberry	Lloyd

SUMMARY ANALYSIS

The Unfair Insurance Trade Practices Act (Act), among other things, defines unfair methods of competition and unfair or deceptive acts in the business of insurance. It provides an extensive list of prohibited methods and acts. Among these are prohibitions on certain inducements to the purchase of insurance, including rebates, dividends, stock, and contracts that promise to return profits to the prospective insurance purchaser. The Act describes prohibited discrimination and prohibits sliding.

Value-added insurance products or services (VAS) are provided with the sale of insurance, but extend beyond simply providing insurance coverage. Examples of VAS include risk control or claims management services, funeral planning, or financial planning. Depending on how VAS are structured or offered, there is a concern that by providing them to policyholders, insurers may violate the Act.

The bill establishes that certain actions by insurers related to value-added insurance products are not discrimination or unlawful rebates under the Code. All of these criteria regarding the value-added insurance products or services must be met for the actions to be excluded:

- Offered at no cost or reduced cost;
- Not specified in the insurance policy;
- Offered or provided by an insurer, insurance agent, or employee, affiliate, or third-party representative of the insurer or insurance agent; and
- Primarily designed to do one or more of the following:
  - Provide loss mitigation or control;
  - Reduce claim or claim settlement costs;
  - Provide education about liability risks or risk of loss to people or property;
  - Monitor or assess risk, identify sources of risk, or develop strategies to eliminate or reduce risk;
  - Enhance health;
  - Enhance financial wellness through items such as education or financial planning services;
  - Provide post-loss services;
  - Incentivize behavioral changes to improve the health, or reduce the risk of death or disability; or
  - Assist in the administration of employee or retiree benefit insurance coverage.

Under the bill, the cost to the insurer or agent offering the product or service must be reasonable in comparison to the customer's premiums or insurance coverage for the type of policy. The bill specifies that the availability of the product or service must be based on documented objective evidence maintained by the insurer or agent and produced to OIR or DFS upon request. If an insurer or agent has a good faith believe, but lacks sufficient evidence to demonstrate, that the product or service meets the criteria explained above, the insurer or agent may provide the product or service as part of a pilot or testing program implemented for up to one year. The insurer or agent must notify OIR or DFS, as applicable, of the pilot or testing program before beginning the program. After providing notification, the insurer or agent may begin the program unless OIR or DFS objects to it within 21 days after receiving the notice. An insurer, agent, or representative may not: offer to provide insurance or inducement to the purchase of another policy; or use the words "free" or "no cost," or similar words in an advertisement.

The bill has no impact on local or state government revenues or expenditures. It has an indeterminate direct economic impact on the private sector.

The bill is effective July 1, 2023.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Unfair Methods of Competition and Unfair or Deceptive Acts

The Unfair Insurance Trade Practices Act (Act),[1] among other things, defines unfair methods of competition and unfair or deceptive acts in the business of insurance.[2] It provides an extensive list of prohibited methods and acts. Among these are prohibitions on certain inducements to the purchase of insurance, including rebates, dividends, stock, and contracts that promise to return profits to the prospective insurance purchaser. The Act describes prohibited discrimination, which includes refusal to insure anyone solely because of the following reasons:[3]

- The insured's race, color, creed, marital status, sex, or national origin;
- The residence, age, or lawful occupation of the individual or the location of the risk, unless there is a reasonable relationship between the residence, age, or lawful occupation of the individual or the location of the risk and the coverage issued or to be issued;
- The insured's or applicant's failure to agree to place collateral business with any insurer, unless the coverage applied for would provide liability coverage which is excess over that provided in policies maintained on property or motor vehicles;
- The insured's or applicant's failure to purchase noninsurance services or commodities, including motor vehicle services;
- The fact that the insured or applicant is a public official; or
- The fact that the insured or applicant had been previously refused insurance coverage by any insurer, when such refusal to insure or continue to insure for this reason occurs with such frequency as to indicate a general business practice.

The Act also prohibits sliding, which includes:

- Representing to an applicant that a specific ancillary coverage or product is required by law when it is not;
- Representing to an applicant that a specific ancillary coverage or product is included in the policy applied for without an additional charge where there is a charge for it; and
- Charging an applicant for a specific ancillary coverage or product, in addition to the cost of insurance applied for, without informing the applicant.[4]

There are many exceptions to the prohibitions defined by law. Among the exceptions is authorization for insurers and their agents to offer and make gifts of charitable contributions, merchandise, goods, wares, store gift cards, gift certificates, event tickets, anti-fraud or loss mitigation services, and other items up to $100 per calendar year to an insured, prospective insured, or any person for the purpose of advertising.[5]

[1] Ch. 626, F.S., part IX.
[2] S. 626.9541, F.S.
[3] S. 626.9541(1)(x), F.S.
[4] S. 626.9541(1)(z), F.S.
[5] Rule 69B-186.010, F.A.C., Unlawful Inducements Related to Title Insurance Transactions, governs inducements related to title insurance, but exempts gifts within the value limitation of s. 626.9541(1)(m), F.S. However, federal law prohibits any fee, kickback or thing of value given for referral of real estate settlement services on mortgage loans related to federal programs. 12 U.S.C. §2607 (2017).

Value-added Insurance Products or Services

Value-added insurance products or services (VAS) are provided with the sale of insurance, but extend beyond simply providing insurance coverage.[6] When selecting between competing insurers, the type of quality of these services provided by an agent or insurer may be important factors in an applicant's decision making.[7] VAS may include risk control or claims management services.[8] For example, those VAS provided with employer practices liability insurance attempt to prevent and control claims covered by this type of insurance and include: [9]

- Human resource audits;
- Training and reference manuals;
- Sample employee handbooks;
- Loss prevention software; and
- Access to hotlines manned by human resource professionals.

VAS are also often included with life insurance to provide extra support for decisions that must be made shortly after the loss of a loved one or at other difficult times.[10] These VAS include:[11]

- Will and funeral preparation services;
- Counseling services; and
- Accelerated benefit cash advances.

Depending on how VAS are structured or offered, there is a concern that by providing them to policyholders, insurers may violate the Act. In 2021, The National Association of Insurance Commissioners (NAIC) created a model Unfair Trade Practices Act, that, among other provisions, addresses these concerns regarding VAS and clarifies the circumstances under which VAS are not unfair trade practices.

Effect of the Bill

The bill codifies certain portions of the NAIC Unfair Trade Practices Act. It establishes that certain actions by insurers related to VAS are not discrimination or unlawful rebates under the Act. All of these criteria regarding the value-added insurance products or services must be met for the provision of VAS to be excluded:

- Offered at no cost or reduced cost;
- Not specified in the insurance policy;
- Offered or provided by an insurer, insurance agent, or employee, affiliate, or third-party representative of the insurer or insurance agent; and
- Primarily designed to do one or more of the following:
    - Provide loss mitigation or control;
    - Reduce claim or claim settlement costs;
    - Provide education about liability risks or risk of loss to people or property;
    - Monitor or assess risk, identify sources of risk, or develop strategies to eliminate or reduce risk;
    - Enhance health;
    - Enhance financial wellness through items such as education or financial planning services;
    - Provide post-loss services;
    - Incentivize behavioral changes to improve the health, or reduce the risk of death or disability; or

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[6] *See* IRMI, *Value-added services*, https://www.irmi.com/term/insurance-definitions/value-added-services (last visited Mar. 19, 2023).
[7] *Id.*
[8] *Id.* VAS help to prevent or mitigate covered losses.
[9] *Id.*
[10] *The Hartford*, *Protecting and Preparing Employees with the Value-added Services of Life Insurance*, https://www.thehartford.com/insights/employee-benefits/value-added-services-life-insurance (last visited Mar. 19, 2023).
[11] *Id.*

- Assist in the administration of employee or retiree benefit insurance coverage.

Under the bill, the cost to the insurer or agent offering the product or service must be reasonable in comparison to the customer's premiums or insurance coverage for the type of policy. The insurer or agent must ensure the customer receives the contact information necessary to assist the customer with the product or service. The bill specifies that the availability of the product or service must be based on documented objective evidence maintained by the insurer or agent and produced to OIR or DFS upon request.

If an insurer or agent has a good faith believe, but lacks sufficient evidence to demonstrate, that the product or service meets the criteria explained above, the insurer or agent may provide the product or service in a manner that is not unfairly discriminatory as part of a pilot or testing program implemented for a maximum of one year. The bill requires that the insurer or agent notify OIR or DFS, as applicable, of the pilot or testing program before beginning the program. After providing notification, the insurer or agent may begin the program unless OIR or DFS objects to it within 21 days after receiving the notice.

The bill establishes that an insurer, agent, or representative may not:

- Offer to provide insurance or inducement to the purchase of another policy;
- Use the words "free" or "no cost," or similar words in an advertisement.

B. SECTION DIRECTORY:

Section 1. Amends s. 626.9541, F.S. relating to unfair methods of competition and unfair or deceptive acts or practices defined.

Section 2. Provides an effective date of July 1, 2023.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill has an indeterminate direct economic impact on the private sector, but VAS may lead to reduced claim costs to the extent they fulfill their intended purpose.[12]

D. FISCAL COMMENTS:

[12] A bill analysis has been requested from OIR, but has not been received at the time of publication of this analysis.

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides the Financial Services Commission with the authority to adopt rules necessary to administer the statutory changes set forth in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to value-added insurance products; amending s. 626.9541, F.S.; providing that certain restrictions against unfair discrimination or unlawful rebates do not include value-added products or services offered or provided by insurers or their agents if certain conditions are met; providing requirements for and restrictions on insurers or agents offering or providing such products or services; authorizing insurers or agents to provide such products or services as part of a pilot or testing program under certain circumstances; authorizing the Financial Services Commission to adopt rules; providing an effective date.

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

Section 1. Paragraph (h) of subsection (1) of section 626.9541, Florida Statutes, is amended to read:

626.9541 Unfair methods of competition and unfair or deceptive acts or practices defined.—

(1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS.—The following are defined as unfair methods of competition and unfair or deceptive acts or practices:

(h) Unlawful rebates.—

1. Except as otherwise expressly provided by law, or in an applicable filing with the office, knowingly:

a. Permitting, or offering to make, or making, any contract or agreement as to such contract other than as plainly expressed in the insurance contract issued thereon;

b. Paying, allowing, or giving, or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance contract, any unlawful rebate of premiums payable on the contract, any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract;

c. Giving, selling, or purchasing, or offering to give, sell, or purchase, as inducement to such insurance contract or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the insurance contract.

2. Nothing in paragraph (g) or subparagraph 1. of this paragraph shall be construed as including within the definition of discrimination or unlawful rebates:

a. In the case of any contract of life insurance or life annuity, paying bonuses to all policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance; provided that any

such bonuses or abatement of premiums is fair and equitable to all policyholders and for the best interests of the company and its policyholders.

b. In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expenses.

c. Readjustment of the rate of premium for a group insurance policy based on the loss or expense thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year.

d. Issuance of life insurance policies or annuity contracts at rates less than the usual rates of premiums for such policies or contracts, as group insurance or employee insurance as defined in this code.

e. Issuing life or disability insurance policies on a salary savings, bank draft, preauthorized check, payroll deduction, or other similar plan at a reduced rate reasonably related to the savings made by the use of such plan.

3.a. No title insurer, or any member, employee, attorney, agent, or agency thereof, shall pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, as inducement to title insurance, or after such insurance has been effected, any

rebate or abatement of the premium or any other charge or fee, or provide any special favor or advantage, or any monetary consideration or inducement whatever.

b. Nothing in this subparagraph shall be construed as prohibiting the payment of fees to attorneys at law duly licensed to practice law in the courts of this state, for professional services, or as prohibiting the payment of earned portions of the premium to duly appointed agents or agencies who actually perform services for the title insurer. Nothing in this subparagraph shall be construed as prohibiting a rebate or abatement of an attorney fee charged for professional services, or that portion of the premium that is not required to be retained by the insurer pursuant to s. 627.782(1), or any other agent charge or fee to the person responsible for paying the premium, charge, or fee.

c. No insured named in a policy, or any other person directly or indirectly connected with the transaction involving the issuance of such policy, including, but not limited to, any mortgage broker, real estate broker, builder, or attorney, any employee, agent, agency, or representative thereof, or any other person whatsoever, shall knowingly receive or accept, directly or indirectly, any rebate or abatement of any portion of the title insurance premium or of any other charge or fee or any monetary consideration or inducement whatsoever, except as set forth in sub-subparagraph b.; provided, in no event shall any

portion of the attorney fee, any portion of the premium that is not required to be retained by the insurer pursuant to s. 627.782(1), any agent charge or fee, or any other monetary consideration or inducement be paid directly or indirectly for the referral of title insurance business.

4.a. Paragraph (g) or subparagraph 1. may not be construed as including within the definition of discrimination or unlawful rebates the offer or provision by an insurer or an agent of the insurer, including by or through employees, affiliates, or third-party representatives, of value-added products or services at no or reduced cost when such products or services are not specified in the insurance policy, if the product or service relates to the insurance coverage and is primarily designed to do one or more of the following:

(I) Provide loss mitigation or loss control;

(II) Reduce claim costs or claim settlement costs;

(III) Provide education about liability risks or risk of loss to persons or property;

(IV) Monitor or assess risk, identify sources of risk, or develop strategies for eliminating or reducing risk;

(V) Enhance health;

(VI) Enhance financial wellness through items such as education or financial planning services;

(VII) Provide post-loss services;

(VIII) Incentivize behavioral changes to improve the

health or reduce the risk of death or disability of a policyholder, potential policyholder, certificateholder, potential certificateholder, insured, potential insured, or applicant; or

(IX) Assist in the administration of employee or retiree benefit insurance coverage.

b. The cost to the insurer or agent offering the product or service to a customer must be reasonable in comparison to the customer's premiums or insurance coverage for the policy class.

c. If the insurer or agent is providing the product or service, the insurer or agent must ensure that the customer is provided with contact information to assist the customer with questions regarding the product or service.

d. The availability of the product or service must be based on documented objective evidence, and the product or service must be offered in a manner that is not unfairly discriminatory. The documented evidence must be maintained by the insurer or agent and produced upon request by the office or the department.

e. If an insurer or agent has a good faith belief, but does not have sufficient evidence to demonstrate, that the product or service meets any of the criteria in sub-sub-subparagraphs a.(I)-(IX), the insurer or agent may provide the product or service in a manner that is not unfairly discriminatory as part of a pilot or testing program for up to 1

year. An insurer or agent must notify the office or department, as applicable, of such pilot or testing program offered to consumers in this state before commencing the program. The insurer or agent may commence the program unless the office or department, as applicable, objects to the program within 21 days after receiving the notice.

f. An insurer, agent, or representative thereof may not offer or provide insurance as an inducement to the purchase of another policy or otherwise use the words "free," "no cost," or similar words in an advertisement.

g. The commission may adopt rules to administer this subparagraph to ensure consumer protection. Such rules, consistent with applicable law, may address, among other issues, consumer data protections and privacy, consumer disclosure, and unfair discrimination.

Section 2. This act shall take effect July 1, 2023.