Journal of the Senate

Number 17 **Monday, April 22, 1991**

CALL TO ORDER

The Senate was called to order by the President at 2:00 p.m. A quorum present—40:

Madam President	Davis	Jennings	Plummer
Bankhead	Diaz-Balart	Johnson	Scott
Beard	Dudley	Kirkpatrick	Souto
Brown	Forman	Kiser	Thomas
Bruner	Gardner	Kurth	Thurman
Casas	Girardeau	Langley	Walker
Childers	Gordon	Malchon	Weinstein
Crenshaw	Grant	McKay	Weinstock
Crotty	Grizzle	Meek	Wexler
Dantzler	Jenne	Myers	Yancey

PRAYER

The following prayer was offered by the Rev. Robert M. Gibbs, Pastor, John Wesley United Methodist Church, Tallahassee:

Eternal God, God of our past, present and future, we assemble this afternoon mindful of our heritage, conscious of our current concerns and aware of the continuing needs and responsibilities ahead of us.

Surrounded by reminders of our rich history and traditions, we pray that we will use those lessons from our past that teach us justice and compassion.

Immersed in the struggles and issues of these hectic days, we pray that we will serve those we have been chosen to serve with wisdom and grace.

And enlivened by the challenges and opportunities before us, we pray that we will do all that is within our power to make the future bright and full of hope for all people.

O timeless God, save us from getting stuck in the past, from clinging to the present, or from leaping unprepared into the future. And thank you for being with us in all times and places. Amen.

PLEDGE

Senator Yancey led the Senate in the pledge of allegiance to the flag of the United States of America.

CONSIDERATION OF RESOLUTIONS

On motion by Senator Yancey, the rules were waived by unanimous consent and the following resolution was introduced out of order:

By Senator Yancey—

SR 2486—A resolution honoring Publix Super Markets, Inc., for its offer of and participation in the "Apples for the Students" program.

WHEREAS, Publix Super Markets, Inc., in conjunction with Apple Computer, Inc., offered the "Apples for the Students" program, a unique business-education partnership involving schools, parents, and school volunteer groups throughout Florida, and

WHEREAS, the "Apples for the Students" program is designed to address the growing need for more computer equipment and teacher training in Florida in the primary and secondary schools and is aimed at promoting computer literacy among students who will be graduating into an increasingly computerized workplace and college environment, and

WHEREAS, in 1989-1990, through the "Apples for the Students" program, Publix Super Markets, Inc., provided 2,352 computers, 1,202 printers, 818 disc drives, and 6,696 pieces of software to public and parochial schools in 21 counties in central and southwest Florida, and

WHEREAS, because of the overwhelming participation in the program by schools, teachers, parents, and students and the success of the program in 1989-1990, Publix Super Markets, Inc., offered the "Apples for the Students" program again in 1990-1991, and

WHEREAS, Publix Super Markets, Inc., by offering the "Apples for the Students" program and by participating with the schools and parents and teachers in providing much needed computer equipment and software, demonstrated that public/private partnerships can go a long way in providing technology and opportunity to students without expending public dollars, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That the Florida Senate hereby commends Publix Super Markets, Inc., for its offer of and participation in the "Apples for the Students" program.

On motion by Senator Yancey, **SR 2486** was read by title and was read the second time in full and adopted.

On motion by Senator Kirkpatrick, by two-thirds vote **SR 2264** was withdrawn from the Committee on Rules and Calendar.

On motion by Senator Kirkpatrick—

SR 2264—A resolution commending the Buchholz High School football team and its coach for winning the 1990 state class AAAA high school football championship.

WHEREAS, the Buchholz High School football team defeated the Dillard High School football team by a score of 24-7 to win the state class AAAA high school football championship, and

WHEREAS, Buchholz High School finished the season with a perfect record of 14 wins and no losses, and

WHEREAS, the team finished the season ranked third in the nation by the "USA Today" high school football poll, and

WHEREAS, the 1990 football team is the first to win a state football championship for Buchholz High School, and

WHEREAS, this championship season is the first season at Buchholz High School for Head Coach George Dean, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That the Buchholz High School football team and Head Coach George Dean are commended by this legislative body for winning the 1990 state class AAAA high school football championship.

BE IT FURTHER RESOLVED that copies of this resolution, affixed with the Seal of the Senate, be presented to the Buchholz High School football team and to Coach George Dean as tokens of our respect.

—was taken up out of order by unanimous consent, read the second time in full and adopted.

Senator Kirkpatrick introduced the following guests representing the Buchholz High School football team who were seated in the gallery: Mr. George Dean, Coach; Dr. Richard Buckner, President, Quarterback Club; Mr. Scott Braun and Mr. Deke Peyton, team members.

On motion by Senator Gardner, the rules were waived by unanimous consent and the following resolution was introduced out of order:

By Senator Gardner—

SR 2484—A resolution commemorating the bravery, courage, and devotion to duty of Company "C", 8th Tank Battalion, United States Marine Corps Reserve, on its major contribution to victory in the Persian Gulf War.

WHEREAS, the Senate does hereby pause in its deliberations to offer thanks and recognize the combat exploits of the Marines of "Charlie" Company, Company "C", 8th Tank Battalion, United States Marine Corps Reserve, and

WHEREAS, "Charlie" Company was mobilized during Operations Desert Shield and Desert Storm, and

WHEREAS, "Charlie" Company, while attached to the 2nd Marine Division, was in the opening wave of the assault on Kuwait by providing covering fire for Marine combat engineers blasting paths through the vaunted "Saddam Defense Line" and then pushing north into Kuwait with the attacking forces, and

WHEREAS, the members of this body recognize the sacrifices made by these Marines, and to the families they left behind, in responding to their country's call to arms, and

WHEREAS, the Senate is proud of the accomplishments of "Charlie" Company, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That this body hereby recognizes, with pride, the bravery and combat exploits of the Marines of Company "C", 8th Tank Battalion, United States Marine Corps Reserve, who participated in the Persian Gulf War.

On motion by Senator Gardner, **SR 2484** was read by title and was read the second time in full and adopted. The vote was:

Yeas—38 Nays—None

MOTION

On motion by Senator Childers, the rules were waived and all bills passed during the remainder of the 1991 Regular Session were ordered immediately certified to the House.

SPECIAL ORDER

CS for HB 417—A bill to be entitled An act relating to public officers, candidates for public office, and public employees; amending s. 112.312, F.S.; providing additional definitions for purposes of the code of ethics for public officers and employees and s. 8, Art. II, State Const.; amending s. 112.313, F.S.; including provisions regulating representation before certain agencies by legislators, statewide elected officers, and agency employees, and standards of conduct for legislators and legislative employees; removing provisions relating to disclosure of certain specified interests by public officers and employees and candidates for public office; revising an exemption from the prohibition against doing business with one's own agency or entering into a conflicting employment relationship and providing additional exemptions; repealing s. 112.3141, F.S., relating to representation before certain agencies by legislators, statewide elected officers, and agency employees, and standards of conduct for legislators and legislative employees; amending s. 112.3143, F.S.; revising provisions relating to voting conflicts and disclosure with respect thereto; amending s. 112.3145, F.S.; requiring certain officers, candidates, and employees who hold a specified relationship with certain business entities to file a disclosure statement as part of their financial disclosure statement; amending ss. 112.3146, 112.3147, and 112.3148, F.S.; correcting references; amending s. 112.317, F.S.; prescribing penalties for violating the code of ethics or s. 8, Art. II, State Const., relating to ethics in government; providing for civil actions to recover certain penalties; amending s. 112.320, F.S.; specifying that the Commission on Ethics is the commission provided for in s. 8, Art. II, State Const.; amending s. 112.322, F.S.; prescribing investigatory and other powers and duties of the commission with respect to a sworn complaint of a breach of the public trust; providing for issuance of advisory opinions by the commission; authorizing the commission to delegate the authority to administer oaths and issue and serve subpoenas; authorizing the commission to make rules; creating s. 112.3231, F.S.; providing time limitations for filing sworn complaints of violation with the commission; amending s. 112.324, F.S.; modifying procedures on complaints of violations of part III, ch. 112, F.S., or s. 8, Art. II, State Const.; designating proper disciplinary officials; specifying conditions under which the commission may dismiss a complaint; providing an effective date.

—was read the second time by title.

The Committee on Rules and Calendar recommended **Amendment 1** which was moved by Senator Johnson and adopted.

Senator Jenne moved **Amendments 2** and **3** which were adopted.

Senators Johnson and Jenne offered **Amendments 4** and **5** which were moved by Senator Johnson and adopted.

On motion by Senator Johnson, by two-thirds vote **CS for HB 417** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

Consideration of **CS for SB 194** was deferred.

On motion by Senator Bankhead—

CS for HB's 539 and 757—A bill to be entitled An act relating to veterans; creating s. 295.0195, F.S.; providing educational opportunity at state expense for dependent children of deceased or disabled military personnel who died or became disabled in the Mideast Persian Gulf military arena or in the military action in Panama; amending s. 295.02, F.S.; conforming provisions; providing an effective date.

—a companion measure, was substituted for **CS for SB's 476 and 528** and read the second time by title. On motion by Senator Bankhead, by two-thirds vote **CS for HB's 539 and 757** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

On motions by Senator Brown, by two-thirds vote **CS for HB's 91 and 1053** was withdrawn from the Committees on Natural Resources and Conservation; Governmental Operations; Community Affairs; and Appropriations.

On motions by Senator Brown, by two-thirds vote—

CS for HB's 91 and 1053—A bill to be entitled An act relating to water; creating ss. 255.259, 335.167, F.S.; requiring Xeriscape landscaping of certain property under the Department of General Services or the Department of Transportation, by a specified date; providing a 5-year phase-in for Xeriscape landscaping of certain other property under the departments; providing for rules and guidelines; creating s 373.185, F.S.; providing definitions; requiring local Xeriscape incentive programs under the water management districts; providing for local government ordinances; specifying requirements; providing for rules and a model Xeriscape code; providing for promotion of residential and commercial use of Xeriscape; amending s. 380.061, F.S.; adding a Xeriscape landscaping requirement under the Florida Quality Developments program; creating ss. 125.568, 166.048, F.S.; providing legislative findings and intent relating to the conservation of water through Xeriscape; directing counties and municipalities to consider enacting ordinances requiring the use of Xeriscape and to enact such ordinances in specified circumstances; requiring counties and municipalities to consider promoting Xeriscape through public education and local incentives; requiring purchasers of automatic lawn sprinkler systems to install rain sensor devices; amending s. 481.303; including Xeriscape within the definition of landscape architecture; providing definitions; prohibiting false or misleading advertising of water treatment devices; requiring advertisements to contain certain information; providing notification requirement; providing penalties; providing an effective date.

—a companion measure, was substituted for **CS for SB's 316 and 1290** and by two-thirds vote read the second time by title. On motion by Senator Brown, by two-thirds vote **CS for HB's 91 and 1053** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

CS for SB 1192—A bill to be entitled An act relating to mammography; amending s. 404.22, F.S.; providing a definition; providing restrictions on the use of radiation machines for mammography; providing for rules; providing an effective date.

—was read the second time by title. On motion by Senator Yancey, by two-thirds vote **CS for SB 1192** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

Consideration of **CS for SB 882** was deferred.

On motions by Senator Forman, by two-thirds vote—

CS for HB 207—A bill to be entitled An act relating to civil actions; creating s. 69.091, F.S.; providing that in a civil action, the court may consider age and health when scheduling a trial; providing an effective date.

—a companion measure, was substituted for **CS for SB 194** and by two-thirds vote read the second time by title. On motion by Senator Forman, by two-thirds vote **CS for HB 207** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

Consideration of **CS for SB 1430** was deferred.

SB 1610—A bill to be entitled An act relating to Arabian horses; amending s. 550.267, F.S.; requiring the Department of Agriculture and Consumer Services to maintain records on Arabian stallions that are brought into the state; authorizing the department to charge horse owners a fee for maintaining the records; specifying eligibility requirements for breeders' awards for the breeding of Arabian horses; increasing fees charged for registering such horses; repealing a provision that specifies a registration fee for horses that were registered as Florida-bred Arabian horses within a specified time period; providing an effective date.

—was read the second time by title. On motion by Senator Thurman, by two-thirds vote **SB 1610** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

CS for SB 1330—A bill to be entitled An act relating to neighborhood improvement districts; amending s. 163.514, F.S.; authorizing such districts to make and collect special assessments; requiring referendum approval and providing requirements with respect thereto; providing an effective date.

—was read the second time by title. On motion by Senator Jenne, by two-thirds vote **CS for SB 1330** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

SB 1626—A bill to be entitled An act relating to health care; providing legislative intent; establishing the Health Care 2000 Commission; providing for membership, duties, powers, and compensation; requiring the cooperation of state agencies; providing appropriations; providing an effective date.

—was read the second time by title.

Senator Weinstock moved **Amendments 1** and **2** which were adopted.

On motion by Senator Weinstock, by two-thirds vote **SB 1626** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—26 Nays—7

CS for SB 882—A bill to be entitled An act relating to employee-leasing companies; providing legislative purpose; providing definitions; creating the Board of Employee-Leasing Companies within the Department of Professional Regulation; providing for rules; providing for applicability of chapter 455, F.S.; providing for application for license; providing for license requirements; providing fees; providing for license renewal; providing for temporary license; providing for inactive status; providing for licensees' insurance, employment tax, and benefit plans; providing for license contents and the posting of licenses; providing prohibitions and penalties; providing for discipline; providing for the deposit of fees into the Professional Regulation Trust Fund; providing for application of the act; providing for review and repeal; providing an appropriation; providing an effective date.

—was read the second time by title.

One amendment was adopted to **CS for SB 882** to conform the bill to **CS for CS for HB 1005**.

Pending further consideration of **CS for SB 882** as amended, on motions by Senator Grant, by two-thirds vote—

CS for CS for HB 1005—A bill to be entitled An act relating to employee leasing companies; providing legislative purpose; providing definitions; creating the Board of Employee Leasing Companies within the Department of Professional Regulation; providing for rules; providing for applicability of chapter 455, F.S.; providing for application for license; providing for license requirements; providing fees; providing for license renewal; providing for temporary license; providing for inactive status; providing for licensees' insurance, employment tax, and benefit plans; providing for license contents and the posting of licenses; providing prohibitions and penalties; providing for discipline; providing for the deposit of fees into the Professional Regulation Trust Fund; providing for application of the act; providing for review and repeal; providing an appropriation; providing an effective date.

—a companion measure, was substituted for **CS for SB 882** and by two-thirds vote read the second time by title. On motion by Senator Grant, by two-thirds vote **CS for CS for HB 1005** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

SB 154—A bill to be entitled An act relating to regulation of electrical and alarm system contractors; amending s. 489.503, F.S.; removing the exemption from regulation as alarm system contractors of persons who install burglar alarms in small commercial buildings; amending s. 489.505, F.S.; defining the term "registered alarm system contractor"; providing that such a contractor may contract only in the jurisdiction in which he is registered; amending s. 489.537, F.S.; providing for a registered electrical contractor to perform alarm system contracting in specified circumstances; reenacting s. 553.19(1), F.S.; updating electrical standards; providing an effective date.

—was read the second time by title.

Senator Malchon moved **Amendments 1** and **2** which were adopted.

On motion by Senator Malchon, by two-thirds vote **SB 154** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36 Nays—None

SB 2112—A bill to be entitled An act relating to state uniform traffic control; amending s. 316.008, F.S.; providing for local authorities to erect traffic control devices on certain state roads; providing an effective date.

—was read the second time by title. On motion by Senator Forman, by two-thirds vote **SB 2112** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

CS for SB 2342—A bill to be entitled An act relating to child care; amending s. 402.301, F.S.; providing legislative intent for certain national organizations regarding an exception from licensing standards for child care facilities; amending s. 402.305, F.S.; requiring uniform licensing standards for child care facilities; revising minimum licensing standards; creating additional licensing standards; amending s. 402.313, F.S.; requiring all family day care to be licensed; providing licensing authority to the Department of Health and Rehabilitative Services; requiring the Department of Health and Rehabilitative Services to prepare a brochure on family day care for parents and prescribing its contents; changing the date by which an evaluation of the family day care system must be submitted; creating s. 402.3051, F.S.; establishing market rate reimbursement procedures for licensed child care providers; providing definitions; providing for child care grants to certain entities; creating s. 402.3052, F.S.; creating child development associate training grants; providing procedures; requiring reports; providing for child care incentive grants; amending s. 402.27, F.S.; requiring licensed child care facilities to annually provide certain information to statewide child care and resource and referral agencies; providing an effective date.

—was read the second time by title.

Senator Davis moved **Amendment 1** which was adopted.

Senator Langley moved **Amendments 2, 3** and **4** which were adopted.

On motion by Senator Davis, by two-thirds vote **CS for SB 2342** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35 Nays—None

RECONSIDERATION

On motion by Senator Forman, the rules were waived and the Senate reconsidered the vote by which—

CS for HB 207—A bill to be entitled An act relating to civil actions; creating s. 69.091, F.S.; providing that in a civil action, the court may consider age and health when scheduling a trial; providing an effective date.

—passed this day.

Senator Forman moved **Amendments 1** and **2** which were adopted by two-thirds vote.

On motion by Senator Forman, **CS for HB 207** as amended was read by title, passed and certified to the House. The vote on passage was:

Yeas—30 Nays—None

Consideration of **SB 2236** was deferred.

CS for SB 2058—A bill to be entitled An act relating to the Motor Fuel Marketing Practices Act; amending s. 526.303, F.S.; revising and providing definitions; amending s. 526.304, F.S.; providing that it is an unlawful predatory practice for a refiner to sell motor fuel at a retail outlet at a price below that the refiner charges to a wholesaler or dealer under contract for like fuel within the same geographic market; amending s. 526.305, F.S.; providing that it is an unlawful discriminatory practice for a refiner to sell motor fuel to a wholesaler at a price higher than it sells to a dealer in competition with any retail outlet supplied by such wholesaler, where the effect is to injure competition; exempting isolated, inadvertent incidents; amending s. 526.308, F.S.; revising provisions that specify unlawful rebates; including rent subsidies and special allowances as forms of unlawful rebates; qualifying an exemption; amending s. 526.311, F.S.; increasing civil penalties for violation of the act; authorizing the Department of Agriculture and Consumer Services to request the Department of Legal Affairs to issue and serve subpoenas to compel the production of documents and records relevant to investigations of violations; providing exemptions from public records requirements for subpoenaed documents and records and for trade secrets and proprietary confidential business information; providing for future review and repeal; revising disposition of funds collected in civil actions by the Department of Legal Affairs; amending s. 526.312, F.S.; specifying grounds for the granting of preliminary injunctive relief with respect to private actions and actions by the Department of Legal Affairs to enforce the act; providing an effective date.

—was read the second time by title.

Senator Dudley moved **Amendment 1** which failed. The vote was:

Yeas—12 Nays—21

Further consideration of **CS for SB 2058** was deferred.

CS for HB 457—A bill to be entitled An act relating to obstruction of justice; creating s. 843.085, F.S.; prohibiting unauthorized wearing or display of certain badges, emblems, and other criminal justice indicia of authority; prohibiting unauthorized display on vehicles of certain police-related markings or identifiers; regulating sale or transfer of certain badges and requiring recordkeeping for such transactions; providing exceptions for certain organizations; providing criminal penalties; creating s. 843.081, F.S.; providing legislative intent; prohibiting the use of certain blue lights; providing certain exemptions; providing penalties; providing an effective date.

—was read the second time by title. On motion by Senator Grant, by two-thirds vote **CS for HB 457** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33 Nays—None

CS for SB 114—A bill to be entitled An act relating to migrant farmworker children and families; providing legislative findings and intent; amending s. 411.202, F.S; including migrant children in the definition of the terms, "high-risk child" or "at-risk child"; providing for a demonstration project of health care outreach; providing for reports; providing effective dates.

—was read the second time by title.

Senator Meek moved **Amendment 1** which was adopted.

On motion by Senator Meek, by two-thirds vote **CS for SB 114** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35 Nays—None

CS for SB 1430—A bill to be entitled An act relating to insurance; amending s. 626.99, F.S.; applying certain disclosure requirements to annuities; amending s. 627.613, F.S.; specifying the period within which a health insurer must notify an insured that a claim is contested or denied and must pay or deny a contested claim; requiring investigation by insurers for improper billing by health care providers; providing for certain rebates to insureds; amending s. 627.662, F.S.; revising requirements for group policies; amending s. 627.9407, F.S.; requiring long-term care policies to provide coverage for at least 24 months for nursing home care; creating s. 627.4134, F.S.; providing requirements for preferred provider networks; creating s. 627.6145, F.S.; requiring disclosure of specific methodology for payment of claims; repealing ss. 627.6375, 627.6695, F.S., relating to contracts for alternative rates of payment; providing for future repeal and review of ss. 627.4134, 627.6145, F.S., pursuant to the Regulatory Sunset Act; providing an effective date.

—was read the second time by title.

Senator Forman moved **Amendment 1** which was adopted.

Senator Weinstein moved **Amendment 2.**

Further consideration of **CS for SB 1430** with pending **Amendment 2** was deferred.

Consideration of **CS for SB 760** was deferred.

CS for SB 654—A bill to be entitled An act relating to reciprocal agreements for licenses; amending s. 370.0605, F.S.; authorizing the Department of Natural Resources to enter into reciprocal agreements with contiguous states with respect to saltwater fishing license fees; providing for reduced fees pursuant to any such agreement; providing an effective date.

—was read the second time by title.

Senator Bruner moved **Amendments 1** and **2** which were adopted.

On motion by Senator Childers, by two-thirds vote **CS for SB 654** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36 Nays—None

CS for SB 760—A bill to be entitled An act relating to physical therapy practice; creating s. 486.109, F.S.; providing continuing education requirements for renewal of licenses of physical therapists and physical therapist assistants; providing for exceptions and rules; providing for review and repeal; providing an effective date.

—was read the second time by title. On motion by Senator Jenne, by two-thirds vote **CS for SB 760** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

On motions by Senator Davis, by two-thirds vote **CS for HB 1493** was withdrawn from the Committees on Commerce and Judiciary.

On motion by Senator Davis—

CS for HB 1493—A bill to be entitled An act relating to secured transactions; amending s. 679.504, F.S.; clarifying that a guarantor of the obligation secured under a secured transaction has the same rights as the debtor has to reasonable notice prior to sale or disposition of the collateral by the secured party after the debtor's default which right cannot be waived prior to default; providing an effective date.

—a companion measure, was substituted for **CS for SB 658** and read the second time by title.

Senator Davis moved **Amendments 1** and **2** which were adopted.

On motion by Senator Davis, by two-thirds vote **CS for HB 1493** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34 Nays—None

SB 804—A bill to be entitled An act relating to local government; amending s. 125.01, F.S.; providing for establishment of a municipal service taxing and benefit unit within municipal boundaries upon consent of the governing body of the municipality; deleting provisions providing for establishment of a municipal service taxing unit within municipal bound-

aries only upon the approval of the electors of the affected municipality; amending s. 200.066, F.S.; providing for ad valorem taxes to be imposed prior to July 1 for a newly created municipal service taxing unit that conforms to the boundaries of a municipality; amending s. 200.071, F.S.; clarifying that ad valorem taxes may be levied by a municipal service taxing unit within the boundaries of a municipality; providing an effective date.

—was read the second time by title.

The Committee on Finance, Taxation and Claims recommended **Amendment 1** which was moved by Senator Brown.

Senator Jennings moved **Amendments 1A** and **1B** which were adopted.

Amendment 1 as amended was adopted.

The Committee on Finance, Taxation and Claims recommended **Amendment 2** which was moved by Senator Brown and adopted.

On motion by Senator Brown, by two-thirds vote **SB 804** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—32 Nays—None

CS for SB 880—A bill to be entitled An act relating to organ and tissue procurement organizations; providing for legislative intent; providing that the Department of Health and Rehabilitative Services develop and adopt a certification procedure, based on existing national standards, for organ procurement organizations, tissue banks, and eye banks; providing for all organ procurement agencies, tissue banks, and eye banks to be certified by the department before a specified date; providing provisional certification to all organ procurement organizations, tissue banks, and eye banks active in this state before a specified date; providing for the appointment of an advisory board to review the status of organ, tissue, and eye procurement in this state; providing funding for the advisory board and certification process through fees and administrative penalties; providing for physician supervision of organ, tissue, and eye procurement coordinators in cadaveric organ, tissue, and eye procurement; providing that physicians licensed in any state may procure cadaver organs in this state for out-of-state patients listed under the United Network for Organ Sharing System; preventing the provisions of this act from impacting medical examiners under chapter 406, F.S.; providing an effective date.

—was read the second time by title.

Senator Grant moved **Amendments 1** and **2** which were adopted.

On motion by Senator Grant, by two-thirds vote **CS for SB 880** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—33 Nays—None

SB 790—A bill to be entitled An act relating to transportation of school children; amending s. 234.021, F.S.; providing additional criteria for determination of a hazardous walking condition; providing an effective date.

—was read the second time by title.

The Committee on Education recommended **Amendment 1** which was moved by Senator Forman and adopted.

Further consideration of **SB 790** as amended was deferred.

Consideration of **CS for SB 1148** was deferred.

MOTION

On motion by Senator Thomas, the rules were waived and time of recess was extended until final action on the special order calendar, Messages from the House of Representatives and announcements.

HB 2251—A bill to be entitled An act relating to elections; amending s. 106.011, F.S.; redefining "independent expenditure"; amending s. 106.021, F.S.; prohibiting a candidate from changing the designation of office sought and using campaign funds from the prior candidacy for the subsequent candidacy; providing an exception; clarifying that candidates for the office of Governor and Lt. Governor are considered a single candidate for the purpose of appointing a campaign treasurer and designating a campaign depository; amending s. 106.04, F.S.; excluding interest income from the percentage requirement for qualification of committees of continuous existence; amending s. 106.07, F.S., revising the reporting dates for certain candidates; amending s. 106.08, F.S.; revising the limitations on contributions to candidates and political committees; providing that limitations on contributions apply separately to the first and second primary and general elections only if a candidate for the office sought is opposed in that particular election; providing a separate limit on contributions by minors; providing for the application of the contribution limits to two or more entities considered as a single entity in certain circumstances; providing penalties; reenacting ss. 106.04(5), 106.075(2), 106.19(1)(a), and 106.29(4), F.S., relating to contributions by committees of continuous existence, contributions to pay loans, penalty for acceptance of contributions in excess of limits, and contributions by executive committees, to incorporate the amendment to s. 106.08, F.S., in references thereto; creating s. 106.081, F.S.; prohibiting certain contributions during legislative sessions for certain candidates; providing exceptions; prohibiting certain solicitation; providing a penalty; creating s. 106.085, F.S.; requiring persons or groups making certain independent expenditures on behalf of or in opposition to any candidate to give notice thereof; providing a penalty; amending s. 106.11, F.S.; removing the requirement that "thank you" advertising must be placed in the communications media to be a qualified expenditure after a candidate withdraws, becomes unopposed, or is eliminated or elected; amending s. 106.141, F.S.; providing an additional method for the disposition of surplus funds; amending s. 106.143, F.S.; requiring political advertisements to include a disclaimer for certain candidates for statewide office who elect not to participate in election campaign financing; providing additional requirements for electronically recorded political advertisements; allowing for the disclaimers to be provided in a language other than English; providing a penalty; amending s. 106.15, F.S.; prohibiting the making, solicitation, and acceptance of campaign contributions in buildings owned by a governmental entity; providing an exception; providing a penalty; amending s. 106.25, F.S., relating to confidentiality of complaints filed with the Florida Elections Commission, to provide that complainants are not bound thereby; amending s. 106.32, F.S.; providing for deposit into the Election Campaign Financing Trust Fund of funds from an additional service charge on income of a revenue nature deposited in certain trust funds; providing for appropriations from the Working Capital Fund under certain circumstances; amending s. 106.33, F.S.; revising election campaign financing eligibility provisions; amending s. 106.34, F.S.; revising the expenditure limits for candidates for Governor and Lt. Governor or Cabinet officer who accept contributions from the Election Campaign Financing Trust Fund; amending s. 106.35, F.S.; revising election campaign financing provisions relating to reporting and to certification and distribution of funds, including matching requirements; providing rulemaking authority; creating s. 106.353, F.S.; requiring candidates voluntarily abiding by election campaign financing limits but not requesting public funds to file an irrevocable statement to that effect with the Secretary of State; providing a penalty; creating s. 106.355, F.S.; providing for release from the expenditure limits when opposing nonparticipating candidates exceed the limits; amending s. 106.36, F.S., to conform; amending s. 215.20, F.S.; specifying trust funds from which a deduction for the cost of general government shall be made, for deposit in the General Revenue Fund; providing that a deduction from specified trust funds shall be deposited in the Election Campaign Financing Trust Fund rather than the Agency Budget Sunset Trust Fund; providing a limitation; eliminating the future review and repeal of said deduction; amending s. 215.22, F.S.; specifying the income and trust funds exempt from the deduction for the General Revenue Fund; amending s. 215.23, F.S., to conform; amending ss. 200.132, 206.60, 206.875, 206.879, 206.9845, 206.9945, 210.20, 212.06, 212.69, 319.32, 325.214, and 624.506, F.S.; conforming language relating to various revenues and trust funds; requiring, to the extent permitted by federal law, radio and television stations, including cable television stations, to make air time available to candidates for public office at the lowest unit rate; providing effective dates.

—was read the second time by title.

The Committee on Finance, Taxation and Claims recommended **Amendment 1** which was moved by Senator Weinstock.

Senator Dudley moved **Amendment 1A** which was adopted.

Senator Myers moved **Amendment 1B** which was adopted.

Senator Kiser moved **Amendment 1C** which was adopted.

Senator Dudley moved **Amendment 1D** which failed.

The vote was:

Yeas—19 Nays—20

Senator Crotty moved **Amendment 1E** which was adopted.

The vote was:

Yeas—23 Nays—15

Senator Dudley moved **Amendments 1F** and **1G** which were adopted.

Senator Crotty moved **Amendments 1H** and **1I** which were adopted.

Senator Crotty moved **Amendments 1J** and **1K** which failed.

Senator Dudley moved **Amendment 1L** which was adopted. The vote was:

Yeas—31 Nays—4

Senator Dudley moved **Amendment 1M.**

POINT OF ORDER

Senator Weinstock raised a point of order that pursuant to Rule 7.1, **Amendment 1M** contained language of a bill not reported favorably by a Senate Committee and was therefore out of order.

RULING ON POINT OF ORDER

The President ruled the point well taken and the amendment out of order.

Senator Wexler moved **Amendment 1N.**

POINT OF ORDER

Senator Langley raised a point of order that pursuant to Rule 7.1, **Amendment 1N** contained language of a bill not reported favorably by a Senate Committee and was therefore out of order.

RULING ON POINT OF ORDER

The President ruled the point well taken and the amendment out of order.

Senator Jenne moved **Amendment 1O** which failed.

Senator Jenne moved **Amendment 1P** which was adopted.

Senator Crotty moved **Amendment 1Q** which was adopted.

Amendment 1 as amended was adopted.

The Committee on Executive Business, Ethics and Elections recommended **Amendments 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15** and **16** which were moved by Senator Weinstock and failed.

The Committee on Finance, Taxation and Claims recommended **Amendment 17** which was moved by Senator Weinstock.

Senator Jenne moved **Amendment 17A** which was adopted.

Senator Myers moved **Amendment 17B** which was adopted.

Senator Dudley moved **Amendments 17C** and **17D** which were adopted.

Senator Crotty moved **Amendment 17E** which was adopted.

Amendment 17 as amended was adopted.

On motion by Senator Weinstock, by two-thirds vote **HB 2251** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—26 Nays—13

The Senate resumed consideration of—

CS for SB 1430—A bill to be entitled An act relating to insurance; amending s. 626.99, F.S.; applying certain disclosure requirements to annuities; amending s. 627.613, F.S.; specifying the period within which a health insurer must notify an insured that a claim is contested or denied and must pay or deny a contested claim; requiring investigation by insurers for improper billing by health care providers; providing for certain rebates to insureds; amending s. 627.662, F.S.; revising requirements for group policies; amending s. 627.9407, F.S.; requiring long-term care policies to provide coverage for at least 24 months for nursing home care; creating s. 627.4134, F.S.; providing requirements for preferred provider networks; creating s. 627.6145, F.S.; requiring disclosure of specific methodology for payment of claims; repealing ss. 627.6375, 627.6695, F.S., relating to contracts for alternative rates of payment; providing for future repeal and review of ss. 627.4134, 627.6145, F.S., pursuant to the Regulatory Sunset Act; providing an effective date.

—with pending **Amendment 2** which was adopted.

Senator Weinstein moved **Amendment 3** which was adopted.

Senator Forman moved **Amendment 4** which was adopted.

On motion by Senator Forman, by two-thirds vote **CS for SB 1430** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35 Nays—None

CS for SB 1148—A bill to be entitled An act relating to health care responsibility; providing legislative findings; amending s. 154.306, F.S.; revising the rate of payment with an exception, and reenacting s. 154.309(2), F.S., relating to certification of county of residence, to incorporate said amendment in a reference thereto; amending s. 154.308, F.S.; establishing a spend-down provision with an exception, and reenacting ss. 154.304(9), 154.31, F.S., relating to definitions and hospital obligations, to incorporate said amendment in references thereto; providing an effective date.

—was read the second time by title.

The Committee on Community Affairs recommended **Amendments 1** and **2** which were moved by Senator Davis and adopted.

On motion by Senator Davis, by two-thirds vote **CS for SB 1148** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36 Nays—None

CS for CS for SB 1890—A bill to be entitled An act relating to mortgage brokerage and lending; providing general provisions; providing definitions; providing for powers and duties of the Department of Banking and Finance; providing for investigations, complaints, and examinations; providing for injunctions to restrain violations; providing for cease and desist orders and refund orders; providing for evidence, examiner's worksheets, investigative reports, and other related documents; providing for books, accounts, and records; providing for examinations by the department; providing for the Mortgage Brokerage Guaranty Fund; providing penalties; providing for liability in the case of unlawful transactions; providing for statutory or common-law remedies; providing for public records; providing for the applicability of the act; providing for conflicting interest; prohibiting waivers; prohibiting a mortgage broker from practicing without a current, active license; providing provisions with respect to mortgage brokers; providing exemptions; providing for licensure as a mortgage brokerage business; providing for renewal of a business license and for renewal of a permit; providing for licensure and renewal as a mortgage broker; providing principal and branch broker requirements; providing for branch offices; providing for books, accounts, and records; providing for disclosures; providing principal place of business requirements; providing licensee requirements; providing for administrative penalties and fines and for license violations; providing for brokerage fees; providing requirements for brokering loans to noninstitutional investors; providing exemptions; providing requirements with respect to mortgage lenders; providing for lender's license requirements; providing for correspondent mortgage lender's license requirements; providing for audited financial statements; providing for mortgage lender's licenses and branch office licenses and renewals; providing a saving clause; providing a loan application process; providing for lock-in agreements; providing a commitment process; providing for the expiration of lock-in agreements and commitments; providing for administrative penalties and fines and license violations; providing for mortgage lender or correspondent mortgage lender acting as a broker; prescribing prohibited practices; providing for fees and charges that are not considered interest or finance charges; providing requirements for selling loans to noninstitutional investors; providing for servicing audits; providing for offering of other products and services; providing for expiration of the foregoing provisions and for review in advance thereof; repealing chapter 494, F.S., the Mortgage Brokerage Act; repealing chapter 90-353, Laws of Florida, appearing as chapter 521, F.S., 1990 Supplement, the Mortgage Lending Act; amending s. 201.23, F.S., relating to the exemption of foreign notes and other written obligations from excise taxes, s. 215.321,

F.S., relating to the Regulatory Trust Fund, s. 420.507, F.S., relating to the powers of the Florida Housing Finance Agency, s. 520.52, F.S., relating to installment sales finance licensees, s. 520.63, F.S., relating to home improvement finance sellers, s. 607.0505, F.S., relating to registered agents, s. 626.988, F.S., relating to employment insurance solicitors and agents, and s. 687.12, F.S., relating to parity of interest rates among lenders or creditors; revising cross-references in said sections to conform to this act; providing an effective date.

—was read the second time by title. On motion by Senator Childers, by two-thirds vote **CS for CS for SB 1890** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

On motions by Senator Childers, by two-thirds vote **CS for HB 2309** was withdrawn from the Committees on Commerce; Finance, Taxation and Claims; and Appropriations.

On motion by Senator Childers—

CS for HB 2309—A bill to be entitled An act relating to insurance; amending s. 407.07, F.S.; deleting a reference to a repealed section; amending s. 624.01, F.S.; including ch. 635, F.S., within the Florida Insurance Code; amending s. 624.031, F.S.; defining "self-insurance"; amending s. 624.125, F.S., exempting certain motor vehicle service agreements from the Insurance Code; amending s. 624.155, F.S.; providing a civil remedy for certain persons injured by insurers; amending s. 624.310, F.S.; specifying enforcement powers of the Department of Insurance; providing definitions; providing for cease and desist orders; providing for removal or restriction of affiliated parties; providing for administrative fines and suspension or revocation of authority; specifying applicable procedures; amending s. 624.313, F.S.; requiring the department to publish certain reports; amending s. 624.315, F.S.; providing for the annual report of the department; amending s. 624.316, F.S.; providing for examination of insurers; redesignating s. 627.321, F.S., as s. 624.3161, F.S., and amending said section; providing for market conduct examinations; amending s. 624.317, F.S.; providing for investigation of customer representatives; amending s. 624.320, F.S., relating to examination expenses, to conform; amending s. 624.33, F.S., relating to jurisdiction of the department, to conform; amending s. 624.401, F.S.; providing criminal penalties for acting as an insurer without a certificate of authority; amending s. 624.404, F.S.; providing eligibility criteria for issuance of a certificate of authority; amending ss. 624.407 and 624.408, F.S., specifying surplus requirements for insurers; amending s. 624.412, F.S.; specifying required deposits of alien insurers; amending s. 624.413, F.S.; specifying form for financial statements; amending s. 624.416, F.S.; providing for continuation of certificates of authority; amending s. 624.424, F.S.; requiring filing of annual statements and other information; amending s. 624.430, F.S.; providing for removal of a line of insurance from a certificate of authority; amending s. 624.436, F.S.; specifying sections included within the Florida Nonprofit Multiple-Employer Welfare Arrangement Act; creating s. 624.4361, F.S.; providing definitions; amending s. 624.437, F.S.; requiring a certificate of authority for operation of a multiple-employer welfare arrangement; amending s. 624.438, F.S.; specifying eligibility criteria for issuance of a certificate of authority to an arrangement; creating s. 624.4385, F.S.; prohibiting an arrangement from using certain words in its name; amending s. 624.439, F.S.; providing for application for certificate of authority; amending s. 624.4392, F.S.; specifying fund balance required of an arrangement; amending s. 624.44, F.S.; providing for examination by the department; amending s. 624.441, F.S.; providing for insolvency protection; creating s. 624.4411, F.S.; providing for approval of certain contracts of an arrangement by the department; amending s. 624.4415, F.S.; providing for assessments of employers; creating s. 624.4416, F.S.; providing for assessments by the receiver of an arrangement; creating s. 624.4417, F.S.; prohibiting an arrangement from selling coverage to the general public or certain employers; specifying liability for assessments of persons who sell coverage in violation of the prohibition and of persons to whom coverage was so sold; providing penalties; amending s. 624.442, F.S.; requiring annual and quarterly reports; providing administrative penalties; requiring retention of an independent certified public accountant by each authorized arrangement; providing for terms of contract; creating s. 624.4431, F.S.; specifying administrative and rulemaking authority of the department; creating s. 624.4432, F.S.; requiring arrangements to comply with specified provisions relating to assets, liabilities, and investments; amending s. 624.444, F.S.; providing for denial, suspension, or revocation of an arrangement's certificate of authority; creating s. 624.4441, F.S.; providing for fine in lieu of suspension or revocation; providing for personal imposition of fines on certain individuals affiliated with an arrangement; amending s. 624.445, F.S.; specifying provisions applicable to denial, suspension, or revocation of a certificate of authority; providing administrative penalties; amending s. 624.462, F.S.; providing criteria for establishment of commercial self-insurance funds; amending s. 624.474, F.S.; providing that the trustees or directors of a self-insurance fund may assess members; amending s. 624.482, F.S., relating to making and use of rates, to conform; amending s. 624.489, F.S.; specifying liability of directors of self-insurance funds operating as corporations; amending s. 624.523, F.S.; providing for deposit of certain moneys in the Insurance Commissioner's Regulatory Trust Fund; amending s. 624.610, F.S.; specifying entities that are approved reinsurers; limiting reinsurance agreements in certain circumstances; providing circumstances under which no credit is allowed for reinsurance; amending s. 624.80, F.S., relating to a definition of "insurer", to conform; amending s. 625.091, F.S.; specifying reserves required for losses and loss adjustment expenses; amending s. 625.121, F.S.; revising the standard valuation law for life insurance; amending s. 625.151, F.S.; providing for valuation of securities; amending s. 625.305, F.S.; providing for diversification; amending s. 625.316, F.S.; authorizing insurers to invest in certain international development banks; amending s. 625.327, F.S.; providing that said section supersedes a specified provision of federal law; amending s. 625.51, F.S.; providing for deposits of domestic insurers; amending s. 625.52, F.S.; specifying securities eligible for deposit; amending s. 625.58, F.S.; specifying actions the department may take with respect to an insurer that fails to cure a deficiency in its deposit; amending s. 625.62, F.S.; providing for holding and release of deposit; amending s. 625.63, F.S.; providing for release of deposit; amending s. 626.2815, F.S.; changing certain continuing education requirements for insurance agents and other licensees; amending s. 627.091, F.S., relating to workers' compensation and employer's liability rate filings, to conform; amending s. 627.311, F.S., relating to joint underwriters and joint reinsurers, to conform; amending s. 627.4585, F.S., relating to interest on policy loans, to conform; amending s. 627.482, F.S., relating to interest payable on cash surrender of policy, to conform; amending s. 628.051, F.S.; specifying content of application for permit to form insurer; amending s. 628.081, F.S.; specifying content of articles of incorporation of domestic insurer; amending s. 628.161, F.S.; specifying qualifications for mutual insurers; amending s. 628.171, F.S.; providing bond requirements for mutual insurers; redesignating s. 628.331, F.S., relating to enforcement of contingent liability, as s. 628.615, F.S.; amending s. 628.451, F.S.; providing for merger or share exchange of stock insurers; amending s. 628.4615, F.S.; redesignating allied lines insurers as specialty insurers; providing for acquisition of controlling stock, ownership interest, assets, or control; amending s. 628.471, F.S.; providing for mergers of mutual insurers; amending s. 628.520, F.S.; providing for change of domicile of a foreign insurer; creating ss. 628.6011, 628.6012, 628.6013, 628.6014, 628.6015, 628.6016, and 628.6017, F.S.; providing for creation, regulation, and conversion of assessable mutual insurers; amending s. 628.901, F.S.; defining "captive insurer"; amending ss. 627.944, 627.949, 627 952, 632.634, 634.171, 634.181, 634.191, 634.201, 634.211, 634.317, 634.318, 634.319, 634.320, 634.321, 634.322, 634.3225, 634.323, 634.419, 634.420, 634.421, 634.422, 634.423, 634.424, 634.425, 634.426, 635.051, 637.141, 637.143, 637.144, 637.145, 637.146, 637.301, 637.302, 637.303, 637.304, 637.305, 637.415, 638.181, 638.191, 638.201, 638.211, 638.221, 639.185, 641.386, 642.034, 642.036, 642.038, 642.041, 642.043, 642.045, and 642.047, F.S.; applying provisions relating to licensure, appointment, and discipline of insurance agents, unlawful rebating, and fees, to persons engaged in sales for risk retention and purchasing groups, fraternal benefit societies, motor vehicle service agreement companies, home warranty associations, service warranty associations, mortgage guaranty insurance, optometric service plan corporations, pharmaceutical service plan corporations, dental service plan corporations, ambulance service associations, preneed funeral merchandise or service contracts, health maintenance organizations, and legal expense insurers; amending s. 628.903, F.S.; increasing the minimum premium for certain industrial insured captive insurers; amending s. 629.261, F.S.; conforming a reference to surplus to current usage; amending s. 629.513, F.S., relating to making and use of rates of limited reciprocal insurers, to conform; creating s. 629.520, F.S.; abolishing the power of the department to issue certificates of authority as limited reciprocal insurers; amending s. 631.011, F.S.; providing definitions; amending s. 631.041, F.S.; providing for automatic stays in delinquency proceedings; creating s. 631.112, F.S.; providing for subordination of claims for noncooperation; amending s. 631.141, F.S.; providing for disposition of records of delinquency proceedings for domestic and alien insurers; amending s. 631.152, F.S.; providing for conduct of delinquency proceedings of foreign insurers; amending s. 631.154, F.S.; providing procedures for delivery to the receiver of funds or property in the possession

of third parties; amending s. 631.155, F.S.; providing for an accounting of premiums and unearned commissions collected by an agent; amending s. 631.171, F.S.; specifying rights of Florida residents with respect to liquidation proceedings in other states; amending s. 631.181, F.S.; providing for filing and proof of claims; amending s. 631.182, F.S.; providing for resolution of objections to the receiver's report; amending s. 631.221, F.S.; specifying accounting practices to be used by receivers; amending s. 631.252, F.S.; providing for continuation of coverage; amending s. 631.271, F.S.; specifying priority of distribution of claims from the insurer's estate; amending s. 631.391, F.S.; requiring officers and employees of an insurer's affiliate to cooperate with the department; amending s. 631.66, F.S.; providing immunity for members of the Florida Insurance Guaranty Association; amending s. 631.713, F.S.; revising application; amending s. 631.714, F.S.; defining "covered policy"; amending s. 631.717, F.S.; limiting liability of the Florida Life and Health Insurance Guaranty Association; amending s. 631.722, F.S.; requiring members of the Florida Life and Health Insurance Guaranty Association to pay assessments that are under appeal; providing for subsequent refund; amending s. 631.727, F.S.; providing immunity for members of the association; amending s. 631.737, F.S.; providing for review and tolling of noncontestable period; amending s. 631.814, F.S.; providing definitions; amending s. 631.816, F.S.; specifying membership of the board of the Florida Health Maintenance Organization Consumer Assistance Plan; amending s. 631.817, F.S.; specifying eligibility for coverage under the plan; amending s. 631.818, F.S.; specifying powers and duties of the plan; amending s. 631.819, F.S.; providing for assessment by board of directors; amending s 631 820, F.S.; providing for the plan of operation of the plan; amending s. 631 821, F.S.; providing circumstances for suspension or revocation of the certificate of authority of a member health maintenance organization; amending s. 631.822, F.S.; providing for records of the plan; amending s. 641.19, F.S.; providing definitions; amending s. 641.21, F.S.; providing for application for certificate of authority to operate a health maintenance organization; creating s. 641.215, F.S.; providing conditions for issuance or maintenance of a health maintenance organization's certificate of authority; specifying effect of bankruptcy proceedings; amending s. 641.228, F.S., relating to the Florida Health Maintenance Organization Consumer Assistance Plan, to conform; amending s. 641.23, F.S.; specifying effect of denial, revocation, or nonrenewal of a Health Care Provider Certificate; amending s. 641.26, F.S.; specifying form and content of a health maintenance organization's annual report; amending s. 641.27, F.S.; providing for examination by the department; amending s. 641.28, F.S.; providing for attorney's fees and costs in certain actions against health maintenance organizations; creating s. 641.284, F.S.; specifying exclusive methods of liquidation, rehabilitation, reorganization, and conservation; amending s. 641.29, F.S.; providing fees; creating s. 641.309, F.S.; providing standards for marketing to persons eligible for Medicare; amending s. 641.31, F.S.; requiring notice of rate changes in health maintenance contracts; providing for discontinuation of disapproved rating methodologies; specifying content of contracts; requiring open enrollment periods; limiting certain defenses; requiring health maintenance organizations to make available at the option of the subscriber certain osteopathic hospital services; amending s. 641.3108, F.S.; requiring advance notice of termination, cancellation, or nonrenewal of contract; amending s. 641.311, F.S.; providing for a statewide subscriber assistance program; authorizing the Department of Health and Rehabilitative Services to impose fines on health maintenance organizations that fail to meet certain standards; amending s. 641.3111, F.S.; providing for extension of benefits; amending s. 641.315, F.S.; providing for contracts with health care providers; amending s. 641.35, F.S.; providing for assets, liabilities, and investments of health maintenance organizations; amending s. 641.36, F.S.; providing for rules; specifying sanctions for violation of rules; amending s. 641.3905, F.S.; specifying powers and duties of the department; amending s. 641.3921, F.S.; specifying limits on convertibility of contract; amending s. 641.3922, F.S.; providing for cancellation or nonrenewability clause of contracts; amending s. 642.032, F.S., relating to legal expense insurance, to conform; specifying enforcement authority of the Department of Labor and Employment Security; reenacting ss. 395.0172(2)(c), 402.48(8)(c), 404.111(2)(a), 458.320(1)(b) and (2)(a), 459.0085(1)(a) and (2)(a), 624.11(2), 624.402(4), 624.4414(1) and (2), 624.466(9)(a), 624.488(1) and (2), 624.606(2)(c), 624.609(3), 625.012(8), 626.8417(3)(g), 626.88(1)(i), 627.9403, 628.071(2), 628.261, 629.131, 631.061, 631.071(1), 631.081(1), 631.371(1), 631.828, 632.638(3), 634.052(1) and (2), 634.252, 634.253(1), 634.305(1) and (2)(a), 634.3073, 634.405(1), 634.4085, 637.153, 637.316, 637.422, 638.052, 638.081(1), 639.106, 641.255, 641.285(1), 641.35(1)(d), 641.416, 641.47(1) and (5), 642.023(1), 651.024, 651.035(7)(e), 651.071(1), 651.105(1), and 651.114(5), relating to health care utilization review, health care services pools, surety requirements, physicians' and osteopaths' financial responsibility, risk retention groups, reinsurance, employers' liability in multiple-employer welfare arrangements, commercial self-insurance funds, reinsurance, title insurance agents, administrators, long-term care insurance policies, permits to form insurers, notice of change of director or officer, attorney's deposit in lieu of bond, grounds for liquidation or conservation, seizure, assessments against health maintenance organizations, fraternal benefit societies, motor vehicle service agreement companies, home warranty associations, service warranty associations, optometric service plans, pharmaceutical service plans, dental service plans, ambulance service associations, preneed funeral contracts, health maintenance organizations, prepaid health clinics, legal expense insurance corporations, and continuing care facilities and contracts, to incorporate amendments to various provisions in references thereto; repealing ss. 624.308(3), 624.3151, 627.9301, 627.9302, 627.9303, 627.9304, 627.9305, 628 181, 628.191, 628.201, 628.311, 628.321, 628.4314, 631.243, 641.01, 641.02, 641.025, 641.03, 641.04, 641.05, 641.06, 641.08, 641.12, 641.125, 641.13, 641.14, 641.151, and 641.155, F.S., relating to administrative rules, complaint ratios, life maintenance contracts, mutual insurers, captive insurers, and health care services plan corporations; repealing ss. 629.50, 629.501, 629.502, 629.504, 629.506, 629.507, 629.508, 629.509, 629.511, 629.512, 629.513, 629.514, 629.516, 629.517, 629.518, and 629.519, F.S., relating to limited reciprocal insurers, effective October 1, 1992; saving parts I, II, III, and V of chapter 624 and chapters 625, 628, 629, 630, 631, and 641, F.S., from Sunset repeal; providing for future review and repeal; providing applicability; providing an effective date.

—a companion measure, was substituted for **CS for SB 2024** and read the second time by title.

Senator Childers moved **Amendment 1**.

Senator Childers moved **Amendments 1A** and **1B** which were adopted.

Amendment 1 as amended was adopted.

Senator Childers moved **Amendment 2**.

Senator Childers moved **Amendment 2A** which was adopted.

Amendment 2 as amended was adopted.

On motion by Senator Childers, by two-thirds vote **CS for HB 2309** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

CS for SB 2280—A bill to be entitled An act relating to financial institutions; amending s. 655.001, F.S.; expanding the scope of the section to specify the purposes and application of the financial institutions codes rather than of ch. 655, F.S.; amending s. 655.005, F.S.; altering and adding definitions applicable to ch. 655, F.S.; amending s. 655.012, F.S., relating to general supervisory powers of the Department of Banking and Finance, to conform; creating s. 655.013, F.S.; providing for the act's effect on existing financial institutions; creating s. 655.015, F.S.; providing for construction of the act and standards to be observed by the department; transferring, renumbering, and amending s. 655.021, F.S., relating to administrative enforcement guidelines; transferring, renumbering, and amending s. 655.025, F.S., concerning department investigations, subpoenas, hearings, and witnesses; transferring, renumbering, and amending s. 655.029, F.S.; requiring hearings and proceedings to be public except under certain circumstances; creating s. 655.0322, F.S.; prescribing prohibited acts and practices; providing criminal penalties; amending s. 655.033, F.S.; revising the grounds upon which and the parties against which the department may issue a cease and desist order; amending s. 655.034, F.S., relating to injunctions; inserting the term "members" to conform; amending s. 655.037, F.S., relating to removal of officers, directors, and others by the department; revising the list of persons that may be so removed and revising the grounds upon which such persons may be removed; revising the procedure therefor; creating s. 655.0385, F.S.; providing for the disapproval of directors and executive officers of a financial institution by the department; creating s. 655.0386, F.S.; restricting conduct of and transactions by financial institution-affiliated parties; creating s. 655.0391, F.S.; providing for retention of supervision of financial institutions by the department; creating s. 655.0392, F.S.; allowing a financial institution to rent space from a governmental entity under certain circumstances; authorizing a governmental entity to rent such space at a certain rate; deleting provisions for disposition of fines; amending s. 655.041, F.S.; expanding the department's

authority to impose administrative fines; amending s. 655.044, F.S.; revising recordkeeping requirements; providing for recovery of certain costs; amending s. 655.045, F.S.; revising the examination authority of the department; amending s. 655.047, F.S.; clarifying the application period of assessments; allowing proration of assessments but prohibiting refunds of portions of assessments; deleting provisions for disposition of assessments; amending s. 655.049, F.S.; clarifying the types of fees that are required to be deposited into the Financial Institutions' Regulatory Trust Fund; amending s. 655.053, F.S.; revising the annual report requirements; amending s. 655.057, F.S.; revising the restrictions on public access to certain records; amending s. 655.059, F.S.; providing certain law enforcement agencies access to a financial institution's books and records; amending s. 655.061, F.S., relating to competitive equality with federally organized or chartered financial institutions; providing for the section to take precedence over other state statutes; amending s. 655.41, F.S., relating to cross-industry conversions, mergers, consolidations, and acquisitions; replacing the term "financial institution" with the term "financial entity" with reference thereto; amending s. 655.411, F.S.; revising conversion-of-charter requirements; amending s. 655.412, F.S.; revising merger and consolidation requirements; amending s. 655.414, F.S.; revising the conditions and limitations upon which a financial entity may acquire all or substantially all the assets or liabilities of another financial entity; amending s. 655.416, F.S.; providing for the valuation of assets after an acquisition; amending s. 655.417, F.S.; conforming provisions relating to the effect of merger, consolidation, conversion, or acquisition; amending s. 655.418, F.S.; conforming provisions relating to cessation of nonconforming activities; amending s. 655.419, F.S.; clarifying the applicability of provisions for merger, consolidation, conversion, or acquisition of assets; amending s. 655.50, F.S.; revising the provisions of, and the penalties for violation of, the Florida Control of Money Laundering in Financial Institutions Act; providing for confidentiality of reports and records thereunder; extending the act's penalties to cover violations of ch. 896, F.S., or similar state or federal statutes; amending s. 655.51, F.S.; allowing state and federal regulatory agencies access to certain employment information; amending s. 655.55, F.S., relating to the law applicable to deposits in and contracts related to extensions of credit by financial institutions; replacing the term "financial institution" with the term "deposit or lending institution" and defining that term; creating s. 655.56, F.S.; providing for the collection of fines, interest, or premiums on loans made by financial institutions; creating s. 655.60, F.S.; providing for appraisals of financial institutions, subsidiaries, or service corporations by the department; creating s. 655.762, F.S.; regulating the sale of assets by a financial institution; creating s. 655.769, F.S.; providing definitions related to deposits in deposit or lending institutions; creating s. 655.77, F.S.; providing for deposits by minors; creating s. 655.78, F.S.; providing for deposit accounts in two or more names; creating s 655 79, F.S.; establishing a presumption as to vesting on death when deposits and accounts are in two or more names; creating s. 655.80, F.S.; defining and establishing requirements for convenience accounts; creating s. 655.81, F.S.; providing for deposits in trust; creating s. 655.83, F.S.; providing for adverse claims to deposit or fiduciary accounts; creating s. 655.84, F.S.; establishing a presumption as to correctness concerning statements of account; creating s. 655.85, F.S.; providing for settlement of checks; creating s. 655.86, F.S.; regulating the issuance of postdated checks; creating s. 655.89, F.S.; defining "legal holidays," "business days," and "transactions"; creating s. 655.90, F.S.; providing for the closing of deposit or lending institutions during emergencies and other special days; creating s. 655.91, F.S.; providing recordkeeping requirements for such institutions; creating s. 655.921, F.S.; providing for transaction of business by out-of-state financial institutions; creating s. 655.922, F.S.; prohibiting banking by unauthorized persons; providing penalties; creating s. 655.93, F.S.; providing definitions related to the leasing of safe-deposit boxes; creating s. 655.931, F.S.; authorizing financial institutions to engage in the safe-deposit business; creating s. 655.932, F.S.; authorizing the leasing of a safe-deposit box to a minor; creating s. 655.933, F.S.; providing for access to safe-deposit boxes by fiduciaries; creating s. 655.934, F.S.; specifying the effect of the death or incapacity of the lessee of a safe-deposit box; creating s. 655.935, F.S.; establishing safe-deposit search procedures on the death of the lessee; creating s. 655.936, F.S.; providing for the delivery of safe-deposit box contents or other property to a personal representative; creating s. 655.937, F.S.; providing for access to a safe-deposit box leased in two or more names; creating s. 655.938, F.S.; providing for adverse claims to the contents of a safe-deposit box; creating s. 655.939, F.S.; limiting the right of access to a safe-deposit box for failure to comply with security procedures; creating s. 655.94, F.S.; providing special remedies for the nonpayment of rent for a safe-deposit box; amending s. 657.002, F.S.; providing definitions; amending s. 657.004, F.S.; providing technical changes to cross-references; amending s. 657.005, F.S.; providing credit union organizational procedures and forms; creating s. 657.0061, F.S.; requiring the submission of bylaw amendments to the Department of Banking and Finance; amending s. 657.008, F.S.; authorizing armored car services and deleting the requirement that all records be kept at the principal place of business as described within the bylaws; amending s. 657.021, F.S.; defining the duties and powers of the board of directors; amending s. 657.023, F.S.; clarifying certain language; amending s. 657.026, F.S.; authorizing audit committees and defining the duties and responsibilities of these committees; amending s. 657 0265, F.S.; prescribing the liability of audit committee members; amending s. 657.027, F.S.; clarifying certain language; amending s. 657.028, F.S.; prohibiting certain persons from serving as an officer, director, or committee member; amending s. 657.031, F.S.; clarifying language and deleting language requiring notice to the department concerning certain authorized activities; creating s. 657.0315, F.S.; prohibiting credit unions from entering into certain contracts; limiting the enforceability of these contracts; amending s. 657.033, F.S.; clarifying the definition of dormant accounts; amending s. 657.038, F.S.; deleting reference to a 18-percent usury cap and defining the term "related interest"; amending s. 657.039, F.S.; prescribing conditions for credit union loans to its directors, officers, and employees; defining the term "related interests"; amending s. 657.042, F.S.; increasing the allowable percentage of certain types of investments and clarifying the authority to invest in mutual funds; amending s. 657.043, F.S.; replacing the term "gross earnings" with the term "all income for the period"; modifying the definition of "risk assets" and increasing the amount of reserve amounts; amending s. 657.053, F.S.; revising the amounts of the semiannual assessments collected from credit unions; amending s. 657.055, F.S.; mandating the type and length of time certain records must be maintained; amending s. 657.062, F.S.; providing procedures for assumption of control of an insolvent credit union; amending s. 657.063, F.S.; authorizing the department to appoint a liquidator; limiting the enforceability of certain contracts; modifying procedures for involuntary liquidation; amending s. 657.064, F.S.; altering the procedures for undertaking a voluntary liquidation; amending s. 657.065, F.S.; prescribing voting requirements and procedures of a credit union merger; amending s. 657.068, F.S.; removing certain limitations on membership in a central credit union; providing for the conversion to federal share insurance through the National Credit Union Administration or the liquidation or merger of all member credit unions and the dissolution of the Florida Credit Union Guaranty Corporation; amending s. 657.251, F.S.; providing a purpose; amending s. 657.253, F.S.; defining member credit union; amending s. 657.257, F.S.; providing for the conversion of member credit unions to federal share insurance and deleting certain procedural requirements for such conversion; amending s. 657.258, F.S.; providing standards in pledging or advancing funds or entering into agreements with the National Credit Union Administration or providing assistance to member credit unions to qualify for federal share insurance; providing for a determination date for liquidating distributions; amending s. 657.259, F.S.; providing that the plan of operation provide for dissolution of the corporation; amending s. 657.260, F.S.; providing authority to the department to require the corporation to take any required action; amending s. 657.262, F.S.; permitting the department to charge the corporation the actual cost of examination of certain member credit unions when examination is requested; amending s. 657.263, F.S.; permitting the department to charge the corporation the actual cost of its annual examination; providing for disposition of the records of the corporation; creating s. 657.269, F.S.; providing for the orderly dissolution of the Florida Credit Union Guaranty Corporation; providing for retroactive application; amending s. 658.12, F.S.; providing definitions; amending s. 658.165, F.S.; correcting a cross-reference and inserting the term "financial institutions codes"; amending s. 658.20, F.S.; providing for prior approval of certain directors and executive officers of a failing bank or trust company; providing a filing fee for approval; amending s. 658.21, F.S.; altering the approval criteria of an application; amending s. 658.22, F.S.; requiring orders approving applications to organize a state bank be sent to the "Federal Home Loan Bank of Atlanta"; amending s. 658.23, F.S.; requiring prior Department of Banking and Finance authorization for a change in the articles of incorporation; amending ss. 658.24, 658.25, F.S.; substituting the term "bank" for "banking corporation"; amending s. 658.26, F.S.; altering the locations where banks and trust companies may transact business; amending s. 658.27, F.S.; altering the definition of control over a bank or trust company; amending s. 658.28, F.S.; providing an exception to the requirement that the department be given prior notice of any acquisition of voting securities; amending s. 658.29, F.S.; altering certain prohibitions concerning ownership and control of a bank or trust company; amending s. 658.30, F.S.; incorporating changes concerning the

application of the Florida Business Corporation Act; amending s. 658.32, F.S.; allowing the department to approve an annual meeting date which is not within the first 4 months of a given year; amending s. 658.33, F.S.; inserting the term "financial institutions codes"; requiring director's oath of office to be filed within 30 days of election; amending s. 658.34, F.S.; requiring shares of common stock to be issued with a minimum par value and to be paid for in cash; amending s. 658.36, F.S.; requiring department approval for banks and trust companies to reduce outstanding common stock; amending s. 658.37, F.S.; clarifying that a stock split does not constitute a dividend; amending s. 658.38, F.S.; clarifying that a state bank must have and maintain Federal Deposit Insurance; amending s. 658.39, F.S.; restricting the right of stockholders to examine certain records; amending s. 658.40, F.S.; deleting the term "conversion"; amending s. 658.42, F.S.; providing a technical clarification; amending s. 658.43, F.S.; modifying the department's authority to issue emergency rules concerning a failing institution; amending s. 658.44, F.S., relating to approval by stockholders; revising cross-references; amending s. 658.45, F.S.; providing a technical clarification; amending s. 658.48, F.S.; altering the loan and credit authority of a state bank; amending s. 658.50, F.S., relating to loans or extensions of credit; removing interest rate limitations on credit cards or overdraft financing arrangements; improving clarity; amending s. 658.53, F.S.; altering limits of indebtedness; amending s. 658.60, F.S.; deleting the term "reserves"; amending s. 658.65, F.S.; altering the provisions related to remote financial service units; amending s. 658.67, F.S.; altering the investment powers of a bank and trust company; amending s. 658.68, F.S.; altering the liquidity requirements of a state bank; amending s. 658.73, F.S.; increasing examination fees and assessments; amending s. 658.79, F.S.; allowing the department to take possession of an imminently insolvent state bank or trust company; deleting the conditions for determining insolvency; amending ss. 658.80, 658.82, 658.83, F.S.; providing a technical clarification; amending s. 658.84, F.S.; prohibiting the enforcement of certain judicial actions; amending s. 660.25, F.S.; redefining the term "commercial department"; providing for the use of terms defined in other chapters of the Florida Statutes; creating s. 660.265, F.S.; requiring certain financial institutions to pay the costs of examination by the Department of Banking and Finance; amending s. 660.27, F.S.; deleting references to state mutual associations with respect to deposits of securities with the Treasurer; clarifying the term "bank" to include state banks and national banks; amending s. 660.33, F.S.; prescribing when an association is "affiliated" or a "successor"; correcting a cross-reference; amending s. 660.37, F.S.; deleting references to the Federal Savings and Loan Insurance Corporation; permitting the deposit of fiduciary funds in amounts exceeding insurance in specified circumstances; amending s. 660.41, F.S.; revising powers of corporations other than banks, associations, and trust companies with respect to fiduciary functions; amending s. 660.44, F.S.; authorizing a bank, association, or trust company to charge reasonable management expenses for managing common trust funds; amending s. 663.01, F.S.; providing definitions; amending s. 663.02, F.S.; expanding the applicability of domestic bank powers to international banking corporations; deleting reference to a clarification concerning branching authority of bank holding companies located outside the state; amending s. 663.03, F.S.; providing that ch. 607, F.S., regulating corporations applies to international banking corporations unless it conflicts with the banking code; amending s. 663.04, F.S.; prescribing conditions under which a license may be issued to an international banking corporation to operate an international bank agency or an international branch; deleting application fee; amending s. 663.05, F.S.; modifying the application requirements for an international banking corporation to maintain an office in this state; creating s. 663.055, F.S.; prescribing certain capital requirements as a condition of licensing; providing alternative requirements for licensing; amending s. 663.06, F.S.; expanding the permissible activities of an international banking corporation and allowing the department to prescribe by rule the procedures for surrendering a license; creating s. 663.061, F.S.; defining the permissible activities of international bank agencies; creating s. 663.062, F.S.; defining the permissible activities of an international representative office; amending s. 663.063, F.S.; altering the purposes and powers of an international administrative office; creating s. 663.064, F.S.; defining the permissible activities of an international branch, creating s. 663.065, F.S.; defining the permissible activities of a state investment company; creating s. 663.066, F.S.; authorizing, under certain conditions, the acquisition of state banks by international banking corporations; amending s. 663.07, F.S.; modifying the asset maintenance requirements of an international bank agency and international branch; amending s. 663.083, F.S.; adding the term "international branch" and deleting language allowing capital debentures and notes to be treated as capital in computing capital limitations; amending s. 663.09, F.S.; providing for the consolidation of reports under certain circumstances; requiring loan documentation to be in the English language; amending s. 663.10, F.S.; modifying the provisions related to license conversion; amending s. 663.11, F.S.; replacing the term "international bank agency" with the term "office"; amending s. 663.12, F.S.; providing for filing fees, semiannual assessments, and examination fees; amending s. 663.13, F.S., relating to rulemaking respecting international banking corporations; conforming a cross-reference; amending s. 663.302, F.S., relating to the applicability of state banking laws to international development banks, to conform cross-references in that section to renumbering by this act; amending s. 663.309, F.S., relating to prohibited activities; deleting an obsolete cross-reference; amending s. 663.319, F.S., relating to rulemaking respecting regional development banks; conforming a cross-reference; amending s. 665.012, F.S.; altering and deleting certain definitions; creating s. 665.013, F.S.; outlining the applicability of ch. 658, F.S., to ch. 665, F.S.; amending s. 665.0211, F.S.; deleting exclusiveness-of-name provisions; amending s. 665.0315, F.S.; correcting a cross-reference and incorporating a nonrefundable filing fee; amending s. 665.033, F.S.; inserting reference to the financial institutions codes and permitting denial of an application due to the existence of a state-imposed order; increasing the fee for converting from a federal mutual to a state capital stock association and authorizing examination fees for conversions; revising a cross-reference; amending s. 665.034, F.S.; changing certain requirements concerning acquisition of assets of, or control over, an association; amending s. 665.0501, F.S.; altering the general powers of an association organized under ch. 665, F.S.; amending s. 665.0711, F.S.; limiting the association's power to invest in loans; amending s. 665.074, F.S.; deleting the requirement that a settlement statement be furnished to each borrower; amending s. 665.1001, F.S.; clarifying the definition of a "foreign association"; deleting reference to the term "savings"; deleting a requirement relating to references to insurance or guaranty of accounts in advertising, solicitations, or representations; amending s. 665.1011, F.S.; deleting the term "savings and loan"; amending s. 665.102, F.S.; inserting the term, "financial institutions codes"; repealing s. 655.081, F.S., relating to disclosure of practices with respect to availability of funds; repealing s. 655.413, F.S., relating to acquisition of stock by a financial institution in another financial institution; reviving and readopting ss. 655.001, 655.005, 655.012, 655.016, 655.021, 655.025, 655.029, 655.033, 655.034, 655.037, 655.041, 655.043, 655.044, 655.045, 655.049, 655.053, 655.057, 655.059, 655.061, 655.071, 655.41, 655.411, 655.412, 655.414, 655.416, 655.417, 655.418, 655.419, 655.50, 655.51, and 655.55, F.S., as renumbered and amended by this act, notwithstanding their scheduled termination October 1, 1991, pursuant to the Regulatory Sunset Act and other laws; terminating ss. 655.001-655.94, F.S., effective October 1, 2001, and providing for legislative review of such sections pursuant to the Regulatory Sunset Act before that date; repealing ch. 88-113, Laws of Florida, relating to a contingent amendment to s. 655.061, F.S.; reviving and readopting ss. 657.001, 657.002, 657.003, 657.004, 657.005, 657.008, 657.021, 657.022, 657.023, 657.024, 657.026, 657.027, 657.028, 657.029, 657.031, 657.032, 657.033, 657.0335, 657.034, 657.035, 657.036, 657.037, 657.038, 657.039, 657.041, 657.042, 657.043, 657.051, 657.053, 657.055, 657.062, 657.063, 657.064, 657.065, 657.066, 657.068, 657.25, 657.251, 657.252, 657.253, 657.254, 657.256, 657.257, 657.258, 657.259, 657.260, 657.261, 657.262, 657.263, 657.264, 657.265, 657.266, 657.267, and 657.268, F.S., as amended by this act, notwithstanding their scheduled termination October 1, 1991, pursuant to the Regulatory Sunset Act and other laws; terminating ss. 657.001-657.068, F.S., effective October 1, 2001, and providing for legislative review of such sections pursuant to the Regulatory Sunset Act before that date; terminating ss. 657.25-657.269, F.S., effective October 1, 1996, and providing for legislative review of such sections pursuant to the Regulatory Sunset Act before that date; repealing ss. 658.1101, 658.13, 658.14, 658.15, 658.46, 658.47, 658.54, 658.55, 658.56, 658.57, 658.58, 658.59, 658.61, 658.62, 658.63, 658.64, 658.66, 658.69, 658.70, 658.71, 658.72, 658.74, 658.75, 658.76, 658.77, 658.78, 658.85, 658.86, 658.87, 658.88, 658.89, 658.91, 658.92, 658.93, 658.97, 658.98, 658.99, F.S., relating to the regulation of banks and trust companies; reviving and readopting ss. 658.12, 658.16, 658.19, 658.20, 658.21, 658.22, 658.23, 658.235, 658.24, 658.25, 658.26, 658.27, 658.28, 658.29, 658.295, 658.30, 658.32, 658.33, 658.34, 658.35, 658.36, 658.37, 658.38, 658.39, 658.40, 658.41, 658.42, 658.43, 658.44, 658.45, 658.48, 658.49, 658.491, 658.50, 658.51, 658.53, 658.60, 658.65, 658.67, 658.68, 658.73, 658.79, 658.80, 658.81, 658.82, 658.83, 658.84, 658.90, 658.94, 658.95, and 658.96, F.S., notwithstanding their scheduled termination October 1, 1991, pursuant to the Regulatory Sunset Act and other laws; terminating ss. 658.12-658.96, F.S., effective October 1, 2001, and providing for legislative review of such sections pursuant to the Regulatory Sunset Act before that date; repealing s. 660.32, F.S., relating to the place of transacting trust business and trust company branches; reviving and readopt-

ing ss. 660.25, 660.26, 660.27, 660.28, 660.29, 660.30, 660.31, 660.33, 660.34, 660.35, 660.36, 660.37, 660.38, 660.39, 660.40, 660.41, 660.42, 660.43, 660.44, 660.45, 660.46, 660.47, and 660.48, F.S., as amended by this act, notwithstanding their scheduled termination October 1, 1991, pursuant to the Regulatory Sunset Act and other laws; terminating ss. 660.25-660.48, F.S., effective October 1, 2001, and providing for legislative review of such sections pursuant to the Regulatory Sunset Act before that date: repealing ss. 661.45-661.55, F.S., relating to regulating the safe-deposit business, in accordance with the Regulatory Sunset Act; repealing ss. 662.01-662.08, F.S., relating to bank service corporations, in accordance with the Regulatory Sunset Act; reviving and readopting ss. 663.01, 663.02. 663.03, 663.04, 663.05, 663.06, 663.07, 663.08, 663.09, 663.10, 663.11, 663.12, 663.13, 663.14, 663.301, 663.302, 663.303, 663.304, 663.305, 663.306, 663.307, 663.308, 663.309, 663.310, 663.311, 663.312, 663.313, 663.314, 663.315, 663.316, 663.317, 663.318, and 663.319, F.S., as amended by this act, notwithstanding their scheduled termination October 1, 1991, pursuant to the Regulatory Sunset Act and other laws; terminating ss. 663.01-663.319, F.S., effective October 1, 2001, and providing for legislative review of such sections pursuant to the Regulatory Sunset Act before that date; repealing ss. 664.01-664.12, F.S.; relating to industrial savings banks, in accordance with the Regulatory Sunset Act; repealing ss. 665.011, 665.0201, 665.022, 665.023, 665.024, 665.025, 665.027, 665.028, 665.0301, 665.0311, 665.0335, 665.038, 665.0401, 665.044, 665.045, 665 047, 665.048, 665.0601, 665.0611, 665.062, 665.063, 665.064, 665.065, 665.066, 665.067, 665.068, 665.069, 665.0701, 665.0731, 665.076, 665.077, 665.0801, 665.082, 665.083, 665.093, 665.096, 665.097, 665.099, 665.1021, 665.103, 665.104, F.S., relating to the regulation of savings associations, reviving and readopting ss. 665.012, 665.0211, 665.0315, 665.033, 665.0335, 665.034, 665.0345, 665.0501, 665.0711, 665.074, 665.075, 665.1001, 665.1011, and 665.102, F.S., as amended by this act, notwithstanding their scheduled termination October 1, 1991, pursuant to the Regulatory Sunset Act and other laws; terminating ss. 665.012-665.102, F.S., effective October 1, 2001, and providing for legislative review of such sections pursuant to the Regulatory Sunset Act before that date; amending s. 154.238, F.S., relating to the authority of a health facilities authority to deal with a bank that employs a member of the authority, to conform terminology to that used in this act; amending s. 159 414, F.S., relating to the authority of a board of a local agency, under the Florida Industrial Development Financing Act, to deal with a bank that employs a board member, to conform terminology to that used in this act; amending s. 159.494, F.S., relating to the authority of an industrial development authority to deal with a bank that employs a member of the authority; amending s. 240.488, F.S., relating to the investment of funds of a county education loan authority, to conform terminology to that used in this act; amending s. 288.753, F.S., relating to examination of the Florida Export Finance Corporation by the Department of Banking and Finance, to conform terminology to that used in this act; amending s. 289.121, F.S., relating to examination of the Florida Industrial Development Corporation, to conform terminology to that used in this act; amending s. 420.141, F.S., relating to examination of the Housing Development Corporation of Florida, to conform terminology to that used in this act; amending s. 538.03, F.S., relating to definitions applicable to secondhand dealers, to conform a cross-reference made obsolete by this act; amending s. 560.201, F.S., relating to the record of sales of money orders, to revise a cross-reference to a provision repealed by this act; amending s. 607.0501, F.S., relating to registered offices and agents of corporations, to conform terminology to that used in this act; amending s. 627.826, F.S., relating to insurance premium finance companies, to delete a cross-reference to a law repealed by this act; amending s. 671.304, F.S., relating to laws not repealed by the enactment of the Uniform Commercial Code, to delete cross-references to laws repealed by this act; amending s. 687.12, F.S., relating to interest rates of licensed lenders and creditors, to revise a cross-reference to a law repealed by this act; amending s. 896.101, F.S., relating to the conduct of financial transactions involving the proceeds of unlawful activity, to revise cross-references to conform with this act; providing an effective date.

—was read the second time by title.

Senator Childers moved **Amendment 1**.

Senator Gordon moved **Amendment 1A**.

Senator Davis moved **Substitute Amendment 1B** which failed.

The question recurred on **Amendment 1A** which failed.

Senator Childers moved **Amendment 1C** which was adopted.

Amendment 1 as amended was adopted.

Senator Childers moved **Amendment 2**.

Senator Childers moved **Amendment 2A** which was adopted.

Amendment 2 as amended was adopted.

On motion by Senator Childers, by two-thirds vote **CS for SB 2280** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35 Nays—3

SENATOR CHILDERS PRESIDING

The Senate resumed consideration of—

CS for SB 2058—A bill to be entitled An act relating to the Motor Fuel Marketing Practices Act; amending s. 526.303, F.S.; revising and providing definitions; amending s. 526.304, F.S.; providing that it is an unlawful predatory practice for a refiner to sell motor fuel at a retail outlet at a price below that the refiner charges to a wholesaler or dealer under contract for like fuel within the same geographic market; amending s. 526.305, F.S.; providing that it is an unlawful discriminatory practice for a refiner to sell motor fuel to a wholesaler at a price higher than it sells to a dealer in competition with any retail outlet supplied by such wholesaler, where the effect is to injure competition; exempting isolated, inadvertent incidents; amending s. 526.308, F.S.; revising provisions that specify unlawful rebates; including rent subsidies and special allowances as forms of unlawful rebates; qualifying an exemption; amending s. 526.311, F.S.; increasing civil penalties for violation of the act; authorizing the Department of Agriculture and Consumer Services to request the Department of Legal Affairs to issue and serve subpoenas to compel the production of documents and records relevant to investigations of violations; providing exemptions from public records requirements for subpoenaed documents and records and for trade secrets and proprietary confidential business information; providing for future review and repeal; revising disposition of funds collected in civil actions by the Department of Legal Affairs; amending s. 526.312, F.S.; specifying grounds for the granting of preliminary injunctive relief with respect to private actions and actions by the Department of Legal Affairs to enforce the act; providing an effective date.

Senator Thurman moved **Amendment 2** which was adopted.

Senator Dudley moved **Amendment 3**.

Further consideration of **CS for SB 2058** with pending **Amendment 3** was deferred.

THE PRESIDENT PRESIDING

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Monday, April 22, 1991: CS for HB 417, CS for SB 194, CS for SB's 476 and 528, CS for SB's 316 and 1290, CS for SB 1192, CS for SB 882, CS for SB 1430, SB 1610, CS for SB 1330, SB 1626, SB 154, SB 2112, CS for SB 2342, SB 2236, CS for SB 2058, CS for HB 457, CS for SB 114, CS for SB 760, CS for SB 654, CS for SB 658, SB 804, CS for SB 880, SB 790, CS for SB 1148, HB 2251

Respectfully submitted,
Pat Thomas, Chairman

The Committee on Finance, Taxation and Claims recommends the following pass: CS for SB 524 with 8 amendments, CS for SB 1426 with 6 amendments, CS for SB 1652 with 2 amendments

The bills were referred to the Committee on Appropriations under the original reference.

The Special Master on Claims recommends the following pass: HB 747, HB 2473

The bills were referred to the Committee on Finance, Taxation and Claims under the original reference.

The Committee on Appropriations recommends the following pass: CS for HB 2497 with 2 amendments, CS for SB 240, CS for SB 298, CS for CS for SB 516, SB 656, SB 1346, SB 1444, CS for CS for SB 1448, CS for CS for SB 1594, CS for SB 1622, CS for SB 1672, CS for SB 1850, CS for SB 1886

The Committee on Finance, Taxation and Claims recommends the following pass: CS for SB 1086

The bills contained in the foregoing reports were placed on the calendar.

The Committee on Finance, Taxation and Claims recommends committee substitutes for the following: CS for SB 998, SB 1582, SB 1756, CS for SB 1820

The bills with committee substitutes attached were referred to the Committee on Appropriations under the original reference.

The Committee on Finance, Taxation and Claims recommends a committee substitute for the following: SB 1578

The bill with committee substitute attached was referred to the Committee on Community Affairs under the original reference.

The Committee on Appropriations recommends committee substitutes for the following: SB 332, CS for SB 530, CS for SB 634, CS for SB 1454, CS for SB 2212, SB 2240

The bills with committee substitutes attached were placed on the calendar.

FIRST READING OF COMMITTEE SUBSTITUTES

By the Committee on Appropriations and Senators Myers, Kirkpatrick, Crenshaw, Weinstock, Grizzle, Wexler, Johnson, Forman, Crotty, Thurman, Grant, Walker, Meek, Childers, Dudley and Scott—

CS for SB 332—A bill to be entitled An act relating to the State University System; amending s. 240.281, F.S.; authorizing the deposit of funds received by a faculty practice plan outside the State Treasury; providing an effective date.

By the Committees on Appropriations; Finance, Taxation and Claims; and Senators Dudley and Grant—

CS for CS for SB 530—A bill to be entitled An act relating to ad valorem taxation; amending s. 192.001, F.S.; providing standards for determining substantial completion of an improvement to real personal property; creating s. 192.039, F.S.; providing for assessment and taxation of certain real property on a partial-year assessment roll; creating s. 192.043; exempting tangible personal property from partial-year assessment; providing for partial-year tangible personal property to take effect upon certain findings; creating s. 192.044, F.S.; providing for assessment and taxation of certain tangible personal property on a partial-year assessment roll; creating s. 192.045, F.S.; providing for the assessment of certain railroad property for a partial year; amending s. 192.042, F.S.; providing for the day of assessment; providing for reimbursement of tax collectors for preparation of the initial partial-year assessment rolls; amending s. 193.052, F.S.; providing for partial-year tax returns; providing certain notice requirements of filing deadlines and penalties; amending s. 193.062, F.S.; providing a date for filing of returns; amending s. 193.114, F.S.; providing for preparation of partial-year rolls; amending s. 195.027, F.S.; requiring partial-year returns by agency rule; amending s. 196.011, F.S.; providing a requirement for application for exemption for property listed on a partial-year assessment roll; amending s. 197.3635, F.S.; specifying information to be included on notice for partial-year taxes and assessments; creating s. 200.0701, F.S.; requiring notice of partial-year assessment; requiring inclusion of partial-year property on 1991 and 1992 rolls; providing for severability; amending s. 196.081, F.S.; providing that the exemption for certain permanently and totally disabled veterans may be claimed by the veteran's spouse after the veteran's death under certain circumstances; providing that such veteran's spouse may claim the exemption for another residence under certain circumstances; providing an effective date.

By the Committees on Appropriations and Professional Regulation and Senator Forman—

CS for CS for SB 634—A bill to be entitled An act relating to solicitation of funds; creating ss. 496.401-496.407, 496.409-496.424, F.S.; regulating solicitation of public contributions; requiring full public disclosure of certain information from persons who solicit contributions; providing exemptions; prohibiting deception, fraud, and misrepresentation in the soliciting and reporting of contributions; providing administrative fines; providing criminal penalties; providing for supervision and reports by the Division of Consumer Services of the Department of Agriculture and Consumer Services; providing procedures; authorizing the division to adopt rules; providing definitions; authorizing the Department of Legal Affairs to make investigations and bring civil actions to enforce the act; requiring the Department of State to provide notice of the requirements of the act to persons registering as nonprofit corporations; transferring and renumbering s. 496.008, F.S.; providing procedures for obtaining authority to solicit funds in a public transportation facility; providing powers of the division; providing civil remedies and criminal penalties; repealing ss. 496.001-496.007, 496.0085, 496.009, 496.011, F.S., which provide for regulating the solicitations of public contributions; providing a repeal date and review by the Legislature; providing effective dates.

By the Committees on Finance, Taxation and Claims; Judiciary; and Senator Malchon—

CS for CS for SB 998—A bill to be entitled An act relating to marriage and birth; amending s. 741.01, F.S.; increasing the portion of the marriage license fee used to fund domestic violence centers; amending s. 382.025 F.S.; deleting duplicative reference to fees charged for birth certificates or marriage certificates; repealing s. 33 of ch. 87-387, Laws of Florida, and s. 7 of ch. 88-303, Laws of Florida; abrogating the future repeal and review of provisions relating to the issuance of birth certificates and marriage certificates; providing effective dates.

By the Committees on Appropriations; International Trade, Economic Development and Tourism; and Senator Malchon—

CS for CS for SB 1454—A bill to be entitled An act relating to commerce; creating s. 288.017, F.S.; authorizing a cooperative advertising matching grants program within the Department of Commerce; providing grant limits and matching restrictions; providing recipient eligibility; providing for an annual competitive selection process, including criteria for consideration; providing for the expenditure of funds; providing for rules; amending s. 288.063, F.S.; providing an exemption to certain fund transfer provisions in contracts executed by the Division of Economic Development with governmental bodies for transportation projects; authorizing grants for transportation projects that retain jobs; increasing the membership of the selection committee; authorizing, rather than requiring, the Department of Transportation to be the contracting agency when the project is on the State Highway System; creating s. 288.045, F.S.; providing legislative findings and policy regarding the motion picture, television, video, and recording industries; requiring the division to review rules affecting these industries; amending s. 20.17, F.S.; providing an additional duty for the Motion Picture, Television, and Recording Industry Advisory Council; authorizing the Economic Development Advisory Council to appoint ad hoc committees; increasing membership of the direct-support organization assisting the Sports Advisory Council; creating s. 288.124, F.S.; authorizing a convention grants program; providing for eligible applicants; providing preference for minority groups; requiring the adoption of rules; amending ss. 272.11 and 288.121, F.S.; permitting the Department of Commerce to enter into contracts for the maintenance of the Capitol information center; amending s. 288.122, F.S.; authorizing the Division of Tourism to purchase and resell items related to specified publicity, advertising, or promotional campaigns; providing an effective date.

By the Committee on Finance, Taxation and Claims; and Senator Kirkpatrick—

CS for SB 1578—A bill to be entitled An act relating to mobile homes; amending s. 193.075, F.S.; revising provisions which specify conditions under which mobile homes are to be taxed as real or tangible personal property; providing an effective date.

By the Committee on Finance, Taxation and Claims; and Senator Gardner—

CS for SB 1582—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.055, F.S.; providing that the projects proposed to be funded by the local government infrastructure surtax may be voted on individually; specifying effect of disapproval of projects; providing an effective date.

By the Committee on Finance, Taxation and Claims; and Senator Wexler—

CS for SB 1756—A bill to be entitled An act relating to bingo; amending s. 849.093, F.S.; revising provisions which regulate the conduct of bingo; providing intent; providing definitions; providing that the Division of Pari-mutuel Wagering shall supervise bingo activities and specifying powers and duties of the division; authorizing the conduct of bingo by

authorized organizations; providing requirements and conditions for the conduct of bingo; requiring licensing of such organizations and distributors of bingo equipment; providing for fees; providing limitations on prizes; requiring licensees to maintain records and submit reports; prohibiting certain activities in connection with bingo; providing for revocation or denial of licenses and administrative fines; providing a criminal penalty; providing for injunctions; providing for deposit of moneys collected in the Pari-mutuel Wagering Trust Fund; providing that the regulation of bingo is preempted to the state, with certain exceptions; amending s. 718.114, F.S., which provides for the conduct of bingo by condominium associations, to conform; amending s. 723.079, F.S.; providing that nonprofit mobile home owners' associations may conduct bingo; amending ss. 849.09, 849.094, F.S., relating to the prohibition against lotteries and regulation of game promotions, to conform; providing an appropriation and authorizing positions; providing an effective date.

By the Committees on Finance, Taxation and Claims; Community Affairs; and Senator Jenne—

CS for CS for SB 1820—A bill to be entitled An act relating to neighborhood improvement districts; amending s. 163.501, F.S.; revising a cross-reference in the short title of the Safe Neighborhoods Act; amending s. 163.502, F.S.; revising legislative findings and intent; amending s. 163.503, F.S.; redefining "department" to mean the Department of Legal Affairs rather than the Department of Community Affairs; creating s. 163.5035, F.S.; requiring compliance with ch. 189, F.S.; expanding the definition of "board"; amending s. 163.504, F.S.; changing references from Department of Community Affairs to Department of Legal Affairs; creating s. 163.5055, F.S.; requiring neighborhood improvement districts to register with both the Department of Community Affairs and the Department of Legal Affairs; requiring notification of dissolution of a district; amending ss. 163.506, 163.508, 163.511, F.S.; requiring notification of the establishment of local government neighborhood improvement districts, property owners' association neighborhood improvement districts, and special neighborhood improvement districts; providing technical changes; creating s. 163.512, F.S.; authorizing the creation of community redevelopment neighborhood improvement districts; authorizing use of the community redevelopment trust fund to implement safe neighborhood improvement plans; providing duties of the advisory council; providing for dissolution of the districts; amending s. 163.513, F.S.; providing that districts may not restrict access to or lawful use of public facilities; providing technical changes; amending s. 163.514, F.S.; authorizing neighborhood improvement districts to make and collect special assessments; requiring referendum approval and providing requirements with respect thereto; repealing s. 163.514(15), (16), and (18), F.S., relating to powers of neighborhood improvement districts; amending s. 163.5151, F.S.; conforming a cross-reference; amending s. 163.516, F.S.; providing technical changes; amending s. 163.517, F.S.; revising the number and amount of planning grants provided under the Safe Neighborhoods Trust Fund; revising criteria for grants; requiring audit after expiration of a district's contract; repealing s. 163.518, F.S., relating to the crime prevention through environmental design program; amending s. 163.519, F.S.; changing administrative duties from the Department of Community Affairs to the Department of Legal Affairs and prescribing additional duties, including certain reporting duties; amending s. 163.521, F.S.; modifying provisions relating to district overlap with enterprise zones; requiring completion of a safe neighborhood improvement plan prior to expenditure of capital improvement funds; requiring that capital improvement funding requests be related to crime prevention through environmental design, environmental security, and defensible space; providing for ranking of requests; creating s. 163.5215, F.S.; providing for effect of the Safe Neighborhoods Act on existing laws; amending s. 163.522, F.S.; encouraging the creation of neighborhood improvement districts within community redevelopment areas; transferring the Safe Neighborhoods Trust Fund; providing an appropriation; providing an effective date.

By the Committees on Appropriations; Corrections, Probation and Parole; and Senator Bruner—

CS for CS for SB 2212—A bill to be entitled An act relating to the correctional system and sentencing; creating s. 948.51, F.S.; creating the "Community Corrections Partnership Act"; providing legislative intent; providing for eligibility of counties to contract; authorizing Department of Corrections to administer and award funds to counties; providing for departmental responsibilities; providing purposes for which funds may be used; providing for level of spending and eligibility for continued funding; establishing the Community Corrections Assistance Trust Fund; amending s. 951.23, F.S.; amending the definition of county detention facility; creating s. 950.002, F.S.; providing for county work camps; providing for bed designations; authorizing interlocal agreements; providing criteria for sentencing offenders to a work camp; providing for ownership by the Department of Corrections upon contract termination; authorizing insurance of county work camps by the Division of Risk Management of the Department of Insurance; establishing the Community Corrections Construction Trust Fund; amending s. 921.187, F.S.; providing for reverse split probation sentencing and other community-based sanctions; amending s. 944.025, F.S.; expanding eligibility for pretrial intervention program; amending s. 944.026, F.S.; expanding the use of probation and restitution centers; limiting the types of offenders which may be accepted for residence at the center; amending s. 944.033, F.S.; designating use of community correctional centers; amending s. 948.001, F.S.; creating sentencing options and definitions of "administrative probation," "drug offender probation," and "youthful offender probation"; amending s. 948.01, F.S.; providing for placement of offenders into drug offender probation and youthful offender probation; amending s. 948.10, F.S.; increasing number of offenders per officer; amending s. 951.26, F.S.; providing for additional duties and members for county correctional planning committees; amending s. 958.03, F.S.; defining youthful offender probation; amending s. 946.504, F.S.; authorizing the department to deposit certain funds into the grants and donations trust fund; requiring a study of private felony supervisors; requiring a study of county and municipal detention facilities; providing effective dates.

By the Committee on Appropriations and Senator Souto—

CS for SB 2240—A bill to be entitled An act relating to unemployment compensation; providing that certain persons unemployed as a result of a labor dispute are eligible for unemployment compensation benefits under specified circumstances; providing for expiration of the provision; providing an effective date.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Gardner, by two-thirds vote **Senate Bills 426, 430, CS for SB's 434 and 532, CS for SB 772, SB 854, CS for CS for SB 998, SB 1014, CS for SB 1036, CS for SB's 1300 and 1688, CS for SB 1324, SB 1676, CS for SB 1758, CS for SB 1766, CS for SB 1804, CS for SB 1852, SB 1906, CS for SB 1972, CS for SB 2004, CS for SB 2064, SB 2210** and **CS for SB 2292** were withdrawn from the Committee on Appropriations.

On motions by Senator Thomas, by two-thirds vote **CS for SB 1472** was withdrawn from the Committee on Rules and Calendar; **SB 2060** was withdrawn from the Committee on International Trade, Economic Development and Tourism; **SM 2** was withdrawn from the Committee on Rules and Calendar; **CS for SB 74** and **CS for SB 2214** were withdrawn from the Committee on Personnel, Retirement and Collective Bargaining; **CS for SB 348, CS for SB 856** and **SB 1104** were withdrawn from the Committee on Judiciary; **SB 986** was withdrawn from the Committee on Health and Rehabilitative Services; **SB 2146** was withdrawn from the Committee on Professional Regulation; **CS for SB 2282** was withdrawn from the Committee on Governmental Operations; **SB 2460** was withdrawn from the Committee on Transportation; **HB 2415** was withdrawn from the Committee on Education; and **CS for SB 1808** was withdrawn from the Committees on Community Affairs and Appropriations.

On motion by Senator Langley, the Senate reconsidered the vote by which the preceding motions by Senator Thomas were adopted. The vote was:

Yeas—21 Nays—11

Senator Langley called for a division of the question, the question relating to **CS for SB 1808** to be considered separately.

On motions by Senator Thomas, by two-thirds vote **CS for SB 1472, SB 2060, SM 2, CS for SB 74, CS for SB 2214, CS for SB 348, CS for SB 856, Senate Bills 1104, 986, 2146, CS for SB 2282, SB 2460** and **HB 2415** were withdrawn from the committees of reference as previously stated.

MOTIONS

On motions by Senator Forman, the rules were waived and **CS for HB 339, CS for HB 269** and **HB 885** which passed April 19 were ordered immediately certified to the House.

On motions by Senator Thomas, by two-thirds vote the following bills were placed on the special order calendar: **CS for CS for SB 1890, CS for SB 2024** and **CS for SB 2280.**

On motion by Senator Dudley, the House was requested to return **CS for SB 1330.**

On motion by Senator Girardeau, the rules were waived and the Committee on Executive Business, Ethics and Elections was granted permission to meet upon adjournment this day to consider Executive Appointments published in the calendar.

On motion by Senator Girardeau, the rules were waived and the Committee on Executive Business, Ethics and Elections was granted permission to add the following Executive Appointments to the agenda this day:

William F. Robinson, Board of Dentistry

Louise H. Courtelis, Board of Veterinary Medicine

George L. Foti, Marine Fisheries Commission

Linda Kay Taylor, Board of Trustees, Edison Community College

James H. Williams, Governing Board of the St. Johns River Water Management District

Harry K. Singletary, Jr., Secretary of Corrections

Without objection, the appointment of Harry K. Singletary, Jr. was withdrawn from the Committee on Corrections, Probation and Parole.

On motion by Senator Girardeau, the rules were waived and the Committee on Executive Business, Ethics and Elections was granted permission to meet April 23 at 5:00 p.m. until completion to consider Executive Appointments.

MOTION TO RECONSIDER

Senator Beard moved that the Senate reconsider the vote by which **CS for CS for SB 1264** passed April 19.

The motion was placed on the calendar.

MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

The Governor advised that he had filed with the Secretary of State SB 68, which he approved on April 22, 1991.

The Governor advised that he had filed with the Secretary of State SB 390, which became law without his signature on April 23, 1991.

Appointments Subject to Confirmation by the Senate:

The Secretary of State has certified that pursuant to the provisions of Section 114.05, Florida Statutes, certificates subject to confirmation by the Senate had been prepared for the following:

Office and Appointment	*For Term Ending*
Florida Citrus Commission	
Roe, Quentin James, Winter Haven	05/31/94
Board of Trustees for the Florida School for the Deaf and the Blind	
Slater, Thomas Fitzpatrick, Jacksonville	02/07/95
Commission on Ethics	
Canton, Mirta P., Miami	06/30/92
Investment Advisory Council	
London, I. Edward, Key Biscayne	12/12/91
Postsecondary Education Planning Commission	
Schuckman, Gregory A., Gainesville	08/31/91
Governing Board of the St. Johns River Water Management District	
McCullagh, Lenore Nielson, Orange Park	03/01/95

Referred to the Committee on Executive Business, Ethics and Elections.

Secretary of Corrections	
Appointee: Singletary, Harry K., Jr.	Pleasure of Governor

Referred to the Committees on Corrections, Probation and Parole; and Executive Business, Ethics and Elections.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

First Reading

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed HB 157, CS for HB 207, HB 497, CS for HB 543, CS for HB 625, HB 741, CS for CS for CS for HB 827, CS for HB 891, CS for HB 1191, CS for HB 2131, HB 2323, HB 2413, CS for HB 2557; has passed as amended CS for HB's 91 and 1053, HB 325, CS for HB 415, HB 633, CS for HB 683, HB 747, HB 935, CS for HB 977, CS for CS for HB 1005, CS for HB 1299, CS for CS for CS for HB's 2157 and 1871, HB 2373, HB 2397, HB 2417, HB 2427, HB 2437, HB 2469, HB 2471, HB 2473, HB 2567 and requests the concurrence of the Senate.

John B. Phelps, Clerk

By Representatives Wise and Gutman—

HB 157—A bill to be entitled An act relating to community colleges; amending s. 240.319, F.S.; revising policies relating to credit card payments for goods, services, tuition, or fees; providing an effective date.

—was referred to the Committees on Education, Governmental Operations and Appropriations.

By the Committee on Judiciary and Representative Geller and others—

CS for HB 207—A bill to be entitled An act relating to civil actions; creating s. 69.091, F.S.; providing that in a civil action, the court may consider age and health when scheduling a trial; providing an effective date.

(Substituted for **CS for SB 194** on the special order calendar this day.)

By Representative Glickman—

HB 497—A bill to be entitled An act relating to immunity from civil liability; creating s. 768.095, F.S.; providing former employers with immunity from civil liability in the good-faith disclosure of information regarding the job performance of former employees to prospective employers; providing an evidentiary standard; providing an effective date.

—was referred to the Committee on Judiciary.

By the Committee on Natural Resources and Representative Mackey and others—

CS for HB 543—A bill to be entitled An act relating to hazardous and biohazardous waste facility permits; amending ss. 403.707 and 403.722, F.S.; specifying requirements for the approval of the transfer of certain hazardous waste and biohazardous waste facility permits; providing for application for and review and approval of such transfers; providing for effect of such transfers; providing for continuation of liability under such permits under certain circumstances; providing an effective date.

—was referred to the Committee on Natural Resources and Conservation.

By the Committee on Corrections and Representative Corr and others—

CS for HB 625—A bill to be entitled An act relating to state prisoners; creating s. 947.147, F.S.; authorizing the Control Release Authority to order restitution as a condition of release if imposed by the courts pursuant to s. 775.089, F.S.; providing an effective date.

—was referred to the Committee on Corrections, Probation and Parole.

By Representative Crady and others—

HB 741—A bill to be entitled An act relating to the State University System: amending s. 240.281, F.S.; authorizing the deposit of funds received by a faculty practice plan outside the State Treasury; providing an effective date.

—was referred to the Committees on Education; Governmental Operations; Finance, Taxation and Claims; and Appropriations.

By the Committees on Appropriations; Finance and Taxation; and Community Affairs; and Representatives Logan and Stafford—

CS for CS for CS for HB 827—A bill to be entitled An act relating to neighborhood improvement districts; amending s. 163.501, F.S.; revising a cross reference in the short title of the Safe Neighborhoods Act; amending s. 163.502, F.S.; revising legislative findings and intent; amending s. 163.503, F.S.; redefining "department" to mean the Department of Legal Affairs rather than the Department of Community Affairs; expanding the definition of "board"; creating s. 163.5035, F.S.; requiring compliance with chapter 189; amending s. 163.504, F.S.; providing technical and conforming changes; creating s. 163.5055, F.S.; requiring neighborhood improvement districts to register with both the Department of Community Affairs and the Department of Legal Affairs; requiring notification of dissolution of a district; amending ss. 163.506, 163.508, and 163.511, F.S.; requiring notification of the establishment of such districts; providing technical changes; creating s. 163.512, F.S.; authorizing the creation of community redevelopment neighborhood improvement districts; authorizing use of the community redevelopment trust fund to implement safe neighborhood improvement plans; providing duties of the advisory council; providing for dissolution of the districts; amending s. 163.513, F.S.; providing that districts may not restrict access to or lawful use of public facilities; providing technical changes; amending s. 163.514, F.S., and repealing subsections (15), (16), and (18), relating to the power to issue revenue bonds and to pledge revenues to the payment thereof and to make and collect general assessments; authorizing neighborhood improvement districts to make and collect special assessments; requiring referendum approval and providing requirements with respect thereto; amending s. 163.5151, F.S.; conforming references; amending s. 163.516, F.S.; providing technical changes; amending s. 163.517, F.S.; revising the number and amount of planning grants provided under the Safe Neighborhoods Trust Fund; revising application criteria provisions; requiring audits; requiring the department to promulgate rules; repealing s. 163.518, F.S., relating to the crime prevention through environmental design program; amending s. 163.519, F.S.; changing administrative duties from the Department of Community Affairs to the Department of Legal Affairs and adding duties, including certain reporting duties; amending s. 163.521, F.S.; modifying provisions relating to district overlap with enterprise zones; requiring completion and approval of a safe neighborhood improvement plan prior to expenditure of capital improvement funds; requiring that capital improvement funding requests be related to crime prevention through environmental design, environmental security, and defensible space; providing for rank ordering of requests for capital improvement funding; creating s. 163.5215, F.S.; providing for effect of the Safe Neighborhoods Act on existing laws; amending s. 163.522, F.S.; encouraging the creation of neighborhood improvement districts within community redevelopment areas; transferring the Safe Neighborhoods Trust Fund; providing an appropriation; providing an effective date.

—was referred to the Committees on Community Affairs; Judiciary; Finance, Taxation and Claims; and Appropriations.

By the Committee on Regulatory Reform and Representative Young—

CS for HB 891—A bill to be entitled An act relating to medical practice; amending ss. 458.317 and 459.0075, F.S.; exempting physicians and osteopathic physicians applying for limited licenses from application and licensure fees under certain circumstances; providing an effective date.

—was referred to the Committees on Professional Regulation; and Finance, Taxation and Claims.

By the Committee on Insurance and Representative Muscarella and others—

CS for HB 1191—A bill to be entitled An act relating to insurance; amending s. 651.011, F.S.; providing definitions; creating s. 651.018, F.S.; specifying authority of the Department of Insurance to place a continuing care retirement facility in administrative supervision; creating s. 651.019, F.S.; requiring continuing care providers to provide certain notice of new financing, additional financing, or refinancing to the department; requiring providers to furnish information requested by the department; amending s. 651.023, F.S.; requiring certain proof prior to release of moneys from escrow; creating s. 651.0261, F.S.; authorizing the department to require providers to submit quarterly financial statements; creating s. 651.028, F.S.; authorizing the department to waive regulatory requirements with respect to an accredited provider; amending s. 651.035, F.S.; providing that a provider may employ a debt service reserve to fulfill certain escrow requirements; amending s. 651.055, F.S.; providing that continuing care contracts are exempt from s. 517.301, F.S.; creating s. 651.083, F.S.; creating a continuing care residents' bill of rights; requiring providers to furnish copies of the bill of rights to residents; providing that violations of such rights constitutes grounds for disciplinary action by the department; providing immunity from civil or criminal liability for persons who file reports or complaints of suspected violations of residents' rights or services or conditions in a facility; providing exceptions; amending s. 651.091, F.S.; requiring providers to furnish additional information to residents; amending s. 651.106, F.S.; specifying grounds for disciplinary action by the department; providing that failure to meet disclosure requirements constitutes grounds for disciplinary action; amending s. 651.114, F.S.; authorizing the department to seek the assistance of the Continuing Care Advisory Council in formulating plans to bring certain providers into compliance; authorizing the department to require a facility or provider to prepare a corrective action plan in certain circumstances; authorizing the department to impose a corrective action plan; creating s. 651.1151, F.S.; specifying powers of the department with respect to administrative, vendor, and management contracts of providers; creating s. 651.119. F.S.; providing that the department is for specified purposes a creditor of a facility that closes due to liquidation or pending liquidation; providing for assistance to residents; providing for voluntary contributions from the reserves of providers; providing for reimbursement; providing for reduction of minimum liquid reserve requirements; providing circumstances for assessments against the reserves of providers; specifying duties of the advisory council; providing for future repeal; amending s. 651.121, F.S.; expanding membership of the advisory council; authorizing the advisory council to require providers to submit certain information; providing for future review and repeal; providing an effective date.

—was referred to the Committees on Commerce; and Finance, Taxation and Claims.

By the Committee on Corrections and Representative Ireland—

CS for HB 2131—A bill to be entitled An act relating to county detention facilities; amending s. 951.23, F.S.; requiring monthly collection of additional information; providing an effective date.

—was referred to the Committee on Corrections, Probation and Parole.

By the Committee on Regulatory Reform and Representative Tobin—

HB 2323—A bill to be entitled An act relating to the Industry Services Advisory Council; amending s. 230.66, F.S.; revising membership and terms of the council; saving s. 230.66(2), F.S., from Sundown repeal and providing for future review and repeal; providing an effective date.

—was referred to the Committee on Education.

By the Committee on Regulatory Reform and Representative Tobin—

HB 2413—A bill to be entitled An act relating to private investigative, private security, and recovery services; amending s. 493.6105, F.S., and repealing paragraph (g) of subsection (3), relating to the photograph requirement for application for licensure; revising the photograph requirement; amending s. 493.6106, F.S.; revising provisions relating to posting of license and change of address; amending s. 493.6107, F.S.; revising provisions relating to license fee; amending s. 493.6110, F.S.; revising provisions relating to licensee's insurance; amending s. 493.6111, F.S.; revising provisions relating to possession of license; amending s. 493.6113, F.S.; revising renewal requirements; amending s. 493.6115, F.S.; revising firearm requirements; amending s. 493.6118, F.S.; revising provi-

sions relating to grounds for disciplinary action; amending ss. 493.6203 and 493.6303, F.S.; revising license requirements; amending s. 493.6301, F.S.; revising classes of licenses; amending s. 493.6305, F.S.; revising provisions relating to uniforms; amending s. 493.6306, F.S.; revising provisions relating to proprietary security officer requirements; amending s. 493.6401, F.S.; revising classes of licenses; amending s. 493.6403, F.S.; revising license requirements; amending s. 493.6102, F.S.; providing for inapplicability to certain persons; providing an effective date.

—was referred to the Committee on Professional Regulation.

By the Committees on Finance and Taxation; and Insurance; and Representatives Ascherl and Cosgrove—

CS for HB 2557—A bill to be entitled An act relating to health insurance; amending s. 627.6482, F.S.; excluding certain policies from the definition of "health insurance;" amending s. 627.6484, F.S.; prohibiting the Florida Comprehensive Health Association from accepting applications for insurance after a specified date; amending s. 627.6486, F.S.; revising criteria for eligibility for coverage under the comprehensive health insurance plan; specifying application of certain claims payments; amending s. 627.6488, F.S.; requiring reports; amending s. 627.6496, F.S.; providing for issuance of policies; amending s. 627.6498, F.S.; providing for semiannually renewable policies; specifying renewal dates; revising benefits; limiting deductibles; revising provisions for determination of rates for coverage under the plan; providing an effective date.

—was referred to the Committees on Commerce; and Finance, Taxation and Claims.

By the Committee on Natural Resources and Representative Hawkins and others—

CS for HB's 91 and 1053—A bill to be entitled An act relating to water; creating ss. 255.259, 335.167, F.S.; requiring Xeriscape landscaping of certain property under the Department of General Services or the Department of Transportation, by a specified date, providing a 5-year phase-in for Xeriscape landscaping of certain other property under the departments; providing for rules and guidelines; creating s. 373.185, F.S.; providing definitions; requiring local Xeriscape incentive programs under the water management districts; providing for local government ordinances; specifying requirements; providing for rules and a model Xeriscape code; providing for promotion of residential and commercial use of Xeriscape; amending s. 380.061, F.S.; adding a Xeriscape landscaping requirement under the Florida Quality Developments program; creating ss. 125.568, 166.048, F.S.; providing legislative findings and intent relating to the conservation of water through Xeriscape; directing counties and municipalities to consider enacting ordinances requiring the use of Xeriscape and to enact such ordinances in specified circumstances; requiring counties and municipalities to consider promoting Xeriscape through public education and local incentives; requiring purchasers of automatic lawn sprinkler systems to install rain sensor devices; amending s. 481.303; including Xeriscape within the definition of landscape architecture; providing definitions; prohibiting false or misleading advertising of water treatment devices; requiring advertisements to contain certain information; providing notification requirement; providing penalties; providing an effective date.

—was referred to the Committees on Natural Resources and Conservation; Governmental Operations; Community Affairs; and Appropriations.

By Representative Mitchell and others—

HB 325—A bill to be entitled An act relating to saltwater fisheries; amending s. 370.06, F.S., relating to saltwater products licenses; providing additional exceptions from income requirements for a restricted species endorsement; amending s. 370.0605, F.S.; providing separate fees for nonresident saltwater fishing licenses for individuals who are residents of states contiguous to Florida which states do not have reciprocal agreements with Florida; amending s. 370.0605, F.S.; authorizing the Department of Natural Resources to designate two "Disabled Angler Fishing Days"; reenacting s. 370.06(5), F.S., relating to Apalachicola Bay oyster harvesting licenses; reenacting s. 370.16, F.S., relating to regulation of oysters and shellfish; providing that future repeals are unaffected by the act; providing effective dates.

—was referred to the Committees on Natural Resources and Conservation; Finance, Taxation and Claims; and Appropriations.

By the Committee on Criminal Justice and Representative Martinez and others—

CS for HB 415—A bill to be entitled An act relating to criminal sentencing; amending s. 921.001, F.S.; adding the secretary of the Department of Corrections or his designee and one sheriff and one county commissioner as members of the Sentencing Commission; mandating a revision of the sentencing guidelines by the commission; deleting a provision which authorizes a court to impose a sentence outside the guidelines when one factor supporting such departure is found, notwithstanding the presence of other factors which do not justify departure; amending s. 947.168, F.S., relating to persons serving parole-eligible and parole-ineligible sentences, to correct a cross reference; providing for the revised sentencing guidelines to be prepared in contemplation of certain changes in the law; providing an effective date.

—was referred to the Committees on Corrections, Probation and Parole; Criminal Justice; Rules and Calendar; and Appropriations.

By Representative Davis—

HB 633—A bill to be entitled An act relating to federal liens; creating the Florida Uniform Federal Lien Registration Act; specifying applicability; providing for filing of notices of federal liens, certificates, and other notices affecting federal liens; specifying duties of the Secretary of State and the clerks of the circuit courts; providing for fees; providing for uniformity of construction; providing an effective date.

—was referred to the Committees on Judiciary; Finance, Taxation and Claims; and Appropriations.

By the Committee on Judiciary and Representative Graham and others—

CS for HB 683—A bill to be entitled An act relating to negligence; creating s. 768.051, F.S.; requiring an attorney's certification that a claim has merit as a prerequisite to filing an action for professional negligence against a professional engineer, land surveyor, architect, or landscape architect; providing exceptions; providing that failure to obtain a consultation and file the certificate is grounds for dismissal of the action; creating s. 768.095, F.S.; providing former employers with immunity from civil liability in the good-faith disclosure of information regarding the job performance of former employees to prospective employers; providing an evidentiary standard; providing effective dates.

—was referred to the Committee on Judiciary.

By Representative Logan—

HB 747—A bill to be entitled An act for the relief of Hank J. Williams; providing an appropriation to compensate him for injuries suffered as a result of the negligence of the Department of Corrections; providing an effective date.

—was referred to the Special Master; and the Committees on Finance, Taxation and Claims; and Appropriations.

By Representatives Hanson and Mortham—

HB 935—A bill to be entitled An act relating to transportation planning; amending s. 339.175, F.S.; authorizing the Governor to annually alternate M.P.O. members who represent municipalities; requiring metropolitan planning organizations to submit copies of the annual transportation improvement program to the members of the Legislature representing the area; amending s. 348.0004, F.S., relating to the Florida Expressway Authority Act; providing limitations on construction of transportation facilities by certain expressway authorities; providing an effective date.

—was referred to the Committees on Transportation; Finance, Taxation and Claims; and Appropriations.

By the Committee on Insurance and Representative Huenink—

CS for HB 977—A bill to be entitled An act relating to insurance; amending s. 624.501, F.S.; providing fees; amending s. 626.072, F.S.; including agency appointments within customer representative appointments; amending s. 626.281, F.S.; providing for reexamination of applicants for licensure as agents; amending s. 626.2815, F.S.; changing certain continuing education course requirements; amending s. 626.431, F.S.; requiring the Department of Insurance to notify certain agents that eligibility for appointment may expire; amending ss. 626.611 and 626.621,

F.S.; providing grounds for compulsory and discretionary refusal, suspension, or revocation of customer representative licenses; amending s. 626.7351, F.S.; deleting a requirement regarding an agent's responsibilities for customer representative supervision; amending s. 626.7352, F.S.; specifying business location of a customer representative; amending s. 626.7353, F.S.; authorizing an agency to appoint a customer representative; providing for supervision of customer representatives; providing certain requirements with respect to appointing a customer representative; deleting certain license application requirements; amending ss. 626.7451 and 626.7454, F.S.; revising required contract provisions and duties of insurers provisions relating to managing general agents; amending s. 626.752, F.S.; specifying information an insurer must report upon acceptance of business under exchange of business provisions; amending s. 626.793, F.S.; specifying information an insurer must report upon acceptance of business under excess or rejected business provisions; amending ss. 626.7851 and 626.8311, F.S.; providing qualification requirements for certain agent licenses; amending s. 626.837, F.S.; revising certain business brokering requirements for agents; specifying information an insurer must report upon acceptance of business under excess or rejected business provisions; amending s. 626.8373, F.S.; providing that certain requirements of insurance agents with respect to overinsurance of health insurance apply with respect to continuing care contracts and health maintenance contracts; amending s. 626.852, F.S.; providing that third party administrators and employees are exempt from licensure as an adjuster; amending ss. 626.858 and 626.873, F.S.; conforming terminology; creating s. 626.8695, F.S.; requiring adjusting firms to designate primary adjusters; providing circumstances under which an adjusting firm license is required; creating s. 626.8696, F.S.; providing for application for adjusting firm license; creating s. 626.8697, F.S.; providing for refusal, suspension, or revocation of an adjusting firm license; amending s. 626.9521, F.S.; specifying fines for unfair methods of competition and unfair or deceptive acts or practices; amending s. 626.9541, F.S.; providing circumstances in which the obtaining of a power of attorney is prohibited; providing circumstances under which the selling of motor vehicle services or other insurance coverage or benefit not provided by a motor vehicle insurer is prohibited; reenacting ss. 624.155(1)(a), 624.3151, 626.9571(1), 626.9581, 626.9611, and 626.989(2) and (4)(a), F.S., relating to civil remedies, insurer complaint ratios, unfair or deceptive acts or practices, and insurance fraud, to incorporate the amendments to s. 626.9541, F.S., in references thereto; amending s. 627.4085, F.S.; requiring the agent's name and license number on an application for insurance; amending ss. 627.944, 627.949, 627.952, 632.634, 634.171, 634.181, 634.191, 634.201, 634.211, 634.317, 634.318, 634.319, 634.320, 634.321, 634.322, 634.3225, 634.323, 634.419, 634.420, 634.421, 634.422, 634.423, 634.424, 634.425, 634.426, 635.051, 637.141, 637.143, 637.144, 637.145, 637.146, 637.301, 637.302, 637.303, 637.304, 637.305, 637.415, 638.181, 638.191, 638.201, 638.211, 638.221, 639.108, 639.185, 641.386, 642.034, 642.036, 642.038, 642.041, 642.043, 642.045, and 642.047, F.S.; applying provisions relating to licensure, appointment, and discipline of insurance agents, unlawful rebating, and fees, to persons engaged in sales for risk retention and purchasing groups, fraternal benefit societies, motor vehicle service agreement companies, home warranty associations, service warranty associations, mortgage guaranty insurance, optometric service plan corporations, pharmaceutical service plan corporations, dental service plan corporations, ambulance service associations, preneed funeral merchandise or service contracts, health maintenance organizations, and legal expense insurers; providing for restitution under certain funeral preneed contracts under certain circumstances; providing for review and repeal; providing an effective date.

—was referred to the Committees on Commerce; Finance, Taxation and Claims; and Appropriations.

By the Committees on Appropriations and Regulatory Reform and Representative Holland and others—

CS for CS for HB 1005—A bill to be entitled An act relating to employee leasing companies; providing legislative purpose; providing definitions; creating the Board of Employee Leasing Companies within the Department of Professional Regulation; providing for rules; providing for applicability of chapter 455, F.S.; providing for application for license; providing for license requirements; providing fees; providing for license renewal; providing for temporary license; providing for inactive status; providing for licensees' insurance, employment tax, and benefit plans; providing for license contents and the posting of licenses; providing prohibitions and penalties; providing for discipline; providing for the deposit of fees into the Professional Regulation Trust Fund; providing for application of the act; providing for review and repeal; providing an appropriation; providing an effective date.

(Substituted for **CS for SB 882** on the special order calendar this day.)

By the Committee on Public Schools and Representative Chestnut—

CS for HB 1299—A bill to be entitled An act relating to public school personnel; amending s. 231.15, F.S.; revising certification requirements for athletic coaches employed or serving in public schools; exempting certain instructors of junior reserve officer training from certification requirements; providing qualifications; requiring fingerprinting; creating s. 231.1735, F.S.; providing requirements for certification of out-of-state administrators; providing for review and repeal; providing an effective date.

—was referred to the Committees on Education and Appropriations.

By the Committees on Appropriations; Finance and Taxation; and Natural Resources; and Representative Saunders and others—

CS for CS for CS for HB's 2157 and 1871—A bill to be entitled An act relating to water resources; creating s. 373.4592, F.S.; providing findings and intent; providing definitions; providing for the adoption of an Everglades Surface Water Improvement and Management Plan by the South Florida Water Management District; providing limited eminent domain authority to the district; authorizing certain exchange of land; providing the district with alternative funding mechanisms, including the creation of stormwater utilities and stormwater management system benefit areas; providing procedures and requirements for the levy and collection of stormwater utility fees and stormwater assessments; providing for the issuance of interim permits to the district; providing for the applicability of certain standards and laws; providing for annual reports; amending s. 253.01, F.S.; providing for deposit and use of proceeds from the sale of lands in the Everglades Agricultural Area; amending ss. 253.111 and 253.115, F.S.; providing an exemption from certain notice and hearing requirements for the conveyance of certain lands; amending s. 373.584, F.S.; providing definitions; providing additional purposes for which revenue bonds may be issued by water management districts; specifying revenues that may be pledged for such bonds and providing requirements with respect thereto; providing that the power of districts to issue revenue bonds is coextensive with the power of municipalities to issue bonds; providing an effective date.

—was referred to the Committees on Natural Resources and Conservation; Finance, Taxation and Claims; and Appropriations.

By the Committee on Corrections and Representative Logan—

HB 2373—A bill to be entitled An act relating to the correctional system and sentencing; amending s. 945.30, F.S.; increasing the required minimum amount, and reenacting ss. 946.40(5), 947.1405(2), 948.01(10), and 948.06(4), F.S., relating to use of prisoners in public works, conditional release, probation, and community control, to incorporate said amendment in references thereto; creating s. 948.50, F.S.; creating the "Community Corrections Partnership Act"; creating s. 948.51, F.S.; providing legislative intent; providing for eligibility of counties to contract with the Department of Corrections; authorizing the Department of Corrections to enter into contracts with counties; providing for departmental responsibilities; providing purposes for which contracts may be entered into; providing for level of spending and eligibility for continued funding pursuant to such contracts; establishing the Community Corrections Assistance Trust Fund; amending s. 951.23, F.S.; amending the definition of county detention facility, and reenacting ss. 921.18, 951.062(1), and 951.22(1), F.S., relating to indeterminate sentencing, contractual arrangements for operation of county detention facilities, and contraband articles in county detention facilities, to incorporate said amendment in references thereto; creating s. 950.002, F.S.; providing for county work camps; providing for bed designations; authorizing interlocal agreements; excluding certain violent offenders; providing for ownership by the department upon contract termination; authorizing insurance of county work camps by the Division of Risk Management; establishing the Community Corrections Construction Trust Fund; amending s. 921.187, F.S.; providing for reverse split probation sentencing and other community-based sanctions; amending s. 944.025, F.S.; expanding eligibility for the pretrial intervention program; amending s. 944.026, F.S.; expanding the use of probation and restitution centers; limiting the types of offenders who may be accepted for residence at the center, and reenacting ss. 948.03(9)(a) and 958.04(2)(b), F.S., relating to terms and conditions of probation or community control and judicial disposition of youthful offenders, to incorporate said amendment in references thereto; amending s. 944.033, F.S.; designating the use of community correctional cen-

ters; amending s. 948.001, F.S.; creating sentencing options and definitions of "administrative probation" and "drug offender probation"; amending s. 948.01, F.S.; providing for reverse split probation sentencing, for placement of offenders into drug offender probation, and for split probation sentencing with authority in the Department of Corrections to place a low-risk offender on administrative probation after completion of half his regular probation; amending s. 948.10, F.S.; increasing the number of offenders per officer; amending s. 951.26, F.S.; providing for additional duties and members for county correctional planning committees; amending s. 944.17, F.S.; including chief correctional officers among those required to perform certain recordkeeping requirements on prisoners placed in state custody; prescribing other duties of the chief correctional officer; amending s. 944.32, F.S.; providing for the filing of jail inspection reports with the officer in charge of the facility and the board of county commissioners rather than the clerk of the circuit court; amending s. 950.02, F.S.; deleting the requirement that the Governor first be notified of the need to remove a prisoner from a jail in certain circumstances; amending s. 5, ch. 90-337, Laws of Florida; providing for responsibility of medical expenses of state prisoners; amending s. 944.605, F.S.; specifying who is responsible for notification upon an inmate's release; amending s. 947.175, F.S.; providing for notification, if so requested, upon approval to participate in a community work release program; amending s. 947.177, F.S.; defining who is to provide notification upon an inmate's release; repealing ss. 917.012, 917.014, 917.016, 917.017, 917.018, 917.021, F.S., relating to the identification and disposition of mentally disordered sex offenders; renumbering and amending s. 917.019, F.S.; allowing the Department of Health and Rehabilitative Services to establish programs to train persons to provide residential, as well as postdischarge, treatment for such offenders; providing for interdepartmental coordination; providing an effective date.

—was referred to the Committees on Corrections, Probation and Parole; Community Affairs; and Appropriations.

By the Committee on Public Schools and Representative Jamerson and others—

HB 2397—A bill to be entitled An act relating to education; creating a task force and providing membership thereof; providing a definition; requiring the task force to examine multicultural education in Florida; requiring reports; providing for expiration; providing an effective date.

—was referred to the Committees on Education; and Rules and Calendar.

By the Committee on Finance and Taxation; and Representatives Brown and Press—

HB 2417—A bill to be entitled An act relating to taxation; amending s. 193.114, F.S.; requiring property appraisers to document reasons for certain changes made to assessment rolls; amending ss. 193.1142 and 200.065, F.S.; specifying the date for mailing notices of proposed property taxes in conjunction with tax roll approval or institution of interim roll procedures; providing for the extension of deadlines under s. 200.065 under certain conditions; requiring the property appraiser to notify affected taxing authorities of adjustments made to millage rates in response to a review notice issued by the Department of Revenue; amending s. 193.461, F.S.; revising the definition of "agricultural purposes" for purposes of classification and assessment of agricultural land; amending s. 195.095, F.S.; revising provisions which regulate the process of contracting with property appraisers, tax collectors, and county commissions for assessment or collection services or systems; specifying duties of the executive director of the department or his designee; providing for waiver of such provisions under certain circumstances; amending s. 195.096, F.S.; providing for the confidentiality of data and samples developed or obtained by the Division of Ad Valorem Tax in conjunction with review of assessment rolls; providing for review and repeal; amending s. 201.022, F.S.; requiring that the return which is required to be filed as a condition precedent to recording of a deed transferring an interest in real property state the parcel identification number; providing a penalty; amending s. 206.01, F.S.; providing that, for purposes of part I of chapter 206, relating to taxation of motor fuel, "motor fuel" does not include natural gasoline; amending s. 206.86, F.S.; defining "natural gasoline" and including it within the meaning of "alternative fuel," which is subject to a decal fee rather than special fuel tax; amending s. 206.9931, F.S.; revising provisions relating to responsibility for payment of the taxes on fuels and other pollutants; amending s. 212.02, F.S.; revising the definition of "admissions" for purposes of sales tax to include fees paid to private clubs and membership clubs providing recreational or physical fitness facilities; amending s. 212.04, F.S.; providing that dealers selling admissions may display the admission price at the place where the admission charge is made; providing for computation of the tax; providing for subsequent resales; amending s. 212.054, F.S., which provides for administration of discretionary sales surtaxes; providing criteria for application of the exemption of amounts above $5,000 on any item of tangible personal property; amending s. 212.055, F.S.; providing requirements with respect to changes in distribution formulas applicable to the local government infrastructure surtax; amending s. 212.0596, F.S.; authorizing the department to establish alternative procedures for collecting use tax from certain mail order purchasers; amending s. 212.12, F.S.; revising the tax brackets for discretionary sales surtaxes, the application thereof, and the authority of the department to promulgate such brackets; amending s. 212.20, F.S.; providing that the additional annual sales tax dealers registration fee shall be initially deposited in a newly created Solid Waste Management Clearing Trust Fund; creating s. 213.756, F.S.; providing that certain funds collected under state revenue laws are state funds from the moment of collection; limiting refund of such moneys; amending s. 220.03, F.S.; revising the definition of the Internal Revenue Code for purposes of the Florida Income Tax Code; providing for retroactive effect; amending s. 403.717, F.S.; revising the definitions of "motor vehicle" and "lead-acid battery" for purposes of the waste tire and lead-acid battery fees; amending s. 403.718, F.S.; providing that the waste tire fee shall be paid to the department monthly; amending s. 403.7185, F.S.; revising the description of the types of batteries to which the lead-acid battery fee applies; providing effective dates.

—was referred to the Committees on Finance, Taxation and Claims; and Appropriations.

By the Committee on Regulated Services and Technology; and Representative C. Smith—

HB 2427—A bill to be entitled An act relating to telecommunications services; creating part III of ch. 427, F.S.; creating the "Telecommunications Access System Act of 1991"; providing legislative findings and intent; providing definitions; providing powers and duties of the Florida Public Service Commission; requiring the commission to establish and administer a statewide telecommunications service system for hearing impaired and speech impaired persons; authorizing the commission to select a provider of such service; authorizing the commission to impose a surcharge to pay for the costs of such system; providing for collection of the surcharge; providing for a collection allowance; excluding the surcharge from certain taxes; authorizing the commission to adopt rules; requiring the commission to report to the Legislature; providing for administration of a telecommunications service system; providing for appointment of an administrator; providing powers and duties of the administrator; providing that certain information provided to the Florida Public Service Commission or administrator is exempt from the public records law; providing for annual audit; requiring the administrator to report to the commission; requiring the commission to appoint an advisory committee; providing for membership, duties, and travel and per diem of the committee; providing exemption from liability; imposing certain requirements on public safety or health care providers; amending s. 229.8361, F.S.; providing additional duties and responsibilities of the Florida Council for the Hearing Impaired; providing an appropriation; providing for future repeal of ss. 427.501-427.508, F.S., relating to communication services for the deaf; providing an effective date.

—was referred to the Committees on Commerce; Finance, Taxation and Claims; and Appropriations.

By the Committee on Insurance and Representative Ascherl—

HB 2437—A bill to be entitled An act relating to insurance; amending s. 627.674, F.S.; requiring Medicare supplement policies to provide certain benefits; providing that rules of the Department of Insurance may limit the providing of Medicare supplement insurance optional benefits; amending s. 627.6741, F.S.; requiring insurers to offer Medicare supplement policies to all persons who meet certain criteria; requiring return of unearned premium; amending s. 627.6744, F.S.; prohibiting the sale of Medicare supplement policies to persons eligible for Medicaid and certain persons who have other Medicare supplement insurance; amending s. 627.6745, F.S.; requiring Medicare supplement policies to meet specified loss ratio standards; providing for refunds or credits to policyholders; requiring that certain information be available to the public; requiring public hearings prior to approval of premium increases; amending s. 627.6746, F.S.; requiring compliance with the Omnibus Budget Reconciliation Act of 1990; amending s. 626.99, F.S.; applying certain disclosure

requirements to annuities; amending s. 627.452, F.S.; providing standards for style, arrangement, and overall appearance of life insurance policies; amending s. 627.613, F.S.; specifying the period within which a health insurer must notify an insured that a claim is contested or denied and must pay or deny a contested claim; requiring investigation by insurers for improper billing by health care providers; providing for certain rebates to insureds; amending s. 627.662, F.S.; revising requirements for group policies; amending s. 627.6675, F.S.; revising optional benefits available upon conversion of a group health policy; amending s. 627.9407, F.S.; requiring long-term care policies to provide coverage for at least 24 months for nursing home care; creating s. 627.4134, F.S.; providing requirements for preferred provider networks; creating s. 627.6145, F.S.; requiring disclosure of specific methodology for payment of claims; amending s. 626.2815, F.S.; changing certain continuing education requirements for insurance agents and other licensees; amending s. 627.7275, F.S.; requiring that motor vehicle insurers make available to certain persons personal injury protection coverage and property damage liability coverage which is noncancellable; amending s. 627.7295, F.S.; restricting the cancellation of certain motor vehicle insurance policies; amending s. 627.733, F.S.; requiring that certain persons in reinstating their motor vehicle driver's license or registration obtain noncancellable personal injury protection and required property damage liability coverage; amending ss. 627.311 and 627.351, F.S.; requiring the automobile joint underwriting association or motor vehicle risk apportionment plan to make available to certain persons personal injury protection coverage and property damage liability coverage which is noncancellable; repealing ss. 627.6375 and 627.6695, F.S., relating to contracts for alternative rates of payment; amending s. 627.404, F.S.; authorizing certain charitable organizations to own or purchase insurance on certain persons; providing an effective date.

—was referred to the Committee on Commerce.

By the Committee on Judiciary and Representatives Trammell and Ritchie—

HB 2469—A bill to be entitled An act relating to exemptions from legal process; amending s. 77.0305, F.S.; providing for garnishment of government employee wages; providing a limited waiver of sovereign immunity; amending s. 222.11, F.S.; providing definitions; providing limitations on wages exempt from garnishment or attachment; providing for tracing of head of family wages; amending s. 222.14, F.S.; providing an exemption from legal process for certain cash available on life insurance policies; providing an exemption from legal process for certain proceeds from annuity contracts; creating s. 222.25, F.S.; providing for other individual property which is exempt from legal process; creating s. 222.29, Florida Statutes; limiting exemptions for fraudulent transfers; amending s. 726.102, F.S.; revising the definition of asset to include property held in tenancy by the entireties as an asset which may be subject to attack as a fraudulent transfer; providing for review of ss. 121.131, 122.15, 175.241, 222.21, and 238.15, F.S., relating to exemption of pension funds; providing for review of s. 222.14, F.S.; relating to exemption of life insurance and annuities; providing for review of s. 222.201, F.S., relating to federal bankruptcy exemptions; providing for review of s. 440.22, F.S., relating to exemption of workers' compensation benefits; providing for review of s. 443.051, F.S., relating to exemption of unemployment compensation benefits; providing for review of s. 620.68, F.S., relating to exemption of partnership property; providing for review of s. 632.619, F.S.; relating to exemption of fraternal society benefits; providing for review of s. 744.626, F.S., relating to exemption of veterans' benefits; providing effective dates.

—was referred to the Committees on Commerce; Judiciary; and Finance, Taxation and Claims.

By the Committee on Judiciary and Representative Trammel and others—

HB 2471—A bill to be entitled An act relating to public officers, candidates for public office, and public employees; amending s. 112.312, F.S.; providing additional definitions for purposes of the code of ethics for public officers and employees and s. 8, Art. II, State Const.; amending s. 112.313, F.S.; including provisions regulating representation before certain agencies by legislators, statewide elected officers, and agency employees, and standards of conduct for legislators and legislative employees; removing provisions relating to disclosure of certain specified interests by public officers and employees and candidates for public office; revising an exemption from the prohibition against doing business with one's own agency or entering into a conflicting employment relationship and providing additional exemptions; repealing s. 112.3141, F.S., relating to representation before certain agencies by legislators, statewide elected officers, and agency employees, and standards of conduct for legislators and legislative employees; amending s. 112.3143, F.S.; revising provisions relating to voting conflicts and disclosure with respect thereto; amending s. 112.3145, F.S.; requiring certain officers, candidates, and employees who hold a specified relationship with certain business entities to file a disclosure statement as part of their financial disclosure statement; amending ss. 112.3146, 112.3147, and 112.3148, F.S.; correcting references; amending s. 112.317, F.S.; prescribing penalties for violating the code of ethics or s. 8, Art. II, State Const., relating to ethics in government; providing for civil actions to recover certain penalties; amending s. 112.320, F.S.; specifying that the Commission on Ethics is the commission provided for in s. 8, Art. II, State Const.; amending s. 112.322, F.S.; prescribing investigatory and other powers and duties of the commission with respect to a sworn complaint of a breach of the public trust; providing for issuance of advisory opinions by the commission; authorizing the commission to delegate the authority to administer oaths and issue and serve subpoenas; authorizing the commission to make rules; creating s. 112.3231, F.S.; providing time limitations for filing sworn complaints of violation with the commission; amending s. 112.324, F.S.; modifying procedures on complaints of violations of part III, ch. 112, F.S., or s. 8, Art. II, State Const.; designating proper disciplinary officials; specifying conditions under which the commission may dismiss a complaint; amending s. 69.081, F.S.; prohibiting confidential settlement of actions involving the state; providing standing to contest such settlements; directing custodians of records to comply with public records laws; providing sanctions; requiring notice of certain settlements; providing effective dates.

—was referred to the Committees on Executive Business, Ethics and Elections; Rules and Calendar; and Governmental Operations.

By the Committee on Claims and Representative Rush—

HB 2473—A bill to be entitled An act for the relief of Ozie L. Brown, as personal representative of the estate of Alton P. Bass, deceased; providing an appropriation to compensate her for the death of her son, Alton P. Bass, in a drowning accident at Lake Wauberg in Alachua County, Florida; providing an effective date.

—was referred to the Special Master; and the Committee on Finance, Taxation and Claims.

By the Committee on Regulatory Reform and Representative Tobin—

HB 2567—A bill to be entitled An act relating to the State Board of Building Codes and Standards; amending s. 553.49, F.S.; naming the advisory council and providing for member terms; amending s. 553.73, F.S.; providing that certain state agencies or boards may request copies of local amendments to state minimum building codes; amending s. 553.74, F.S.; requiring members of the board to be actively engaged in their professions; amending s. 553.77, F.S.; providing for the board to coordinate with the Florida Fire Code Advisory Council; requiring the board to submit a report to the department; authorizing the board to designate a board member to serve on the advisory council in a nonvoting capacity; saving ss. 553.49, 553.71(1), 553.74, 553.75, 553.76, and 553.77, F.S., from Sundown repeal; providing for future review and repeal; providing an effective date.

—was referred to the Committee on Community Affairs.

RETURNING MESSAGES ON SENATE BILLS

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives returns, as requested, CS for SB 1694.

John B. Phelps, Clerk

CS for SB 1694—A bill to be entitled An act relating to the Public Employees Relations Commission; amending s. 447.205, F.S.; specifying who shall conduct hearings held under ch. 447, F.S.; authorizing the commission to appoint an employee to conduct elections in accordance with ch. 447, F.S.; amending s. 447.207, F.S.; redefining certain commission statements of general applicability; amending s. 447.208, F.S.; amending the circumstances in which the commission grants extensions of time for hearings on appeals; allowing the commission to reduce penalties in prescribed circumstances; providing an effective date.

RECONSIDERATION

On motion by Senator Dudley, the rules were waived and the Senate reconsidered the vote by which **CS for SB 1694** as amended passed April 17.

Senator Dudley moved the following amendments which were adopted by two-thirds vote:

Amendment 1—On page 1, lines 30 and 31, and on page 2, lines 1-18, strike all of said lines and renumber subsequent sections.

Amendment 2—In title, on page 1, strike all of lines 8 and 9

On motion by Senator Dudley, **CS for SB 1694** as amended was read by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38 Nays—None

RETURNING MESSAGES ON HOUSE BILLS

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives requests the return of CS for HB 2557.

John B. Phelps, Clerk

CS for HB 2557—A bill to be entitled An act relating to health insurance; amending s. 627.6482, F.S.; excluding certain policies from the definition of "health insurance;" amending s. 627.6484, F.S.; prohibiting the Florida Comprehensive Health Association from accepting applications for insurance after a specified date; amending s. 627.6486, F.S.; revising criteria for eligibility for coverage under the comprehensive health insurance plan; specifying application of certain claims payments; amending s. 627.6488, F.S.; requiring reports; amending s. 627.6496, F.S.; providing for issuance of policies; amending s. 627.6498, F.S.; providing for semiannually renewable policies; specifying renewal dates; revising benefits; limiting deductibles; revising provisions for determination of rates for coverage under the plan; providing an effective date.

On motions by Senator Childers, by two-thirds vote **CS for HB 2557** was withdrawn from the Committees on Commerce; and Finance, Taxation and Claims and returned to the House as requested.

RETURNING MESSAGES—FINAL ACTION

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed SB 644, CS for SB 670, SB 702, SB 950, CS for SB 818, CS for SB 1164, SB 1196, CS for CS for SB 1316, SB 1802, CS for SB 1876, CS for SB 2094 and SB 2234.

John B. Phelps, Clerk

The bills contained in the foregoing message were ordered enrolled.

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendments and passed CS for HB 417, as amended.

John B. Phelps, Clerk

AMENDMENTS TO SENATE BILLS

SB 114

Senator Meek moved the following amendment which was adopted:

Amendment 1—On page 3, line 18, after the period (.) insert: This section shall be implemented only to the extent funding is available.

SB 154

Senator Malchon moved the following amendments which were adopted:

Amendment 1—On page 1, line 20, strike everything after the enacting clause and insert:

Section 1. Subsection (1) of section 489.503, Florida Statutes, 1990 Supplement, is amended to read:

489.503 Exemptions.—This part does not apply to:

(1) Any employee of a certificateholder, registrant, or business organization authorized to engage in contracting who is acting within the scope of the license held by that certificateholder or registrant and with the knowledge and permission of the licenseholder. However:

(a) If the employer is not a certificateholder or registrant in that type of contracting, and the employee performs any of the following, the employee is not exempt:

1. Holds himself or his employer out to be licensed or qualified by a licensee;

2. Leads the consumer to believe that the employee has an ownership or management interest in the company; or

3. Performs any of the acts which constitute contracting.

(b) The legislative intent of this subsection is to place equal responsibility on the unlicensed business and its employees for the protection of the consumers in contracting transactions.

For the purpose of this part, "employee" is defined as a person who receives compensation from, and is under the supervision and control of, an employer who regularly deducts the F.I.C.A. and withholding tax and provides workers' compensation, all as prescribed by law.

Section 2. Subsections (9) and (19) of section 489.505, Florida Statutes, 1990 Supplement, are amended, and subsections (21), (22), and (23), are added to said section, to read:

489.505 Definitions.—As used in this part:

(9) "Contracting" means, except where exempted in this part, engaging in business as a contractor *or performing electrical or alarm work for compensation* and includes, but is not limited to, performance of any of the acts found in subsections (2) and (12), which define the services which a contractor is allowed to perform. The attempted sale of contracting services and the negotiation or bid for a contract on these services also constitutes contracting. If the services offered require licensure or agent qualification, the offering, negotiation for a bid, or attempted sale of these services requires the corresponding licensure.

(19) "Specialty ~~electrical~~ contractor" means a contractor whose scope of practice is limited to a specific segment of electrical *or alarm* contracting, including, but not limited to, residential electrical contracting, maintenance of electrical fixtures, installation and maintenance of elevators, and fabrication, erection, installation, and maintenance of electrical outdoor advertising signs together with the interrelated parts and supports thereof. *Categories of specialty contractor shall be established by board rule.*

(21) "Registered alarm system contractor I" means an alarm system contractor whose business includes all types of alarm systems for all purposes and who has registered with the department pursuant to s. 489.537(8); or has registered pursuant to fulfilling the local competency requirements, including a written or oral examination designed to test skills and knowledge relevant to the technical performance of the profession, in the jurisdiction for which the registration is issued. A registered alarm system contractor I may contract only in the jurisdictions for which his registration is issued.

(22) "Registered alarm system contractor II" means an alarm system contractor whose business includes all types of alarm systems, other than fire, for all purposes and who has registered with the department pursuant to s. 489.537(8); or has registered pursuant to fulfilling the competency requirements, including a written or oral examination designed to test skills and knowledge relevant to the technical performance of the profession, in the jurisdiction for which the registration is issued. A registered alarm system contractor II may contract only in the jurisdiction for which his registration is issued.

(23) "Registered residential alarm system contractor" means an alarm system contractor whose business is limited to burglar alarm systems in single-family residential, quadruplex housing, and mobile homes and fire alarm systems of a residential occupancy class, who is registered with the department pursuant to s. 489.537(8); or has registered pursuant to fulfilling the local competency requirements, including a written or oral examination designed to test skills and knowledge relevant to the technical performance of the profession. The board shall define "residential occupancy class" by rule. A registered residential alarm system contractor may contract only in the jurisdiction for which his registration is issued.

Section 3. Section 489.509, Florida Statutes, is amended to read:

489.509 Fees.—The board, by rule, shall establish fees to be paid for applications, examination, reexamination, transfers, licensing and renewal, reinstatement, and recordmaking and recordkeeping. The examination fee shall be in an amount which covers the cost of obtaining and administering the examination and shall be refunded if the applicant is found ineligible to sit for the examination. The application fee shall be nonrefundable. The fee for initial application and examination for certification of electrical contractors shall not exceed $400. The initial application fee for registration ~~of electrical contractors~~ shall not exceed $150. The biennial renewal fee shall not exceed $400 for certificateholders and $200 for registrants and shall be paid by June 30 of each biennial period. The fee for initial application and examination for certification of alarm system contractors shall not exceed $400. The biennial renewal fee for *certified* alarm system contractors shall not exceed $450. The board may establish a fee for a temporary certificate as an alarm system contractor not to exceed $75. The board may also establish by rule a late renewal penalty fee not to exceed $50. The fee to transfer a certificate or registration from one business organization to another shall not exceed $200. The fee for reactivation of an inactive license shall not exceed $50. The board shall establish fees which are adequate to ensure the continued operation of the board. Fees shall be based on department estimates of the revenue required to implement this part and the provisions of law with respect to the regulation of electrical contractors and alarm system contractors.

Section 4. Section 489.510, Florida Statutes, 1990 Supplement, is amended to read:

489.510 Evidence of workers' compensation coverage.—Any person, business organization, or qualifying agent engaged in the business of ~~electrical~~ contracting in this state and certified or registered under this part shall, as a condition precedent to the issuance or renewal of a certificate or registration of the ~~electrical~~ contractor, provide to the Electrical Contractors' Licensing Board, as provided by board rule, evidence of workers' compensation coverage pursuant to chapter 440. In the event that the Division of Workers' Compensation of the Department of Labor and Employment Security receives notice of the cancellation of a policy of workers' compensation insurance insuring a person or entity governed by this section, the Division of Workers' Compensation shall certify and identify all persons or entities by certification or registration license number to the department after verification is made by the Division of Workers' Compensation that such cancellation has occurred or that persons or entities governed by this section are no longer covered by workers' compensation insurance. Such certification and verification by the Division of Workers' Compensation shall result solely from records furnished to the Division of Workers' Compensation by the persons or entities governed by this section. The department shall notify the persons or entities governed by this section who have been determined to be in noncompliance with chapter 440, and the persons or entities notified shall provide certification of compliance with chapter 440 to the department and pay an administrative fine as provided by rule. The failure to maintain workers' compensation coverage as required by law shall be grounds for the board to revoke, suspend, or deny the issuance or renewal of a certificate or registration of the contractor under the provisions of s. 489.533.

Section 5. Subsections (1) and (2) of section 489.513, Florida Statutes, are amended to read:

489.513 Registration; application; requirements.—

(1) Any person desiring to be *a* registered ~~as an electrical~~ contractor shall apply to the department for registration.

(2) Any ~~electrical~~ contractor may be registered to contract in the area specified in such registration if the contractor is qualified as provided in this section.

Section 6. Subsection (2) of section 489.515, Florida Statutes, is amended to read:

489.515 Issuance of certificates; registrations.—

(2) The department shall issue a registration to a person who is in compliance with the provisions of s. 489.513 *or s. 489.537(8)* and who the board certifies is qualified to be registered.

Section 7. Subsection (1) of section 489.516, Florida Statutes, is amended to read:

489.516 Qualifications to practice; restrictions; prerequisites.—

(1) Any person who desires to engage in electrical or alarm system contracting on a statewide basis shall, as a prerequisite thereto, establish his competency and qualifications to be certified pursuant to this part. To establish his competency, a person shall pass the appropriate examination administered by the department. Any person who desires to engage in ~~electrical~~ contracting on other than a statewide basis shall, as a prerequisite thereto, be registered pursuant to this part, unless exempted by this part.

Section 8. Subsection (2) of section 489.537, Florida Statutes, is amended, and subsection (8) is added to said section, to read:

489.537 Application of this part.—

(2)*(a)* The scope of electrical contracting shall apply to private and public property and shall include any excavation, paving, and other related work incidental thereto and shall include the work of all specialty electrical contractors. However, such electrical contractor shall subcontract the work of any other craft for which an examination for a certificate of competency or registration or a license is required, unless such contractor is certified or registered or holds a license for the respective trade category as required by the appropriate local authority.

(b) A registered electrical contractor may bid on electrical contracts which include alarm systems contracting as a part of the contract, provided that the individual shall subcontract such alarm systems contracting to a properly certified or registered alarm system contractor. However, if the registered electrical contractor is properly certified or registered as an alarm system contractor, the individual is not required to subcontract out the alarm system contracting.

(8) Any registered electrical contractor or any locally licensed alarm contractor shall be issued the appropriate category of alarm system contractor registration, as defined in s. 489.505, if the individual has filed with the board evidence that the individual has complied with paragraphs (a) and (b). Any individual operating in an unlicensed fashion pursuant to the exemption in s. 489.503(11) shall be issued a registered alarm system contractor II registration or a registered residential alarm system contractor registration, appropriate for his documented experience and as defined in s. 489.505, if the individual has filed evidence that he has complied with paragraph (b).

(a) The individual must show that he has successfully complied with local written or oral examination requirements for the current local license he holds.

(b) The individual must show that he was engaged in business as an alarm system contractor for at least 3 consecutive years prior to the time of making application and prior to October 1, 1993. Evidence of being engaged in business as an alarm system contractor shall be demonstrated by the submission of:

1. An electrical contractor's license, alarm system contractor's license, or occupational license for each of the 3 years he was engaged in alarm system contracting

2. Proof that he has current liability insurance coverage to engage in the installation, monitoring, maintenance, or upgrading of alarm systems.

3. An affidavit from a law enforcement agency, fire official, or other local inspection authority evidencing that the electrical or alarm system contractor has satisfactorily installed, monitored, maintained, or upgraded alarm systems in that jurisdiction.

4. A representative list of alarm system work he completed during the 3 years he was engaged in alarm system contracting.

An individual registered pursuant to this subsection may engage in alarm contracting only in those jurisdictions where the individual's registered license is effective. Registered electrical contractors or locally licensed alarm system contractors applying pursuant to this subsection shall apply to the board in writing, on forms provided by the department.

Section 9. Subsection (1) of section 553.19, Florida Statutes, 1990 Supplement, is reenacted to read:

553.19 Adoption of electrical standards.—For the purpose of establishing minimum electrical standards in this state, the following standards are adopted:

(1) "National Electrical Code 1990," NFPA No. 70-1990.

Section 10. Subsection (11) of section 489.503, Florida Statutes, is repealed on October 1, 1993.

Section 11. Subsection (3) of section 489.511, Florida Statutes, as amended by chapter 88-149, Laws of Florida, is hereby repealed.

Section 12. This act shall take effect July 1, 1991, or upon becoming a law, whichever occurs later.

Amendment 2—In title, on page 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to electrical and alarm system contracting; amending s. 489.503, F.S.; defining the term "employee"; amending s. 489.505, F.S.; revising and adding definitions relating to contracting and contractors; amending s. 489.509, F.S.; revising provisions relating to fees; amending s. 489.510, F.S.; revising provisions relating to evidence of workers' compensation coverage; amending ss. 489.513, 489.515, and 489.516, F.S.; revising provisions relating to registration; amending s. 489.537, F.S.; providing for subcontracting of alarm systems under certain circumstances; providing requirements for issuance of a registered alarm system contractor registration; reenacting s. 553.19(1), F.S., relating to adoption of electrical standards; repealing s. 489.503(11), F.S., relating to an exemption for persons whose business is limited to installation of burglar alarms in certain buildings from application of provisions; repealing s. 489.511(3), F.S., relating to certification of alarm system contractors; providing an effective date.

SB 654

Senator Bruner moved the following amendments which were adopted:

Amendment 1—On page 1, between lines 25 and 26, insert:

Section 3. Paragraph (a) of subsection (27) of section 370.16, Florida Statutes, is amended to read:

370.16 Oysters and shellfish; regulation.—

(27) OYSTER AND CLAM SHELLS PROPERTY OF DIVISION.—

(a) Except for oysters used directly in the half-shell trade, *50 percent of* all shells from oysters and clams shucked commercially in the state shall be and remain the property of the Division of Marine Resources when such shells are needed and required for rehabilitation projects and planting operations, when sufficient resources and facilities exist for handling and planting said shell, and when the collection and handling of such shell is practical and useful, except that bona fide holders of leases and grants *may* ~~who desire to~~ retain *75 percent of* such shell as they produce for planting purposes ~~may do so~~ by obtaining a special activity license from the division pursuant to s. 370.06. Storage, transportation, and planting of shells so retained by lessees and grantees shall be carried out under the surveillance of agents of the division and be subject to such reasonable time limits as the division may fix. In the event of an accumulation of an excess of shells, the division is authorized to sell shells only to private growers for use in oyster or clam cultivation on bona fide leases and grants. No profit shall accrue to the division in these transactions, and shells are to be sold for the estimated moneys spent by the division to gather and stockpile the shells. Planting of shells obtained from the division by purchase shall be subject to the surveillance of the division if the division chooses to exercise its right of supervision. Any shells not claimed and used by private oyster cultivators 10 years after shells are gathered and stockpiled, may be sold at auction to the highest bidder for any private use.

(Renumber subsequent section.)

Amendment 2—In title, on page 1, line 8, after the semicolon (;) insert: amending s. 370.16, F.S.; providing for the retention of certain oyster and clam shells by the processors of such shells;

SB 790

The Committee on Education recommended the following amendment which was moved by Senator Forman and adopted:

Amendment 1—On page 2, line 4, before "walkway" insert: *street-level*

SB 804

The Committee on Finance, Taxation and Claims recommended the following amendment which was moved by Senator Brown:

Amendment 1—On page 3, between lines 27 and 28, insert:

Section 2. Subsections (3) and (6) of section 197.3632, Florida Statutes, 1990 Supplement, are amended to read:

197.3632 Uniform method for the levy, collection, and enforcement of non-ad valorem assessments.—

(3)(a) Notwithstanding any other provision of law to the contrary, a local government which is authorized to impose a non-ad valorem assessment and which elects to use the uniform method of collecting such assessment *for the first time* as authorized in this section shall adopt a resolution at a public hearing prior to *March 1* ~~January 1~~. The resolution shall clearly state its intent to use the uniform method of collecting such assessment. The local government shall publish notice of its intent to use the uniform method for collecting such assessment weekly in a newspaper of general circulation within each county contained in the boundaries of the local government for 4 consecutive weeks preceding the hearing. The resolution shall state the need for the levy and shall include a legal description of the boundaries of the real property subject to the levy. If the resolution is adopted, the local governing board shall send a copy of it by United States mail to the property appraiser, the tax collector, and the department by *March 10* ~~January 10~~.

(b) Annually by June 1, the property appraiser shall provide each local government using the uniform method with the following information by list or compatible electronic medium: the legal description of the property within the boundaries described in the resolution, and the names and addresses of the owners of such property. Such information shall reference the property identification number and otherwise conform in format to that contained on the ad valorem roll submitted to the department. The property appraiser is not required to submit information which is not on the ad valorem roll or compatible electronic medium submitted to the department. If the local government determines that the information supplied by the property appraiser is insufficient for the local government's purpose, the local government shall obtain additional information from any other source.

(6) If the non-ad valorem assessment is to be collected for a period of more than 1 year or is to be amortized over a number of years, the local governing board shall so specify and shall not be required to annually adopt the non-ad valorem assessment roll. However, the local governing board shall ~~annually~~ inform the property appraiser, tax collector, and department by January 10 if it intends to *discontinue* ~~continue~~ using the uniform method of collecting such assessment.

Senator Jennings moved the following amendments to **Amendment 1** which were adopted:

Amendment 1A—On page 1, strike line 22 and insert: a public hearing prior to January 1 *or, if the property appraiser, tax collector, and local government agree, March 1.* The resolution

Amendment 1B—On page 2, strike line 3 and insert: collector, and the department by January 10 *or, if the property appraiser, tax collector, and local government agree, March 10.*

Amendment 1 as amended was adopted.

The Committee on Finance, Taxation and Claims recommended the following amendment which was moved by Senator Brown and adopted:

Amendment 2—In title, on page 1, line 10, after the semicolon (;) insert: amending s. 197.3632, F.S.; revising the dates for adopting the resolution of intent to use the uniform method for collecting non-ad valorem assessments and for notifying officials of such adoption; eliminating the requirement for annual notification of the use of the uniform collection method under certain circumstances;

CS for SB 880

Senator Grant moved the following amendments which were adopted:

Amendment 1—On page 7, strike line 1 and insert: of its total revenues from procurement and processing activity in

Amendment 2—On page 7, line 24, strike "distribution" and insert: processing, distribution,

CS for SB 1148

The Committee on Community Affairs recommended the following amendments which were moved by Senator Davis and adopted:

Amendment 1—On page 2, line 24, after *"hospital"* insert: *Medicaid*

Amendment 2—On page 4, line 13, strike "those" and insert: persons who are residents of

CS for SB 1430

Senator Forman moved the following amendment which was adopted:

Amendment 1—On page 6, strike all of lines 27-30 and insert:

(c) The percentage amount of any payment for coinsurance to be paid by an insured to a provider which is not a preferred provider shall not exceed the amount of any coinsurance payment to be paid to a preferred provider plus 30 percentage points.

Senator Weinstein moved the following amendments which were adopted:

Amendment 2—On page 2, line 31, insert:

Section 2. Section 627.404, Florida Statutes, is amended to read:

627.404 Insurable interest; personal insurance.—An insurer shall be entitled to rely upon all statements, declarations, and representations made by an applicant for insurance relative to the insurable interest which such applicant has in the insured; and no insurer shall incur any legal liability except as set forth in the policy, by virtue of any untrue statements, declarations, or representations so relied upon in good faith by the insurer. *A charitable organization that meets the requirements of section 501(c)(3) of the Internal Revenue Code of 1986, as amended, may own or purchase life insurance on an insured who consents to the issuance of that insurance.*

(Renumber subsequent sections.)

Amendment 3—In title, on page 1, line 4, after the semicolon (;) insert: amending s. 627.404, F.S.; authorizing certain charitable organizations to own or purchase life insurance on a consenting insured;

Senator Forman moved the following amendment which was adopted:

Amendment 4—On page 7, line 7, after "scope of" insert: preferred provider

SB 1626

Senator Weinstock moved the following amendments which were adopted:

Amendment 1—On page 6, strike all of lines 1-11

Amendment 2—In title, on page 1, lines 6 and 7, strike "providing appropriations;"

CS for SB 2058

Senator Dudley moved the following amendment which failed:

Amendment 1—On page 8, lines 5-31, and on page 9, lines 1-18, strike all of said lines and insert:

Section 4. Section 526.308, Florida Statutes, is amended to read:

526.308 Certain rebates unlawful.—It is unlawful for any seller to offer or give, or any purchaser to knowingly receive, a rebate or concession of any kind in connection with the sale of motor fuel for resale to a person when the seller does not provide, on proportionately equal terms, the same rebate or concession to all persons purchasing for resale in *the relevant geographic* ~~a~~ market ~~area~~, where the effect is to injure competition. However, any rebate or concession received by a wholesaler shall be offered or given to any retail outlet supplied by such wholesaler. However, a rebate or concession made in good faith to meet the same or a comparable rebate or concession of a competitor shall not be a violation of this act.

Section 5. Section 526. , Florida Statutes, is created to read:

526. Motor Fuel Marketing Study Commission.—

(1) The Legislature finds and declares that it is in the public interest to examine the need to further amend the Motor Fuel Marketing Practices Act in order to maintain fair competition among retail outlets in relevant geographic markets.

(2) There is hereby established a Motor Fuel Marketing Study Commission.

(3) The Commission shall consist of 12 members to be selected as follows: four members from the House of Representatives selected by the Speaker of the House, four members from the Senate selected by the President of the Senate, and four lay persons, two each to be selected by the Speaker of the House and by the President of the Senate. The Commission appointments shall be completed by June 15, 1991.

(4) The Commission shall examine and report to the Speaker of the House of Representatives and the President of the Senate no later than six months after the Commission is formed on the following:

(a) The current marketing practices relating to rebates, rent subsidies, special allowances, and concessions existing in the petroleum marketing industry in Florida among refiners, wholesalers, and retailers;

(b) The effect of those current marketing practices on competition;

(c) The effect of those current marketing practices on the retail price of motor fuel; and

(d) Legislative recommendations, if warranted.

(5) The Commission shall meet not less than three times during the period beginning July 1, 1991 and December 31, 1991 and shall solicit input from all affected parties.

(6) There is hereby appropriated $75,000 from the Inland Protection Trust Fund to the Joint Legislative Management Committee. A one-time surcharge per company or affiliated subsidiary of $2,800 is hereby levied on each holder of a Florida refiner of motor fuel license under s. 206.02. The Department of Revenue shall collect the surcharge from each license holder and transfer those funds to the Inland Protection Trust Fund. The Joint Legislative Management Committee shall use the funds to provide support for the Commission.

(7) The Commission members shall be eligible for per diem expenses in accordance with s. 112.061 while carrying out official business of the Commission.

(Renumber subsequent sections.)

Senator Thurman moved the following amendment which was adopted:

Amendment 2—On page 8, lines 24, 28 and 30, and on page 9, lines 2, 3, 4, 5, 9, 11, 12, 15 and 16, strike "*special allowance,*"

Senator Dudley moved the following amendment:

Amendment 3—On page 8, strike all of lines 23 and 24 and insert: any seller to offer or give~~, or~~ any purchaser ~~to knowingly receive,~~ a rebate, *rent subsidy, special allowance,* or

CS for SB 2280

Senator Childers moved the following amendment:

Amendment 1—Strike everything after the enacting clause and insert:

Section 1. Section 655.001, Florida Statutes, is amended to read:

655.001 Purpose; application.—The *purposes of the financial institutions codes are* ~~purpose of this chapter is~~ to*:*

(1) Provide general regulatory powers to be exercised by the Department of Banking and Finance in relation to the regulation of financial institutions. *The financial institutions codes* ~~This chapter shall~~ apply to all state-authorized or state-chartered financial institutions and to the enforcement of all laws relating to state-authorized or state-chartered financial institutions.

(2) Provide for and promote:

(a) The safe and sound conduct of the business of the financial institutions subject to the financial institutions codes.

(b) The prudent conservation of the assets of the financial institutions subject to the financial institutions codes.

(c) The maintenance of public confidence in the financial institutions subject to the financial institutions codes.

(d) The protection of the interests of the public in the safety and soundness, and the preservation, of the financial institution system in this state and the protection of the interests of the depositors and creditors of financial institutions.

(e) The protection of the interests of the public in the proper conduct of fiduciary functions; the safety, soundness, and preservation of the system of the conduct in this state of trust business by trust companies and banks and associations that have trust departments; the protection of the interests of beneficiaries and other members of the public using the services of, doing business with, or otherwise affected by, trust companies, trust departments of banks and associations, and other business organizations in the conduct of trust business or other exercise of fiduciary functions or powers; and the protection of the interests of the creditors of trust companies.

(f) The opportunity for state financial institutions to be and remain competitive with each other, with financial institutions or organizations existing under statutes of this state other than the financial institutions codes, and with other financial institutions and organizations organized or existing under, or deriving their authority or powers from, the laws of other states, the United States, or foreign countries.

(g) The opportunity for financial institutions to serve effectively the convenience and needs of their customers or members and the public and to participate in and promote the economic progress and welfare of this state and the United States.

(h) The opportunity for the management of financial institutions in conducting the business and affairs of their institutions, to exercise their business judgment, subject to the provisions of the financial institutions codes and to the extent compatible with, and subject to, the purposes and policies stated in this section.

(i) The modernization of state law governing financial institutions and governing the exercise of fiduciary and other representative powers by trust companies and trust departments of banks and associations.

(j) The delegation to the department of adequate rulemaking power and administrative discretion, subject to the provisions of the financial institutions codes and to the purposes and policies stated in this section, in order that the supervision and regulation of financial institutions may be flexible and readily responsive to changes in economic conditions, in technology, and in financial institution practices.

Section 2. Section 655.005, Florida Statutes, is amended to read:

655.005 Definitions.—

(1) As used in this chapter, unless the context otherwise requires, *the term*:

(a) "Affiliate" means any financial institution holding company pursuant to federal law or any subsidiary or service corporation of such a holding company.

(b) "Appropriate federal regulatory agency" means the Federal Reserve Board, including its Board of Governors and the Federal Reserve bank of the Federal Reserve district in which the institution is located in the case of a state member bank; the Federal Deposit Insurance Corporation in the case of a state nonmember bank or a savings and loan association; the Comptroller of the Currency in the case of a national bank; the Office of Thrift Supervision in the case of a savings and loan association; the National Credit Union Administration in the case of a federally insured credit union; and the Resolution Trust Corporation.

(c) "Capital accounts" means unimpaired capital stock, unimpaired surplus, and undivided profits or retained earnings of a financial institution.

(d)~~(a)~~ "Department" means the Department of Banking and Finance.

(e) "Executive officer" means an individual, whether or not the individual has an official title or receives a salary or other compensation, who participates or has authority to participate, other than in the capacity of a director, in major policymaking functions of the financial institution; the term does not include an individual who may have an official title and may exercise discretion in the performance of duties and functions, including discretion in the making of loans, but who does not participate in the determination of major policies of the financial institution and whose decisions are limited by policy standards established by officers other than such individual, whether or not such policy standards have been adopted by the board of directors. The chairman of the board, the president, and every executive vice president of a financial institution, and the senior trust officer of a trust company, are presumed to be executive officers unless any such officer is excluded, by resolution of the board of directors or by the bylaws of the financial institution, from participating, other than in the capacity of a director, in major policymaking functions of the financial institution and the individual holding such office so excluded does not actually participate therein.

(f)~~(b)~~ "Financial institution" means *a state* ~~an~~ association, bank, ~~industrial savings bank,~~ trust company, international bank agency, ~~or~~ representative office *or international administrative office*, or credit union.

(g) "Financial institution-affiliated party" means:

1. Any director, officer, employee, or controlling stockholder (other than a financial institution holding company) of, or agent for, a financial institution, subsidiary, or service corporation;

2. Any other person who has filed or is required to file a change-of-control notice with the appropriate state or federal regulatory agency;

3. Any stockholder (other than a financial institution holding company), any joint venture partner, or any other person as determined by the department who participates in the conduct of the affairs of a financial institution, subsidiary, or service corporation; or

4. Any independent contractor (including any attorney, appraiser, consultant, or accountant) who knowingly or recklessly participates in:

a. Any violation of any law or regulation;

b. Any breach of fiduciary duty; or

c. Any unsafe and unsound practice,

which caused or is likely to cause more than a minimal financial loss to, or a significant adverse effect on, the financial institution, subsidiary, or service corporation.

(h)~~(c)~~ "Financial institutions codes" means:

1. Chapter 655, relating to financial institutions generally;

2.~~1.~~ Chapter 657, relating to credit unions;

3.~~2.~~ Chapter 658, relating to banks and trust companies;

4.~~3.~~ Chapter 660, relating to trust business;

~~4. Chapter 661, relating to safe deposit business;~~

~~5. Chapter 662, relating to bank service corporations;~~

5.~~6.~~ Chapter 663, relating to international banking corporations; *and*

~~7. Chapter 664, relating to industrial savings banks; and~~

6.~~8.~~ Chapter 665, relating to associations.

(i) "Imminently insolvent" means a condition in which a financial institution has total capital accounts, or equity less the allowance for loan losses in the case of a credit union, of less than 1 percent of its total assets, after adjustment for apparent losses.

(j) "Insolvent" means a condition in which:

1. The capital accounts, or equity less the allowance for loan losses in the case of a credit union, and all assets of a financial institution are insufficient to meet liabilities;

2. The financial institution is unable to meet current obligations as they mature, even though assets may exceed liabilities; or

3. The capital accounts, or equity less the allowance for loan losses in the case of a credit union, of a financial institution are exhausted by losses and no immediate prospect of replacement exists.

(k) "Main office" or "principal office" of a financial institution means the main business office designated or provided for in the articles of incorporation or bylaws of a financial institution at such identified location as has been or is hereafter approved by the department, in the case of a state financial institution, or by the appropriate federal regulatory agency, in the case of a national or federal financial institution; and, with respect to the trust department of a bank or association that has trust powers, each of these terms means the office or place of business of the trust department at such identified location, which need not

be the same location as the main office of the bank or association exclusive of the trust department, as has been or is hereafter approved by the department, in the case of a state bank or association that has a trust department, or by the appropriate federal regulatory agency, in the case of a national bank or federal association that has a trust department. "Main office" or "principal office" of a trust company means the office designated or provided for as such in its articles of incorporation, at such identified location as has been or is hereafter approved by the relevant chartering authority.

(l) "Officer" of a financial institution means any individual duly elected or appointed to, or otherwise performing the duties and functions appropriate to, any position or office having the designation or title of chairman of the board of directors, vice chairman of the board of directors, chairman of the executive committee, president, vice president, assistant vice president, cashier or assistant cashier, comptroller, assistant comptroller, trust officer, assistant trust officer, secretary or assistant secretary (of a trust company), or any other office or officer designated in, or as provided by, the articles of incorporation or bylaws.

(m) "Service corporation" means an organization that is empowered to engage in any activity that is related or incidental to the business of a financial institution that is wholly or partially owned or controlled by a financial institution.

(n) "Subsidiary" means any organization permitted by the department which is controlled by a financial institution.

(o)~~(d)~~ "Unsafe or unsound practice" means any practice or conduct *found by the department to be* contrary to generally accepted standards applicable to the specific financial institution, *or a violation of any prior order of a state or federal regulatory agency,* which practice, ~~or~~ conduct, *or violation* creates the likelihood of ~~abnormal risk or~~ loss, insolvency, or dissipation of assets or otherwise ~~seriously~~ prejudices the interest of the specific financial institution or its depositors or members. *In making this determination, the department must consider the size and condition of the financial institution, the gravity of the violation, and the prior conduct of the person or institution involved.*

(2) Terms which are defined in the financial institutions codes ~~shall~~, unless the context otherwise requires, have the meanings ascribed to them therein.

Section 3. Section 655.012, Florida Statutes, is amended to read:

655.012 General supervisory powers of the department; rulemaking.—In addition to other powers conferred by this chapter and by the financial institutions codes, the department shall have:

(1) General supervision over all state financial institutions, their subsidiaries, and service corporations.

(2) Access to all books and records of all persons over whom the department exercises general supervision as is necessary for the performance of the duties and functions of the department prescribed by ~~this chapter and~~ the financial institutions codes.

(3) Power to issue and publish rules, orders, and declaratory statements, disseminate information, and otherwise exercise its discretion to effectuate the purposes, policies, and provisions of ~~this chapter and~~ the financial institutions codes and to interpret and implement the provisions of ~~this chapter and~~ such codes consistently with such purposes, policies, and provisions.

Section 4. Section 655.013, Florida Statutes, is created to read:

655.013 Effect on existing financial institutions.—The charters of state financial institutions existing at the time of the adoption of this act shall continue in full force and effect. However, all state financial institutions and, to the extent applicable, all financial institutions shall hereafter be operated in accordance with the provisions of the financial institutions codes.

Section 5. Section 655.015, Florida Statutes, is created to read:

655.015 Construction; standards to be observed by department.—

(1) The financial institutions codes shall be liberally construed and applied to promote its purposes and policies.

(2) The purposes and policies as stated in s. 655.001 constitute standards to be observed by the department in the exercise of its discretionary powers under the financial institutions codes, in the adoption of rules, in the issuance of orders and declaratory statements, in the examination and supervision of financial institutions, and in all matters of construction and application of the financial institutions codes required for any determination or action by the department.

(3) The headings, captions, and catch lines at the beginning of sections, subsections, and paragraphs are for convenience only, do not constitute any part of the statutes comprising the financial institutions codes, do not constitute a complete index of the financial institutions codes, are not indicative of the intent of the financial institutions codes, and may not be used in construing or interpreting the financial institutions codes.

Section 6. Section 655.021, Florida Statutes, is transferred, renumbered as section 655.031, Florida Statutes, and amended to read:

655.031 ~~655.021~~ Administrative enforcement guidelines.—

(1) In imposing any administrative remedy or penalty provided for in ~~this chapter or in any of~~ the financial institutions codes, the department shall take into account the appropriateness of the penalty with respect to the size of the financial resources and good faith of the person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

(2) All administrative proceedings under ss. 655.033 and 655.037 shall be conducted in accordance with chapter 120. Any service required or authorized to be made by the department under ~~this chapter or any of~~ the financial institutions codes may be made by certified mail, return receipt requested, delivered to addressee only; by personal delivery; or in accordance with chapter 48. The service provided for *hereunder is* ~~herein shall be~~ effective from the date of delivery.

Section 7. Section 655.025, Florida Statutes, is transferred, renumbered as section 655.032, Florida Statutes, and amended to read:

655.032 ~~655.025~~ Investigations, subpoenas, hearings, and witnesses.—

(1) The department may make investigations, within or outside this state, which it deems necessary to determine whether a person has violated or is about to violate any provision of ~~this chapter or of~~ the financial institutions codes or of the rules adopted by the department pursuant to ~~this chapter or~~ such codes.

(2)(a) In the course of or in connection with an investigation by the department pursuant to the provisions of subsection (1) or an investigation or examination in connection with any application to the department for the organization or establishment of a financial institution or a branch thereof, and in connection with an examination of a financial institution, *subsidiary, or service corporation* by the department, the department, or any of its officers holding no lesser title and position than examiner in charge or attorney at law, shall have the power:

1. To administer oaths and affirmations;

2. To take or cause to be taken testimony and depositions; and

3. To issue, revoke, quash, or modify subpoenas and subpoenas duces tecum under the seal of the department or to cause any such subpoena or subpoena duces tecum to be issued by any county court judge or clerk of the circuit court or county court to require persons to be or appear before the department at a time and place to be therein named and to bring such books, records, and documents for inspection as may be therein designated. Such subpoenas may be served by a representative of the department or may be served as otherwise provided for by law for the service of subpoenas.

(b) In connection with any such investigation or examination, the department may permit a person to file a statement in writing, under oath or otherwise as the department determines, as to facts and circumstances specified by the department.

(3)(a) In the event of ~~substantial~~ noncompliance with a subpoena issued or caused to be issued by the department pursuant to this section, the department 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 department is entitled to the summary procedure provided in s. 51.011, and the court shall advance the cause on its calendar.

(b) A copy of the petition shall be served upon the person subpoenaed by any person authorized by this section to serve subpoenas, who shall make and file with the court an affidavit showing the time, place, and date of service.

(c) At any hearing on any such petition, the person subpoenaed, or any person whose interests will be substantially affected by the investigation, examination, or subpoena, may appear and object to the subpoena and to the granting of the petition. The court may make any order which justice requires to protect a party or other person and his personal and property rights, including, but not limited to, protection from annoyance, embarrassment, oppression, or undue burden or expense.

(d) Failure to comply with an order granting, in whole or in part, a petition for enforcement of a subpoena *is* ~~shall be~~ a contempt of court.

(4) Witnesses shall be entitled to the same fees and mileage to which they might be entitled by law for attending as witnesses in the circuit court, except that no fees or mileage shall be allowed in the case of testimony of *a financial institution-affiliated party* ~~an officer, director, committee member, or employee of a financial institution~~ if such testimony is taken at the principal office of the financial institution, *subsidiary, or service corporation* or at the residence of the *financial institution-affiliated party* ~~officer, director, committee member, or employee~~.

(5) Reasonable and necessary expenses incurred by the department and payable to persons ~~outside the department~~ in investigations may be assessed against such *an applicant, financial institution, subsidiary, service corporation, or financial institution-affiliated party* ~~applicants or financial institutions~~ on the basis of actual costs incurred. Assessable expenses include, but are not limited to: expenses for interpreters; expenses for communications; expenses for legal representation; expenses for economic, legal, or other research, analyses, and testimony; and fees and expenses for witnesses. The failure to reimburse the department is a ground for denial of the application or for revocation of any approval thereof.

Section 8. Section 655.029, Florida Statutes, is transferred, renumbered as section 655.0321, Florida Statutes, and amended to read:

655.0321 ~~655.029~~ Hearings and proceedings to be public; limited closing.—Except as otherwise provided by law, all hearings and proceedings, and documents related to the hearings and proceedings, conducted under s. 655.033 for the issuance of a cease and desist order and under s. 655.037 to remove *a financial institution-affiliated party* ~~an officer, director, committee member, employee, or other person participating in the conduct of the affairs of a financial institution~~ shall be public, unless the department, after considering the view of the party afforded the hearing, determines that the hearings and proceedings and related documents should be closed to the public as necessary:

(1) To protect the public interest;

(2) To protect depositors, members, creditors, or stockholders of the financial institution; or

(3) To protect the solvency of the financial institution.

Section 9. Section 655.0322, Florida Statutes, is created to read:

655.0322 Prohibited acts and practices; criminal penalties.—

(1) As used in this section, the term "financial institution" means a financial institution as defined in s. 655.50 which includes a state trust company, state or national bank, state or federal association, state or federal credit union, Edge Act or agreement corporation, international bank agency, representative office or administrative office or other business entity as defined by the department by rule, whether organized under the laws of this state, the laws of another state, or the laws of the United States, which institution is located in this state.

(2) It is unlawful for any financial institution-affiliated party to ask for, willfully and knowingly receive or consent to receive any commission, emolument, gratuity, money, property, or thing of value for:

(a) Procuring, or endeavoring to procure, for any person a loan or extension of credit from such financial institution, subsidiary, or service corporation; or

(b) Procuring, or endeavoring to procure, the purchase or discount of any note, draft, check, bill of exchange, or other obligation by such financial institution, subsidiary, or service corporation.

Any person who violates this subsection is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) It is unlawful for any financial institution-affiliated party to:

(a) Knowingly receive or possess himself of any of its property otherwise than in payment of a just demand, and, with intent to deceive or defraud, to omit to make or cause to be made a full and true entry thereof in its books and accounts, or concur in omitting to make any material entry thereof;

(b) Embezzle, abstract, or misapply any money, property, or thing of value of the financial institution, subsidiary, or service corporation with intent to deceive or defraud such financial institution, subsidiary, or service corporation;

(c) Knowingly make, draw, issue, put forth, or assign any certificate of deposit, draft, order, bill of exchange, acceptance, note, debenture, bond or other obligation, mortgage, judgment, or decree without authority from the board of directors of such financial institution;

(d) Make any false entry in any book, report, or statement of such financial institution, subsidiary, or service corporation with intent to deceive or defraud such financial institution or another person, firm, or corporation, or with intent to deceive the department, any other appropriate federal regulatory agency, or any authorized representative appointed to examine the affairs of such financial institution, subsidiary, or service corporation; or

(e) Deliver or disclose to the department or any of its employees any examination report, report of condition, report of income and dividends, internal audit, account, statement, or document known by him to be fraudulent or false as to any material matter.

Any person who violates this subsection is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) It is unlawful for any financial institution-affiliated party to knowingly place among the assets of such financial institution, subsidiary, or service corporation any note, obligation, or security which the financial institution, subsidiary, or service corporation does not own or which to the individual's knowledge is fraudulent or otherwise worthless or for any such individual to represent to the department that any note, obligation, or security carried as an asset of such financial institution, subsidiary, or service corporation is the property of the financial institution, subsidiary, or service corporation and is genuine if it is known to such individual that such representation is false or that such note, obligation, or security is fraudulent or otherwise worthless. Any person who violates this subsection is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) Any person who willfully makes any false statement or report, or willfully overvalues any land, property, or security, for the purposes of influencing in any way the action of any financial institution, subsidiary, or service corporation or any other entity authorized by law to extend credit, upon any application, advance, discount, purchase, purchase agreement, repurchase agreement, commitment, or loan, or any change or extension of any of the same, by renewal, deferment of action or otherwise, or the acceptance, release, or substitution of security therefor, is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(6) Any person who knowingly executes, or attempts to execute, a scheme or artifice to defraud a financial institution, subsidiary, or service corporation or any other entity authorized by law to extend credit, or to obtain any of the moneys, funds, credits, assets, securities, or other property owned by, or under the custody or control of, a financial institution, subsidiary, service corporation, or any other entity authorized by law to extend credit, by means of false or fraudulent pretenses, representations, or promises, is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 10. Section 655.033, Florida Statutes, is amended to read:

655.033 Cease and desist orders.—

(1) The department may issue and serve upon any financial institution, *subsidiary, or service corporation, or upon any financial institution-affiliated party* ~~or upon any of its officers, directors, committee members, employees, or other persons participating in the conduct of the affairs of the financial institution~~, a complaint stating charges whenever

the department has reason to believe that such financial institution, *subsidiary, service corporation, financial institution-affiliated party,* or individual named therein is engaging in or has engaged in conduct that is:

(a) An unsafe or unsound practice;

(b) A violation of any law relating to the operation of a financial institution;

(c) A violation of any rule of the department;

(d) A violation of any order of the department; ~~or~~

(e) A breach of any written agreement with the department;~~.~~

(f) A prohibited act or practice pursuant to s. 655.0322; or

(g) A willful failure to provide information or documents to the department or any appropriate federal agency, or any of its representatives, upon written request.

(2) The complaint *must* ~~shall~~ contain the statement of facts and notice of opportunity for a hearing pursuant to s. 120.57.

(3) If no hearing is requested within the time allowed by s. 120.57, or if a hearing is held and the department finds that any of the charges are true, the department may enter an order directing the financial institution, *subsidiary, service corporation, financial institution-affiliated party,* or the individual named therein to cease and desist from engaging in the conduct complained of and to take corrective action.

(4) If the financial institution, *subsidiary, service corporation, financial institution-affiliated party,* or the individual named in such order fails to respond to the complaint within the time allotted in s. 120.57, such failure constitutes a default and justifies the entry of a cease and desist order.

(5) A contested or default cease and desist order is effective when reduced to writing and served upon the financial institution, *subsidiary, service corporation, financial institution-affiliated party,* or the individual named therein. An uncontested cease and desist order is effective as agreed.

(6) Whenever the department finds that conduct described in subsection (1) is likely to cause insolvency, substantial dissipation of assets or earnings of the financial institution, or substantial prejudice to the depositors, members, or shareholders, it may issue an emergency cease and desist order requiring the financial institution, *subsidiary, service corporation, or financial institution-affiliated party* ~~or any of its officers, directors, committee members, employees, or other persons participating in the conduct of the affairs of the financial institution~~ to immediately cease and desist from engaging in the conduct complained of and to take corrective action. The emergency order is effective immediately upon service of a copy of the order upon the financial institution, *subsidiary, service corporation, financial institution-affiliated party,* or the individual named therein and remains effective for 90 days. If the department begins nonemergency cease and desist proceedings under subsection (1), the emergency order remains effective until the conclusion of the proceedings under s. 120.57. Any emergency order entered under this subsection *is* ~~shall be~~ confidential until it is made permanent unless the department finds that such confidentiality will result in substantial risk of financial loss to the public.

Section 11. Section 655.034, Florida Statutes, is amended to read:

655.034 Injunctions.—Whenever a violation of the financial institutions codes is threatened or impending and such violation will cause substantial injury to a financial institution or to the depositors, *members,* creditors, or stockholders thereof, the circuit court *has* ~~is hereby granted~~ jurisdiction to hear any complaint filed by the department and, upon proper showing, to issue an injunction restraining such violation or granting other such appropriate relief.

Section 12. Section 655 037, Florida Statutes, 1990 Supplement, is amended to read:

655.037 Removal of *a financial institution-affiliated party* ~~officer, director, committee member, employee, or other person~~ by the department.—

(1) The department may issue and serve upon any *financial institution-affiliated party* ~~officer, director, committee member, employee, or other person participating in the conduct of the affairs of a financial institution,~~ and upon the financial institution, *subsidiary, or service corporation* involved, a complaint stating charges whenever the department has reason to believe that the *financial institution-affiliated party* ~~officer, director, committee member, employee, or other person participating in the conduct of the affairs of the financial institution~~ is engaging or has engaged in conduct that is:

(a) An unsafe or unsound practice;

(b) A prohibited act or practice;

(c)~~(b)~~ A willful violation of any law relating to financial institutions; ~~however, if such violation constitutes a misdemeanor, no complaint shall be served as provided in this section until the officer, director, committee member, employee, or other person participating in the conduct of the affairs of the financial institution is notified in writing of the matter of such violation and has been afforded a reasonable period of time, as set forth in the notice, to correct such violation and has failed to do so;~~

(d)~~(c)~~ A violation of any other law involving fraud or moral turpitude which constitutes a felony;

(e)~~(d)~~ A violation of s. 655.50, relating to the Florida Control of Money Laundering in Financial Institutions Act; chapter 896, relating to offenses related to financial transactions; or any similar state or federal law;

(f)~~(e)~~ A willful violation of any rule of the department;

(g)~~(f)~~ A willful violation of any order of the department;

(h)~~(g)~~ A willful breach of any written agreement with the department; or

(i)~~(h)~~ An act of commission or omission or a practice which is a breach of trust or a breach of fiduciary duty.

(2) The complaint *must* ~~shall~~ contain the statement of facts and notice of opportunity for a hearing pursuant to s. 120.57.

(3) If no hearing is requested within the time allowed by s. 120.57, or if a hearing is held and the department finds that any of the charges in the complaint are true and that the financial institution has suffered or will likely suffer ~~substantial~~ loss or other ~~substantial~~ damage or that the interests of the depositors, members, or shareholders could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty or that the *financial institution-affiliated party* ~~officer, director, committee member, employee, or other person participating in the conduct of the affairs of the financial institution~~ has received financial gain by reason of such violation, ~~or~~ practice, or breach of fiduciary duty, and that such violation, ~~or~~ practice, or breach of fiduciary duty is one involving personal dishonesty on the part of such *financial institution-affiliated party* ~~officer, director, committee member, employee, or other person participating in the conduct of the affairs of the financial institution,~~ or a ~~willful or~~ continuing disregard for the safety or soundness of the financial institution, *subsidiary, or service corporation,* the department may enter an order removing the *financial institution-affiliated party* ~~officer, director, committee member, employee, or other person participating in the conduct of the affairs of the financial institution~~ or restricting or prohibiting participation by such *financial institution-affiliated party* ~~person~~ in the affairs of that particular *financial* institution, *subsidiary, or service corporation* or any other financial institution, *subsidiary, or service corporation.*

(4) If the *financial institution-affiliated party* ~~officer, director, committee member, employee, or other person participating in the conduct of the affairs of the financial institution~~ fails to respond to the complaint within the time allowed in s. 120.57, such failure constitutes a default and justifies the entry of an order of removal.

(5) A contested or default order of removal is effective when reduced to writing and served on the financial institution, *subsidiary, or service corporation and the financial institution-affiliated party* ~~and the officer, director, committee member, employee, or other person participating in the conduct of the affairs of the financial institution~~. An uncontested order of removal is effective as agreed.

(6)(a) The chief executive officer, or the person holding the equivalent office, of a financial institution shall promptly notify the department if he has actual knowledge that any *financial institution-affiliated party* ~~officer, director, committee member, employee, or other person participating in the conduct of the affairs of that financial institution~~ is charged with a felony in a state or federal court.

(b) Whenever any *financial institution-affiliated party* ~~officer, director, committee member, employee, or other person participating in the conduct of the affairs of a financial institution~~ is charged with a felony in a state or federal court, or in the courts of any foreign country with which the United States maintains diplomatic relations, and such charge alleges violation of any law involving fraud, currency transaction reporting, money laundering, theft, or moral turpitude and the charge under such foreign law is equivalent to a felony charge under state or federal law, the department may enter an emergency order suspending such *financial institution-affiliated party* ~~officer, director, committee member, employee, or other person~~ or restricting or prohibiting participation by such *financial institution-affiliated party* ~~person~~ in the affairs of that particular *financial* institution, *subsidiary, or service corporation* or any other financial institution, *subsidiary, or service corporation,* upon service of the order upon the financial institution, *subsidiary, or service corporation* and the *financial institution-affiliated party so* ~~person~~ charged. The order shall contain notice of opportunity for a hearing pursuant to s. 120.57, where the *financial institution-affiliated party* ~~officer, director, committee member, employee, or other person concerned~~ may request a postsuspension hearing to show that continued service to or participation in the affairs of the *financial* institution, *subsidiary, or service corporation* does not pose a threat to the interests of the *financial* institution's depositors, members, or stockholders, or threaten to impair public confidence in the *financial* institution. In accordance with applicable departmental rules, the department shall notify the *financial institution-affiliated party* ~~officer, director, committee member, employee, or other person concerned~~ whether the order suspending or prohibiting the *financial institution-affiliated party* ~~person~~ from participation in the affairs of a financial institution, *subsidiary, or service corporation* will be rescinded or otherwise modified. The emergency order will remain in effect, unless otherwise modified by the department, until the criminal charge is disposed of. The acquittal of the *financial institution-affiliated party* ~~person~~ charged, or the final, unappealed dismissal of all charges against such person, will dissolve the emergency order, but will not prohibit the department from instituting proceedings under subsection (1). If the *financial institution-affiliated party* ~~person~~ charged is convicted or pleads guilty or nolo contendere, whether or not an adjudication of guilt is entered by the court, the emergency order *becomes* ~~shall become~~ final.

(7) Any *financial institution-affiliated party* ~~officer, director, committee member, employee, or other person participating in the conduct of the affairs of a financial institution~~ removed from office pursuant to this section is not eligible for reelection to such position or to any official position in any financial institution in this state except with the written consent of the department. Any *financial institution-affiliated party* ~~officer, director, committee member, employee, or other person participating in the conduct of the affairs of a financial institution~~ who is removed, restricted, or prohibited from participation in the affairs of a financial institution pursuant to this section may petition the department for modification or termination of any such removal, restriction, or prohibition.

(8) The resignation, termination of employment or participation, or separation from a financial institution, subsidiary, or service corporation of the financial institution-affiliated party does not affect the jurisdiction and authority of the department to issue any notice and proceed under this section against such financial institution-affiliated party, if such notice is served before the end of the 6-year period beginning on the date such person ceases to be such a financial institution-affiliated party with respect to such financial institution, subsidiary, or service corporation.

Section 13. Section 655.0385, Florida Statutes, is created to read:

655.0385 Disapproval of directors and executive officers.—

(1) Each financial institution shall notify the department of the proposed appointment of any individual to the board of directors or the employment of any individual as an executive officer or equivalent position at least 30 days before such appointment or employment becomes effective, if the financial institution:

(a) Has been chartered for less than 2 years;

(b) Has undergone a change in control within the preceding 2 years;

(c) Is not in compliance with the minimum capital requirements applicable to such institution; or

(d) Is otherwise in an unsafe and unsound condition, as determined by the department, on the basis of such institution's most recent report of condition or report of examination.

(2) A financial institution may not appoint any individual to the board of directors, or employ any individual as an executive officer or equivalent position, if the department issues a notice of disapproval with respect to that person.

(3) The department shall issue a notice of disapproval if the competence, experience, character, or integrity of the individual to be appointed or employed indicates that it is not in the best interests of the depositors, the members, or the public to permit the individual to be employed by or associated with the financial institution.

Section 14. Section 655.0386, Florida Statutes, is created to read:

655.0386 Transactions with financial institution-affiliated parties.—

(1) CONFLICT OF INTEREST.—Directors and officers occupy a fiduciary relationship to the financial institution of which they are directors or officers, and a director or officer may not engage or participate, directly or indirectly, in any business or transaction conducted on behalf of or involving the financial institution, subsidiary, or service corporation which would result in a conflict of his own personal interests with those of the financial institution which he serves unless:

(a) Such business or transactions are conducted in good faith and are honest, fair, and reasonable to the financial institution, subsidiary, or service corporation and are on terms no more favorable than would be offered to a disinterested third party;

(b) A full disclosure of such business or transaction and the nature of the director's or officer's interest is made to the board of directors;

(c) Such business or transactions are approved in good faith by the board of directors, any interested director abstaining, and such approval is recorded in the minutes;

(d) Any profits inuring to the officer or director are not at the expense of the financial institution, subsidiary, or service corporation and do not prejudice the best interests of the financial institution, subsidiary, or service corporation in any way; and

(e) Such business or transactions do not represent a breach of the officer's or director's fiduciary duty and are not fraudulent, illegal, or ultra vires.

(2) DISCLOSURE OF PERSONAL INTEREST.—Without limitation by any of the specific provisions of this section, the department may require the disclosure by financial institution-affiliated parties of their personal interests, directly or indirectly, in any business or transactions on behalf of or involving the financial institution, subsidiary, or service corporation and of their control of or active participation in enterprises having activities related to the business of the financial institution, subsidiary, or service corporation.

(3) SPECIFIED RESTRICTIONS.—The following restrictions governing the conduct of directors and officers expressly are specified, but such specification is not to be construed in any manner as excusing such persons from the observance of any other aspect of the general fiduciary duty owed by them to the financial institution which they serve:

(a) Remuneration.—A director of a bank, association, or trust company may not accept director fees unless the director fees have been previously approved by the board of directors and such fees represent reasonable compensation for service as a director or member of a committee. This section does not limit or preclude reasonable compensation as otherwise authorized by subsection (1) for a director who also provides goods or services to the bank, association, or trust company.

(b) Assets.—Except as provided in ss. 657.039 and 658.48, a director or officer may not have any interest, directly or indirectly, in the proceeds of a loan or investment or of a purchase or sale made by the financial institution, subsidiary, or service corporation unless such loan, investment, purchase, or sale is authorized expressly by resolution of the board of directors and unless such resolution is approved by vote of at least a majority of the directors of the financial institution with all interested parties taking no part in such vote.

(c) Liabilities.—A financial institution-affiliated party may not have any interest, direct or indirect, in the purchase at less than its face value of any evidence of a savings account, deposit, or other indebtedness issued by the financial institution, subsidiary, or service corporation.

(d) Voting rights; office.—An officer or director acting as proxy for a stockholder of a financial institution may not exercise, transfer, or delegate such vote or votes in any consideration of a private benefit or advantage, direct or indirect. The voting rights of stockholders and directors may not be the subject of sale, barter, exchange, or similar transaction, either directly or indirectly. Any officer or director who violates the provisions of this section is accountable to the financial institution for any increment.

Section 15. Section 655.0391, Florida Statutes, is created to read:

655.0391 Retention of supervision by department.—A financial institution may not cause to be performed, by contract or otherwise, any financial-institution services for itself, whether at or away from its main or branch office or on or off its premises, unless assurances satisfactory to the department are furnished to the department by both the financial institution and the person performing such services that the performance thereof will be subject to regulation and examination by the department to the same extent as if such services were being performed by the financial institution itself on its own premises.

Section 16. Section 655.0392, Florida Statutes, is created to read:

655.0392 Place of transacting business.—Any financial institution, except a credit union, organized under the laws of this state or federal law may apply for space in any building owned or leased by the state, political subdivision, or municipality in the community or political subdivision in which the financial institution does business. The application must be addressed to the officer charged with the allotment of space in such building, who, if space is available, may allot the space at a commercially reasonable rate. A credit union may apply for such space under the provisions of s. 657.008(4).

Section 17. Section 655.041, Florida Statutes, is amended to read:

655.041 Administrative fines; enforcement.—

(1) The department may, *by complaint, initiate* ~~in~~ a proceeding ~~initiated~~ pursuant to chapter 120 *to*~~,~~ impose an administrative fine against any person found ~~in such proceeding~~ to have ~~willfully~~ violated any provision of ~~this chapter or of~~ the financial institutions codes or a cease and desist order of the department or any written agreement with the department. No such proceeding shall be initiated and no fine shall accrue *pursuant to this section* until after such person has been notified in writing of the nature of the violation and has been afforded a reasonable period of time, as set forth in the notice, to correct the violation and has failed to do so.

(2) Any such fine may not exceed $1,000 a day for each violation except as provided in this section.

(a) If the department determines that any such person has recklessly violated any provision of the financial institutions codes or a cease and desist order of the department or any written agreement with the department, which violation results in more than a minimal loss to a financial institution, subsidiary, or service corporation, or a pecuniary benefit to such person, the department may impose a fine not exceeding $5,000 a day for each day the violation continues.

(b) If the department determines that any such person has knowingly violated any provision of the financial institutions codes or a cease and desist order of the department or any written agreement with the department, which violation results in more than a minimal loss to a financial institution, subsidiary, or service corporation, or a pecuniary benefit to such person, the department may impose a fine not exceeding $25,000 a day for each day the violation continues.

(c) The department may by complaint impose an administrative fine, not exceeding $5,000 a day, upon any financial institution-affiliated party, and upon a financial institution, subsidiary, service corporation, or affiliate, who refuses to permit an examiner to examine a financial institution, subsidiary, or service corporation, who refuses to permit an examiner to review the books and records of an affiliate, or who refuses to give an examiner any information required in the course of any examination or review of the books and records.

(3)~~(2)~~ Any administrative fine levied by the department ~~may be in such amount as the department determines pursuant to s. 655.021, not to exceed $1,000 for each day in which the violation has continued, and~~ may be enforced by the department by appropriate proceedings in the circuit court of the county in which such person resides or in which the principal office of a financial institution is located. In any administrative or judicial proceeding arising under this section, a party may elect to correct the violation asserted by the department and, upon doing so, any fine *ceases* ~~shall cease~~ to accrue; *however, an* ~~provided that the~~ election to correct the violation *does* ~~shall~~ not render any administrative or judicial proceeding moot. ~~All fines collected under this section shall be paid to the Financial Institutions' Regulatory Trust Fund of the department.~~

Section 18. Section 655.044, Florida Statutes, is amended to read:

655.044 Accounting practices; bad debts ineligible to be carried as assets.—

(1) *Except as otherwise provided by law, a* ~~Every~~ financial institution shall observe generally accepted accounting principles and practices. The department may authorize by rule exceptions to such accounting practices as necessary.

(2) A financial institution, *subsidiary, or service corporation* may not carry as an asset any note, obligation, or security which it does not own absolutely or which is known by the financial institution to be fraudulent or otherwise worthless; and a financial institution may not carry as an asset, in any report to the department or in any published report, any note or other obligation which is past due or upon which no interest has been paid for 1 year or longer *or which has been determined by the department to be a loss*. However, ~~such~~ past due paper may be carried to the extent of the reasonable value of any lien or other collateral given to secure such obligation; and, if the obligation is in the process of collection, it may be carried at its reasonable value as determined by the board of directors. The department may order the revision of any value so determined hereunder.

(3) A financial institution shall keep at its main office correct and complete books of accounts, membership or stockholder records, and minutes of the proceedings of members, stockholders, directors, and the executive committee. Complete records of all business transacted at the main office shall be maintained at the main office. Control records of all business transacted at each branch office shall be accessible to the main office. Accessibility may be provided by physical retention of records or by electronic or other means.

(4) Each branch office of a financial institution shall keep detailed records of all transactions at that office and shall furnish full control records to the main office. Records of such transactions may be furnished by electronic or other means.

Section 19. Section 655.045, Florida Statutes, 1990 Supplement, is amended to read:

655.045 Examinations, reports, and internal audits; penalty.—

(1)(a) The department shall conduct an examination of the condition of each state financial institution during each 18-month period, beginning July 1, 1981. The department may accept an examination made by the appropriate federal regulator, insuring or guaranteeing corporation, or agency with respect to the condition of the financial institution or may make a joint or concurrent examination with the appropriate federal regulator, insuring or guaranteeing corporation, or agency. *If as a part of an examination or investigation of a financial institution, subsidiary, or service corporation, the department has reason to believe that an affiliate is engaged in an unsafe or unsound practice or that the affiliate has a negative impact on the financial institution, subsidiary, or service corporation, then the department may review such books and records as are reasonably related to the examination or investigation.* The department may furnish a copy of all examinations *or reviews* made of such financial institutions *or their affiliates* to the *state or federal financial institution regulators participating in the examination of a regional bank holding company; an association holding company; or any of their subsidiaries, service corporations, or affiliates; an* ~~appropriate federal regulator,~~ insuring or guaranteeing corporation~~,~~ or agency~~,~~ or its representatives~~,~~ or ~~to~~ state financial institution regulators participating in the examination of a ~~regional bank~~ holding company or its subsidiaries.

(b) The department may recover the costs of examination and supervision of a financial institution, *subsidiary, or service corporation* that is determined by the department to be engaged in an unsafe or unsound practice. *The department may also recover the costs of any review conducted pursuant to paragraph (a) of any affiliate of a financial institution determined by the department to have contributed to an unsafe or unsound practice at a financial institution, subsidiary, or service corporation.*

(c) For the purposes of this section, *the term* "costs" means the salary and travel expenses directly attributable to the field staff examining the financial institution and the travel expenses of any supervisory staff required as a result of examination findings.

(d) The department may require an audit of any financial institution, *subsidiary, or service corporation* by an independent certified public accountant approved by the department whenever the department, after conducting an examination of such financial institution, *subsidiary, or service corporation,* or after accepting an examination of such financial institution by the appropriate *state or* federal regulatory agency, determines that such an audit is necessary in order to ascertain the condition of the financial institution, *subsidiary, or service corporation.* The cost of such audit shall be paid by the financial institution, *subsidiary, or service corporation.*

The mailing of any fees incurred in accordance with this subsection *must* ~~shall~~ be postmarked no later than 30 days after the date of receipt of a notice of such fees due. The department may levy a late payment penalty of up to $100 per day or part thereof that a fee payment is overdue, unless it is excused for good cause. However, for intentional late payment of a fee, the department shall levy an administrative fine of up to $1,000 per day for each day the fee is overdue. ~~All late payment penalties collected under this subsection shall be paid to the Financial Institutions' Regulatory Trust Fund of the department.~~

(2)(a) The department shall require each financial institution, *subsidiary, or service corporation* to submit a report, at least *four times* ~~twice~~ each calendar year, as of such dates as the department may determine. Each such report *must* ~~shall~~ contain a declaration by the chief executive officer or any other officer authorized by the board of directors to make such declaration that the report is true and correct to the best of his knowledge and belief. Such report *must* ~~shall~~ include such information as the department ~~shall~~ by rule *requires* ~~require~~ for that type of institution.

(b) The department shall levy an administrative fine of up to $100 per day for each day the report is past due, unless it is excused for good cause. However, for intentional late filing of the report required under paragraph (a), the department shall levy an administrative fine of up to $1,000 per day for each day the report is past due. ~~All fines collected under this subsection shall be paid to the Financial Institutions' Regulatory Trust Fund of the department.~~

(3)(a) The department shall require the board of directors of each financial institution or, in the case of a credit union, the supervisory committee *or audit committee* to perform or cause to be performed, within each calendar year, an internal audit of each financial institution, *subsidiary, or service corporation* and to file a copy of the report and findings of such audit with the department on a timely basis. Such internal audit *must* ~~shall~~ include such information as the department ~~shall~~ by rule *requires* ~~require~~ for that type of institution.

(b) With the approval of the department, the board of directors or, in the case of a credit union, the supervisory committee may elect, in lieu of such periodic audits, to adopt and implement an adequate continuous audit system and procedure which *must* ~~shall~~ include full, adequate, and continuous written reports to, and review by, the board of directors or, in the case of a credit union, the supervisory committee, together with written statements of the actions taken thereon and reasons for omissions to take actions, all of which shall be noted in the minutes and filed among the records of the board of directors or, in the case of a credit union, the supervisory committee. If at any time such continuous audit system and procedure, including the reports and statements, becomes inadequate, in the judgment of the department, the financial institution shall promptly make such changes as may be required by the department to cause the same to accomplish the purpose of this section.

(4) A copy of the report of each examination shall be furnished to the financial institution examined. Such report of examination shall be presented to the board of directors ~~or, in the case of a credit union, to the supervisory committee~~ at its next regular or special meeting.

Section 20. Section 655.047, Florida Statutes, 1990 Supplement, is amended to read:

655.047 Assessments; financial institutions.—

(1) Each state financial institution shall pay to the department a semiannual assessment based on the total assets as shown on the statement of condition of the financial institution on the last business day in December and the last business day in June of each year.

(2) The mailing of *a* ~~the~~ semiannual *assessment must* ~~assessments shall~~ be postmarked on or before January 31 and July 31 of each year. The department may levy a late payment penalty of up to $100 per day or part thereof that *a* ~~the~~ semiannual assessment payment is overdue, unless it is excused for good cause. However, for intentional late payment of *a* ~~the~~ semiannual assessment, the department shall levy an administrative fine of up to $1,000 *a* ~~per~~ day for each day the semiannual assessment is overdue. ~~All late payment penalties collected under this subsection shall be paid to the Financial Institutions' Regulatory Trust Fund of the department.~~

(3) The assessments required by this section cover the 6-month period following the first day of the month in which they are due. The department may prorate the amount of the semiannual assessment; however, no portion of a semiannual assessment is refundable.

Section 21. Section 655.049, Florida Statutes, is amended to read:

655.049 Deposit of fees and assessments.—The ~~fees and~~ assessments, *application fees, late payment penalties, administrative fines, and other fees* provided for in the financial institutions codes shall, in all cases, be paid directly to the department, which shall deposit all thereof in the Financial Institutions' Regulatory Trust Fund, which fund shall be used by the department to pay its costs for administration of ~~this chapter and~~ the financial institutions codes. The department shall determine and report to the Legislature whether the fees and assessments provided in the financial institutions codes and assessed against and collected from *the* ~~each class of~~ financial institutions *that are subject to the financial institutions codes* support the *department's* expenditures ~~for each class of financial institutions~~. The Financial Institutions' Regulatory Trust Fund *is* ~~shall be~~ subject to the service charge imposed pursuant to chapter 215.

Section 22. Section 655.053, Florida Statutes, is amended to read:

655.053 Annual report.—The department shall submit a report no later than January 1 of each year to the Governor and to the Speaker of the House of Representatives and the President of the Senate, which report *must* ~~shall~~ include:

(1) A statement of the general condition and affairs of existing state financial institutions.

(2) The text of all rules which the department has adopted or amended since its last report.

(3) A statement of the status and remaining assets and liabilities of all state financial institutions in the process of liquidation.

(4) A summary of all changes occurring since its last previous report by reason of the opening of new state financial institutions, mergers, conversions, and the like.

(5) A summary of all powers granted to state financial institutions by virtue of the competitive equality provisions of s. 655.061.

(6) Other information showing general conditions or trends within the financial institutions industry.

(7)~~(6)~~ A summary of all court proceedings involving existing or proposed financial institutions in which the department was or is a party.

(8) Any suggestions that the department may have for legislation affecting the regulation of financial institutions in this state.

~~(7) Suggestions by the department for legislation affecting the regulation of financial institutions in the state.~~

Section 23. Section 655.057, Florida Statutes, is amended to read:

655.057 Records; limited restrictions upon public access.—

(1)(a) Except as otherwise provided in this section, all classes of records filed with the department pursuant to the financial institutions codes, including related information obtained or prepared by the department, shall be open to the public pursuant to chapter 119 and the rules of the department.

(b) Except for such portions thereof which are otherwise matters of public record or general public knowledge, the following records and information of the department are confidential:

1. Personal financial statements or information; personnel, medical, or similar records or information; records or information obtained or prepared by the department with reference to the character or reputation of any person; proprietary records or information of any person which does not constitute, and is not a part of or connected with, an unlawful activity, scheme, or device, the disclosure of which could provide an unfair advantage to another person and the disclosure of which is not clearly necessary to the public interest; and any record or information which would constitute a clearly unwarranted invasion of personal privacy.

2. Investigatory records compiled for civil or criminal law enforcement purposes, including investigatory records relating to a proceeding or the issuance of a cease and desist order or order of suspension or removal under ss. 655.033 and 655.037, *respectively,* but only to the extent that the disclosure of such records would:

a. Interfere with enforcement proceedings;

b. Deprive a person or institution of the right to a fair trial or an impartial adjudication;

c. Tend to impair the safety or soundness of any financial institution;

d. Constitute an unwarranted invasion of personal privacy;

e. Disclose the identity of a confidential source or, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, confidential information furnished only by the confidential source;

f. Disclose investigative techniques or procedures; or

g. Endanger the life or physical safety of law enforcement or department personnel.

3. Reports of examinations or operations, working notes or papers and memoranda and records, or portions thereof, containing or relating to an examination, operation, or condition report prepared by, or on behalf of or for the use of, the department or any other agency, state or federal, responsible for the regulation or supervision of financial institutions in this state, *or subsidiaries, service corporations,* or affiliates thereof. Reports of examinations or operations, or records or condition reports, may be released to third parties by the department or the financial institution as follows:

a. To the financial institution for its confidential use;

b. To any holding company of which the financial institution is a subsidiary;

c. To proposed purchasers if necessary to protect the continued financial viability of the financial institution, upon prior approval by the board of directors of such *financial* institution;

d. To persons proposing in good faith to acquire a controlling interest in or to merge with the financial institution, upon prior approval by the board of directors of such financial institution; or

e. To any officer, director, committee member, employee, attorney, auditor, or independent auditor officially connected with the financial institution, *financial institution* holding company, proposed purchaser, or person seeking to acquire a controlling interest in or merge with the financial institution.

Any person receiving confidential information pursuant to the provisions of this subparagraph shall maintain the confidentiality of the information. *The board of directors may release to a fidelity insurance company that portion of an examination report relating to a claim or investigation being conducted by such company. The department may deem portions of the examination report of a financial institution public information 5 years after appointment of a liquidator, receiver, or conservator to the extent that such disclosure does not conflict with the confidentiality provisions contained in subparagraphs 1. and 2.*

4. Testimony, depositions, books, records, documents, and other materials taken or compiled by the department during the course of an investigation under ~~this chapter or any of~~ the financial institutions codes until such investigation is complete. If the department submits such testimony, depositions, books, records, documents, or other material, or any part thereof, to any law enforcement agency for further investigation or for the filing of a criminal prosecution, it *must* ~~shall~~ remain confidential until the law enforcement agency has completed its investigation or has filed a criminal prosecution proceeding.

5. Records and reports submitted to and compiled by the department pursuant to s. 655.50.

(c) The provisions of this subsection do not prevent or restrict:

1. The publication of reports required to be submitted to the department pursuant to s. 655.045(2)(a) or required by applicable federal statutes or regulations to be published.

2. The furnishing of records or information to any other state, federal, or foreign agency responsible for the regulation, *insurance of accounts,* or supervision of financial institutions, *subsidiaries, or service corporations.* Any person or agency receiving confidential information pursuant to the provisions of this subparagraph shall maintain the confidentiality of the information.

3. The furnishing of records or information, in the case of a credit union, to the Florida Credit Union Guaranty Corporation, Inc.

4. The disclosure or publication of summaries of the condition of financial institutions and the disclosure or publication of general economic and similar statistics and data, provided any of the foregoing are in such form that the identity of particular financial institutions cannot be reasonably ~~expected to be~~ ascertained therefrom.

5. The reporting of any suspected criminal activity, with supporting documents and information, to appropriate law enforcement and prosecutorial agencies.

6. The furnishing of information upon request to the ~~State~~ Treasurer regarding the financial condition of any financial institution, that is, or has applied to be, designated as a qualified public depository pursuant to chapter 280. Any information or records obtained by the Treasurer from the department under this section shall be maintained as confidential information and records and are exempt from the provisions of s. 119.07(1). Such exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(2)(a) The records specified to be confidential shall not be disclosed by the department or any of its officials, employees, or agents, except pursuant to an order of a court or a hearing officer under chapter 120 or to a legislative subpoena, as provided by law.

(b) Orders of courts or of hearing officers for the production of confidential records or information *must* ~~shall~~ provide for inspection in camera by the court or the hearing officer and, after the court or hearing officer has made a determination that the documents requested are relevant or would likely lead to the discovery of admissible evidence, *the* ~~said~~ documents *are* ~~shall be~~ subject to further orders by the court or the hearing officer to protect the confidentiality thereof, except to the extent deemed necessary by the court or the hearing officer to protect the interests or rights of privacy or confidentiality of all the parties or affected persons or the soundness of the individual financial institutions or the financial institution industry. Any order directing the release of information relating to the soundness of any financial institution or the financial institution industry *is* ~~shall be~~ immediately reviewable. A petition by the department for review of an order directing the release of information relating to the soundness of any financial institution or the financial institution industry ~~shall~~ automatically *stays* ~~stay~~ further proceedings in the trial court or the administrative hearing until the disposition of such petition by the reviewing court. If any other party files such a petition for review, it *operates* ~~will operate~~ as a stay of such proceedings only upon order of the reviewing court.

(c) Confidential records and information furnished in compliance with or in response to a legislative subpoena *are* ~~shall be~~ confidential communications, ~~shall~~ retain their confidential status while in the possession of any legislative body or committee receiving the same, and shall not be made public; and such confidential status *continues* ~~shall continue~~ after the legislative body or committee has returned such records to the department or other source from which they came. Confidential records and information furnished in compliance with, or in response to, a legislative subpoena shall not be disclosed or made public to any third party, except in a case involving investigation of charges against *a financial institution-affiliated party* ~~an officer~~ subject to impeachment or removal, and then only to the extent determined by the legislative body or committee to be necessary.

(3) Every credit union ~~and mutual association~~ shall cause to be kept at all times, in the principal office where its business is transacted, full and correct records of the names and residences of all the members of the

credit union ~~or mutual association~~. Such records *are* ~~shall be~~ subject to the inspection of all the members of the credit union ~~or mutual association~~, and the officers authorized to assess taxes under state authority, during business hours of each business day. A current list of members shall be made available to the department's examiners for their inspection and, upon the request of the department, shall be transmitted to the department. Neither the department nor any person shall disclose or make public any such list or any part thereof, except that this prohibition does not apply to the names of officers, directors, committee members, and employees of a credit union ~~or mutual association~~.

(4) Every bank, ~~industrial savings bank,~~ trust company, and ~~stock~~ association shall cause to be kept at all times, in the principal office where its business is transacted, full and complete records of the names and residences of all the shareholders of the bank, ~~industrial savings bank,~~ trust company, or ~~stock~~ association and the number of shares held by each. Such records *are* ~~shall be~~ subject to the inspection of all the shareholders of the bank, ~~industrial savings bank,~~ trust company, or ~~stock~~ association, and the officers authorized to assess taxes under state authority, during business hours of each banking day. A current list of shareholders shall be made available to the department's examiners for their inspection and, upon the request of the department, shall be submitted to the department, but the department shall not disclose or make public such list or any part thereof.

(5) Materials supplied to the department or to employees of any financial institution by other governmental agencies, federal or state, or the Florida Credit Union Guaranty Corporation, Inc., ~~shall~~ remain the property of the submitting agency or the corporation, and any document request must be made to the appropriate agency. Any confidential or proprietary documents supplied to the department or to employees of any financial institution by other governmental agencies, federal or state, or by the Florida Credit Union Guaranty Corporation, Inc., shall be made public only with the consent of such agency or the corporation or pursuant to appropriate court or legislative subpoena, as provided by law. Any request to produce such materials *must* ~~shall~~ be made to the submitting agency.

(6) Reports of examinations, investigations, *applications,* and related information made by the department, or photographic copies thereof, shall be retained by the department for a period of at least 10 years.

(7) A copy of any document on file with the department which is certified by the department as being a true copy may be introduced in evidence as if it were the original. The department shall establish a schedule of fees for preparing copies of documents.

(8) Any person who willfully discloses information made confidential by this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 24. Section 655.059, Florida Statutes, is amended to read:

655.059 Access to books and records; confidentiality; penalty for disclosure.—

(1) The books and records of a financial institution *are* ~~shall be~~ confidential and shall be made available for inspection and examination only:

(a) To the department or its duly authorized representative;~~.~~

(b) To any person duly authorized to act for the financial institution;~~.~~

(c) To any federal or state instrumentality or agency authorized to inspect or examine the books and records of an insured financial institution;~~.~~

(d) As compelled by a court of competent jurisdiction;~~.~~

(e) As compelled by legislative subpoena as provided by law, in which case the provisions of s. 655.057(2)(c) ~~shall~~ apply;~~.~~

(f) Pursuant to a subpoena, to any federal or state law enforcement or prosecutorial instrumentality authorized to investigate suspected criminal activity;

(g)~~(f)~~ As authorized by the board of directors of the financial institution; *or*~~.~~

(h)~~(g)~~ As provided in subsection (2).

(2)(a) Each depositor, borrower, member, or stockholder *has* ~~shall have~~ the right to inspect such books and records of a financial institution as pertain to his loans or accounts or the determination of his voting rights.

(b) The books and records pertaining to the deposit accounts and loans of depositors, borrowers, members, and stockholders of any financial institution shall be kept confidential by the financial institution and its directors, officers, and employees and shall not be released except upon express authorization of the accountholder as to his own accounts, loans, or voting rights. However, information relating to any loan made by a financial institution may be released without the borrower's authorization in a manner prescribed by the board of directors for the purpose of meeting the needs of commerce and for fair and accurate credit information. *Information may also be released, without the authorization of a member or depositor but in a manner prescribed by the board of directors, to verify or corroborate the existence or amount of a customer's or member's account when such information is reasonably provided to meet the needs of commerce and to ensure accurate credit information. In addition,* a financial institution and its subsidiaries, and any holding company of the financial institution or subsidiary of such holding company, may furnish to one another information relating to their customers *or members,* subject to the requirement that each corporation receiving information that is confidential ~~shall~~ maintain the confidentiality of such information and ~~shall~~ not provide or disclose such information to any unaffiliated person or entity.

(c) *A person who willfully violates* ~~any willful violation of~~ the provisions of this section *that relate* ~~relating~~ to unlawful disclosure of confidential information is *guilty of* a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 25. Section 655.061, Florida Statutes, as amended by section 1 of chapter 88-113, Laws of Florida, is amended to read:

655.061 Competitive equality with federally organized or chartered financial institutions.—Subject to the prior approval of the department pursuant to rule or order of general application, state financial institutions subject to ~~this chapter and~~ the financial institutions codes may make any loan or investment or exercise any power which they could make or exercise if incorporated or operating in this state as a federally chartered or regulated financial institution of the same type and *are* ~~shall be~~ entitled to all privileges and protections granted federally chartered or regulated financial institutions of the same type under federal statutes and regulations. The provisions of this section *take precedence* ~~shall take priority~~ over, and *must* be given effect over, any other general or specific provisions of ~~this chapter and~~ the financial institutions codes to the contrary. In issuing an order or rule under this section, the department shall consider the importance of maintaining a competitive dual system of financial institutions and whether such an order or rule is in the public interest.

Section 26. Section 655.41, Florida Statutes, is amended to read:

655.41 Cross-industry conversions, mergers, consolidations, and acquisitions; definitions used in ss. 655.41-655.419.—As used in ss. 655.41-655.419, *the term:*

(1) "Financial *entity* ~~institution~~" means an association, bank, credit union, ~~industrial savings bank,~~ or trust company organized under the laws of this state or organized under the laws of the United States and having its principal place of business in this state.

(2) "Capital stock financial institution" means a financial *entity* ~~institution~~ which is authorized to issue capital stock.

(3) "Mutual financial institution" means a financial *entity* ~~institution, including a credit union,~~ which is not authorized to issue stock and the assets of which are owned by its members.

Section 27. Section 655.411, Florida Statutes, 1990 Supplement, is amended to read:

655.411 Conversion of charter.—

(1) Any financial *entity* ~~institution~~ may apply to the department for permission to *convert its charter without a change of business form or* convert its charter in order to do business as another type of financial *entity* ~~institution~~ in accordance with the following procedures:

(a) The board of directors *must* ~~shall~~ approve a plan of conversion by a vote of a majority of all the directors. The plan *must* ~~shall~~ include a statement of:

1. The type of financial *entity* ~~institution~~ which would result if the application were approved and the proposed name under which it would do business.

2. The method and schedule for terminating any activities and disposing of any assets *or liabilities* which would not conform to the requirements applicable to the resulting *financial entity* ~~institution~~.

3. The competitive impact of such change, including any effect on the availability of particular financial services in the market area served by the *financial entity* ~~institution~~.

4. Such financial data as may be required to determine compliance with the *capital,* reserve, and liquidity requirements applicable to the resulting *financial entity* ~~institution~~.

5. Such other information as the department may by rule require.

(b)~~1.~~ Following approval by the board of directors, the conversion plan, together with a certified copy of the authorizing resolution adopted by the board, *must* ~~shall~~ be submitted to the department for approval before being submitted to the members or stockholders of the *financial entity* ~~institution~~. *The application for conversion must be in such form and contain such additional information as the department reasonably requires and must be accompanied by a nonrefundable fee of $7,500. Additionally, the department is authorized to assess any financial institution, applying to convert pursuant to this section, a nonrefundable examination fee to cover the actual costs of any examination required as a part of the application process.*

~~2. The application for conversion pursuant to this section shall be accompanied by a fee of $5,000.~~

(c) The department shall approve the plan if it finds that:

~~1. The public convenience and advantage would be promoted by the conversion.~~

1.~~2.~~ The resulting *financial entity* ~~institution~~ would have an adequate capital structure with regard to its activities and its deposit liabilities.

2.~~3.~~ The proposed conversion would not cause a substantially adverse effect on the financial condition of any financial *entity* ~~institution~~ already established in the primary service area.

3.~~4.~~ The officers and directors have sufficient experience, ability, and standing to indicate reasonable promise for successful operation of the resulting *financial entity* ~~institution~~.

4.~~5.~~ The proposed name of the resulting *financial entity* ~~institution~~ has been reserved with the Department of State.

5.~~6.~~ The schedule for termination of any nonconforming activities and disposition of any nonconforming assets *and liabilities* is reasonably prompt, and the plan for such termination and disposition does not include any unsafe or unsound practice.

6.~~7.~~ None of the officers or directors has been convicted of, or pled guilty or nolo contendere to, a violation of s. 655.50, relating to the Florida Control of Money Laundering in Financial Institutions Act; chapter 896, relating to offenses related to financial transactions; or any similar state or federal law.

If the department disapproves the plan, it shall state its objections and give an opportunity to the parties to amend the plan to overcome such objections. The department may deny an application by any financial *entity* ~~institution~~ which is subject to a cease and desist order or other supervisory restriction *or order* imposed by *any state or federal* ~~the~~ supervisory authority, insurer, or guarantor.

(d) If the department approves the plan, it may be submitted to the members or stockholders at an annual meeting or at any special meeting called to consider such action. Upon a favorable vote of a majority of the total number of votes eligible to be cast or, in the case of a credit union, a majority of the members present at the meeting, the plan *is* ~~shall be~~ adopted. Copies of the minutes of the proceedings of such meeting of the members or stockholders, verified by the affidavit of the secretary or an assistant secretary, shall be filed with the department within 10 days after such meeting. Such verified copies of the proceedings of such meeting *are* ~~shall be~~ presumptive evidence of the holding and action of such meeting. If the members or stockholders approve the plan of conversion, the directors shall then execute new articles of incorporation or amendments to existing articles and two copies of the new bylaws. The directors shall insert in the articles of incorporation the following: "This . . . (bank, association, etc.) . . . is incorporated by conversion from a . . . (national bank, state association, etc.) . . .."

(e) If the members or stockholders adopt the plan of conversion, the *financial entity* ~~institution~~ shall apply to the appropriate insurer or guarantor for a commitment for insurance of accounts or a certificate guaranteeing the shares and deposits of the resulting *financial entity* ~~institution~~.

(f) The plan shall not take effect until the department has received notice that the commitment for insurance of accounts or certificate of guaranty has been given by the insurer or guarantor. Upon receipt of such notice, the department shall issue a new charter to the *financial entity* ~~institution~~ authorizing it to transact business pursuant to applicable law.

(2) The department may provide by rule for the procedures to be followed by any national or federal financial *entity* ~~institution~~ seeking to convert its charter pursuant to this section.

(3) A mutual financial institution *requesting approval to convert its charter may* ~~shall~~ not be converted into a capital stock financial institution until it has complied with the requirements of s. 665.033(1) and (2). For this purpose, references in s. 665.033(1) and (2) to associations *are* ~~shall be~~ deemed to refer also to credit unions; but, in the case of a credit union, the provision therein concerning proxy statements *does* ~~shall~~ not apply.

(4) This section *does* ~~shall~~ not ~~be construed to~~ authorize a capital stock financial institution to convert to a mutual financial institution.

(5) Nothing in the law of this state shall restrict the right of a state financial institution to convert to a national or federal financial institution upon compliance with the laws of the United States, and, upon completion of such conversion, it shall surrender its charter as a state financial institution.

Section 28. Section 655.412, Florida Statutes, is amended to read:

655.412 Merger and consolidation.—

(1) With the approval of the department, any capital stock financial institution may be merged into or consolidated with another capital stock financial institution or a mutual financial institution. The provisions of ss. 658.41-658.45 ~~shall~~ govern any merger or consolidation pursuant to this subsection; and, for this purpose, references therein to banks and trust companies *are* ~~shall be~~ deemed to refer to capital stock financial institutions.

(2) A mutual financial institution *may* ~~shall~~ not be merged into a capital stock financial institution until it has *first converted into a capital stock financial institution in accordance with* ~~complied with the requirements of~~ s. 665.033(1) and (2). For this purpose, references in s. 665.033(1) and (2) to associations *are* ~~shall be~~ deemed to refer also to credit unions; but, in the case of a credit union, the provision therein concerning proxy statements *does* ~~shall~~ not apply.

(3) An application to merge or consolidate pursuant to this section *must* ~~shall~~ be accompanied by a fee of *$7,500; however, if three or more financial entities are involved in any such application, the fee is $3,500 for each financial entity involved in the merger or consolidation* ~~$1,250 for each financial institution involved in the merger or consolidation, up to a maximum fee of $5,000~~.

Section 29. Section 655.414, Florida Statutes, is amended to read:

655.414 Acquisition of assets; assumption of liabilities.—Any financial *entity* ~~institution~~ may acquire all or substantially all of the assets of, or assume the liabilities of, any other financial *entity* ~~institution~~ in accordance with the procedures and subject to the *following* conditions and limitations ~~set forth below~~:

(1) ADOPTION OF A PLAN.—The board of directors of the acquiring or assuming *financial entity* ~~institution~~ and the board of directors of the transferring *financial entity must* ~~institution shall~~ adopt, by a majority vote, a plan for such acquisition, assumption, or sale on such terms as *are* ~~shall be~~ mutually agreed upon. The plan *must* ~~shall~~ include:

(a) The names and types of *financial entities* ~~the institutions~~ involved.

(b) A statement setting forth the material terms of the proposed acquisition, assumption, or sale, including the plan for disposition of all assets and liabilities not subject to the plan.

(c) A provision for liquidation of the transferring *financial entity* ~~institution~~ upon execution of the plan.

(d) A statement that the entire transaction is subject to written approval of the department and approval of the members or stockholders of the transferring *financial entity* ~~institution~~.

(e) If a stock *financial* institution is the transferring *financial entity* ~~institution~~ and the proposed sale is not to be for cash, a clear and concise statement that dissenting stockholders of such *financial entity* ~~institution~~ are entitled to the rights set forth in s. 658.44(4) and (5).

(f) The proposed effective date of such acquisition, assumption, or sale and such other information and provisions as may be necessary to execute the transaction or as may be required by the department.

(2) APPROVAL OF DEPARTMENT.—Following approval by the board of directors of each participating *financial entity* ~~institution~~, the plan, together with certified copies of the authorizing resolutions adopted by the boards, *must* ~~shall~~ be forwarded to the department for its approval or disapproval. The department shall approve the plan of acquisition, assumption, or sale if it appears that:

(a) The resulting *financial entity* ~~institution~~ would have an adequate capital structure in relation to its activities and its deposit liabilities;~~.~~

(b) The plan is fair to all parties; *and*~~.~~

(c) The plan is not contrary to the public interest.

If the department disapproves the plan, it shall state its objections and give an opportunity to the parties to amend the plan to overcome such objections.

(3) VOTE OF MEMBERS OR STOCKHOLDERS.—If the department approves the plan, it may be submitted to the members or stockholders of the transferring *financial entity* ~~institution~~ at an annual meeting or at any special meeting called to consider such action. Upon a favorable vote of 51 percent or more of the total number of votes eligible to be cast or, in the case of a credit union, 51 percent or more of the members present at the meeting, the plan *is* ~~shall be~~ adopted.

(4) ADOPTED PLAN; CERTIFICATE; ABANDONMENT.—

(a) If the plan is adopted by the members or stockholders of the transferring *financial entity* ~~institution~~, the president or vice president and the *cashier or corporate* ~~clerk or~~ secretary of such *financial entity* ~~institution~~ shall submit the adopted plan to the department, together with a certified copy of the resolution of the members or stockholders approving it.

(b) Upon receipt of the certified copies and evidence that the participating *financial entities* ~~institutions~~ have complied with all applicable federal law and regulations, the department shall certify, in writing, to the participants that the plan has been adopted and is in compliance with the provisions of this section.

(c) Notwithstanding approval of the members or stockholders or certification by the department, the board of directors of the transferring *financial entity* ~~institution~~ may, in its discretion, abandon such a transaction without further action or approval by the members or stockholders, subject to the rights of third parties under any contracts relating thereto.

(5) FEDERALLY CHARTERED INSTITUTION AS A PARTICIPANT.—If one of the participants in a transaction under this section is a federally chartered *financial entity* ~~institution~~, all participants *must also* ~~shall~~ comply with such requirements as may be imposed by federal law for such an acquisition, assumption, or sale and provide evidence of such compliance to the department as a condition precedent to the issuance of a certificate authorizing the transaction; however, if the purchasing or assuming *financial entity* ~~institution~~ is a federally chartered *financial entity* ~~institution~~, approval of the department *is* ~~shall~~ not ~~be~~ required.

(6) STOCK INSTITUTION ACQUIRING MUTUAL INSTITUTION.—~~Except as the department may authorize pursuant to s. 665.0335(2),~~ A mutual *financial* institution *may* ~~shall~~ not sell all or substantially all of its assets to a stock *financial entity* ~~institution~~ until it has *first converted into a capital stock financial institution in accordance with* ~~complied with the requirements of~~ s. 665.033(1) and (2). For this purpose, references in s. 665.033(1) and (2) to associations *are* ~~shall be~~ deemed to refer also to credit unions; but, in the case of a credit union, the provision therein concerning proxy statements *does* ~~shall~~ not apply.

(7) BRANCH OFFICES.—If the acquisition of assets or assumption of liabilities includes any bank, association, or trust company branch office, a branch application with a nonrefundable filing fee, in accordance with s. 658.26, must be filed for each proposed branch office of the acquiring or assuming financial entity.

Section 30. Section 655.416, Florida Statutes, is amended to read:

655.416 Book value of assets.—Upon the effective date of a merger, consolidation, ~~or~~ conversion, *or acquisition* pursuant to ss. 655.41-655.419, *an* ~~no~~ asset *may not* ~~shall~~ be carried on the books of the resulting *financial entity* ~~institution~~ at a valuation higher than that at which it was carried on the books of a participating or converting *financial entity* ~~institution~~ at the time of its last examination by a state or federal examiner before the effective date of such merger, consolidation, ~~or~~ conversion, *or acquisition,* without written approval from the department.

Section 31. Section 655.417, Florida Statutes, is amended to read:

655.417 Effect of merger, consolidation, conversion, or acquisition.—From and after the effective date of a merger, consolidation, conversion, or acquisition, the resulting *financial entity* ~~institution~~ may conduct business in accordance with the terms of the plan as approved; provided that:

(1) CONTINUING ENTITY.—Even though the charter of *a* ~~any~~ participating or converting *financial entity* ~~institution~~ has been terminated, the resulting *financial entity is* ~~institution shall be~~ deemed to be a continuation of ~~the entity of~~ the participating or converting *financial entity* ~~institution~~ such that all property of the participating or converting *financial entity* ~~institution~~, including rights, titles, and *interests* ~~interest~~ in and to all property of whatsoever kind, whether real, personal, or mixed, and things in action, and all rights, privileges, interests, and assets of any conceivable value or benefit which are then existing, or pertaining to it, or which would inure to it, *are* ~~shall~~ immediately ~~be~~ vested in and continue to be the property of the resulting *financial entity* ~~institution~~, by act of law and without any conveyance or transfer and without further act or deed; and such *financial entity has, holds, and enjoys* ~~institution shall have, hold, and enjoy~~ the same in its own right as fully and to the same extent as the same was possessed, held, and enjoyed by the participating or converting *financial entity* ~~institution~~; and, at the time of the taking effect of such merger, consolidation, conversion, or acquisition, the resulting *financial entity has* ~~institution shall have~~ and *succeeds* ~~shall succeed~~ to all the rights, obligations, and relations of the participating or converting *financial entity* ~~institution~~.

(2) EFFECT ON JUDICIAL PROCEEDINGS.—Any pending action or other judicial proceeding to which the participating or converting *financial entity* ~~institution~~ is a party *is* ~~shall~~ not ~~be deemed to have been~~ abated ~~or to have been discontinued~~ by reason of such merger, consolidation, conversion, or acquisition but may be prosecuted to final judgment, order, or decree in the same manner as if such action had not been taken; and the *financial entity* ~~institution~~ resulting from such merger, consolidation, conversion, or acquisition may continue such action in its new name; and any judgment, order, or decree may be rendered for or against it which might have been rendered for or against the participating or converting *financial entity* ~~institution~~ previously involved in such judicial proceeding.

(3) CREDITORS' RIGHTS.—The resulting *financial entity* ~~institution~~ in a merger, consolidation, conversion, or acquisition *is* ~~shall be~~ liable for all obligations of the participating or converting *financial entity* ~~institution~~ which existed prior to such action; and the action taken *does* ~~shall~~ not prejudice the right of a creditor of the participating or converting *financial entity* ~~institution~~ to have his debts paid out of the assets thereof, nor *may* ~~shall~~ such creditor be deprived of, or prejudiced in, any action against the officers, directors, ~~corporators, or~~ members, *or other persons participating in the conduct of the affairs* of a participating or converting *financial entity* ~~institution~~ for any neglect or misconduct.

(4) EXCEPTION.—In the *case* ~~event~~ of an acquisition of assets pursuant to s. 655.414, the provisions of subsections (1), (2), and (3) ~~shall~~ apply only to the assets acquired and the liabilities assumed by the resulting *financial entity* ~~institution~~, provided sufficient assets to satisfy all liabilities not assumed by the resulting *financial entity* ~~institution~~ are retained by the transferring *financial entity* ~~institution~~.

Section 32. Section 655.418, Florida Statutes, is amended to read:

655.418 Nonconforming activities; cessation.—If, as a result of a merger, consolidation, conversion, or acquisition pursuant to ss. 655.41-655.419, the resulting *financial entity* ~~institution~~ is to be of a different type or of a different character than any one or all of the participating or converting *financial entities* ~~institutions~~, such resulting *financial entity will* ~~institution shall~~ be subject to the following conditions and limitations:

(1) PLAN FOR TERMINATION.—The plan of merger, consolidation, conversion, or acquisition *must* ~~shall~~ set forth the method and schedule for terminating those activities *that* ~~which~~ are not permitted by the laws of this state for the resulting *financial entity* ~~institution~~ but *that* ~~which~~ were authorized for any of the participating or converting *financial entities* ~~institutions~~.

(2) EFFECTIVE DATE.—The plan of merger, consolidation, conversion, or acquisition *must* ~~shall~~ state that, from the effective date of such action, the resulting *financial entity will* ~~institution shall~~ not engage in any nonconforming activities, except to the extent necessary to fulfill obligations existing prior to the merger, consolidation, conversion, or acquisition, pursuant to subsection (4).

(3) COMPLIANCE WITH LENDING AND INVESTMENT LIMITATIONS.—If, as a result of such merger, consolidation, conversion, or acquisition, the resulting *financial entity will exceed* ~~institution exceeds~~ any lending, investment, or other limitations imposed by law, *the financial entity* ~~it~~ shall conform to such limitations within such period of time as *is* ~~shall be~~ established by the department.

(4) DIVESTITURE.—The department may, as a condition to such merger, consolidation, conversion, or acquisition, require a nonconforming activity to be divested in accordance with such additional requirements as it *considers* ~~may deem~~ appropriate under the circumstances.

Section 33. Section 655.419, Florida Statutes, is amended to read:

655.419 Effect.—The provisions of ss. 655.41-655.419 relating to merger, consolidation, conversion, or acquisition of assets of any financial *entity* ~~institution~~ are cumulative with all other provisions of the financial institutions codes and *do* ~~shall~~ not ~~be construed to~~ modify, limit, or repeal any of such other provisions except as expressly stated herein. Additionally, the provisions of ss. 655.41-655.419 *do* ~~shall~~ not *grant* ~~be construed as granting~~ any authority, directly or indirectly, for any bank, *association, trust company, association holding company,* or bank holding company, the operations of which are principally conducted outside this state, to acquire, convert to, or merge or consolidate with any financial *entity* ~~institution~~.

Section 34. Section 655.50, Florida Statutes, is amended to read:

655.50 Florida Control of Money Laundering in Financial Institutions Act; reports of transactions involving currency *or monetary instruments*; when required; purpose; definitions; penalties.—

(1) This section may be cited as the "Florida Control of Money Laundering in Financial Institutions Act."

(2) It is the purpose of this section to require submission to the department of certain reports and maintenance of certain records of transactions involving currency *or monetary instruments* when such reports and records deter the use of financial institutions to conceal *the* proceeds of criminal activity and have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

(3) As used in this section, the term:

(a) "Currency" means currency and coin of the United States or of any other country.

(b) "Financial institution" means any *state or* national bank ~~or banking association~~, state ~~bank or banking association, industrial savings bank,~~ trust company, ~~federal savings and loan association,~~ state *or federal* ~~savings and loan~~ association, ~~federal savings bank,~~ state *or* ~~savings bank,~~ federal credit union, ~~state credit union,~~ Edge Act or agreement corporation, or international bank agency, *representative office, administrative office, or other business entity as defined by department rule,* whether organized under the laws of this state, the laws of another state, or the laws of the United States, which institution is located in this state.

(c) "Financial transaction" means a transaction involving the movement of funds by wire or other means or involving one or more monetary instruments, which in any way or degree affects commerce, or a transaction involving the use of a financial institution which is engaged in, or the activities of which affect, commerce in any way or degree.

(d) "Monetary instruments" means coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, money orders, investment securities in bearer form or otherwise in such form that title thereto passes upon delivery, and negotiable instruments in bearer form or otherwise in such form that title thereto passes upon delivery.

(e) "Transaction" means a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.

(f) "Report" means a report of each deposit, withdrawal, exchange of currency, or other payments or transfer, by, through, or to that financial institution, that involves a transaction required or authorized to be reported by this section, and *includes* ~~shall include~~ the electronic submission of such information in the manner provided for by rule of the department.

(g) "Specified unlawful activity" means any "racketeering activity" as defined in s. 895.02.

(4)(a) Every financial institution shall keep a record of each financial transaction *occurring in this state* known to it to involve currency of a value in excess of $10,000, ~~or~~ to involve the proceeds of specified unlawful activity, *or to be designed to evade the reporting requirements of this section, chapter 896, or any similar state or federal law* and shall file a report with the department at such time and containing such information as the department requires by rule. *Multiple financial transactions shall be treated as a single transaction if the financial institution has knowledge that they are made by or on behalf of any person and result in either cash in or cash out totalling more than $10,000 during any business day, as defined in s. 655.89.* However, the filing of a duplicate copy of the report required by 31 U.S.C. s. 5313 will satisfy the reporting requirements of this subsection. The Department of Law Enforcement shall have access to, and *is* ~~shall be~~ authorized to inspect and copy, any report filed with the department pursuant to this section.

~~(b) The department shall provide any report filed pursuant to this section, or information contained therein, pursuant to an order of a judge of a court of competent jurisdiction or pursuant to a subpoena duces tecum only when the subpoena is:~~

~~1. Issued by the statewide prosecutor, a state attorney, a United States attorney, or a court in a criminal investigation or a criminal judicial proceeding;~~

~~2. Issued by a state or federal grand jury; or~~

~~3. Issued by a state attorney, the Department of Legal Affairs, a United States attorney, or a court in the course of a civil investigation or a civil judicial proceeding instituted by a state attorney, the Department of Legal Affairs, or a United States attorney under the state or federal racketeer influenced and corrupt organization act.~~

(b)~~(c)~~ Any financial institution may *keep a* record *of* ~~and report~~ any financial transaction *occurring in this state*, regardless of the value ~~of the property involved~~, if it suspects the transaction to involve the proceeds of specified unlawful activity.

(c) Each financial institution shall file a report with the department of the record required under paragraph (a) and any record maintained pursuant to paragraph (b). Each record filed pursuant to this subsection must be filed at such time and contain such information as the department requires by rule. However, the filing of a duplicate copy of the report required by 31 U.S.C. s. 5313 satisfies the reporting requirements of this subsection.

(d) A ~~No~~ financial institution, or officer, employee, or agent thereof, *that files* ~~filing~~ a report in good faith pursuant to this section *is not*, ~~shall be~~ liable to any person for loss or damage caused in whole or in part by the making, filing, or governmental use of the report, or any information contained therein.

(5) Each financial institution shall maintain for a minimum of 5 calendar years full and complete records of all financial transactions. Every financial institution shall maintain all records required by 31 C.F.R. ss. 103.33 and 103.34, and every financial institution shall maintain appropriate procedures to ensure compliance with this section, chapter 896, and any similar state or federal law.

(6)~~(5)~~ Unless otherwise provided by rule, a financial institution may exempt from the reporting requirements of this section deposits, withdrawals, exchanges, or payments exempted from the reporting requirements of 31 U.S.C. s. 5313. Each financial institution shall maintain a record of each exemption granted, including the name, address, type of business, taxpayer identification number, ~~and~~ account number, *and signature* of the customer granted the exemption; a written statement describing in detail the customary conduct of the lawful business of that customer and the reasons why such customer qualified for such an exemption; the type of transactions exempted; and the dollar limit of each exempt transaction. Such record of exemptions shall be made available to the department for inspection and copying and shall be submitted to the department within 15 days *after* ~~of~~ request.

(7) All reports and records filed with the department pursuant to this section are confidential in accordance with s. 655.057, except:

(a) An officer of the Department of Law Enforcement, or any other officer of this state, a political subdivision of this state, the United States, any other state, or a political subdivision of any other state, who is empowered by law to conduct, on behalf of the government, investigations of, or to make arrests for, offenses enumerated in this section, chapter 896, or any similar state or federal law shall have access to, and is authorized to inspect and copy, any report filed with the department pursuant to this section.

(b) The department shall provide any report filed pursuant to this section, or information contained therein, pursuant to an order of a judge of a court of competent jurisdiction or pursuant to a subpoena duces tecum only when the subpoena is:

1. Issued by the statewide prosecutor, a state attorney, a United States attorney, or a court in a criminal investigation or a criminal judicial proceeding;

2. Issued by a state or federal grand jury; or

3. Issued by a state attorney, the Department of Legal Affairs, a United States attorney, or a court in the course of a civil investigation or a civil judicial proceeding instituted by a state attorney, the Department of Legal Affairs, or a United States attorney under the state or federal racketeer-influenced and corrupt organization act.

(8)~~(6)~~(a) The department shall retain a copy of all reports received under subsection (4) for a minimum of 5 calendar years after receipt of the report. However, if a report or information contained in a report is known by the department to be the subject of an existing criminal proceeding, the report shall be retained for a minimum of 10 calendar years after receipt of the report.

(b) The financial institution shall retain a copy of all reports filed with the department under subsection (4) for a minimum of 5 calendar years after submission of the report. However, if a report or information contained in a report is known by the financial institution to be the subject of an existing criminal proceeding, the report shall be retained for a minimum of 10 calendar years after submission of the report.

(c) The financial institution shall retain a copy of all records of exemption for each customer granted pursuant to subsection (5) for a minimum of 5 calendar years after termination of exempt status of such customer. However, if it is known by the financial institution that the customer or the transactions of the customer are the subject of an existing criminal proceeding, the records shall be retained for a minimum of 10 calendar years after termination of exempt status of such customer.

(9)~~(7)~~ In addition to any other power conferred upon it to enforce and administer this chapter and the financial institutions codes, the department may:

(a) Bring an action in any court of competent jurisdiction to enforce or administer this section. In such action, the department may seek award of any civil penalty authorized by law and any other appropriate relief at law or equity.

(b) *Pursuant to s. 655.033,* issue and serve upon a person an order requiring such person to cease and desist and take corrective action whenever the department finds that such person is violating, has violated, or is about to violate any provision of this section, *chapter 896, or any similar state or federal law;* any rule or order adopted under this section, *chapter 896, or any similar state or federal law;* or any written agreement related to this section, *chapter 896, or any similar state or federal law* and entered into with the department.

(c) Pursuant to s. 655.037, issue and serve upon any person an order of removal whenever the department finds that such person is violating, has violated, or is about to violate any provision of this section, chapter 896, or any similar state or federal law; any rule or order adopted under this section, chapter 896, or any similar state or federal law; or any written agreement related to this section, chapter 896, or any similar state or federal law and entered into with the department.

(d)~~(c)~~ Impose and collect an administrative fine against any person found to have violated any provision of this section, *chapter 896, or any similar state or federal law;* any rule or order adopted under this section, *chapter 896, or any similar state or federal law;* or any written agreement related to this section, *chapter 896, or any similar state or federal law* and entered into with the department, in an amount not *exceeding* ~~to exceed~~ $10,000 *a day* for *each willful violation or $500 a day for each negligent* ~~each~~ violation.

Any civil penalty or administrative fine recovered under this subsection shall be deposited into the Financial Institutions' Regulatory Trust Fund *of the department.*

(10)~~(8)~~(a) Except as provided in paragraph (b), a person who willfully violates any provision of this section, *chapter 896, or any similar state or federal law* is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) A person who willfully violates any provision of this section, *chapter 896, or any similar state or federal law,* when the violation is:

1. Committed in furtherance of the commission of any other violation of Florida law; or

2. Committed as part of a pattern of illegal activity involving *financial* transactions exceeding $100,000 in any 12-month period,

is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) In lieu of *the penalties* ~~a fine~~ otherwise authorized by *ss. 775.082 and* ~~s.~~ 775.083, a person who has been convicted of or who has pleaded guilty or *nolo contendere* ~~no contest~~ to having violated this section, *chapter 896, or any similar state or federal law* may be sentenced to *imprisonment for 5 years, to* pay a fine not exceeding $250,000 or twice the value of the *financial* ~~property involved in the~~ transaction, whichever is greater, *or sentenced to both a fine and imprisonment,* except that on a second or subsequent conviction for or plea of guilty or *nolo contendere* ~~no contest~~ to a violation of this section, *chapter 896, or any similar state or federal law, the term of imprisonment may be up to 10 years or* the fine may be up to $500,000 or quintuple the value of the *financial* ~~property involved in the~~ transaction, whichever is greater*; or the person may be sentenced to both such term of imprisonment and such fine.*

(d) A person who willfully violates this section, *chapter 896, or any similar state or federal law* is also liable for a civil penalty of not more than the greater of the value of the *financial transaction involved or $25,000* ~~property involved in the transaction or $10,000~~. *However, the civil penalty may not exceed $100,000.*

All civil fines collected under this subsection shall be deposited into the Financial Institutions' Regulatory Trust Fund of the department.

Section 35. Section 655.51, Florida Statutes, 1990 Supplement, is amended to read:

655.51 Employment information.—

(1) It is not unlawful for any person to provide employment information to a financial institution *or a state or federal financial institution regulatory agency, or to any person providing employment information to a financial institution or a state or federal financial institution regulatory agency,* about an employee's, or former employee's, known or suspected involvement in a violation of any state or federal law, rule, or regulation which has been reported to state or federal authorities.

(2) *A* ~~No~~ person *is not* ~~shall be~~ civilly liable for providing such employment information unless the information provided is false and the person providing the information does so with reckless disregard for the truth.

Section 36. Section 655.55, Florida Statutes, is amended to read:

655.55 Law applicable to deposits in and contracts relating to extensions of credit by *a deposit or lending institution* ~~financial institutions~~ located in *this state* ~~Florida~~.—

(1) The law of this state, excluding its law regarding comity and conflict of laws, *governs* ~~shall govern~~ all aspects, including without limitation the validity and effect, of any deposit account in a branch or office in this state of a *deposit or lending* ~~financial~~ institution, including a deposit account otherwise covered by s. 671.105(1), regardless of the citizenship, residence, location, or domicile of any other party to the contract or agreement governing such deposit account, and regardless of any provision of any law of the jurisdiction of the residence, location, or domicile of such other party, whether or not such deposit account bears any other relation to this state, except that this section does not apply to any such deposit account:

(a) To the extent provided to the contrary in s. 671.105(2); or

(b) To the extent that all parties to the contract or agreement governing such deposit account have agreed in writing that the law of another jurisdiction will govern it.

(2) The law of this state, excluding its law regarding comity and conflict of laws, *governs* ~~shall govern~~ all aspects, including without limitation the validity and effect, of any contract relating to an extension of credit made by a branch or office in this state of a *deposit or lending* ~~financial~~ institution, including a contract otherwise covered by s. 671.105(1), if the contract expressly provides that it *will* ~~shall~~ be governed by the law of this state, regardless of the citizenship, residence, location, or domicile of any other party to such contract and regardless of any provision of any law of the jurisdiction of the residence, location, or domicile of such other party, whether or not such contract bears any other relation to this state, except that this section does not apply to any such contract to the extent provided to the contrary in s. 671.105(2).

(3) As used in this section, *the term*:

(a) *"Deposit or lending institution"* ~~"Financial institution"~~ means any of the following:

1. A bank, trust company, ~~industrial savings bank,~~ credit union, *or* ~~savings~~ association, ~~savings and loan association, savings bank, or building and loan association~~ organized and existing under the laws of this *or any other* state.

2. An international bank agency, representative office, or international administrative office operating pursuant to the laws of this state or any branch or other office of an international banking corporation operating pursuant to the laws of this state.

~~3. A trust company, savings association, savings and loan association, savings bank, or building and loan association organized and existing under the laws of any other state.~~

3. ~~4.~~ A national banking *corporation* ~~association~~ organized and existing pursuant to the provisions of the National Bank Act, 12 U.S.C. ss. 21 et seq.

4. ~~5.~~ A federal association organized and existing pursuant to the provisions of the Home Owners' Loan Act of 1933, 12 U.S.C. ss. 1461 et seq.

5. ~~6.~~ A federal credit union organized and existing pursuant to the provisions of the Federal Credit Union Act, 12 U.S.C. ss. 1751 et seq.

6. ~~7.~~ A federal agency operating pursuant to the provisions of the International Banking Act of 1978, 12 U.S.C. ss. 3101 et seq.

7. ~~8.~~ An agreement corporation operating pursuant to s. 25 of the Federal Reserve Act, 12 U.S.C. ss. 601 et seq.

8. ~~9.~~ An Edge Act corporation organized pursuant to the provisions of s. 25(a) of the Federal Reserve Act, 12 U.S.C. ss. 611 et seq.

(b) "Deposit account" means any deposit or account in one or more names including, without limitation, any certificate of deposit, time deposit, credit balance, checking account, interest-bearing account, non-interest-bearing account, individual retirement account (IRA), money market account, NOW account, transaction account, savings account, passbook account, joint account, convenience account, escrow account, trust account, custodial account, fiduciary account, deposit in trust, or Totten trust account.

(c) "Contract relating to extension of credit" means any contract or agreement relating to any extension of credit, including, without limitation, any loan agreement, letter of credit, promissory note, letter of intent, loan commitment, credit facility agreement, confirmation or advice of letter of credit, letter of credit application or reimbursement agreement, overdraft agreement, revolving credit agreement, construction loan agreement, floor plan agreement, acceptance, pledge agreement, hypothecation agreement, assignment, mortgage, security agreement, power of attorney, subordination agreement, assumption agreement, loan modification agreement, guaranty, surety agreement, indemnity agreement, or workout agreement.

(4) Notwithstanding any law that limits or affects the right of a person to maintain an action or proceeding, any person may, to the extent permitted under the United States Constitution, maintain an action or proceeding in this state against any person or other entity residing or located outside this state if the action or proceeding arises out of a deposit account or contract relating to an extension of credit which, pursuant to subsection (1) or subsection (2), is governed in whole or in part by the law of this state.

(5) This section does not affect the law governing any transactions other than deposit accounts or contracts relating to extensions of credit specified herein, nor does this section affect the jurisdiction of the courts of this state over any dispute arising under any transactions other than deposit accounts or contracts relating to extensions of credit specified herein.

(6) This section applies to deposit accounts and contracts relating to extensions of credit entered into before, on, or after July 1, 1988. However, this section *does* ~~shall~~ not apply to any deposit accounts existing on July 1, 1988, if either party to the contract or agreement governing the deposit account provides the other party with a written objection to the application of this section within 6 months of July 1, 1988.

Section 37. Section 655.56, Florida Statutes, is created to read:

655.56 Collection of fines, interest, or premiums on loans made by financial institutions.—No fines, interest, or premiums paid on the following loans made by any financial institution shall be deemed usurious, and the same may be collected as debts of like amount are now collected by law in this state and according to the terms and stipulations of the agreement between the financial institution and the borrower:

(1) Loans secured by a first lien on real estate.

(2) Loans secured by savings accounts to the extent of the withdrawal value thereof.

(3) Loans secured by the pledge of those loans described in subsections (1) and (2) and by the pledge of investments of a type in which the financial institution is authorized to invest, provided the loans and investments so pledged shall be subject to all restrictions and requirements which would be applicable were the financial institution to invest directly in such loans or investments.

(4) Loans secured by a wrap-around mortgage, inferior to the first mortgage, in which the mortgagee is contractually obligated to make the payments required under the first mortgage.

Section 38. Section 655.60, Florida Statutes, is created to read:

655.60 Appraisals by department.—

(1) The department is authorized to cause to be made appraisals of real estate or other property held by any financial institution, subsidiary, or service corporation or securing the assets of the financial institution, subsidiary, or service corporation when specific facts or information with respect to real estate or other property held, secured loans, or lending, or when in its opinion the financial institution's policies, practices, operating results and trends, give evidence that the financial institution's appraisals or evaluations of ability to make payments may be excessive, that lending or investment may be of a marginal nature, that appraisal policies and loan practices may not conform with generally accepted and established professional standards, or that real estate or other property

held by the financial institution, subsidiary, or service corporation or assets secured by real estate or other property are overvalued. In lieu of causing such appraisals to be made, the department may accept any appraisal caused to be made by an appropriate state or federal regulatory agency or other insuring agency or corporation of a financial institution. Unless otherwise ordered by the department, an appraisal of real estate or other property pursuant to this section must be made by a licensed or certified appraiser or appraisers selected by the department, and the cost of such appraisal shall be paid promptly by such financial institution, subsidiary, or service corporation directly to such appraiser or appraisers upon receipt by the financial institution of a statement of such cost bearing the written approval of the department. A copy of the report of each appraisal caused to be made by the department pursuant to this section shall be furnished to the financial institution, subsidiary, or service corporation within a reasonable time, not exceeding 60 days, following the completion of such appraisal and may be furnished to the insuring agency or corporation or federal or state regulatory agency.

(2) A financial institution may not make loans based on the security of real estate unless appraisal standards and policies have been previously established by the board of directors. Such standards must be in written form and include, without limitation, information required by rules of the department.

(3) If any appraisal required pursuant to this section discloses that any asset of a financial institution, subsidiary, or service corporation is overvalued on its books, the department may require the financial institution, subsidiary, or service corporation to charge off such asset or portion thereof pursuant to s. 655.044.

Section 39. Section 655.762, Florida Statutes, is created to read:

655.762 Sale of assets.—A financial institution may sell any asset in the ordinary course of business or with the approval of the department in any other circumstances.

Section 40. Section 655.769, Florida Statutes, is created to read:

655.769 Definitions of terms used in ss. 655.77-655.91.—As used in ss. 655.77-655.91, the term:

(1) "Check" includes a share draft of a credit union.

(2) "Deposit" includes a share of a credit union.

(3) "Depositor" includes a member of a credit union.

(4) "Institution" means any state or national bank, state or federal association, or state or federal credit union.

Section 41. Section 655.77, Florida Statutes, is created to read:

655.77 Deposits by minors.—Deposits made by a minor, or made in his name by other than a court-appointed guardian, may be withdrawn by the minor in the absence of an agreement to the contrary made between the institution and the depositor at the time the account is opened. In case of any such agreement, such moneys, until the minor's disabilities are removed, may be withdrawn by the person or persons designated in such agreement.

Section 42. Section 655.78, Florida Statutes, is created to read:

655.78 Deposit accounts in two or more names.—

(1) Unless otherwise expressly provided in a contract, agreement, or signature card executed in connection with the opening or maintenance of an account, including a certificate of deposit, a deposit account in the names of two or more persons may be paid to, or on the order of, either or any of such persons or to, or on the order of, the guardian of the property of any such person who is incompetent, whether the other or others are competent. The check or other order for payment to any such person or guardian is a valid and sufficient release and discharge of the obligation of the institution for funds transferred thereby.

(2) In the case of a credit union, a member may designate any person or persons to hold deposits with the member in joint tenancy with the right of survivorship; but a joint tenant, unless he is a member in his own right, may not be permitted to vote, obtain a loan, or hold office or be required to pay an entrance or membership fee.

Section 43. Section 655.79, Florida Statutes, is created to read:

655.79 Deposits and accounts in two or more names; presumption as to vesting on death.—

(1) Unless otherwise expressly provided in a contract, agreement, or signature card executed in connection with the opening or maintenance of an account, including a certificate of deposit, a deposit account in the names of two or more persons shall be presumed to have been intended by such persons to provide that, upon the death of any one of them, all rights, title, interest, and claim in, to, and in respect of such deposit account, less all proper setoffs and charges in favor of the institution, vest in the surviving person or persons.

(2) The presumption created in this section may be overcome only by proof of fraud or undue influence or clear and convincing proof of a contrary intent. In the absence of such proof, all rights, title, interest, and claims in, to, and in respect of such deposits and account and the additions thereto, and the obligation of the institution created thereby, less all proper setoffs and charges in favor of the institution against any one or more of such persons, upon the death of any such person, vest in the surviving person or persons, notwithstanding the absence of proof of any donative intent or delivery, possession, dominion, control, or acceptance on the part of any person and notwithstanding that the provisions hereof may constitute or cause a vesting or disposition of property or rights or interests therein, testamentary in nature, which, except for the provisions of this section, would or might otherwise be void or voidable.

(3) This section does not abridge, impair, or affect the validity, effectiveness, or operation of any of the provisions of ss. 655.78 and 674.405 or the rights of institutions to make payments as therein provided.

Section 44. Section 655.80, Florida Statutes, is created to read:

655.80 Convenience accounts.—

(1) A convenience account is a deposit account, other than a certificate of deposit, in the name of one individual (principal), in which one or more other individuals have been designated as agents with the right to make deposits to and to withdraw funds from or draw checks on such account. The designation of agents, the substitution or removal of agents, or any other change in the contractual terms or provisions governing a convenience account may be made only by the principal. Except as otherwise provided in this section, the agency relationship created under this account is not affected by the subsequent death or incompetence of the principal.

(2) All rights, interests, and claims in, to, and in respect of, such deposits and convenience account and the additions thereto shall be those of the principal only.

(3) Any balance standing to the credit of a convenience account shall be paid to the guardian of the property of the principal, to any person designated in a court order entered pursuant to s. 735.206, to any person designated by letter or other writing as authorized by s. 735.301, or to the personal representative of the deceased principal's estate, upon presentation of effective written notice and, if applicable, proof of judicial appointment of such guardian or personal representative by a court of competent jurisdiction. No such court order or letter, written notice, or proof of judicial appointment is effective until it is served upon and received by an officer of the institution during regular banking hours and in such time and in such manner as to afford the institution a reasonable opportunity to act on it prior to the happening of any of the events described in s. 674.303. No other notice, knowledge, or other information shown to have been available to an institution affects its right to the protection provided by this section.

(4) Payment by an institution pursuant to this section is a valid and sufficient release and discharge to the institution from all claims for payments so paid.

(5) Without qualifying any other right to setoff or lien, and subject to any contractual provision, if the principal is indebted to the institution, the institution has a right to setoff against the account.

Section 45. Section 655.81, Florida Statutes, is created to read:

655.81 Deposits in trust.—

(1) When a deposit is made by any person describing himself as, and making such deposit as, trustee for another and no other or further notice of the existence and terms of a legal and valid trust than such description has been given in writing to the institution, the deposit or any part

thereof, together with the dividends or interest thereon, may, in the event of the death of the person so described as trustee, be paid to the person for whom the deposit was thus stated to have been made.

(2) In the case of a credit union, deposits may be held in the name of a member in trust for a beneficiary, including a minor; but a beneficiary, unless he is a member in his own right, may not be permitted to vote, obtain an extension of credit, or hold office or be required to pay an entrance or membership fee.

Section 46. Section 655.83, Florida Statutes, is created to read:

655.83 Adverse claim to a deposit or fiduciary account.—Notice to any institution of an adverse claim to a deposit or fiduciary account standing on its books to the credit of any person does not obligate the institution to recognize the adverse claimant unless the adverse claimant also either:

(1) Procures a restraining order, injunction, or other appropriate process having specific application to the institution issued by a court of competent jurisdiction in a cause therein instituted by such claimant wherein the person to whose credit the deposit or fiduciary account stands is made a party and served with process; or

(2) Obtains in favor of the institution, in a form, amount, and with sureties acceptable to it, a bond indemnifying the institution from any and all liability (including liabilities for penalties), loss, damage, costs, and expenses should it act to give effect to the adverse claim, including the decision not to honor the check or other order of the person to whose credit the deposit or fiduciary account stands on the books of the institution. Upon receipt of such bond, the institution shall hold the account pending agreement between the claimant and the person to whose credit the deposit or fiduciary account stands on the books of the institution or pending receipt of a restraining order, injunction, or other process pursuant to subsection (1).

Section 47. Section 655.84, Florida Statutes, is created to read:

655.84 Limitations; statements as correct.—

(1) Unless written objection thereto has been theretofore delivered by the depositor to the institution, a statement of account rendered by any institution in this state to a depositor, with a description of the amount and type (such as deposit, withdrawal, debit, credit, or any similar designation) of entries to such account, which description may be on accompanying documents or on the statement itself, shall, after the expiration of 2 years from the date rendered, be conclusively presumed to be correct; and the depositor is thereafter barred from questioning same.

(2) In the absence of a written contract between an institution and a depositor providing otherwise, the statement of account is deemed to have been rendered to the depositor within the meaning of this section when prepared and lodged by the institution at its statement window or other customary place for delivery to the depositor. Any such statement of account which is not demanded by the depositor within 3 years may be destroyed by the institution without accountability or liability therefor to anyone.

(3) This section does not relieve a depositor from any duty or obligation imposed by law or by contract heretofore or hereafter made to examine such statement of account and to report any disputed debits, credits, errors, or irregularities within a shorter period of time than mentioned in this section, or from the legal consequences of the depositor's failure to perform any such duty or obligation.

Section 48. Section 655.85, Florida Statutes, is created to read:

655.85 Settlement of checks.—Whenever any check is forwarded or presented to an institution for payment, except when presented by the payee in person, the paying institution or remitting institution may pay or remit the same, at its option, either in money or in exchange drawn on its reserve agent or agents in the City of New York or in any reserve city within the Sixth Federal Reserve District; however, an institution may not settle any check drawn on it otherwise than at par. The provisions of this section do not apply with respect to the settlement of a check sent to such institution as a special collection item.

Section 49. Section 655.86, Florida Statutes, is created to read:

655.86 Issuance of postdated checks.—It is the duty of the person drawing a postdated check to notify, in writing, the separate office or branch of the institution upon which such check is drawn, giving a complete description thereof, including the name of the payee, the date, the number, and the amount thereof; otherwise, the institution is not liable for paying such check.

Section 50. Section 655.89, Florida Statutes, is created to read:

655.89 Legal holidays; business days; business and transactions.—

(1) In this section, the term:

(a) "Business day" means that part of any day on which an institution is open to the public for carrying on substantially all its banking functions, trust functions, or transactions. A financial institution is deemed to be "closed" on any day, or any part of a day, when it is not open to the public for carrying on substantially all its banking functions, trust functions, and transactions.

(b) "Legal holiday" means a statutory holiday or a permissive holiday. A "statutory holiday" is any day which, by the laws of this state or the United States, is designated or recognized as a legal or public holiday. A "permissive holiday" is any one day, other than a statutory holiday, in each week on which an institution is customarily closed.

(c) "Transaction" means any one or more of the functions and elements of the business of an institution and includes, but is not limited to, the receipt or giving of any notice; the receipt or acceptance of deposits; the transmission, acceptance, payment, dishonor, and giving notice of dishonor of items; and its obligations and duties with respect to all thereof; and the word "transact" means to take action or nonaction the result of which is a transaction.

(2) Any institution may, but unless otherwise required by law is not required to, be closed or be open only for limited transactions and functions or purposes on any legal holiday. When an institution is closed as provided or permitted by law, it is not under any obligation or duty to conduct any of its business or effectuate any transaction. An institution is open only for limited transactions and functions or purposes when one or more, but fewer than all, of its branches, separate or other offices, departments, sections, or other functional elements of its business, which customarily are open to the public for carrying on the banking or trust business and transactions, are not open to the public for such purposes. When, as provided or permitted by law, an institution is open only for limited transactions and functions or purposes, it is not under any obligation or duty to conduct or transact, at or from such of its branches, separate or other offices, departments, sections, or other functional elements of its business which are not open to the public for such purposes, any of the business or transactions customarily conducted or transacted therefrom or thereat.

(3) When any statutory holiday occurs on a Sunday or on a day when an institution customarily is closed, such institution may, but unless otherwise required by law is not required to, elect to be closed or to be open only for limited transactions and functions or purposes on the next preceding or the next following day which, except for the provisions of this section, would not be a legal holiday, and such day so elected is, with respect to such institution, a legal holiday as to all transactions and for all purposes and laws.

(4) Any legal holiday on which an institution is closed or is open only for limited transactions and functions or purposes may, if the institution elects, be deemed and treated with respect to all transactions and for all purposes and laws, including, but not limited to, the Uniform Commercial Code, as not a business day; and any notice, item, or deposit of money received on any such day may be treated as being received at the opening of the next business day, and any transaction or other business which would or should have occurred or been transacted on any such legal holiday may be treated as postponed by law to the next business day.

(5) An institution may establish the regular and customary hours of each day during which each of its branches, separate or other offices, departments, sections, or functional elements of its business will be operated for the transaction of the business customarily conducted or transacted at or from each such branch, office, department, section, or functional element of business, and the regular and customary hours during which each thereof will be open to the public for the conduct of such business and transactions, and it is not necessary that the same hours be established for all thereof or that the hours so established for any thereof be the same on every day.

(6) With prior written approval of the department, an institution may designate another day or other days on which the institution may be closed and which day or days will not be considered business days.

(7) An institution may, but unless otherwise required by law is not under or subject to any obligation or duty to, effectuate any transaction or transact any business on any legal holiday; at any time before the beginning, or after the close, of its business day; or outside the regular and customary hours established as provided in subsection (5) or subsection (6) of any separate or other office or branch or any department, section, or functional element of business. If the institution elects to do so, it has all the rights provided by law with respect to such transaction or business, and, at its election, any such transactions or business shall be treated as having occurred or as having been transacted on that day or on its next following business day, except that any transaction or business occurring before the beginning of its regular business day shall be treated as occurring at the beginning of that business day.

(8) No liability or loss of rights of any kind on the part of any institution accrues or results by reason of any institution being closed or open only for limited functions or purposes, or by reason of any branch, separate or other office, department, section, or functional element of business being operated or open for the transaction of business only during the regular and customary hours established by the institution, as provided in this section.

Section 51. Section 655.90, Florida Statutes, is created to read:

655.90 Closing during emergencies and other special days.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Commissioner" means the officer of this state designated by law as the head of the Department of Banking and Finance and any other person lawfully exercising such powers, whether as a deputy to such officer; as a division director, bureau chief, or financial administrator of or within such department; or otherwise. In the absence of any person lawfully exercising the powers of the head of the Department of Banking and Finance, the director of the Division of Banking or any other person lawfully exercising the powers of the director of the division, whether as another division director, as a bureau chief or financial administrator, or otherwise.

(b) "Emergency" means any condition or occurrence, actual or threatened, which may interfere physically with the conduct of normal business operations of an institution or of one or more or all of the departments, sections, functions, offices, or facilities of an institution, or which poses an imminent or existing threat to the safety or security of persons or property, or both. Without limiting the generality of the foregoing, an emergency may exist, arise, or be imminent as the result of any one or more, actual or threatened, of the following: fires; floods; earthquakes; tornadoes; hurricanes; wind, rain, or other storms; labor disputes and strikes; power failures; transportation failures; interruption of communication facilities; shortages of fuel, food, transportation, or labor; robberies or burglaries or attempted robberies or burglaries; actual or threatened enemy attacks; epidemics or other catastrophes; explosions; and riots, civil commotions, and other acts of lawlessness or violence, actual or threatened.

(c) "Office" means any place at which an institution transacts its business or conducts operations relating to its business. However, this section does not authorize an institution to conduct its banking business at any place or places not otherwise authorized or permitted by law.

(d) "Officers" means the person or persons designated by the board of directors, board of trustees, or other governing body of an institution to act for the institution in carrying out the provisions of this section or, in the absence of any such designation or in the absence of the officers so designated, the president or any other officer currently in charge of the institution or of the office or offices in question.

(e) The authorizations herein provided for an institution "to close" in case of an emergency means and includes the authority not to open on any business or banking day and, if having opened, to close and suspend business.

(2) POWERS OF COMMISSIONER.—Whenever the commissioner is of the opinion that an emergency exists, or is impending, in this state or in any part of this state, he may, by proclamation, authorize state and nationally or federally chartered institutions, if not inconsistent with, and if it does not infringe upon, paramount federal law, located in the affected area or areas to close or to close any or all the departments, sections, functions, offices, or facilities thereof. In addition, if the commissioner is of the opinion that an emergency exists, or is impending, which affects, or may affect, a particular institution or institutions, or one or more particular departments, sections, functions, offices, or facilities thereof, but not institutions located in the area generally, he may authorize the particular institution or institutions to close or to close one or more of the departments, sections, functions, offices, or facilities thereof. The institution or institutions affected by any such proclamation or authorization may close in accordance therewith. Such institutions and such of the departments, sections, functions, offices, or facilities thereof so closed may remain closed until the commissioner proclaims that the emergency has ended, or until such earlier time as the officers of the institution determine that the institution or any of its departments, sections, functions, offices, or facilities, theretofore closed because of the emergency, should reopen, and, in either event, for such further time thereafter as may reasonably be required to reopen.

(3) POWERS OF OFFICERS.—

(a) Whenever the officers of an institution are of the opinion that an emergency exists, or is impending, which affects, or may affect, the institution or one or more or all of its departments, sections, functions, offices, or facilities, they shall have the authority, in the reasonable exercise of their discretion, to close the institution or any one or more or all of the departments, sections, functions, offices, or facilities thereof on any business day or days during the continuation of such emergency, even if the commissioner has not issued and does not issue a proclamation of emergency. The office or offices so closed may remain closed until such time as the officers determine that the emergency has ended and for such further time thereafter as may reasonably be required to reopen. However, in no case may such institution or any department, section, function, office, or facility thereof remain closed pursuant to this paragraph for more than 48 consecutive hours, excluding other legal holidays, without requesting the approval of the commissioner.

(b) The officers of an institution may close the institution or any one or more or all of the institution's departments, sections, functions, offices, or facilities on any day or days designated, by proclamation of the President of the United States or the Governor of this state, as a day or days of mourning, rejoicing, or other special observance.

(4) NOTICE TO BE GIVEN.—

(a) An institution chartered under the laws of this state closing, or closing any of its departments, sections, functions, offices, or facilities, pursuant to the authority granted under subsection (3) shall give notice of its action to the commissioner as promptly as conditions reasonably permit and by any means reasonably available.

(b) A national or federal institution closing, or closing any of its departments, sections, functions, offices, or facilities, pursuant to the authority granted by this section shall give notice of its action to the appropriate federal regulatory agency as promptly as conditions reasonably permit and by any means reasonably available.

(5) EFFECT OF CLOSING AND PARTIAL CLOSING.—

(a) Any day on which an institution, or any one or more of its departments, sections, functions, offices, or facilities, is closed during all or any part of its normal banking hours pursuant to the authorization granted in this section is, with respect to such institution or, if not all its departments, sections, functions, offices, or facilities are closed, then with respect to any of its departments, sections, functions, offices, or facilities which are closed, a legal holiday for all purposes with respect to any business of any kind or character of the institution, or of any of its departments, sections, functions, offices, or facilities, so closed, including, but without limiting the generality of the foregoing, matters relating to the time payable, the presenting for payment or acceptance, and the protesting and giving notice of protest and notice of dishonor of bills of exchange, checks, promissory notes, and other items drawn on or payable at such institution and relating to any other banking business of any kind or character. No liability or loss of rights of any kind on the part of any institution or director, officer, or employee thereof accrues or results by virtue of any closing authorized by this section.

(b) On any day which by the provisions of this section is deemed or declared to be a legal holiday with respect to any institution or institutions or office or offices thereof, the officers thereof may, in the exercise of their discretion, cause such institution or any office thereof to open its doors or facilities for the transaction or conduct of a limited business by the operation of one or more, but less than all, of its departments, sections, offices, functions, or facilities. On any day when, pursuant to the

provisions of this section, less than all the departments, sections, functions, offices, or facilities are open, at the election of such institution the limited business transacted or conducted on such day is deemed for all purposes as transacted or conducted on the next following business day which is not deemed or declared as a legal holiday pursuant to the provisions of this section or of any other provision of law.

(6) PROVISIONS CUMULATIVE.—The provisions of this section shall be construed and applied as being in addition to, and not in substitution for or limitation of, any other law of this state or of the United States authorizing the closing of an institution or excusing the delay by an institution in the performance of its duties and obligations because of emergencies or conditions beyond the institution's control or otherwise.

Section 52. Section 655.91, Florida Statutes, is created to read:

655.91 Records of institutions and copies thereof; retention and destruction.—

(1) In this section, "records" of an institution means and includes all books of account and other books of every kind, journals, ledgers, statements, instruments, documents, files, messages, writings of every kind, and other internal or other data and other information of every description, made or received by an institution in the regular course of its business or otherwise, regardless of the mode in which it is recorded.

(2) Institutions need not preserve or retain any of their records or copies thereof for a period longer than is expressly required by an applicable statute or rule or regulation of this state or the United States which identifies, either specifically or by type or category, the relevant records or copies thereof or, if there is no such statute or rule or regulation which specifies a retention period applicable to the records or copies thereof, for a period longer than 4 years. An institution may destroy any of its records or copies thereof after the expiration of the retention period determined as provided in this subsection.

(3) No liability shall accrue against any institution because of the destruction of any of its records or copies thereof as permitted by subsection (2), and in any judicial or other action or proceeding in which any such records or copies thereof may be called in question or be demanded of the institution or any officer or employee thereof, a showing that such records or copies thereof have been destroyed in accordance with the provisions of subsection (2) is a sufficient excuse for the failure to produce them.

(4) Any institution may at any time make, or cause to be made, a copy or copies of any or all of its records, and any such copy duly certified, authenticated, or identified by a responsible officer or agent of the institution under whose supervision the records or copies are kept shall, in all cases and in all courts and places, be admitted and received as evidence with a like force and effect as the original record, whether or not the original is in existence.

(5) The original of any record of an institution includes the data or other information comprising a record stored or transmitted in or by means of any electronic, computerized, mechanized, or other information storage or retrieval or transmission system or device which can upon request generate, regenerate, or transmit the precise data or other information comprising the record; and an original also includes the visible data or other information so generated, regenerated, or transmitted if it is legible or can be made legible by enlargement or other process.

(6) Copies of records of an institution, heretofore or hereafter made, include duplicates or counterparts of an original produced from the same impression or process as the original by carbon or other chemical or substance or process; negative and positive film and prints of an original or copy and reproductions and facsimiles of an original or copy, whether or not the same size, produced by photographic, microphotographic, photostatic, xerographic, electronic, computerized, or mechanized process, or by any other process, and enlargements and reductions thereof; and the data or other information comprising a record stored or transmitted as provided in subsection (5), and the visible data or other information generated or regenerated or transmitted by such information storage or retrieval or transmission system or device, if it is legible or can be made legible by enlargement or other process.

Section 53. Section 655.921, Florida Statutes, is created to read:

655.921 Transaction of business by out-of-state financial institutions; exempt transactions in the financial institutions codes.—

(1) Nothing in the financial institutions codes shall be construed to prohibit a financial institution having its principal place of business outside this state from:

(a) Contracting in this state with any person to acquire from such person a part, or the entire, interest in a loan that such person proposes to make, has heretofore made, or hereafter makes, together with a like interest in any security instrument covering real or personal property in the state proposed to be given or hereafter or heretofore given to such person to secure or evidence such loan.

(b) Entering into mortgage servicing contracts with persons authorized to transact business in this state and enforcing in this state the obligations heretofore or hereafter acquired by it in the transaction of business outside this state or in the transaction of any business authorized by this section.

(c) Acquiring, holding, leasing, mortgaging, contracting with respect to, or otherwise protecting, managing, or conveying property in this state which has heretofore or may hereafter be assigned, transferred, mortgaged, or conveyed to it as security for, or in whole or in part in satisfaction of, a loan or loans made by it or obligations acquired by it in the transaction of any business authorized by this section.

(d) Making loans or committing to make loans to any person located in this state and soliciting compensating deposit balances in connection therewith.

(2) No such financial institution shall be deemed to be transacting business in this state, or be required to qualify so to do, solely by reason of the performance of any of the acts or business authorized in this section. This section does not authorize or permit any such financial institution to maintain an office within the state.

Section 54. Section 655.922, Florida Statutes, is created to read:

655.922 Banking business by unauthorized persons; use of name.—

(1) No person other than a financial institution having its principal place of business in this state shall, in this state, engage in the business of soliciting or receiving funds for deposit or of issuing certificates of deposit or of paying checks; and no person shall establish or maintain a place of business in this state for any of the functions, transactions, or purposes mentioned in this subsection. Any person who violates the provisions of this subsection is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. This subsection does not prohibit the issuance or sale by a financial institution of traveler's checks, money orders, or other instruments for the transmission or payment of money, by or through employees or agents of the financial institution off the financial institution's premises.

(2) No person other than a financial institution shall, in this state:

(a) Transact business under any name or title that contains the words "bank," "banker," "banking," "trust company," "savings and loan association," "savings bank," or "credit union," or words of similar import, in any context or in any manner;

(b) Use any name, word, sign, symbol, or device in any context or in any manner; or

(c) Circulate or use any letterhead, billhead, circular, paper, or writing of any kind or otherwise advertise or represent in any manner,

which indicates or reasonably implies that the business being conducted or advertised is the kind or character of business transacted or conducted by a financial institution or which is likely to lead any person to believe that such business is that of a financial institution; however, the words "bank," "banker," "banking," "trust company," "savings and loan association," "savings bank," or "credit union," or the plural of any thereof, may be used by, and in the corporate or other name or title of, any company which is or becomes a financial institution holding company pursuant to federal law; any subsidiary of any such financial institution holding company which includes as a part of its name or title all or any part, or abbreviations, of the name or title of the financial institution holding company of which it is a subsidiary; any trade organization or association, whether or not incorporated, functioning for the purpose of promoting the interests of financial institutions or financial institution holding companies, the active members of which are financial institutions or financial institution holding companies; and any international development bank chartered pursuant to part II of chapter 663.

(3) Any court, in a proceeding brought by the department, by any financial institution the principal place of business of which is in this state, or by any other person residing, or whose principal place of business is located, in this state and whose interests are substantially affected thereby, may enjoin any person from violating any of the provisions of this section. For the purposes of this subsection, the interests of a trade organization or association are deemed to be substantially affected if the interests of any of its members are so affected. In addition, the department may issue and serve upon any person who violates any of the provisions of this section a complaint seeking a cease and desist order in accordance with the procedures, and in the manner prescribed by, s. 655.033

(4) Nothing in this section shall be construed to prohibit the lawful establishment or the lawful operations of an Edge Act corporation, a credit union pursuant to s. 657.008(5), or an association established pursuant to s. 665.0335, s. 665.034(5), or s. 665.1001; and nothing in this code shall be construed to prohibit any advertisement or other activity in this state by any person if such prohibition would contravene any applicable federal law which preempts the law of this state.

Section 55. Section 655.93, Florida Statutes, is created to read:

655.93 Definitions for ss. 655.93-655.94.—As used in ss. 655.93-655.94, the term:

(1) "Lessee" means a person who contracts with a lessor for the use of a safe-deposit box.

(2) "Lessor" means a state, national, or federal financial institution that rents safe-deposit facilities.

(3) "Safe-deposit box" means a safe-deposit box, vault, or other safe-deposit receptacle maintained by a lessor, and the rules relating thereto apply to property or documents kept in safekeeping in the financial institution's vault.

Section 56. Section 655.931, Florida Statutes, is created to read:

655.931 Authority to engage in safe-deposit business.—A financial institution may maintain and lease safe-deposit boxes and may accept property or documents for safekeeping if, except in the case of property or documents accepted through night depositories, it issues a receipt therefor.

Section 57. Section 655.932, Florida Statutes, is created to read:

655.932 Lease to minor.—A lessor may lease a safe-deposit box to, and in connection therewith deal with, a minor with the same effect as if leasing to and dealing with a person of full legal capacity.

Section 58. Section 655.933, Florida Statutes, is created to read:

655.933 Access by fiduciaries.—If a safe-deposit box is made available by a lessor to one or more persons acting as fiduciaries, the lessor may, except as otherwise expressly provided in the lease or the writings pursuant to which such fiduciaries are acting, allow access thereto as follows:

(1) By any one or more of the persons acting as personal representatives.

(2) By any one or more of the persons otherwise acting as fiduciaries if authorized in writing, which writing is signed by all other persons so acting.

(3) By any agent authorized in writing, which writing is signed by all persons acting as fiduciaries.

Section 59. Section 655.934, Florida Statutes, is created to read:

655.934 Effect of lessee's death or incapacity.—If a lessor without knowledge of the death or of an order determining incapacity of the lessee deals with the lessee's agent in accordance with a written power of attorney or a durable family power of attorney signed by such lessee, the transaction binds the lessee's estate and the lessee.

Section 60. Section 655.935, Florida Statutes, is created to read:

655.935 Search procedure on death of lessee.—If satisfactory proof of the death of the lessee is presented, a lessor shall permit the person named in a court order for the purpose, or if no order has been served upon the lessor, the spouse, a parent, an adult descendant, or a person named as a personal representative in a copy of a purported will produced by such person, to open and examine the contents of a safe-deposit box leased by a decedent, or any documents delivered by a decedent for safekeeping, in the presence of an officer of the lessor; and the lessor, if so requested by such person, shall deliver:

(1) Any writing purporting to be a will of the decedent, to the court having probate jurisdiction in the county in which the financial institution is located;

(2) Any writing purporting to be a deed to a burial plot or to give burial instructions, to the person making the request for a search; and

(3) Any document purporting to be an insurance policy on the life of the decedent, to the beneficiary named therein.

No other contents may be removed pursuant to this section.

Section 61. Section 655.936, Florida Statutes, is created to read:

655.936 Delivery of safe-deposit box contents or property held in safekeeping to personal representative.—

(1) The lessor shall immediately deliver to a resident personal representative, upon presentation of a certified copy of his letters of authority, all property deposited with it by the decedent for safekeeping, and shall grant him access to any safe-deposit box in the decedent's name and permit him to remove from such box any part or all of the contents thereof.

(2) If a foreign personal representative of a deceased lessee has been appointed by a court of any other state, a lessor may, at its discretion, after 3 months from the issuance to such foreign personal representative of his letters of authority, deliver to such foreign personal representative all properties deposited with it for safekeeping and the contents of any safe-deposit box in the name of the decedent if at such time the lessor has not received written notice of the appointment of a personal representative in this state, and such delivery is a valid discharge of the lessor for all property or contents so delivered. Such foreign personal representative shall furnish the lessor with an affidavit setting forth facts showing the domicile of the deceased lessee to be other than this state and stating that there are no unpaid creditors of the deceased lessee in this state, together with a certified copy of his letters of authority. A lessor making delivery pursuant to this subsection shall maintain in its files a receipt executed by such foreign personal representative which itemizes in detail all property so delivered.

(3) A lessor is not liable for damages or penalty by reason of any delivery made pursuant to this section.

Section 62. Section 655.937, Florida Statutes, is created to read:

655.937 Access to safe-deposit boxes leased in two or more names.—

(1) When specifically provided in the lease or rental agreement covering a safe-deposit box heretofore or hereafter rented or leased in the names of two or more lessees that access to the safe-deposit box will be granted to either lessee, or to either or the survivor, access to the safe-deposit box shall be granted to:

(a) Either or any of such lessees, regardless of whether or not the other lessee or lessees or any of them are living or competent; or

(b) The personal representative of the estate of either or any of such lessees who is deceased, or the guardian of the property of either or any of such lessees who is incapacitated; and, in either such case, the provisions of s. 655.933 apply, and the signature on the safe-deposit entry or access record (or the receipt or acquittance, in the case of property or documents otherwise held for safekeeping) is a valid and sufficient release and discharge to the lessor for granting access to such safe-deposit box or for the delivery of such property or documents otherwise held for safekeeping.

(2) A lessor may not be held liable for damages or penalty by reason of any access granted or delivery made pursuant to this section.

Section 63. Section 655.938, Florida Statutes, is created to read:

655.938 Adverse claims to contents of safe-deposit box.—

(1) An adverse claim to the contents of a safe-deposit box, or to property held in safekeeping, is not sufficient to require the lessor to deny access to its lessee unless:

(a) The lessor is directed to do so by a court order issued in an action in which the lessee is served with process and named as a party by a name which identifies the lessee with the name in which the safe-deposit box is leased or the property held; or

(b) The safe-deposit box is leased or the property is held in the name of a lessee with the addition of words indicating that the contents or property are held in a fiduciary capacity, and the adverse claim is supported by a written statement of facts disclosing that it is made by, or on behalf of, a beneficiary and that there is reason to know that the fiduciary will misappropriate the trust property.

(2) A claim is also an adverse claim if one of several lessees claims, contrary to the terms of the lease, an exclusive right of access, or if one or more persons claim a right of access as agents or officers of a lessee to the exclusion of others as agents or officers, or if it is claimed that a lessee is the same person as one using another name.

Section 64. Section 655.939, Florida Statutes, is created to read:

655.939 Limiting right of access for failure to comply with security procedures.—If any individual who has a right of access to a safe-deposit box is unwilling or unable for any reason or cause to comply with any of the lessor's normal requirements or procedures in connection with such access relating to security, safety, or protection, the lessor has the right to limit or deny access to the safe-deposit box by such individual unless all lessees of such safe-deposit box take such action as is necessary to ensure reasonable compliance with such security, safety, or protection requirements or procedures.

Section 65. Section 655.94, Florida Statutes, is created to read:

655.94 Special remedies for nonpayment of rent.—

(1) If the rental due on a safe-deposit box has not been paid for 3 months, the lessor may send a notice by registered mail to the last known address of the lessee stating that the safe-deposit box will be opened and its contents stored at the expense of the lessee unless payment of the rental is made within 30 days. If the rental is not paid within 30 days from the mailing of the notice, the box may be opened in the presence of an officer of the lessor and of a notary public who is not a director, officer, employee, or stockholder of the lessor. The contents shall be sealed in a package by a notary public who shall write on the outside the name of the lessee and the date of the opening. The notary public shall execute a certificate reciting the name of the lessee, the date of the opening of the box, and a list of its contents. The certificate shall be included in the package, and a copy of the certificate shall be sent by registered mail to the last known address of the lessee. The package shall then be placed in the general vaults of the lessor at a rental not exceeding the rental previously charged for the box. The lessor has a lien on the package and its contents to the extent of any rental due and owing plus the actual, reasonable costs of removing the contents from the safe-deposit box.

(2) If the contents of the safe-deposit box have not been claimed within 1 year after the mailing of the certificate, the lessor may send a further notice to the last known address of the lessee stating that, unless the accumulated charges are paid within 30 days, the contents of the box will be sold at public auction at a specified time and place or, in the case of securities listed on a stock exchange, will be sold upon the exchange on or after a specified date and unsalable items will be destroyed. The time, place, and manner of sale shall also be posted conspicuously on the premises of the lessor and advertised once in a newspaper of general circulation in the community. If the articles are not claimed, they may then be sold in accordance with the notice. The balance of the proceeds, after deducting accumulated charges, including the expenses of advertising and conducting the sale, shall be deposited to the credit of the lessee in any account maintained by the lessee, or, if none, shall be deemed a deposit account with the financial institution operating the safe-deposit facility, and shall be identified on the books of the financial institution as arising from the sale of contents of a safe-deposit box.

(3) Any documents or writings of a private nature, and having little or no apparent value, need not be offered for sale, but shall be retained, unless claimed by the owner, for the period specified for unclaimed contents, after which they may be destroyed.

Section 66. Section 657 002, Florida Statutes, is amended to read:

657.002 Definitions.—As used in this part:

(1) "Capital" means shares, deposits, *and equity* ~~reserves, excluding allowance for loan losses, and undivided earnings~~.

(2) "Central credit union" means a credit union the membership of which includes, but is not limited to, other credit unions, members of credit unions, credit union employees, employees of organizations serving credit unions, and the families of such members.

(3) "Corporate credit union" means any central credit union organized pursuant to any state or federal act for the purpose of serving other credit unions.

(4) "The corporation" means the Florida Credit Union Guaranty Corporation, Inc.

(5) "Correspondent" means that person designated on an application to organize a credit union as the person to whom all correspondence regarding the application should be sent.

(6) "Credit union" means any cooperative society organized pursuant to this part.

(7) "Department" means the Department of Banking and Finance.

(8) "Deposits" means that portion of the capital paid into the credit union by members on which a contractual rate of interest will be paid.

(9) "Equity" means undivided earnings, reserves, and allowance for loan losses.

(10)~~(9)~~ "Foreign credit union" means a credit union organized and operating under the laws of another state.

(11)~~(10)~~ "Immediate family" means parents, children, spouse, or surviving spouse of the member, or any other relative by blood, marriage, or adoption ~~residing in the same household with the member~~.

(12)~~(11)~~ "Limited field of membership" means the defined group of persons designated as eligible for membership in the credit union who:

(a) Have a similar profession, occupation, or formal association with an identifiable purpose; or

(b) Reside within an identifiable neighborhood, community, rural district, or county; or

(c) Are employed by a common employer; or

(d) Are employed by the credit union; and

members of the immediate family of persons within such group.

(13)~~(12)~~ "Shares" means that portion of the capital paid into the credit union by members on which dividends may be paid.

(14)~~(13)~~ "Unimpaired capital" means capital which is not impaired by losses that exceed applicable reserves.

Section 67. Subsection (2) of section 657.004, Florida Statutes, is amended to read:

657.004 Exclusive use of name "credit union"; penalty.—

(2) Any person who violates this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 *or*~~,~~ s. 775.083~~, or s. 775.084~~, and may be enjoined from using such words or so holding itself out. The department shall have standing to bring action to enforce the provisions of this section.

Section 68 Section 657.005, Florida Statutes, is amended to read:

657.005 Notice of intent to organize; investigation by department; application for authority to organize a credit union.—

(1) The proposed organizers of the proposed credit union shall file with the department a notice of intent to organize, upon such form as the department may, by rule, prescribe.

(2) Any five or more residents of this state who represent a limited field of membership may apply to the department for permission to organize a credit union. The fact that individuals within the proposed limited field of membership have credit union services available to them through another limited field of membership shall not preclude the granting of a certificate of authorization to engage in the business of a credit union.

(3) The application shall be submitted to the department on forms and in the manner prescribed by rules adopted by the department and shall be accompanied by a nonrefundable filing fee of $250. Such application shall include:

(a) The proposed name and the proposed location where the proposed credit union is to have its principal place of business.

(b) Designation of the par value of each share of the credit union.

(c) Designation of at least five persons who agree to serve on the board of directors, and at least three other persons who agree to serve on the supervisory committee *or audit committee*, with a signed agreement to serve in these capacities until the first annual meeting or until the election of their successors, whichever is later, executed by those who so agree.

(d) Any information required by the department to be submitted to the corporation or insuring agency.

(e) Bylaws of the credit union, which bylaws shall be *in the form and substance as required by the department* ~~consistent with the provisions of this chapter~~.

(4) The department shall have the power of investigation to the extent necessary to make the finding required under this section.

(5) The application shall be approved if the department determines that:

(a) There is a showing of sufficient interest on the part of the proposed limited field of membership;

(b) The qualifications of the proposed board of directors and committee members are such as to indicate a reasonable likelihood that the affairs of the proposed credit union will be administered consistently with sound financial and credit union practices;

(c) The organization of the credit union would benefit its members; and

(d) The limited field of membership is of sufficient financial viability to indicate reasonable promise of successful operation of the proposed credit union. In determining the financial viability of the proposed limited field of membership and chances for reasonable promise of success of the proposed credit union, the department shall consider:

1. The size of the proposed limited field of membership, excluding potential members based upon familial relationships; and

2. Any other evidence that tends to indicate the reasonable promise of success of the proposed credit union.

(6) If the organization of a proposed credit union would result in an overlapping limited field of membership, the department may disapprove the application if it finds that the formation of the proposed credit union will result in a substantial, adverse financial impact to an existing credit union having the same or substantially the same limited field of membership.

(7) Concurrently with submission of the application to the department, the applicant shall apply for membership in the corporation or apply for insurance of accounts with the National Credit Union Administration.

(8) The applicant shall not *accept any payments for credit to share or deposit accounts, or* commence business operations as a credit union, until the certificate of authorization and the guaranty certificate or insurance certificate have been delivered to the credit union.

(9) The department shall perform a preopening examination to verify good-faith compliance with all the requirements of law. If the department finds that such requirements have been met, it shall issue and deliver the certificate of authorization to transact business. Any credit union which fails to open for business within 6 months after the issuance of such certificate will forfeit its existence as a credit union, and the certificate of authorization shall be revoked. For good cause shown, the department may extend the opening date for an additional 6 months on its own motion or at the request of the credit union. Amounts credited on share accounts, less expenditures authorized by law, shall be returned pro rata to the respective account holders.

(10) All preopening costs and expenses in connection with the organization of the credit union and preparation for opening for business may be paid only from funds provided by the organizers or a sponsor and may be reimbursed by the credit union only out of undivided earnings, after provision has been made for reserves and dividends. However, the credit union may reimburse, as an operating expense, for forms and supplies, insurance, rent, and other expenses applicable to or consumed in the period after opening in accordance with rules adopted by the department.

(11)~~(10)~~ The department shall provide a form certificate of authorization and bylaws consistent with this chapter which shall be used by applicants for credit unions.

Section 69. Section 657.0061, Florida Statutes, is created to read:

657.0061 Amendments to bylaws.—

(1) All bylaw amendments must be submitted to the department. The department shall approve or disapprove bylaw amendments within 60 days after receipt. The department shall approve the proposed bylaw amendment unless it finds that the amendment:

(a) Is not in the best interest of the membership;

(b) Is not in accord with sound credit union practices; or

(c) Exposes the assets of the credit union to unnecessary risks.

(2) The department may, by rule, allow certain bylaw amendments that are ministerial in nature to become effective immediately upon filing with the department.

Section 70. Section 657.008, Florida Statutes, is amended to read:

657.008 Place of doing business.—

(1) Every credit union authorized to transact business pursuant to the laws of this state shall have one principal place of doing business as designated in its bylaws.

(2)(a) With 30 days prior written notification to the department, a credit union may maintain branches at locations other than its main office or relocate branches previously established if the maintenance of such branches is determined by the board of directors to be reasonably necessary to furnish service to its members.

(b) Investments in such branch offices shall comply with the limitations imposed by s. 657.042(4).

(c) If any branch is located outside this state, the cost of examining such branch shall be borne by the credit union. Such cost shall include, but shall not be limited to, examiner travel expense and per diem.

(3) A credit union may share office space with one or more credit unions and contract with any person or corporation to provide facilities or personnel.

(4) Any credit union organized under this state or federal law, the members of which are presently, or were at the time of admission into the credit union, employees of the state or a political subdivision or municipality thereof, or members of the immediate families of such employees, may apply for space in any building owned or leased by the state or respective political subdivision or municipality in the community or district in which the credit union does business. The application shall be addressed to the officer charged with the allotment of space in such building. If space is available, the officer may allot space to the credit union at a reasonable charge for rent or services. If the governing body having jurisdiction over the building determines that the services rendered by the credit union to the employees of the governing body are equivalent to a reasonable charge for rent or services, available space may be allotted to the credit union without charge for rent or services. The officer charged with the allotment of space in such building shall report annually the terms and conditions of such use of space to the Auditor General.

(5) A credit union may change its principal place of business within this state upon approval by the department.

~~(6) All records of a credit union shall be maintained at the principal place of business described in the bylaws.~~

(6)~~(7)~~(a) The department may authorize foreign credit unions to establish branches in Florida if all of the following criteria are met:

1. The state in which the foreign credit union's home office is located permits Florida credit unions to do business in the state under restrictions that are no greater than those placed upon a domestic credit union doing business in that state. For this purpose, such restrictions shall include, but are not limited to, any fees, bonds, or other charges levied on domestic credit unions doing business in that state.

2. The deposits of such foreign credit union and its proposed Florida branch will be insured or guaranteed by an insurer or guarantor acceptable to the department. Insurance or guarantee of accounts comparable to that provided by the Florida Credit Union Guaranty Corporation is deemed to be acceptable; however, acceptance of insurance or guarantee of accounts by any insuring or guaranteeing agencies or companies shall be subject to a determination by the department that the insuring or guaranteeing agency or company is in sound financial condition and that its reserves with respect to its insured or guaranteed accounts are no less than those of the Florida Credit Union Guaranty Corporation.

3. The credit union's field of membership is so limited as to be within that meaning of that term as defined in s. 657.002.

(b) Every foreign credit union operating in Florida shall keep the department informed of every location at which it is operating.

(c) If the department has reason to believe that a foreign credit union is operating a branch in this state in an unsafe and unsound manner, it shall have the right to examine such branch. If, upon examination, the department finds that such branch is operating in an unsafe and unsound manner, it shall require the branch office to make appropriate modifications to bring such branch operations into compliance with generally accepted credit union operation in this state. Such foreign credit union shall reimburse the department for the full cost of this examination. Costs shall include examiner salaries, per diem, and travel expenses.

(d) Any foreign credit union operating in this state shall in any connection therewith be subject to suit in the courts of this state, by this state and the citizens of this state.

(7) A credit union may provide, directly or through a contract with another company, off-premises armored car services to its members. Armored car services do not constitute a branch for the purposes of this section.

Section 71. Section 657.021, Florida Statutes, 1990 Supplement, is amended to read:

657.021 Board of directors; executive committee.—

(1) The credit union shall have a board of directors consisting of not fewer than five directors to be elected from the members in the manner prescribed in the bylaws.

(2) Directors shall hold office for such terms as the bylaws provide.

(3) Each director, upon assuming office, shall acknowledge under oath that he has read the credit union act and the pertinent rules of the department and is familiar with his responsibilities as a director and that he will diligently and honestly administer the affairs of the credit union and will not knowingly violate, or willfully permit to be violated, any provision of this chapter. The director shall immediately file the signed copy of this oath with the department.

~~(3) No person shall serve as an officer, director, or committee member of a credit union who:~~

~~(a) Has been convicted of an offense involving dishonesty, a breach of trust, a violation of this chapter, or fraud, except with the prior approval of the department upon a showing of rehabilitation;~~

~~(b) Has been adjudicated bankrupt within the previous 3 years;~~

~~(c) Has been removed by the department as a credit union director, officer, committee member, or employee within the previous 3 years; or~~

~~(d) Has been convicted of, or pled guilty or nolo contendere to, a violation of s. 655.50, relating to the Florida Control of Money Laundering in Financial Institutions Act; chapter 896, relating to offenses related to financial transactions; or any similar state or federal law.~~

(4) The board of directors shall fill any vacancies on the board by appointment until successors are elected as provided in the bylaws.

(5) The board of directors and the executive committee shall meet as often as required in the bylaws.

(6) The board of directors must determine the general direction of the business affairs, manage the funds, and maintain the records of the credit union in a manner that is consistent with safe and sound credit union practices.

(7) The board of directors must exercise the following duties which are nondelegable:

(a) Require any officer or employee who has custody of or handles funds to give bond with good and sufficient surety in an amount and character determined by the board of directors in compliance with rules adopted by the department.

(b) Establish the maximum amount of credit which may be extended to a member and establish written credit policies, including, without limitation, security requirements and terms of repayment.

(c) Establish written policies governing loans, investments, equity, personnel, collections, the conduct of officers, employees, and committee members, and continuing education for directors and committee members and other policies necessary for prudent credit union practices.

(d) Declare any dividends on shares.

(e) Adequately provide for reserves as required by this part or by rules or order of the department or as otherwise determined necessary by the board.

(f) Employ a chief executive officer, whose title may be either president or general manager, or, in lieu thereof, designate the treasurer to act as the chief executive officer and to be in active charge of the affairs of the credit union.

(8) The board of directors must exercise the following duties, which may be delegated within specific guidelines and policies established by board resolutions:

(a) Act on applications for membership, or appoint one or more membership officers to approve or deny applications for membership, under such conditions as may be prescribed in the bylaws. A record of a membership officer's approval or denial of membership must be made available to the board for inspection. A person denied membership by a membership officer may appeal the denial to the board.

(b) Determine, from time to time, the interest rate or rates which are charged on extensions of credit and authorize any interest refunds to members from income earned and received in proportion to the interest paid by them on such classes of credit and under such conditions as the board prescribes.

(c) Determine the interest rates which will be paid on deposits and the manner of calculating those rates.

(d) Invest funds, except that the board may designate an investment committee or any qualified individual to make investments pursuant to written policies established by the board.

(9) The board of directors has authority, which may not be delegated, to:

(a) Limit the number of shares and the amount of deposits which may be owned by a member, which limitation must apply to all members.

(b) Designate a depository or depositories for the funds of the credit union.

(c) Suspend and remove any member of any of its committees for failure to perform his duties or for other just cause.

(d) Establish any committee determined to be necessary and appoint its membership.

(e) Call special meetings of the members.

(10) The board of directors has authority, which may be delegated within specific guidelines and policies established by board resolutions, to:

(a) Authorize the employment of persons necessary to carry on the business of the credit union.

(b) Authorize the purchase, lease, rental, or sale of personal property necessary to carry on the business of the credit union.

(c) Borrow or lend money to carry on the functions of the credit union.

~~(6) It shall be the duty of the board of directors to:~~

~~(a) Act on applications for membership, or appoint one or more membership officers to approve or deny applications for membership under such conditions as may be prescribed in the bylaws. A record of a membership officer's approval or denial of membership shall be available to the board of directors for inspection. A person denied membership by a membership officer may appeal the denial to the board.~~

~~(b) Require any officer or employee having custody of or handling funds to give bond with good and sufficient surety in an amount and character to be determined by the board of directors in compliance with rules adopted by the department.~~

~~(c) Determine from time to time the interest rate or rates which shall be charged on extensions of credit and authorize interest refunds, if any, to members from income earned and received in proportion to the interest paid by them on such classes of credit and under such conditions as the board prescribes.~~

~~(d) Establish the maximum amount of credit which may be extended to a member and establish written credit policy, including, but not limited to, security requirements and terms of repayment.~~

~~(e) Establish written loan, investment, personnel, and collection policies.~~

~~(f) Declare dividends, if any, on shares and determine the interest rate or rates which will be paid on deposits and the manner of calculation.~~

~~(g) Invest funds, except that the board of directors may designate an investment committee or any qualified individual to have charge of making investments pursuant to written policies established by the board of directors.~~

~~(h) Make adequate provision for reserves as required by this part, by rules or order of the department, or as otherwise deemed necessary by the board.~~

~~(i) Employ a chief operating officer, whose title shall be either president or general manager, as the case may require; or in lieu thereof, designate the treasurer to act as the chief operating officer and to be in active charge of the affairs of the credit union.~~

~~(7) The board of directors shall have the authority to:~~

~~(a) Limit the number of shares and the amount of deposits which may be owned by a member, such limitations to apply alike to all members.~~

~~(b) Authorize the employment of such persons necessary to carry on the business of the credit union.~~

~~(c) Authorize the purchase, lease, rental, or sale of personal property necessary to carry on the business of the credit union.~~

~~(d) Borrow or lend money to carry on the functions of the credit union.~~

~~(e) Designate a depository or depositories for the funds of the credit union.~~

~~(f) Suspend and remove any or all members of any committee for failure to perform their duties or for other just cause.~~

~~(g) Establish any committees deemed necessary and appoint the membership thereof.~~

~~(h) Call special meetings of the members.~~

~~(i) Delegate to the officers, employees, and committees such tasks as it may deem appropriate.~~

~~(j) Establish policies and procedures for the conduct of officers, employees, and committees.~~

~~(k) Perform such duties as the members from time to time direct and perform or authorize any action authorized by this chapter not specifically reserved in the bylaws for the members.~~

(11)~~(8)~~ The board of directors may appoint an executive committee which may be authorized to act for the board in all respects, subject to such conditions and limitations as are prescribed by the board in writing. The executive committee shall be composed of the executive officers as defined in s. 657.022.

Section 72. Subsection (3) of section 657.023, Florida Statutes, is amended to read:

657.023 Membership.—

(3) A credit union may not ~~classify members or otherwise~~ restrict any member's rights, except that the credit union may close the account *and terminate the membership* of any member whose actions have resulted in any financial loss to the credit union.

Section 73. Section 657.026, Florida Statutes, is amended to read:

657.026 Supervisory *or audit* committee.—

(1) *There shall be* a supervisory *or audit* committee of not fewer than three members, *which may* ~~shall~~ be elected by the membership or appointed by the board, *or the board may appoint an audit committee of directors* in the manner prescribed in the bylaws. *An officer or employee may not serve on the supervisory or audit committee.*

(2) The supervisory or audit committee may audit, or cause to be audited, the financial statements of the credit union to determine compliance with policy, to ensure that generally accepted accounting principles are consistently applied, and to ensure an adequate system of internal controls.

(3)~~(2) It shall be the duty of~~ The supervisory *or audit* committee *shall*:

(a) Make or cause to be made a comprehensive annual audit of the credit union, in accordance with the rules of the department.

(b) Make or cause to be made such supplementary audits or examinations as it deems necessary or as are requested by the board of directors or the department.

~~(c) Make or cause to be made a verification of members' accounts from time to time and not less than once in any 24-month period.~~

(c)~~(d)~~ Submit a report of every required audit or examination within a reasonable time to the board of directors with a copy to the department *and, depending upon which organization is applicable, a copy to the corporation or the National Credit Union Administration.*

(d)~~(c)~~ Make a summary report, to the membership at the annual meeting, of any audits or examinations conducted during the preceding year.

~~(3) The supervisory committee may:~~

~~(a) By a two-thirds vote, suspend any member of the credit committee for cause and report such action to the board of directors for appropriate action.~~

(4)~~(b)~~ *The supervisory or audit committee shall notify the board of directors, the department, and, as applicable, either the corporation or the National Credit Union Administration of* ~~By a majority vote, call a special meeting of the members to consider~~ any violation of this part, any violation of the certificate of authorization or bylaws of the credit union, or any practice of the credit union deemed by the supervisory *or audit* committee to be unsafe, unsound, or unauthorized.

For the purposes of this subsection, two-thirds of the members of the supervisory *or audit* committee *constitutes* ~~shall constitute~~ a quorum.

Section 74. Section 657.0265, Florida Statutes, is amended to read:

657.0265 Liability of *credit union directors, supervisory committee members, or audit committee members* ~~directors or supervisory committee members of credit unions.~~—

(1) A director of a credit union organized under state or federal law, or a member of the supervisory *or audit* committee of such credit union, is not personally liable for monetary damages to the credit union, its

members, or any other persons for any statement, vote, decision, or failure to act, regarding the management or policy of the credit union, ~~by a director or member of the supervisory committee,~~ unless:

(a) The director or the member of the supervisory *or audit* committee breached or failed to perform his duties as a director or as a member of the supervisory *or audit* committee; and

(b) The breach or failure to perform by the director or the member of the supervisory *or audit* committee constitutes:

1. A violation of the criminal law, unless the director or the member of the supervisory *or audit* committee had reasonable cause to believe his conduct was lawful or had no reasonable cause to believe his conduct was unlawful. A judgment or other final adjudication against a director or a member of a supervisory *or audit* committee in any criminal proceeding for a violation of the criminal law estops that director or member of the supervisory *or audit* committee from contesting the fact that his breach or failure to perform constitutes a violation of the criminal law, but does not estop the director or member of the supervisory *or audit* committee from establishing that he had reasonable cause to believe that his conduct was lawful or had no reasonable cause to believe that his conduct was unlawful;

2. A transaction from which the director or the member of the supervisory *or audit* committee derived an improper personal benefit, either directly or indirectly; or

3. Recklessness or an act or omission which was committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

(2) For the purposes of this section, the term "recklessness" means the acting, or omission to act, in conscious disregard of a risk *that is*:

(a) Known, or so obvious that it should have been known, to the director or member of the supervisory *or audit* committee; and

(b) ~~Known to the director or member of the supervisory committee, or so obvious that it should have been known, to be~~ So great as to make it highly probable that harm would follow from such action or omission.

Section 75. Section 657.027, Florida Statutes, is amended to read:

657.027 Credit committee and credit manager.—

(1) The board of directors may appoint or the members may elect, as provided in the bylaws, a credit committee composed of not fewer than three members, for such terms as the bylaws provide.

(a) The credit committee shall have the general supervision of all applications for credit by members, pursuant to written policies established by the board of directors.

(b) The credit committee shall meet as often as the business of the credit union requires and not less frequently than once a month to consider applications for credit. No credit shall be extended unless it is approved by a majority of a quorum of the committee. A quorum shall consist of not less than a majority of the entire committee.

(c) The credit committee may appoint one or more loan officers and delegate to them the power to approve *or disapprove* credit subject to such limitations or conditions as the credit committee prescribes. Credit applications not acted upon by a loan officer shall be reviewed and acted upon by the credit committee.

(2) In lieu of a credit committee, the board of directors may provide for a credit manager to approve or disapprove credit under written conditions prescribed by the board. The board of directors may designate and empower the chief *executive* ~~operating~~ officer as the credit manager, or may authorize the chief *executive* ~~operating~~ officer to employ a credit manager, as provided in the bylaws. In the event a credit manager is designated or employed, the procedures prescribed in subsection (1) do not apply, and no credit shall be extended unless approved by the credit manager; except that the credit manager may appoint one or more loan officers with the power to approve *or disapprove* credit, subject to such limitations or conditions as prescribed by the chief *executive* ~~operating~~ officer.

Section 76. Section 657.028, Florida Statutes, is amended to read:

657.028 Activities of directors, officers, committee members, employees, and agents; criminal penalties.—

(1) *An* ~~No~~ individual *may not* ~~shall have the authority to~~ disburse funds of the credit union for any extension of credit approved by him.

(2) *An* ~~No~~ elected officer or director or any committee member, *other than* ~~except~~ the treasurer *or the chief executive officer serving in the capacity of treasurer,* ~~while serving as the chief operating officer,~~ may *not* be compensated for his service as such.

(3) A person may not serve as an officer, director, or committee member of a credit union if he:

(a) Has been convicted of a felony or of an offense involving dishonesty, a breach of trust, a violation of this chapter, or fraud, except with the prior approval of the department upon a showing of rehabilitation;

(b) Has been adjudicated bankrupt within the previous 7 years;

(c) Has been removed by any regulatory agency as a director, officer, committee member, or employee of any financial institution, except with the prior approval of the department upon a showing of rehabilitation and upon showing of ability to be bondable;

(d) Has performed acts of fraud or dishonesty, or has failed to perform duties, resulting in a loss which was subject to a paid claim under a fidelity bond, except with the prior approval of the department upon a showing of rehabilitation and upon showing of ability to be bondable; or

(e) Has been found guilty of a violation of s. 655.50, relating to the Florida Control of Money Laundering in Financial Institutions Act; chapter 896, relating to offenses related to financial transactions; or any similar state or federal law.

(4) A person may not serve as a director of a credit union if he is an employee of the credit union other than the chief executive officer of the credit union.

(5)~~(3)~~ *A* ~~No~~ director, committee member, officer, agent, or employee of the credit union *may not* ~~shall~~ in any manner, directly or indirectly, participate in the deliberation upon or the determination of any question affecting his pecuniary interest or the pecuniary interest of any corporation, partnership, or association, other than the credit union, in which he or a member of his immediate family is directly or indirectly interested.

(6)~~(4)~~ Within *30* ~~10~~ days after election or appointment, a record of the names and addresses of the members of the board, members of committees, and all officers of the credit union shall be filed with the department on forms prescribed by the department.

(7)~~(5)~~ It is unlawful for any official, director, or employee of a credit union to ask for, receive, or consent to receive any commission, emolument, gratuity, money, property, or thing of value for:

(a) Procuring or endeavoring to procure for any person a loan or extension of credit from such credit union; or

(b) Procuring or endeavoring to procure the purchase or discount of any note, draft, check, bill of exchange, or other obligation by such credit union.

(8)~~(6)~~ It is unlawful for any official, director, agent, or employee of a credit union to:

(a) Knowingly receive or possess himself of any credit union property, other than in payment of a just demand, and, with intent to deceive or defraud, omit to make or cause to be made a full and true entry thereof in its books and accounts, or concur in omitting to make any material entry thereof;

(b) Embezzle, abstract, or misapply any money, property, or thing of value of the credit union with intent to deceive or defraud such credit union;

(c) Knowingly make, draw, issue, put forth, or assign any share, certificate of deposit, draft, order, bill of exchange, acceptance, note, debenture, bond, or other obligation, mortgage, judgment, or decree without authority from the board of directors of such credit union;

(d) Make any false entry in any book, report, or statement of such credit union with intent to deceive or defraud such credit union or any other person, with intent to deceive any members or officials of such credit union, or with intent to deceive the department or any authorized representative appointed to examine the affairs of such credit union; or

(e) Deliver or disclose to the department or any of its employees any examination report, report of condition, report of income and dividends, internal audit, account, statement, or document known by him to be fraudulent or false as to any material matter.

(9)~~(7)~~ Whoever violates any *provision* ~~of the provisions~~ of subsection *(7)*~~(5)~~ or subsection *(8)*~~(6)~~ is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 77. Subsections (10), (23), and (26) of section 657.031, Florida Statutes, are amended to read:

657.031 Powers.—A credit union shall have the power to:

(10) Borrow money and issue evidences of indebtedness for a loan or loans ~~for temporary purposes~~ in the usual course of its business and secure such obligations by mortgage or pledge of any of its assets. Aggregate borrowings shall not exceed 50 percent of the unimpaired capital of the credit union. However, this percentage limitation shall not apply to loans from the corporation or from the National Credit Union Administration.

(23) Act as trustee of funds permitted by federal law to be deposited in a credit union as a deferred-compensation or tax-deferral device, including, but not limited to, Individual Retirement Accounts as defined by *the* ~~s. 408,~~ Internal Revenue Code.

(26) Participate in systems which allow the transfer, withdrawal, or deposit of funds of credit unions or credit union members by automated or electronic means and hold membership in entities established to promote and effectuate these systems, provided such participation is not inconsistent with those rules of the department adopted to further service to the members and to protect members' funds against unreasonable risks. ~~Any credit union participating in any system shall notify the department as provided by law.~~

Section 78. Section 657.0315, Florida Statutes, is created to read:

657.0315 Contracts for providing goods, products, or services.—

(1) A credit union may not enter into a written or oral contract with any person to provide goods, products, or services to or for the benefit of the credit union if the performance of such contract would adversely affect the safety or soundness of the credit union, and the contract is voidable.

(2) Enforcement of this section may be made only by the board of directors of the credit union, unless the contract had been authorized by specific action of the board; by the corporation or National Credit Union Administration if it is directed to assume control of the assets and business of the credit union pursuant to s. 657.062; or by the liquidator appointed pursuant to s. 657.063 or s. 657.064.

Section 79. Subsections (5) and (6) of section 657.033, Florida Statutes, are amended to read:

657.033 Accounts.—

(5) *When* ~~At such time as the location of the member, beneficiary, or other person named on the account is unknown to the credit union and~~ there has not been any activity generated by the member on the account for *24* ~~12~~ months ~~or longer~~, such account shall be considered a dormant account and shall be placed ~~in a separate grouping~~ under *an accounting* a control system ~~which will adequately identify such accounts~~.

(6) *If the owner of a dormant account, a person named on the account, or the beneficiary of the account has not had any activity with a credit union for 7 years and the whereabouts of those interested parties are unknown to the credit union, that account is unclaimed or abandoned property and shall be maintained pursuant to chapter 717.* ~~Adequate controls shall be established to determine the validity of significant activity on dormant accounts.~~

Section 80. Section 657.038, Florida Statutes, is amended to read:

657.038 Loan powers.—

(1) A credit union may extend credit to members for such purpose and upon such security and terms as the credit committee, credit manager, or loan officer approves, pursuant to written loan policies established by the board of directors, ~~at rates of interest not exceeding 18 percent per annum simple interest,~~ or as may otherwise be provided by law.

(2) The total unsecured obligations outstanding from any member *must* ~~shall~~ not exceed the greater of *$500 or 15* ~~$200 or 2~~ percent of the *equity* ~~unimpaired capital~~ of the credit union.

(3) The total ~~secured~~ obligations outstanding from any member *must* ~~shall~~ not exceed the greater of *$1,000 or 25* ~~$500 or 10~~ percent of the *equity* ~~unimpaired capital~~ of the credit union. The limitations provided in this subsection do not apply to loans which are fully secured by assignment of shares or deposits *in* ~~of~~ the lending credit union.

(4) A member may receive credit in installments or in one sum and may pay the whole or any part of his indebtedness on any day on which the office of the credit union is open for business.

(5) The credit committee or credit manager may approve in advance, upon request of a member, a line of credit, and disbursements may be granted to such member within the limit of such line of credit. When a line of credit has been approved, no additional credit applications are required as long as the aggregate obligation does not exceed the limit of such line of credit; however, no additional disbursements *may* ~~shall be made to any member whose financial information has not been reviewed and updated within the previous 36-month period, and no additional disbursements shall~~ be made to any member whose existing extensions of credit are in default or are subject to adverse classification without receiving current financial information.

(6) Loans secured by ~~first or second~~ mortgages on real property *must* ~~shall~~ be made in accordance with written policies of the board of directors and rules of the department.

(7) *As used in this section, the term "related interest" means a person's interest in a partnership as a general partner, and any limited partnership, corporation, or other business organization controlled by that person. A limited partnership, corporation, or other business organization is controlled by a person who:* ~~In computing the aggregate liability of a member for the purpose of the limitations herein and any other limitation prescribed by rules of the department and the bylaws of the credit union, there shall be included:~~

(a) *Owns, controls, or has the power to vote 25 percent or more of any class of voting securities of any such business organization;* ~~Loans to a member corporation in which the member holds an equity interest of 25 percent or more.~~

(b) *Controls in any manner the election of a majority of the directors of any such business organization; or* ~~Loans to any member partnership in which the member is a general partner or is a limited partner with a 50 percent interest or more.~~

(c) *Has the power to exercise a controlling influence over the management or policies of such business organization.* ~~Loans made, endorsed, or guaranteed by the member.~~

(8) In computing the total liabilities of any person, all loans endorsed or guaranteed as to repayment by such person and by any related interest of such person must be included.

(9)~~(8)~~ *A* ~~No~~ loan *may not* ~~shall~~ be made to any corporation, except *to* the Florida Credit Union Guaranty Corporation, Inc., or a corporation in which the credit union holds an equity interest.

(10)~~(9)~~ The loan limitations stated in this section shall not be enlarged by the provision of any other section of this chapter.

(11)~~(10)~~ Any approval of extension of credit requiring approval of the board of directors shall be recorded in the minutes of the board, including the borrower's account number or other code, the amount of the loan, the maturity of the loan, and the general type of security.

(12)~~(11)~~ The department may adopt rules to provide for minimum documentation and safe lending procedures necessary to protect the members' funds.

(13)~~(12)~~ A credit union may participate in extensions of credit to its members jointly with other credit unions, corporations, or financial institutions.

(14)~~(13)~~ A credit union may participate in guaranteed loan programs of the federal and state governments, provided the borrower is a member of the credit union.

(15)~~(14)~~ If approved by the board of directors, a credit union may extend credit to other credit unions, or to the corporation, in an amount not greater than 25 percent of the unimpaired capital of the lending credit union.

(16)~~(15)~~ A credit union may purchase the conditional sales contracts, notes, and similar instruments of its members, provided that the credit union could have originally made the loan to the member.

~~(16) For the purposes of this part, the existence of an endorser, comaker, or guarantor shall not constitute security.~~

Section 81. Section 657.039, Florida Statutes, is amended to read:

657.039 Loan powers; extension of credit to directors, officers, committee members, and certain employees.—

(1) A credit union may extend credit to its *officers,* directors, ~~its~~ credit manager, members of its supervisory, *audit,* and credit committees, and any other person authorized to approve extensions of credit, provided:

(a) The extension of credit complies with all requirements under this part with respect to credit extended to other borrowers and is not on terms more favorable than those extended to other borrowers.

(b) *The loan or aggregate of loans to any person or any related interest of any person covered by this section which exceeds $5,000, except for share-secured or deposit-secured credit, is approved in advance by the board of directors with any interested person abstaining from voting.* ~~The aggregate of credit, except share-secured or deposit-secured credit, extended to those persons set forth in this subsection does not exceed 10 percent of the unimpaired capital of the credit union.~~

(c) ~~The application for extension of credit, except share-secured or deposit-secured credit, is approved by the credit committee or credit manager and the board of directors, without such director, loan officer, credit manager, or credit committee member having a vote on his loan.~~ Approved lines of credit, such as open-end loans, may be funded without further approval by the board, but all extensions of credit *over $5,000* to such persons *must* ~~shall~~ be reviewed at least annually by the board of directors. Closed-end loans which have been fully funded *do* ~~shall~~ not require annual review.

(2) As used in this section, the term "related interest" means a person's interest in a partnership as a general partner, and any limited partnership, corporation, or other business organization controlled by that person. A limited partnership, corporation, or other business organization is controlled by a person who:

(a) Owns, controls, or has the power to vote 25 percent or more of any class of its voting securities;

(b) Controls in any manner the election of a majority of its directors; or

(c) Has the power to exercise a controlling influence over its management or policies.

(3) In computing the total liabilities of any person, all loans endorsed or guaranteed as to repayment by such person and by any related interest of such person must be included.

~~(2) In computing the aggregate liabilities of the directors, officers, committee members, and employees subject to the 10 percent limitation, there shall be included:~~

~~(a) Loans to any member corporation in which any one or more directors, officers, committee members, or employees hold an equity interest of 25 percent or more.~~

~~(b) Loans to any member partnership in which any one or more directors, officers, committee members, or employees is a general partner or a limited partner with a 50 percent interest or more.~~

~~(c) Loans comade, endorsed, or guaranteed by the directors, officers, committee members, and employees.~~

~~(3) The requirements of this section concerning approval of extensions of credit by the board of directors shall have been met only when those approvals have been recorded in the formal minutes of the board, including the borrower's name, the amount of the loan, the maturity of the loan, and the general type of security.~~

(4) The limitations stated in this section shall not be enlarged by the provision of any other section of this chapter.

Section 82. Section 657.042, Florida Statutes, is amended to read:

657.042 Investment powers and limitations.—A credit union may invest its funds subject to the following definitions, restrictions, and limitations:

(1) INVESTMENTS NOT SUBJECT TO LIMITATIONS.—There is no limitation with respect to the capital of the investing credit union on the following investments:

(a) Direct obligations of the United States Government.

(b) Obligations of agencies created by the United States Congress and authorized thereby to issue securities or evidences of indebtedness, regardless of guarantee of repayment by the United States Government.

(c) Public housing authority obligations.

(d) General obligations of the states of the United States and of the political subdivisions and municipalities thereof.

(e) Obligations issued by the State Board of Education under authority of the Constitution or applicable statutes.

(f) Tax anticipation certificates or warrants of counties or municipalities having maturities not exceeding 1 year.

(g) The assets of liquidating credit unions in this state, provided such assets are otherwise eligible for investment by the acquiring credit union.

(h) The shares and deposit accounts of corporate credit unions and any other fund established by this state or by the Federal Government for the purpose of maintaining liquidity in credit unions; however, such investments shall not exceed the amount required for the purpose of meeting the daily needs of the investing credit union for operating liquidity.

(i) Stock of the Federal National Mortgage Association, or any other similar entity designated by the department, designed to promote investment in residential mortgages, which may be purchased and retained as required in connection with mortgage transactions with the association or entity.

(2) INVESTMENTS SUBJECT TO LIMITATION OF *25* ~~15~~ PERCENT OF CAPITAL OF THE CREDIT UNION.—Up to *25* ~~15~~ percent of the capital of the credit union may be invested in:

(a) The shares or deposit accounts *in* ~~of~~ any one corporate credit union or other insured financial depository institution. *The credit union may exceed the 25-percent investment limitation in the corporate credit union, subject to the prior written approval of the department.*

(b) Federal funds, daily; however, a credit union may not sell at any one time federal funds to any individual institution in an amount exceeding 100 percent of the equity of the selling credit union.

(c) Bankers' acceptances that are eligible for purchase by Federal Reserve Banks.

(3) INVESTMENT SUBJECT TO LIMITATION OF TWO PERCENT OF CAPITAL OF THE CREDIT UNION.—

(a) Up to 2 percent of the capital of the credit union may be invested in the capital shares, obligations, or preferred stock issues of any agency or association, or membership association, provided the membership or stockholdings, as the case may be, of such agency or association are primarily confined or restricted to credit unions or organizations of credit unions and provided the purposes for which such agency or association is organized are designed primarily to service or otherwise assist credit union operations.

(b) Commercial paper and bonds of any corporation within the United States which have a fixed maturity, as provided in subsection (7), except that the total investment in all such paper and bonds may not exceed 10 percent of the capital of the credit union.

(4) INVESTMENT SUBJECT TO LIMITATION OF ONE PERCENT OF CAPITAL OF THE CREDIT UNION.—Up to 1 percent of the capital of the credit union or $15,000, whichever is greater, may be invested in any of the following:

(a) Corporate obligations of any one corporation which is an affiliate or subsidiary of the credit union, except that the total investment in all such corporate obligations shall not exceed 10 percent of the capital of the credit union.

~~(b) With the approval of the department, corporate bonds with a fixed maturity of any corporation within the United States, except that the total investment in all such corporate bonds shall not exceed 10 percent of the capital of the credit union.~~

(b)~~(c)~~ Any capital participation instrument or evidence of indebtedness issued by the Florida Black Business Investment Board pursuant to the Florida Small and Minority Business Assistance Act of 1985.

(5) INVESTMENTS IN REAL ESTATE AND EQUIPMENT FOR THE CREDIT UNION.—

(a) Up to 5 percent of the capital of the credit union may be invested in real estate and improvements thereon, furniture, fixtures, and equipment utilized or to be utilized by the credit union for the transaction of business.

(b) The limitations provided by this subsection may be exceeded with the prior written approval of the department. The department shall grant such approval if it is satisfied that:

1. The proposed investment is necessary.

2. The amount thereof is commensurate with the size and needs of the credit union.

3. The investment will be beneficial to the members.

(6) INVESTMENTS SUBJECT TO DEPARTMENT APPROVAL.—A credit union may invest its funds in such other investments, including the capital stock of other financial institutions, as the department approves by rule or order.

(7) SPECIAL PROVISIONS.—

(a) None of the bonds or other obligations described in this section shall be eligible for investment by credit unions in any amount unless current as to all payments of principal and interest and unless rated in one of the four highest classifications, or, in the case of commercial paper, unless it is of prime quality and of the highest letter and numerical rating, as established by a nationally recognized investment rating service, or any comparable rating as determined by the department. ~~Bonds or other obligations which are unrated shall not be eligible for investment unless otherwise supported as to investment quality and marketability by a credit rating file compiled and maintained in current status by the purchasing credit union.~~

(b) *With prior approval of the department,* any investment permitted in this section may also be made indirectly by investment in a trust *or mutual*, the investments of which are limited as set forth *in this section* ~~herein~~, provided that the *credit union must maintain a current file on each investment which contains sufficient information to determine whether the investment complies with the requirements of this section. If the investment fails to comply with the requirements of this section, the credit union must divest itself of its investment, unless otherwise* ~~trust is~~ approved by the department.

Section 83. Section 657.043, Florida Statutes, is amended to read:

657.043 Reserves.—

(1) TRANSFERS TO REGULAR RESERVE.—Immediately before *paying* ~~payment of~~ each dividend, the *total* ~~gross earnings~~ of *all income for the period* ~~the credit union~~ shall be determined. From this amount, there shall be set aside sums as a regular reserve in accordance with the following schedule:

(a) A credit union shall set aside:

1. Five percent of the *total of all income for the period* ~~gross income~~, until the regular reserve *equals 6* ~~shall equal 4~~ percent of the ~~total outstanding loans and~~ risk assets, then,

2. Two percent of the *total of all income for the period* ~~gross income~~, until the regular reserve *equals 8* ~~shall equal 6~~ percent of the ~~total outstanding loans and~~ risk assets.

(b) Whenever the *ratio of regular reserves to risk assets* ~~regular reserve~~ falls below the stated percent ~~of the total outstanding loans and risk assets~~, it shall be replenished by regular contributions as provided in paragraph (a).

(c) The department may decrease the reserve requirements set forth in this subsection when in its opinion such a decrease is necessary to preserve the fiscal soundness of the credit union.

(2) ALLOWANCE FOR LOAN LOSSES ACCOUNT.—*The credit union shall maintain an account for loan losses. The amount in the account must equal the board's estimate of losses in the loan portfolio and be consistent with the rules of the department. The account must be provided for, before paying a dividend, in the manner provided by rule. This account constitutes part of the regular reserve for the purpose of determining the ratio of regular reserves to risk assets.* ~~A portion of the regular reserve will be transferred to an account to be known as "allowance for loan losses" in an amount equal to the board's estimate of losses in the portfolio and consistent with rules of the department.~~

(3) USE OF REGULAR RESERVE.—The regular reserve shall belong to the credit union and shall be used to meet losses ~~as may be approved by the department~~. *In the event of a decrease, the department may require additional transfers to the regular reserve above the amount required by subsection (1) until the decrease has been restored. The regular reserve may not be decreased without the prior written approval of the department or as provided by rule.*

(4) RISK ASSETS DEFINED.—~~For the purpose of establishing the reserve required by subsection (1),~~ The following assets shall ~~not~~ be considered risk assets:

(a) All loans, except:

~~(a) Cash on hand.~~

~~(b) Insured or guaranteed deposits and shares in financial depository institutions.~~

~~(c) Assets which are fully insured or fully guaranteed as to principal and interest by, or due from, the United States Government, its agencies, or associations.~~

~~(d) Loans to other credit unions.~~

~~(e) Loans to students insured under the provisions of Title IV, Part B of the Higher Education Act of 1965 (20 U.S.C. ss. 1071 et seq.) by the Federal Housing Administration or similarly insured loans.~~

~~(f) Shares or deposits in central credit unions organized under this part or any other state act or the Federal Credit Union Act.~~

~~(g) Common trust investments which deal in investments authorized by this part.~~

~~(h) Accrued interest on nonrisk investments.~~

~~(i) Furniture and equipment.~~

~~(j) Land and buildings.~~

~~(k) Investments in or loans to the corporation.~~

1.~~(l)~~ Loans fully secured by a pledge of shares or deposits in the lending credit union, equal to and maintained to at least the amount of the loan outstanding.

2.~~(m)~~ Loans which are purchased from liquidating credit unions and guaranteed by the corporation or insured by the National Credit Union Administration or other insuring agencies.

3. Investments in or loans to the corporation.

(b) All investments that have remaining maturities greater than 3 years, unless a specific reserve has been established to mark the investment to current market value.

(c) Uninsured or nonguaranteed deposits and shares in financial depository institutions, except deposits in the Federal Reserve Bank, the Federal Home Loan Bank, and the Southeast Corporate Federal Credit Union.

(d) All investments in commercial paper and bonds.

(e) All investments in Banker's Acceptances.

(f) All investments in Federal Funds.

(g) All investments that are authorized pursuant to subsection (6) or subsection (7).

(h) Fixed assets greater than the statutory limit imposed by this chapter, unless a specific reserve has been established for the excess.

(5) ALLOWANCE FOR INVESTMENT LOSSES.—The credit union may maintain a contra asset account to provide an allowance for investment losses, which will not be included in the determination of equity. The account must be maintained consistent with the rules of the department.

(6)~~(5)~~ SPECIAL RESERVES.—In addition to such regular reserve, special reserves shall be established:

(a) To protect members against losses resulting from credit extended or from risk assets when required by rule, or when found by the department, in any special case, to be necessary for that purpose; or

(b) As authorized by the board of directors.

(7)~~(6)~~ RESERVE FOR CONTINGENCIES.—The board of directors may, after the regular reserve required by this section and rules of the department has been set aside, transfer a portion of undivided earnings to an auxiliary reserve account to provide for additional possible losses and expenses. ~~The purpose for the reserve shall be specific, and the amount of the possible loss shall be reasonably estimable.~~

(8) RESERVES.—The ratio of equity to total assets for each credit union must be maintained at not less than 5 percent. At the end of the calendar quarter when this ratio is determined to be less than 5 percent, the credit union shall, within 60 days thereafter, prepare and file with the department for approval a plan to achieve the minimum ratio within 4 years, or such longer period of time approved by the department. Once achieved, each credit union must maintain a ratio of equity to total assets of not less than 5 percent, unless otherwise authorized by the department. The department, by rule, shall prescribe the information, types of restrictions and limitations on operations, reporting requirements, and other criteria that are required to be included in an acceptable plan. An acceptable plan must recognize the unique characteristics and risk differences for the individual credit union.

(9) GUARANTY ASSISTANCE AGREEMENT.—The amount of any liability arising out of a guaranty assistance agreement with the corporation or National Credit Union Administration must be maintained as a reserve and be included in the determination of undivided earnings of the credit union.

Section 84. Section 657.053, Florida Statutes, 1990 Supplement, is amended to read:

657.053 Assessments; state credit unions.—

~~(1)~~ Each state credit union shall pay to the department a semiannual assessment ~~based on the total assets as shown on the statement of condition of the credit union on the last business day in December and the last business day in June of each year. The semiannual assessment shall be~~ computed by using the following schedule:

(1)~~(a)~~ For assets under $25,000, an assessment of *$1.98* ~~$1.72~~ per $1,000, but not less than *$17.25* ~~$15.00~~.

(2)~~(b)~~ For assets over $25,000, an assessment of *$49.50* ~~$43.12~~, plus *$1.82* ~~$1.58~~ per $1,000 over $25,000.

(3)~~(c)~~ For assets over $50,000, an assessment of *$95.00* ~~$82.65~~, plus *$1.59* ~~$1.38~~ per $1,000 over $50,000.

(4)~~(d)~~ For assets over $100,000, an assessment of *$174.40* ~~$151.65~~, plus *$0.99* ~~$0.86~~ per $1,000 over $100,000.

(5)~~(e)~~ For assets over $250,000, an assessment of *$323.19* ~~$281.03~~, plus *$0.79* ~~$0.69~~ per $1,000 over $250,000.

(6)~~(f)~~ For assets over $500,000, an assessment of *$521.56* ~~$453.53~~, plus *$0.46* ~~$0.40~~ per $1,000 over $500,000.

(7)~~(g)~~ For assets over $1,000,000, an assessment of *$753.00* ~~$654.78~~, plus *$0.36* ~~$0.31~~ per $1,000 over $1,000,000.

(8)~~(h)~~ For assets over $2,000,000, an assessment of *$1,116 69* ~~$971.03~~, plus *$0.31* ~~$0.27~~ per $1,000 over $2,000,000.

(9)~~(i)~~ For assets over $5,000,000, an assessment of *$2,068.89* ~~$1,799.03~~, plus *$0.16* ~~$0.14~~ per $1,000 over $5,000,000.

(10)~~(j)~~ For assets over $20,000,000, an assessment of *$4,449.39* ~~$3,869.03~~, plus *$0.15* ~~$0.13~~ per $1,000 over $20,000,000.

(11)~~(k)~~ For assets over $50,000,000, an assessment of *$9,012.01* ~~$7,836.53~~, plus *$0.14* ~~$0.12~~ per $1,000 over $50,000,000.

(12)~~(l)~~ For assets over $100,000,000, an assessment of *$16,285.76* ~~$14,161.53~~, plus *$0.14* ~~$0.12~~ per $1,000 over $100,000,000.

~~(2) Additional assessments may be made to cover the costs of the department for examination and supervision. Such assessments may not exceed 15 percent of the assessment of a credit union, as calculated pursuant to subsection (1), in any fiscal year. The assessments required by this subsection shall apply to the 6-month period following the first day of the month in which they are due.~~

Section 85. Section 657.055, Florida Statutes, is amended to read:

657.055 *Retention and* destruction of certain records.—

(1) *The following credit union records must be retained permanently in either their original form or copied photographically, microphotographically, or on archival computer media:*

(a) Charter, bylaws, and amendments.

(b) Certificates of share insurance or any license to operate under a program of any government agency.

(c) General ledger and supporting subsidiary ledgers.

(d) Minutes of meetings of the members, board of directors, credit committee, audit committee, and supervisory committee.

(e) Supervisory or audit committee annual audit report, or equivalent examination report by a certified public accountant, and any attachments.

(f) Listings of records destroyed.

(2) The following credit union records, if used, must be retained in either their original form or copied photographically, microphotographically, or on archival computer media for a period of at least 5 years after January 1 of the year following the date the records are made or filed:

(a) Balance sheets and statements of income and expenses.

(b) Individual share and loan records.

(c) Journal and cash records.

(d) Cash account reconcilements.

(e) Dividend records.

(f) Expense records.

(g) Reports of financial condition.

(h) Matured investment records.

(i) Supervisory or audit committee summary of account verification or the equivalent prepared by a certified public accountant.

(j) Closed applications for membership and share account agreements.

~~(a) Credit unions shall preserve the following records, if used, or files or photographic or microphotographic copies thereof, for a period of not less than 5 years next after January 1 of the year following the time of making or filing of such records or files:~~

~~1. Cash received voucher.~~

~~2. Balance sheet and statement of income and expense.~~

~~3. Individual share and loan ledger.~~

~~4. Journal and cash record.~~

~~5. Bank reconcilement.~~

~~6. Dividend record.~~

~~7. Expense record.~~

~~(b) Ledger sheets or photographic or microphotographic copies of ledger sheets shall not be destroyed and shall be retained in an accessible location.~~

(3)~~(2)~~ No liability shall accrue against any credit union destroying any such records after the expiration of the period provided in subsection *(2)* ~~(1)~~, and in any cause or proceedings in which any such records or files *are* ~~may be~~ called *into* ~~in~~ question or ~~be~~ demanded of the credit union or an employee thereof, a showing that such records or files have been destroyed in accordance with the terms of this section *constitutes* ~~shall be~~ a sufficient excuse for the failure to produce them.

(4)~~(3)~~ Any credit union may photograph, microphotograph, *use archival computer media,* or reproduce on film, in such manner that each page is exposed in its entirety, any of its journals, ledgers, statements, account books, other books, or internal records of every description made or received in the regular course of its business, and the photographs, microphotographs, *archival computer media,* or reproductions on film in the form of film, prints, or enlarged prints, or any duly certified or authenticated copy or reproduction thereof, duly certified or authenticated by a responsible officer of the credit union under whose supervision the records are kept shall, in all cases and in all courts and places, be admitted and received as evidence with a like force and effect as the original general ledger, voucher, statement, account book, or other record.

(5) Retention requirements of federal laws must be satisfied pursuant to appropriate federal regulations.

(6)~~(4)~~ This section shall, so far as applicable, apply to the records of federal credit unions operating in this state.

Section 86. Section 657.062, Florida Statutes, is amended to read:

657.062 Assumption of control by guarantor or insurer.—

(1) The department may direct the corporation or the National Credit Union Administration, whichever is applicable, to assume control of the property, assets, and business of its member credit union and to operate it *subject to the directions* ~~in accordance with the recommendations~~ of the department:

(a) Whenever the department finds that the credit union:

1. Is engaging or has engaged in an unsafe or unsound practice;

2. Is violating or has violated any provision of this chapter; or

3. Is violating or has violated any department rule, department order, or written agreement entered into with the department,

in such a manner that the credit union is threatened with *imminent* insolvency. *Any credit union which has a balance in its equity accounts of less than 1 percent of its total assets, after adjustment for apparent losses, is considered to be threatened with imminent insolvency.*

(b) Whenever a majority of the members of the board of directors of the credit union have been removed by the department or shall have resigned.

(2) *Except when prohibited by federal or state law,* in the event of assumption of control, the guarantor or insurer *may* ~~shall have authority to~~ elect the board of directors and the operating committees *and may, without penalty or liability, prepay any deposit accounts; terminate any contracts or agreements with employees, independent contractors, or consultants; terminate any contract or agreement with any person to provide goods, products, or services if the performance of such contract would adversely affect the safety or soundness of the credit unions or if such contract was entered into in violation of s. 657.0315(1); and terminate or assign any lease for property.* The authority of the guarantor or insurer to continue operation of a credit union shall continue for a period not to exceed 180 days, unless extended by the department for an additional period not to exceed 180 days at the request of the guarantor or insurer, or unless involuntary liquidation proceedings have been initiated by the department. In the event that the guarantor or insurer does assume control pursuant to the direction of the department, a meeting of the credit union shall be called within 180 days, or within the period of extension as approved by the department, for the specific purpose of electing a new board of directors, who shall take office when the guarantor or insurer surrenders control, or considering such other recommendations as the guarantor or insurer and the department may make.

Section 87. Section 657.063, Florida Statutes, is amended to read:

657.063 Involuntary liquidation.—

(1) If the department finds that any credit union is bankrupt or insolvent, or is transacting its business in an unsound, unsafe, or unauthorized manner such that it is threatened with imminent insolvency, and liquidation is in the best interest of the members, the department may, in its discretion, order the credit union placed in involuntary liquidation and designate and appoint a liquidator to take charge of the assets and affairs of the credit union. The order shall set forth the specific findings and reasons for the action taken.

(2) The liquidator *must* ~~to~~ be appointed by the department. ~~shall be~~ The corporation or the National Credit Union Administration, whichever is applicable, *must be given the right of first refusal. The department may appoint another entity if refused by the primary guarantor or insurer.*

(3) Upon appointment and in accordance with the directions of the department, the liquidator shall take possession and charge of all of the assets, books, and records of the credit union and shall take charge of the affairs, business, and operations of the credit union and shall have all of the powers of the board of directors, credit committee, credit manager, and supervisory committee of the credit union. The liquidator shall continue the business operation of the credit union for a period not to exceed 180 days, subject to the direction of the department. The liquidator shall have full authority to make loans and investments and to permit deposits to or withdrawals from accounts by members, except that during the period of such operation by the liquidator, no withdrawal from any account or accounts which are not fully insured or guaranteed shall be permitted. *Except when prohibited by federal or state law, the liquidator may, without penalty or liability, prepay any deposit accounts; terminate any contracts or agreements with employees, independent contractors, or consultants; terminate any contract or agreement that was entered into in violation of s. 657.0315(1) or s. 657.062(2); and terminate or assign any lease for property.* The liquidator shall proceed with a liquidation of assets by sale or transfer of assets and conversion of assets into cash or liquid investments in preparation for distribution to members on account of shares and deposits. The liquidator shall have specific authority to sell loan assets. *The liquidator may enter into agreements for the sale or transfer of loans and other assets with the assumption of outstanding share and deposit accounts, which assumption constitutes full and complete distribution to members on account of shares and deposits.*

(4) On the completion of the liquidation and certification by the liquidator that the distribution of the assets of the credit union has been completed, the department shall cancel the certificate of authorization of the credit union. The department may designate a custodian to maintain the books and records of the liquidated credit union.

(5) When the *liquidating agent of the credit union* ~~corporation or the National Credit Union Administration~~ has been appointed ~~liquidating agent of a credit union~~, the department may waive or deem inapplicable the fees required by this chapter and the examination required by s. 655.045(1)(a), provided the *liquidating agent* ~~corporation or the National Credit Union Administration~~ submits periodic reports to the department on the status of the liquidation.

Section 88. Section 657.064, Florida Statutes, is amended to read:

657.064 Voluntary liquidation.—A credit union may elect to dissolve voluntarily and liquidate its affairs in the following manner:

(1) Before considering any resolution pertaining to voluntary liquidation by the board of directors, the credit union must inform the department and the corporation or the National Credit Union Administration, whichever is applicable, of the time and place of the meeting of the board of directors. The notification must be transmitted at least 5 days before the board of directors meets.

(2)~~(1) Any action by~~ The board of directors, pursuant to this section, shall, ~~be~~ by resolution, *recommend* ~~recommending~~ to the membership that the credit union be dissolved and shall state the board's reasons for such recommendation.

(3)~~(2)~~ Within 10 days after adoption by the board of directors of the resolution proposing voluntary liquidation, a copy of the resolution shall be mailed to each member, giving notice of the time, location, and purpose of a special membership meeting, which *must* ~~shall~~ be held *not* ~~no~~

less than 10 *nor* ~~or~~ more than 20 days following the mailing of the resolution. Included in this notice shall be a mail ballot, allowing each member to vote in favor *of* or against the proposed voluntary liquidation. All ballots which are received by the credit union prior to the time set for the special membership meeting shall be counted together with the ballots cast at the meeting to determine whether the membership approves of the voluntary liquidation. Adequate procedures shall be established to provide that each member shall have but one vote. A majority of the votes cast by the members must be in favor of voluntary liquidation for the credit union to be voluntarily liquidated. *Those casting ballots by mail or at the meeting constitute a quorum for the transaction of business at such special meeting, notwithstanding any contrary bylaw provision.*

~~(3) Prior to consideration of any resolution pertaining to voluntary liquidation by the board of directors, the credit union shall inform the department and the corporation or the National Credit Union Administration, whichever is applicable, of the time and place of the meeting of the board of directors. Said notification shall be transmitted not less than 5 days prior to the meeting of the board of directors.~~

(4) Upon adoption by the board of directors of a resolution recommending that the credit union be voluntarily liquidated, the corporation or the National Credit Union Administration, whichever is applicable, may restrict control or give directions with respect to the continued business of the credit union pending consideration of the voluntary liquidation by the members. During such period, no member shall withdraw an aggregate amount in excess of the insurance or guaranty covered by the credit union. No new extensions of credit shall be funded during the period between the board of directors' adoption of the resolution recommending the voluntary liquidation and the membership meeting called to consider the voluntary liquidation, *except for loans fully secured by a pledge of shares and for the funding of outstanding loan commitments approved before the board of directors adopts the resolution.*

(5) The notice required by subsection *(3)*~~(2)~~ shall also be mailed to the department within 5 days after the action of the board of directors. Within 10 days after the meeting of the membership, the board of directors shall notify the department and the corporation or the National Credit Union Administration, whichever is applicable, in writing of the action taken by the members.

(6) If the voluntary liquidation is approved by the membership, the board of directors shall appoint a liquidator to proceed with the liquidation. All reasonable and necessary expenses of operation during the period of liquidation shall continue to be paid as authorizable by the board of directors. *When all assets from which there is a reasonable expectancy of realization have been fully paid, the remaining liquidation proceeds shall be paid and distributed to the members, ratably according to the balances in the share accounts as of the close of the last business day preceding the date of the resolution of the board of directors pursuant to subsection (2).*

(7) The corporation or the National Credit Union Administration, whichever is applicable, shall have the right of first refusal to be appointed as liquidator of any liquidating credit union which it guarantees or insures. The liquidator shall have all of the powers provided in s. 657.063 regarding involuntary liquidation. If the corporation or the National Credit Union Administration shall decline to serve as liquidator, the board of directors shall appoint a reasonable person as liquidator and specify the extent of responsibilities and authority delegated to the liquidator.

(8) When the liquidating agent of the credit union has been appointed, the department may waive or hold inapplicable the fees required by this chapter and the examination required by s. 655.045(1)(a), provided the liquidating agent submits periodic reports to the department on the status of the liquidation.

(9)~~(8)~~ Whenever the board of directors or liquidator determines that all assets from which there is a reasonable expectancy of realization have been liquidated and distributed to the members, a certificate of dissolution on forms prescribed by the department shall be prepared and filed with the department together with all pertinent books and records of the credit union, and thereupon the credit union shall be dissolved and its certificate of authorization canceled. The department may designate a custodian to maintain the books and records of the liquidated credit union.

~~(9) The liquidator shall file a copy of the certificate of dissolution with the Department of State and provide proof of such filing to the department.~~

~~(10) When the corporation or the National Credit Union Administration has been appointed liquidating agent of a credit union, the department may waive or deem inapplicable the fees required by this chapter and the examination required by s. 655.045(1)(a), provided the corporation or the National Credit Union Administration submits periodic reports to the department on the status of the liquidation.~~

Section 89. Section 657.065, Florida Statutes, is amended to read:

657.065 Merger.—

(1) Any state or federal credit union may merge with another state or federal credit union under the existing certificate of authorization of the other credit union, pursuant to any plan agreed upon by the majority of the board of directors of each credit union joining in the merger, if:

(a) The merger is approved by the affirmative vote of a majority of the members of the merging credit union *who voted on the issue* ~~present at a meeting of its members duly called for such purpose~~;

~~(b) The merger is approved by an affirmative vote of a majority of the members of the surviving credit union present at a meeting of its members duly called for such purpose; however, no such vote or meeting is required unless requested in writing by 5 percent or more of the membership of the surviving credit union within 20 days of being given notice of intent to merge, which notice shall inform the members of their right to request a vote and meeting as provided in this paragraph;~~

(b)~~(c)~~ The merger is consented to by the corporation or the National Credit Union Administration, whichever is applicable; and

(c)~~(d)~~ The merger is approved by the authority under the supervision of which the resulting credit union will operate.

(2) The department shall approve a merger as provided in this section if it finds upon the written and verified application filed by each board of directors that:

(a) Notice of intent to merge was given to the members of the surviving credit union;

(b) Notice of the meeting called to consider the merger was given to the members entitled to vote upon the question;

(c) Such notice disclosed the purpose of the meeting and properly informed the membership *of the merging credit union* that approval of a merger was under consideration;

(d) A majority of the votes cast upon the question *by the members of the merging credit union* were in favor of the merger; and

(e) The merger will not seriously impair the ongoing viability of the surviving credit union.

(3) After agreement by the boards of directors and approval by the members of the merging credit union, *the chief executive officer* ~~and surviving credit union, if applicable, the president and secretary~~ of the surviving credit union shall execute a *plan* ~~certificate~~ of merger, which shall set forth all of the following:

(a) The time and place of the meeting of each board of directors at which the plan was agreed upon;

(b) The vote in favor of the adoption of the plan;

(c) A copy of the resolution or other action by which the plan was agreed upon;

(d) The time and place of the meeting ~~or meetings~~ of the members~~, if applicable,~~ at which the plan agreed upon was approved; ~~and~~

(e) The vote by which the plan was approved by the members~~;~~.

(f) The name and the specific location of the proposed main office and each existing and proposed branch office;

(g) The name of each director who is to serve until the next annual meeting; and

(h) A copy of any proposed bylaw amendments.

(4) The ~~certificate and~~ plan of merger shall be transmitted to the department for its approval.

~~(5) Upon return of the certificate from the department, or at such time as directed by the department, all property, property rights, and members' interests of the merged credit union shall vest in the surviving credit union without deed, endorsement, or other instrument of transfer, and all debts, obligations, and liabilities of the merged credit union shall be deemed to have been assumed by the surviving credit union under the certificate of authorization of which the merger was effected. All members of the surviving credit union shall have the same rights, privileges, and responsibilities after the merger is completed.~~

(5)~~(6)~~ A merger application shall be accompanied by a nonrefundable fee of $500. The fee may be waived by the department for a merger pursuant to subsection *(6)*~~(7)~~.

(6)~~(7)~~ Notwithstanding any other provisions of this chapter or of chapter 120, a credit union may merge without a vote of the membership when the department determines that the credit union is in danger of insolvency and that the merger will enable the credit union to avoid liquidation.

(7)~~(8)~~ *A merger with a resulting state credit union may not take place or be effective unless the department issues a certificate of merger.* Upon consummation of the merger, the certificate of authorization of the merged credit union shall be returned to the proper authority to be canceled. *Also at consummation, all property and property rights of, and members' interests in, the merged credit union vest in the surviving credit union without deed, endorsement, or other instrument of transfer, and all debts, obligations, and liabilities of the merged credit union must be assumed by the surviving credit union under the certificate of authorization under which the merger was effected. All members of the surviving credit union have the same rights, privileges, and responsibilities after the merger is completed. The certificate of merger must be recorded in the public records of all counties in which the merging credit union owned any real property at the effective date of the merger.*

Section 90. Subsection (2) of section 657.068, Florida Statutes, is amended to read:

657.068 Central credit unions.—

(2) Membership in a central credit union shall be limited to:

(a) Credit unions organized and operating under this part or any other credit union act;

(b) Officers, directors, committee members, and employees of such credit unions, and officials and employees of any association of credit unions;

(c) Organizations and associations of those persons or organizations set forth in paragraph (a) or paragraph (b);

(d) Residents of this state having a limited field of membership who have applied to the department to organize a credit union and have been denied on grounds other than those set forth in s. 657.005(6);

(e) Residents of this state having a limited field of membership, if their application for membership is approved by the board of directors of the central credit union *and by the department;*~~. The applicant group must demonstrate to the board of directors of the central credit union that the circumstances of its group are such as to clearly demonstrate that there is no reasonable chance that the group could successfully organize a credit union. The burden of proof shall be on the applicant group. The department shall promulgate forms to be used by applicant groups applying for membership in central credit unions. If the applicant group is approved for membership by the board of directors of the central credit union, the central credit union shall submit to the department a copy of the application for approval by the department;~~

(f) Persons in the field of membership of liquidated credit unions or of credit unions which have entered into or are about to enter into voluntary or involuntary liquidation proceedings; and

(g) Members of the immediate families of all members qualified above.

Section 91. Subsection (6) is added to section 657.251, Florida Statutes, to read:

657.251 Purposes.—The purposes of this part are to:

(6) Provide for the orderly conversion of member credit unions to share insurance through the National Credit Union Administration, or the liquidation or merger of member credit unions, and the liquidation of the corporation.

Section 92. Subsection (6) of section 657.253, Florida Statutes, is amended to read:

657.253 Definitions.—As used in this part:

(6) "Member credit union" means any credit union authorized and chartered under the laws of this state which has obtained and maintained membership with the corporation *as of the effective date of this act.*

Section 93. Section 657.257, Florida Statutes, is amended to read:

657.257 Membership and eligibility provision.—

(1) Every member credit union shall ~~maintain membership in the corporation and shall~~ maintain a guaranty certificate issued by the corporation *until the accounts of the credit union are insured through the National Credit Union Administration.* ~~Every state-chartered credit union, which is organized or converted to a state-chartered credit union after the effective date of this act may apply for membership in the corporation on forms prescribed by the corporation. Every state-chartered credit union the accounts of which are insured through the National Credit Union Administration and which terminates such insurance shall apply for membership in the corporation on forms prescribed by the corporation.~~

~~(a) With respect to applications from newly organized credit unions, the corporation shall review the application and, within 30 days after receiving the application, notify the department of the recommendation by the corporation with respect to conformity of the application with the requirements of part I of this chapter; adoption of lending, savings, investment, and management policies and practices consistent with this act; and establishment of qualified management and operation personnel. Such action by the corporation will be advisory to the department. Upon issuance of a certificate of organization by the department, the corporation shall issue a provisional guaranty certificate to the newly organized credit union.~~

~~(b) With respect to applications from any other credit union, the corporation, before approving the application for guarantee of its accounts, shall consider:~~

~~1. The history, financial condition, and lending, savings, investment, and management policies and practices of the applicant.~~

~~2. The economic advisability of guaranteeing the applicant's accounts without undue risk to the corporation.~~

~~3. Such other reasonable standards and qualifications not inconsistent with this act as may be established by the corporation and set forth in the plan of operation.~~

~~(c) The corporation shall either approve or disapprove the application of any credit union within 90 days of receipt of a completed application for membership.~~

~~(2) Upon the approval of any application for membership, the corporation shall notify the department and the applicant and, upon issuance of a certificate of organization by the department, shall issue to the applicant a guaranty certificate evidencing the fact that it is, as of the date of issuance of the certificate, a member credit union under the provisions of this part.~~

~~(3) The corporation shall disapprove the application of any credit union for guarantee of its account if it finds that the credit union's reserves are inadequate, that its financial condition and policies are unsafe or unsound, or that the guarantee of its accounts would otherwise involve undue risk to the corporation.~~

(2)~~(4)~~ The guaranty certificate issued by the corporation shall evidence the undertaking by the corporation to guarantee accounts of member credit unions to the extent of covered claims subject to such terms and conditions as the board of directors may from time to time prescribe. Guaranty certificates may be regular or provisional.

(a) Provisional guaranty certificates shall be issued for a period determined by the board of directors, but not less than 6 months nor more than 2 years. A provisional certificate may be renewed for an additional period not to exceed 12 months. There may be only one such renewal period.

(b) A regular guaranty certificate shall be issued for a continuing and indefinite period.

(c) The board of directors may cancel any certificate if the board of directors finds that there has been a deterioration since the issuance of the guaranty certificate in the financial condition, adequacy of reserves, application of financial and loan policies, or extent of delinquencies of the member credit union *or if the department determines that the credit union is engaging in an unsafe or unsound practice, is violating any provision of chapter 655 or chapter 657, or is violating any department rule, department order, or agreement entered into with the department.* In the event of cancellation of a regular guaranty certificate, the corporation shall issue to such member credit union a provisional guaranty certificate unless, at the time of such cancellation, the credit union is insolvent and, in such event, the corporation may decline to issue a provisional guaranty certificate.

(3)~~(5)~~ If, during the term of a provisional certificate, including any renewal thereof, the member credit union fails to qualify for *share insurance through the National Credit Union Administration or* a regular guarantee of its accounts and full membership in the corporation, the corporation will notify the department stating, with particularity, the deficiency which prevents the *qualification for such share insurance through the National Credit Union Administration or* issuance of the regular guaranty certificate, and, thereupon, the department shall institute proceedings to revoke the certificate of organization of such credit union.

(4)~~(6)~~ *Each* ~~A~~ member credit union *shall surrender the guaranty certificate from* ~~may terminate membership in~~ the corporation *in the following manner:* ~~after approval by the board of directors and the members of the credit union and after a certificate of insurance through the National Credit Union Administration has been obtained.~~

(a) A member credit union directed by the department must file a complete application for federal share insurance through the National Credit Union Administration not later than 30 days after the effective date of this act. The department may direct the corporation to assume control or shall order involuntary liquidation of any member credit union that fails to file a complete application within the prescribed time.

(b) A member credit union must obtain a certificate of insurance issued through the National Credit Union Administration within 42 months after the effective date of this act. The department may extend the period not to exceed 12 months if the department finds that the credit union is making substantial effort to satisfy the conditions precedent to issuance of the certificate of insurance and the credit union is likely to satisfy such conditions within the additional 12-month period. The department may order the involuntary liquidation or merger of any member credit union that fails to timely comply with the provisions of this paragraph.

(c) A member credit union that receives a certificate of insurance through the National Credit Union Administration must file a copy of the certificate with the department and with the corporation within 10 days after receipt. Upon receipt of the certificate of insurance by the member credit union, the guaranty certificate from the corporation is canceled and neither the member credit union nor the members of the credit union shall have any further claim against the corporation except as otherwise provided in this part.

~~(a) Prior to consideration by the board of directors of any resolution pertaining to conversion to share insurance through the National Credit Union Administration, the credit union shall provide the department and the corporation with not less than 5 days' advance notice of the time and place of the meeting of the board of directors.~~

~~(b) Any action by the board of directors proposing conversion shall be by resolution and shall require the affirmative vote of an absolute majority of the board of directors.~~

~~(c) Upon adoption of a resolution relating to conversion, a copy of the resolution shall be mailed to each member, together with a notice setting forth the time, location, and purpose of a meeting of the membership which shall be held not less than 10 or more than 30 days following the mailing of the notice.~~

~~(d) A ballot allowing an affirmative or negative vote on the proposed conversion shall also be mailed to each member. Any ballot received by the credit union prior to the meeting called to consider the conversion shall be tallied along with the votes cast at the meeting. Each member shall have but one vote. An affirmative vote of a majority of members who vote on the proposal in a vote in which at least 20 percent of the total members participated shall be required to approve the conversion.~~

~~(e) Within 10 days after approval of the membership, the board of directors shall cause to be transmitted to the department and to the corporation a copy of the resolution adopted by the board and approved by the membership.~~

~~(f) Upon the filing with the department and the corporation of a copy of the certificate of share insurance through the National Credit Union Administration, the membership of the credit union in the corporation shall be terminated and the members of the credit union shall have no further claim against the corporation.~~

Section 94. Subsections (2) and (3) of section 657.258, Florida Statutes, are amended to read:

657.258 Powers and duties of the corporation; assessments; loss reserves.—

(2) The corporation may:

(a) Employ or retain such persons as are necessary to handle claims and perform other duties of the corporation.

(b) Borrow funds necessary to effect the purposes of this act in accordance with the plan of operation.

(c) Sue or be sued.

(d) Negotiate, and become a party to, such contracts as are necessary to carry out the purposes of this act.

(e) Adopt, use, and display a corporate seal.

(f) Advance funds, with or without interest, in accordance with agreed terms and conditions to aid member credit unions to continue to operate and to maintain solvency or to maintain account balances with a financial institution in connection with the assumption of receivables from a member credit union, or to provide liquidity for payment of shares and deposits following a determination of voluntary or involuntary liquidation.

(g) Upon the written request of the department, assume control of the property, assets, and business of any member credit union and operate the credit union in accordance with the recommendations of the department. The corporation shall have all the powers, duties, and authorities of the board of directors of such credit union, specifically including the power and authority to elect or designate directors, officers, and committee members, who need not be members of the member credit union, to sell assets, and to terminate and employ personnel for the credit union.

(h) Assist in the merger, consolidation, or liquidation of credit unions with written notice to the department. In the event of liquidation of a *member* credit union *that has not received a certificate of insurance through the National Credit Union Administration*, whether voluntary or involuntary, the corporation *must* ~~may~~ be designated as the liquidating agent and, as such, the corporation shall have all the duties, powers, and authorities of the board of directors of such liquidating credit union, specifically including, but not limited to, the power and authority to elect and designate directors, officers, and committee members, who need not be members of the credit union; to sell assets; and to terminate and employ personnel for the liquidating credit union. The corporation shall have the right and authority to participate in negotiations for any contemplated merger, consolidation, or liquidation of a member credit union and to approve the terms of any sales of assets in order to minimize potential loss which might result in a covered claim to be paid by the corporation.

(i) Receive money or other property from its member credit union or from any corporation, association, or person.

(j) Invest its funds in bonds, notes, securities, obligations, participations, or other instruments of, issued by, or fully guaranteed as to principal and interest by, the United States Government or any agencies thereof, or in any trust or trusts established for investing directly or collectively in the same, and in such other investments, other than investments in credit unions which are members of the corporation, as are deemed prudent by the directors, but these other investments shall not exceed 25 percent of the funds of the corporation.

(k) Purchase in its own name, hold, and convey property of any nature.

(l) Receive by assignment or purchase from its member credit unions any property of any nature owned by those member credit unions, including securities.

(m) Sell, assign, mortgage, encumber, or transfer property of any nature.

(n) Adopt and amend a plan of operation and bylaws for carrying out the purposes of this part.

(o) Purchase or acquire by assignment loans due and owing to credit unions, along with the right to receive payments thereon.

(p) Pay dividends to member credit unions.

(q) Have access to and make audit or examination of all records and information concerning the affairs of a member credit union.

(r) Pledge or advance funds, or enter into agreements with the National Credit Union Administration, notwithstanding any other provisions of this part, and may otherwise provide assistance to enable member credit unions to qualify for a certificate of insurance through the National Credit Union Administration, if the action would not preclude the corporation from meeting its current and future obligations under this part.

(3) To obtain funds for the fulfillment of the purposes of the corporation, for the provision of reserves for the protection of potential claimants, and for the payment of costs of operating the corporation, the corporation shall be authorized and empowered to levy and collect from member credit unions fees and assessments as follows:

~~(a) The corporation shall levy and collect from each member credit union an initial membership fee in an amount equal to 0.5 percent of its guaranteed shares and deposits as of the date of application for membership.~~

(a)~~(b)~~ The corporation shall levy and collect from each member credit union *that has not received a certificate of insurance through the National Credit Union Administration* an annual growth fee in an amount equal to 0.5 percent of the annual increase in its guaranteed shares and deposits as determined as of December 31 of each year.

(b)~~(c)~~ In addition to the fees set forth above, the corporation may levy and collect a uniform annual assessment from each member credit union *that has not received a certificate of insurance through the National Credit Union Administration* in an amount to be determined by the board of directors not to exceed 0.05 percent of its guaranteed shares and deposits determined as of December 31 of the preceding year.

(c)~~(d)~~ In addition to the fees and annual assessment, the corporation, in the event of potential impairment of the corporation's capital assets, may levy and collect from the member credit unions uniform special assessments in amounts to be determined by the board of directors, subject to approval by the department. If the board of directors determines that a special assessment is necessary, then such determination shall be submitted in writing to the department, and the special assessment shall be approved, modified, or disapproved within 60 days after it is received by the department.

(d)~~(e)~~ The initial membership fee and the growth membership fee shall be considered as an investment of the member credit union in the corporation. Such investment shall not be transferable except to another member credit union as a result of a merger approved by the department; and, in such event, the amount of such investment which may be transferred to the acquiring credit union shall not exceed 0.5 percent of the guaranteed shares and deposits of the acquired member credit union as of the preceding December 31 or the date of merger, whichever amount is the lower.

(e)~~(f)~~ Annual and special assessments hereunder shall be considered as a payment by the member credit union into the loss reserve to be maintained by the corporation. Each payment by member credit unions after 1983 shall be retained by the corporation as a permanent part of its working capital and the funds received by the corporation shall be restricted to use as part of the loss reserve. The interest of each member credit union in the balance of the loss reserve shall be proportionate according to the amount paid in by all member credit unions which are members of the corporation *on the effective date of this act* ~~as of the time when the interest is to be determined~~. Such interest in the loss reserve shall not be transferable, except to another member credit union as a result of a merger approved by the department *and shall be applied in the calculation of any amount of any refund to be made to each member credit union under s. 657.269.*

(f) The total amount paid in by each member credit union as its investment in the corporation and the amount paid into the loss reserve must be determined as of the effective date of this act. The interest of each member credit union in the corporation must be proportionate according to the total amount paid in by all member credit unions as of the effective date of this act. The proportion thus determined must be applied in the calculation of the amount of any refund to be made to each member credit union under s. 657.269.

~~(g) If a member credit union ceases to operate under a valid certificate of organization under part I, the corporation shall refund to the withdrawing member the amount of the member's investment in the corporation and the amount of the withdrawing member's interest in the loss reserve of the corporation; however, no refund shall be made to such withdrawing member unless it elects to convert and does convert to a federal credit union or unless the withdrawing member goes into voluntary liquidation and is not insolvent and the corporation is not obligated in any manner for any loss, cost, expense, or claim arising out of the voluntary liquidation or unless the withdrawing member obtains share insurance through the National Credit Union Administration and the National Credit Union Administration releases the corporation of any obligation. In no event shall a withdrawing member be entitled to a refund of any portion of its investment or its interest in the loss reserve under this section if the total assets of the corporation are less than 1 percent of the aggregate of all guaranteed shares and deposits of all member credit unions, excluding those of the members requesting such refund. The entitlement to any such refund shall be determined as of the date the withdrawing member converts to a federal credit union or the time when voluntary liquidation procedures have progressed to the point at which final distribution in payment of shares and deposits is to be made to the members or share insurance through the National Credit Union Administration has been issued.~~

(g)~~(h)~~ All fees and assessments shall be paid in the manner established by the plan of operation.

(h)~~(i)~~ In the event the assets of the corporation fall below 0.5 percent of the total aggregate guaranteed shares and deposits of all member credit unions *which have not received certificates of insurance through the National Credit Union Administration*, the corporation may determine the proportionate amount of the reduction of the investment of each member credit union, and this amount shall be transferred from membership fees to the loss reserve and shall be considered as the payment of a special assessment by each member credit union.

(i)~~(j)~~ Upon written application, the corporation, for good cause shown, may exempt or defer any member credit union from an assessment if such assessment would result in such credit union being forced into insolvency, liquidation, or an unsound financial condition.

(j)~~(k)~~ No state funds of any kind shall be allocated or paid to the corporation.

Section 95. Paragraph (i) is added to subsection (3) of section 657.259, Florida Statutes, to read:

657.259 Plan of operation.—

(3) The plan of operation shall:

(i) Provide for the dissolution of the corporation to include procedures for the payment of liquidating dividends to member credit unions as provided in s. 657.269.

Section 96. Paragraph (d) is added to subsection (2) of section 657.260, Florida Statutes, to read:

657.260 Duties and powers of the department.—

(2) The department may:

(d) Order the corporation to take any action required to be taken by the corporation under this part.

Section 97. Subsection (2) of section 657.262, Florida Statutes, is amended to read:

657.262 Detection and prevention of insolvencies.—To aid in the detection and prevention of credit union insolvencies or liquidations:

(2) The board of directors may request that the department order an examination of any member credit union which the board in good faith believes may be in an unsound financial condition that might jeopardize the safety of the shares and deposits in the credit union. Within a reasonable time after receipt of such request, the department shall commence such examination. The *department may charge the actual* cost of such examination ~~shall be $75 per day per man~~, which shall be paid by the corporation to the department, and the examination report shall be treated as are other examination reports under part I. The department shall notify the corporation when the examination is completed in writing and forthwith furnish the corporation with a copy of the report.

Section 98. Section 657.263, Florida Statutes, is amended to read:

657.263 Examination of the corporation*; disposition of records of the corporation.*—

(1) The books, records, and accounts of the corporation shall be subject to an examination at least annually by the department ~~at a cost of $75 per day per man~~. *The department may charge the actual cost of the examination.* The corporation shall submit, not later than January 31 of each year, a financial report for the preceding calendar year in a format approved by the department. Such report shall be prepared in accordance with generally acceptable accounting practices.

(2) The department is entitled to possess all books, records, and accounts of the corporation upon its dissolution. The department may request the transfer of any books, records, or accounts that are not required by the corporation for current operations. Upon dissolution of the corporation, all the remaining books, records, and accounts of the corporation must be delivered to the department for preservation or ultimate disposition pursuant to law.

Section 99. Section 657.269, Florida Statutes, is created to read:

657.269 Dissolution of the corporation.—

(1) The corporation shall liquidate its assets, complete its business activities, and make final distribution to the member credit unions not later than the date the corporation converted its assets into cash and paid its liabilities or 6 months after the date all member credit unions received certificates of insurance through the National Credit Union Administration or were liquidated or merged, whichever last occurs.

(2) The liquid assets of the corporation remaining after making provision for all amounts required to be paid or reserved to meet conditions of a liquidation, a merger, or the issuance of certificates of insurance through the National Credit Union Administration of member credit unions, and setting aside an adequate reserve to fully pay all future covered claims, losses, liabilities, and guarantees, and a provision for expenses of liquidation and dissolution of the corporation, all as determined by the corporation, with the approval of the department, shall be available for distribution to member credit unions proportionately according to the interest in the corporation of each member credit union.

(3) Any amount paid or committed to assist in the merger or liquidation of a member credit union or in the qualification of a member credit union for a certificate of insurance through the National Credit Union Administration must be taken into account and shall reduce the amount otherwise distributable to that member credit union or its successor. Any member credit union that is liquidated is ineligible for any portion of a liquidating dividend that is paid subsequent to liquidation of that member credit union.

(4) When all member credit unions have been liquidated, merged, or received certificates of insurance through the National Credit Union Administration or the financial impact on the corporation from satisfying any conditions of a liquidation, merger, or receipt of a certificate of insurance has been determined with reasonable certainty, the corporation shall begin making partial liquidating distributions. After the initial partial liquidating distribution, supplemental partial liquidating distributions must be made to member credit unions from time to time as funds are available. Determination of the amount available for distribution must be made at least once during each 12-month period and must be paid within 30 days after the determination.

(5) Within 6 months after making final distribution to member credit unions, the corporation shall prepare and file with the department a final report and, pursuant to s. 657.263(2), shall turn over to the department all remaining books, records, and accounts of the corporation and of liquidated member credit unions which are in the possession of the corporation.

Section 100. Any application that was submitted by a credit union to convert to share insurance through the National Credit Union Administration before the effective date of this act need not satisfy the requirements of the law in effect at the time the application was submitted, but need only comply with the conversion provisions of this act.

Section 101. Section 658.12, Florida Statutes, is amended to read:

658.12 Definitions.—Subject to other definitions contained in *the financial institutions codes* ~~subsequent sections of this code,~~ and unless the context otherwise requires~~, in this code~~:

~~(1) "Appropriate federal regulatory agency" means the Federal Reserve System, including its Board of Governors and the Federal Reserve bank of the Federal Reserve District in which the state bank is located, in the case of a state member bank; the Federal Deposit Insurance Corporation, in the case of a state nonmember bank the deposits of which are insured by that corporation; and the Comptroller of the Currency, in the case of a national bank.~~

(1)~~(2)~~ "Association" means an association as defined in s. 665.012.

(2)~~(3)~~ "Bank" means any person having a subsisting charter or other lawful authorization, under the laws of this or any other jurisdiction, authorizing such person to conduct a general commercial banking business. The term "bank" does not include ~~an industrial savings bank operating under the provisions of chapter 664 (but provisions of this chapter and chapter 661 may be applicable to such industrial savings banks as, and to the extent, provided in chapter 664),~~ a credit union~~, a building and loan association,~~ or ~~a savings and loan~~ *an* association.

(3)~~(4)~~ "Banker's bank" means a bank insured by the Federal Deposit Insurance Corporation, or a holding company which owns or controls such an insured bank, when the stock of such bank or holding company is owned exclusively by other banks and such bank or holding company and all subsidiaries thereof are engaged exclusively in providing services for other depository institutions and their officers, directors, and employees.

(4)~~(5)~~ "Branch" or "branch office" of a bank means any office or place of business of a bank, other than its main office and the facilities and operations authorized by ss. 658.26*(5)*~~(4) and (6)~~, 658.65, and 660.33, at which deposits are received, checks are paid, or money is lent. With respect to a bank which has a trust department, the terms "branch" and "branch office" have the meanings herein ascribed to a branch or a branch office of a trust company. "Branch" or "branch office" of a trust company means any office or place of business of a trust company, other than its main office and its trust service offices established pursuant to s. 660.33, where trust business is transacted with its customers.

~~(6) "Capital accounts" means unimpaired capital, unimpaired surplus, and undivided profits.~~

(5)~~(7)~~ "Charter" of a bank or trust company means the lawful authority under the laws of this or any other jurisdiction to exist and conduct business as, and the franchise of, a bank or a trust company, as the case may be, and includes the written instrument however denominated or entitled which evidences such authority. When used as a verb, "charter" means the granting of such authority and franchise.

(6)~~(8)~~ "Community" means an incorporated city, town, or village or, where not within any of the foregoing or if the department determines that the area within the corporate limits of any of the foregoing is inappropriate under specific circumstances, such trade area or other area, determined by the department to be appropriate under the circumstances, in which are located persons having generally similar interests, including residential, social, or business interests or combinations thereof.

(7)~~(9)~~ "Court" means a court of competent jurisdiction.

~~(10) "Department" means the Department of Banking and Finance of this state.~~

~~(11) "Executive officer" of a bank or trust company means an individual, whether or not the individual has an official title or receives a salary or other compensation, who participates or has authority to participate,~~

~~other than in the capacity of a director, in major policymaking functions of the bank or trust company; the term does not include an individual who may have an official title and may exercise discretion in the performance of duties and functions, including discretion in the making of bank loans, but who does not participate in the determination of major policies of the bank or trust company and whose decisions are limited by policy standards established by officers other than such individual, whether or not such policy standards have been adopted by the board of directors. The chairman of the board, the president, and every vice president of a bank or trust company; the cashier of a bank; and the secretary of a trust company are considered to be executive officers unless any such office or the individual holding any such office is excluded, by resolution of the board of directors or by the bylaws of the bank or trust company, from participation, other than in the capacity of a director, in major policymaking functions of the bank or trust company and the individual holding any such office so excluded does not actually participate therein.~~

(8)~~(12)~~ "Fiduciary" means a trustee; committee, guardian, custodian, conservator, or other personal representative of a person, property, or an estate; registrar or transfer agent of, or in connection with, evidences of indebtedness of every kind and of stocks and bonds and other securities; fiscal or financial agent; investment adviser; receiver; trustee in bankruptcy; assignee for creditors; or holder of any similar representative position or any other position of trust, including a person acting in any or all the capacities and performing any or all the functions enumerated in s. 660.34.

(9)~~(13)~~ "General commercial banking business" includes:

(a) The business of receiving demand and time deposits;

(b) The payment of checks; and

(c) The conduct of a trust business when duly authorized.

(10)~~(14)~~ "Item" means any instrument, or any electronically or otherwise recorded, stored, or transmitted message, for the payment of money, whether or not it is negotiable, but does not include money.

(11)~~(15)~~ "Law" means each valid and applicable statute, ordinance, rule, or regulation of any state and each of its political subdivisions or of the United States and each of its departments, agencies, or other entities authorized by the laws of the United States to issue rules or regulations.

~~(16) "Main office," "main banking house," or "principal office" of a bank means the main banking office designated or provided for in the articles of incorporation of a state bank, and the main office designated or provided for in the articles of association of a national bank, at such identified location as shall have been or as hereafter may be approved by the department, in the case of a state bank, or by the appropriate federal regulatory agency, in the case of a national bank; and, with respect to the trust department of a bank which has trust powers, each of these terms means the office or place of business of the trust department at such identified location, which shall not necessarily be the same location as the main banking house of the bank exclusive of the trust department, as shall have been or as hereafter may be approved by the department, in the case of a state bank which has a trust department, or by the appropriate federal regulatory agency, in the case of a national bank which has a trust department. "Main office" or "principal office" of a trust company means the office designated or provided for as such in its articles of incorporation, at such identified location as shall have been or as hereafter may be approved by the relevant chartering authority.~~

(12)~~(17)~~ "National bank" means a bank organized and existing as a national banking association under the provisions of 12 U.S.C. s. 21 and other sections of the National Bank Act relating thereto.

~~(18) "Officer" of a bank or trust company means any individual duly elected or appointed to, or otherwise performing the duties or functions appropriate to, any position or office having the designation or title of chairman of the board of directors, vice chairman of the board of directors, chairman of the executive committee, president, vice president, assistant vice president, cashier or assistant cashier (of a bank), comptroller, assistant comptroller, trust officer, assistant trust officer, secretary or assistant secretary (of a trust company), or any other office or officer designated in, or as provided by, the bylaws.~~

(13)~~(19)~~ "Political subdivision" of this state means and includes counties, municipalities, and departments, commissions, districts, boards, and other bodies, whether corporate or otherwise, created by or pursuant to the provisions of the constitution or any other law and also includes any officer of any of the foregoing.

(14)~~(20)~~ "Primary service area" means the smallest geographical area from which a bank draws, or a proposed bank expects to draw, approximately 75 percent of its deposits; the term also means the smallest geographic area from which a trust company or the trust department of a bank or association draws, or a proposed trust company or a proposed trust department of a bank or association expects to draw, approximately 75 percent of the assets value of its fiduciary accounts.

(15)~~(21)~~ "Principal place of business" or "principal place of doing business" of a bank, the trust department of a bank, or a trust company means its main office ~~as defined in this section~~.

(16)~~(22)~~ "State," when used in the context of a state other than this state, means any or every other state of the United States, the District of Columbia, any and every territory of the United States, Puerto Rico, Guam, American Samoa, and the Virgin Islands.

(17)~~(23)~~ "State bank" means any bank which has a subsisting bank charter issued pursuant to the provisions of *the financial institutions codes* ~~this code~~ or the general banking laws of this state in effect prior to the enactment of *the financial institutions codes* ~~this code~~.

(18)~~(24)~~ "State member bank" means a state bank which is a member of the Federal Reserve System; and "state nonmember bank" means a state bank which is not a member of the Federal Reserve System.

(19)~~(25)~~ "State trust company" means a corporation, other than a bank, which has a subsisting trust company charter issued pursuant to the provisions of *the financial institutions codes* ~~this code~~ or the applicable laws of the state in effect prior to the enactment of *the financial institutions codes* ~~this code~~.

(20)~~(26)~~ "Trust business" means the business of acting as a fiduciary when such business is conducted by a bank, state or federal association, or a trust company, and also when conducted by any other business organization as its sole or principal business.

(21)~~(27)~~ "Trust company" means any business organization which is authorized to engage in trust business. A bank or state or federal association conducting business pursuant to lawful authority, which also by lawful authority has authority to engage in trust business, is not a trust company by reason of having been granted authority to engage in trust business in addition to its general business.

(22)~~(28)~~ "Trust department" means the functional division or department of a bank or state or federal association which conducts the trust business of a bank or state or federal association which has been granted trust powers, pursuant to the laws of this or any other jurisdiction, authorizing the bank or state or federal association to engage in trust business in addition to the general commercial banking business or general business of an association in which it engages.

(23)~~(29)~~ "Trust powers" means the rights and powers necessary to act as a fiduciary and, when the context so requires or admits, the term also means the authority granted to a bank, state or federal association, or trust company by, or pursuant to, the laws of this or any other jurisdiction to engage in trust business.

~~(30) "This code" means and includes all the sections and provisions of chapters 658, 660, 661, 662, and 663.~~

(24)~~(31)~~ Terms which are defined in other sections of *the financial institutions codes* ~~this code~~ shall~~, in all sections of this code~~, unless the context otherwise requires or unless by the provisions of the section in which such term is defined its meaning as so defined is limited, have the meanings ascribed to them in such other sections of *the financial institutions codes* ~~this code~~.

(25)~~(32)~~ Terms used but not defined in this code, but which are defined in Article 3 or Article 4 of the Uniform Commercial Code as enacted in chapters 673 and 674 shall, in this code, unless the context otherwise requires, have the meanings ascribed to them in chapters 673 and 674.

Section 102. Subsections (1) and (2) of section 658.165, Florida Statutes, are amended to read:

658.165 Banker's banks; formation; applicability of banking code; exceptions.—

(1) When authorized by the department, a corporation may be formed under the laws of this state for the purpose of becoming a

banker's bank. An application for authority to organize a banker's bank is subject to the provisions of ss. 658.19, 658.20, and 658.21, except that the provisions of ss. 658.20(1)(b) and (c) and 658.21~~(1) and~~ (2) do not apply.

(2) A banker's bank chartered pursuant to subsection (1) shall be subject to the provisions of the *financial institutions codes* ~~Florida Banking Code and chapter 655~~ and rules adopted thereunder; and, except as otherwise specifically provided herein or by rule or order of the department, a banker's bank shall be vested with or subject to the same rights, privileges, duties, restrictions, penalties, liabilities, conditions, and limitations that would apply to a state bank.

Section 103. Section 658.20, Florida Statutes, is amended to read:

658.20 Investigation by department.—

(1) Upon the filing of an application, the department shall make an investigation of:

(a) The character, reputation, financial standing, business experience, and business qualifications of the proposed officers and directors.

(b) The need for bank or trust facilities or additional bank or trust facilities, as the case may be, in the primary service area where the proposed bank or trust company is to be located.

(c) The ability of the primary service area to support the proposed bank or trust company and all other existing bank or trust facilities in the primary service area.

(2) The department is authorized to obtain criminal record information from the National Crime Information Center or from the Department of Law Enforcement as a part of its investigation pursuant to this section.

(3) The department may accept an application for prior approval of individuals that may become directors and executive officers of a failing bank, association, or trust company. Such applications are governed by the application criteria set forth in paragraph (1)(a) and ss. 658.21(4) and 658.28. The application must be in the form and must contain additional information prescribed by the department, and must be accompanied by a nonrefundable, nontransferable filing fee of $7,500.

Section 104. Section 658.21, Florida Statutes, 1990 Supplement, is amended to read:

658.21 Approval of application; findings required.—The department shall approve the application if it finds that:

~~(1) Public convenience and advantage will be promoted by the establishment of the proposed state bank or trust company. In determining whether an applicant meets the requirements of this subsection, the department shall consider all materially relevant factors, including:~~

~~(a) The location and services offered by existing banks, trust companies, trust departments, and trust service offices in the community.~~

~~(b) The general economic and demographic characteristics of the area.~~

(1)~~(2)~~ *Public convenience and advantage will be promoted by the establishment of the proposed state bank or trust company. Additionally,* local conditions indicate reasonable promise of successful operation for the proposed state bank or trust company and those financial institutions already established in the primary service area. In determining whether an applicant meets the requirements of this subsection, the department shall consider all materially relevant factors, including:

~~(a) Economic and demographic conditions and the growth potential of the community and county in which the proposed state bank or trust company intends to locate.~~

(a)~~(b)~~ The growth rate, size, *location,* financial strength, and operating characteristics of financial institutions in the primary service area of the proposed bank or trust company.

(b) The growth, economic, and demographic characteristics of the primary service areas and the metropolitan statistical area or county.

(2)~~(3)~~ The proposed capitalization is in such amount as the department deems adequate, but in no case may the total capital accounts at opening for a bank be less than $4,000,000 if the proposed bank is to be located in any county which is included in a metropolitan statistical area, or $2,000,000 if the proposed bank is to be located in any other county. The total capital accounts at opening for a trust company may not be less than $2,000,000. The department may disallow illegally obtained currency, monetary instruments, funds, or other financial resources from the capitalization requirements of this section.

(3)~~(4)~~ The proposed capital structure is in such form as the department may require, but, at a minimum, every state bank or trust company hereafter organized shall establish:

(a) Paid-in capital equal in amount to not less than 50 percent of its total capital accounts.

(b) A paid-in surplus equal in amount to not less than 20 percent of its paid-in capital.

(c) A fund to be designated as undivided profits equal in amount to not less than 5 percent of its paid-in capital.

(4)~~(5)~~ The proposed officers have sufficient financial institution experience, ability, standing, and reputation and the proposed directors have sufficient business experience, ability, standing, and reputation to indicate reasonable promise of successful operation, and none of the proposed officers or directors has been convicted of, or pled guilty or nolo contendere to, any violation of s. 655.50, relating to the Florida Control of Money Laundering in Financial Institutions Act; chapter 896, relating to offenses related to financial institutions; or any similar state or federal law. *One or more* ~~At least one~~ of the proposed directors who is not also a proposed officer shall have had direct experience as an *executive* officer or director of a financial institution within 3 years of the date of the application.

(5)~~(6)~~ The corporate name of the proposed state bank or trust company is reserved with the Department of State.

(6)~~(7)~~ Provision has been made for suitable quarters at the location in the application.

Section 105. Section 658.22, Florida Statutes, is amended to read:

658.22 Coordination with federal agencies.—Upon approval by the department of the application for authority to organize a state bank, the department shall forward a copy of its final order to the Federal Reserve System for approval of membership, if such membership has been applied for, or, if not, to the Federal Deposit Insurance Corporation for insurance of accounts. The failure of *an* ~~the~~ applicant to apply for membership in the Federal Reserve System or for the insurance of accounts by the Federal Deposit Insurance Corporation within 3 months after approval by the department or a final order of denial or revocation by either of these federal agencies will terminate and revoke the final order issued by the department approving the application.

Section 106. Section 658.23, Florida Statutes, 1990 Supplement, is amended to read:

658.23 Submission of articles of incorporation; contents; form; approval; filing; commencement of corporate existence; bylaws.—

(1) Within 3 months after approval by the department and the appropriate federal regulatory agency, the applicant shall submit its duly executed articles of incorporation to the department, together with the filing fee due the Department of State under s. 607.0122.

(2) The articles of incorporation shall contain:

(a) The name of the proposed bank or trust company.

(b) The general nature of the business to be transacted or a statement that the corporation may engage in any activity or business permitted by law. Such statement shall authorize all such activities and business by the corporation.

(c) The amount of capital stock authorized, showing the maximum number of shares of par value common stock and of preferred stock, and of every kind, class, or series of each, together with the distinguishing characteristics and the par value of all shares.

(d) The amount of capital with which the corporation will begin business, which shall not be less than the amount required by the department pursuant to s. 658.21.

(e) A provision that the corporation is to have perpetual existence unless existence is terminated pursuant to *the financial institutions codes* ~~this chapter~~.

(f) The initial street address of the main office of the corporation, which shall be in this state.

(g) The number of directors, which shall ~~not~~ be ~~fewer than~~ five *or more*, and the names and street addresses of the members of the first board of directors.

(h) A provision for preemptive rights, if applicable.

(i) A provision authorizing the board of directors to appoint additional directors, pursuant to s. 658.33, if applicable.

The department shall provide to the proposed directors form articles of incorporation which shall include only those provisions required by this section or by chapter 607. The form articles shall be acknowledged by the proposed directors and returned to the department for filing with the Department of State.

(3) Within 30 days of receipt of the executed articles of incorporation in the form previously approved, *and the required filing fees,* the department shall place the following legend upon the articles of incorporation and affix the seal of the Office of the Comptroller of Florida thereto. The legend shall in substance read: "Approved by the Department of Banking and Finance this . . . . day of . . . . . (herein the name and signature of the head of the department) . . .." Thereafter, the articles of incorporation shall be filed with the Department of State.

(4) The corporate existence of a banking corporation or a trust company corporation shall commence on the date the approved articles of incorporation are filed with the Department of State, unless otherwise provided in the articles of incorporation pursuant to *s. 607.0203* ~~s. 607.167~~. Thereafter, a banking corporation or trust company corporation may perform all acts necessary to perfect its organization, obtain and equip a place of business, and otherwise prepare to conduct a general banking business or trust business. However, no banking corporation or trust company corporation shall become a state bank or a state trust company or transact any banking business or trust business until it has received a certificate of authority to transact business as provided in s. 658.25.

(5) Unless the articles of incorporation provide otherwise, the board of directors shall have authority to adopt or amend bylaws that do not conflict with bylaws that may have been adopted by the stockholders. The bylaws shall be for the government of the bank or trust company, subordinate only to the articles of incorporation and the laws of the United States and of this state. A current copy of the bylaws shall be filed with the department at all times.

(6) A bank or trust company may not amend its articles of incorporation without the prior written approval of the department. The department may not approve any amendment to the articles of incorporation which requests a change in name of the bank or trust company without evidence that the proposed name has been reserved with the Department of State.

Section 107. Section 658.24, Florida Statutes, is amended to read:

658.24 Organizational procedures.—After the corporate existence of a *bank* ~~banking corporation~~ or trust company corporation has commenced and the stock has been issued, but no less than 30 days prior to the intended opening date, a shareholders' meeting shall be held to elect directors already approved by the department, to approve organizational expenses, and to conduct such other business relating to the corporation as may be appropriate. Immediately after the board of directors has been elected by the shareholders, the board shall meet to adopt bylaws, elect officers, and conduct such other business relating to the corporation as may be appropriate. Within 10 days after the shareholders' and directors' meetings, the corporation shall file with the department a copy of the minutes of the meetings together with a copy of the bylaws that were adopted, a list showing the names and residence addresses of the officers elected and the title of each, and a detailed accounting of the organization expenses approved by the shareholders.

Section 108. Section 658.25, Florida Statutes, is amended to read:

658.25 Opening for business.—

(1) A *bank* ~~banking corporation~~ or trust company corporation shall open and conduct a general commercial *bank* ~~banking business~~ or ~~general~~ trust business no later than 6 months after the commencement of its corporate existence. For good cause shown, the department may extend the opening date for an additional period, not to exceed 6 months, on its own motion or at the request of the bank or trust company.

(2) At least 30 days prior to its intended opening date, the corporation shall notify the department of its proposed opening date and confirm its compliance with all conditions imposed in the order or orders issued by the department relating to its organization.

(3) The department shall perform a preopening examination to verify good faith compliance with all the requirements of law and that the *bank* ~~banking corporation~~ or trust company corporation is ready to engage in a general commercial *bank* ~~banking business~~ or ~~a general~~ trust business. If the department finds that such requirements have been met, it shall issue a certificate of authorization to transact a general commercial *bank* ~~banking business~~ or ~~a general~~ trust business. Upon the issuance of the certificate of authorization, the *bank* ~~banking corporation~~ or trust company corporation shall become a state bank or a state trust company and the certificate shall constitute its charter.

(4) Upon opening for business, a bank or trust company shall have power to engage in a general commercial *bank* ~~banking business~~ or ~~a general~~ trust business and to exercise, subject to law, all such incidental powers as may reasonably promote its general commercial *bank* ~~banking business~~ or ~~general~~ trust business.

Section 109. Section 658.26, Florida Statutes, is amended to read:

658.26 *Places* ~~Place~~ of transacting business; ~~bank~~ branches; ~~school savings;~~ facilities.—

(1) Any bank *or trust company* heretofore or hereafter incorporated pursuant to this chapter shall have one main office, which shall be located within the state.

(2)(a) In addition, with the approval of the department and upon such conditions as the department prescribes, any bank *or trust company* may establish branches within the state. With the approval of the department upon a determination that the resulting bank *or trust company* will be of sound financial condition, any bank *or trust company* incorporated pursuant to this chapter may establish branches by merger with any other bank *or trust company* located in this state.

(b) An application for a branch shall be in writing in such form as the department prescribes and be supported by such information, data, and records as the department may require to make findings necessary for approval. Applications filed pursuant to this subsection shall not be published in the Florida Administrative Weekly but shall otherwise be subject to the provisions of chapter 120. Upon the filing of an application *and a nonrefundable filing fee* for the establishment of any branch permitted by paragraph (a), the department shall make an investigation with respect to compliance with the requirements of paragraph (a) and shall investigate and consider all factors relevant to such requirements, including the following:

1. The sufficiency of capital accounts in relation to the deposit liabilities of the bank, *or in relation to the number and valuation of fiduciary accounts of the trust company,* including the proposed branch, and the additional fixed assets, if any, which are proposed for the branch and its operations, without undue risk to the bank or its depositors, *or undue risk to the trust company or its fiduciary accounts*;

2. The sufficiency of earnings and earning prospects of the bank *or trust company* to support the anticipated expenses and any anticipated operating losses of the branch during its formative or initial years;

3. The sufficiency and quality of management available to operate the branch;

4. The name of the proposed branch to determine if it reasonably identifies the branch as a branch of the main office and is not likely to unduly confuse the public; and

5. Substantial compliance by the applicants with applicable law governing their operations.

(3)(a) An office which has been in operation for at least 18 months may be relocated upon 30 *days'* ~~days~~ prior written notification to the department. *An office which has been open for less than 18 months may*

be relocated with prior written approval of the department, if the relocation will not create an unsafe and unsound condition. Additional investments in land, buildings, leases, and leasehold improvements resulting from such relocation shall comply with the limitations imposed by s. 658.67(7)(a). The location of an office may not be moved beyond the limits of the county or counties in which the bank *or trust company* maintains authorized *bank or trust company* ~~banking~~ offices.

(b) The redesignation of a main office and a branch may be made with prior written notification to the department. *However, the redesignation of the main office during the bank or trust company's first 18 months of operation requires the prior written approval of the department.*

~~(4) A bank may contract with proper authorities of any elementary or secondary school or institution caring for minors for the participation by the bank in any school or institutional thrift or savings plan, and it may accept deposits at such school or institution, either by its own collector or by any representative of the school or institution who becomes the agent of the bank for such purposes. Withdrawal from any account carried with the bank by any such school or institution shall be made only at the banking house of such bank.~~

(4)~~(5)~~ With prior written notification to the department, *any bank may operate facilities which are not physically connected to the main or branch office of the bank or association, provided that the facilities are situated on the property of the main or branch office or property contiguous thereto. Property which is separated from the main or branch office of a bank by only a street, and one or more walkways and alleyways are determined to be, for purposes of this subsection, contiguous to the property of the main or branch office.* ~~providing such geographic and locational information as the department may require, and in order to relieve some of the burdens on the public caused by congestion of public streets, roadways, and parking facilities, to promote safety of pedestrians on public ways, or to otherwise serve the needs or convenience of the public, the main office or any branch office of a bank may operate facilities providing services to customers. It is not necessary that any such facility be a part of, or be physically connected to, the main or any other banking room or building of the main office or branch office of the bank if the facility is located on the property on which the main banking house of the main office or branch office of the bank is situated or on property contiguous thereto. Property which is separated from the property on which the main banking house of the main office or branch office of the bank is situated only by a street and one or more walkways and alleyways shall, for the purposes of this subsection, be deemed contiguous to the property on which the main banking house is situated. The operation of any such facility which is not located on the property on which the main banking house of the main office or branch office of the bank is situated or on property contiguous thereto constitutes a violation of subsection (1), unless otherwise approved as provided in subsection (2).~~

(5)~~(6)~~ A bank may provide, directly or through a contract with another company, off-premises armored car service to its customers. Armored car services shall not be considered a branch for the purposes of subsection (2).

(6)~~(7)~~ Banks located in this state that are subsidiaries of a bank holding company may accept deposits as agents for other banks located in this state that are subsidiaries of the same bank holding company. If banks located in this state are affiliates, they may accept deposits as agents for each other. Banks acting as agents for other banks under this subsection shall not be deemed branch offices of the banks for which they act. As used in this subsection, banks are "affiliates" if the same person or persons directly or indirectly own or control either a majority of the voting shares or more than 50 percent of the number of shares entitled to elect the directors of both banks.

Section 110. Section 658.27, Florida Statutes, is amended to read:

658.27 Control of bank or trust company; definitions and related provisions.—

(1) In ss. 658.27-658.29, unless the context clearly requires otherwise:

(a) "Bank holding company" means any business organization which has or acquires control over any bank or trust company or over any business organization that is or becomes a bank holding company by virtue of ss. 658.27-658.29.

(b) "Business organization" means a corporation, association, partnership, or business trust and includes any similar organization (including a trust company and including a bank, whether or not authorized to engage in trust business, but only if such bank is, or by virtue of ss. 658.27-658.29 becomes, a bank holding company), whether created, organized, or existing under the laws of the United States; this state or any other state of the United States; or any other country, government, or jurisdiction. "Business organization" does not include any corporation the majority of the shares of which are owned by the United States or by this state. "Business organization" also includes any other trust, unless by its terms it must terminate within 25 years or not later than 21 years and 10 months after the death of individuals living on the effective date of the trust, unless the department determines, after notice and opportunity for hearing, that a purpose for the creation of such trust was the evasion of the provisions of ss. 658.27-658.29.

(c) "Edge Act corporation" means a corporation organized and existing under the provisions of s. 25(a) of the Federal Reserve Act, 12 U.S.C. ss. 611-632.

(d) "Subsidiary," with respect to a specified bank, trust company, or bank holding company, means:

1. Any business organization 25 percent or more of the voting shares of which, excluding shares owned by the United States or by any business organization wholly owned by the United States, are directly or indirectly owned or controlled by such bank, trust company, or bank holding company or are held by such bank, trust company, or bank holding company with power to vote;

2. Any business organization the election of a majority of the directors of which is controlled in any manner by such bank, trust company, or bank holding company; or

3. Any business organization with respect to the management or policies of which such bank, trust company, or bank holding company has the power, directly or indirectly, to exercise a controlling influence, as determined by the department after notice and opportunity for hearing.

(e) "Successor," with respect to a specified bank holding company, means any business organization which acquires directly or indirectly from the bank holding company shares of any bank or trust company, when and if the relationship between such business organization and the bank holding company is such that the transaction effects no substantial change in the control of the bank or trust company or beneficial ownership of such shares of such bank or trust company. The department may, by rule, further define the term "successor" to the extent necessary to prevent evasion of the purposes of ss. 658.27-658.29. For the purposes of ss. 658.27-658.29, any successor to a bank holding company shall be deemed to have been a bank holding company from the date on which the predecessor business organization became a bank holding company.

(2) A business organization has control over a bank or over any other business organization if:

(a) The business organization directly or indirectly or acting through one or more other persons owns, controls, or has power to vote 25 percent or more of any class of voting securities of the bank or other business organization;

(b) The business organization controls in any manner the election of a majority of the directors, trustees, or other governing body of the bank or other business organization; or

(c) The department determines, after notice and opportunity for hearing, that the business organization directly or indirectly exercises a controlling influence over the management or policies of the bank or other business organization. *For the purposes of this paragraph, a business organization that owns, controls, or has power to vote 10 percent or more of any class of voting securities of the bank or other business organization shall be presumed to exercise a controlling influence over the management or policies of such banks or other business organization if no other business organization owns, controls, or has power to vote a greater proportion of that class of voting securities.*

(3) Shares of any kind or class of voting securities of a bank or business organization, and assets of a business organization, shall be deemed to be indirectly owned or controlled by a bank or business organization, the latter being referred to in this subsection as the "controlling bank or business organization," if:

(a) The shares or assets are owned or controlled by any bank or business organization over which the controlling bank or business organization has control; or

(b) The shares or assets are held or controlled directly or indirectly by trustees for the benefit of:

1. The controlling bank or business organization;

2. The shareholders or members of the controlling bank or business organization; or

3. The employees, whether exclusively or not, of the controlling bank or business organization.

(4) Shares of any kind or class of voting securities, and assets, of a bank or business organization which, after March 28, 1972, the effective date of former s. 659.141(2)(g), are transferred by any bank holding company, or by any bank or any business organization which, but for such transfer, would be a bank holding company, directly or indirectly to any transferee that is indebted to the transferor, or has one or more officers, directors, trustees, or beneficiaries in common with or subject to control by the transferor, shall be deemed to be indirectly owned or controlled by the transferor unless the department, after opportunity for hearing, determines that the transferor is not in fact capable of controlling the transferee.

(5) Notwithstanding any other provision of this section, no bank and no business organization shall be deemed to own or control voting shares or assets of another bank or another business organization if:

(a) The ownership or control of such shares or assets is in a fiduciary capacity, except as provided in paragraph (3)(b) and subsection (4). For the purposes of the preceding sentence, shares of a bank or a business organization shall not be deemed to have been acquired in a fiduciary capacity if the acquiring bank or business organization has sole discretionary authority to exercise voting rights with respect thereto, except that this limitation is applicable in the case of a bank or business organization acquiring such shares prior to March 28, 1972, the effective date of former s. 659.141(3)(a), only if the bank or business organization has the right, consistent with its obligations under the instrument, agreement, or other arrangement establishing the fiduciary relationship, to divest itself of such voting rights and fails to exercise that right to divest within 1 year after that date;

(b) The shares are acquired in connection with the underwriting of securities by a business organization, in good faith and without any intent or purpose to evade the purposes of ss. 658.27-658.29, and if such shares are held only for such period of time, not exceeding 3 months from date of acquisition, as will permit the sale thereof on a reasonable basis; however, upon application by the underwriting business organization, and after notice and opportunity for hearing, if the department finds that the sale of such shares within that period of time would create an unreasonable hardship on the underwriting business organization, that there is no intent or purpose to evade the purposes of ss. 658.27-658.29 by the continued ownership or control of such shares by such underwriting business organization, and that an extension of such period of time would not be detrimental to the public interest, the department is authorized to extend, from time to time, for not more than 1 month at a time, the 3-month period, but the aggregate of such extensions shall not exceed 3 months;

(c) Control of voting rights of such shares is acquired in good faith, and without any purpose or intent to evade the purposes of ss. 658.27-658.29, in the course of participating in a proxy solicitation by a business organization formed in good faith, and without any purpose or intent to evade the purposes of ss. 658.27-658.29, for the sole purpose of participating in such proxy solicitation, and such control of voting rights terminates immediately upon the conclusion of the sole purpose for which such business organization was formed; or

(d) The ownership or control of such shares or assets is acquired in securing or collecting a debt previously contracted in good faith, unless the department, after notice and opportunity for hearing, finds that a purpose of any part of any transaction was an evasion of the purposes of ss. 658.27-658.29 and if the ownership or control of such shares or assets is held only for such reasonable period of time, not exceeding 2 years after the date of acquisition, as will permit the divestiture thereof on a reasonable basis. Upon application by the bank or business organization which acquired such ownership or control in accordance with the preceding provisions of this paragraph, and after notice and opportunity for hearing, if the department finds that the bank or business organization has made reasonable and good faith efforts to divest itself of such ownership or control on a reasonable basis within the 2-year period but has been unable to do so, that immediate divestiture of such ownership or control would create an unreasonable hardship on such bank or business organization, that continuation of such ownership or control involves no purpose or intent to evade the purposes of ss. 658.27-658.29, and that an extension of the 2-year period would not be detrimental to the public interest, the department is authorized to extend, from time to time and for not more than 1 year at a time, the 2-year period, but the aggregate of all such extensions shall not exceed 3 years.

(6) A business organization provides investment advisory services if, in this state and for compensation, it engages in the business of advising persons, directly or indirectly or through publications or writings, as to the value of securities or as to the advisability of investment in or purchasing securities; or if, not being a certified public accountant, in this state and for compensation, it issues or distributes to persons analyses or reports concerning securities.

Section 111. Section 658.28, Florida Statutes, 1990 Supplement, is amended to read:

658.28 Acquisition of control of a bank or trust company.—

(1) In any case in which a person or a group of persons, directly or indirectly or acting by or through one or more persons, proposes to purchase or acquire a controlling interest in any state bank or state trust company, and thereby to change the control of that bank or trust company, each person or group of persons shall first make application to the department for a certificate of approval of such proposed change of control of the bank or trust company. The application shall contain the name and address, and such other relevant information as the department may require, including information relating to other and former addresses and the reputation, character, responsibility, and business affiliations, of the proposed new owner or each of the proposed new owners of the controlling interest. The department shall issue a certificate of approval only after it has made an investigation and determined that the proposed new owner or owners of the interest are qualified by reputation, character, experience, and financial responsibility to control and operate the bank or trust company in a legal and proper manner and that the interests of the other stockholders, if any, and the depositors and creditors of the bank or trust company and the interests of the public generally will not be jeopardized by the proposed change in ownership, controlling interest, or management. No person who has been convicted of, or pled guilty or nolo contendere to, a violation of s. 655.50, relating to the Florida Control of Money Laundering in Financial Institutions Act; chapter 896, relating to offenses related to financial transactions; or any similar state or federal law shall be given a certificate of approval by the department.

(2) For the purposes of this section, the standards, criteria, and exceptions contained in s. 658.27(2), (3), (4), and (5) relating to control by a business organization of a bank or another business organization apply to the persons mentioned in this section and constitute the standards, criteria, and exceptions which determine whether any person or group of persons shall be deemed to be purchasing or acquiring, or to have purchased or acquired, directly or indirectly a "controlling interest" in a state bank or a state trust company; but the department is not limited to those standards or criteria in determining whether any such person shall be deemed to be acting by or through one or more other persons.

(3) In any case in which a proposed purchase or acquisition of voting securities of a state bank or trust company would give rise to the presumption created under s. 658.27(2)(c), the person or group of persons who propose to purchase or acquire the voting securities shall first give written notice of the proposal to the department. Such notice may present information that the proposed purchase or acquisition will not result in control. The department shall afford the person seeking to rebut the presumption an opportunity to present views in writing or orally before its designated representatives at an informal conference.

(4)~~(3)~~ For the purposes of this section, no person will be considered as having effected a change in control of any bank by the formation of a bank holding company when the person or persons who controlled the bank or banks are the same person or persons who control the holding company.

Section 112. Section 658.29, Florida Statutes, is amended to read:

658.29 Certain ownership and control prohibited.—

(1) Except as provided in subsection (3), no bank, trust company, or bank holding company, the operations of which are principally conducted outside this state, shall acquire, retain, or own, directly or indirectly, all, or substantially all, of the assets of, or control over, any bank ~~or trust company~~ having a place of business in this state where the business of banking *is* ~~or trust business or functions are~~ conducted~~, or acquire, retain, or own all, or substantially all, of the assets of, or control over, any business organization having a place of business in this state where or from which it furnishes investment advisory services in this state. However, if a bank, trust company, or bank holding company directly or indirectly owning all, or substantially all, the assets of, or having control over, a bank or a trust company or business organization to which the restrictions and prohibitions of this section apply, having acquired such assets or control prior to becoming disqualified hereunder, becomes disqualified hereunder to acquire, retain, or own the same, the restrictions and prohibitions of this section shall not be enforced against it for a period which, under all the circumstances, is determined by the department to be reasonable, not exceeding 2 years from the date it becomes disqualified hereunder, unless such period of 2 years is extended by the department as herein provided. The department is authorized, upon a showing of undue hardship, to extend the 2-year period from time to time if it determines that any such extension would not be detrimental to the public interest; but any such extension shall not exceed 1 year, and all extensions shall not in the aggregate exceed 3 years.~~

(2) Except as provided in subsection (3), for the purposes of this section, the operations of a bank, trust company, or bank holding company are principally conducted outside this state if:

(a) In the case of a bank, the largest amount of its total deposits is held outside this state.

(b) In the case of a trust company, the largest amount of its total trust assets is held or administered outside this state.

(c) In the case of a bank holding company, the largest amount of the total deposits of all banks controlled by the bank holding company is held outside this state or the largest amount of the total trust assets held by all trust companies controlled by the bank holding company is held or administered outside this state.

(3) Notwithstanding any other provisions of this section, the restrictions and prohibitions of this section shall not apply:

(a) To the ownership or control of shares acquired by a bank, trust company, or bank holding company prior to January 1, 1972.

~~(b) To any acquisition of a bank, trust company, or investment advisory business organization if an application for approval of such acquisition or notice of proposed investment advisory activities was filed with the Department of Banking and Finance, or the Board of Governors of the Federal Reserve System or other appropriate federal regulatory agency having jurisdiction, prior to June 1, 1972.~~

~~(c) To the establishment of one investment advisory office in this state by a bank or business organization which, on March 1, 1972, and for a period of 1 year prior thereto, rendered investment advisory services to trust companies or banks in this state from an office outside the state.~~

(b)~~(d)~~ To any bank, trust company, or bank holding company, the operations of which are principally conducted outside this state, which, on December 20, 1972, owned all the assets of, or control over, a bank or trust company located within and doing business within this state.

(c)~~(e)~~ To the acquisition, retention, or ownership of an Edge Act corporation when the Edge Act corporation is performing functions authorized by the act under which it was organized.

(d) To any acquisition of a bank by a bank holding company after approval by the department in accordance with s. 658.295.

Section 113. Section 658.30, Florida Statutes, is amended to read:

658.30 Application of *the* Florida *Business* ~~General~~ Corporation Act.—

(1)(a) When not in direct conflict with *or superseded by* specific provisions of *the financial institutions codes* ~~this code~~, the provisions of the Florida *Business* ~~General~~ Corporation Act, chapter 607, shall extend to state banks and trust companies formed under *the financial institutions codes* ~~this code~~. This section shall be liberally construed to accomplish *the* purposes stated herein.

(b) Without limiting the generality of paragraph (a), stockholders, directors, and committees of state banks and trust companies may hold meetings in any manner permitted by chapter 607, and any action by stockholders, directors, or committees required or permitted to be taken at a meeting may be taken without a meeting in any manner provided or permitted by chapter 607.

(2) The office of cashier of a bank shall correspond to the office of secretary in the Florida *Business* ~~General~~ Corporation Act; however, any bank may, by designation in its *articles of incorporation* ~~bylaws~~, elect to substitute the title of secretary for the title of cashier, but a bank shall not have both a cashier and a secretary.

Section 114. Section 658.32, Florida Statutes, is amended to read:

658.32 Annual meetings.—*Unless otherwise approved by the department,* the annual meeting of stockholders of a state bank or trust company shall be held on such day in the first 4 months of each year as is specified therefor in the *articles of incorporation or in the* bylaws of the corporation; however, when the day fixed in the *articles of incorporation or in the* bylaws for the regular annual meeting of the stockholders falls on a legal holiday, the annual meeting of stockholders shall be held on the next following day which is not a legal holiday.

Section 115. Section 658.33, Florida Statutes, 1990 Supplement, is amended to read:

658.33 Directors, number, qualifications; officers.—

(1) The board of directors of a bank or trust company shall consist of *at least* ~~not less than~~ five directors and shall be elected, unless appointed to fill a vacancy, at the annual meeting of stockholders or at a special meeting; however, if so authorized by the articles of incorporation, a majority of the full board of directors may, at any time during the year following the annual meeting of shareholders in which such action has been authorized, increase the number of directors of such bank or trust company by not more than two and appoint persons to fill the resulting vacancies.

(2) Not less than a majority of the directors must, during their whole term of service, be citizens of the United States, and at least three-fifths of the directors must have resided in this state for at least 1 year preceding their election and must be residents therein during their continuance in office.

(3) Within 30 days following the annual meeting or any other meeting at which directors or officers are elected, the bank or trust company shall submit to the department the names and residence addresses of those persons on such form as shall be provided by the department.

(4) Each director, upon assuming office, shall acknowledge that he is familiar with his responsibilities as a director and that he will diligently and honestly administer the affairs of such bank or trust company and will not knowingly violate, or willfully permit to be violated, any of the provisions of the *financial institutions codes* ~~banking code~~ or pertinent rules of the department. The signed copy of such oath shall be ~~immediately~~ filed with the department *within 30 days after election.*

Section 116. Section 658.34, Florida Statutes, is amended to read:

658.34 Shares of stock.—

(1) A bank or trust company shall issue its capital stock with par value of not more than $100 *nor less than $1* per share.

(2) No bank or trust company shall issue any shares *of capital stock* before they are fully paid *in cash.*

(3) With the approval of the department, a bank or trust company may issue preferred stock of one or more classes in an amount and with a par value as approved by the department.

(4) With the approval of the department, a bank or trust company may issue less than all the number of shares of any of its capital stock authorized by its articles of incorporation. Such authorized but unissued shares may be issued only for the following purposes:

(a) To provide for stock options as provided in s. 658.35.

(b) To declare or pay a stock dividend, with the approval of the department.

(c) To increase the capital of the bank or trust company, with the approval of the department.

Section 117. Section 658.36, Florida Statutes, is amended to read:

658.36 Changes in capital.—

(1) No state bank or trust company shall reduce its outstanding capital stock without first obtaining the approval of the department, and such approval shall be withheld if the reduction will cause the outstanding capital stock to be less than the minimum required pursuant to *the financial institutions codes* ~~this code~~.

(2) Any state bank or trust company may, with the approval of the department, provide for an increase in its capital *stock*.

Section 118. Section 658.37, Florida Statutes, is amended to read:

658.37 Dividends and surplus.—The directors of any bank or trust company, after charging off bad debts, depreciation, and other worthless assets if any, and making provision for reasonably anticipated future losses on loans and other assets, may quarterly, semiannually, or annually declare a dividend of so much of the aggregate of the net profits of that period combined with its retained net profits of the preceding 2 years as they shall judge expedient, and, with the approval of the department, any bank or trust company may declare a dividend from retained net profits which accrued prior to the preceding 2 years, but each bank or trust company shall, before the declaration of a dividend on its common stock, carry 20 percent of its net profits for such preceding period as is covered by the dividend to its surplus fund, until the same shall at least equal the amount of its common and preferred stock then issued and outstanding. No bank or trust company shall declare any dividend at any time at which its net income from the current year combined with the retained net income from the preceding 2 years is a loss or which would cause the capital accounts of the bank or trust company to fall below the minimum amount required by law, regulation, order, or any written agreement with the department or a *state or* federal regulatory agency. *A bank or trust company may, however, split up or divide the issued shares of capital stock into a greater number of shares without increasing or decreasing the capital accounts of the bank or trust company, and such shall not be construed to be a dividend within the meaning of this section.*

Section 119. Section 658.38, Florida Statutes, is amended to read:

658.38 Deposit insurance~~; membership in Federal Reserve System~~.—A state bank *must, prior to opening, obtain and thereafter maintain* ~~is authorized to do any act necessary to obtain~~ insurance of its deposits by the Federal Deposit Insurance Corporation ~~and to acquire and hold membership in the Federal Reserve System~~.

Section 120. Section 658.39, Florida Statutes, is amended to read:

658.39 Stockholders; examination of records.—No bank, ~~or~~ trust company, *or financial institution-affiliated party* ~~and no director, officer, or employee thereof~~ shall permit any stockholder, other than a qualified director, officer, or employee thereof, to have access to, or to examine or inspect, any of the books or records of such bank or trust company other than its general statement of condition of its general assets and liabilities, the quarterly reports of condition and *quarterly* ~~semiannual~~ reports of income required to be submitted to the department pursuant to s. 655.045(2)(a), and a list of shareholders as provided in s. 655.057(4).

Section 121. Section 658.40, Florida Statutes, is amended to read:

658.40 Definitions for merger *and*~~,~~ consolidation~~, and conversion~~.—As used in the provisions of this code relating to the merger *and*~~,~~ consolidation~~, and conversion~~ of banks and trust companies, unless the context requires otherwise:

(1) "Constituent bank or trust company" means a bank or a state trust company which is a party to a merger.

(2) "Converted bank" means the converting bank after the conversion.

(3) "Converting bank" means a bank converting from a state bank to a national bank, or the reverse.

(4) "Merger" includes consolidation.

(5) "Resulting bank or trust company" means the consolidated bank or state trust company which is, or is to be, carrying on business upon completion of a consolidation; and, in the case of a merger, means the bank or state trust company into which the other constituent banks or trust companies are, or are to be, merged.

(6) "Successor institution" means a banking corporation or a trust company organized under the laws of this state to which the department has not issued a certificate of authorization, as provided in s. 658.25, to conduct a banking business or trust business, the sole purpose of the organization of which is to facilitate a plan of merger, reorganization, or consolidation.

Section 122. Section 658.42, Florida Statutes, is amended to read:

658.42 Plan of merger and merger agreement.—

(1) If the resulting bank or trust company will be a state bank or a state trust company, the constituent banks or trust companies shall adopt a plan of merger and merger agreement stating the method, terms, and conditions of the merger, including the rights of the stockholders of each constituent bank or trust company and all agreements concerning the merger. The board of directors of each constituent bank or trust company shall, by a majority of the entire board, approve the plan of merger and merger agreement which shall contain:

(a) The name of each constituent bank or trust company and the specific location of its office and each of its branches and trust service offices.

(b) With respect to the resulting state bank or state trust company:

1. The name and the specific location of the proposed main office and each existing and proposed branch office and trust service office;

2. The name and address of each director who is to serve until the next meeting of the stockholders at which directors are elected;

3. The name and address of each executive officer;

4. The number of shares of capital stock of every class; the par value of each share of every class; the limitations, rights, preferences, or other special terms, if any, of each class of stock; and the amount of the surplus fund and of *retained earnings or* the undivided profits fund;

5. Whether the resulting state bank is to have trust powers; and

6. The complete articles of incorporation under which the resulting bank or trust company will operate.

(c) The terms for the exchange of shares of the constituent banks or trust companies for cash or the shares, rights, obligations, or other securities or property, or a combination of any thereof, of the resulting bank or trust company, or of, or offered by, a bank holding company as defined in the Bank Holding Company Act of 1956, as amended, 12 U.S.C. ss. 1841-1849, which owns, or on the effective date of the merger and as a result of the merger will own, more than 50 percent of the shares of voting stock of the resulting bank.

(d) A statement that the plan and agreement are subject to approval by the department and by the stockholders of each constituent bank or trust company.

(e) Provisions governing the manner of disposing of the shares, if any, of the resulting state bank or state trust company not taken by dissenting shareholders of constituent banks or trust companies.

(f) Such additional provisions not contrary to law as may be agreed upon by the constituent banks and trust companies and such other provisions as the department requires to enable it to discharge its duties with respect to the merger.

(2) In connection with the organization of a successor institution, a showing and finding of public convenience and advantage for the organization of a new state bank or state trust company is not required; and the department shall adopt special rules relating to the formation, organization, approval, and chartering of successor institutions which omit or waive such of the provisions of ss. 658.16-658.26 as are not essential to safeguard the public interest and the safety and soundness of state banks and state trust companies, but no certificate of authorization to conduct a banking business or trust business shall be issued to a successor institution unless a certificate of merger, as provided in s. 658.45, is issued pursuant to the plan of merger and merger agreement. However, nothing in this subsection shall be construed as waiving or otherwise impairing the public-interest requirement in s. 658.43(3)(d).

Section 123. Section 658.43, Florida Statutes, 1990 Supplement, is amended to read:

658.43 Approval by department; valuation of assets; emergency action.—

(1) After approval by the board of directors of each constituent bank or trust company, the plan of merger and merger agreement shall be submitted to the department for approval, together with a certified copy of the authorizing resolutions of the board of directors of each constituent state bank or state trust company showing approval by a majority of the entire board of directors of each such state bank or state trust company, and evidence of proper action by the board of directors of any constituent national bank.

(2) Without approval by the department, no asset shall be carried on the books of the resulting state bank or state trust company at a valuation higher than that on the books of the constituent bank or trust company at the time of the last examination by a state or national bank or trust company examiner before the effective date of the merger.

(3) The department shall approve the plan of merger and merger agreement if it appears that:

(a) The resulting state bank or state trust company meets all the requirements of state law as to the formation of a new state bank or state trust company, except that this provision shall not apply to the establishment of branches by merger as provided in s. 658.26.

(b) The agreement provides an adequate capital structure, including surplus, of the resulting state bank or state trust company in relation to its activities which are to continue or are to be undertaken, and also in relation to its deposit liabilities in the case of a resulting state bank.

(c) The *valuation* ~~agreement~~ is fair.

(d) The merger is not contrary to the public interest.

If the department disapproves a plan of merger or merger agreement, it shall state its objections and, the provisions of chapter 120 notwithstanding, give an opportunity to the constituent banks, trust companies, or banks and trust companies to amend the plan of merger and merger agreement to obviate such objections.

(4) If the resulting state bank is not to have trust powers, the department shall not approve a merger until adequate provision has been made for successors to fiduciary positions held by any constituent trust company or any constituent bank.

(5) Approval by the department, by final order or otherwise, of a plan of merger or merger agreement shall be deemed subject to approval of the plan of merger and merger agreement by the stockholders of each constituent bank or trust company as provided in s. 658.44(1) and shall also be deemed subject to approval of the merger and the plan of merger and merger agreement by each appropriate federal regulatory agency. Unless all such approvals have been obtained and proper evidence thereof submitted to the department within 6 months after the approval by the department, the approval by the department of the plan of merger and merger agreement shall be deemed to be revoked and terminated; however, the department on its own motion, or at the request of the constituent banks or trust companies for good cause shown, may extend the time for a period not exceeding 6 months.

(6) No merger with a resulting state bank or trust company shall take place or be effective without the issuance by the department of a certificate of merger.

(7) Notwithstanding any other provisions of *the financial institutions codes* ~~this code~~ or of chapter 120, if the department or the appropriate federal regulatory agency finds that immediate action is necessary in order to prevent the probable failure of one or more banks, *associations,* or trust companies, which in this subsection may be referred to as a *"failing financial entity,"* ~~"failing bank or trust company,"~~ the department shall have the power, with the concurrence of the appropriate federal regulatory agency in the case of any bank *or association* the deposits of which are insured by the Federal Deposit Insurance Corporation, to issue an emergency order authorizing:

(a) The merger of any such failing *financial entity* ~~bank or trust company~~ with a state bank;

(b) The merger of any such failing *financial entity* ~~state trust company~~ with a state trust company;

(c) Any state bank to acquire assets and assume liabilities of any such failing *financial entity, including all rights, powers, and responsibilities as fiduciary in instances where the failing financial institution is actively engaged in the exercise of trust powers* ~~bank or trust company; or~~

(d) Any state trust company to acquire assets and assume liabilities of any such failing trust company *and rights, powers, and responsibilities as fiduciary of such failing trust company;*

(e) The conversion of any such failing financial entity into a state bank or trust company;

(f) The chartering of a new state bank or state association to acquire assets and assume liabilities of any such failing financial entity and to assume rights, powers, and responsibilities as fiduciary in cases where such failing financial entity is engaged in the exercise of trust powers; or

(g) The chartering of a new state trust company to acquire assets and assume liabilities and rights, powers, and responsibilities as fiduciary of such failing trust company.

Any such finding by the department shall be based upon reports furnished to it by a state bank, *association,* or trust company examiner or by a federal bank *or association* examiner or upon other evidence from which it is reasonable to conclude that any such bank, *association,* or trust company is insolvent or is threatened with imminent insolvency. ~~Any state bank or trust company which has capital accounts of less than 1 percent of its total assets, after adjustment for apparent losses, shall be considered imminently insolvent.~~ The department may disallow illegally obtained currency, monetary instruments, funds, or other financial resources from the capitalization requirements of this section. The stockholders of a failing bank, *association,* or trust company that is acquired by another bank or trust company pursuant to this subsection shall be entitled to the same procedural rights and to compensation for the remaining value of their shares as is provided for dissenters in s. 658.44, except that they shall have no right to vote against the transaction. Any transaction authorized by this subsection may be accomplished through the organization of a successor institution.

Section 124. Subsections (1) and (2) of section 658.44, Florida Statutes, are amended to read:

658.44 Approval by stockholders; rights of dissenters; preemptive rights.—

(1) The department shall not issue a certificate of merger to a resulting state bank or trust company unless the plan of merger and merger agreement, as adopted by a majority of the entire board of directors of each constituent bank or trust company, and as approved by each appropriate federal regulatory agency and by the department, has been approved:

(a) By the stockholders of each constituent national bank as provided by, and in accordance with the procedures required by, the laws of the United States applicable thereto, and

(b) After notice as hereinafter provided, by the affirmative vote or written consent of the holders of at least a majority of the shares entitled to vote thereon of each constituent state bank or state trust company, unless any class of shares of any constituent state bank or state trust company is entitled to vote thereon as a class, in which event as to such constituent state bank or state trust company the plan of merger and merger agreement shall be approved by the stockholders upon receiving the affirmative vote or written consent of the holders of a majority of the shares of each class of shares entitled to vote thereon as a class and of the total shares entitled to vote thereon. Such vote of stockholders of a constituent state bank or state trust company shall be at an annual or special meeting of stockholders or by written consent of the stockholders without a meeting as provided in *s. 607.0704* ~~s. 607.394~~.

Approval by the stockholders of a constituent bank or trust company of a plan of merger and merger agreement shall constitute the adoption by the stockholders of the articles of incorporation of the resulting state bank or state trust company as set forth in the plan of merger and merger agreement.

(2) Written notice of the meeting of, or proposed written consent action by, the stockholders of each constituent state bank or state trust company shall be given to each stockholder of record, whether or not entitled to vote, and whether the meeting is an annual or a special meeting or whether the vote is to be by written consent pursuant to *s. 607.0704* ~~s. 607.394~~, and the notice shall state that the purpose or one of the purposes of the meeting, or of the proposed action by the stockholders without a meeting, is to consider the proposed plan of merger and merger agreement. Except to the extent provided otherwise with respect to

stockholders of a resulting bank or trust company pursuant to subsection (7), the notice shall also state that dissenting stockholders will be entitled to payment in cash of the value of only those shares held by the stockholders:

(a) Which at a meeting of the stockholders are voted against the approval of the plan of merger and merger agreement;

(b) As to which, if the proposed action is to be by written consent of stockholders pursuant to *s. 607.0704* ~~s. 607.394~~, such written consent is not given by the holder thereof; or

(c) With respect to which the holder thereof has given written notice to the constituent state bank or trust company, at or prior to the meeting of the stockholders or on or prior to the date specified for action by the stockholders without a meeting pursuant to *s. 607.0704* ~~s. 607.394~~ in the notice of such proposed action, that the stockholder dissents from the plan of merger and merger agreement.

Hereinafter in this section, the term "dissenting shares" means and includes only those shares, which may be all or less than all the shares of any class owned by a stockholder, described in paragraphs (a), (b), and (c).

Section 125. Subsection (4) of section 658.45, Florida Statutes, is amended to read:

658.45 Certificate of merger and effective date; effect on charters and powers.—

(4)(a) If the resulting state bank is to have trust powers and if one or more of the parties to the merger is a state trust company or a bank having an existing trust department operating pursuant to trust powers theretofore granted by the department, in the case of a constituent state bank, or by the *appropriate federal regulatory authority* ~~Board of Governors of the Federal Reserve System or the Comptroller of the Currency~~, in the case of a constituent national bank, such trust powers shall pass to the resulting state bank; and it shall have and may exercise trust powers in the same manner and to the same extent as the constituent banks or trust companies to which such trust powers were originally issued, and no application to have or to continue to have or exercise trust powers shall be required. However, if the name of the resulting state bank differs from that of a constituent state trust company or a constituent bank having trust powers, the department shall issue a certificate to the resulting state bank showing its right to exercise the trust powers theretofore granted to the constituent banks or trust companies. All fiduciary relationships and capacities of all the constituent banks and trust companies shall, by operation of law, pass to and be assumed by the resulting bank having trust powers, in the same manner and to the same extent as such fiduciary capacities and relationships were held by any constituent bank or trust company.

(b) Upon the merger of two or more state trust companies, the resulting state trust company shall continue to have and exercise the trust powers of the constituent trust companies, and no application to have or to continue to exercise trust powers shall be required. However, if the name of the resulting state trust company differs from that of any of the constituent trust companies, the department shall issue a certificate to the resulting state trust company showing its right to exercise the trust powers theretofore granted to the constituent trust companies. All fiduciary relationships and capacities of the constituent state trust companies shall pass to and be assumed by the resulting state trust company by operation of law.

Section 126. Section 658.48, Florida Statutes, 1990 Supplement, is amended to read:

658.48 Loans.—A state bank may make loans and extensions of credit, with or without security, subject to the following limitations and provisions:

(1) LOANS; GENERAL LIMITATIONS.—

(a) A bank may extend credit to any person, *including any related interest of that person, up to an amount of* ~~in any amount up to~~ 15 percent of its capital accounts *plus the allowance for loan losses* for loans and lines of credit which are unsecured. A bank may extend credit to any person, *including any related interest of that person,* in any amount up to 25 percent of its capital accounts *plus the allowance for loan losses* for loans and lines of credit, all components of which are amply and entirely secured. However, when outstanding loans consist of both secured and unsecured portions, the secured and unsecured portions together may not exceed 25 percent of the capital accounts *plus the allowance for loan losses* of the lending bank, and the unsecured portion may not exceed 15 percent of the capital accounts *plus the allowance for loan losses* of the lending bank.

(b) The department may provide by rule for securities margin requirements.

(c) The loan limitations stated in this section shall not be enlarged by the provisions of any other section of this chapter, except as provided in subsection (6).

(2) LOANS TO EXECUTIVE OFFICERS, DIRECTORS, AND THEIR RELATED INTERESTS.—No bank shall extend credit, including the granting of a line of credit, to any of its executive officers or directors, or any related interest of that person, that, when aggregated with the amount of all other extensions of credit to that person and any related interest of that person, exceeds $25,000, unless the extension of credit has been approved in advance by a majority of the entire board of directors not more than 1 year prior to the time when such credit is extended.

(3) LOANS TO OTHER PERSONS.—No bank shall extend credit, including the granting of a line of credit, to any other person not included in subsection (2), *including* ~~or~~ any related interest of that person, that, when aggregated with the amount of all other extensions of credit to that person and any related interest of that person, exceeds 15 percent of the capital accounts *plus the allowance for loan losses* of the lending bank, unless the extension of credit has been approved in advance by a majority of the entire board of directors or an authorized committee thereof not more than 1 year prior to the time when such credit is extended.

(4) RELATED INTERESTS.—As used in this section, the term "related interest" means, with respect to any person, any partnership, corporation, or other business organization controlled by that person. A corporation is controlled by a person who:

(a) Owns, controls, or has the power to vote 25 percent or more of any class of voting securities of the corporation;

(b) Controls in any manner the election of a majority of the directors of the corporation; or

(c) Has the power to exercise a controlling influence over the management or policies of the corporation.

(5) SPECIAL PROVISIONS.—

(a) A limitation of 25 percent of the capital accounts *plus the allowance for loan losses* of the lending bank applies to the aggregate of all loans made to a corporation together with all loans secured by shares of stock, bonds, or other obligations of the same corporation, unless the stocks or bonds are listed and traded on a recognized stock exchange or are registered under the Securities Exchange Act of 1934 or are registered with the Board of Governors of the Federal Reserve System, with the Federal Deposit Insurance Corporation, or with the Comptroller of the Currency, in which case no aggregate loan limit applies.

(b) A limitation of 10 percent of the capital accounts *plus the allowance for loan losses* of the lending bank applies to loans made to any one borrower on the security of shares of capital stock or the obligations subordinate to deposits of another bank. A limitation of 25 percent of the capital accounts *plus the allowance for loan losses* of the lending state bank applies to the aggregate of all loans secured by the shares of capital stock or the obligations subordinate to deposits of any one bank.

(c) No loan shall be made by a bank:

1. On the security of the shares of its own capital stock, *of stock of its own one-bank holding company,* or of its obligations subordinate to deposits.

2. On an unsecured basis for the purpose of the purchase of shares of its own capital stock, stock of its own one-bank holding company, or its obligations subordinate to deposits.

(d) Loans based upon the security of real estate mortgages shall be documented as first liens, except that liens other than first liens may be taken:

1. To protect a loan previously made in good faith;

2. To further secure a loan otherwise amply and entirely secured;

3. As additional security for Federal Housing Administration Title 1 loans or loans made with participation or guaranty by the Small Business Administration;

4. To secure a loan not in excess of 15 percent of the capital accounts *plus the allowance for loan losses* of the bank; or

5. As provided by rules of the department.

(e) In computing the total liabilities of any person, there shall be included all loans endorsed or guaranteed as to repayment by such person and by any related interest of such person.

(f) All loan documentation shall be written in the English language or contain an English translation of foreign language provisions.

(6) APPLICABILITY OF LOAN LIMITATIONS.—The loan limitations otherwise provided in this section do not apply to:

(a) Loans which are fully secured by assignment of a savings account or certificate of deposit of the lending bank;

(b) Loans which are fully secured by notes, bonds, or other evidences of indebtedness issued by the United States Government or fully guaranteed as to repayment by the United States Government or its agencies, bureaus, boards, or commissions; or

(c) Loans made to district school boards when such loans are secured by the assignment of revenues reasonably expected to be received from the state and are otherwise made in compliance with statutes governing borrowings by such boards.

(7) APPROVAL BY BOARD.—The requirements of this section concerning approval of lending activities by the board of directors or an authorized committee therefrom have been met only when such approvals are recorded in the formal minutes of the actions of the board and its committees by name of borrower, amount of loan, maturity of loan, and general type of collateral. If, at the time of approval of a line of credit, such information is not available, the name of the borrower and the amount of the approved line of credit shall be recorded in the minutes. Any action required by this section to be taken by the board of directors or an authorized committee therefrom may be taken pursuant to s. 607.0820(4) if the minutes of the proceedings of the board or of the committee reflect such action and each director taking such action signs the minutes reflecting such action at the next regular meeting of the board or committee attended by such director.

(8) LIABILITY OF OFFICERS AND DIRECTORS.—Officers and directors are personally liable, jointly and severally, for any loss that may be occasioned by any willful violation of this section.

(9) When a bank's capital has been diminished by losses so that its ability to honor legally binding written loan commitments is impaired, the department may approve limited expansion of the lending limitations set forth in this section.

(10)~~(9)~~ FEDERAL RESTRICTIONS AND LIMITATIONS.—Nothing in this section shall be construed as expanding, enlarging, or otherwise affecting any lending limits, restrictions, or procedures now provided by federal law applicable to state banks in conjunction with any loan or loans to any borrower or class of borrowers.

Section 127. Section 658.50, Florida Statutes, is amended to read:

658.50 Bank loans; credit cards.—

(1) Any bank shall have the power to make loans or extensions of credit to *a* ~~any~~ person on a credit card or overdraft financing arrangement and to charge, in any billing cycle, interest on the outstanding amount at a rate not exceeding the equivalent of 18 percent per annum, simple interest.

(2) For the purpose of this section, the term:

(a) "Billing cycle" has the same meaning as ascribed to it under the federal Truth in Lending Act, 15 U.S.C. ss. 1601 et seq., and the associated regulations which are in effect as of April 1, 1988.

(b) "Interest" means those charges considered a finance charge under the federal Truth in Lending Act, 15 U.S.C. ss. 1601 et seq., and the associated regulations which are in effect as of April 1, 1988.

(3) Notwithstanding the provisions of this section or any other law, a financial institution may impose and collect interest, finance charges, and credit service charges, as well as such other fees and charges which are material to the determination of the interest rate in connection with loans or extensions of credit to any person on a credit card or overdraft financial arrangement at such rates and in such amounts as financial institutions domiciled in any other state are permitted to impose and collect when making loans or extensions of credit to persons residing in this state.

Section 128. Subsection (3) of section 658.53, Florida Statutes, is amended to read:

658.53 Borrowing; limits of indebtedness.—

(3) No state bank or trust company shall at any time be indebted, or in any way liable, to an amount exceeding the amount of its *unimpaired* capital stock ~~at such time actually paid in and remaining undiminished by losses or otherwise~~ plus 50 percent of the amount of its unimpaired surplus fund and *unimpaired* undivided profits fund, except on account of demands of the nature following:

(a) Moneys deposited with or collected by the bank.

(b) Bills of exchange or drafts drawn against money actually on deposit to the credit of the state bank or due thereto.

(c) Liabilities to the stockholders of the state bank or trust company for dividends and reserve profits.

(d) Liabilities incurred under the provisions of the Federal Reserve Act.

(e) Liabilities incurred under the provisions of the Federal Deposit Insurance Act.

(f) Liabilities incurred under the provisions of the Federal Home Loan Bank Act.

(g)~~(f)~~ Liabilities created by the endorsement of accepted bills of exchange payable abroad actually owned by the endorsing bank and discounted at home or abroad.

(h)~~(g)~~ Liabilities incurred under the provisions of ss. 2.3 and 2.4 of Title II of the federal Farm Credit Act of 1971, as amended, 12 U.S.C. ss. 2074 and 2075, subject to the limitations therein contained.

(i)~~(h)~~ Liabilities incurred for moneys borrowed from a bank when such borrowing is made with the express written approval of the department.

(j)~~(i)~~ Liabilities incurred for funds purchased from the United States Department of the Treasury.

(k)~~(j)~~ Liabilities incurred for federal funds purchased.

Section 129. Subsection (2) of section 658.60, Florida Statutes, is amended to read:

658.60 Depositories of public moneys and pledge of assets.—

(2) Notwithstanding any other provision of this section or the provisions of any other law requiring security for deposits of funds in the form of surety bond, in the form of the deposit or pledge of securities, or in any other form, security for such deposits shall not be required to the extent that such deposits are insured under the provisions of the Federal Deposit Insurance Act, as now or hereafter amended. Recognition is accorded to the custom and usage, and its practicality, of the deposit or pledge of securities by banks, as security for deposits, in an aggregate amount which, because of the fluctuation from time to time of the aggregate amount of the deposits secured thereby, may at times be in an amount in excess of the required amount of such security without withdrawing and redepositing securities with each decrease and increase of the aggregate amount of deposits secured thereby. In order to effectuate the provisions of the first sentence of this subsection, and in recognition of the availability of such excess securities for inclusion in ~~the~~ liquidity *and reserves* ~~reserve~~ of state banks as provided in s. 658.68, whenever the amount of securities deposited or pledged exceeds the amount required for the deposits secured thereby, securities in an amount equal to such excess shall, for all purposes and laws, while such excess exists be, and be treated as, freed and discharged from such deposit and pledge even though not physically withdrawn or removed from such deposit or pledge, and, in determining the securities which are so freed and discharged,

those securities which are eligible for inclusion in a state bank's liquidity ~~reserve~~ as provided in s. 658.68 shall first be included in such determination. However, such excess securities which are not physically withdrawn or removed from deposit or from the pledge thereof shall immediately and automatically, for all purposes and laws, be, and be treated as, redeposited and repledged at such time or times as, and to the extent that, there is an increase in the amount of security required for funds deposited with the bank, and, in determining the securities which are so automatically and immediately redeposited and repledged, there shall first be included those securities which are not eligible for the aforesaid liquidity ~~reserve~~ under s. 658.68.

Section 130. Section 658.65, Florida Statutes, is amended to read:

658.65 Remote financial service units.—

~~(1) As used in this section:~~

~~(a) "Bank" means any person authorized under the laws of this state or of the United States to do a general commercial banking business, which includes the acceptance of deposits, who has his principal office and main banking house in this state; the term also includes an industrial savings bank organized and operating under the provisions of chapter 664. For the purposes of this section, the foregoing definition of the term "bank" shall control over the definition of "bank" contained in s. 658.12.~~

~~(b) "Credit union" means a credit union as defined in chapter 657 or a credit union organized and existing under the laws of the United States having its principal office in this state.~~

~~(c) "Financial depository institution" means a bank, savings and loan association, or credit union.~~

~~(d) The "owner" of a remote financial service unit is the person having the right to determine the financial depository institutions which will be permitted to use, or participate in the usage of, the remote financial service unit.~~

~~(e) "Point of sale terminal" means an information processing device by which transactions by a person with, among, or involving one or more financial depository institutions are accomplished through or by means of electronic or automated signals or impulses, which may include the human voice. A point of sale terminal shall be located at a place of business other than the place of business of a financial depository institution and shall not be operated by an agent or employee of a financial depository institution and shall not be located on any premises having a parimutuel license. For the purposes of this section and for the purposes of all other statutes and rules of law, an agent or employee of the place of business where the point of sale terminal is located who operates the point of sale terminal shall not be deemed to be the agent or employee of any financial depository institution using the point of sale terminal or with which transactions are accomplished by means of the point of sale terminal.~~

~~(f) "Remote service terminal" means an information processing device, including associated structures, for the operation of which at its location an agent or employee of a financial depository institution is not required and by which, through or by means of electronic, automated, or mechanical signals or impulses generated through the use of electronic, automated, or mechanical equipment, transactions by a person are accomplished with, among, or involving one or more financial depository institutions, including, but not limited to, the dispensing of cash. Except for a remote service terminal located in any financial depository institution office or on the property on which the office is located or on property contiguous thereto, a financial depository institution utilizing a remote service terminal shall not cause any agent or employee of the financial depository institution to be stationed at the location of the remote service terminal for the operation thereof.~~

~~(g) "Remote financial service units" means and includes point of sale terminals and remote service terminals.~~

~~(h) "Savings and loan association" means an association as defined in chapter 665 and a savings and loan association organized and existing under the laws of the United States having its principal office in this state.~~

~~(2) A financial depository institution may use the facilities of, or participate in the use of, such number of remote financial service units at such locations as the financial depository institution may determine. It shall not be necessary that any remote financial service unit, or any associated equipment, structures, or systems by which it is operated, be a part of, or physically connected to, the main room or building of the financial depository institution or branch, be on the property on which the main building is situated, or be on property contiguous thereto. It shall not be necessary that a financial depository institution using the facilities of a remote financial service unit hold the legal title to, or otherwise be the owner of, the remote financial service unit or any associated equipment, structures, or systems, but the owner of any remote financial service unit shall be subject to the provisions of this section.~~

~~(3)(a) As to any and each remote financial service unit which a financial depository institution chartered by the state proposes to establish, the financial depository institution shall give not less than 30 days' written notice to the department of its intention to establish the same. Each written notice shall be in such form as the department requires and shall include the following information with regard to the remote financial service unit:~~

~~1. The name of the financial depository institution giving notice.~~

~~2. The owner of the remote financial service unit.~~

~~3. The exact location and a description of the surrounding area, including a description of any business establishment in or on which the remote financial service unit will be located.~~

~~4. Any other additional information the department requires.~~

~~(b) The department shall require that each establishing financial depository institution provide the department with a written periodic update of the information required in the written notice, including a current list of each financial depository institution sharing the remote financial service unit.~~

~~(4) The owner of a point of sale terminal, other than a retail merchant, a savings and loan association, or a credit union or a subsidiary at least 50 percent of the equity ownership of which is owned by one or more savings and loan associations or credit unions, shall make the same available, on a nondiscriminatory basis, for use by any other bank or banks and the customers thereof upon the request of such bank or banks to pay a fair and equitable amount for such right to use the same; but the owner of the point of sale terminal shall have the right to retain the control thereof. The owner of a point of sale terminal may make the same available for use by one or more savings and loan associations and credit unions and the customers thereof, and a bank may participate upon contractual agreement in the use of a point of sale terminal owned or operated by one or more savings and loan associations and credit unions.~~

~~(5) The owner of a remote service terminal may share the use of any remote service terminal with one or more financial depository institutions, and a financial depository institution may share, upon contractual agreement with one or more other financial depository institutions, the use of a remote service terminal operated by one or more financial depository institutions.~~

~~(6) It is the intent of this section to provide and authorize more convenient methods of implementing and performing the functions which banks, savings and loan associations, and credit unions, respectively, are permitted to perform and render. Nothing contained in this section shall be construed to enlarge the powers, services, or activities which banks or any category of banks, savings and loan associations, or credit unions are permitted to perform, render, or engage in by applicable law other than the provisions of this section.~~

~~(7) In considering any application for authority to organize a new financial depository institution or to establish any other financial depository institution facility, whether manned or unmanned, the department shall disregard the existence of remote financial service units in considering and determining the need for financial depository institution facilities in the community where the proposed new financial depository institution or other financial depository institution facility is to be located, in considering the adequacy of existing financial depository institution facilities and the need for further financial depository institution facilities in the locality, and in considering the ability of the community to support the proposed new financial depository institution or other financial depository institution facility and all other existing financial depository institution facilities in the community.~~

~~(8) Neither a remote financial service unit nor any associated equipment or systems by which it is operated as provided for in this section shall be considered to be a branch of any financial depository institution~~

~~using or participating in the use thereof, and such use shall not be deemed to be a violation of s. 658.26. The provisions of this section are cumulative and in addition to the provisions of s. 658.26.~~

~~(9) The provisions of this section shall not be available to any bank which does not have its principal office and place of business in this state,~~ ~~and~~ Any bank which does not have its principal office and place of business in this state is prohibited from using in this state any remote financial service unit or any associated system by which a remote financial service unit is operated. However, any bank which does not have its principal office and place of business in this state may use in this state any remote financial service unit or any associated system within this state by which such a remote financial service unit is operated if:

(1)~~(a)~~ Such bank does not take deposits, either directly or indirectly, from any source whatsoever by use of the remote financial service unit or associated system;

(2)~~(b)~~ Such bank by itself or in conjunction with another is not, directly or indirectly, the owner of, nor does it hold title to or rent or control the use of, the remote financial service unit or that part of the associated system that is within the state; and

(3)~~(c)~~ The remote financial service unit or associated system:

(a)~~1.~~ Has as its owner:

1.~~a.~~ One or more banks, each of which has its principal office and place of business in this state;

2.~~b.~~ One or more parent holding companies of a bank described in *subparagraph 1.* ~~sub-subparagraph a.~~; or

3.~~c.~~ One or more subsidiaries of a bank described in *subparagraph 1.* ~~sub-subparagraph a.~~ or of a holding company described in *subparagraph 2.* ~~sub-subparagraph b.~~; or

(b)~~2.~~ Is accessible by such bank or its customers only through computer or similar electronic systems used by, and the use of which is controlled by:

1.~~a.~~ One or more banks, each of which has its principal office and place of business in this state;

2.~~b.~~ One or more parent holding companies of a bank described in *subparagraph 1.* ~~sub-subparagraph a.~~; or

3.~~c.~~ One or more subsidiaries of a bank described in *subparagraph 1.* ~~sub-subparagraph a.~~ or of a holding company described in *subparagraph 2.* ~~sub-subparagraph b.~~

However, nothing ~~herein~~ contained *in this section prohibits* ~~shall prohibit~~ any Federal Reserve Bank or branch thereof from operating any electronic funds transfer system in this state. Nothing ~~herein~~ contained *in this section grants* ~~shall be construed as granting~~ any authority, directly or indirectly, for any bank or bank holding company, the operations of which are principally conducted outside this state, to operate a branch in this state or to acquire, directly or indirectly, any voting shares of, any interest in, or all or substantially all of the assets of any bank in this state. Nothing *contained* in this *section* ~~subsection shall be construed~~, by negative implication or otherwise, *applies* ~~to apply~~ to any ~~savings and loan~~ association or credit union, regardless of whether such association or credit union has its principal office and place of business in this state.

~~(10) Every owner of a remote financial service unit and every financial depository institution using a remote financial service unit shall adopt and maintain safeguards to ensure the safety of funds, items, and other information, which safeguards shall include security devices consistent with the minimum requirements specified under the federal Bank Protection Act or such alternative security precautions as are approved by the department.~~

~~(11) The department shall have the authority to require, by rule, each financial depository institution operating pursuant to this section to supply information to customers using remote financial service units concerning the consumer protection policies of the financial depository institution, including the rights and liabilities of consumers and protection against wrongful or accidental disclosure of confidential information.~~

~~(12)(a) A cardholder's federal social security number shall not be used as the personal identification number or as any code to activate any remote financial service unit.~~

~~(b) Information received through, or by means of, any remote financial service unit shall be treated and used in accordance with applicable law relating to the dissemination or disclosure of such information.~~

~~(c) A customer may bring a civil action against a person violating the provisions of this subsection in the circuit court of the county in which the alleged violator resides or has his principal place of business or in the county wherein the alleged violation occurred. Upon adverse adjudication, the defendant shall be liable for actual damages or $500, whichever is greater, together with court costs and reasonable attorney's fees incurred by the plaintiff. The court may provide such equitable relief as it deems necessary or proper, including enjoining the defendant from further violations of this subsection. If it appears to the court that the suit brought by the plaintiff was ill-founded or brought for purposes of harassment, the plaintiff shall be liable for court costs and reasonable attorney's fees incurred by the defendant.~~

~~(13) It is the intent of the Legislature that no person be deprived of any rights and protections now offered by existing law due to the effect of this section becoming law.~~

Section 131. Section 658.67, Florida Statutes, is amended to read:

658.67 Investment powers and limitations.—A bank may invest its funds, and a trust company may invest its corporate funds, subject to the following definitions, restrictions, and limitations:

(1) INVESTMENTS NOT SUBJECT TO LIMITATION.—A bank or trust company may invest without limitation in the following:

(a) Direct obligations of the United States Government.

(b) Obligations of agencies created by act of the United States Congress and authorized thereby to issue securities or evidences of indebtedness, regardless of guarantee of repayment by the United States Government.

(c) Collateralized mortgage obligations guaranteed by agencies created by an act of the United States Congress.

(d)~~(c)~~ Public housing authority obligations.

(e)~~(d)~~ General obligations of the states of the United States and of the political subdivisions and municipalities thereof.

(f)~~(e)~~ Obligations issued by the State Board of Education under authority of the State Constitution or applicable statutes.

~~(f) Tax anticipation certificates or warrants of counties or municipalities having maturities not exceeding 1 year.~~

(g) Prerefunded municipal bonds, the principal and interest of which are secured by the principal and interest of a direct obligation of the United States Government.

(h) The sale of federal funds on a daily *or term* basis; however, no bank shall sell at any one time federal funds to any individual bank in an amount exceeding 100 percent of the capital accounts of the selling bank.

(i) Demand, savings, or time deposits or accounts of any *insured* state or federal financial institution.

(j) Bankers' acceptances which are eligible for purchase by federal reserve banks.

(k) Securities of, or other interests in, any open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940, 15 U.S.C. s. 80a-1 et seq., as amended from time to time, provided that the portfolio of such investment company or investment trust is limited to United States Government obligations and to repurchase agreements fully collateralized by such United States Government obligations, and provided further that any such investment company or investment trust shall take delivery of such collateral either directly or through an authorized custodian.

(2) INVESTMENTS SUBJECT TO LIMITATION OF TWENTY-FIVE PERCENT OF TOTAL ASSETS.—Up to 25 percent of the total assets of the purchasing bank or trust company may be invested in the following:

(a) Any single issue of revenue bonds or certificates of the states of the United States or of the political subdivisions and municipalities thereof.

(b) Bonds or other obligations of the Inter-American Development Bank.

(c) *Tax anticipation certificates or warrants of counties or municipalities which have maturities not exceeding 1 year.* ~~Corporate obligations of any one corporation which is not an affiliate or subsidiary of the bank or trust company.~~

(3) INVESTMENTS SUBJECT TO LIMITATION OF TWENTY-FIVE PERCENT OF CAPITAL ACCOUNTS.—Up to 25 percent of the capital accounts of the purchasing bank or trust company may be invested in:

(a) Bonds or other obligations of the African Development Bank.

(b) Corporate obligations of any one corporation that is not an affiliate or subsidiary of the bank or trust company.

(4) INVESTMENTS SUBJECT TO LIMITATION OF TEN PERCENT OR LESS OF CAPITAL ACCOUNTS.—

(a) Up to 10 percent of the capital accounts of the purchasing bank or trust company may be used to invest in any single issue of industrial development bonds issued for the benefit of a specified corporation.

(b) Up to 5 percent of the capital accounts of the purchasing bank or trust company may be used to invest in or purchase bonds or other evidences of indebtedness of the State of Israel.

(c) Up to 2 percent of the capital accounts of the purchasing bank or trust company may be used to invest in the stock of a community corporation organized to promote the physical, social, or moral well-being of the members of the community where the bank or trust company is located.

(d) Up to 1 percent of the capital accounts of the purchasing bank or trust company may be used to invest in the stock of the Florida Industrial Development Corporation. ~~The purchasing bank or trust company may thereafter deal in the securities or other evidences of debt of such corporation as provided for in chapter 289.~~

(e) Up to 1 percent of the capital accounts of the purchasing bank or trust company may be used to invest in the stock of the Housing Development Corporation of Florida. The purchasing bank or trust company may thereafter deal in the securities or other evidences of debt of such corporation as provided for in chapter 420.

(f) Up to 10 percent of the capital accounts of a bank or trust company may be invested in any capital participation instrument or evidence of indebtedness issued by the Florida Black Business Investment Board pursuant to the Florida Small and Minority Business Assistance Act of 1985.

(5) INVESTMENTS IN RELATED COMPANIES.—A bank or trust company may invest in the stock of incorporated companies to the extent hereinafter defined:

(a) Stock of the Federal Reserve bank *or the Federal Home Loan bank* of this district may be purchased and retained as required to maintain membership in the ~~Federal Reserve~~ system.

(b) Stock of the Federal National Mortgage Association may be purchased and retained as required in connection with mortgage transactions with that association.

~~(c) Up to 10 percent of the capital accounts of a bank or trust company may be invested in a bank service corporation organized and operated as provided in chapter 662.~~

(c)~~(d)~~ Up to 10 percent of the capital accounts of a bank may be invested in a clearing corporation as defined in s. 678.102(3).

(d)~~(e)~~ Up to 10 percent of the capital accounts of a bank may be invested in the capital stock of a banker's bank, except that in no event shall the purchase of such stock result in the acquisition of more than 5 percent of any class of voting securities of such banker's bank.

(6) INVESTMENTS IN CORPORATIONS.—*Without prior approval by the department,* up to an aggregate of *10* ~~20~~ percent of the total assets of a bank may be invested in the stock, obligations, or other securities of subsidiary corporations or other corporations or entities, except that during the first 3 years of existence of a bank, such investments are limited to *5* ~~10~~ percent of the total assets *without prior approval. The department may, by prior approval, permit additional investments in this section of up to 20 percent of the total assets. Any bank whose aggregate investment on October 1, 1991, exceeds the limitation in this subsection has 5 years within which to achieve compliance; additional time may be approved by the department.* The department may, by rule, *further* limit any type of investment made pursuant to this subsection if it finds that such investment would constitute an unsafe or unsound practice.

(7) INVESTMENTS IN REAL ESTATE AND EQUIPMENT.—A bank or trust company may invest in real estate and equipment to the extent hereinafter defined:

(a)1. Up to 60 percent of the capital accounts of the bank or trust company may be invested in the direct ownership of, or in leasehold interests in, land and buildings utilized or to be utilized by the bank or trust company in the transaction of its business. This limitation applies to assets subject to a lease agreement which is required to be capitalized under criteria issued by the Financial Accounting Standards Board. In lieu of such investment in real estate, with the prior written approval of the department, up to 60 percent of the capital accounts of the bank or trust company may be invested in the stock of a corporation which owns the land and buildings within which the business of the bank or trust company is or will be transacted.

2. The real estate investment limitations provided by this subsection may not be exceeded except with the prior written approval of the department.

(b) A bank or trust company may own or lease furniture, fixtures, machinery, and equipment such as may be necessary to the transaction of its business.

(8) INVESTMENTS IN PERSONAL PROPERTY.—A bank or trust company may own or lease personal property acquired upon the specific request and for the use of a customer and may incur such additional obligations as may be incident to becoming an owner and lessor of such property. In addition, a bank or trust company may purchase leases as provided by rules of the department.

(9) ACQUISITIONS OF PROPERTY AS SECURITY.—A bank or trust company may acquire property of any kind to secure, protect, or satisfy a loan or investment previously made in good faith, and such property shall be entered on the books of the bank or trust company and held and disposed of subject to the following conditions and limitations:

(a) The book entry shall be the lesser of the balance of the loan or investment plus acquisition costs and accrued interest or the appraisal value or market value of the property acquired which shall be determined *and dated within 1 year prior* ~~as near as possible~~ to the date of acquisition *and in compliance with s. 655.60.*

(b) The bank or trust company shall have evidence of ownership of all property acquired and shall maintain subsidiary ledgers adequate to the separate recording of all income and expense attributable to its ownership of such property.

(c) Unless an extension of time is approved in writing by the department, real estate shall be sold or charged off within 5 years of the date of acquisition, and personal property shall be sold or charged off within 6 months of the date of acquisition.

(d) The bank will maintain appraisal reports required by s. 655.60.

(10) SPECIAL PROVISIONS.—

(a) None of the bonds or other obligations described in this section shall be eligible for investment in any amount unless current as to all payments of principal and interest and unless rated in one of the four highest classifications, or, in the case of commercial paper, unless it is of prime quality and of the highest letter and numerical rating, as established by a nationally recognized rating service or any comparable rating as determined by the department. Bonds or other obligations which are unrated shall not be eligible for investment unless otherwise supported as to investment quality and marketability by a credit rating file compiled and maintained in current status by the purchasing bank or trust company.

(b) Investment securities shall be entered on the books of the bank or trust company at the fair market value on the date of acquisition. Premiums paid in excess of par value shall be amortized either over the life of

the security or to the first call date at its call price and thereafter to subsequent call dates at their respective call prices until maturity. Discount may be accredited over the life of the security.

(11) OTHER INVESTMENTS; SUBJECT TO DEPARTMENTAL APPROVAL.—A bank or trust company may make such other investments as the department approves by rule.

Section 132. Section 658.68, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 658.68, F.S., for present text.)

658.68 Liquidity.—

(1) A state bank must maintain a daily liquidity position equal to at least 15 percent of its total deposit liability, less those deposits of public funds for which security has been pledged as provided by law. Bank assets eligible to meet the 15 percent liquidity requirement are cash on hand, demand deposits due from correspondent banks, and other investments and short-term marketable securities as determined by rule of the department.

(2) Whenever a state bank fails to demonstrate compliance with subsection (1), the bank shall not further diminish its liquidity by making any new loans or discounts otherwise than by discounting or purchasing bills of exchange payable at sight, nor by paying any dividends of its profits until compliance with the liquidity requirement of either has been met. The department may notify any bank whose liquidity is below the amount required to be maintained to make good such liquidity, and if the bank fails within 30 days thereafter to achieve its liquidity requirement, the department may determine the bank insolvent and may appoint a liquidator to wind up the business as provided in ss. 658.79-658.96.

Section 133. Section 658.73, Florida Statutes, 1990 Supplement, is amended to read:

658.73 ~~Examination~~ Fees and assessments.—

(1) Each state bank and state trust company shall pay to the department examination fees and assessments as follows:

(a) A semiannual fee of *$2,500* ~~$300~~; and

(b) A semiannual assessment, each in such amount as may be determined by the department, *by rule*, but not exceeding *15* 8 cents for each $1,000 of total assets as shown on the statement of condition of the bank or trust company as of the last business day in June and the last business day in December in each year. *In its determination, the department may consider examination fees and application fees received from banks and trust companies in setting the semiannual assessment for purposes of meeting the cost of regulation of banks and trust companies subject to this chapter.* ~~The formula for computation of the semiannual assessment shall be uniform as to all state banks and shall be uniform as to all state trust companies, but the formula amount per $1,000 of total assets of state trust companies shall not be less than for state banks. The fees and assessments required by this subsection shall apply to the 6-month period following the first day of the month in which they are due.~~

(2) Applications filed with the department shall be accompanied by payment of the following nonrefundable fees:

(a) *Fifteen* ~~Ten~~ thousand dollars for each application for authority to organize a new state bank or state trust company.

(b) Two thousand five hundred dollars for each application by an existing bank or association for trust powers.

(c) *Seven thousand five hundred* ~~Five thousand~~ dollars for each application for authority to acquire a controlling interest in a state bank or state trust company; however, if more than one bank or trust company is being acquired in any such application, the fee shall be increased by *$3,000* ~~$2,000~~ for each additional bank or trust company.

(d) *Seven thousand five hundred* ~~Five thousand~~ dollars for each application for conversion of a national bank to a state bank.

(e) *Two* ~~One~~ thousand five hundred dollars for each application to establish a branch of a state bank or a branch of a state trust company.

(f) One thousand *five hundred* dollars for each application for authority to establish a trust service office of a state trust company or of a trust department of a state bank or association, and a like amount for each application by a bank or association with trust powers which is not a state bank or state association for authority to establish a trust service office at a state bank, state association, or state credit union.

(g) *Seven thousand five hundred* ~~Five thousand~~ dollars for each application for a merger, consolidation, or purchase of assets and assumption of liabilities; however, if three or more banks or trust companies are involved in any such application, the fee shall be *$3,500* ~~$2,000~~ for each involved institution.

(h) *Two thousand five hundred* ~~One thousand~~ dollars to establish a successor institution.

(i) *Seven thousand five hundred* ~~Five thousand~~ dollars for each application by a regional bank holding company to make an acquisition pursuant to s. 658.295.

~~(3) Each state trust company and each state bank or association exercising trust powers shall pay to the department, promptly upon its demand, a fee for the examination by the department of such state trust company or the trust department of such state bank or association, which examination fee shall be $125 per day for the examiner in charge plus $90 per day for each examiner participating in the examination.~~

(3)~~(4)~~ The amounts of all fees and assessments provided for in this section~~, except for subsection (5),~~ shall be deemed to be maximum amounts; and the department has the authority to establish, *by rule*, and from time to time change, fees and assessments ~~of uniform application~~ in amounts less than the maximum amounts stated in this section.

~~(5) There is hereby imposed a fee for the examination of each representative office, as defined in s. 663.01(5), and each international administrative office, as defined in s. 663.01(2), which fee shall be equal to the actual cost of each examiner's participation in the examination, as measured by the examiner's pay scale, plus other expenses directly incurred in that examination, but in no event shall such fee be less than $100 per day for each examiner participating in the examination.~~

~~(6) Each international bank agency shall pay the department examination fees and assessments as follows:~~

~~(a) An examination fee for each examination required pursuant to s. 655.045(1)(a), which fee shall be equal to the actual cost of each examiner's participation in an examination, as measured by the examiner's pay scale, plus other expenses directly incurred in that examination, but in no event shall such fee be less than $100 per day for each examiner participating in the examination.~~

~~(b) A semiannual assessment on the total assets of the international bank agency, which shall be sufficient to recover the costs of the department incurred in connection with the supervision of international bank agencies, representative offices, and administrative offices but which, in any event, shall not exceed the semiannual assessments paid to the department by state banks and state trust companies as specified in paragraph (1)(b). Such semiannual assessments shall be as prescribed in rules adopted by the department. Such rules shall provide for declining rates of assessment upon each international bank agency's total assets, as defined in paragraph (c), in excess of $35 million. The formula for computation of the semiannual assessment shall be uniform as to all agencies. The fees and assessments required by this subsection shall apply to the 6-month period following the first day of the month in which they are due.~~

~~(c) For the purposes of paragraph (b), the "assets" of an international bank agency include amounts due the agency from other offices or branches of the international banking corporation of which the agency is a part or from entities related to that international banking corporation.~~

Section 134. Section 658.79, Florida Statutes, is amended to read:

658.79 Taking possession of insolvent state banks or trust companies.—

~~(1)~~ Whenever the department has reason to conclude, based upon the reports furnished to it by a state bank or trust company examiner or upon other satisfactory evidence, that any state bank or trust company:

(1)~~(a)~~ Is insolvent *or imminently insolvent*; or

(2)~~(b)~~ Is transacting its business in an unsound, unsafe, or unauthorized manner such that it is threatened with imminent insolvency,

the department may, in its discretion, forthwith designate and appoint a liquidator or receiver to take charge of the assets and affairs of such bank or trust company and require of him such bond and security as the department deems proper, not exceeding double the amount that may

come into his hands. The department may enlist the services of any state or local law enforcement agency in taking possession and securing the assets of the bank or trust company.

~~(2) A state bank or trust company is deemed to be insolvent when any of the following conditions exist:~~

~~(a) The capital stock, surplus, undivided profits, and all assets are insufficient to meet liabilities.~~

~~(b) The bank or trust company is unable to meet current obligations as they mature, even though assets may exceed liabilities.~~

~~(c) The capital stock, surplus, and undivided profits are exhausted by losses with no immediate prospect of replacement.~~

Section 135. Section 658.80, Florida Statutes, is amended to read:

658.80 Appointment of receiver or liquidator.—

(1) Upon taking possession of a state bank or trust company pursuant to s. 658.79, the department shall appoint either a receiver to conserve the assets of the institution or a liquidator to liquidate the assets of the institution and wind up its affairs.

(2) The Federal Deposit Insurance Corporation *or any appropriate federal agency* ~~created under the Federal Deposit Insurance Act~~ shall be appointed by the department as receiver or liquidator of any state bank, the deposits of which are to any extent insured by the corporation, and which shall have been closed by the department. Upon appointment, the corporation may act without bond as receiver or liquidator and shall have and possess all the powers and privileges provided by the laws of this state with respect to a receiver or liquidator, respectively, of such institution, its depositors and other creditors. If the corporation declines to accept the tendered appointment, the department may appoint and thereafter dismiss or replace such other receiver or liquidator as deemed necessary or advisable.

Section 136. Subsection (1) of section 658.82, Florida Statutes, is amended to read:

658.82 Receiver; powers and duties.—

(1) When the Federal Deposit Insurance Corporation *or other appropriate federal agency* is appointed receiver of the bank, it may proceed independently with the receivership pursuant to its rules and regulations.

Section 137. Subsection (1) of section 658.83, Florida Statutes, is amended to read:

658.83 Liquidator; powers and duties.—

(1) When the Federal Deposit Insurance Corporation *or other appropriate federal agency* is appointed liquidator or makes a decision to liquidate a bank of which it has been appointed receiver, it may proceed independently with liquidation pursuant to its rules and regulations.

Section 138. Section 658.84, Florida Statutes, is amended to read:

658.84 Transfers, assignments, deposits, and payments void after act of insolvency.—Any and all transfers of the notes, bonds, bills of exchange, or other evidences of debt owing to any bank or trust company or of deposits to its credit; all assignments of mortgages, securities, or real estate or of any judgments or decrees in its favor; all deposits of money, bullion, or other valuable thing for its use or for the use of any of its stockholders or creditors; and all payments of money to either, made after the commission of an act of insolvency or in contemplation thereof made with a view to the preference of one creditor to another shall be void. *Except in any action brought by the department, no attachment, injunction, or execution shall be enforced against such bank or trust company or any of its property before final judgment in any suit, action, or proceeding in any state or federal court.*

Section 139. Subsections (1) and (6) of section 660.25, Florida Statutes, are amended to read:

660.25 Definitions.—Subject to other definitions contained in other sections of this code, and unless the context otherwise requires, in this chapter:

(1) "Commercial department" of a bank *or association* having trust powers means the functional divisions or departments of the bank which conduct its general *bank or association* ~~banking~~ business, including, but not limited to, the divisions or departments which accept demand and time deposits and paychecks, but excluding the trust department.

(6) Terms used but not defined in this chapter, but which are expressly defined in chapter 518, *the financial institutions codes* ~~chapter 655, chapter 658, chapter 661, chapter 662, chapter 663~~, chapter 732, chapter 733, chapter 734, chapter 735, chapter 737, chapter 738, chapter 744, or chapter 747, shall in this chapter, unless the context otherwise requires, have the meanings ascribed to them in said chapters; and references in any of said chapters to a "trust company" or to "trust companies" shall include every trust department as defined in *s. 658.12* ~~s. 658.12(27)~~.

Section 140. Section 660.265, Florida Statutes, is created to read:

660.265 Examination fees.—Each state trust company and each state bank or association exercising trust powers shall pay to the department, promptly upon demand, a fee for the costs of the examination by the department pursuant to s. 655.045. For the purposes of this section, the term "costs" means the salary and travel expenses of field staff which are directly attributable to its examination of the financial institution and the travel expenses of any supervisory or support staff required as a result of examination findings.

Section 141. Subsections (1) and (2) of section 660.27, Florida Statutes, are amended to read:

660.27 Deposit of securities with Treasurer.—

(1) Before transacting any trust business in this state, every trust company and every *state or national* bank or state or federal association having trust powers shall give satisfactory security by the deposit or pledge of security of the kind or type provided in this section having at all times a market value in an amount equal to 25 percent of the issued and outstanding capital stock of such trust company, bank, or state or federal stock association or, in the case of a ~~state or~~ federal mutual association, an equivalent amount determined by the department, or the sum of $25,000, whichever is greater. However, the value of the security deposited or pledged pursuant to the provisions of this section by a state trust company, a state bank or state association having trust powers, or a national bank or federal association having its principal office in this state and having trust powers shall not be required to exceed $500,000. Any notes, mortgages, bonds, or other securities, other than shares of stock, eligible for investment by a state bank, state association, or state trust company, or eligible for investment by fiduciaries, shall be accepted as satisfactory security for the purposes of this section.

(2) The Treasurer shall determine whether the security deposited or pledged pursuant to this section, or tendered for such deposit or pledge, is of the kind or type permitted, and has a market value in the amount required, by subsection (1). The security required by this section shall be deposited with or to the credit of, or pledged to, the Treasurer for the account of each *state or national* bank, state or federal association, or trust company depositing or pledging the same and shall be used, if at all, by the liquidator of such bank, association, or trust company with first priority being given to claims on account of the trust business or fiduciary functions of such bank, association, or trust company or, prior to liquidation, for the payment of any judgment or decree which may be rendered against such bank, association, or trust company in connection with its trust business or its fiduciary functions if such judgment or decree is not otherwise paid by, or out of other assets of, such bank, association, or trust company.

Section 142. Subsection (4) of section 660.33, Florida Statutes, is amended to read:

660.33 Trust service offices.—

(4)(a) Unless an election has been made pursuant to paragraph (b), when a trust service office is established by a trust company or a trust department at the location of a bank or association which has trust powers, the bank or association may retain and continue to exercise its trust powers following the establishment of the trust service office.

(b) If the bank or association and the trust company or trust department so elect in the application for approval to establish a trust service office at the location of a bank or association that has trust powers, and if the department is satisfied that the interests of beneficiaries of the estates, trusts, and other fiduciary relationships being serviced will be adequately protected, the department shall issue an order authorizing the following:

1. The trust company or trust department, upon complying with all applicable requirements of law, shall be substituted for, succeed to, and replace the bank or association as fiduciary. The trust company or trust

department, as the successor fiduciary, shall thereupon succeed to all the powers, rights, duties, and privileges of the bank or association as fiduciary of all such estates, trusts, guardianships, and other fiduciary relationships in which the bank or association is serving to which the trust company or trust department shall have been lawfully substituted.

2. During the time the trust company or trust department maintains a trust service office at the location of the bank or association, the trust company or trust department shall be deemed to be named the fiduciary in all instruments in which the bank or association is named the fiduciary, even if the bank or association is not serving as fiduciary at the time the trust service office is established, in the manner, to the extent, and with the same effect as though there had been a merger of the bank and the trust company or trust department.

3. Upon complying with all requirements of law with respect thereto, the bank or association shall be relieved from all of its fiduciary duties in connection with all fiduciary accounts and relationships with respect to which the trust company or trust department has been substituted as fiduciary or with respect to which it has resigned and been relieved as provided by law, and, upon being so relieved of all its fiduciary duties, the bank or association, although retaining its trust powers in an inactive status unless it surrenders them as provided by law, shall not thereafter exercise its trust powers so long as there is a trust service office transacting business at the bank or association. The substitution of the trust company or trust department for the bank or association as fiduciary shall occur and be effective on the day the trust company or trust department opens the trust service office for business, or on such later date as may be specified by court order, or by any written consent or agreement, which lawfully effectuates the designation, by substitution or otherwise, of the trust company or trust department as the fiduciary with respect to any particular fiduciary account.

(c)1. Anything in this section or any other law to the contrary notwithstanding and subject to compliance with this subsection, an affiliated trust company or an affiliated bank's trust department, if authorized to exercise trust powers in this state, shall be deemed substituted as fiduciary without further authorization where the successor has an established trust service office in the predecessor's principal place of business or any branch of the predecessor located in this state. The successor may conduct therein any trust business incidental thereto that it is otherwise permitted to conduct in this state, but it may not accept deposits at the offices of the predecessor bank except as incidental to the trust business.

2. To effect the substitution referred to in subparagraph 1., a predecessor shall enter into an agreement with the successor that sets forth the fiduciary powers, rights, privileges, duties, and liabilities of the parties and, more specifically, those to which the successor will succeed, including, but not limited to, those described in subparagraph 7. The agreement will be approved by the boards of directors of the predecessor, successor, and parent corporations. The agreement shall then be filed with the department. The effective date of the agreement shall be the date on which the department approves the agreement under subparagraph 6. unless another, later date is specified in the agreement, which other date shall be no later than 75 days after the date on which the agreement is filed with the department under this subparagraph; however, no such agreement may take effect without approval by the department.

3.a. Not sooner than 30 days before or later than 30 days after the date on which the agreement is filed with the department under subparagraph 2., the predecessor and successor shall cause notice of the filing of such agreement with the department, along with the procedure for objection thereto as hereinafter provided, to be published in a newspaper of general circulation in the county in which the predecessor's principal place of business is located and file a copy of such written notice in any applicable court-administered fiduciary proceeding, including, but not limited to, probate and guardianship proceedings, and additionally, they shall serve written notice upon the following:

(I) Each cofiduciary that serves with the predecessor;

(II) Each surviving grantor of a revocable trust;

(III) Each person who alone or in conjunction with others has the power to remove the predecessor;

(IV) Each principal for whom the predecessor serves as agent or custodian;

(V) Each guardian of the person for whom the predecessor serves as guardian of the property for their ward;

(VI) Each beneficiary or his legal or natural guardian, when applicable, currently receiving or entitled as a matter of right to receive a current mandatory or discretionary distribution, as opposed to a remainder distribution, of principal or income from a trust, estate, or other fund with respect to which a substitution of fiduciary under this subsection is to be effected. However, when applicable and in lieu thereof, such service will be made upon the sole holder or a majority of the coholders of a general or limited power of appointment, including one in the form of a power of amendment, or revocation, in which case they shall be deemed to act for any beneficiary who may take by virtue of the exercise or failure to exercise the power;

(VII) Upon any other person or entity required by the court in any referenced court-administered fiduciary proceeding; and

(VIII) In the case of a trust described in the Internal Revenue Code of 1986 s. 401(a) as it may from time to time hereafter be amended, upon the employer or employee organization or both responsible for the maintenance of such trust.

b. Service of such written notice will not be required upon the persons or entities listed in sub-subparagraph a. when the documents or other writings that created the fiduciary relationship permit a substitution of fiduciaries.

c. Service of written notice shall be made upon the persons or entities listed in sub-subparagraph a. in the manner provided for the service of formal notice under the applicable Florida Rules of Probate and Guardianship Procedure. Service of written notice by mail shall be completed upon receipt or refusal of the notice by the persons or entities listed in sub-subparagraph a. If such written notice is made by mail or delivery, proof of mailing or delivery shall be by verified statement of the person mailing or delivering the written notice, and there shall be attached to the verified statement the signed receipt, appropriate affidavit of delivery by the person effecting such delivery, or other evidence satisfactory to the department or to a court of competent jurisdiction that notice was given properly to or refused by the addressee or agent of the addressee. The original of such proof shall be filed with the department with copies to the file or the account maintained by the predecessor or successor and to the court in any court-administered fiduciary administration.

4. Within 60 days after the date on which newspaper notice is published under subparagraph 3., after any date of a signed or refused receipt pertaining to the written notice by mail under subparagraph 3., after any date of delivery as set forth in the affidavit referenced in subparagraph 3., or after the date on which service is otherwise accomplished, the latest date being operative, but not thereafter, the persons or entities listed in subparagraph 3. or the court in a court-administered fiduciary proceeding on its own motion may object to such substitution of fiduciaries by serving written notice, executed by the persons, entities, or court, upon the predecessor, successor, and department. Such notice shall be served in the same manner as provided for service of the original notice upon interested persons or entities in subparagraph 3. Execution of such notice shall be in the same manner as is required for the execution and recordation of deeds to real property in this state except that notice by a court may be signed by the judge. If such notice of objection is executed by all of the cofiduciaries that serve with the predecessor, by each surviving grantor of a revocable trust, by all of the persons that have the power to remove the predecessor as fiduciary, by all of the principals for whom the predecessor serves as agent or custodian, by the guardian of the person for whom the predecessor serves as guardian of the property for their ward, by all of the beneficiaries currently receiving or entitled as a matter of right to receive a current mandatory or discretionary distribution, as opposed to a remainder distribution, of principal or income, or by the sole holder or a majority of the coholders of a general or limited power of appointment including one in the form of a power of amendment or revocation, the successor will not be substituted for the predecessor and the predecessor will remain or be reinstated as fiduciary but only as to the fiduciary relationship that is the subject of such objection. Reinstatement shall take effect immediately upon receipt of such notice by the predecessor, successor, and department. If the notice of objection is executed by less than all of the persons or entities of any category specified in this subparagraph, or if entered by the court of a court-administered fiduciary proceeding on its own motion, then, with regard to the fiduciary relationship that is the subject of such notice of objection, the predecessor and successor may elect to do either of the following:

a. File a subsequent agreement with the department, with copies of such agreement to be mailed to all of the specified persons or entities, which states that the successor will not be substituted for the predecessor as to that fiduciary relationship, and such agreement shall cause the predecessor to remain or be reinstated, instanter, as fiduciary in that fiduciary relationship. The filing of such subsequent agreement with the department does not prejudice the predecessor or the successor from filing another agreement that affects such fiduciary relationship under subparagraph 2.; or

b. File a petition with the court having jurisdiction of any court-administered fiduciary proceeding or commence a civil action in a court of competent jurisdiction as to any other applicable fiduciary relationship. The court shall then determine whether such substitution is appropriate and whether it is in the best interest of those specifically interested in the premises. The court shall then enter judgment accordingly and specify the party to serve thereafter as the fiduciary. The predecessor, the successor, the department, and those for whom the fiduciary relationship is the subject of the civil action and upon whom service of written notice was required under subparagraph 3. shall be necessary parties in any civil action that concerns an objection to the substitution. Any such petition or separate civil action must be filed within 60 days after service of the notice of objection. Failure to do so will be deemed to be an agreement pursuant to sub-subparagraph a. and the alternative provided in sub-subparagraph a. will be deemed to have been selected automatically.

5. At any time while a civil action is pending pursuant to sub-subparagraph 4.b., the predecessor and successor may file a subsequent agreement with the department in the same manner set forth under alternative sub-subparagraph 4.a. and file a copy of the same along with a withdrawal of the petition or a voluntary dismissal with the court in which the petition was filed or the civil action is pending. Such filing will have the same force and effect as set forth under sub-subparagraph 4.a.; however, it shall be without prejudice to the right of the predecessor or successor to file another agreement that affects such fiduciary relationship under subparagraph 2.

6. Within 30 days after the date on which a fiduciary agreement is filed with the department under subparagraph 2., the department shall approve the agreement if it finds both that the successor is:

a. Legally authorized to exercise trust powers in this state; and

b. Has otherwise met the requirements for the establishment of a trust service office at the predecessor's principal place of business or branch.

7. Upon the effective date of an agreement filed under subparagraph 2. and regardless of any petition filed or any civil action pending pursuant to subparagraph 4., the successor will be deemed substituted for the predecessor as fiduciary without further authorization of any kind such that the successor shall succeed to and be substituted for the predecessor as to all fiduciary powers, rights, privileges, duties, and liabilities of the predecessor in its capacity as fiduciary for all estate, trust, guardianship, agency, and custodial accounts and any other fiduciary relationship for which the predecessor is then, or but for such agreement would be, serving as fiduciary, except as may be otherwise specified in such agreement and in any subsequent agreement filed with the department under subparagraph 4. or subparagraph 5. The successor shall also be deemed the fiduciary in all writings, including, but not limited to, wills, trusts, deeds, policies of insurance, stock certificates, court orders, and similar documents and instruments which name or have named the predecessor as fiduciary and which were signed before or after the effective date of such agreement except as may be otherwise specified in such agreement and any subsequent agreement filed with the department under subparagraph 4. or subparagraph 5. This section does not absolve or discharge any predecessor exercising trust powers from liability arising out of any breach of its fiduciary duties or obligations which occurred before the effective date of such agreement.

8. As used herein:

a. Trust companies, ~~or~~ banks, *or associations* are "affiliated" if they are connected through stock ownership with a common parent corporation that is a registered multibank *or multiassociation* holding company and such parent owns directly stock that possesses at least 80 percent of the total voting power of the stock of such trust company, ~~or~~ bank, *or association* and has a value equal to at least 80 percent of the total value of the stock of such trust company, ~~or~~ bank, *or association.*

b. The term "predecessor" refers to an affiliated trust company or affiliated bank's *or affiliated association's* trust department for the position of which in its trust relations the successor is substituted.

c. The term "successor" refers to an affiliated trust company or affiliated bank's *or affiliated association's* trust department which is substituted for a predecessor in the predecessor's trust relationships including all powers, duties, and responsibilities associated therewith.

(d) When a trust service office is established at a bank or association that has retained its trust powers in an active status, the trust company or trust department may at any time be substituted as fiduciary as provided in paragraph (b) by filing an election with the department. The election to substitute the trust company or trust department for the bank or association as fiduciary must contain the consent of a majority of the stockholders or members entitled to vote on such proposal at a meeting of stockholders or members and of a majority of the board of directors, of the bank or association at which the trust service office has been established.

(e) This subsection shall not affect any substitution of fiduciaries made under former s. 659.061(6)~~(d)~~ prior to May 31, 1976.

Section 143. Subsections (1) and (2) of section 660.37, Florida Statutes, are amended to read:

660.37 Security for deposit of fiduciary funds.—

(1) If security, including insurance by the Federal Deposit Insurance Corporation ~~or the Federal Savings and Loan Insurance Corporation~~, is furnished as provided in subsection (2), funds held in a fiduciary account by a trust company or a trust department awaiting investment, distribution, or payment of debts, taxes, or expenses may, unless prohibited by the governing instrument or by court order, be deposited in demand or time accounts of a bank or association. Unless otherwise expressly directed by the governing instrument or in writing by a beneficiary, a fiduciary shall not be required to invest current income accruing to a fiduciary account if, within 90 days after receipt thereof, such income is to be distributed or will be used for payment of debts, taxes, or expenses. In addition, in any case of a demonstrated need of or benefit to a fiduciary account or beneficiaries thereof, or when the investment or administration circumstances of a fiduciary account or beneficiaries thereof cause it to appear prudent or otherwise appropriate, a trust company or trust department may invest funds held by it in a fiduciary account in time deposits in, or issued by, a bank or association, of such type or maturity as appears appropriate at the time of the investment, including maturities in excess of 1 year; and in the case of a trust department, any such deposits may be made in the commercial department of the fiduciary bank or the nontrust departments of the fiduciary association. Funds so deposited and secured may be used by the depositary bank or association in the conduct of its business, and it shall pay interest on any such time deposits at a rate not less than the standard interest rate it pays on time deposits of the same type and having substantially the same characteristics, including size and maturity. If the depositary bank or association pays interest on such deposits at a rate equal to or in excess of such standard rates, it shall not be subject to any claim for an amount of interest or for potential earnings in excess of the interest so paid but is subject, however, in the case of the depositary trust company or trust department, to the provisions of s. 518.11. In this section, the term "depositing trust company or trust department" means the trust company or the trust department depositing funds of a fiduciary account, and "depositary bank or association" means the bank or association, including the fiduciary bank or association, in which such funds are deposited.

(2)*(a) Except as provided by paragraph (b),* a trust company or trust department shall not deposit any funds of a fiduciary account in any bank or association in an amount in excess of the insurance provided by the Federal Deposit Insurance Corporation ~~or the Federal Savings and Loan Insurance Corporation~~ unless the depositary bank or association shall first set aside under the control of the depositing trust company or trust department, as collateral security for the pro-rata benefit of each fiduciary account whose funds are so deposited, readily marketable securities which are eligible under the laws of this state for investment by banks, associations, or fiduciaries, having a market value not less than the amount of the funds so deposited which exceeds the insurance provided by the Federal Deposit Insurance Corporation ~~or the Federal Savings and Loan Insurance Corporation~~. Substitutions and withdrawals of such securities may be made from time to time, but the aggregate amount of the market value of the securities so set aside shall at all times be at least

equal to the amount herein required, and it shall not be necessary that the securities so set aside be segregated as to the funds of each separate fiduciary account which are so deposited. Specifically identified securities effectively pledged for the purposes required herein, including those held under a safekeeping receipt as permitted by law, shall be deemed to be set aside under the control of the depositing trust company or trust department whether or not in its actual physical possession.

(b) This subsection does not apply to fiduciary accounts in which, pursuant to the terms of the governing instrument, full investment authority is retained by the grantor or is vested in persons or entities other than the bank, association, or trust company and the bank, association, or trust company as fiduciary does not have power to exert any influence over investment decisions.

Section 144. Section 660.41, Florida Statutes, is amended to read:

660.41 Corporations; certain fiduciary functions prohibited.—All corporations, except banks or associations and trust companies incorporated under the laws of this state and having trust powers and except national banking associations or federal associations located in this state and having trust powers, are prohibited from exercising any of the powers or duties and from acting in any of the capacities, within this state, as follows:

(1) As personal representative of the estate of any decedent, whether such decedent was a resident of this state or not, and whether the administration of the estate of such decedent is original or ancillary; however, if the personal representative of the estate of a nonresident decedent is a corporation duly authorized, qualified, and acting as such personal representative in the jurisdiction of the domicile of the decedent, it may as a foreign personal representative perform such duties and exercise such powers and privileges as are required, authorized, or permitted by s. 734.101.

~~(2) As guardian of any infant or physically or mentally incompetent person, whether domiciled in this state or not.~~

(2)~~(3)~~ As trustee under any will or other testamentary instrument, except that any corporation that is authorized to act as trustee under the laws of the place where it has its principal place of business may receive bequests as trustee of money or *tangible or* intangible personal property and devises of real property located in this state and may sell, transfer, and convey the property.

~~(4) As trustee of any real estate in this state or any interest therein under any agreement whereby the beneficial interest in such property is vested in others.~~

~~(5) As trustee under any deed of trust or other instrument executed after June 10, 1937, conveying or encumbering any real or tangible personal property in this state given to secure bonds or other evidence of indebtedness unless in such deed of trust or other instrument a trust company or bank having trust powers and located in this state or an individual residing in this state shall be named as cotrustee. No suit shall be brought to foreclose any such deed of trust or other instrument unless such cotrustee or successor cotrustees of like qualifications be a party plaintiff.~~

(3)~~(6)~~ As receiver or trustee under appointment of any court in this state.

(4)~~(7)~~ As assignee, receiver, or trustee of any insolvent person or corporation or under any assignment for the benefit of creditors.

(5)~~(8)~~ As fiscal agent, transfer agent, or registrar of any municipal or private corporation, except that this prohibition shall not be so construed as to prevent banks, associations, and trust companies not located in this state from acting within the state where located as fiscal agent, transfer agent, or registrar of municipal or private corporations of this state. Nothing herein shall prevent any Florida corporation which is not a bank, association, or trust company and not having trust powers from being its own fiscal agent, transfer agent, or registrar concerning its own affairs, stock, or securities. Nothing herein shall prevent any Florida corporation or corporation having its principal place of business in Florida registered as a transfer agent with the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, or the Securities and Exchange Commission from acting as a transfer agent for any other private corporation. Nothing in this section or in any other law of this state shall be construed to prohibit a foreign bank, foreign association, or foreign trust company as trustee of any charitable foundation or endowment, employees' pension, retirement or profit-sharing trust, alone or together with a cotrustee, from: *making loans or committing to make loans to any other person;* contracting, in this state or elsewhere, with any person to acquire from such person a part or the entire interest in a loan which such person proposes to make, has heretofore made, or hereafter makes, together with a like interest in any security instrument covering real or personal property in the state proposed to be given or hereafter or heretofore given to such person to secure or evidence such loan; servicing directly or entering into servicing contracts with persons, and enforcing in this state the *loans made by it or* obligations heretofore or hereafter acquired by it in the transaction of business outside this state or in the transaction of any business authorized or permitted hereby; or acquiring, holding, leasing, mortgaging, contracting with respect to, or otherwise protecting, managing, or conveying property in this state which has heretofore or may hereafter be assigned, transferred, mortgaged, or conveyed to it as security for, or in whole or in part in satisfaction of, a loan or loans made by it or obligations acquired by it in the transaction of any business authorized or permitted hereby. However, no such foreign bank, foreign association, or foreign trust company shall be deemed to be transacting business in this state, shall be required to qualify so to do, or shall be deemed to be unlawfully exercising powers or duties, acting in an unlawful or prohibited capacity, or violating any of the provisions of this section or of any other law of this state solely by reason of the performance of any of the acts or business hereinbefore permitted or authorized hereby; further, nothing herein shall be construed as authorizing or permitting any foreign bank, association, or trust company to maintain an office within this state.

Section 145. Section 660.44, Florida Statutes, is amended to read:

660.44 Common trust fund to be audited annually.—A trust company or trust department administering a common trust fund shall keep proper records, which in addition to all other necessary and proper matters shall show at all times the proportionate interest of each fiduciary account in the common trust fund, and, at least once during each period of 12 months, shall cause an audit to be made of the common trust fund by auditors responsible only to the board of directors of the trust company or trust department. The report of such audit shall include a list of the investments comprising the common trust fund at the time of the audit, which shall show the valuation placed on each item on such list by the board of directors or the trust investment committee of the trust company or trust department as of the date of the audit; a statement of purchases, sales, and any other investment changes and of income and disbursements since the last audit; and appropriate comments as to any investment in default as to payment of principal or interest. The reasonable expenses of any such audit made by independent public accountants may be charged to the common trust fund. The bank, ~~or~~ association, *or trust company* shall manage such common trust funds *and may charge thereto reasonable management fees and* ~~without charge, save necessary~~ expenses, and *it* shall send a copy of the latest report of such audit annually to each person to whom a regular periodic accounting of the fiduciary accounts participating in the common trust fund ordinarily would be rendered or shall send advice to each such person annually that the report is available and that a copy will be furnished without charge upon request.

Section 146. Section 663.01, Florida Statutes, is amended to read:

663.01 Definitions.—As used in ss. 663.01-663.14, the term:

(1) "Foreign country" means a country other than the United States and includes any colony, dependency, or possession of such country *and any territory of* ~~other than~~ the United States *including Guam, American Samoa, the Virgin Islands, and the Commonwealth of Puerto Rico.*

(2) "International administrative office" means an office of an international banking corporation *established in this state,* ~~which office exists~~ for the purposes described in s. 663.063(1).

(3) "International bank agency" means *an office of an* ~~the~~ international banking corporation *established in this state to engage in the activities described in s. 663.061* ~~with respect to all business or activities conducted in this state or through an office located in this state~~.

(4) "International banking corporation" means a banking corporation organized and licensed under the laws of a foreign country, ~~a territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands~~ or, if organized and licensed under the laws of the United States or any of the states of the United States of America, a banking corporation:

(a) Which is not a bank or bank holding company as defined in the federal Bank Holding Company Act, as amended, 12 U.S.C. ss. 1841-1850; and

(b) Which maintained, on July 1, 1981, as its only United States banking office, one state agency licensed by a state other than this state.

The term "international banking corporation" includes, without limitation, a foreign commercial bank, foreign merchant bank, *a multinational bank,* or other foreign institution that engages in banking activities usual in connection with the business of banking in the country where such foreign institution is organized or operating.

(5) "International branch" means any office of an international banking corporation established in this state under s. 663.064.

(6)~~(5)~~ *"International* representative office" means *an office* ~~a business location~~ of a representative of an international banking corporation established for the purpose of *engaging in the activities described in s. 663.062* ~~acting in a liaison capacity with existing and potential customers of such international banking corporation and to generate new loans and other activities for such international banking corporation which is operating outside the state~~.

(7) "Multinational bank" means an international banking corporation the sole shareholders of which are one or more international banking corporations or holding companies which own or control international banking corporations which are authorized to carry on a general banking business, with the power to receive deposits from the general public, in at least one foreign country under the supervision of the central bank or other bank regulatory authority of such country.

(8) "Nonresident" means:

(a) An individual, who resides in the United States for less than 183 days during a calendar year.

(b) A person other than an individual whose principal place of business or domicile is outside the United States and includes a person who conducts a majority of its business activities in a foreign country and any foreign government and its subdivisions, agencies and instrumentalities. Any person who conducts business in the United States is considered to have its principal place of business outside the United States if any one of the following requirements is satisfied for its most recent fiscal year:

1. Its assets located outside the United States exceed its assets located within the United States;

2. Its gross revenues generated outside the United States exceed its gross revenues generated within the United States; or

3. Its payroll expenses incurred outside the United States exceed its payroll expenses incurred within the United States.

(9) "State-chartered investment company" means a corporation organized under the laws of this state for the purpose of engaging in the activities described in s. 663.065.

Section 147. Section 663.02, Florida Statutes, is amended to read:

663.02 Applicability of state banking laws.—

(1) International *banking corporations having offices in this state* ~~bank agencies~~ shall be subject to all the provisions of the *financial institutions codes* ~~Florida Banking Code and chapter 655~~ as though such international *banking corporations* ~~bank agencies~~ were state banks, except where it may appear, from the context or otherwise, that such provisions are clearly applicable only to banks or trust companies organized under the laws of this state or the United States. Without limiting the foregoing general provisions, it is the intent of the Legislature that the following provisions shall be applicable to such banks or *corporations* ~~agencies~~: *s. 655.031* ~~s. 655.021~~, relating to administrative enforcement guidelines; *s. 655.032* ~~s. 655.025~~, relating to investigations, subpoenas, hearings, and witnesses; *s. 655.0321* ~~s. 655.029~~, relating to public hearings and limited closing thereof; s. 655.033, relating to cease and desist orders; s. 655.037, relating to ~~officer, director, committee member, employee, or other person~~ removal *of financial institution-related party* by the department; s. 655.041, relating to administrative fines and enforcement; s. 658.49, relating to loans by banks not exceeding $50,000; ~~s. 658.76, relating to transactions with directors;~~ and *s. 655.0322* ~~s. 658.77~~, relating to prohibited acts and practices *and criminal penalties.* International *banking corporations* ~~bank agencies~~ shall not have the powers conferred on domestic banks by the provisions of ~~s. 658.26, relating to branches and facilities; s. 658.65, relating to remote financial service units; and~~ s. 658.60, relating to deposits of public funds. International *banking corporations* ~~bank agencies~~ shall not be subject to the provisions of s. 658.68, relating to liquidity reserves. The provisions of chapter 687, relating to interest and usury, shall apply to all loans not subject to s. 658.49.

(2) *The assets of* international bank agencies, *international branches, and state-chartered investment companies* ~~with regard to assets~~ located within this state, shall be subject specifically to the liquidation and receivership provisions of chapter 658.

(3) *Neither* an international bank agency *nor an international branch* shall have *any* ~~no~~ greater right under, or by virtue of, this section than is granted to banks organized under the laws of this state. Legal and financial terms used herein shall be deemed to refer to equivalent terms used by the country in which the international banking corporation is organized. However, all contracts or agreements which are negotiated in this state with Florida residents shall be construed under Florida law.

~~(4) Nothing contained in this chapter shall be construed as granting any authority, directly or indirectly, for any bank or bank holding company, the operations of which are conducted principally outside this state, to operate a branch in this state or to acquire, directly or indirectly, any voting shares of, any interest in, or all or substantially all of the assets of any bank in this state.~~

Section 148. Section 663.03, Florida Statutes, 1990 Supplement, is amended to read:

663.03 Applicability of chapter 607.—Notwithstanding the definition of the term "foreign corporation" appearing in *s. 607.01401* ~~s. 607.0140(11)~~, all of the provisions of chapter 607 not in conflict with the *financial institutions codes* ~~Florida Banking Code~~ which relate to foreign corporations ~~shall~~ apply to all international *banking corporations* ~~bank agencies and representative offices~~ doing business in this state.

Section 149. Section 663.04, Florida Statutes, is amended to read:

663.04 Requirements for carrying on banking business.—

(1) No international banking corporation may transact a banking business, or maintain in this state any office for carrying on such business, or any part thereof, unless such corporation has:

(a) Been authorized by its charter to carry on *a general banking* ~~such~~ business and has complied with the laws of the country under which it is chartered.

(b) Furnished to the department such proof as to the nature and character of its business and as to its financial condition as the department may require.

(c) Filed with the department a certified copy of that information required to be supplied to the Department of State by those provisions of chapter 607 which are applicable to foreign corporations.

~~(d) Paid to the department a nonrefundable application fee of $5,000.~~

(d)~~(e)~~ Received a license duly issued to it by the department.

(2) The department may not issue a license to an international banking corporation unless:

(a) It is chartered in a jurisdiction in which any bank having its principal place of business in this state may establish similar facilities or exercise similar powers; or

(b) Under the federal International Banking Act of 1978, the Comptroller of the Currency of the United States could issue a license to the corporation to operate a federal agency without considering whether the international banking corporation is chartered in a jurisdiction in which any bank having its principal place of business in this state may establish similar facilities or exercise similar powers.

(3) A license may not be issued to an international banking corporation for the purpose of operating an international bank agency or an international branch in this state unless the international banking corporation:

(a) Holds an unrestricted license to receive deposits from the public in the foreign country under the laws of which it is organized and chartered; and

(b) Is adequately supervised by the central bank or bank regulatory agency in the foreign country in which it is organized and chartered. The department may establish by rule the general principles that determine the adequacy of home-country supervision of an international banking corporation's foreign establishments. These principles must be based upon the need for cooperative supervisory efforts and consistent regulatory guidelines and must address, at a minimum, the capital adequacy, liquidity, and foreign exchange operations and positions of the international banking corporation. This paragraph does not require an examination by the home-country regulatory authorities of any office of an international banking corporation in this state.

(4) The requirements of subsection (3) do not apply to an international banking corporation that held a license to operate an international bank agency in this state before October 1, 1990, or to any multinational bank that otherwise meets the requirements of this part and is a subsidiary of one or more international banking corporations or bank holding companies that meet all requirements of this part.

(5) In addition to any other reports it is required to make, an international banking corporation that maintains an international bank agency or international branch in the state under subsection (4) must make quarterly reports to the department in such form as the department prescribes by rule concerning the asset quality, capital adequacy, and liquidity of the international banking corporation.

Section 150. Section 663.05, Florida Statutes, 1990 Supplement, is amended to read:

663.05 Application for license *to maintain an office*; approval or disapproval.—

(1) Every international banking corporation, before being licensed by the department to *maintain any office in this state* ~~act in a liaison capacity or to transact a banking business in this state, or before maintaining in this state any office to carry on such business or any part thereof,~~ shall subscribe and acknowledge, and submit to the department, *an* ~~a separate~~ application which shall state:

(a) The name of *the* ~~such~~ international banking corporation.

(b) The *proposed* location by street and post-office address and county where its business is to be transacted in this state and the name of the person who shall be in charge of the business and affairs of such ~~agency or representative~~ office.

(c) The location where its initial registered office will be located in this state.

~~(d) The amount of its capital actually paid in and the amount subscribed for and unpaid.~~

(d)~~(c)~~ The total amount of the capital accounts of such international banking corporation.~~, which must be at least $25 million for the establishment of an international bank agency and $10 million for the establishment of a representative office; and~~

(e) A complete and detailed statement of its financial condition as of a date within 180 days prior to the date of such application, except that the department in its discretion may, when necessary or expedient, accept such statement of financial condition as of a date within 240 days prior to the date of such application. The department in its discretion may, when necessary or expedient, require an opinion audit or the equivalent.

(2) The department may disallow any illegally obtained currency, monetary instruments, funds, or other financial resources from the capitalization requirements of this section.

~~(3) Notwithstanding the provisions of paragraph (1)(c), the department may approve such application if:~~

~~(a) The international banking corporation has been in the business of banking for at least 10 years and has been empowered under the laws of the country in which it is organized and licensed to receive deposits without restriction from the general public and to engage in such other activities as are usual in connection with the business of banking in the country where such foreign institution is organized and licensed;~~

~~(b) The international banking corporation is ranked by the banking or supervisory authority of the country in which it is organized and licensed as one of the five largest banks in that country in terms of domestic deposits, as of the date of the statement of its financial condition as required by paragraph (1)(e); and~~

~~(c) The department receives a certificate issued by the banking or supervisory authority of the country in which the international banking corporation is organized and licensed stating that the international banking corporation is duly organized and licensed and lawfully existing in good standing, and is empowered to conduct a general banking business.~~

~~The department may specify such other conditions as it may deem appropriate, considering the public interest, the need to maintain a sound and competitive banking system, and the preservation of an environment conducive to the conduct of an international banking business in the state.~~

(3)~~(4)~~ At the time *an* ~~such~~ application is submitted to the department, *the international banking* ~~such~~ corporation shall also submit a duly authenticated copy of its articles *of incorporation* and *a* ~~an authenticated~~ copy of its bylaws, or an equivalent thereof satisfactory to the department. Such corporation shall also submit a certificate issued by the banking or supervisory authority of the country in which the international banking corporation is organized and licensed stating that the international banking corporation is duly organized and licensed and lawfully existing in good standing and has not been convicted of, or pled guilty or nolo contendere to, a violation of any currency transaction reporting or money laundering law which may exist in the country.

(4)~~(5)~~ Application shall be made on a form prescribed by the department and shall contain such information as the department may require.

(5)~~(6)~~ The department may, in its discretion, approve or disapprove the application, but it shall not approve such application unless, in its opinion, the applicant meets each and every requirement of *this part* ~~ss. 663.01-663.14~~ and any other applicable provision of the *financial institutions codes* ~~Florida Banking Code~~. In the processing of applications, the time limitations under the Administrative Procedure Act shall not apply as to approval or disapproval of the application.

Section 151. Section 663.055, Florida Statutes, is created to read:

663.055 Capital requirements.—

(1) To qualify for a license under this part, an international banking corporation must have total capital account of at least:

(a) Twenty-five million dollars for establishing an international bank agency, an international branch, or an international administrative office; or

(b) Ten million dollars for establishing an international representative office.

(2) Notwithstanding the provisions of paragraph (1)(a), the department may approve an application for a license to establish an international bank agency, an international branch, or an international administrative office if:

(a) The international banking corporation is licensed to receive deposits from the public, without restriction, and to engage in such other activities as are usual in connection with the business of banking in the country where it is organized and licensed;

(b) The department receives a certificate that is issued by the banking or supervisory authority of the country in which the international banking corporation is organized and licensed and that states that the international banking corporation is duly organized and licensed and lawfully existing in good standing and is empowered to conduct a general banking business; and

(c) The international banking corporation has been in the business of banking for at least 10 years and is ranked by the banking or supervisory authority of the country in which it is organized and licensed as one of the five largest banks in that country in terms of domestic deposits, as of the date of its most recent statement of financial condition.

(3) Notwithstanding the provisions of paragraph (1)(b), the department may approve an application for a license to establish an international representative office if the international banking corporation meets the requirements of paragraphs (2)(a) and (b), has been in the business of banking for at least 5 years, and has total capital accounts of at least $5 million as of the date of its most recent statement of financial condition.

(4) The department may specify other conditions it determines appropriate, considering the public interest, the need to maintain a sound and competitive banking system, and the preservation of an environment conducive to the conduct of an international banking business in the state.

(5) For the purposes of this part, the capital accounts of an international banking corporation are to be determined in accordance with rules adopted by the department. In adopting these rules, the department shall consider similar rules adopted by bank regulatory agencies in the United States and the need to provide reasonably consistent regulatory requirements for international banking corporations which will maintain the safe and sound condition of international banking corporations doing business in this state. In translating the capital accounts of an international banking corporation, the department may consider monetary correction accounts that produce results consistent with the application of generally accepted accounting principles in the United States.

Section 152. Section 663.06, Florida Statutes, is amended to read:

663.06 Licenses; permissible activities.—

(1) An international banking corporation licensed to operate an ~~international bank agency, representative office, or administrative~~ office *in this state* may engage in the business authorized by *this part* ~~ss. 663.01~~ 663.14 at the office specified in such license for such period as is provided in subsection (2) or subsection (3). ~~No international bank agency, representative office, or administrative office may have more than one place of doing business; but nothing in this section or elsewhere in the Florida Statutes shall be construed to prevent~~ An international banking corporation *may operate* ~~from operating~~ more than one international bank agency, *international branch,* or representative office, each at a different place of business, provided *that* each such ~~agency or representative~~ office *must be* ~~is~~ separately licensed. No license to operate an international bank ~~agency, representative office, or administrative~~ office is transferable or assignable. Every such license *must* ~~shall~~ be, at all times, conspicuously displayed in the place of business specified therein.

(2) Except as provided in subsection (3), a license to operate an international bank agency, *international branch, international* representative office, or *international* administrative office *is* ~~shall be~~ valid for a period of 1 year, unless such license is suspended or revoked sooner pursuant to subsection (5). *The* ~~Such~~ license may be renewed annually upon application to the department, upon forms available for that purpose, within 30 days prior to the expiration of the license. *The* ~~Such~~ license may be renewed by the department, in its discretion, upon its determination, with or without examination, that the international banking corporation is in a safe and sound condition and has complied with all requirements of law with respect to the international bank agency, *international branch, international* representative office, or *international* administrative office; that *the* ~~such~~ renewal of the license will not be detrimental to the public interest; and that the renewal has been duly authorized by proper corporate action. Each application for renewal of *a* ~~an international bank agency~~ license *must* ~~shall~~ be accompanied by *the fee prescribed in s. 663.12* ~~an annual renewal fee of $500~~.

(3) Notwithstanding the provisions of subsection (2), the department may, in its discretion, issue a license *to an international banking corporation* for an indefinite period if it finds that the international banking corporation has satisfied the requirements for renewal of its license and has held a license for the previous 3 years. *However, an indefinite license to operate an international bank agency or international branch may not be issued to an international banking corporation unless it has held one or the other of such licenses for at least 3 years.* A license issued for an indefinite period *is* ~~shall be~~ valid without renewal unless suspended or revoked pursuant to subsection (5). An international banking corporation that is granted a license for an indefinite period *must* ~~shall~~ file with the department such annual financial statements as the department may require and *must* ~~shall~~ pay an annual fee equal to the annual renewal fee for each license held by the international banking corporation. *The* ~~Such~~ annual fee *must* ~~shall~~ be paid in January of each year.

(4) An international banking corporation which proposes to terminate the operations of its international bank agency, *international branch, international* representative office, or *international* administrative office *must surrender its license to the department and* ~~shall~~ comply with such procedures as the department may prescribe by rule ~~to ensure an orderly cessation of business in a manner which is not harmful to the public interest and shall surrender its license to the department~~.

(5) An international bank agency, *international branch, international* representative office, or *international* administrative office license may be suspended or revoked by the department, with or without examination, upon its determination that the international banking corporation does not meet all requirements for original licensing or any of the criteria established by subsection (2) for renewal of a license.

(6) In the event any such license *is surrendered by the international banking corporation or is* ~~shall be~~ suspended or revoked by the department, or the renewal thereof *is* ~~shall be~~ refused by the department, all rights and privileges of the international banking corporation to transact the business thus licensed shall *cease. The department shall, by rule, prescribe procedures for surrendering a license and for the orderly cessation of business by an international banking corporation in a manner that is not harmful to the interests of its customers or to the public* ~~forthwith cease, and such license shall be surrendered to the department within 24 hours after the department has mailed or personally delivered written notice of such decision. The notice may be personally delivered to any officer, director, employee, or agent of the corporation who is physically present in this state.~~

(7) In addition to the activities in which it is expressly permitted to engage:

(a) An international branch may engage in any activity permissible for an international bank agency;

(b) An international bank agency may engage in any activity permissible for an international administrative office; and

(c) An international administrative office may engage in any activity permissible for an international representative office.

(8)~~(7)~~ An international banking corporation licensed under the terms of *this part may* ~~ss. 663.01-663.14 is authorized to~~ transact only such limited business in this state as is clearly related to, and is usual in, international or foreign business and financing international commerce. No ~~such~~ international banking corporation may exercise fiduciary powers. An international banking corporation may furnish such investment advisory services as it may ~~be authorized to~~ render under rules adopted by the department with respect to nonresident entities or persons whose principal places of business or domicile are outside the United States. The licensing provisions of chapter 517 do not apply to investment advisory and investment management services authorized under this section. No ~~such~~ international banking corporation may receive deposits in this state except:

(a) Deposits from nonresident entities or persons whose principal places of business or domicile are outside the United States;

(b) Interbank deposits, interbank borrowing, or similar interbank obligations; and

(c) International banking facility deposits as defined pursuant to s. 655.071.

An international banking corporation may maintain in this state, for the account of others, credit balances necessarily incidental to, or arising out of, the exercise of its lawful powers. *The* ~~Such~~ credit balances may be disbursed by check or other draft; however, the department shall by rule provide appropriate limitations upon such disbursement to ensure that credit balances are not functionally equivalent to demand deposits.

(9)~~(8)~~ Notwithstanding any provision of this chapter or chapter 658 to the contrary, an international banking corporation licensed under *this part* ~~ss. 663.01-663.14~~ as an international bank agency may, if authorized by rules of the department, make any loan or investment or exercise any power which it could make or exercise if it were operating in this state as a federal agency under the federal International Banking Act of 1978. The department shall, when promulgating such rules, consider the public interest and convenience and the need to maintain a sound and competitive state banking system. Unless otherwise provided by statute, an international bank agency may not exercise any powers that a federal agency is not authorized to exercise.

(10)~~(9)~~ Notwithstanding the provisions of subsections *(8)*~~(7)~~ and *(9)*~~(8)~~, any banking corporation organized and existing under the laws of any other state and licensed pursuant to the provisions of this chapter shall engage only in those activities permissible for an Edge Act corporation organized under s. 25(a) of the Federal Reserve Act, as amended, 12 U.S.C. ss. 611-632.

(11)~~(10)~~ It is the intent of *this part* ~~ss. 663.01-663.14~~ that an international bank agency may not be a "state branch" or a "federal branch," as those terms are defined in the federal International Banking Act of 1978, and neither a foreign bank as defined in such federal act nor an international banking corporation may establish or operate any such branch in this state.

Section 153. Section 663.061, Florida Statutes, is created to read:

663.061 International bank agencies; permissible activities.—

(1) An international bank agency licensed under this part may make any loan, extension of credit, or investment that it could make if incorporated and operating as a bank organized under the laws of this state. An international bank agency may act as custodian and may furnish investment, management, and investment advisory services authorized under rules adopted by the department for nonresident entities or persons whose principal places of business or domicile are outside the United States and to resident entities or persons for international or foreign investments. An international banking corporation that has an international bank agency licensed under this part is exempt from the registration requirements of s. 517.12.

(2) An international bank agency may not receive deposits in this state except for:

(a) Deposits from nonresident entities or persons whose principal places of business or domicile are outside the United States;

(b) Interbank deposits, interbank borrowing, or similar interbank obligations; and

(c) International banking facility deposits as defined in s. 655.071.

An international bank agency may maintain in this state, for the account of others, credit balances necessarily incidental to, or arising out of, the exercise of its lawful powers. These credit balances may be disbursed by check or other draft; however, the department shall, by rule, provide appropriate limitations upon the disbursement to ensure that credit balances are not functionally equivalent to demand deposits.

(3) Notwithstanding any provision of this chapter or chapter 658 to the contrary, an international banking corporation licensed under this part to operate an international bank agency may, if authorized by rule of the department, make any loan or investment or exercise any power that it could make or exercise if it were operating in this state as a federal agency under the federal International Banking Act of 1978. The department shall, when adopting such rule, consider the public interest and convenience and the need to maintain a sound and competitive state banking system. Unless otherwise provided by law, an international bank agency may not exercise any powers that a federal agency may not exercise.

(4) Notwithstanding the provisions of subsection (1), any international banking corporation organized and existing under the laws of any other state and licensed to operate an international bank agency may engage only in those activities permissible for an Edge Act corporation organized under s. 25(a) of the Federal Reserve Act, as amended, 12 U.S.C. ss. 611-632.

(5) With the prior authorization of the department under s. 660.26, an international bank agency may accept appointments as trustee by nonresident persons or entities and may exercise trust powers with respect to such fiduciary accounts. Except for the foregoing limitation, the trust activities of an international bank agency, are subject to the same requirements and may be conducted in the same manner as the trust business of a state trust company or state bank with trust powers.

Section 154. Section 663.062, Florida Statutes, is created to read:

663.062 International representative offices; permissible activities.—An international representative office may promote or assist the deposit-taking, lending, or other financial or banking activities of an international banking corporation. An international representative office may serve as a liaison in this state between an international banking corporation and its existing and potential customers. Representatives and employees based at such office may solicit business for the international banking corporation and its subsidiaries and affiliates, provide information to customers concerning their accounts, answer questions, receive applications for extensions of credit and other banking services, transmit documents on behalf of customers, and make arrangements for customers to transact business on their accounts, but a representative office may not conduct any banking business in this state.

Section 155. Section 663.063, Florida Statutes, is amended to read:

663.063 International administrative offices.—

(1) *Subject to the provisions of this part, any* ~~Any~~ international banking corporation ~~having capital accounts in excess of $25 million~~ may establish *offices* ~~one office~~ in this state for the purposes of:

(a) Administering ~~its~~ personnel and operations ~~outside the United States~~;

(b) Engaging in data processing and recordkeeping *activities* ~~with respect to its international transactions~~; and

(c) Negotiating, approving, or servicing ~~international~~ loans or extensions of credit *and investments* ~~within the meaning of s. 199.023(11)~~.

(2) An office established pursuant to the provisions of this section may not engage in *a general commercial banking business* ~~any activity except those activities set forth in subsection (1)~~.

~~(3) An office established in accordance with the provisions of this section does not require a certificate of authority to do business pursuant to s. 658.25, nor shall it be deemed a branch pursuant to s. 658.12(5).~~

~~(4) An international banking corporation establishing an office in accordance with the provisions of this section is subject to the provisions of ss. 663.04(1) and 663.06(1)-(4), except that the nonrefundable application fee shall be $2,500 and the annual renewal fee shall be $250.~~

~~(5) The department shall conduct regular examinations, in accordance with s. 655.045(1)(a), of any office established in accordance with the provisions of this section. Such examinations shall be conducted solely for the purpose of determining compliance with the limitations specified in this section.~~

Section 156. Section 663.064, Florida Statutes, is created to read:

663.064 International branch offices; permissible activities; requirements.—

(1) An international banking corporation that meets the requirements of ss. 663.04 and 663.055 may, with the approval of the department, establish one or more international branches in the state. An international branch has the same rights and privileges as a state bank and is subject to the provisions of 12 U.S.C. s. 3104, relating to insurance of deposits. The operations of an international branch must be conducted pursuant to rules determined by the department as necessary to ensure compliance with the provisions of the financial institutions codes. These rules must include requirements for the maintenance of accounts and records separate from those of the international banking corporation of which it is a branch. An application to establish an international branch must be made pursuant to s. 658.26.

(2) Subsection (1) applies only when national banks from all states are authorized to establish branches in this state.

Section 157. Section 663.065, Florida Statutes, is created to read:

663.065 State-chartered investment companies; formation; permissible activities; restrictions.—

(1) With the approval of the department, a Florida corporation may be formed for the purpose of engaging in international banking, lending, and other financial activities. A state-chartered investment company established under this section may engage directly in only those activities permissible for an Edge Act corporation organized under s. 25(a) of the Federal Reserve Act, as amended.

(2) Subject to the prior approval of the department and to such limitations as the department prescribes by rule, a state-chartered investment company may invest in the shares of and may own or control an Edge Act corporation or an international banking corporation and may establish and operate branches, representative offices, and similar banking facilities in foreign countries.

(3) An application for approval to organize a state-chartered investment company is subject to chapter 655, relating to the organization of de novo financial institutions, and to rules adopted by the department as necessary to ensure that the proposed state-chartered investment company will be operated in a safe and lawful manner, except that the applicant is not required to become a member of the Federal Reserve System or the Federal Deposit Insurance Corporation. State-chartered investment companies are subject to the examination and supervision of the department and are subject to the *financial institutions codes* ~~Florida Banking Code and chapter 655~~ to the same extent as international banking corporations under s. 663.02.

Section 158. Section 663.066, Florida Statutes, is created to read:

663.066 Acquisition or ownership of state banks by international banking corporations.—Notwithstanding the provisions of s. 658.29, an international banking corporation that has not established a branch in another state and that does not own or control a bank in any other state may, with the approval of the department under s. 658.28, acquire control over a state bank organized under the laws of this state. For the purposes of this section, the word "bank" has the meaning given in section 2(c) of The Bank Holding Company Act of 1956, 12 U.S.C. s. 1841(c).

Section 159. Section 663.07, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 663.07, F.S., for present text.)

663.07 Asset maintenance or capital equivalency.—

(1) Each international bank agency and international branch must:

(a) Maintain with a bank in this state, in such amounts as the department specifies, evidence of dollar deposits or investment securities of the type that may be held by a state bank for its own account under s. 658.67. The aggregate amount of dollar deposits and investment securities for an international bank agency or international branch must, at a minimum, equal the greater of:

1. Four million dollars; or

2. Five percent of the total liabilities of the international bank agency or international branch, excluding accrued expenses and amounts due and other liabilities to affiliated branches, offices, agencies, or entities; or

(b) Maintain other appropriate reserves, taking into consideration the nature of the business being conducted by the international bank agency or international branch.

The department shall prescribe by rule the deposit, safekeeping, pledge, withdrawal, recordkeeping, and other arrangements for funds and securities maintained under this subsection. The deposits and securities used to satisfy the capital equivalency requirements of this subsection must be held, to the extent feasible, in a state or national bank located in this state or in a federal reserve bank.

(2) In lieu of the requirements of subsection (1), the department may, by rule, permit an international bank agency or international branch to hold, in this state, assets that bear such relationships as the department, by rule, prescribes to the aggregate liabilities of the international bank agency or branch payable in this state or resulting from its operations. The amount of such assets must be equal to at least $4 million or 105 percent of the amount of such liabilities, whichever is greater; however, the department, by order, may reduce the required amount of assets to not less than 100 percent of the amount of such liabilities. When issuing any such order the department shall take into account the objective of maintaining a sound banking system in this state. The assets must be maintained as cash on hand; as cash on demand deposit with other banks, including the total amount of any reserves deposited at a federal reserve bank; as cash items in process of collection; as earning assets such as federal funds sold, bonds, notes, debentures, drafts, bills of exchange, acceptances, loan participation certificates, or other evidences of indebtedness payable in the United States or in United States funds or in funds freely convertible into United States funds; in such other form as the department specifies by rule; or as any combination of the foregoing.

(3) The term "assets" as used in this section excludes accrued income and amounts due from other offices or branches of, and wholly owned, except for a nominal number of directors' shares, subsidiaries of, the international banking corporation. The term "liabilities" as used in this section excludes accrued expenses and amounts due and other liabilities to branches, offices, agencies, and wholly owned, except for a nominal number of directors' shares, subsidiaries of the international banking corporation, and such other liabilities as the department specifies by rule. Except as the department requires under subsection (6), international banking facility deposits and extensions of credit are excluded from the total liabilities and total assets of an international bank agency or international branch.

(4) For the purposes of this section, the department must value marketable securities at book value; may determine the value of any nonmarketable bond, note, debenture, draft, bill of exchange, or other evidence of indebtedness or of any other obligation held by or owed to the international banking corporation in this state; and, in determining the amount of assets for the purpose of computing the ratio of assets to liabilities, may exclude any particular assets.

(5) Notwithstanding the limitations of s. 658.67, the department may, by rule, authorize, and may specify conditions and limits on, the use of securities issued by foreign governments or government-sponsored entities for the purpose of satisfying the capital equivalency or asset maintenance requirements of this section. However, any such foreign government securities must be payable in funds freely convertible into United States funds, and the amount of such securities deposited or held for the purposes of this section must not exceed 25 percent of the required amount.

(6) If, by reason of the existence or the potential occurrence of unusual or extraordinary circumstances, the department finds it necessary or desirable for maintaining a sound financial condition, protecting creditors and the public interest, and maintaining public confidence in the business of the international bank agency or international branch, it may by order require such international banking corporation to deposit cash and eligible securities in an amount not exceeding twice the amount required under subsection (1). The assets required to be held in this state under this subsection must be deposited with a bank or trust company located in this state that the international banking corporation designates and the department approves.

(7) Each international bank agency and international branch must file such reports with the department as the department by rule requires to determine compliance with this section.

Section 160. Section 663.083, Florida Statutes, is amended to read:

663.083 Lending limits.—

(1) The department shall by rule prescribe the limits of drafts or bills of exchange which an international bank agency *or international branch* may accept relative to the capital accounts of the international banking corporation. These limits shall take into account all transactions which are included and excluded in computing the lending limit for acceptances of a federal agency licensed under the federal International Banking Act of 1978, as amended.

(2) The provisions of ss. 658.48 and 658.67, except to the extent they are inconsistent with s. 663.06 or this section, apply to the loans and investments made by any international bank agencies *or international branches* of the international banking corporation.; As used in those sections with respect to an international banking corporation and its international bank agencies *or international branches*, the term "capital accounts" *refers* ~~shall be deemed to refer~~ to the capital *accounts* ~~and surplus~~ of the international banking corporation, and, except when used with reference to "capital accounts," the term "bank" *refers* ~~shall be deemed to refer~~ to the international bank agencies *or international branches* of the international banking corporation which are licensed in this state.

(3) Any limitation in this section based on the capital accounts of an international banking corporation *refers* ~~shall be deemed to refer~~, with respect to an international bank agency *or international branch* in this state, to the dollar equivalent of the capital accounts of the international banking corporation, as determined by the department. If the international banking corporation has more than one international bank agency *or international branch* in this state, the business transacted by all such agencies *or branches must* ~~shall~~ be aggregated in determining compliance with a limitation or restriction in this section.

~~(4) With the prior approval of the department, the capital notes and capital debentures of an international banking corporation may be treated as capital in computing the limitations referred to in this section.~~

Section 161. Section 663.09, Florida Statutes, is amended to read:

663.09 Reports; records.—

(1) Every international banking corporation doing business in this state shall, at such times and in such form as the department shall prescribe, make written reports in the English language to the department, under the oath of one of its officers, managers, or agents transacting business in this state, showing the amount of its assets and liabilities and containing such other matters as the department shall prescribe. *An international banking corporation, that maintains two or more offices of the same type may consolidate such information in one report, unless the department otherwise requires for purposes of its supervision of the condition and operations of each such office. The late filing of such reports is subject to the imposition of the administrative fine prescribed by s. 655.045(2)(b).* If any such international banking corporation *fails*

~~shall fail~~ to make *the* ~~any such~~ report, as directed by the department, or if *the* ~~any such~~ report *contains* ~~shall contain~~ any false statement knowingly made, *it is* ~~the same shall be~~ grounds for revocation of the license of the international banking corporation.

(2) Each international banking corporation which operates an *office* ~~international bank agency~~ licensed under *this part* ~~ss. 663.01-663.14~~ shall *keep* ~~cause to be kept~~, at *such* ~~its~~ place of business in this state:~~,~~

(a) Correct and complete books and records of account of *the* ~~its~~ business operations transacted by such *office* ~~agency, pursuant to s. 658.72~~. *All policies and procedures governing the operations of the office must be maintained in English. The department may require that any other document not written in English which the department determines necessary for the purposes of its regulatory and supervisory functions be translated into English at the expense of the international banking corporation.* ~~Such agencies shall also keep~~

(b) Current copies of the charter and bylaws of the international banking corporation, relative to the operations of the *office* ~~agency~~, and minutes of the proceedings of its directors or committees relative to the ~~agency~~ business *of the office.*

Such records *must* ~~shall~~ be kept pursuant to *s. 655.91* ~~s. 658.72~~ and ~~shall be~~ made available to the department, upon request, at any time during regular business hours of the agency. Any failure to keep *the* ~~such~~ records ~~as aforesaid~~ or any refusal to produce *the* ~~such~~ records upon request by the department *is* ~~shall be~~ grounds for suspension or revocation of any license issued under *this part* ~~ss. 663.01-663.14~~.

Section 162. Section 663.10, Florida Statutes, is amended to read:

663.10 Conversion *of license* ~~from a federal agency to a state-chartered agency and the reverse.~~—

(1) An international banking corporation desiring to convert its existing federal agency or *federal branch or Edge Act corporation* ~~representative office~~ into a state-chartered *international bank* agency or *international branch, or an Edge Act corporation which desires to convert to a state-chartered investment company organized under the laws of this state,* ~~representative office~~ shall submit to the department an application, on a form the department shall provide, accompanied by *a filing fee as prescribed by s. 663.12* ~~nonrefundable application fees of $5,000 and $1,000 respectively~~. An examination and investigation may be conducted to the extent determined necessary by the department. The cost of any such examination shall be paid by the applicant.

(2) Nothing in the laws of this state shall restrict the right of a state-chartered *international bank* agency, *international branch,* or *international* representative office *or a state-chartered investment company* to convert to a federal *license or charter* ~~agency or representative office~~ upon compliance with the laws of the United States. Upon completion of any such conversion, the state charter shall be surrendered to the department.

(3) An international banking corporation desiring to convert *any* ~~its~~ existing *international banking* ~~state-chartered representative~~ office to *an international banking office of a different type* ~~a state-chartered agency or its existing state-chartered agency to a state-chartered representative office~~ shall submit to the department an application on a form the department shall provide *which.* ~~An application to convert to an agency~~ shall be accompanied by all of the information and documents that *are required of* ~~the state requires~~ applicants for *a license of the type being sought together with the filing fee required by s. 663.12* ~~an agency to submit and by a nonrefundable application fee in the amount of $4,000. A nonrefundable application fee in the amount of $500 shall accompany an application to convert to a representative office.~~

(4) An international banking corporation desiring to convert *any existing* ~~from a~~ federal agency or *federal branch or an Edge Act corporation into an international banking office operating under the provisions of this part* ~~representative office into a state-chartered agency or representative office, or from its existing state-chartered representative office to an agency,~~ shall ~~be required to~~ meet the minimum criteria of the state-chartered form into which it is converting.

Section 163. Section 663.11, Florida Statutes, is amended to read:

663.11 Dissolution.—In the event an international banking corporation which is licensed to maintain an *office* ~~international bank agency~~ in this state is dissolved, or its authority or existence is otherwise terminated or canceled in the jurisdiction of its incorporation, a certificate of the official who is responsible for records of banking corporations of the jurisdiction of incorporation of such international banking corporation, attesting to the occurrence of any such event, or a certified copy of an order or decree of a court of such jurisdiction, directing the dissolution of such international banking corporation, the termination of its existence, or the cancellation of its authority, shall be delivered by the corporation or its surviving officers and directors to the department. The filing of the certificate, order, or decree shall have the same effect as the revocation of the license of such international banking corporation as provided in s. 663.06.

Section 164. Section 663.12, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 663.12, F.S., for present text.)

663.12 Licenses; fees; assessments; examinations.—

(1) Each application for a license under this part must be accompanied by a nonrefundable filing fee payable to the department in the following amount:

(a) Ten thousand dollars for establishing a state investment company.

(b) Five thousand dollars for establishing an international bank agency or branch.

(c) Twenty-five hundred dollars for establishing an international administrative office.

(d) Two thousand dollars for establishing an international representative office.

(e) One thousand dollars for annual renewal of an existing license.

(f) An amount equal to the initial filing fee for an application to convert from one type of license to another.

The department may increase the filing fee for any type of license to an amount established by rule and calculated in a manner to cover the direct and indirect cost of processing such applications.

(2) Each international bank agency, international branch and state-chartered investment company must pay to the departmental a semiannual assessment, payable on or before January 31 and July 31 of each year, in an amount determined by rule by the department and calculated in a manner to recover the costs of the department incurred in connection with supervising international banking activities licensed under this part. These rules must provide for uniform rates of assessment for all licenses of the same type and must provide for declining rates of assessment in relation to the total assets of the licensee held in the state, but may not provide for rates of assessment that exceed the rate applicable to state banks under s. 658.73. For the purposes of this subsection, the total assets of an international bank agency or branch include amounts due the agency or branch from other offices or branches of the international banking corporation of which the agency or branch is a part or from entities that relate to that international banking corporation.

(3) Each international banking corporation and state investment company that maintains offices licensed under this part must pay to the department examination fees set by rule of the department and calculated in a manner to equal the actual cost of each examiner's participation in the examination, as measured by the examiner's pay scale, plus any other expenses directly incurred in the examination, but in no event may the fee be less than $200 per day for each examiner participating in the examination.

Section 165. Section 663.13, Florida Statutes, is amended to read:

663.13 Rules; exemption from economic-impact-statement requirements.—In addition to any other rulemaking authority it has under the *financial institutions codes* ~~Florida Banking Code~~, the department is authorized to promulgate reasonable rules which it deems advisable for the administration of international banking corporations under ss. 663.01-663.14, in the interest of protecting depositors, creditors, borrowers, or the public interest and in the interest of maintaining a sound banking system in this state. Because of the difficulty in obtaining economic data with regard to such banks, no economic impact statement shall be required in connection with these rules.

Section 166. Subsection (1) of section 663.302, Florida Statutes, is amended to read:

663.302 Applicability of state banking laws.—

(1)(a) International development banks shall be subject to the following provisions of chapter 655 as though such international development banks were state banks:

1. Section 655.005, relating to definitions.

2. Section 655.012, relating to general *supervisory* ~~supervising~~ powers of the department.

3. Section 655.016, relating to liability.

4. Section *655.031* ~~655.021~~, relating to administrative enforcement guidelines.

5. Section *655.032* ~~655.025~~, relating to investigations; etc.

6. Section *655.0321* ~~655.029~~, relating to hearings and proceedings.

7. Section 655.033, relating to cease and desist orders.

8. Section 655.034, relating to injunctions.

9. Section 655.037, relating to removal of *financial institution-affiliated party* ~~officers and others~~.

10. Section 655.041, relating to administrative fines.

11. Section 655.043, relating to articles of incorporation.

12. Section 655.044, relating to accounting practices.

13. Section 655.045, relating to examinations, reports, and internal audits.

14. Section 655.049, relating to deposit of fees and assessments.

15. Section 655.057, relating to records.

16. Section 655.071, relating to international banking facilities.

17. Section 655.50, relating to reports of transactions involving currency.

(b) In addition, except as otherwise specifically provided in this part, international development banks shall be subject to the following provisions of chapter 658 as though such international development banks were state banks:

1. Section 658.32, relating to annual shareholders meetings.

2. Section 658.39, relating to stockholder examination of records.

~~3. Section 658.66, relating to transmission of money and foreign exchange.~~

~~4. Section 658.69, relating to sale of assets.~~

~~5. Section 658.70, relating to legal holidays, banking days, and transaction of business~~

~~6. Section 658.72, relating to records and retention and destruction thereof.~~

~~7. Section 658.73(6), relating to examination fees and assessments.~~

~~8. Section 658.77, relating to prohibited acts and practices.~~

3.~~9.~~ Section 658.79, relating to insolvency.

~~10. Sections 658.80-658.97, relating to receivership and liquidation.~~

Section 167. Subsection (2) of section 663.309, Florida Statutes, is amended to read:

663.309 Permissible activities; prohibited activities.—

(2) An international development bank shall not:

(a) Take deposits except as provided in this section;

(b) Offer deposit accounts ~~as defined in s. 655.081~~ other than those permitted to be offered by an international bank agency;

(c) Exercise trust or fiduciary powers;

(d) Offer credit cards;

(e) Establish or use remote financial service units; or

(f) Serve as a depository of public moneys or be employed as a financial agent of the state.

Section 168. Section 663.319, Florida Statutes, 1990 Supplement, is amended to read:

663.319 Rules; exemption from economic-impact-statement requirements.—In addition to any other rulemaking authority it has under the *financial institutions codes* ~~Florida Banking Code~~, the department is authorized to promulgate rules for the administration of regional development banks. Because of the difficulty in obtaining economic data with regard to such banks, no economic impact statement shall be required in connection with these rules.

Section 169. Section 665.012, Florida Statutes, is amended to read:

665.012 Definitions.—When used in this chapter, the following words and phrases have the following meanings, except to the extent that any such word or phrase specifically is qualified by its context:

(1) "Association" means a ~~mutual or~~ capital stock ~~savings~~ association, ~~savings and loan association, building and loan association, or savings bank~~ subject to the provisions of this chapter.

(2) "Capital stock" means the aggregate of shares of nonwithdrawable capital issued by a capital stock association, but does not include nonwithdrawable capital represented by capital certificates.

~~(3) "Community" means a centralized area or locality in which a body of inhabitants is gathered in one group having common residential, social, or business interests. The term does not necessarily mean a municipal corporation or other political subdivision; a community need not be limited by lines and boundaries. A village, town, or other governmental unit, either incorporated or unincorporated, may constitute one community, but a large, populous area under one or more forms of government may be composed of several communities.~~

~~(4) "Department" means the Department of Banking and Finance.~~

(3)~~(5)~~ "Dwelling unit" means a single, unified combination of rooms which is designed for residential use by one family in a multiple dwelling unit structure and which is not "home property."

(4)~~(6)~~ "Earnings" means that part of the sources available for payment of earnings of an association which is declared payable on savings accounts from time to time by the board of directors, and is the cost of savings money to the association. Earnings also may be referred to as "interest."

~~(7) "Financial depository institution" means a savings association, savings bank, bank, industrial savings bank, or credit union organized under the laws of this state or of another state or the United States.~~

(5)~~(8)~~ "Home property" means real estate on which there is located, or will be located pursuant to a real estate loan, either a structure designed for residential use by one family or a single condominium unit, including common elements pertinent thereto, designed for residential use by one family in a multiple-dwelling-unit structure or complex and includes fixtures and home furnishings and equipment.

~~(9) "Impaired condition" means a condition in which the assets of an association in the aggregate do not have a fair value equal to the aggregate amount of liabilities of the association to its creditors, including the holders of its savings accounts and all other persons or in which an association is unable to meet current obligations as they mature, even though assets may exceed liabilities.~~

~~(10) "Improved real estate" means real estate on which there is a structure or an enclosure or which is cultivated, reclaimed, used for the purpose of agriculture in any form, prepared as building lots or sites, or otherwise occupied, made better, more useful, or of greater value by care so as to produce an enjoyment thereof.~~

~~(11) "Insured association" means an association the savings accounts of which are insured wholly or in part in accordance with the provisions of this chapter.~~

(6)~~(12)~~ "Liquid assets" means:

(a) Cash on hand;

(b) Cash on deposit in federal home loan banks, federal reserve banks, state banks performing similar reserve functions, or financial depository institutions, which is withdrawable upon not more than 30 days' notice and which is not pledged as security for indebtedness, except that any deposits in a financial depository institution under the control or in the possession of any supervisory authority shall not be considered as liquid assets;

(c) Obligations of, or obligations which are fully guaranteed as to principal and interest by, the United States or this state; and

(d) Such other assets as may be approved by the department which are accepted as liquid assets for federally insured associations by the appropriate federal regulatory agency.

~~(13) "Member" means a person holding a savings account of a mutual association, or borrowing from or assuming or obligated upon a loan or interest therein held by a mutual association, or purchasing property securing a loan or interest therein held by a mutual association. A joint and survivorship relationship, whether of savers or borrowers, constitutes a single membership. A capital stock association has no members.~~

(7)~~(14)~~ "Net income" means gross revenues for an accounting period less all expenses paid or incurred, taxes, and losses sustained as shall not have been charged to reserves pursuant to the provisions of this chapter.

~~(15) "Net worth" means the sum of all reserve accounts (except specific or valuation reserves), retained earnings, capital stock, any other nonwithdrawable accounts or capital contributions of an association, and the principal amount of any subordinated debt securities.~~

(8)~~(16)~~ "Primarily residential property" means real estate on which there is located, or will be located pursuant to a real estate loan, any of the following:

(a) A structure or structures designed or used primarily for residential rather than nonresidential purposes and consisting of more than one dwelling unit.

(b) A structure or structures designed or used primarily for residential rather than nonresidential purposes for students, residents and persons under care, employees, or members of the staff of an educational, health, or welfare institution or facility.

(c) A structure or structures which are used in part for residential purposes for not more than one family and in part for business purposes, provided that the residential use of such structure or structures must be substantial and permanent, not merely transitory.

~~(17) "Primary lending area" means this state and any additional area within 100 miles of the home office of an association.~~

~~(18) "Primary service area" means the smallest geographical area from which a proposed association expects to draw approximately 75 per cent of its deposits.~~

(9)~~(19)~~ "Real estate loan" means any loan or other obligation secured by a lien on real estate in any state held in fee or in a leasehold extending or renewable automatically for a period of at least 15 years beyond the date scheduled for the final principal payment of such loan or obligation, or any transaction out of which a lien or claim is created against such real estate, including among other things the purchase of such real estate in fee by an association and the concurrent or immediate sale thereof on installment contract.

(10)~~(20)~~ "Savings account" means that part of the savings liability of the association which is credited to the account of the holder thereof. A savings account also may be referred to as a "savings deposit."

(11)~~(21)~~ "Savings liability" means the aggregate amount of savings accounts of depositors, including earnings credited to such accounts, less redemptions and withdrawals.

~~(22) "Service corporation" means an organization which is empowered to engage in any activity that is related or incidental to the business of an association, or any other activity permitted by the department, and which is wholly or partially owned or controlled by an association.~~

~~(23) "Sources available for payment of earnings" means net income for an accounting period less amounts transferred to reserves as provided in or permitted by this chapter, plus any balance of undivided profits from preceding accounting periods.~~

(12)~~(24)~~ "Stockholder" means the holder of one or more shares of any class of capital stock of a capital stock association organized or operating pursuant to the provisions of this chapter.

~~(25) "Withdrawal value" means the amount credited to a savings account, less lawful deductions therefrom, as shown by the records of the association.~~

Section 170. Section 665.013, Florida Statutes, is created to read:

665.013 Applicability of chapter 658.—The following sections of chapter 658, relating to banks and trust companies, are applicable to an association to the same extent as if the association were a "bank" operating thereunder:

(1) Section 658.12, relating to definitions.

(2) Section 658.16, relating to the creation of a banking or trust corporation.

(3) Section 658.19, relating to application for authority to organize a bank or trust company.

(4) Section 658.20, relating to investigation by department.

(5) Section 658.21, relating to approval of application, findings required.

(6) Section 658.22, relating to coordination with federal agencies.

(7) Section 658.23, relating to submission of articles of incorporation; contents; form; approval; filing; commencement or corporate existence; bylaws.

(8) Section 658.235, relating to subscriptions for stock, approval of major shareholders.

(9) Section 658.24, relating to organizational procedures.

(10) Section 658.25, relating to opening for business.

(11) Section 658.26, relating to places of transacting business; branches; school savings; facilities.

(12) Section 658.32, relating to annual meetings.

(13) Section 658.33, relating to directors, number, qualifications; officers.

(14) Section 658.34, relating to shares of stock.

(15) Section 658.35, relating to stock options; warrants.

(16) Section 658.36, relating to changes in capital.

(17) Section 658.37, relating to dividends and surplus.

(18) Section 658.38, relating to deposit insurance.

(19) Section 658.39, relating to stockholders; examination of records.

(20) Section 658.40, relating to definitions for merger and consolidation.

(21) Section 658.41, relating to merger, resulting state or national bank.

(22) Section 658.42, relating to plan of merger and merger agreement.

(23) Section 658.43, relating to approval by department, valuation of assets; emergency action.

(24) Section 658.44, relating to approval by stockholders; rights of dissenters; preemptive rights.

(25) Section 658.45, relating to certification of merger and effective date; effect on charters and powers.

(26) Section 658.48, relating to loans.

(27) Section 658.49, relating to loans by banks not exceeding $50,000.

(28) Section 658.491, relating to commercial loans by financial institutions.

(29) Section 658.50, relating to bank loans, credit cards.

(30) Section 658.51, relating to banks authorized to make commodity loans.

(31) Section 658.53, relating to borrowings, limits of indebtedness.

(32) Section 658.60, relating to depositories of public moneys and pledge of assets.

(33) Section 658.67, relating to investment powers and limitations.

(34) Section 658.73, relating to fees and assessments. The department shall, by rule, adopt a separate semiannual fee and semiannual assessment for associations. In its determination, the department shall consider the housing finance role of such associations in addition to the cost of regulation of associations and the collection of fees from such associations.

(35) Section 658.79, relating to taking possession of insolvent state banks or trust companies.

(36) Section 658.80, relating to appointment of receiver or liquidator.

(37) Section 658.81, relating to department action; notice and court confirmation.

(38) Section 658.82, relating to receiver; powers and duties.

(39) Section 658.83, relating to liquidator; powers and duties.

(40) Section 658.84, relating to transfers, assignments, deposits, and payments void after act of insolvency.

(41) Section 658.90, relating to receivers or liquidators under supervision of department.

(42) Section 658.94, relating to prima facie evidence.

(43) Section 658.95, relating to voluntary liquidation.

(44) Section 658.96, relating to procedure in voluntary liquidation.

Section 171. Section 665.0211, Florida Statutes, is amended to read:

665.0211 Name.—

~~(1) CORPORATE NAME.—~~The name of every association shall include either the words "savings association," "savings bank," or "savings and loan association." The use of the words "National," "Federal," "United States," "insured," or "guaranteed," separately or in any combination thereof with other words or syllables, is prohibited as part of the corporate name of an association.

~~(2) EXCLUSIVENESS OF NAME.—No person, firm, company, association, fiduciary, partnership, or corporation, either domestic or foreign, unless he or it is lawfully authorized to do business in this state under the provisions of this chapter and actually is engaged in carrying on a savings association business shall do business under any name or title which contains the terms "savings association," "savings and loan association," "building and loan association," "building association," or any combination employing either or both of the words "building" or "loan" with one or more of the words "saving" or "savings," or words of similar import, or any combination employing one or more of the words "saving" or "savings," or words of similar import with one or more of the words "association," "institution," "society," "company," "fund," or "corporation," or words of similar import, or use any name or sign or circulate or use any letterhead, billhead, circular, or paper whatever, or advertise or represent in any manner which indicates or reasonably implies that his or its business is the character or kind of business carried on or transacted by an association or which is likely to lead any person to believe that his or its business is that of an association; however, the words "saving," "savings," "company," or "corporation," or the plural of any thereof, may be used by, and in the corporate or other name or title of, any company which is or becomes a savings and loan holding company pursuant to the provisions of this chapter or regulations of the Federal Home Loan Bank Board. Upon application by the department or any association, a court of competent jurisdiction may issue an injunction to restrain any such entity from violating or continuing to violate any of the foregoing provisions of this subsection. Any person who violates any provision of this subsection shall be punished by a fine of not more than $5,000, and each day of violation constitutes a separate offense. The prohibitions of this subsection do not apply to any corporation or association formed for the purpose of promoting the interests of associations, the membership of which is comprised of associations, their officers or other representatives.~~

Section 172. Section 665.0315, Florida Statutes, is amended to read:

665.0315 Reorganization, merger, or consolidation with a foreign association.—

(1) An association shall have power to reorganize or merge or consolidate with a foreign association, as defined in s. 665.1001, subject to the approval of the department.

(2) If the resulting or surviving association is to be a foreign association, the department shall not approve the proposed transaction unless:

(a) The laws of the state in which the foreign association has its principal place of business permit associations in that state to reorganize, merge, or consolidate with Florida associations in transactions in which the resulting or surviving association is a Florida association; and

(b) The constituent Florida association has been in existence and continuously operating for more than 2 years.

(3) A proposed transaction in which the resulting or surviving association is to be a foreign association shall be subject to any conditions, restrictions, and requirements that would apply in the state where the foreign association has its principal place of business if the resulting or surviving association were to be a Florida association, which conditions, restrictions, and requirements would not apply to a reorganization, merger, or consolidation of associations all of which are located in that state.

~~(4) If the resulting or surviving association is to be a state chartered association, the transaction shall also be subject to the provisions of s. 665.0311 and the insurance of accounts as provided in s. 665.0501(8).~~

(4)~~(5)~~ A foreign association which is the resulting or surviving association in a reorganization, merger, or consolidation with a Florida association shall not be considered a Florida association.

(5) Each application for reorganization, merger, or consolidation with a foreign association shall be accompanied by a nonrefundable filing fee as provided in s. 655.047.

Section 173. Subsections (1), (2), (3), and (5) of section 665.033, Florida Statutes, 1990 Supplement, are amended to read:

665.033 Conversion of state or federal mutual association to capital stock association.—

(1) CONVERSION INTO CAPITAL STOCK ASSOCIATION.—Any state or federal mutual association may apply to the department for permission to convert itself into an association operated under the provisions of this chapter in accordance with the following procedures:

(a) The board of directors shall approve a plan of conversion by resolution adopted by a majority vote of all the directors. The plan shall include, among other terms:

1. Financial statements of the association as of the last day of the month preceding adoption of the plan.

2. Such financial data as may be required to determine compliance with applicable regulatory requirements respecting financial condition.

3. A provision that each savings account holder of the mutual association will receive a withdrawable account in the capital stock association equal in amount to his withdrawable account in the mutual association.

4. A provision that each member of record will be entitled to receive rights to purchase voting common stock.

5. Pro forma financial statements of the association as a capital stock association, which shall include data required to determine compliance with applicable regulatory requirements respecting financial condition.

6. With particularity, the business purpose to be accomplished by the conversion.

7. Such other information as the department may, by rule, require.

(b) The plan of conversion shall be executed by a majority of the board of directors and submitted to the department for approval prior to any vote on conversion by the members.

(c) The department may approve or disapprove the plan in its discretion, but it shall not approve the plan unless it finds that the association

will comply sufficiently with the requirements of *the financial institutions codes* ~~this chapter~~ after conversion to entitle it to become an association operating under *the financial institutions codes* ~~this chapter~~ and the rules of the department. The department may deny any application from any federal association that is subject to any cease and desist order or other supervisory restriction or order imposed by *any state or* the federal supervisory authority, or insurer, *or guarantor* or that has been convicted of, or pled guilty or nolo contendere to, a violation of s. 655.50, relating to the Florida Control of Money Laundering in Financial Institutions Act; chapter 896, relating to offenses related to financial transactions; or any similar state or federal law.

(d) If the department approves the plan of conversion, the question of such conversion may be submitted to the members at a meeting of voting members called to consider such action. A vote of 51 percent or more of the total number of votes eligible to be cast, unless federal law permits a lesser percentage of votes for a federal mutual association to convert, in which case that percentage shall control, shall be required for approval. Notice of the meeting, giving the time, place, and purpose thereof, together with a proxy statement and proxy form ~~approved by the department~~ covering all matters to be brought before the meeting, shall be mailed at least 30 days prior thereto to the department *for review* and to each voting member at his last address as shown on the books of the association.

(2) MINUTES OF MEETING.—Copies of the minutes of the meeting of members, verified by the affidavit of the secretary or assistant secretary of the association, shall be filed *with* ~~in the office of~~ the department, and with the *appropriate federal regulatory agency* ~~Federal Home Loan Bank Board if applicable~~, within a reasonable time after the meeting. When so filed, the verified copies of the minutes are presumptive evidence of the holding of the meeting and of the action taken.

(3) FILING OF ARTICLES OF INCORPORATION AND COMMITMENT FOR INSURANCE OF ACCOUNTS.—The directors of the association shall have executed and filed with the department proposed articles of incorporation as provided for in *s. 658.23* ~~s. 665.024~~, together with the application for conversion and a firm commitment for, or evidence of, insurance of deposits and other accounts of a withdrawable type. The articles shall contain a statement that the association resulted from the conversion of a state or federal mutual association to a capital stock association. Approval by the department shall be affixed to the articles of incorporation. An authenticated copy of the articles of incorporation shall be filed with the Department of State and one copy of the articles of incorporation and the certificate of incorporation shall be returned to the association. The association shall cease to be a mutual association at the time and on the date specified in the approved articles of incorporation.

(5) FEE.—The application for conversion from a *state or* federal mutual to a state capital stock association shall be accompanied by a nonrefundable filing fee of *$7,500. Additionally, the department is authorized to assess any association, applying to convert pursuant to this section, a nonrefundable examination fee to cover the actual costs of any examination required as part of the application process* ~~$5,000~~.

Section 174. Section 665.034, Florida Statutes, 1990 Supplement, is amended to read:

665.034 Acquisition of assets of or control over an association~~; establishment of association by out-of-state financial institution or foreign association~~.—

(1)(a) In any case in which a person or group of persons propose to purchase or acquire voting common stock of any capital stock association, which purchase or acquisition would cause such person or group of persons to have control, as defined herein, of that association, such person or group of persons must first make application to the department for a certificate of approval of such purchase or acquisition.

(b) An application for control shall be in such form and request such information as the department may, by rule, require.

(c) The application for control shall be accompanied by a nonrefundable filing fee of *$7,500* ~~$5,000~~; however, if more than one association is being acquired in any such application, the fee shall be increased by *$3,000* ~~$2,000~~ for each additional association.

(2) The department shall issue the certificate of approval only after it has made an investigation and determined that:

(a) The proposed new owner or owners of voting *capital* ~~common~~ stock are qualified by character, experience, and financial responsibility to control the association in a legal and proper manner and none of the proposed new owners have been convicted of, or pled guilty or nolo contendere to, a violation of s. 655.50, relating to the Florida Control of Money Laundering in Financial Institutions Act; chapter 896, relating to offenses related to financial transactions; or any similar state or federal law.

(b) The interests of the public generally will not be jeopardized by the proposed purchase or acquisition of voting *capital* ~~common~~ stock.

(3) This section does not apply to the acquisition of:

(a) Directors' voting proxies acquired in the normal course of business as a result of proxy solicitation in conjunction with a stockholders' meeting;

(b) Stock in a fiduciary capacity unless the acquiring person has sole discretionary authority to exercise voting rights with respect thereto;

(c) Stock acquired in securing or collecting a debt contracted in good faith until 2 years after the date of acquisition;

(d) Stock acquired by an underwriter in good faith and without any intent to evade the purpose of this section if the shares are held only for such reasonable period of time as will permit the sale thereof; or

(e) Control of an association by a unitary *association* ~~savings and loan~~ holding company if the person or persons who control the holding company are the same person or persons who control the association.

(4) For purposes of this section, a person or group of persons shall be deemed to have control of an association if such person or group of persons:

(a) Directly or indirectly, or acting in concert with one or more persons or through one or more subsidiaries, owns, controls, holds with powers to vote, or holds proxies representing more than 25 percent of the voting common stock of such association.

(b) Controls in any manner the election of a majority of the directors of such association.

(c) Exercises a controlling influence over the management or policies of such association.

(d) Owns, controls, or has power to vote 10 percent or more of any class of voting securities of the association, if no other person or group of persons owns, controls, or has power to vote a greater proportion of that class of voting securities.

(e) In any case in which a proposed purchase or acquisition of voting securities of an association would give rise to the presumption created under paragraph (d), the person or group of persons who propose to purchase or acquire the voting securities shall first be given written notice of the proposal to the department. Such notice may present information that the proposed purchase or acquisition will not result in control. The department shall afford the person seeking to rebut the presumption an opportunity to present views in writing or orally before its designated representatives at an information conference.

(5)(a) For the purposes of this subsection, the term "financial institution" means *an* ~~a savings~~ association, bank, ~~industrial savings bank,~~ trust company, international bank agency or representative office, *or* credit union~~, or savings bank~~.

~~(b) Except in a supervisory case and as provided in this subsection or s. 665.0315, no financial institution the operations of which are principally conducted outside this state, or business organization as defined in s. 658.27(1)(b), which directly or indirectly controls a financial institution the operations of which are principally conducted outside this state, shall:~~

~~1. Acquire, directly or indirectly, all or substantially all of the assets of, or control over, any association having its principal place of business or home office in this state; or~~

~~2. Establish any association having its principal place of business or home office in this state or establish any branch office or other depository office in this state.~~

(b)~~(c)~~ A foreign association, as defined in s. 665.1001, whether controlled directly or indirectly by another business organization, may acquire a Florida association, subject to approval by the department. The department shall not approve the proposed acquisition unless:

1. The laws of the state in which the foreign association has its principal place of business permit associations in that state to be acquired by Florida associations; and

2. The Florida association which is to be acquired has been in existence and continuously operating for more than 2 years.

(c)~~(d)~~ The proposed acquisition shall be subject to any conditions, restrictions, and requirements that would apply in the state where the foreign association has its principal place of business if the foreign association were to be acquired by a Florida association, which conditions, restrictions, and requirements would not apply to the acquisition by such foreign association of another association in that state.

(d)~~(e)~~ A foreign association which has a subsidiary association in Florida is authorized to acquire a Florida association upon approval by the department pursuant to the laws and rules which are applicable to the acquisition of a Florida association by an association having its principal place of business in this state, but such acquired association shall not be considered a Florida association for purposes of this subsection or s. 665.0315.

(e)~~(f)~~ This subsection does not apply to any merger by an association subject to s. 123 of Pub. L. No. 97-320.

Section 175. Section 665.0501, Florida Statutes, is amended to read:

665.0501 Powers of association generally.—Every association incorporated pursuant to or operating under the provisions of *the financial institutions codes* ~~this chapter~~ shall have all the powers enumerated, authorized, and permitted by this chapter and such other rights, privileges, and powers as may be incidental to or reasonably necessary or appropriate for the accomplishment of the objectives and purposes of the association. Among others, and except as otherwise limited by the provisions of *the financial institution codes* ~~this chapter~~, every association shall have the following powers:

~~(1) EXISTENCE; SEAL; BYLAWS.—To have perpetual existence; to adopt and use a corporate seal, which may be affixed by imprint, facsimile, or otherwise; and to adopt and amend bylaws as provided in this chapter.~~

~~(2) PLAINTIFF; DEFENDANT.—To sue and be sued, complain, and defend in any court of law or equity.~~

(1)~~(3)~~ PROPERTY TRANSFERS.—To acquire, hold, sell, dispose of, and convey real and personal estate consistent with its objects and powers; to mortgage, pledge, or lease any real or personal estate; and to take property by gifts, devise, or bequest.

~~(4) BORROWING.—To borrow from sources, individual or corporate, not more than an aggregate amount equal to one half of its total assets on the date of borrowing. A subsequent reduction of total assets shall not affect in any way outstanding obligations for borrowed money. All such borrowings may be secured by property of the association and may be evidenced by notes, bonds, debentures, commercial paper, bankers' acceptances, or other obligations or securities, except capital stock and capital certificates.~~

(2)~~(5)~~ *SUBORDINATED DEBT* ~~CAPITAL CERTIFICATES.~~—To issue and sell, directly or through underwriters, *subordinated debt* ~~capital certificates~~ which shall represent nonwithdrawable capital contributions and shall constitute part of the *equity capital* ~~reserves and net worth~~ of the association. Such *debt* ~~certificates~~ shall have no voting rights; shall be subordinate to all savings accounts, debt obligations, and claims of creditors of the association; and shall constitute a claim in liquidation against any other *equity capital* ~~net worth~~ accounts remaining after the payment in full of all savings accounts, debt obligations, and claims of creditors. Such *subordinated debt* ~~capital certificates~~ shall be entitled to the payment of earnings prior to the allocation of any income to surplus or other *equity capital* ~~net worth~~ accounts of the association and may be issued with a fixed rate of earnings or with a prior claim to distribution of a specified percentage of any net income remaining after required allocations to reserves, or a combination thereof. Losses shall be charged against *subordinated debt* ~~capital certificates~~ only after other *equity capital* ~~net worth~~ accounts have been exhausted. *Subordinated debt may not be sold, bartered, or exchanged at the main office or branch office or any other premises of the association.*

(3)~~(6)~~ SALE OF LOANS.—To sell with or without recourse any loan, including any participating interests therein.

(4)~~(7)~~ SERVICING.—To service loans and investments for others.

~~(8) INSURANCE OF ACCOUNTS.—To obtain and maintain insurance of its savings accounts by the Federal Savings and Loan Insurance Corporation, by any other federal agency established for the purpose of insuring savings accounts in associations, by any agency of this state, or with any other insurer approved by the department and meeting the qualifications prescribed in this subsection; however, no association subject to the provisions of this chapter shall have the power to obtain insurance of accounts from, or represent in any way that its accounts are insured by, any insurer other than the Federal Savings and Loan Insurance Corporation, another federal agency, or a state agency as herein defined, unless the department, after application to the department for approval has been submitted by the association, has determined that:~~

~~(a) The contract of insurance contemplated is written upon substantially the same basis as to form, amount, coverage, maturity, voluntary termination and involuntary termination, and other provisions as the insurance contract provided at that time by the Federal Savings and Loan Insurance Corporation and complies with such further requirements for protection as the department in its discretion may deem reasonably necessary; and~~

~~(b) The contract is underwritten by an insurer which has a net worth reasonably commensurate with the risks underwritten, but in no event less than $25 million; which is licensed in this state and authorized to do business in this state; which is admitted and authorized by law to write such insurance in all of the states of the union; and which has issued its certificate of approval of such application. These requirements apply to all revisions or modifications of such contracts of insurance. Associations and foreign associations insured as provided in this subsection may make representations as to such insurance of savings accounts, provided any such representations set forth the name of the insurer. Excepting banks, industrial savings banks, and credit unions, no association or foreign association or any other person shall advertise or represent or accept or offer to accept any savings accounts in this state as insured or guaranteed accounts or as the savings accounts of an insured or guaranteed institution unless the same are insured as provided in this subsection. Any violation of this provision is a separate offense for each day of such violation and is a misdemeanor and shall be enjoined upon the application of the Department of Legal Affairs, the Department of Banking and Finance, or other state prosecuting official or by an association in this state. The requirements of this subsection are in the exercise of the police power of this state and are enacted to protect the people of the state from misrepresentation, misunderstanding, and loss.~~

~~(9) FEDERAL HOME LOAN BANK MEMBERSHIP.—To qualify as and become a member of a Federal Home Loan Bank.~~

~~(10) EMPLOYEES.—~~

~~(a) To appoint and remove officers, agents, and employees as its business shall require and to provide them suitable compensation;~~

~~(b) To provide for life, health, and casualty insurance for officers and employees;~~

~~(c) To adopt and operate reasonable bonus plans and retirement benefits for such officers and employees; and~~

~~(d) To provide for indemnification of its officers, employees, and directors as prescribed or permitted in this chapter, whether by insurance or otherwise.~~

~~(11) FACILITATING ORGANIZATIONS.—To become a member of, deal with, or make reasonable payments or contributions to any organization to the extent that such organization assists in furthering or facilitating the purposes, powers, or community responsibilities of the association and to comply with any reasonable condition of eligibility.~~

~~(12) FISCAL AGENT.—To act as fiscal agent of the United States and, when so designated by the Secretary of the Treasury, to perform, under such regulations as he may prescribe, all such reasonable duties as fiscal agent of the United States as he may require; and to act as agent for any instrumentality of the United States and as agent of this state or any instrumentality thereof.~~

~~(13) TAX AND LOAN ACCOUNTS.—To act as depository for receipt of payments of federal or state taxes and loan funds and to satisfy any federal or state statutory or regulatory requirements in connection therewith, including pledging of assets as collateral, payment of earnings at prescribed rates, and, notwithstanding any other provision of this chapter, issuing such accounts subject to the right of immediate withdrawal.~~

(5)~~(14)~~ AGENT.—To act as agent or escrowee for others in any transaction incidental to the operation of its business.

(6)~~(15)~~ LIMITED TRUSTEESHIP.—To act, and receive compensation therefor, as trustee of any trust created or organized in the United States and forming a part of a stock bonus, pension, or profit-sharing plan which qualifies or is qualified for specific tax treatment under s. 401 of the Internal Revenue Code of 1954, as amended, and to act as trustee or custodian of an individual retirement account within the meaning of s. 408 of such code if the funds of such trust or account are invested only in savings accounts of such association or in obligations or securities issued by such association. All funds held in a fiduciary capacity by any such association under the authority of this subsection may be commingled and consolidated for appropriate purposes of investment, provided that records reflecting each separate beneficial interest are maintained by the fiduciary unless such responsibility is lawfully assumed by another appropriate party.

~~(16) GENERAL TRUST BUSINESS.—Upon application to and approval by the department pursuant to chapter 658 and chapter 660, to act as trustee, executor, administrator, personal representative, conservator, guardian, custodian, or in any other fiduciary capacity and to receive reasonable compensation therefor. Such trust business shall be conducted in all respects pursuant to the provisions regarding trust operations in chapter 658 and chapter 660.~~

~~(17) REMOTE FINANCIAL SERVICE UNITS.—To own and use or participate in the use or ownership and use of remote financial service units.~~

~~(18) SAVINGS, LOANS, INVESTMENTS.—To acquire savings and pay earnings thereon and to lend and commit to lend, extend credit, and invest its funds as provided in this chapter.~~

~~(19) SAFE DEPOSIT BOXES.—To maintain and let safes, boxes, or other receptacles or premises for the safekeeping of personal property upon such terms and conditions as may be agreed upon.~~

~~(20) MONEY ORDERS AND TRAVELER'S CHECKS.—To sell money orders, traveler's checks, and similar instruments drawn by it on its deposit accounts or as agent for any organization empowered to sell such instruments through agents within this state.~~

~~(21) DIVIDENDS ON CAPITAL STOCK.—~~

~~(a) To authorize the directors, after charging off bad debts, depreciation, and other worthless assets, if any, to declare a dividend from time to time of so much of the aggregate net income of the association's current fiscal year combined with its retained earnings of the preceding 2 years as they shall judge expedient, and, with the approval of the department, to declare a dividend from retained earnings which accrued prior to the preceding 2 years. However, no association shall declare any dividend on its common stock at any time when its net income from the current year combined with the net income from the preceding 2 years is a loss or which would cause the net worth of the association to fall below the minimum ratio required by law, regulation, final order, or any written agreement with the department or a federal regulatory agency. In no event shall the payment of dividends of any type be made when the payment thereof would cause the association to be in an impaired condition.~~

~~(b) To split up or divide the issued shares of capital stock into a greater number of shares without increasing the stated capital of the association, which shall not be construed to be a dividend within the meaning of this subsection.~~

(7)~~(22)~~ SCHOOL SAVINGS.—To contract with the proper authorities of any public or nonpublic elementary or secondary school or institution of higher learning, or any public or charitable institution caring for minors, for the participation and implementation by the association in any school or institutional thrift or savings plan, and to accept savings accounts at such a school or institution, either by its own collector or by any representative of the school or institution which becomes the agent of the association for such purpose.

(8)~~(23)~~ PAYROLL SAVINGS.—To contract with any employer with respect to the solicitation, collection, and receipt of savings by payroll deduction to be credited to a designated account or accounts of his or its employee or employees who voluntarily may participate or with respect to the direct deposit of wages or salary paid by such employer to the account of the employee in a financial depository institution by electronic or other medium upon authorization in writing by the employee and his designation of the association or other financial depository institution as the recipient of such deposits.

(9)~~(24)~~ DRAFTS.—To issue drafts and similar instruments drawn on the association to aid in effecting withdrawals and for other purposes of the association.

Section 176. Section 665.0711, Florida Statutes, is amended to read:

665.0711 ~~Investment in~~ Loans.—~~Every association shall have power to invest in or otherwise acquire loans and interests in loans, secured or unsecured, of any type or amount and for any purpose, subject only to the requirement that,~~ As an annual average, based on monthly computations, at least 50 percent of assets other than liquid assets *of an association* shall be invested in either real estate loans or interests therein on home property or primarily residential property for terms not in excess of 40 years or for such additional terms as may be provided by rule. Recognizing that associations are chartered to serve the convenience and needs of the communities in which they are chartered to do business, that the convenience and needs of communities include the need for credit services as well as deposit services, and that associations have a continuing and affirmative obligation to help meet the credit needs of the local communities in which they are chartered, at least 40 percent of the assets required to be invested by this section shall be secured by property within this state, unless a lower percentage is established by the department pursuant to s. 655.061, except that loans insured or guaranteed in whole or in part by the United States are not subject to this restriction.

Section 177. Section 665.074, Florida Statutes, is amended to read:

665.074 Loan expenses.—

~~(1) FEES AND CHARGES.~~—Every association may require borrowers to pay all reasonable expenses incurred in connection with the making, closing, disbursing, extending, readjusting, or renewing of real estate loans. Without limiting the generality of the foregoing, such expenses may include appraisal, attorney, abstract, recording, and registration fees; title examination; title insurance; mortgage loan insurance; credit report; survey; drawing of papers; escrow services; loan closing costs; and taxes or charges imposed upon or in connection with the making and recording of any loan. Every association also may require borrowers to pay the cost of all other necessary and incidental services rendered by the association or by others in connection with real estate and other loans in such reasonable amounts as may be fixed by the board of directors. Without limiting the generality of the foregoing, such costs may include the costs of services of inspectors, engineers, and architects. Such initial charges may be collected by the association from the borrower and paid to any person, including any director, officer, or employee of the association rendering such services, or paid directly by the borrower. In lieu of such initial charges to cover such expenses and costs, an association may make a reasonable charge, part or all of which may be retained by the association which renders such service or part or all of which may be paid to others who render such services. The fees and charges authorized by *this chapter* ~~s. 665.0731 and this section~~ shall be in addition to interest authorized by law and shall not be deemed to be a part of the interest collected or agreed to be paid on such loans within the meaning of any law of this state which limits the rate of interest which may be exacted in any transaction. No director, officer, or employee of an association shall receive any fee or other compensation of any kind in connection with procuring any loan for an association, except for services actually rendered as above provided.

~~(2) SETTLEMENT STATEMENT.—The association shall furnish a loan settlement statement to each borrower, indicating in detail the charges and fees such borrower has paid or obligated himself to pay to the association or to any other person in connection with such loan. A copy of such statement shall be retained in the records of the association. A loan settlement statement which satisfies the requirements of applicable federal law shall be deemed to satisfy the requirements of this subsection.~~

Section 178. Subsections (1), (2), and (3) and paragraph (b) of subsection (4) of section 665.1001, Florida Statutes, are amended to read:

665.1001 Foreign associations.—

(1) DEFINED.—For the purposes of this section, the term "foreign association" includes any *domestic joint venture, business trust, syndicate* ~~person~~, firm, company, association, fiduciary, partnership, or corporation, *and all other groups or combinations*, by whatever name called, actually engaged in the business of *an* ~~a savings~~ association ~~or savings bank~~, the principal business office of which is located outside the territorial limits of this state.

(2) DOING BUSINESS.—No foreign association shall do any business of *an* ~~a savings~~ association ~~or savings bank~~ within this state or maintain an office in this state for the purpose of doing such business, including, but not limited to, the establishment of a branch office or other depository office. However, the establishment of a branch office as a result of the reorganization, merger, or consolidation of a foreign association and a Florida association is not prohibited if the laws of the state in which the resulting or surviving association has its principal place of business would permit the establishment of a branch of a Florida association in that state as a result of such a reorganization, merger, or consolidation. The origination of real estate mortgages covering real property located in this state is considered doing business as *an* ~~a savings~~ association unless the state of domicile of the principal business office of any such foreign association permits associations from this state to originate real estate mortgages covering real property located in such state.

(3) ACTION BY DEPARTMENT.—The department is authorized, empowered, and directed to obtain an injunction or to take any other action necessary to prevent any foreign association from doing any business of *an* ~~a savings~~ association in this state.

(4) ACTIVITIES NOT CONSIDERED "DOING BUSINESS."—For the purposes of this section and any other law of this state prohibiting, limiting, or regulating the doing of business in this state by foreign associations or foreign corporations of any type, any federal association, the principal office of which is located outside this state, and any foreign association which is subject to state or federal supervision, or both, which by law are subject to periodic examination by such supervisory authority and to a requirement of periodic audit, shall not be considered to be doing business in this state by reason of engaging in any of the following activities:

(b) The advertising or solicitation of savings accounts or the making of any representations with respect thereto in this state through the medium of the mail, radio, television, magazines, or newspapers or any other medium which is published or circulated within this state; provided that such advertising, solicitation, or the making of such representations is accurately descriptive of the facts~~; and provided, further, that if such advertising, solicitation, or the making of such representations contains any reference to insurance or guaranty of accounts, such shall comply with the provisions of s. 665.0501(8)~~.

Section 179. Section 665.1011, Florida Statutes, is amended to read:

665.1011 Federal ~~savings and loan~~ associations.—Federal ~~savings and loan~~ associations, which are incorporated pursuant to the laws of the United States, as now or hereafter amended, and the principal place of business of which is located within this state, are not foreign corporations or foreign associations. Unless federal laws or regulations provide otherwise, such federal associations and the members or stockholders thereof shall possess all of the rights, powers, privileges, benefits, immunities, and exemptions that are now provided or that hereafter may be provided by the laws of this state for associations organized under the laws of this state and for the members or stockholders thereof. This provision is additional and supplemental to any provision which, by specific reference, is applicable to federal associations and the members or stockholders thereof.

Section 180. Section 665.102, Florida Statutes, is amended to read:

665.102 Grandfather clause.—*The financial institutions codes* ~~This chapter~~ shall not impair or affect any act done; offense committed; right accruing, accrued, or acquired; or liability, penalty, forfeiture or punishment incurred prior to the effective date of the *financial institutions codes* ~~chapter~~, but the same may be enjoyed, asserted, enforced, prosecuted, or inflicted as fully and to the same extent as if *the financial institutions codes* ~~this chapter~~ had not been passed.

Section 181. (1) Sections 655.081 and 655.413, Florida Statutes, are repealed.

(2) Notwithstanding the provisions of section 11.61, Florida Statutes, the Regulatory Sunset Act, or of section 1 of chapter 85-65, section 30 of chapter 89-229, section 1 of chapter 89-296, or section 1 of chapter 90-192, Laws of Florida, sections 655.001, 655.005, 655.012, 655.016, 655.021, 655.025, 655.029, 655.033, 655.034, 655.037, 655.041, 655.043, 655.044, 655.045, 655.049, 655.053, 655.057, 655.059, 655.061, 655.071, 655.41, 655.411, 655.412, 655.414, 655.416, 655.417, 655.418, 655.419, 655.50, 655.51, and 655.55, Florida Statutes, shall not stand repealed or expire October 1, 1991, as scheduled by such laws, but those sections, as renumbered and amended by this act, are revived and readopted.

(3) Chapter 88-113, Laws of Florida, is repealed.

Section 182. Sections 655.001, 655.005, 655.012, 655.013, 655.015, 655.016, 655.031, 655.032, 655.0321, 655.0322, 655.033, 655.034, 655.037, 655.0385, 655.0386, 655.0391, 655.0392, 655.041, 655.043, 655.044, 655.045, 655.047, 655.049, 655.053, 655.057, 655.059, 655.061, 655.071, 655.41, 655.411, 655.412, 655.414, 655.416, 655.417, 655.418, 655.419, 655.50, 655.51, 655.55, 655.56, 655.60, 655.762, 655.769, 655.77, 655.78, 655.79, 655.80, 655.81, 655.83, 655.84, 655.85, 655.86, 655.89, 655.90, 655.91, 655.921, 655.922, 655.93, 655.931, 655.932, 655.933, 655.934, 655.935, 655.936, 655.937, 655.938, 655.939, and 655.94, Florida Statutes, are repealed October 1, 1992, and shall be reviewed by the Legislature prior to that date.

Section 183. Notwithstanding the provisions of section 11.61, Florida Statutes, the Regulatory Sunset Act, or of section 2 of chapter 81-318, section 1 of chapter 82-46, section 46 of chapter 82-214, section 51 of chapter 84-216, or section 58 of chapter 85-82, Laws of Florida, sections 657.001, 657.002, 657.003, 657.004, 657.005, 657.008, 657.021, 657.022, 657.023, 657.024, 657.026, 657.027, 657.028, 657.029, 657.031, 657.032, 657.033, 657.0335, 657.034, 657.035, 657.036, 657.037, 657.038, 657.039, 657.041, 657.042, 657.043, 657.051, 657.053, 657.055, 657.062, 657.063, 657.064, 657.065, 657.066, 657.068, 657.25, 657.251, 657.252, 657.253, 657.254, 657.256, 657.257, 657.258, 657.259, 657.260, 657.261, 657.262, 657.263, 657.264, 657.265, 657.266, 657.267, and 657.268, Florida Statutes, shall not stand repealed or expire October 1, 1991, as scheduled by such laws, but those sections, as amended by this act, are revived and readopted.

Section 184. (1) Sections 657.001, 657.002, 657.003, 657.004, 657.005, 657.0061, 657.008, 657.021, 657.022, 657.023, 657.024, 657.026, 657.0265, 657.027, 657.028, 657.029, 657.031, 657.0315, 657.032, 657.033, 657.0335, 657.034, 657.035, 657.036, 657.037, 657.038, 657.039, 657.041, 657.042, 657.043, 657.051, 657.053, 657.055, 657.062, 657.063, 657.064, 657.065, 657.066, and 657.068, Florida Statutes, are repealed October 1, 1992, and shall be reviewed by the Legislature prior to that date.

(2) Sections 657.25, 657.251, 657.252, 657.253, 657.254, 657.256, 657.257, 657.258, 657.259, 657.260, 657.261, 657.262, 657.263, 657.264, 657.265, 657.266, 657.267, 657.268, and 657.269, Florida Statutes, are repealed October 1, 1992, and shall be reviewed by the Legislature prior to that date.

Section 185. (1) Sections 658.1101, 658.13, 658.14, 658.15, 658.46, 658.47, 658.54, 658.55, 658.56, 658.57, 658.58, 658.59, 658.61, 658.62, 658.63, 658.64, 658.66, 658.69, 658.70, 658.71, 658.72, 658.74, 658.75, 658.76, 658.77, 658.78, 658.85, 658.86, 658.87, 658.88, 658.89, 658.91, 658.92, 658.93, 658.97, 658.98, and 658.99, Florida Statutes, are repealed.

(2) Notwithstanding the provisions of section 11.61, Florida Statutes, the Regulatory Sunset Act, or of section 2 of chapter 81-318, section 2 of chapter 82-194, section 46 of chapter 82-214, section 4 of chapter 84-42, section 51 of chapter 84-216, section 58 of chapter 85-82, or section 2 of chapter 90-41, Laws of Florida, sections 658.12, 658.16, 658.19, 658.20, 658.21, 658.22, 658.23, 658.235, 658.24, 658.25, 658.26, 658.27, 658.28, 658.29, 658.295, 658.30, 658.32, 658.33, 658.34, 658.35, 658.36, 658.37, 658.38, 658.39, 658.40, 658.41, 658.42, 658.43, 658.44, 658.45, 658.48, 658.49, 658.491, 658.50, 658.51, 658.53, 658.60, 658.65, 658.67, 658.68, 658.73, 658.79, 658.80, 658.81, 658.82, 658.83, 658.84, 658.90, 658.94, 658.95, and 658.96, Florida Statutes, shall not stand repealed or expire October 1, 1991, as scheduled by such laws, but those sections, as amended by this act, are revived and readopted.

Section 186. Sections 658.12, 658.16, 658.165, 658.19, 658.20, 658.21, 658.22, 658.23, 658.235, 658.24, 658.25, 658.26, 658.27, 658.28, 658.29, 658.295, 658.296, 658.30, 658.32, 658.33, 658.34, 658.35, 658.36, 658.37, 658.38, 658.39, 658.40, 658.41, 658.42, 658.43, 658.44, 658.45, 658.48, 658.49, 658.491, 658.50, 658.51, 658.53, 658.60, 658.65, 658.67, 658.68, 658.73, 658.79, 658.80, 658.81, 658.82, 658.83, 658.84, 658.90, 658.94, 658.95, and 658.96, Florida Statutes, are repealed October 1, 1992, and shall be reviewed by the Legislature prior to that date.

Section 187. (1) Section 660.32, Florida Statutes, is repealed.

(2) Notwithstanding the provisions of section 11.61, Florida Statutes, the Regulatory Sunset Act, or of section 2 of chapter 81-318 or section 51 of chapter 84-216, Laws of Florida, sections 660.25, 660.26, 660.27, 660.28, 660.29, 660.30, 660.31, 660.33, 660.34, 660.35, 660.36, 660.37, 660.38, 660.39, 660.40, 660.41, 660.42, 660.43, 660.44, 660.45, 660.46, 660.47, and 660.48, Florida Statutes, shall not stand repealed or expire October 1, 1991, as scheduled by such laws, but those sections, as amended by this act, are revived and readopted.

Section 188. Sections 660.25, 660.26, 660.265, 660.27, 660.28, 660.29, 660.30, 660.31, 660.33, 660.34, 660.35, 660.36, 660.37, 660.38, 660.39, 660.40, 660.41, 660.415, 660.42, 660.43, 660.44, 660.45, 660.46, 660.47, and 660.48, Florida Statutes, are repealed October 1, 1992, and shall be reviewed by the Legislature prior to that date.

Section 189. Sections 661.45, 661.46, 661.47, 661.48, 661.49, 661.50, 661.51, 661.52, 661.53, 661.54, and 661.55, Florida Statutes, are repealed.

Section 190. Sections 662.01, 662.02, 662.03, 662.04, 662.05, 662.06, 662.07, and 662.08, Florida Statutes, are repealed.

Section 191. Notwithstanding the provisions of section 11.61, Florida Statutes, the Regulatory Sunset Act, or of section 2 of chapter 81-318, section 46 of chapter 82-214, section 51 of chapter 84-216, section 58 of chapter 85-82, section 5 of chapter 86-82, or section 1 of chapter 90-192, Laws of Florida, sections 663.01, 663.02, 663.03, 663.04, 663.05, 663.06, 663.07, 663.08, 663.09, 663.10, 663.11, 663.12, 663.13, 663.14, 663.301, 663.302, 663.303, 663.304, 663.305, 663.306, 663.307, 663.308, 663.309, 663.310, 663.311, 663.312, 663.313, 663.314, 663.315, 663.316, 663.317, 663.318, and 663.319, Florida Statutes, shall not stand repealed or expire October 1, 1991, as scheduled by such laws, but those sections, as amended by this act, are revived and readopted.

Section 192. Sections 663.01, 663.02, 663.03, 663.04, 663.05, 663.055, 663.06, 663.061, 663.062, 663.063, 663.064, 663.065, 663.066, 663.07, 663.08, 663.083, 663.09, 663.10, 663.11, 663.12, 663.13, 663.14, 663.301, 663.302, 663.303, 663.304, 663.305, 663.306, 663.307, 663.308, 663.309, 663.310, 663.311, 663.312, 663.313, 663.314, 663.315, 663.316, 663.317, 663.318, and 663.319, Florida Statutes, are repealed October 1, 1992, and shall be reviewed by the Legislature prior to that date.

Section 193. Sections 664.01, 664.02, 664.03, 664.045, 664.05, 664.06, 664.07, 664.08, 664.09, 664.10, 664.11, and 664.12, Florida Statutes, are repealed.

Section 194. (1) Sections 665.011, 665.0201, 665.022, 665.023, 665.024, 665.025, 665.027, 665.028, 665.0301, 665.0311, 665.0335, 665.038, 665.0401, 665.044, 665.045, 665.047, 665.048, 665.0601, 665.0611, 665.062, 665.063, 665.064, 665.065, 665.066, 665.067, 665.068, 665.069, 665.0701, 665.0731, 665.076, 665.077, 665,0801, 665.082, 665.083, 665.093, 665.096, 665.097, 665.099, 665.1021, 665.103, and 665.104, Florida Statutes, as amended by sections 10 and 11 of chapter 90-51, sections 185, 186, and 187 of chapter 90-179, and section 6 of chapter 90-197, Laws of Florida, are repealed.

(2) Notwithstanding the provisions of section 11.61, Florida Statutes, the Regulating Sunset Act, or of section 2 of chapter 81-318, section 46 of chapter 82-214, section 51 of chapter 84-216, section 58 of chapter 85-82, or section 7 of chapter 86-58, Laws of Florida, sections 665.012, 665.0211, 665.0315, 665.033, 665.034, 665.0345, 665.0501, 665.0711, 665.074, 665.075, 665.1001, 665.1011, and 665.102, Florida Statutes, shall not stand repealed or expire October 1, 1991, as scheduled by such laws, but those sections, as amended by this act, are revived and readopted.

Section 195. Sections 665.012, 665.013, 665.0211, 665.0315, 665.033, 665.034, 665.0345, 665.0501, 665.0711, 665.074, 665.075, 665.1001, 665.1011, and 665.102, Florida Statutes, are repealed October 1, 1992, and shall be reviewed by the Legislature prior to that date.

Section 196. Section 154.238, Florida Statutes, is amended to read:

154.238 Authorization to deal with *financial institution* ~~bank~~ which employs a member of the authority.—Notwithstanding any general or special law, rule, regulation, or ordinance to the contrary, including ss. 112.311-112.326, an authority may sell its bonds to a *financial institution* ~~bank~~, as defined in *s. 655.005* ~~s. 662.02(1)~~, which employs a member of the authority as an officer, director, or employee and may appoint a *financial institution* ~~bank~~ to serve as trustee or cotrustee under a trust indenture relating to bonds issued under this part, notwithstanding the fact that an officer, director, or employee of the *financial institution* ~~bank~~ which is interested in purchasing or serving as trustee or cotrustee for a proposed or outstanding bond issue shall vote on any matter related to such bond issue after the interest of the *financial institution* ~~bank~~ in such bond issue becomes known to him.

Section 197. Section 159.414, Florida Statutes, is amended to read:

159.414 Authority to deal with *financial institution* ~~bank~~ which employs a board member.—Notwithstanding any general or special law, rule, regulation, or ordinance to the contrary, including ss. 112.311-112.326, a board may sell its bonds to a *financial institution* ~~bank~~, as defined in *s. 655.005* ~~s. 662.02(1)~~, which employs a member of the board as an officer, director, or employee and may appoint a *financial institution* ~~bank~~ to serve as trustee or cotrustee under a trust indenture relating to bonds issued under this part, notwithstanding the fact that an officer, director, or employee of the *financial institution* ~~bank~~ is a member of the board. However, no member of the board who is an officer, director, or employee of a *financial institution* ~~bank~~ which is interested in purchasing or serving as trustee or cotrustee for a proposed or outstanding bond issue shall vote on any matter related to such bond issue after the interest of the *financial institution* ~~bank~~ in such bond issue becomes known to him.

Section 198. Section 159.494, Florida Statutes, is amended to read:

159.494 Authority to deal with *financial institution* ~~bank~~ which employs a member of the authority.—Notwithstanding any general or special law, rule, regulation, or ordinance to the contrary, including ss. 112.311-112.326, an authority may sell its bonds to a *financial institution* ~~bank~~, as defined in *s. 655.005* ~~s. 662.02(1)~~, which employs a member of the authority as an officer, director, or employee and may appoint a *financial institution* ~~bank~~ to serve as trustee or cotrustee under a trust indenture relating to bonds issued under this part, notwithstanding the fact that an officer, director, or employee of the *financial institution* ~~bank~~ is a member of the authority. However, no member of the authority who is an officer, director, or employee of a *financial institution* ~~bank~~ which is interested in purchasing or serving as trustee or cotrustee for a proposed or outstanding bond issue shall vote on any matter related to such bond issue after the interest of the *financial institution* ~~bank~~ in such bond issue becomes known to him.

Section 199. Section 240.488, Florida Statutes, is amended to read:

240.488 Investment of funds of authority.—Except as otherwise provided in s. 240.487(3), an authority may invest any funds in:

(1) Direct obligations of the United States of America;

(2) Obligations as to which the timely payment of principal and interest is fully guaranteed by the United States of America;

(3) Obligations of the Federal Intermediate Credit Banks, Federal Banks for Cooperatives, Federal Land Banks, Federal Home Loan Banks, Federal National Mortgage Association, Government National Mortgage Association, and Student Loan Marketing Association;

(4) Certificates of deposit or time deposits constituting direct obligations of any *financial institution* ~~bank~~ as defined by the *financial institutions codes* ~~Florida Banking Code~~, as now or hereafter amended, except that investments may be made only in those certificates of deposit or time deposits in *financial institutions* ~~banks~~ which are insured by the *appropriate federal regulatory agency as defined in s. 655.005* ~~Federal Deposit Insurance Corporation, if then in existence~~; and

(5) Withdrawable capital accounts or deposits of state or federally chartered savings and loan associations which are insured by the Federal Savings and Loan Insurance Corporation. Any such securities may be purchased at the offering or market price thereof at the time of such purchase. All such securities so purchased shall mature or be redeemable on a date prior to the time when, in the judgment of the authority, the funds so invested will be required for expenditure. The express judgment of the authority as to the time when any funds will be required for expenditure or be redeemable is final and conclusive.

Section 200. Subsection (1) of section 288.753, Florida Statutes, is amended to read:

288.753 Periodic examinations; reports.—

(1) The corporation shall be examined at least once every 18 months by the Department of Banking and Finance or a certified public accountant agreed upon by the corporation and the department. The corporation shall make reports of its condition not less than annually to the department and more frequently upon call of the department, which in turn shall make copies of such reports available to the Governor, the Department of Commerce, and the Comptroller. The corporation shall also furnish such other information as may from time to time be required by the Department of Banking and Finance, the Department of Revenue, the Department of State, and the Department of Insurance. The corporation shall pay the actual cost of said examinations. The Department of Banking and Finance shall exercise the same power and authority over corpo-

rations organized under this part as is ~~now~~ exercised over *financial institutions* ~~banks and trust companies~~ by the provisions of the *financial institutions codes, when* ~~Florida Banking Code, where~~ such *codes are* ~~banking code is~~ not in conflict with this part.

Section 201. Section 289.121, Florida Statutes, is amended to read:

289.121 Periodic examinations; reports.—The corporation shall be examined at least once annually by the Department of Banking and Finance and shall make reports of its condition not less than annually to said department and more frequently upon call of the department, which in turn shall make copies of such reports available to the Department of Insurance and the Governor; and the corporation shall also furnish such other information as may from time to time be required by the Department of Banking and Finance and Department of State. The corporation shall pay the actual cost of said examinations. The Department of Banking and Finance shall exercise the same power and authority over corporations organized under this act as is ~~now~~ exercised over *financial institutions under* ~~banks and trust companies by~~ the provisions of the *financial institutions codes, when* ~~Florida Banking Code, where~~ such *codes are* ~~banking code is~~ not in conflict with this act.

Section 202. Subsection (2) of section 420.141, Florida Statutes, is amended to read:

420.141 Housing Development Corporation of Florida; deposits and examination.—

(2) The corporation shall be examined at least once annually by the Department of Banking and Finance and shall make reports of its condition not less than annually to said department, and more frequently upon call of the department, which in turn shall make copies of such reports available to the Department of Insurance and the Governor; and the corporation shall also furnish such other information as may from time to time be required by the Department of Banking and Finance and the Department of State. The Department of Banking and Finance shall exercise the same power and authority over the corporation organized pursuant to this part as is ~~now~~ exercised over *financial institutions under* ~~banks and trust companies by~~ the provisions of the *financial institutions codes* ~~Florida Banking Code~~, when such *codes are* ~~banking code is~~ not in conflict with this chapter.

Section 203. Paragraph (c) of subsection (1) of section 538.03, Florida Statutes, 1990 Supplement, is amended to read:

538.03 Definitions; applicability.—

(1) As used in this part, the term:

(c) "Pawnbroker" means a secondhand dealer who is regularly engaged in the business of making pawns but does not include a financial institution as defined in *s. 655.005* ~~s. 655.081~~ or any person who regularly loans money or any other thing of value on stocks, bonds, or other securities.

Section 204. Paragraph (b) of subsection (1) of section 560.201, Florida Statutes, is amended to read:

560.201 Record of sale of money order of $700 or more required.—

(1) DEFINITIONS.—As used in this section, the term:

(b) "Deposit account" means *an account in a financial institution on which the account holder is permitted to make withdrawals by negotiable or transferable instrument, payment orders or withdrawals, telephone transfers, or other similar items for the purpose of making payments or transfers to third persons or others. Such term includes demand deposits, negotiable order or withdrawal draft accounts, savings deposits subject to automatic transfer, share draft accounts, and all savings deposits and share accounts other than time deposits* ~~a deposit account as defined in s. 655.081(1)(b)~~.

Section 205. Subsection (2) of section 607.0501, Florida Statutes, 1990 Supplement, is amended to read:

607.0501 Registered office and registered agent.—

(2) This section does not apply to corporations which are required by law to designate the Insurance Commissioner and Treasurer as their attorney for the service of process, ~~savings~~ associations ~~or savings and loan associations~~ subject to the provisions of chapter 665, *and* banks and trust companies subject to the provisions of the *financial institutions codes* ~~Florida Banking Code, savings banks, and industrial savings banks~~.

Section 206. Subsection (2) of section 627.826, Florida Statutes, is amended to read:

627.826 "Premium finance company" defined.—

(2) Credit unions, banks, savings and loan associations, and other lending institutions as defined under chapters 516, 657, 658, ~~664,~~ and 665 or their federally chartered counterparts are exempt from the provisions of this part.

Section 207. Paragraph (j) of subsection (2) of section 671.304, Florida Statutes, 1990 Supplement, is amended to read:

671.304 Laws not repealed; precedence where code provisions in conflict with other laws; certain statutory remedies retained.—

(2) The following laws and parts of laws are specifically not repealed and shall take precedence over any provisions of this code which may be inconsistent or in conflict therewith:

(j) Chapters 658, 660, ~~661, 662,~~ and 663—~~Florida Banking Code~~.

Section 208. Subsection (1) of section 687.12, Florida Statutes, is amended to read:

687.12 Interest rates; parity among licensed lenders or creditors.—

(1) Any lender or creditor licensed or chartered under the provisions of chapter 516, chapter 520, chapter 657, chapter 658 or former chapter 659, *former* chapter 664 or former chapter 656, chapter 665, or part XV of chapter 627; any lender or creditor located in the State of Florida and licensed or chartered under the laws of the United States and authorized to conduct a lending business; or any lender or creditor lending through a licensee under chapter 494, shall be authorized to charge interest on loans or extensions of credit to any person as defined in s. 1.01(3), or to any firm or corporation, at the maximum rate of interest permitted by law to be charged on similar loans or extensions of credit made by any lender or creditor in the State of Florida, except that the statutes governing the maximum permissible interest rate on any loan or extension of credit, and other statutory restrictions relating thereto, shall also govern the amount, term, permissible charges, rebate requirements, and restrictions for a similar loan or extension of credit made by any lender or creditor.

Section 209. Paragraph (f) of subsection (1) of section 896.101, Florida Statutes, 1990 Supplement, is amended to read:

896.101 Offense of conduct of financial transaction involving proceeds of unlawful activity; penalties.—

(1) Definitions.—As used in this section, the term:

(f) "Financial institution" means an institution regulated under *chapter 655,* chapter 657, chapter 658, chapter 660, ~~chapter 661, chapter 662,~~ chapter 663, ~~chapter 664,~~ or chapter 665.

Section 210. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 211. This act shall take effect July 1, 1991.

Senator Gordon moved the following amendment to **Amendment 1**:

Amendment 1A—On page 231, strike all of lines 29 and 30 and insert: exceeding the equivalent of the Interest Rate Index plus 5 percent per annum, simple interest. For the purposes of this section Interest Rate Index means the prime rate as listed in the Wall Street Journal on the 15th of the month preceding the month during which the billing occurs.

Senator Davis moved the following substitute amendment for **Amendment 1A** which failed:

Amendment 1B—On page 232, strike all of lines 9-18

Amendment 1A failed.

Senator Childers moved the following amendment to **Amendment 1** which was adopted:

Amendment 1C—On page 330, line 5, strike "*be given*" and insert: *give*

Amendment 1 as amended was adopted.

Senator Childers moved the following amendment:

Amendment 2—In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to financial institutions; amending s. 655.001, F.S.; expanding the scope of the section to specify the purposes and application of the financial institutions codes rather than of ch. 655, F.S.; amending s. 655.005, F.S.; altering and adding definitions applicable to ch. 655, F.S.; amending s. 655.012, F.S., relating to general supervisory powers of the Department of Banking and Finance, to conform; creating s. 655.013, F.S.; providing for the act's effect on existing financial institutions; creating s. 655.015, F.S.; providing for construction of the act and standards to be observed by the department; transferring, renumbering, and amending s. 655.021, F.S., relating to administrative enforcement guidelines; transferring, renumbering, and amending s. 655.025, F.S., concerning department investigations, subpoenas, hearings, and witnesses; transferring, renumbering, and amending s. 655.029, F.S.; requiring hearings and proceedings to be public except under certain circumstances; creating s. 655.0322, F.S.; prescribing prohibited acts and practices; providing criminal penalties; amending s. 655.033, F.S.; revising the grounds upon which and the parties against which the department may issue a cease and desist order; amending s. 655.034, F.S., relating to injunctions; inserting the term "members" to conform; amending s. 655.037, F.S., relating to removal of officers, directors, and others by the department; revising the list of persons that may be so removed and revising the grounds upon which such persons may be removed; revising the procedure therefor; creating s. 655.0385, F.S.; providing for the disapproval of directors and executive officers of a financial institution by the department; creating s. 655.0386, F.S.; restricting conduct of and transactions by financial institution-affiliated parties; creating s. 655.0391, F.S.; providing for retention of supervision of financial institutions by the department; creating s. 655.0392, F.S.; allowing a financial institution to rent space from a governmental entity under certain circumstances; authorizing a governmental entity to rent such space at a certain rate; deleting provisions for disposition of fines; amending s. 655.041, F.S.; expanding the department's authority to impose administrative fines; amending s. 655.044, F.S.; revising recordkeeping requirements; providing for recovery of certain costs; amending s. 655.045, F.S.; revising the examination authority of the department; amending s. 655.047, F.S.; clarifying the application period of assessments; allowing proration of assessments but prohibiting refunds of portions of assessments; deleting provisions for disposition of assessments; amending s. 655.049, F.S.; clarifying the types of fees that are required to be deposited into the Financial Institutions' Regulatory Trust Fund; amending s. 655.053, F.S.; revising the annual report requirements; amending s. 655.057, F.S.; revising the restrictions on public access to certain records; amending s. 655.059, F.S.; providing certain law enforcement agencies access to a financial institution's books and records; amending s. 655.061, F.S., relating to competitive equality with federally organized or chartered financial institutions; providing for the section to take precedence over other state statutes; amending s. 655.41, F.S., relating to cross-industry conversions, mergers, consolidations, and acquisitions; replacing the term "financial institution" with the term "financial entity" with reference thereto; amending s. 655.411, F.S.; revising conversion-of-charter requirements; amending s. 655.412, F.S.; revising merger and consolidation requirements; amending s. 655.414, F.S.; revising the conditions and limitations upon which a financial entity may acquire all or substantially all the assets or liabilities of another financial entity; amending s. 655.416, F.S.; providing for the valuation of assets after an acquisition; amending s. 655.417, F.S.; conforming provisions relating to the effect of merger, consolidation, conversion, or acquisition; amending s. 655.418, F.S.; conforming provisions relating to cessation of nonconforming activities; amending s. 655.419, F.S.; clarifying the applicability of provisions for merger, consolidation, conversion, or acquisition of assets; amending s. 655.50, F.S.; revising the provisions of, and the penalties for violation of, the Florida Control of Money Laundering in Financial Institutions Act; providing for confidentiality of reports and records thereunder; extending the act's penalties to cover violations of ch. 896, F.S., or similar state or federal statutes; amending s. 655.51, F.S.; allowing state and federal regulatory agencies access to certain employment information; amending s. 655.55, F.S., relating to the law applicable to deposits in and contracts related to extensions of credit by financial institutions; replacing the term "financial institution" with the term "deposit or lending institution" and defining that term; creating s. 655.56, F.S.; providing for the collection of fines, interest, or premiums on loans made by financial institutions; creating s. 655.60, F.S.; providing for appraisals of financial institutions, subsidiaries, or service corporations by the department; creating s. 655.762, F.S.; regulating the sale of assets by a financial institution; creating s. 655.769, F.S.; providing definitions related to deposits in deposit or lending institutions; creating s. 655.77, F.S.; providing for deposits by minors; creating s. 655.78, F.S.; providing for deposit accounts in two or more names; creating s. 655.79, F.S.; establishing a presumption as to vesting on death when deposits and accounts are in two or more names; creating s. 655.80, F.S.; defining and establishing requirements for convenience accounts; creating s. 655.81, F.S.; providing for deposits in trust; creating s. 655.83, F.S.; providing for adverse claims to deposit or fiduciary accounts; creating s. 655.84, F.S.; establishing a presumption as to correctness concerning statements of account; creating s. 655.85, F.S.; providing for settlement of checks; creating s. 655.86, F.S.; regulating the issuance of postdated checks; creating s. 655.89, F.S.; defining "legal holidays," "business days," and "transactions"; creating s. 655.90, F.S.; providing for the closing of deposit or lending institutions during emergencies and other special days; creating s. 655.91, F.S.; providing recordkeeping requirements for such institutions; creating s. 655.921, F.S.; providing for transaction of business by out-of-state financial institutions; creating s. 655.922, F.S.; prohibiting banking by unauthorized persons; providing penalties; creating s. 655.93, F.S.; providing definitions related to the leasing of safe-deposit boxes; creating s. 655.931, F.S.; authorizing financial institutions to engage in the safe-deposit business; creating s. 655.932, F.S.; authorizing the leasing of a safe-deposit box to a minor; creating s. 655.933, F.S.; providing for access to safe-deposit boxes by fiduciaries; creating s. 655.934, F.S.; specifying the effect of the death or incapacity of the lessee of a safe-deposit box; creating s. 655.935, F.S.; establishing safe-deposit search procedures on the death of the lessee; creating s. 655.936, F.S.; providing for the delivery of safe-deposit box contents or other property to a personal representative; creating s. 655.937, F.S.; providing for access to a safe-deposit box leased in two or more names; creating s. 655.938, F.S.; providing for adverse claims to the contents of a safe-deposit box; creating s. 655.939, F.S.; limiting the right of access to a safe-deposit box for failure to comply with security procedures; creating s. 655.94, F.S.; providing special remedies for the nonpayment of rent for a safe-deposit box; amending s. 657.002, F.S.; providing definitions; amending s. 657.004, F.S.; providing technical changes to cross-references; amending s. 657.005, F.S.; providing credit union organizational procedures and forms; creating s. 657.0061, F.S.; requiring the submission of bylaw amendments to the Department of Banking and Finance; amending s. 657.008, F.S.; authorizing armored car services and deleting the requirement that all records be kept at the principal place of business as described within the bylaws; amending s. 657.021, F.S.; defining the duties and powers of the board of directors; amending s. 657.023, F.S.; clarifying certain language; amending s. 657.026, F.S.; authorizing audit committees and defining the duties and responsibilities of these committees; amending s. 657.0265, F.S.; prescribing the liability of audit committee members; amending s. 657.027, F.S.; clarifying certain language; amending s. 657.028, F.S.; prohibiting certain persons from serving as an officer, director, or committee member; amending s. 657.031, F.S.; clarifying language and deleting language requiring notice to the department concerning certain authorized activities; creating s. 657.0315, F.S.; prohibiting credit unions from entering into certain contracts; limiting the enforceability of these contracts; amending s. 657.033, F.S.; clarifying the definition of dormant accounts; amending s. 657.038, F.S.; deleting reference to a 18-percent usury cap and defining the term "related interest"; amending s. 657.039, F.S.; prescribing conditions for credit union loans to its directors, officers, and employees; defining the term "related interests"; amending s. 657.042, F.S.; increasing the allowable percentage of certain types of investments and clarifying the authority to invest in mutual funds; amending s. 657.043, F.S.; replacing the term "gross earnings" with the term "all income for the period"; modifying the definition of "risk assets" and increasing the amount of reserve amounts; amending s. 657.053, F.S.; revising the amounts of the semiannual assessments collected from credit unions; amending s. 657.055, F.S.; mandating the type and length of time certain records must be maintained; amending s. 657.062, F.S.; providing procedures for assumption of control of an insolvent credit union; amending s. 657.063, F.S.; authorizing the department to appoint a liquidator; limiting the enforceability of certain contracts; modifying procedures for involuntary liquidation; amending s. 657.064, F.S.; altering the procedures for undertaking a voluntary liquidation; amending s. 657.065, F.S.; prescribing voting requirements and procedures of a credit union merger; amending s. 657.068, F.S.; removing certain limitations on membership in a central credit union; providing for the conversion to federal share insurance through the National Credit

Union Administration or the liquidation or merger of all member credit unions and the dissolution of the Florida Credit Union Guaranty Corporation; amending s. 657.251, F.S.; providing a purpose; amending s. 657.253, F.S.; defining member credit union; amending s. 657.257, F.S.; providing for the conversion of member credit unions to federal share insurance and deleting certain procedural requirements for such conversion; amending s. 657.258, F.S.; providing standards in pledging or advancing funds or entering into agreements with the National Credit Union Administration or providing assistance to member credit unions to qualify for federal share insurance; providing for a determination date for liquidating distributions; amending s. 657.259, F.S.; providing that the plan of operation provide for dissolution of the corporation; amending s. 657.260, F.S.; providing authority to the department to require the corporation to take any required action; amending s. 657.262, F.S.; permitting the department to charge the corporation the actual cost of examination of certain member credit unions when examination is requested; amending s. 657.263, F.S.; permitting the department to charge the corporation the actual cost of its annual examination; providing for disposition of the records of the corporation; creating s. 657.269, F.S.; providing for the orderly dissolution of the Florida Credit Union Guaranty Corporation; providing for retroactive application; amending s. 658.12, F.S.; providing definitions; amending s. 658.165, F.S.; correcting a cross-reference and inserting the term "financial institutions codes"; amending s. 658.20, F.S.; providing for prior approval of certain directors and executive officers of a failing bank or trust company; providing a filing fee for approval; amending s. 658.21, F.S.; altering the approval criteria of an application; amending s. 658.22, F.S.; requiring orders approving applications to organize a state bank be sent to the "Federal Home Loan Bank of Atlanta"; amending s. 658.23, F.S.; requiring prior Department of Banking and Finance authorization for a change in the articles of incorporation; amending ss. 658.24, 658.25, F.S.; substituting the term "bank" for "banking corporation"; amending s. 658.26, F.S.; altering the locations where banks and trust companies may transact business; amending s. 658.27, F.S.; altering the definition of control over a bank or trust company; amending s. 658.28, F.S.; providing an exception to the requirement that the department be given prior notice of any acquisition of voting securities; amending s. 658.29, F.S.; altering certain prohibitions concerning ownership and control of a bank or trust company; amending s. 658.30, F.S.; incorporating changes concerning the application of the Florida Business Corporation Act; amending s. 658.32, F.S.; allowing the department to approve an annual meeting date which is not within the first 4 months of a given year; amending s. 658.33, F.S.; inserting the term "financial institutions codes"; requiring director's oath of office to be filed within 30 days of election; amending s. 658.34, F.S.; requiring shares of common stock to be issued with a minimum par value and to be paid for in cash; amending s. 658.36, F.S.; requiring department approval for banks and trust companies to reduce outstanding common stock; amending s. 658.37, F.S.; clarifying that a stock split does not constitute a dividend; amending s. 658.38, F.S.; clarifying that a state bank must have and maintain Federal Deposit Insurance; amending s. 658.39, F.S.; restricting the right of stockholders to examine certain records; amending s. 658.40, F.S.; deleting the term "conversion"; amending s. 658.42, F.S.; providing a technical clarification; amending s. 658.43, F.S.; modifying the department's authority to issue emergency rules concerning a failing institution; amending s. 658.44, F.S., relating to approval by stockholders; revising cross-references; amending s. 658.45, F.S.; providing a technical clarification; amending s. 658.48, F.S.; altering the loan and credit authority of a state bank; amending s. 658.50, F.S., relating to loans or extensions of credit; removing interest rate limitations on credit cards or overdraft financing arrangements; improving clarity; amending s. 658.53, F.S.; altering limits of indebtedness; amending s. 658.60, F.S.; deleting the term "reserves"; amending s. 658.65, F.S.; altering the provisions related to remote financial service units; amending s. 658.67, F.S.; altering the investment powers of a bank and trust company; amending s. 658.68, F.S.; altering the liquidity requirements of a state bank; amending s. 658.73, F.S.; increasing examination fees and assessments; amending s. 658.79, F.S.; allowing the department to take possession of an imminently insolvent state bank or trust company; deleting the conditions for determining insolvency; amending ss. 658.80, 658.82, 658.83, F.S.; providing a technical clarification; amending s. 658.84, F.S.; prohibiting the enforcement of certain judicial actions; amending s. 660.25, F.S.; redefining the term "commercial department"; providing for the use of terms defined in other chapters of the Florida Statutes; creating s. 660.265, F.S.; requiring certain financial institutions to pay the costs of examination by the Department of Banking and Finance; amending s. 660.27, F.S.; deleting references to state mutual associations with respect to deposits of securities with the Treasurer; clarifying the term "bank" to include state banks and national banks; amending s. 660.33, F.S.; prescribing when an association is "affiliated" or a "successor"; correcting a cross-reference; amending s. 660.37, F.S.; deleting references to the Federal Savings and Loan Insurance Corporation; permitting the deposit of fiduciary funds in amounts exceeding insurance in specified circumstances; amending s. 660.41, F.S.; revising powers of corporations other than banks, associations, and trust companies with respect to fiduciary functions; amending s. 660.44, F.S.; authorizing a bank, association, or trust company to charge reasonable management expenses for managing common trust funds; amending s. 663.01, F.S.; providing definitions; amending s. 663.02, F.S.; expanding the applicability of domestic bank powers to international banking corporations; deleting reference to a clarification concerning branching authority of bank holding companies located outside the state; amending s. 663.03, F.S.; providing that ch. 607, F.S., regulating corporations applies to international banking corporations unless it conflicts with the banking code; amending s. 663.04, F.S.; prescribing conditions under which a license may be issued to an international banking corporation to operate an international bank agency or an international branch; deleting application fee; amending s. 663.05, F.S.; modifying the application requirements for an international banking corporation to maintain an office in this state; creating s. 663.055, F.S.; prescribing certain capital requirements as a condition of licensing; providing alternative requirements for licensing; amending s. 663.06, F.S.; expanding the permissible activities of an international banking corporation and allowing the department to prescribe by rule the procedures for surrendering a license; creating s. 663.061, F.S.; defining the permissible activities of international bank agencies; creating s. 663.062, F.S.; defining the permissible activities of an international representative office; amending s. 663.063, F.S.; altering the purposes and powers of an international administrative office; creating s. 663.064, F.S.; defining the permissible activities of an international branch; creating s. 663.065, F.S.; defining the permissible activities of a state investment company; creating s. 663.066, F.S.; authorizing, under certain conditions, the acquisition of state banks by international banking corporations; amending s. 663.07, F.S.; modifying the asset maintenance requirements of an international bank agency and international branch; amending s. 663.083, F.S.; adding the term "international branch" and deleting language allowing capital debentures and notes to be treated as capital in computing capital limitations; amending s. 663.09, F.S.; providing for the consolidation of reports under certain circumstances; requiring loan documentation to be in the English language; amending s. 663.10, F.S.; modifying the provisions related to license conversion; amending s. 663.11, F.S.; replacing the term "international bank agency" with the term "office"; amending s. 663.12, F.S.; providing for filing fees, semiannual assessments, and examination fees; amending s. 663.13, F.S., relating to rulemaking respecting international banking corporations; conforming a cross-reference; amending s. 663.302, F.S., relating to the applicability of state banking laws to international development banks, to conform cross-references in that section to renumbering by this act; amending s. 663.309, F.S., relating to prohibited activities; deleting an obsolete cross-reference; amending s. 663.319, F.S., relating to rulemaking respecting regional development banks; conforming a cross-reference; amending s. 665.012, F.S.; altering and deleting certain definitions, creating s. 665.013, F.S.; outlining the applicability of ch. 658, F.S., to ch. 665, F.S.; amending s. 665.0211, F.S.; deleting exclusiveness-of-name provisions; amending s. 665.0315, F.S.; correcting a cross-reference and incorporating a nonrefundable filing fee; amending s. 665.033, F.S.; inserting reference to the financial institutions codes and permitting denial of an application due to the existence of a state-imposed order; increasing the fee for converting from a federal mutual to a state capital stock association and authorizing examination fees for conversions; revising a cross-reference; amending s. 665.034, F.S.; changing certain requirements concerning acquisition of assets of, or control over, an association; amending s. 665.0501, F.S.; altering the general powers of an association organized under ch. 665, F.S.; amending s. 665.0711, F.S.; limiting the association's power to invest in loans; amending s. 665.074, F.S.; deleting the requirement that a settlement statement be furnished to each borrower; amending s. 665.1001, F.S.; clarifying the definition of a "foreign association"; deleting reference to the term "savings"; deleting a requirement relating to references to insurance or guaranty of accounts in advertising, solicitations, or representations; amending s. 665.1011, F.S.; deleting the term "savings and loan"; amending s. 665.102, F.S.; inserting the term, "financial institutions codes"; repealing s. 655.081, F.S., relating to disclosure of practices with respect to availability of funds; repealing s. 655.413, F.S., relating to acquisition of stock by a financial institution in another financial institution; reviving and readopting ss. 655.001, 655.005, 655.012, 655.016, 655.021, 655.025, 655.029, 655.033, 655.034, 655.037, 655.041, 655.043, 655.044, 655.045, 655.049,

655.053, 655.057, 655.059, 655.061, 655.071, 655.41, 655.411, 655.412, 655.414, 655.416, 655.417, 655.418, 655.419, 655.50, 655.51, and 655.55, F.S., as renumbered and amended by this act, notwithstanding their scheduled termination October 1, 1991, pursuant to the Regulatory Sunset Act and other laws; terminating ss. 655.001-655.94, F.S., effective October 1, 1992, and providing for legislative review of such sections before that date; repealing ch. 88-113, Laws of Florida, relating to a contingent amendment to s. 655.061, F.S.; reviving and readopting ss. 657.001, 657.002, 657.003, 657.004, 657.005, 657.008, 657.021, 657.022, 657.023, 657.024, 657.026, 657.027, 657.028, 657.029, 657.031, 657.032, 657.033, 657.0335, 657.034, 657.035, 657.036, 657.037, 657.038, 657.039, 657.041, 657.042, 657.043, 657.051, 657.053, 657.055, 657.062, 657.063, 657.064, 657.065, 657.066, 657.068, 657.25, 657.251, 657.252, 657.253, 657.254, 657.256, 657.257, 657.258, 657.259, 657.260, 657.261, 657.262, 657.263, 657.264, 657.265, 657.266, 657.267, and 657.268, F.S., as amended by this act, notwithstanding their scheduled termination October 1, 1991, pursuant to the Regulatory Sunset Act and other laws; terminating ss. 657.001-657.068, F.S., effective October 1, 1992, and providing for legislative review of such sections before that date; terminating ss. 657.25-657.269, F.S., effective October 1, 1992, and providing for legislative review of such sections before that date; repealing ss. 658.1101, 658.13, 658.14, 658.15, 658.46, 658.47, 658.54, 658.55, 658.56, 658.57, 658.58, 658.59, 658.61, 658.62, 658.63, 658.64, 658.66, 658.69, 658.70, 658.71, 658.72, 658.74, 658.75, 658.76, 658.77, 658.78, 658.85, 658.86, 658.87, 658.88, 658.89, 658.91, 658.92, 658.93, 658.97, 658.98, 658.99, F.S., relating to the regulation of banks and trust companies; reviving and readopting ss. 658.12, 658.16, 658.19, 658.20, 658.21, 658.22, 658.23, 658.235, 658.24, 658.25, 658.26, 658.27, 658.28, 658.29, 658.295, 658.30, 658.32, 658.33, 658.34, 658.35, 658.36, 658.37, 658.38, 658.39, 658.40, 658.41, 658.42, 658.43, 658.44, 658.45, 658.48, 658.49, 658.491, 658.50, 658.51, 658.53, 658.60, 658.65, 658.67, 658.68, 658.73, 658.79, 658.80, 658.81, 658.82, 658.83, 658.84, 658.90, 658.94, 658.95, and 658.96, F.S., notwithstanding their scheduled termination October 1, 1991, pursuant to the Regulatory Sunset Act and other laws; terminating ss. 658.12-658.96, F.S., effective October 1, 1992, and providing for legislative review of such sections before that date; repealing s. 660.32, F.S., relating to the place of transacting trust business and trust company branches; reviving and readopting ss. 660.25, 660.26, 660.27, 660.28, 660.29, 660.30, 660.31, 660.33, 660.34, 660.35, 660.36, 660.37, 660.38, 660.39, 660.40, 660.41, 660.42, 660.43, 660.44, 660.45, 660.46, 660.47, and 660.48, F.S., as amended by this act, notwithstanding their scheduled termination October 1, 1991, pursuant to the Regulatory Sunset Act and other laws; terminating ss. 660.25-660.48, F.S., effective October 1, 1992, and providing for legislative review of such sections before that date; repealing ss. 661.45-661.55, F.S., relating to regulating the safe-deposit business, in accordance with the Regulatory Sunset Act; repealing ss. 662.01-662.08, F.S., relating to bank service corporations, in accordance with the Regulatory Sunset Act; reviving and readopting ss. 663.01, 663.02, 663.03, 663.04, 663.05, 663.06, 663.07, 663.08, 663.09, 663.10, 663.11, 663.12, 663.13, 663.14, 663.301, 663.302, 663.303, 663.304, 663.305, 663.306, 663.307, 663.308, 663.309, 663.310, 663.311, 663.312, 663.313, 663.314, 663.315, 663.316, 663.317, 663.318, and 663.319, F.S., as amended by this act, notwithstanding their scheduled termination October 1, 1991, pursuant to the Regulatory Sunset Act and other laws; terminating ss. 663.01-663.319, F.S., effective October 1, 1992, and providing for legislative review of such sections before that date; repealing ss. 664.01-664.12, F.S.; relating to industrial savings banks, in accordance with the Regulatory Sunset Act; repealing ss. 665.011, 665.0201, 665.022, 665.023, 665.024, 665.025, 665.027, 665.028, 665.0301, 665.0311, 665.0335, 665.038, 665.0401, 665.044, 665.045, 665.047, 665.048, 665.0601, 665.0611, 665.062, 665.063, 665.064, 665.065, 665.066, 665.067, 665.068, 665.069, 665.0701, 665.0731, 665.076, 665.077, 665.0801, 665.082, 665.083, 665.093, 665.096, 665.097, 665.099, 665.1021, 665.103, 665.104, F.S., relating to the regulation of savings associations; reviving and readopting ss. 665.012, 665.0211, 665.0315, 665.033, 665.0335, 665.034, 665.0345, 665.0501, 665.0711, 665.074, 665.075, 665.1001, 665.1011, and 665.102, F.S., as amended by this act, notwithstanding their scheduled termination October 1, 1991, pursuant to the Regulatory Sunset Act and other laws; terminating ss. 665.012-665.102, F.S., effective October 1, 1992, and providing for legislative review of such sections before that date; amending s. 154.238, F.S., relating to the authority of a health facilities authority to deal with a bank that employs a member of the authority, to conform terminology to that used in this act; amending s. 159.414, F.S., relating to the authority of a board of a local agency, under the Florida Industrial Development Financing Act, to deal with a bank that employs a board member, to conform terminology to that used in this act; amending s. 159.494, F.S., relating to the authority of an industrial development authority to deal with a bank that employs a member of the authority; amending s. 240.488, F.S., relating to the investment of funds of a county education loan authority, to conform terminology to that used in this act; amending s. 288.753, F.S., relating to examination of the Florida Export Finance Corporation by the Department of Banking and Finance, to conform terminology to that used in this act; amending s. 289.121, F.S., relating to examination of the Florida Industrial Development Corporation, to conform terminology to that used in this act; amending s. 420.141, F.S., relating to examination of the Housing Development Corporation of Florida, to conform terminology to that used in this act; amending s. 538.03, F.S., relating to definitions applicable to secondhand dealers, to conform a cross-reference made obsolete by this act; amending s. 560.201, F.S., relating to the record of sales of money orders, to revise a cross-reference to a provision repealed by this act; amending s. 607.0501, F.S., relating to registered offices and agents of corporations, to conform terminology to that used in this act; amending s. 627.826, F.S., relating to insurance premium finance companies, to delete a cross-reference to a law repealed by this act; amending s. 671.304, F.S., relating to laws not repealed by the enactment of the Uniform Commercial Code, to delete cross-references to laws repealed by this act; amending s. 687.12, F.S., relating to interest rates of licensed lenders and creditors, to revise a cross-reference to a law repealed by this act; amending s. 896.101, F.S., relating to the conduct of financial transactions involving the proceeds of unlawful activity, to revise cross-references to conform with this act; providing an effective date.

Senator Childers moved the following amendment to **Amendment 2** which was adopted:

Amendment 2A—In title, on page 20, line 24, strike "665.0335,"

Amendment 2 as amended was adopted.

CS for SB 2342

Senator Davis moved the following amendment which was adopted:

Amendment 1—On page 2, strike all of lines 22-24 and insert: screened.

Senator Langley moved the following amendments which were adopted:

Amendment 2—On page 25, between lines 9 and 10, insert:

Section 7. Subsection (4) of section 402.302, Florida Statutes, 1990 Supplement, is amended to read:

402.302 Definitions.—As used in ss. 402.301-402.319:

(4) "Child care facility" includes any child care center or child care arrangement which provides child care for more than five children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit. The following are not included:

(a) Public schools and nonpublic schools and their integral programs, except as provided in s. 402.3025;

(b) Summer camps having children in full-time residence;

(c) Summer day camps; ~~and~~

(d) Bible schools normally conducted during vacation periods; *and*

(e) Municipal and county park and recreation facilities.

(Renumber subsequent section.)

Amendment 3—In title, on page 1, line 30, after the semicolon (;) insert: amending s. 402.302, F.S.; amending the definition of the term "child care facility";

Amendment 4—On page 12, lines 30 and 31, and on page 13, lines 1 and 2, strike all of said lines and insert: firesafety. ~~In the case of a child care program for school-aged children attending before school and after-school programs on a site operated by a municipality, the department shall adopt rules for such site and intended use.~~

AMENDMENTS TO HOUSE BILLS

CS for HB 207

Senator Forman moved the following amendments which were adopted by two-thirds vote:

Amendment 1—Strike everything after the enacting clause and insert:

Section 1. Civil actions involving elderly parties; speedy trial.—In a civil action in which a person over the age of 65 is a party, such party may move the court to advance the trial on the docket. The presiding judge, after consideration of the age and health of the party, may advance the trial on the docket. The motion may be filed and served with the initial complaint or at any time thereafter.

Section 2. This act shall take effect October 1, 1991.

Amendment 2—In title, on page 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to civil actions; authorizing a judge to advance certain civil actions on the trial docket after a motion therefor; providing an effective date.

CS for HB 417

The Committee on Rules and Calendar recommended the following amendment which was moved by Senator Johnson and adopted:

Amendment 1—On page 34, between lines 8 and 9, insert: *The investigation of facts and parties materially related to a complaint, as provided in s. 112.322(1) and pursuant to the definitions contained in subsections (11) and (18) of s. 112.312 herein, and the amendment of s. 112.3143 shall apply only to alleged violations occurring after the effective date of this act.*

Senator Jenne moved the following amendments which were adopted:

Amendment 2—On page 3, before line 1, insert:

Section 1. Subsections (8), (9), and (10) are added to section 69.081, Florida Statutes, 1990 Supplement, to read:

69.081 Sunshine in litigation; concealment of public hazards prohibited.—

(8)(a) Any portion of an agreement or contract which has the purpose or effect of concealing information relating to the settlement or resolution of any claim or action against the state, its agencies, or subdivisions or against any municipality or constitutionally created body or commission is void, contrary to public policy, and may not be enforced. Any person has standing to contest an order, judgment, agreement, or contract that violates this section. A person may contest an order, judgment, agreement, or contract that violates this subsection by motion in the court that entered such order or judgment, or by bringing a declaratory judgment action pursuant to chapter 86.

(b) Any person having custody of any document, record, contract, or agreement relating to any settlement as set forth in this section shall maintain said public records in compliance with chapter 119.

(c) Failure of any custodian to disclose and provide any document, record, contract, or agreement as set forth in this section shall be subject to the sanctions as set forth in chapter 119.

This subsection does not apply to trade secrets protected pursuant to chapter 688, proprietary confidential business information, or other information that is confidential under state or federal law.

(9) A governmental entity which settles a claim in tort which requires the expenditure of public funds in excess of $5,000, shall provide notice, in accordance with the provisions of ch. 50, of such settlement, in the county in which the claim arose, within 60 days of entering into such settlement; provided that no notice shall be required if the settlement has been approved by a court of competent jurisdiction.

(Renumber subsequent sections.)

Amendment 3—In title, on page 1, line 3, after the semicolon (;) insert: amending s. 69.081, F.S.; prohibiting confidential settlement of actions involving the state; providing standing to contest such settlements; directing custodians of records to comply with public records laws; providing sanctions; providing an exception for trade secrets and certain other confidential information; requiring notice of certain settlements;

Senators Johnson and Jenne offered the following amendments which were moved by Senator Johnson and adopted:

Amendment 4—On page 12, line 13, strike "*section*" and insert: *subsection*

Amendment 5—On page 34, line 10, after "1991" insert: , except for this section and section 13, which shall take effect upon becoming a law

CS for HB 1493

Senator Davis moved the following amendments which were adopted:

Amendment 1—Strike everything after the enacting clause and insert:

Section 1. Subsection (4) is added to section 673.104, Florida Statutes, to read:

673.104 Form of negotiable instruments; "draft"; "check"; "certificate of deposit"; "note."—

(4) No warrant issued by the Comptroller of the State of Florida directing the Treasurer to pay a sum certain shall be considered a negotiable instrument within the meaning of this chapter.

Section 2. In enacting the revisions to sections 673.104 and 679.504, Florida Statutes, the Legislature intends to clarify and confirm existing law.

Section 3. Subsection (3) of section 679.504, Florida Statutes, is amended to read:

679.504 Secured party's right to dispose of collateral after default; effect of disposition.—

(3) Disposition of the collateral may be by public or private proceedings and may be made by way of one or more contracts. Sale or other disposition may be as a unit or in parcels and at any time and place and on any terms, but every aspect of the disposition including the method, manner, time, place, and terms must be commercially reasonable. Unless collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, reasonable notification of the time and place of any public sale or reasonable notification of the time after which any private sale or other intended disposition is to be made shall be sent by the secured party to the debtor if he has not signed after default a conspicuous statement renouncing or modifying his right to notification of sale*; to any guarantor of the obligation secured who has not signed after default a conspicuous statement renouncing or modifying his right to notification of sale;* and, except in the case of consumer goods, to any other person who has a security interest in the collateral and who has duly filed a financing statement indexed in the name of the debtor in this state. The secured party may buy at any public sale and, if the collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations, he may buy at private sale.

Section 4. Section 679.506, Florida Statutes, is amended to read:

679.506 Debtor's right to redeem collateral.—At any time before the secured party has disposed of collateral or entered into a contract for its disposition under s. 679.504 or before the obligation has been discharged under s. 679.505(2), the debtor*, any guarantor of the obligation secured,* or any other secured party may unless otherwise agreed in writing after default redeem the collateral by tendering fulfillment of all obligations secured by the collateral as well as the expenses reasonably incurred by the secured party in retaking, holding, and preparing the collateral for disposition, in arranging for the sale, and, to the extent provided in the agreement and not prohibited by law, his reasonable attorneys' fees and legal expenses.

Section 5. This act shall take effect upon becoming a law.

Amendment 2—In title, on page 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to the Uniform Commercial Code; amending s. 673.104, F.S.; clarifying that a warrant issued by the Comptroller directing the Treasurer to pay a sum certain shall not be considered a negotiable instrument; providing legislative intent; amending ss. 679.504, 679.506, F.S.; clarifying that a guarantor of the obligation secured under a secured transaction has the same rights as the debtor has to reasonable notice prior to sale or disposition of the collateral by the secured party after the debtor's default which right cannot be waived prior to default and to redeem the collateral prior to its sale or disposition by the secured party; providing an effective date.

HB 2251

The Committee on Finance, Taxation and Claims recommended the following amendment which was moved by Senator Weinstock:

Amendment 1—Strike everything after the enacting clause and insert:

Section 1. Effective July 1, 1991, subsection (1) of section 99.092, Florida Statutes, is amended to read:

99.092 Qualifying fee of candidate; notification of Department of State.—

(1) Each person seeking to qualify for nomination or election to any office, except a person seeking to qualify pursuant to s. 99.095 and except a person seeking to qualify as a write-in candidate, shall pay a qualifying fee, which shall consist of a filing fee and election assessment, to the officer with whom he qualifies, and any party assessment levied, and shall attach the original or signed duplicate of the receipt for his party assessment or pay the same, in accordance with the provisions of s. 103.121, at the time of filing his other qualifying papers. The amount of the filing fee is *4.5* ~~3~~ percent of the annual salary of the office. *The amount of the filing fee equal to 1.5 percent of the annual salary of the office shall be transferred to the Election Campaign Financing Trust Fund. The remainder shall be distributed pursuant to s. 99.103.* The amount of the election assessment is 1 percent of the annual salary of the office sought. The election assessment shall be deposited into the Elections Commission Trust Fund. The amount of the party assessment is 2 percent of the annual salary. The annual salary of the office for purposes of computing the filing fee, election assessment, and party assessment shall be computed by multiplying 12 times the monthly salary, excluding any special qualification pay, authorized for such office as of July 1 immediately preceding the first day of qualifying. No qualifying fee shall be returned to the candidate unless he withdraws his candidacy before the last date to qualify. If a candidate dies prior to an election and has not withdrawn his candidacy before the last date to qualify, his qualifying fee shall be returned to his designated beneficiary, and, if the filing fee or any portion thereof has been transferred to the political party of the candidate, the Secretary of State shall direct the party to return that portion to the designated beneficiary of the candidate.

Section 2. Effective July 1, 1991, subsection (1) of section 99.093, Florida Statutes, is amended to read:

99.093 Municipal candidates; election assessment.—

(1) Each person seeking to qualify for nomination or election to a municipal office shall pay, at the time of qualifying for office, an election assessment. The election assessment shall be an amount equal to *1.5* ~~1~~ percent of the annual salary of the office sought. Within 30 days after the close of qualifying, the qualifying officer shall forward *two-thirds of the amount* ~~all amounts~~ collected pursuant to this section to the Department of State for deposit in the Elections Commission Trust Fund *and one-third of the amount collected pursuant to this section shall be transferred to the Election Campaign Financing Trust Fund.*

Section 3. Effective July 1, 1991, section 99.0965, Florida Statutes, is created to read:

99.0965 Signature Requirements for Ballot Position in Year of Apportionment.—

(1) Any candidate for representative to congress, state senator, or state house of representatives seeking ballot position by the alternative method, as an independent candidate, or any minor party seeking ballot position in a year of apportionment, shall obtain at least the number of signatures equal to 1 percent of the ideal population for the district of the office being sought.

(2) Ideal population means the total population of the state based upon the most recent decennial census divided by the number of districts for representative to congress, state senator, or state house of representatives. For the purposes of this section, ideal population shall be calculated as of July 1 of the year prior to apportionment. The ideal population for a state senate district and a state house district shall be calculated by dividing the total population of the state by 40 for a senate district and by dividing by 120 for a state representative district.

(3) Signatures may be obtained from any registered voter in Florida regardless of party affiliation or district boundaries.

(4) Petitions shall state the name of the office the candidate is seeking but shall not include a district number.

(5) Except as otherwise provided in this section, all requirements and procedures relating to the petition process shall conform to the requirements and procedures in nonapportionment years.

Section 4. Effective July 1, 1991, subsection (3) of section 105.031, Florida Statutes, is amended to read:

105.031 Qualification; filing fee; candidate's oath.—

(3) QUALIFYING FEE.—Each candidate qualifying for election to judicial office, except write-in judicial candidates, shall, during the time for qualifying, pay to the officer with whom he qualifies a qualifying fee, which shall consist of a filing fee and an election assessment, or qualify by the alternative method. The amount of the filing fee is *4.5* ~~3~~ percent of the annual salary of the office sought. The amount of the election assessment is 1 percent of the annual salary of the office sought. The qualifying officer shall forward all filing fees to the Department of Revenue for deposit in the General Revenue Fund. *One-third of all filing fees deposited into the General Revenue Fund shall be subsequently transferred to the Election Campaign Financing Trust Fund.* The election assessment shall be deposited into the Elections Commission Trust Fund. The annual salary of the office for purposes of computing the qualifying fee shall be computed by multiplying 12 times the monthly salary authorized for such office as of July 1 immediately preceding the first day of qualifying. This subsection shall not apply to candidates qualifying for retention to judicial office.

Section 5. Effective July 1, 1991, subsections (1) and (4) of section 106.04, Florida Statutes, 1990 Supplement, are amended to read:

106.04 Committees of continuous existence.—

(1) In order to qualify as a committee of continuous existence for the purposes of this chapter, a group, organization, association, or other such entity which is involved in making contributions to candidates, political committees, or political parties, shall meet the following criteria:

(a) It shall be organized and operated in accordance with a written charter or set of bylaws which contains procedures for the election of officers and directors and which clearly defines membership in the organization; and

(b) At least 25 percent of the income of such organization, *excluding interest,* must be derived from dues or assessments payable on a regular basis by its membership pursuant to provisions contained in the charter or bylaws.

(4)(a) Each committee of continuous existence shall file an annual report with the Division of Elections during the month of January. Such annual reports shall contain the same information and shall be accompanied by the same materials as original applications filed pursuant to subsection (2). However, the charter or bylaws need not be filed if the annual report is accompanied by a sworn statement by the chairman that no changes have been made to such charter or bylaws since the last filing.

(b)*1.* Each committee of continuous existence shall file regular reports with the Division of Elections at the same times and subject to the same filing conditions as are established by s. 106.07(1) and (2) for candidates' reports.

2. Each committee of continuous existence shall pay a 1.5 percent assessment on all contributions, excluding in-kind contributions. The assessment shall be remitted to the Division of Elections at the time contribution reports are due. The Division of Elections shall deposit the proceeds of the assessment into the Election Campaign Financing Trust Fund.

3. Any committee of continuous existence failing to so file a report with the Division of Elections pursuant to this paragraph on the designated due date shall be subject to a fine for late filing as provided by this section.

(c) All committees of continuous existence shall file the original and one copy of their reports with the Division of Elections. In addition, a duplicate copy of each report shall be filed with the supervisor of elections in the county in which the committee maintains its books and records, except that if the filing officer to whom the committee is required to report is located in the same county as the supervisor no such duplicate report is required to be filed with the supervisor. Reports shall be on forms provided by the division and shall contain the following information:

1. The full name, address, and occupation of each person who has made one or more contributions to the committee during the reporting period, together with the amounts and dates of such contributions. However, if the contribution is $100 or less, the occupation of the contributor need not be listed, and only the name and address are necessary. However, for any contributions which represent the payment of dues by members in a fixed amount pursuant to the schedule on file with the Division of Elections, only the aggregate amount of such contributions need be listed, together with the number of members paying such dues and the amount of the membership dues.

2. The name and address of each political committee or committee of continuous existence from which the reporting committee received, or the name and address of each political committee, committee of continuous existence, or political party to which it made, any transfer of funds, together with the amounts and dates of all transfers.

3. Any other receipt of funds not listed pursuant to subparagraph 1. or subparagraph 2., including the sources and amounts of all such funds.

4. The name and address of, and office sought by, each candidate to whom the committee has made a contribution during the reporting period, together with the amount and date of each contribution.

(d)~~(c)~~ The treasurer of each committee shall certify as to the correctness of each report and shall bear the responsibility for its accuracy and veracity. Any treasurer who willfully certifies to the correctness of a report while knowing that such report is incorrect, false, or incomplete commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 6. Effective July 1, 1991, subsections (1) and (3) of section 106.07, Florida Statutes, 1990 Supplement, as amended by section 18 of chapter 90-502, Laws of Florida, is amended to read:

106.07 Reports; certification and filing.—

(1) Each campaign treasurer designated by a candidate or political committee pursuant to s. 106.021 shall file regular reports of all contributions received, and all expenditures made, by or on behalf of such candidate or political committee. Reports shall be filed on the 10th day following the end of each calendar quarter from the time the campaign treasurer is appointed, except that, if the 10th day following the end of a calendar quarter occurs on a Saturday, Sunday, or legal holiday, the report shall be filed on the next following day which is not a Saturday, Sunday, or legal holiday. Quarterly reports shall include all contributions received and expenditures made during the calendar quarter which have not otherwise been reported pursuant to this section.

(a) *Except as provided in paragraph (b),* following the last day of qualifying for office, the reports shall be filed on the 32nd, 18th, and 4th days immediately preceding the first primary and on the 18th and 4th days immediately preceding the second primary and general election, for a candidate who is opposed in seeking nomination or election to any office, for a political committee, or for a committee of continuous existence.

(b) Following the last day of qualifying for office, any statewide candidate who has requested to receive contributions from the Election Campaign Financing Trust Fund or any statewide candidate in a race with a candidate who has requested to receive contributions from the Trust Fund shall file reports on the 4th, 11th, 18th, 25th, and 32nd days prior to the first primary and general elections and on the 4th, 11th, 18th and 25th days prior to the second primary.

(c)~~(b)~~ Following the last day of qualifying for office, any unopposed candidate need only file a report within 90 days after the date such candidate became unopposed. Such report shall contain all previously unreported contributions and expenditures as required by this section and shall reflect disposition of funds as required by s. 106.141.

(d)~~(c)~~1. When a special election is called to fill a vacancy in office, all political committees and committees of continuous existence making contributions or expenditures to influence the results of such special election shall file campaign treasurers' reports with the filing officer on the dates set by the Department of State pursuant to s. 100.111.

2. When an election is called for an issue to appear on the ballot at a time when no candidates are scheduled to appear on the ballot, all political committees making contributions or expenditures in support of or in opposition to such issue shall file reports on the 18th and 4th days prior to such election.

(e)~~(d)~~ The filing officer shall provide each candidate with a schedule designating the beginning and end of reporting periods as well as the corresponding designated due dates.

(3)*(a)* Reports required of a political committee shall be filed with the agency or officer before whom such committee registers pursuant to s. 106.03(3) and shall be subject to the same filing conditions as established for candidates' reports. Only committees that file with the Department of State shall file the original and one copy of their reports. Incomplete reports by political committees shall be treated in the manner provided for incomplete reports by candidates in subsection (2).

(b) Each political committee shall pay a 1.5 percent assessment on all contributions, excluding in-kind contributions. The assessment shall be remitted to the filing officer at the time contribution reports are due. The filing officer shall transfer the assessment revenues to the Division of Elections for deposit into the Election Campaign Financing Trust Fund.

Section 7. Effective July 1, 1991, subsection (1) of section 106.29, Florida Statutes, 1990 Supplement, is amended to read:

106.29 Reports by political parties.—

(1)*(a)* The state executive committee and each county executive committee of each political party regulated by chapter 103 shall file regular reports of all contributions received and all expenditures made by such committee. Such reports shall contain the same information as do reports required of candidates by s. 106.07 and shall be filed on the 10th day following the end of each calendar quarter, except that, during the period from the last day for candidate qualifying until the general election, such reports shall be filed on the Friday immediately preceding the first primary election, the second primary election, and the general election. Each state executive committee shall file the original and one copy of its reports with the Division of Elections. Each county executive committee shall file its reports with the supervisor of elections in the county in which such committee exists. Any political party failing to file a report on the designated due date shall be subject to a fine as provided in s. 106.07 for submitting late reports. No separate fine shall be assessed for failure to file a copy of any report required by this section.

(b) Each state executive committee and county executive committee of each political party shall pay a 1.5 percent assessment on all contributions, excluding contributions received from political committees and committees of continuous existence and excluding in-kind contributions and filing fees. The assessment shall be remitted by the political party executive committee to the filing officer at the time contribution reports are due. The filing officer shall transfer the assessment revenues to the Division of Elections for deposit into the Election Campaign Financing Trust Fund.

Section 8. Subsections (3) and (5) of section 106.011, Florida Statutes, 1990 Supplement, are amended to read:

106.011 Definitions.—As used in this chapter, the following terms have the following meanings unless the context clearly indicates otherwise:

(3) "Contribution" means:

(a) A gift, subscription, conveyance, deposit, loan, payment, or distribution of money or anything of value, including contributions in kind having an attributable monetary value in any form, made for the purpose of influencing the results of an election.

(b) A transfer of funds between political committees, between committees of continuous existence, or between a political committee and a committee of continuous existence.

(c) The payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to a candidate or political committee without charge to the candidate or committee for such services.

(d) The transfer of funds by a campaign treasurer or deputy campaign treasurer between a primary depository and a separate interest-bearing account or certificate of deposit, and the term includes any interest earned on such account or certificate.

Notwithstanding the foregoing meanings of "contribution," the word shall not be construed to include services provided without compensation by individuals volunteering a portion or all of their time on behalf of a can-

didate or political committee *which includes, but is not limited to, legal and accounting services.* This definition shall not be construed to include editorial endorsements.

(5) "Independent expenditure" means an expenditure by a person for the purpose of advocating the election or defeat of a candidate or the approval or rejection of an issue, which expenditure is not controlled by, coordinated with, or made upon consultation with, any candidate, political committee, or agent of such candidate or committee. *An expenditure for such purpose by a person having a contract with the candidate, political committee, or agent of such candidate or committee in a given election period shall not be deemed an independent expenditure.*

Section 9. Subsection (5) is added to section 106.021, Florida Statutes, 1990 Supplement, and paragraph (a) of subsection (1) of said section is amended to read:

106.021 Campaign treasurers; deputies; primary and secondary depositories.—

(1)(a) Each candidate for nomination or election to office and each political committee shall appoint a campaign treasurer. Each person who seeks to qualify for nomination or election to, or retention in, office shall appoint a campaign treasurer and designate a primary campaign depository prior to qualifying for office. Any person who seeks to qualify for election or nomination to any office by means of the petitioning process shall appoint a treasurer and designate a primary depository on or before the date he obtains the petitions. Each candidate shall at the same time he designates his campaign depository and appoints his treasurer also designate the office for which he is a candidate. If the candidate is running for an office which will be grouped on the ballot with two or more similar offices to be filled at the same election, the candidate must indicate for which group or district office he is running. Nothing in this subsection shall prohibit a candidate, at a later date, from changing the designation of the office for which he is a candidate ~~and using the campaign funds for that candidacy~~. *However, if a candidate changes the designated office for which he is a candidate, he must notify all contributors of his intent to seek a different office and offer to return pro rata, upon their request, those contributions given in support of the original office sought. This notification shall be given within 15 days after the filing of the change of designation and shall include a standard form developed by the Division of Elections for requesting the return of contributions. The notice requirement shall not apply to any change in a numerical designation resulting solely from redistricting. If, within 30 days after being notified by the candidate of his intent to seek a different office, the contributor notifies the candidate that he wishes his contribution to be returned, the candidate shall return the contribution, on a pro rata basis, calculated as of the date the change of designation is filed. Any contributions not requested to be returned within the 30-day period may be used by the candidate for the newly designated office.* No person shall accept any contribution or make any expenditure with a view to bringing about his nomination, election, or retention in public office, or authorize another to accept such contributions or make such expenditure on his behalf, unless such person has appointed a campaign treasurer and designated a primary campaign depository. A candidate for an office voted upon statewide may appoint not more than 15 deputy campaign treasurers, and any other candidate or political committee may appoint not more than 3 deputy campaign treasurers. The names and addresses of the campaign treasurer and deputy campaign treasurers so appointed shall be filed with the officer before whom such candidate is required to qualify or with whom such political committee is required to register pursuant to s. 106.03. Each candidate who qualifies with the Department of State for an office not voted upon statewide shall, at the same time, file a copy of the name and address of the campaign treasurer with the supervisor of elections in the county in which the candidate resides.

(5) For purposes of appointing a campaign treasurer and designating a campaign depository, candidates for the offices of Governor and Lieutenant Governor on the same ticket shall be considered a single candidate.

Section 10. Subsection (1) of section 106.08, Florida Statutes, 1990 Supplement, is amended and present subsections (2), (3), (4), (5), (6), and (7) are redesignated as subsections (3), (4), (5), (6), (7), and (8), respectively, and a new subsection (2) is added to that section, to read:

106.08 Contributions; limitations on.—

(1)*(a)* No person, political committee, or committee of continuous existence shall make contributions to any candidate or political committee in this state, for any election, in excess of the following amounts:

1.~~(a)~~ To a candidate for countywide office or to a candidate in any election conducted on less than a countywide basis, *$500* ~~$1,000~~.

2.~~(b)~~ To a candidate for legislative or multicounty office, *$500* ~~$1,000~~.

3.~~(c)~~ To a candidate for statewide office, *$500* ~~$3,000~~. Candidates for the offices of Governor and Lieutenant Governor *on the same ticket* shall be considered a single candidate for the purpose of this section.

4.~~(d)~~ To a political committee supporting or opposing one or more candidates, *$500* ~~$1,000~~.

5.~~(e)~~ To a candidate for county court judge or circuit judge, *$500* ~~$1,000~~.

6.~~(f)~~ To a candidate for retention as a judge of a district court of appeal, *$500* ~~$2,000~~.

7.~~(g)~~ To a candidate for retention as a justice of the Supreme Court, *$500* ~~$3,000~~.

(b) The contribution limits provided in *this subsection* ~~paragraphs (a)-(g)~~ shall not apply to contributions made by a state or county executive committee of a political party regulated by chapter 103 or to amounts contributed by a candidate to his own campaign. *Notwithstanding the limits provided in this subsection, no unemancipated child under the age of 18 years of age may make a contribution to any candidate or to any political committee supporting one or more candidates, in excess of $100* The limitations provided by this subsection shall apply to each election.

(c) For purposes of this subsection the first primary, second primary, and general election shall be deemed separate elections so long as the candidate is not an unopposed candidate as defined in s. 106.011(15). However, for the purpose of contribution limits with respect to candidates for retention as a justice of the Supreme Court or judge of a district court of appeal, there shall be only one election, which shall be the general election, and with respect to candidates for circuit judge or county court judge, there shall be only two elections, which shall be the first primary election and general election.

(d) For purposes of the contribution limits, two or more entities are considered a single entity if the entities constitute an affiliated group of corporations as defined in s. 220.03(1)(b).

(2)(a) A candidate as defined in s. 106.011(16) may not accept contributions from a state executive committee of a political party or county executive committee of a political party, which contributions in the aggregate exceed $25,000 for any election cycle.

(b) For the purposes of this subsection, the term "election cycle" means the first primary, second primary, and general election combined.

1. Political advertisements, as defined in s. 106.011(17) and mailing services are contributions in an amount equal to their fair market value and shall be counted toward the $25,000 contribution limit that a candidate may accept.

2. Polling services, research services, and face-to-face voter mobilization are not contributions to be counted toward the $25,000 contribution limit.

(6)~~(5)~~ Any person who knowingly and willfully makes a contribution in violation of subsection (1) or subsection (4), or any person who knowingly and willfully fails or refuses to return any contribution as required in subsection (2), is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. If any corporation, partnership, or other business entity or any political committee or committee of continuous existence is convicted of knowingly and willfully violating this section, it shall be fined not less than $1,000 and not more than $10,000. If it is a domestic entity, it may be ordered dissolved by a court of competent jurisdiction; if it is a foreign or nonresident business entity, its right to do business in this state may be forfeited. Any officer, partner, agent, attorney, or other representative of a corporation, partnership, or other business entity or of a political committee or committee of continuous existence who aids, abets, advises, or participates in a violation of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(7)~~(6)~~ Any person who knowingly and willfully violates the provisions of this section shall, in addition to any other penalty prescribed by this

chapter, pay to the state a sum equal to twice the amount contributed in violation of this chapter. Each campaign treasurer shall pay all amounts contributed in violation of this section to the state for deposit in the General Revenue Fund.

Section 11. For the purpose of incorporating the amendment to section 106.08, Florida Statutes, 1990 Supplement, in references thereto, the sections or subdivisions of Florida Statutes set forth below are reenacted to read:

106.04 Committees of continuous existence.—

(5) No committee of continuous existence shall contribute to any candidate or political committee an amount in excess of the limits contained in s. 106.08(1) or participate in any other activity which is prohibited by this chapter. If any violation occurs, it shall be punishable as provided in this chapter for the given offense. No funds of a committee of continuous existence shall be expended on behalf of a candidate, except by means of a contribution made through the duly appointed campaign treasurer of a candidate. No such committee shall make expenditures in support of, or in opposition to, an issue unless such committee first registers as a political committee pursuant to this chapter and undertakes all the practices and procedures required thereof; provided such committee may make contributions in a total amount not to exceed 25 percent of its aggregate income, as reflected in the annual report filed for the previous year, to one or more political committees registered pursuant to s. 106.03 and formed to support or oppose issues.

106.075 Elected officials; report of loans made in year preceding election; limitation on contributions to pay loans.—

(2) Any person who makes a contribution to an individual to pay all or part of a loan incurred, in the 12 months preceding the election, to be used for the individual's campaign, may not contribute more than the amount which is allowed in s. 106.08(1).

106.19 Violations by candidates, persons connected with campaigns, and political committees.—

(1) Any candidate; campaign manager, campaign treasurer, or deputy treasurer of any candidate; committee chairman, vice chairman, campaign treasurer, deputy treasurer, or other officer of any political committee; agent or person acting on behalf of any candidate or political committee; or other person who knowingly and willfully:

(a) Accepts a contribution in excess of the limits prescribed by s. 106.08;

is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

106.29 Reports by political parties.—

(4) No state or county executive committee, in the furtherance of any candidate or political party, directly or indirectly, shall give, pay, or expend any money, give or pay anything of value, authorize any expenditure, or become pecuniarily liable for any expenditure prohibited by this chapter. However, the contribution of funds by one executive committee to another, to established party organizations for legitimate party or campaign purposes, or to individual candidates of that party in general elections in amounts exceeding those set forth in s. 106.08 is not prohibited, but all such contributions shall be recorded and accounted for in the reports of the contributor and recipient.

Section 12. Section 106.085, Florida Statutes, is created to read:

106.085 Independent expenditures; unfair surprise prohibited; penalty.—

(1) Any individual, group, organization, or committee making an independent expenditure in excess of $1,000 on behalf of or in opposition to a candidate shall deliver notice in writing of such independent expenditure, as well as the amount of such expenditure and a detailed description of the media type or use of such expenditure, within 24 hours after obligating any funds for such expenditure. An expenditure is obligated upon the purchase of any political advertising or the entering into any agreement, either oral or written, to purchase any political advertising. Such notice shall be delivered to all of the candidates in the affected race and to the qualifying officer of such candidates. The notice shall specifically state the name of the candidate whom the independent expenditure is designed to support or oppose. For purposes of this subsection, notice shall include, but is not limited to, personal hand delivery or overnight mail. Each new expenditure shall require the delivery or filing of an additional new notice.

(2) A person who violates any provision of this section shall be liable for a civil fine of up to $5,000 to be determined by the Florida Elections Commission or an amount equal to 10 percent of the expenditure not noticed, whichever is greater.

Section 13. Paragraph (a) of subsection (4) of section 106.11, Florida Statutes, is amended to read:

106.11 Expenses of and expenditures by candidates and political committees.—Each candidate and each political committee which designates a primary campaign depository pursuant to s. 106.021(1) shall make expenditures from funds on deposit in such primary campaign depository only in the following manner, with the exception of expenditures made from petty cash funds provided by s. 106.12:

(4) A candidate who withdraws his candidacy, becomes an unopposed candidate, or is eliminated as a candidate or elected to office may expend funds from the campaign account to:

(a) Purchase "thank you" advertising ~~in the communications media~~ for up to 75 days after he withdraws, becomes unopposed, or is eliminated or elected.

Section 14. Paragraph (a) of subsection (4) of section 106.141, Florida Statutes, 1990 Supplement, is amended to read:

106.141 Disposition of surplus funds by candidates.—

(4)(a) Except as provided in paragraph (b), any candidate required to dispose of funds pursuant to this section shall, at the option of the candidate, dispose of such funds by any of the following means, or any combination thereof:

1. Return pro rata to each contributor the funds which have not been spent, or have not been obligated to be spent, with respect to a campaign which has been conducted.

2. Donate the funds which have not been spent or have not been obligated to be spent to a charity organization or organizations which meet the qualifications of s. 501(c)(3) of the Internal Revenue Code, with respect to a campaign which has been conducted.

~~3. Give the funds which have not been spent or have not been obligated to be spent to the political party of which such candidate is a registered member.~~

3.~~4.~~ Give the funds which have not been spent, or have not been obligated to be spent, with respect to a campaign which has been conducted:

a. In the case of a candidate for state office, to the state, to be deposited in *either the Election Campaign Financing Trust Fund or* the General Revenue Fund, *as designated by the candidate*; or

b. In the case of a candidate for an office of a political subdivision, to such political subdivision, to be deposited in the general fund thereof.

Section 15. Subsections (1) and (6) of section 106.143, Florida Statutes, 1990 Supplement, are amended, and a new subsection (6) is added to said section to read:

106.143 Political advertisements circulated prior to election; requirements.—

(1) Any political advertisement and any campaign literature published, displayed, or circulated prior to, or on the day of, any election shall:

(a) Be marked "paid political advertisement" or with the abbreviation "pd. pol. adv.";

(b) Identify the persons or organizations sponsoring the advertisement.;

(c)1.*a.* State whether the advertisement and the cost of production is paid for or provided in kind by or at the expense of the entity publishing, displaying, broadcasting, or circulating the political advertisement; *or*

b.~~2.~~ State who provided or paid for the advertisement and cost of production, if different from the source of sponsorship.

2.~~3.~~ This paragraph shall not apply if the source of the sponsorship is patently clear from the content or format of the political advertisement or campaign literature.

(d)1. Provide a disclaimer for any candidate for Governor or Cabinet officer who elects not to participate in election campaign financing or who has not filed the statement required by s. 106.353. Such disclaimer shall be prominently displayed in type large enough and, for television broadcasts, on the screen long enough to be easily read by the average person or, for radio broadcasts, spoken in a volume loud enough and enunciated clearly enough to be easily heard and understood by the average person and shall be as follows: . . . (NAME OF CANDIDATE) . . ., CANDIDATE FOR THE OFFICE OF . . .(TITLE OF OFFICE SOUGHT) . . ., HAS ELECTED NOT TO BE SUBJECT TO THE ELECTION CAMPAIGN FINANCING LIMITS PROVIDED UNDER SS. 106.30-106.36, FLORIDA STATUTES.

2. This paragraph shall apply to any political advertisement broadcast, published, displayed, or circulated after the candidate qualifies for office.

All political advertisements that are electronically recorded shall include the information required by this subsection in audible form. However, this subsection does not apply to campaign messages used by a candidate and his supporters which messages are designed to be worn by a person.

(6) Any political advertisement which is published, displayed or produced in a language other than English may provide the information required by this section in the language used in the advertisement.

(7)~~(6)~~ Any person who willfully violates the provisions of this section is subject to the civil penalties prescribed in s. 106.265.

Section 16. Subsection (4) of section 106.15, Florida Statutes, is renumbered as subsection (5) and amended, and a new subsection (4) is added to said section, to read:

106.15 Certain acts prohibited.—

(4) No person shall make and no person shall solicit or accept any campaign contribution in his office if his office is in a building owned or leased by his agency. For purposes of this subsection, acceptance shall mean the personal hand delivery by a contributor or his agent.

(5)~~(4)~~ Any person violating the provisions of this section is guilty of a misdemeanor in the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 17. Subsection (6) of section 106.25, Florida Statutes, 1990 Supplement, is amended to read:

106.25 Reports of alleged violations to Department of State; disposition of findings.—

(6) Every sworn complaint filed pursuant to this chapter with the Division of Elections or the Florida Elections Commission, every division investigation and investigative report or other paper of the division or commission with respect to a violation of this chapter, and every proceeding of the commission with respect to a violation of this chapter is confidential, is exempt from the provisions of ss. 119.07(1) and 286.011, and is exempt from publication in the Florida Administrative Weekly of any notice or agenda with respect to any proceeding relating to such violation except under the following circumstances:

(a) As provided in subsection (5);

(b) Upon a determination of probable cause or no probable cause by the commission;

(c) After a finding of no probable cause is made by the division and the case is not appealed; or

(d) For proceedings conducted with respect to appeals of fines levied by filing officers for the late filing of reports required by this chapter.

However, *a complainant is not bound by the confidentiality provisions of this section. In addition,* confidentiality may be waived in writing by the person against whom the complaint has been filed or the investigation has been initiated. If a finding of probable cause in a case is entered within 30 days prior to the date of the election with respect to which the alleged violation occurred, such finding and the proceedings and records relating to such case shall not become public until noon of the day following such election. When two or more persons are being investigated by the division with respect to an alleged violation of this chapter, the division or the commission may not publicly enter a finding of probable cause or no probable cause in the case until a finding of probable cause or no probable cause for the entire case has been determined. However, once the confidentiality of any case has been breached, the person or persons under investigation have the right to waive the confidentiality of the case, thereby opening up the proceedings and records to the public. Any person who discloses any information or matter made confidential by the provisions of this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 18. Effective July 1, 1991, section 106.32, Florida Statutes, is amended to read:

106.32 Election Campaign Financing Trust Fund.—

(1) There is hereby established in the State Treasury an Election Campaign Financing Trust Fund to be utilized by the Department of State as provided in ss. 106.30-106.36. *If necessary,* each year in which a general election is to be held for the election of the Governor and Cabinet, the Legislature *may* ~~shall~~ appropriate *additional funds* to the Election Campaign Financing Trust Fund from general revenue an amount sufficient to fund qualifying candidates pursuant to the provisions of ss. 106.30-106.36. In the event such appropriated moneys are insufficient to fully fund qualifying candidates, available funds shall be distributed on a proportional basis based on total available funds.

(2) Proceeds from filing fees pursuant to ss. 99 092, 99.093, and 105.031 shall be deposited into the Election Campaign Financing Trust Fund as designated in those sections.

(3) Proceeds from assessments pursuant to ss. 106.04, 106.07, and 106.29 shall be deposited into the Election Campaign Financing Trust Fund as designated in those sections.

Section 19. Section 106.33, Florida Statutes, 1990 Supplement, is amended to read:

106.33 Election campaign financing; eligibility.—Each candidate for the office of Governor or member of the Cabinet who desires to receive contributions from the Election Campaign Financing Trust Fund shall, upon qualifying for office, file a request for such contributions with the filing officer on forms provided by the Division of Elections. If a candidate requesting contributions from the fund desires to have such funds distributed by electronic fund transfers, the request shall include information necessary to implement that procedure. For the purposes of ss. 106.30-106.36, candidates for Governor and Lieutenant Governor on the same ticket shall be considered as a single candidate. To be eligible to receive contributions from the fund, a candidate shall not be an unopposed candidate as defined in s. 106.011(15) and shall:

(1) Agree to abide by the expenditure limits provided in s. 106.34.

(2) Raise ~~qualifying matching~~ contributions *as follows:*

(a) $150,000 for a candidate for Governor.

(b) $100,000 for a candidate for Cabinet office. ~~equal to 5 percent of the expenditure limit. Qualifying matching contributions are those from an individual of $250 or less made after September 1 of the calendar year prior to the election. Aggregate contributions from an individual in excess of $250 will be matched only up to $250. A contribution from an individual, if made by check, must be drawn on the personal bank account of the individual making the contribution, as opposed to any form of business account, regardless of whether the business account is for a corporation, partnership, sole proprietorship, trust, or other form of business arrangement. For contributions made by check from a personal joint account, the match shall only be for the individual who actually signs the check.~~

(3) Limit loans or contributions from the candidate's personal funds to $25,000 and contributions from political parties to $25,000, which loans or contributions shall not qualify for meeting the threshold amounts in subsection (2).

(4)~~(3)~~ Submit to a postelection audit of the campaign account by the division.

Section 20. Section 106.34, Florida Statutes, 1990 Supplement, is amended to read:

106.34 Expenditure limits.—

(1) Any candidate for Governor *and Lieutenant Governor* or Cabinet officer who requests contributions from the Election Campaign Financing Trust Fund shall limit his total expenditures as follows:

(a) Governor and Lieutenant Governor: *$5 million* ~~75 cents times the number of votes cast for Governor in the last general election at which the office was contested~~.

(b) Cabinet officer: *$2 million* ~~25 cents times the number of votes cast for that office in the last general election or, if the office was uncontested in the last general election, then 25 cents times the number of votes cast for Governor~~.

(2) The expenditure limit for any candidate with primary election opposition only shall be 60 percent of the limit provided in subsection (1).

(3) The expenditure limit shall be adjusted by the Secretary of State quadrennially to reflect the rate of inflation or deflation as indicated in the Consumer Price Index for All Urban Consumers, U.S. City Average, All Items, 1967=100, or successor reports as reported by the United States Department of Labor, Bureau of Labor Statistics.

(4) For the purposes of this section, the term "expenditure" does not include the payment of compensation for legal and accounting services rendered on behalf of a candidate.

Section 21. Section 106.35, Florida Statutes, 1990 Supplement, is amended to read:

106.35 Distribution of funds.—

(1) The division shall review each request for contributions from the Election Campaign Financing Trust Fund and certify whether the candidate is eligible for such contributions. Notice of the certification decision shall be provided to the candidate. An adverse decision may be appealed to the Florida Elections Commission. The division shall adopt rules providing a procedure for such appeals.

(2)*(a)* Each candidate who has been certified to receive contributions from the Election Campaign Financing Trust Fund shall be entitled to distribution of funds *as follows:*

1. For qualifying matching contributions making up all or any portion of the threshold amounts specified in s. 106.33(2), distribution shall be on a two-to-one basis.

2. For all other qualifying matching contributions, distribution shall be on a one-to-one basis ~~for all qualifying matching contributions as defined in s. 106.33(2)~~.

(b) Qualifying matching contributions are those from an individual of $250 or less made after September 1 of the calendar year prior to the election. Aggregate contributions from an individual in excess of $250 will be matched only up to $250. A contribution from an individual, if made by check, must be drawn on the personal bank account of the individual making the contribution, as opposed to any form of business account, regardless of whether the business account is for a corporation, partnership, sole proprietorship, trust, or other form of business arrangement. For contributions made by check from a personal joint account, the match shall only be for the individual who actually signs the check.

(3)(a) Certification and distribution of funds shall be based on contributions to the candidate reported ~~pursuant~~ to *the division for such purpose* ~~s. 106.07~~. The division shall review each report and verify the amount of funds to be distributed prior to authorizing the release of funds. The division may prescribe separate reporting forms for candidates for Governor and Cabinet officer.

(b) Notwithstanding the provisions of s. 106.11, a candidate who is eligible for a distribution of funds based upon qualifying matching contributions received and certified to the division on the report due on the 4th day prior to the election, may obligate funds not to exceed the amount which the campaign treasurer's report shows the candidate is eligible to receive from the Election Campaign Financing Trust Fund, without the funds actually being on deposit in the campaign account.

(4)~~(3)(a) For candidates with general election opposition or primary election opposition only,~~ Distribution of funds shall be made within 7 days after the close of qualifying~~, based on quarterly contribution reports,~~ and *every* ~~within~~ 7 days *thereafter* ~~after the filing of contribution reports required on the 32nd, 18th, and 4th days before an election~~.

~~(b) For candidates with primary election opposition and general election opposition, distribution shall be as provided in paragraph (a), except that for the first primary, funding shall only be matched in an amount up to 15 percent of the expenditure limit and, for the second primary, funding shall only be matched in an amount up to 25 percent of the expenditure limit.~~

(5) The division shall adopt rules providing for the weekly reports and certification and distribution of funds pursuant thereto required by this section. Such rules shall, at a minimum, provide for:

(a) Specifications for printed campaign treasurer's reports outlining the format for such reports, including size of paper, typeface, color of print, and placement of required information on the form.

(b)1. Specifications for electronically transmitted campaign treasurer's reports outlining communication parameters and protocol, data record formats, and provisions for ensuring security of data and transmission.

2. All electronically transmitted campaign treasurer's reports must also be filed in printed format. Printed format shall not include campaign treasurer's reports submitted by electronic facsimile transmission.

Section 22. Section 106.353, Florida Statutes, is created to read:

106.353 Candidates voluntarily abiding by election campaign financing limits but not requesting public funds; irrevocable statement required; penalty.—

(1) Not later than qualifying for office, each candidate for the office of Governor or member of the Cabinet who has not made a request to receive contributions from the Election Campaign Financing Trust Fund, but who wishes to voluntarily abide by the applicable expenditure limit set forth in s. 106.34 and the contribution limits on personal and party funds set forth in s. 106.33, shall file an irrevocable statement to that effect with the Secretary of State.

(2) Any candidate who files such a statement and subsequently exceeds such limits shall pay to the Election Campaign Financing Trust Fund an amount equal to the amount of the excess contributions or expenditures. Such penalty shall not be an allowable campaign expense and shall be paid from personal funds of the candidate. However, if a nonparticipating candidate exceeds the expenditure limit as described in s. 106.355, a candidate signing the statement pursuant to this section may exceed the applicable expenditure limit to the extent the nonparticipating candidate exceeded the limit without being subject to a penalty.

Section 23. Section 106.355, Florida Statutes, is created to read:

106.355 Nonparticipating candidate exceeding limits.—Whenever a candidate for the office of Governor or member of the Cabinet who has elected not to participate in election campaign financing under the provisions of ss. 106.30-106.36 exceeds the applicable expenditure limit provided in s. 106.34, all opposing candidates participating in such election campaign financing are, notwithstanding the provisions of s. 106.33 or any other provision requiring adherence to such limit, released from such expenditure limit to the extent the nonparticipating candidate exceeded the limit, are still eligible for matching contributions up to such limit, and shall not be required to reimburse any matching funds provided pursuant thereto. In addition, the Department of State shall, within 7 days after a request by a participating candidate, provide such candidate with funds from the Election Campaign Financing Trust Fund equal to the amount by which the nonparticipating candidate exceeded the expenditure limit, not to exceed twice the amount of the maximum expenditure limits specified in s. 106.34(1)(a) and (b), which funds shall not be considered matching funds.

Section 24. Section 106.36, Florida Statutes, 1990 Supplement, is amended to read:

106.36 Penalties; fines.—In addition to any other penalties which may be applicable under the election code, any candidate who receives contributions from the Election Campaign Financing Trust Fund and who exceeds the applicable expenditure limit, *except as authorized in ss. 106.353 and 106.355,* or falsely reports qualifying matching contributions and thereby receives contributions from the Election Campaign Financing Trust Fund to which he was not entitled shall be fined an amount equal to three times the amount at issue, which shall be deposited in the Election Campaign Financing Trust Fund.

Section 25. To the extent permitted by federal law, all broadcast radio and television stations and all cable television stations shall make air time available to candidates for public office at the lowest unit rate.

Section 26. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 27. Except as otherwise provided herein, this act shall take effect January 1, 1992.

Senator Dudley moved the following amendment to **Amendment 1** which was adopted:

Amendment 1A—On page 23, strike all of lines 13-24 and renumber subsequent sections.

Senator Myers moved the following amendment to **Amendment 1** which was adopted:

Amendment 1B—On page 33, between lines 2 and 3, insert:

Section 27. Section 99.012, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 99.012, F.S., for present text.)

99.012 Restrictions on individuals qualifying for public office.—

(1) As used in this section:

(a) "Officer" means a person, whether elected or appointed, who has the authority to exercise the sovereign power of the state pertaining to an office recognized under the State Constitution or laws of the state. With respect to a municipality, the term "officer" means a person, whether elected or appointed, who has the authority to exercise municipal power as provided by the State Constitution, state laws, or municipal charter.

(b) "Subordinate officer" means a person who has been delegated the authority to exercise the sovereign power of the state by an officer. With respect to a municipality, subordinate officer means a person who has been delegated the authority to exercise municipal power by an officer.

(2) No person may qualify as a candidate for more than one public office, whether federal, state, district, county, or municipal, if the terms or any part thereof run concurrently with each other.

(3)(a) No officer may qualify as a candidate for another public office, whether state, district, county, or municipal, if the terms or any part thereof run concurrently with each other, without resigning from the office he presently holds.

(b) The resignation is irrevocable.

(c) The written resignation must be submitted at least 10 days prior to the first day of qualifying for the office he intends to seek.

(d) The resignation must be effective no later than the earlier of the following dates:

1. The date the officer would take office, if elected; or

2. The date the officer's successor is required to take office.

(e)1. An elected district, county, or municipal officer must submit his resignation to the officer before whom he qualified for the office he holds, with a copy to the Governor and the Department of State.

2. An appointed district, county, or municipal officer must submit his resignation to the officer or authority which appointed him to the office he holds, with a copy to the Governor and the Department of State.

3. All other officers must submit their resignations to the Governor with a copy to the Department of State.

(f)1. With regard to an elective office, the resignation creates a vacancy in office to be filled by election. Persons may qualify as candidates for nomination and election as if the public officer's term were otherwise scheduled to expire.

2. With regard to an elective charter county office or elective municipal office, the vacancy created by the officer's resignation may be filled for that portion of his unexpired term in a manner provided by the respective charter. The office is deemed vacant upon the effective date of the resignation submitted by the official in his letter of resignation.

(g) Any officer who submits his resignation, effective immediately or effective on a date prior to the date of his qualifying for office, may then qualify for office as a nonofficeholder, and the provisions of this subsection do not apply.

(4)(a) Any officer who qualifies for federal public office must resign from the office he presently holds if the terms or any part thereof run concurrently with each other.

(b) The resignation is irrevocable.

(c) The resignation must be submitted no later than the date upon which he qualifies for office.

(d) The written resignation must be effective no later than the earlier of the following dates:

1. The date the officer would take office, if elected; or

2. The date the officer's successor is required to take office.

(e)1. An elected district, county, or municipal officer must submit his resignation to the officer before whom he qualified for the office he holds, with a copy to the Governor and the Department of State.

2. An appointed district, county, or municipal officer must submit his resignation to the officer or authority which appointed him to the office he holds, with a copy to the Governor and the Department of State.

3. All other officers must submit their resignations to the Governor with a copy to the Department of State.

(f)1. The failure of an officer who qualifies for federal public office to submit a resignation pursuant to this subsection constitutes an automatic irrevocable resignation, effective immediately, from the office he presently holds.

2. The Department of State shall send a notice of the automatic resignation to the Governor, and in the case of a district, county, or municipal officer, a copy to:

a. The officer before whom he qualified if the officer held an elective office; or

b. The person or authority who appointed the officer if the officer held an appointive office.

(g) The provisions of any special act to the contrary notwithstanding, with regard to an elective office, the resignation creates a vacancy in office to be filled by election, thereby permitting persons to qualify as candidates for nomination and election as if the officer's term were otherwise scheduled to expire. With regard to an elective charter county office or elective municipal office, the vacancy created by the officer's resignation may be filled for that portion of his unexpired term in a manner provided by the respective charter. The office is deemed vacant upon the effective date of the resignation submitted by the official in his letter of resignation.

(5) A person who is a subordinate officer, deputy sheriff, or police officer need not resign pursuant to this section unless he is seeking to qualify for a public office which is currently held by an officer who has authority to appoint, employ, promote, or otherwise supervise that person and who has qualified as a candidate for reelection to that office. However, upon qualifying, the subordinate officer, deputy sheriff, or police officer must take a leave of absence without pay during the period in which he is a candidate for office.

(6) The name of any person who does not comply with this section may be removed from every ballot on which it appears when ordered by a circuit court upon the petition of an elector or the Department of State.

(7) This section does not apply to:

(a) Political party offices.

(b) Persons serving without salary as members of an appointive board or authority.

(8) Nothing contained in subsections (3) and (4) relates to persons holding any federal office.

Section 28. Subsections (4), (5), (6), and (7) of section 99.061, Florida Statutes, as amended by chapter 90-315, Laws of Florida, are renumbered as subsections (5), (6), (7), and (8), respectively, and a new subsection (4) is added to said section, to read:

99.061 Method of qualifying for nomination or election to federal, state, county, or district office.—

(4) At the time of qualifying for office, each candidate for a constitutional office shall file a full and public disclosure of financial interests pursuant to Section 8 of Article II of the State Constitution, and a candidate for any other office, including local elective office, shall file a statement of financial interests pursuant to s. 112.3145.

Section 29. Subsection (4) of section 163.566, Florida Statutes, is amended to read:

163.566 Definitions.—As used in this part, and unless the context clearly indicates otherwise:

(4) "Director" means a person appointed to the board by a member. No person who serves without salary as a director or in any other appointed position of the authority shall be in violation of s. 99.012~~(2)~~ by reason of holding such office.

(Renumber subsequent sections.)

Senator Kiser moved the following amendment to **Amendment 1** which was adopted:

Amendment 1C—On page 33, between lines 2 and 3, insert:

Section 27. The Department of Revenue shall conduct a study to determine what tax or combination of taxes are required to be paid by every taxpayer in the state and to review the forms by which these taxes are assessed for the purpose of recommending to the Legislature a form by which a taxpayer could voluntarily contribute money to the Election Campaign Financing Trust Fund.

Senator Dudley moved the following amendment to **Amendment 1** which failed:

Amendment 1D—On page 25, line 11, through page 32, line 23, strike all of said lines

Senator Crotty moved the following amendment to **Amendment 1** which was adopted:

Amendment 1E—On page 28, between lines 8 and 9, insert:

(5) Agree to use all his funds, including private contributions and matching public funds from the trust fund, to advocate his qualifications for office, accomplishments, and platform, and not to use any of the funds to purchase political advertisement, the purpose of which is to persuade, suggest to, or tend to suggest to the reader, listener, or viewer not to vote for a candidate.

Senator Dudley moved the following amendments to **Amendment 1** which were adopted:

Amendment 1F—On page 22, strike all of lines 25-27 and insert: *OF . . . (TITLE OF OFFICE SOUGHT) . . ., HAS ELECTED NOT TO ACCEPT PUBLIC FUNDS TO FINANCE HIS CAMPAIGN FOR PUBLIC OFFICE AND IS NOT SUBJECT TO THE EXPENDITURE LIMITS PROVIDED IN SECTIONS 106.30-106.36, FLORIDA STATUTES.*

Amendment 1G—On page 22, strike line 28 and insert:

2. Provide a statement for any candidate for Governor or a Cabinet office who elects to participate in election campaign financing. The statement shall be prominently displayed in type large enough and, for television broadcasts, on the screen long enough to be easily read by the average person, or for radio broadcasts, spoken in a volume loud enough and enunciated clearly enough to be easily heard and understood by the average person and shall be as follows: . . . (NAME OF CANDIDATE) . . ., CANDIDATE FOR THE OFFICE OF . . . (TITLE OF OFFICE SOUGHT) . . ., HAS AGREED TO USE PUBLIC FUNDS TO FINANCE HIS CAMPAIGN AND IS SUBJECT TO THE CAMPAIGN FINANCING LIMITS PROVIDED UNDER SECTIONS 106.30-106.36, FLORIDA STATUTES.

3. This paragraph shall apply to any political

Senator Crotty moved the following amendments to **Amendment 1** which were adopted:

Amendment 1H—On page 14, line 21, after "person," insert: *corporation, labor union,*

Amendment 1I—On page 14, line 21, after "person," insert: *national executive committee, state executive committee, county executive committee,*

Senator Crotty moved the following amendments to **Amendment 1** which failed:

Amendment 1J—On page 23, strike all of lines 13-22 and insert:

Section 12. Present subsection (4) of section 106.15, Florida Statutes, is renumbered as subsection (5) and amended, and new subsection (4) is added to that section, to read:

106.15 Certain acts prohibited.—

(4) A person shall make a campaign contribution to the candidate or to the campaign treasurer only in person or by mailing his own contribution. A person may not make a campaign contribution or submit a campaign contribution to a candidate or a candidate's campaign treasurer for another person.

(5)~~(4)~~ Any person violating the provisions of this

Amendment 1K—On page 32, between lines 27 and 28, insert:

Section 26. *The contribution limits provided in section 106.08, Florida Statutes, do not apply to candidates for an office if any candidate for that office has raised funds in excess of $10,000 prior to January 1, 1992.*

(Renumber subsequent sections.)

Senator Dudley moved the following amendment to **Amendment 1** which was adopted:

Amendment 1L—On page 32, between lines 27 and 28, insert:

Section 26. A person who lobbies the Legislature, any legislative employee, any department or agency of the executive branch of government, or any state or local agency of government may not accept a contingency fee for the lobbying services provided.

(Renumber subsequent sections.)

Senator Dudley moved the following amendment to **Amendment 1**:

Amendment 1M—On page 1, between lines 11 and 12, insert:

Section 1. (1) No person who has, or but for resignation would have, served as a Senator for 12 consecutive years after January 1, 1992, shall be elected a Senator for the succeeding term.

(2) No person who has, or but for resignation would have, served as a member of the House of Representatives for 12 consecutive years after January 1, 1992, shall be elected a member of the House of Representatives for the succeeding term.

(3) No person who has, or but for resignation would have, served as Secretary of State, Attorney General, Comptroller, Treasurer, Commissioner of Agriculture, or Commissioner of Education for more than 6 years in two consecutive terms shall be elected to that office for the succeeding term.

(Renumber subsequent sections.)

Amendment 1M was ruled out of order on a point of order.

Senator Weiler moved the following amendment to **Amendment 1**:

Amendment 1N—On page 1, between lines 11 and 12, insert:

Section 1. No person who has, or but for resignation would have, served as Secretary of State, Attorney General, Comptroller, Treasurer, Commissioner of Agriculture, or Commissioner of Education for more than 6 years in two consecutive terms shall be elected to that office for the succeeding term.

(Renumber subsequent sections.)

Amendment 1N was ruled out of order on a point of order.

Senator Jenne moved the following amendment to **Amendment 1** which failed:

Amendment 1O—On page 26, between lines 1 and 2, insert:

(4) Proceeds from the $5 deducted from the fee collected pursuant to s. 320.0808(3) shall be deposited into the Election Campaign Financing Trust Fund.

(5) Proceeds from contributions made pursuant to ss. 199.052(13), 320.02(13), 322.08(6), and 327.25(7) shall be deposited into the Election Campaign Financing Trust Fund.

(6) Proceeds from the surcharge imposed on specialty license plates issued by the Department of Highway Safety and Motor Vehicles shall be deposited into the Election Campaign Financing Trust Fund.

Senator Jenne moved the following amendment to **Amendment 1** which was adopted:

Amendment 1P—On page 32, between lines 27 and 28, insert:

Section 26. Subsection (13) is added to section 199.052, Florida Statutes, to read:

199.052 Annual tax returns; payment of annual tax.—

(13) The annual intangible tax return shall include language permitting a voluntary contribution of $5 per taxpayer, which contribution shall be transferred into the Election Campaign Financing Trust Fund. A statement providing an explanation of the purpose of the trust fund shall also be included.

Section 27. Subsection (13) is added to section 320.02, Florida Statutes, 1990 Supplement, to read:

320.02 Registration required; application for registration; forms.—

(13) The application form for motor vehicle registration shall include language permitting a voluntary contribution of $5 per applicant, which contribution shall be transferred into the Election Campaign Financing Trust Fund. A statement providing an explanation of the purpose of the trust fund shall also be included.

Section 28. Subsection (6) is added to section 322.08, Florida Statutes, as amended by chapter 89-282, Laws of Florida, to read:

322.08 Application for license.—

(6) The application form for a driver's license or duplicate thereof shall include language permitting a voluntary contribution of $5 per applicant, which contribution shall be transferred into the Election Campaign Financing Trust Fund. A statement providing an explanation of the purpose of the trust fund shall also be included.

Section 29. Subsection (7) of section 327.25, Florida Statutes, 1990 Supplement, is amended to read:

327.25 Classification; registration; fees and charges; surcharge; disposition of fees; fines.—

(7) VOLUNTARY CONTRIBUTIONS.—The application form for boat registration shall include a provision to allow each applicant to indicate his desire to pay an additional voluntary contribution to the Save the Manatee Trust Fund for manatee and marine mammal research, protection, and recovery. This contribution shall be in addition to all other fees and charges. Provisions for collecting this contribution shall begin with the boat registrations for fiscal year 1985. The amount of the request for a voluntary contribution solicited shall be $1 per registrant. Beginning with boat registration in fiscal year 1993, the request for a voluntary contribution solicited shall be $2 per registrant. All voluntary contributions shall be deposited in the Save the Manatee Trust Fund for use in accordance with the provisions of s. 370.12(5). *The form shall also include language permitting a voluntary contribution of $5 per applicant, which contribution shall be transferred into the Election Campaign Financing Trust Fund. A statement providing an explanation of the purpose of the trust fund shall also be included.*

Section 30. Subsection (1) of section 607.1622, Florida Statutes, 1990 Supplement, is amended to read:

607.1622 Annual report for Department of State.—

(1) Each domestic corporation and each foreign corporation authorized to transact business in this state shall deliver to the Department of State for filing a sworn annual report on such forms as the Department of State prescribes that sets forth:

(a) The name of the corporation and the state or country under the law of which it is incorporated;

(b) The date of incorporation or, if a foreign corporation, the date on which it was admitted to do business in this state;

(c) The address of its principal office and the mailing address of the corporation;

(d) The corporation's federal employer identification number, if any, or, if none, whether one has been applied for;

(e) The names and business street addresses of its directors and principal officers;

(f) The street address of its registered office and the name of its registered agent at that office in this state; ~~and~~

(g) Language permitting a voluntary contribution of $5 per taxpayer, which contribution shall be transferred into the Election Campaign Financing Trust Fund. A statement providing an explanation of the purpose of the trust fund shall also be included; and

(h)~~(g)~~ Such additional information as may be necessary or appropriate to enable the Department of State to carry out the provisions of this act.

(Renumber subsequent sections.)

Senator Crotty moved the following amendment to **Amendment 1** which was adopted:

Amendment 1Q—On page 16, line 4, after "*s. 220.03(1)(b)*" insert: *or organization as defined in s. 447.02(1)*

Amendment 1 as amended was adopted.

The Committee on Executive Business, Ethics and Elections recommended the following amendments which were moved by Senator Weinstock and failed:

Amendment 2—On page 4, lines 30 and 31, and on page 5, lines 1-3, strike all of said lines and insert:

Section 1. Subsections (3), (4), and (5) of section 106.011, Florida Statutes, 1990 Supplement, are amended to read:

106.011 Definitions.—As used in this chapter, the following terms have the following meanings unless the context clearly indicates otherwise:

(3) "Contribution" means:

(a) A gift, subscription, conveyance, deposit, loan, payment, or distribution of money or anything of value, including contributions in kind having an attributable monetary value in any form, made for the purpose of influencing the results of an election.

(b) A transfer of funds between political committees, between committees of continuous existence, or between a political committee and a committee of continuous existence.

(c) The payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to a candidate or political committee without charge to the candidate or committee for such services.

(d) The transfer of funds by a campaign treasurer or deputy campaign treasurer between a primary depository and a separate interest-bearing account or certificate of deposit, and the term includes any interest earned on such account or certificate.

Notwithstanding the foregoing meanings of "contribution," the word shall not be construed to include services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee *which includes, but is not limited to, legal and accounting services.* This definition shall not be construed to include editorial endorsements.

(4) "Expenditure" means a purchase, payment, distribution, loan, advance, transfer of funds by a campaign treasurer or deputy campaign treasurer between a primary depository and a separate interest-bearing account or certificate of deposit, or gift of money or anything of value made for the purpose of influencing the results of an election. However,

"expenditure" does not include a purchase, payment, distribution, loan, advance, or gift of money or anything of value made for the purpose of influencing the results of an election when made by an organization, in existence prior to the time during which a candidate qualifies or an issue is placed on the ballot for that election, for the purpose of printing or distributing such organization's newsletter, containing a statement by such organization in support of or opposition to a candidate or issue, which newsletter is distributed only to members of such organization. *"Expenditure" does not include the payment of compensation for legal or accounting services rendered on behalf of a candidate.*

Amendment 3—In title, on page 1, line 3, after "redefining" insert: "contribution," "expenditure," and

Amendment 4—On page 6, strike all of lines 9-11 and insert: *seek a different office and offer to return, upon their request, those contributions given in support of the original office sought. If so requested, the candidate shall return the contributions, on a pro rata basis, within 30 days after notifying the contributor of his intent to seek a different office. This notification shall include a*

Amendment 5—On page 10, strike all of lines 15-29 and insert:

(c) For purposes of this subsection the first primary, second primary, and general election shall be deemed separate elections so long as the candidate is not an unopposed candidate as defined in s. 106 011(15). However, for the purpose

Amendment 6—In title, on page 1, strike all of lines 20-24 and insert: political committees;

Amendment 7 —On page 11, between lines 9 and 10, insert:

(2)(a) A candidate as defined in s. 106.011(16) shall not accept contributions from a state executive committee of a political party or county executive committee of a political party, which contributions in the aggregate exceed $25,000 for any election cycle.

(b) For purposes of this subsection:

1. "Election cycle" means the first primary, second primary, and general election combined.

2. Political advertisements, as defined in s. 106.011(17), and mailing services are considered contributions in an amount equal to their fair market value and shall be counted toward the $25,000 contribution limit on expenditures which a candidate may accept.

3. Polling services, research services, and face-to-face voter mobilization are not considered contributions to be counted toward the $25,000 contribution limit.

(Renumber subsequent subsections.)

Amendment 8—In title, on page 1, line 29, after "circumstances;" insert: providing limitations on contributions from political parties;

Amendment 9—On page 14, lines 4-31, and on page 15, lines 1-3, strike all of said lines and renumber subsequent sections.

Amendment 10—In title, on page 2, line 6, after the semicolon (;) through line 11, after "penalty;", strike all of said lines

Amendment 11—On page 15, line 13, after the comma (,) strike *"within 24 hours after"* and insert: *72 hours prior to*

Amendment 12—On page 19, strike all of lines 10-17 and insert:

(4) No person shall make and no person shall solicit or accept any campaign contribution in a building owned or leased by a governmental entity. For purposes of this subsection, acceptance shall mean the personal hand delivery by a contributor or his agent. This subsection shall not apply to the owned or leased district offices of elected officials or when a government-owned building, or any portion thereof, is rented for the specific purpose of holding a campaign fund raiser

Amendment 13—On page 27, strike all of lines 29 and 30 and insert: *Financing Trust Fund equal to twice the amount of the maximum expenditure limits specified in s. 106.34(1)(a) and (b),*

Amendment 14—On page 29, strike all of lines 25 and 26 and renumber subsequent paragraphs.

Amendment 15—On page 44, between lines 2 and 3, insert:

Section 37. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

(Renumber subsequent sections.)

Amendment 16—In title, on page 4, line 26, after the semicolon (;) insert: providing a severability clause;

The Committee on Finance, Taxation and Claims recommended the following amendment which was moved by Senator Weinstock:

Amendment 17—In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to elections; amending s. 99.092, F.S.; increasing the filing fee for persons seeking to qualify for nomination or election to certain offices; providing for a specified percentage of the fee to be transferred to the Election Campaign Financing Trust Fund; amending s. 99.093, F.S.; increasing the election assessment for municipal candidates; providing for a specified percentage of the assessment amount to be transferred to the Election Campaign Financing Trust Fund; creating s. 99.0965, F.S.; providing signature requirements for ballot position in apportionment years; amending s. 105.031, F.S.; increasing the qualifying fee for certain judicial candidates; providing for a specified percentage of the fee to be transferred to the Election Campaign Financing Trust Fund; amending s. 106.04, F.S.; excluding interest income from the percentage requirement for qualification of committees of continuous existence; requiring such committees to remit a portion of certain contributions to the Division of Elections for deposit into the Election Campaign Financing Trust Fund; amending s. 106.07, F.S.; revising the reporting dates for certain candidates; requiring political committees to remit a portion of certain contributions to the filing officer for deposit into the Election Campaign Financing Trust Fund; amending s. 106.29, F.S.; requiring state and county executive committees of each political party to remit a portion of certain contributions to the filing officer for deposit into the Election Campaign Financing Trust Fund; amending s. 106.011, F.S.; redefining "contribution" and "independent expenditure"; amending s. 106.021, F.S.; prohibiting a candidate from changing the designation of office sought and using campaign funds from the prior candidacy for the subsequent candidacy; providing an exception; clarifying that candidates for the office of Governor and Lt. Governor are considered a single candidate for the purpose of appointing a campaign treasurer and designating a campaign depository; amending s. 106.08, F.S.; revising the limitations on contributions to candidates and political committees; providing a separate limit on contributions by minors; providing for the application of the contribution limits to two or more entities considered as a single entity in certain circumstances; providing limitations on contributions from political parties; providing penalties; reenacting ss. 106.04(5), 106.075(2), 106.19(1)(a), and 106.29(4), F.S., relating to contributions by committees of continuous existence, contributions to pay loans, penalty for acceptance of contributions in excess of limits, and contributions by executive committees, to incorporate the amendment to s. 106.08, F.S., in references thereto; creating s. 106.085, F.S.; requiring persons or groups making certain independent expenditures on behalf of or in opposition to any candidate to give notice thereof; providing a penalty; amending s. 106.11, F.S.; removing the requirement that "thank you" advertising must be placed in the communications media to be a qualified expenditure after a candidate withdraws, becomes unopposed, or is eliminated or elected; amending s. 106.141, F.S.; revising requirements for disposing of surplus funds; amending s. 106.143, F.S.; requiring political advertisements to include a disclaimer for certain candidates for statewide office who elect not to participate in election campaign financing; providing additional requirements for electronically recorded political advertisements; allowing for the disclaimers to be provided in a language other than English; providing a penalty; amending s. 106.15, F.S.; providing certain limitations on soliciting and accepting campaign contributions; providing a penalty; amending s. 106.25, F.S., relating to confidentiality of complaints filed with the Florida Elections Commission, to provide that complainants are not bound thereby; amending s. 106.32, F.S.; providing for deposit into the Election Campaign Financing Trust Fund of a portion of certain filing fees and assessments; amending s. 106.33, F.S.; revising election campaign financing eligibility provisions; amending s. 106.34, F.S.; revising the expenditure limits for candidates for Governor and Lt. Governor or Cabinet officer who accept contributions from the Election Campaign Financing Trust Fund; amending s. 106.35, F.S.; revising election campaign financing provisions relating to reporting and to certification and

distribution of funds, including matching requirements; providing rulemaking authority; creating s. 106.353, F.S.; requiring candidates voluntarily abiding by election campaign financing limits but not requesting public funds to file an irrevocable statement to that effect with the Secretary of State; providing a penalty; creating s. 106.355, F.S.; providing for release from the expenditure limits when opposing nonparticipating candidates exceed the limits; amending s. 106.36, F.S., to conform; requiring, to the extent permitted by federal law, radio and television stations, including cable television stations, to make air time available to candidates for public office at the lowest unit rate; providing a severability clause; providing effective dates.

WHEREAS, the Legislature finds a compelling state interest in strengthening the integrity of, and public confidence in, the electoral process, and

WHEREAS, the Legislature seeks to serve that compelling state interest through campaign finance reform and by establishing public funding of political campaigns, and

WHEREAS, the Legislature has determined that the measures set forth below are narrowly tailored to serve the compelling state interest in public confidence in the electoral process, and that they are the least restrictive alternatives for the following reasons:

(1) They do not significantly burden any individual's right to political expression or symbolic political communication;

(2) They do not compel political speech from individuals who wish to refrain from such speech (e.g., apolitical taxpayers), or otherwise unduly burden the public treasury;

(3) As to filing fees, candidates retain a viable alternative to paying the filing fees prescribed herein;

(4) The measures enacted below are less expensive to collect; and

(5) Other measures than those enacted below would inhibit the state's ability to perform its governmental functions, NOW, THEREFORE,

Senator Jenne moved the following amendment to **Amendment 17** which was adopted:

Amendment 17A—In title, on page 5, line 5, after the semicolon (;) insert: amending s. 199.052, F.S.; requiring the annual intangible tax return to permit a voluntary contribution to the Election Campaign Financing Trust Fund; amending s. 320.02, F.S.; requiring the application form for motor vehicle registration to permit a voluntary contribution to the Election Campaign Financing Trust Fund; amending s. 322.08, F.S.; requiring the driver's license application form to permit a voluntary contribution to the Election Campaign Financing Trust Fund; amending s. 327.25, F.S.; requiring the application form for boat registrations to permit a voluntary contribution to the Election Campaign Financing Trust Fund; amending s. 607.1622, F.S.; requiring the annual report form for domestic and foreign corporations to permit a voluntary contribution to the Election Campaign Financing Trust Fund;

Senator Myers moved the following amendment to **Amendment 17** which was adopted:

Amendment 17B—In title, on page 5, line 6, after the semicolon (;) insert: amending s. 99.012, F.S.; providing restrictions on persons qualifying for public office; providing exceptions; providing definitions; providing for removal of a person's name from the ballot for his failure to comply with the restrictions under certain circumstances; amending s. 99.061, F.S.; requiring all candidates to file financial disclosure at the time of qualifying; amending s. 163.566, F.S., to correct a cross-reference;

Senator Dudley moved the following amendments to **Amendment 17** which were adopted:

Amendment 17C—In title, on page 4, strike all of lines 2-5 and insert: providing a penalty; amending s. 106.25, F.S., relating to

Amendment 17D—In title, on page 3, line 29, after the semicolon (;) insert: requiring political advertisements to include a statement for candidates for certain statewide offices who elect to participate in election campaign financing;

Senator Crotty moved the following amendment to **Amendment 17** which was adopted:

Amendment 17E—In title, on page 5, line 5, after the semicolon (;) insert: prohibiting contingency fees for lobbying services;

Amendment 17 as amended was adopted.

CS for HB 2309

Senator Childers moved the following amendment:

Amendment 1—Strike everything after the enacting clause and insert:

Section 1. Paragraph (c) of subsection (1) of section 407.07, Florida Statutes, is amended to read:

407.07 Health care costs and finances; analyses, studies, and reports.—

(1) The board shall have the authority to:

(c) Jointly develop, with the Department of Insurance or the Department of Health and Rehabilitative Services, criteria to analyze and study the ongoing effect upon health care costs of third-party reimbursement mechanisms, including the effects of Medicare, Medicaid, and other government reimbursement mechanisms. The board shall incorporate into its reports the findings of the Department of Insurance relating to the effect upon health care costs of third-party reimbursement mechanisms, including health insurance as defined in ss. 624.603 and 627.652~~, health care service plans as defined in s. 641.01,~~ and health maintenance organizations as defined in s. 641.19.

Section 2. Section 624.01, Florida Statutes, 1990 Supplement, is amended to read:

624.01 Short title.—Chapters 624 through 632, 634, *635,* 637, 638, 639, 641, 642, 648, and 651 constitute the "Florida Insurance Code."

Section 3. Subsection (1) of section 624.031, Florida Statutes, is amended to read:

624.031 "Self-insurance" defined.—For the purposes of ss. 627.551 and 627.651, self-insurance includes any plan, fund, or program which is communicated or the benefits of which are described in writing to employees and which has heretofore been or is hereafter established by or on behalf of any individual, partnership, association, corporation, trustee, governmental unit, employer, or employee organization, or any other organized group, for the purpose of providing for employees or their beneficiaries through such individual, partnership, association, corporation, trustee, governmental unit, employer, or employee organization, or any other group, benefits in the event of sickness, accident, disability, or death. Self-insurance does not include:

(1) Any plan with respect to which benefits are insured or reinsured by an insurance company ~~or a nonprofit hospital or medical service corporation~~ or are provided by a health maintenance organization.

Section 4. Subsection (1) of section 624.125, Florida Statutes, is amended to read:

624.125 Certain motor vehicle service agreements; exemption from code.—

(1) Any person may, in exchange for fees, charges, or other consideration, solicit, offer, provide, enter into, issue, or deliver a motor vehicle service agreement indemnifying the service agreement holder against loss caused by the failure of any mechanical or component part or parts of a motor vehicle listed in the agreement arising out of the ownership, operation, and use of such motor vehicle when:

(a)1. The premium charged for the motor vehicle service agreement does not exceed a total of *$50 annually or $50* ~~$25~~ for the term of the agreement; or

2. The difference in the price of substantially similar parts, or service connected therewith, sold with and without the agreement does not exceed a total of *$50 annually or $50* ~~$25~~ for the term of the agreement;

(b) The agreement is entered into incidentally to the sale of the part or parts or to the service connected therewith by the person soliciting, offering, providing, entering into, issuing, or delivering the motor vehicle service agreement; and

(c) No other agreements are solicited, offered, provided, entered into, issued, or delivered by such person at any time on any other mechanical

or component part or parts or service connected therewith on the same motor vehicle where the total of all payments exceeds *$50 annually or* $50 ~~$25~~ for the term of *the agreement* ~~all such agreements~~;

without being deemed an insurer and without being subject to the provisions of this code, provided that the agreement is not renewable or subject to extension or extendible.

Section 5. Section 624.155, Florida Statutes, 1990 Supplement, is amended to read:

624.155 Civil remedy.—

(1) Any person may bring a civil action against an insurer when such person is damaged:

(a) By a violation of any of the following provisions by the insurer:

1. Section 626.9541(1)(i), (o), or (x);

2. Section 626.9551;

3. Section 626.9705;

4. Section 626.9706;

5. Section 626.9707; or

6. Section 627.7283.

(b) By the commission of any of the following acts by the insurer:

1. Not attempting in good faith to settle claims when, under all the circumstances, it could and should have done so, had it acted fairly and honestly toward its insured and with due regard for his interests;

2. Making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which payments are being made; or

3. Except as to liability coverages, failing to promptly settle claims, when the obligation to settle a claim has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage.

Notwithstanding the provisions of the above to the contrary, a person pursuing a remedy under this section need not prove that such act was committed or performed with such frequency as to indicate a general business practice.

(2)(a) As a condition precedent to bringing an action under this section, the department and the insurer must have been given 60 days' written notice of the violation. If the department returns a notice for lack of specificity, the 60-day time period shall not begin until a proper notice is filed.

(b) The notice shall be on a form provided by the department and shall state with specificity the following information, and such other information as the department may require:

1. The statutory provision, including the specific language of the statute, which the insurer allegedly violated.

2. The facts and circumstances giving rise to the violation.

3. The name of any individual involved in the violation.

4. Reference to specific policy language that is relevant to the violation, if any. If the person bringing the civil action is a third party claimant, he shall not be required to reference the specific policy language if the insurer has not provided a copy of the policy to the third party claimant pursuant to written request.

5. A statement that the notice is given in order to perfect the right to pursue the civil remedy authorized by this section.

(c) Within 20 days of receipt of the notice, the department may return any notice that does not provide the specific information required by this section, and the department shall indicate the specific deficiencies contained in the notice. A determination by the department to return a notice for lack of specificity shall be exempt from the requirements of chapter 120. *The department shall:*

1. Maintain all notices of violation filed pursuant to this section for 7 years:

2. Maintain all notices of violation filed pursuant to this section indexed by insurance companies involved:

3. Produce copies of all notices of violation filed pursuant to this section upon written request within 30 days of the request. The person requesting the copy shall pay a reasonable fee for the copy.

(d) No action shall lie if, within 60 days after filing notice, the damages are paid or the circumstances giving rise to the violation are corrected.

(e) The insurer that is the recipient of a notice filed pursuant to this section shall report to the department on the disposition of the alleged violation.

(f) The applicable statute of limitations for an action under this section shall be tolled for a period of 65 days by the mailing of the notice required by this subsection or the mailing of a subsequent notice required by this subsection.

(3) Upon adverse adjudication at trial or upon appeal, the insurer shall be liable for damages, *as provided for in subsections (4) and (7),* together with court costs and reasonable attorney's fees incurred by the plaintiff.

(4) No punitive damages shall be awarded *to the claimant* under this section unless the acts giving rise to the violation occur with such frequency as to indicate a general business practice and these acts are:

(a) Willful, wanton, and malicious;

(b) In reckless disregard for the rights of any insured; or

(c) In reckless disregard for the rights of a beneficiary under a life insurance contract.

Any person who pursues a *punitive damage* claim under this subsection shall post in advance the costs of discovery *on such claim.* Such costs shall be awarded to the insurer if no punitive damages are awarded to the plaintiff.

(5) This section shall not be construed to authorize a class action suit against an insurer or a civil action against the department, its employees, or the Insurance Commissioner, or to create a cause of action when a health insurer refuses to pay a claim for reimbursement on the ground that the charge for a service was unreasonably high or that the service provided was not medically necessary.

(6) In the absence of expressed language to the contrary, this section shall not be construed to authorize a civil action or create a cause of action against an insurer or its employees who, in good faith, release information about an insured or an insurance policy to a law enforcement agency in furtherance of an investigation of a criminal or fraudulent act relating to a motor vehicle theft or a motor vehicle insurance claim.

(7) The civil remedy specified in this section does not preempt any other remedy or cause of action provided for pursuant to any other statute or pursuant to the common law of this state. Any *third party claimant* ~~person~~ may *plead in the alternative a common law cause of action for bad faith or a statutory cause of action for bad faith under this section,* ~~obtain a judgment under either the common law remedy of bad faith or this statutory remedy,~~ but shall not be entitled to *recover duplicate damages* ~~a judgment~~ under both remedies. *Election of remedies shall be made prior to the entry of judgment.* This section shall not be construed to create a common law cause of action. The damages recoverable pursuant to this section shall include *the total amount of the excess award or judgment in favor of the injured party, interest on unpaid benefits, and any reasonably forseeable damages caused by a violation of this section* ~~those damages which are a reasonably foreseeable result of a specified violation of this section by the insurer and may include an award or judgment in an amount that exceeds the policy limits~~.

(8) The purpose of this section is to regulate the business of insurance by providing a civil remedy for redress of unfair or deceptive claim settlement practices, or bad faith handling of an insurance claim. By explicit legislative mandate and definition, this section is specifically directed to the insurance industry and insurers as defined in 624.03. The Legislature finds that there is a need to establish a uniform remedial scheme for persons affected by violation of the Florida Insurance Code. Such a scheme will have the effect of reducing the risk of nonpayment of claims and hence will have the effect of transferring policyholder risk. Further, this remedial scheme has been created to redress

violations of specified provisions of the Florida Insurance Code which define the terms of the relationship between insurer and insureds and constitute an integral part of the insurer-insured relationship.

Section 6. Section 624.310, Florida Statutes, is amended to read:

624.310 Enforcement; *cease and desist orders; removal of certain persons; fines.—*

(1) DEFINITIONS.—For the purposes of this section, the term:

(a) "Affiliated party" means any person who directs or participates in the conduct of the affairs of a licensee and who is:

1. A director, officer, employee, trustee, committee member, or controlling stockholder of a licensee or a subsidiary or service corporation of the licensee, other than a controlling stockholder which is a holding company, or an agent of a licensee or a subsidiary or service corporation of the licensee;

2. A person who has filed or is required to file a statement or any other information required to be filed under s. 628.461 or s. 628.4615;

3. A stockholder, other than a stockholder that is a holding company of the licensee, who participates in the conduct of the affairs of the licensee; or

4. An independent contractor who:

a. Renders a written opinion required by the laws of this state under his professional credentials on behalf of the licensee, which opinion is reasonably relied on by the department in the performance of its duties; or

b. Affirmatively and knowingly conceals facts, through a written misrepresentation to the department, with knowledge that such misrepresentation:

(I) Constitutes a violation of the Insurance Code or a lawful rule or order of the department; and

(II) Directly and materially endangers the ability of the licensee to meet its obligations to policyholders.

For the purposes of this subparagraph, any representation of fact made by an independent contractor on behalf of a licensee, affirmatively communicated as a representation of the licensee to the independent contractor, shall not be considered a misrepresentation by the independent contractor to the department.

(b) "Licensee" means a person issued a license or certificate of authority or approval under this code or a person registered under a provision of this code.

(2) ENFORCEMENT GENERALLY.—The department may institute such suits or other legal proceedings as may be required to enforce any provision of this code. If it appears that any person has violated any provision of this code for which criminal prosecution is provided, the department shall provide the appropriate state attorney *or other prosecuting agency having jurisdiction with respect to such prosecution* with the relevant information in its possession.

(3) CEASE AND DESIST ORDERS.—

(a) The department may issue and serve a complaint stating charges upon any licensee or upon any affiliated party, whenever the department has reasonable cause to believe that the person or individual named therein is engaging in or has engaged in conduct that is:

1. An act that demonstrates a lack of fitness or trustworthiness to engage in the business of insurance, is hazardous to the insurance buying public, or constitutes business operations that are a detriment to policyholders, stockholders, investors, creditors, or the public;

2. A violation of any provision of the Florida Insurance Code;

3. A violation of any rule of the department;

4. A violation of any order of the department; or

5. A breach of any written agreement with the department.

(b) The complaint shall contain a statement of facts and notice of opportunity for a hearing pursuant to s. 120.57.

(c) If no hearing is requested within the time allowed by s. 120.57, or if a hearing is held and the department finds that any of the charges are proven, the department may enter an order directing the licensee or the affiliated party named in the complaint to cease and desist from engaging in the conduct complained of and take corrective action to remedy the effects of past improper conduct and assure future compliance.

(d) If the licensee or affiliated party named in the order fails to respond to the complaint within the time allotted by s. 120.57, the failure constitutes a default and justifies the entry of a cease and desist order.

(e) A contested or default cease and desist order is effective when reduced to writing and served upon the licensee or affiliated party named therein. An uncontested cease and desist order is effective as agreed.

(f) Whenever the department finds that conduct described in paragraph (a) is likely to cause insolvency, substantial dissipation or misvaluation of assets or earnings of the licensee, substantial inability to pay claims on a timely basis, or substantial prejudice to prospective or existing insureds, policyholders, subscribers, or the public, it may issue an emergency cease and desist order requiring the licensee or any affiliated party to immediately cease and desist from engaging in the conduct complained of and to take corrective and remedial action. The emergency order is effective immediately upon service of a copy of the order upon the licensee or affiliated party named therein and remains effective for 90 days. If the department begins nonemergency cease and desist proceedings under this subsection, the emergency order remains effective until the conclusion of the proceedings under s. 120.57. Any emergency order entered under this subsection shall be confidential until it is made permanent unless the department finds that the confidentiality will result in substantial risk of financial loss to the public.

(4) REMOVAL OF AFFILIATED PARTIES BY THE DEPARTMENT.—

(a) The department may issue and serve a complaint stating charges upon any affiliated party and upon the licensee involved, whenever the department has reason to believe that an affiliated party is engaging in or has engaged in conduct that constitutes:

1. An act that demonstrates a lack of fitness or trustworthiness to engage in the business of insurance through engaging in illegal activity or mismanagement of business activities;

2. A willful violation of any law relating to the business of insurance; however, if the violation constitutes a misdemeanor, no complaint shall be served as provided in this section until the affiliated party is notified in writing of the matter of the violation and has been afforded a reasonable period of time, as set forth in the notice, to correct the violation and has failed to do so;

3. A violation of any other law involving fraud or moral turpitude that constitutes a felony;

4. A willful violation of any rule of the department;

5. A willful violation of any order of the department;

6. A material misrepresentation of fact, made knowingly and willfully or made with reckless disregard for the truth of the matter; or

7. An act of commission or omission or a practice which is a breach of trust or a breach of fiduciary duty.

(b) The complaint shall contain a statement of facts and notice of opportunity for a hearing pursuant to s. 120.57.

(c) If no hearing is requested within the time allotted by s. 120.57, or if a hearing is held and the department finds that any of the charges in the complaint are proven true and that:

1. The licensee has suffered or will likely suffer loss or other damage;

2. The interests of the policyholders, creditors, or public are, or could be, seriously prejudiced by reason of the violation or act or breach of fiduciary duty;

3. The affiliated party has received financial gain by reason of the violation, act, or breach of fiduciary duty; or

4. The violation, act, or breach of fiduciary duty is one involving personal dishonesty on the part of the affiliated party or the conduct jeopardizes or could reasonably be anticipated to jeopardize the financial soundness of the licensee,

The department may enter an order removing the affiliated party or restricting or prohibiting participation by the person in the affairs of that particular licensee or of any other licensee.

(d) If the affiliated party fails to respond to the complaint within the time allotted by s. 120.57, the failure constitutes a default and justifies the entry of an order of removal, suspension, or restriction.

(e) A contested or default order of removal, restriction, or prohibition is effective when reduced to writing and served on the licensee and the affiliated party. An uncontested order of removal, restriction or prohibition is effective as agreed.

(f)1. The chief executive officer, or the person holding the equivalent office, of a license shall promptly notify the department if he has actual knowledge that any affiliated party is charged with a felony in a state or federal court.

2. Whenever any affiliated party is charged with a felony in a state or federal court or with the equivalent of a felony in the courts of any foreign country with which the United States maintains diplomatic relations, and the charge alleges violation of any law involving fraud, theft, or moral turpitude, the department may enter an emergency order suspending the affiliated party or restricting or prohibiting participation by the affiliated party in the affairs of the particular licensee or of any other licensee upon service of the order upon the licensee and the affiliated party charged. The order shall contain notice of opportunity for a hearing pursuant to s. 120.57, where the affiliated party may request a postsuspension hearing to show that continued service to or participation in the affairs of the licensee does not pose a threat to the interests of the licensee's policyholders or creditors and does not threaten to impair public confidence in the licensee. In accordance with applicable departmental rules, the department shall notify the affiliated party whether the order suspending or prohibiting the person from participation in the affairs of a licensee will be rescinded or otherwise modified. The emergency order remains in effect, unless otherwise modified by the department, until the criminal charge is disposed of. The acquittal of the person charged, or the final, unappealed dismissal of all charges against the person, dissolves the emergency order, but does not prohibit the department from instituting proceedings under paragraph (a). If the person charged is convicted or pleads guilty or nolo contendere, whether or not an adjudication of guilt is entered by the court, the emergency order shall become final.

(g) Any affiliated party removed from office pursuant to this section is not eligible for reelection or appointment to the position or to any other official position in any licensee in this state except upon the written consent of the department. Any affiliated party who is removed, restricted, or prohibited from participation in the affairs of a licensee pursuant to this section may petition the department for modification or termination of the removal, restriction, or prohibition.

(h) Resignation or termination of an affiliated party does not affect the department's jurisdiction to proceed under this subsection.

(5) ADMINISTRATIVE FINES; ENFORCEMENT.—

(a) The department may, in a proceeding initiated pursuant to chapter 120, impose an administrative fine against any person found in the proceeding to have violated any provision of this code, a cease and desist order of the department, or any written agreement with the department. No proceeding shall be initiated and no fine shall accrue until after the person has been notified in writing of the nature of the violation and has been afforded a reasonable period of time, as set forth in the notice, to correct the violation and has failed to do so.

(b) A fine imposed under this subsection may not exceed the amounts specified in s. 624.4211, per violation.

(c) The department may, in addition to the imposition of an administrative fine under this subsection, also suspend or revoke the license or certificate of authority of the licensee fined under this subsection.

(d) Any administrative fine levied by the department under this subsection may be enforced by the department by appropriate proceedings in the circuit court of the county in which the person resides or in which the principal office of a licensee is located, or, in the case of a foreign insurer or person not residing in this state, in Leon County. In any administrative or judicial proceeding arising under this section, a party may elect to correct the violation asserted by the department, and, upon doing so, any fine shall cease to accrue; however, the election to correct the violation does not render any administrative or judicial proceeding moot. All fines collected under this section shall be paid to the Insurance Commissioner's Regulatory Trust Fund.

(e) In imposing any administrative penalty or remedy provided for under this section, the department shall take into account the appropriateness of the penalty with respect to the size of the financial resources and the good faith of the person charged, the gravity of the violation, the history of previous violations, and other matters as justice may require.

(f) The imposition of an administrative fine under this subsection may be in addition to any other penalty or administrative fine authorized under this code.

(6) ADMINISTRATIVE PROCEDURES.—All administrative proceedings under subsections (3), (4), and (5) shall be conducted in accordance with chapter 120. Any service required or authorized to be made by the department under this code shall be made by certified mail, return receipt requested, delivered to the addressee only; by personal delivery; or in accordance with chapter 48. The service provided for herein shall be effective from the date of delivery.

(7) OTHER LAWS NOT SUPERSEDED.—The provisions of this section are in addition to other provisions of this code, and shall not be construed to curtail, impede, replace, or delete any other similar provision or power of the department under the Insurance Code as defined in s. 624.01 or any power of the department which may exist under the common law of this state. The procedures set forth in s. 626.9581 do not apply to regulatory action taken pursuant to the provisions of this section.

Section 7. Section 624.313, Florida Statutes, is amended to read:

624.313 Publications.—

(1) As early as reasonably possible, the department shall annually have printed and made available a statistical report which must include all of the following information on either a calendar year or fiscal year basis:

(a) A summary of all information reported to the department under s. 627.915(1).

(b) The total amount of premiums written and earned by line of insurance.

(c) The total amount of losses paid and losses incurred by line of insurance.

(d) The ratio of premiums written to losses paid by line of insurance.

(e) The ratio of premiums earned to losses incurred by line of insurance.

(f) The market share of the 10 largest insurers or insurer groups by line of insurance and of each insurer or insurer group that has a market share of at least 1 percent of a line of insurance in this state.

(g) The profitability of each major line of insurance.

(h) An analysis of the impact of the insurance industry on the economy of the state.

(i) A complaint ratio by line of insurance for the insurers referred to in paragraph (f). The department shall determine the most appropriate ratio or ratios for quantifying complaints.

(j) An analysis of such lines or kinds of insurance for which the department determines that an availability problem exists in this state.

(k) A summary of the findings of market examinations performed by the department under s. 624.3161 during the preceding year.

(l) Such other information as the department deems relevant. ~~No later than September 30 of each year, the department shall have printed and made available a list of all insurers authorized to transact insurance~~

~~in this state during the preceding calendar year. The list shall show, in tabular form, the insurers' assets and liabilities and such other data and information as the department deems essential and shall be based upon the insurers' financial statements filed with the department.~~

(2) The department may prepare and have printed and published in pamphlet or book form the following:

~~(a) Annually a list of all persons licensed as insurance agents in this state;~~

(a)~~(b)~~ As needed, questions and answers for the use of persons applying for an examination for licensing as agents or solicitors for property, casualty, surety, health, and miscellaneous insurers.;

(b)~~(c)~~ As needed, questions and answers for the use of persons applying for an examination for licensing as agents for life and health insurers.; ~~and~~

(c)~~(d)~~ As needed, questions and answers for the use of persons applying for an examination for licensing as adjusters.

(3) The department shall sell the publications mentioned in *subsections (1) and* ~~subsection~~ (2) to purchasers at a price fixed by it at not less than the cost of printing and binding such publications, plus packaging and postage costs for mailing; except that the department may deliver copies of such publications free of cost to state agencies and officers, insurance supervisory authorities of other states and jurisdictions, institutions of higher learning located in Florida, the Library of Congress, insurance officers of Naval, Military and Air Force bases located in Florida, and to persons serving as advisers to the department in preparation of the publications.

(4) The department may contract with outside vendors, in accordance with chapter 287, to compile data in an electronic data processing format that is compatible with the systems of the department.

Section 8. Section 624.315, Florida Statutes, 1990 Supplement, is amended to read:

624.315 Department; annual report.—

(1) As early as reasonably possible, the department shall annually prepare a report to the *Speaker and Minority Leader of the House of Representatives, the President and Minority Leader of the Senate, the Chairmen of the Legislative Committees with jurisdiction over matters of insurance,* ~~Legislature~~ and the Governor showing, with respect to the preceding calendar year:

(a) Names of the authorized insurers transacting insurance in this state, with abstracts of their financial statements including *assets, liabilities, and net worth.* ~~such summary of their financial condition as it deems proper;~~

(b) Names of insurers whose business was closed during the year, the cause thereof, and amounts of assets and liabilities as ascertainable.;

(c) Names of insurers against which delinquency or similar proceedings were instituted, and a concise statement of the circumstances and results of each such proceeding.;

(d) The receipts and estimated expenses of the department for the year.;

~~(e) The recommendations of the department as to amendments or supplementation of laws affecting insurance and as to matters affecting the department;~~

(e)~~(f)~~ Such other pertinent information and matters as the department deems to be in the public interest.;

~~(g) A summary of all information reported to the department as required by s. 627.915(1);~~

(f)~~(h)~~ Annually after each regular session of the Legislature, a compilation of the laws of this state relating to insurance. Any such publication may be printed, revised, or reprinted upon the basis of the original low bid.;

(g)~~(i)~~ An analysis and summary report of the state of the insurance industry in this state evaluated as of the end of the most recent calendar year. ~~The report shall provide an analysis of the impact of the insurance industry on the economy of the state, the market structure of the insurance industry in this state, the market performance of the insurance industry in this state, and the market conduct of the insurance industry in this state. Such analysis shall contain, in addition to any other information the department may provide to complete the analysis, the following data:~~

~~1. Impact of the insurance industry on state economy.—~~

~~a. The estimated total amount of investments in this state by type of investment, for example, bonds, mortgages, stocks in Florida corporations, and real estate.~~

~~b. The estimated total employment.~~

~~c. The total deposits in Florida financial institutions.~~

~~d. The total amount of premiums written and premiums earned.~~

~~e. The total amount of losses paid and losses incurred.~~

~~f. The total revenues to the state from premium taxes, license taxes and fees, and corporate taxes.~~

~~2. Market structure of the insurance industry.—~~

~~a. A listing of insurers by insurer group giving the market share of each insurer and insurer group by line of insurance.~~

~~b. The market share of the 10 largest insurer groups by line of insurance.~~

~~3. Market performance of the insurance industry.—~~

~~a. The profitability of each major line of insurance.~~

~~b. The ratio of premiums earned to losses paid by line of insurance.~~

~~c. The ratio of premiums earned to losses incurred by line of insurance.~~

~~4. Market conduct of the insurance industry. The number of consumer complaints by line of insurance and type of complaint.~~

~~(2)(a) The department may also include in the annual report information regarding availability, affordability, and profitability of manually rated commercial multiperil and commercial casualty lines of insurance. The information shall encompass major sublines and related classes of business as determined by the department, including generic risk classes and other classes determined to be under stress in the voluntary market. The department may utilize all available sources of information, including reports from insurers directly to the department and reports of insurers to other agencies and organizations to which the department has access and which is not confidential or otherwise prohibited for use by the department. To effectuate the purposes of this subsection, the department may require that necessary data be submitted by insurers authorized to do business in this state or by rating organizations licensed in this state.~~

~~(b) As used in this subsection, the following terms shall have the following meanings:~~

~~1. The term "commercial casualty" includes those lines of insurance as defined in s. 624.605(1)(a), (b), and (k), but limited to coverage for commercial risks.~~

~~2. The term "commercial multiperil" shall include multiple coverages written under one policy for a commercial risk, which coverages include property insurance as defined in s. 624.604 and casualty insurance as defined in s. 624.605.~~

~~3. The term "manually rated" means insurance policies subject to the rating provisions of s. 627.062 and in addition, to the extent data is available, shall also include nonmanually rated policies and policies that are not directly regulated by the department.~~

~~(c) The annual report may include the following:~~

(2) The department shall maintain the following information and make such information available upon request:

(a)~~1.~~ Calendar year profitability, including investment income from policyholders' unearned premium and loss reserves (Florida and countrywide).

(b)~~2.~~ Aggregate Florida loss reserves.

(c)~~3.~~ Premiums written (Florida and countrywide).

(d)~~4.~~ Premiums earned (Florida and countrywide).

(e)~~5.~~ Incurred losses (Florida and countrywide).

(f)~~6.~~ Paid losses (Florida and countrywide).

(g)~~7.~~ Allocated Florida loss adjustment expenses.

(h)~~8.~~ Renewal ratio (countrywide).

(i)~~9.~~ Variation of premiums charged by the industry as compared to rates promulgated by the Insurance Services Office (Florida and countrywide).

(j)~~10.~~ An analysis of policy size limits (Florida and countrywide).

(k)~~11.~~ Insureds' selection of claims-made versus occurrence coverage (Florida and countrywide).

(l)~~12.~~ A subreport on the involuntary market in Florida encompassing such joint underwriting plans and assigned risk plans operating in the state.

(m)~~13.~~ A subreport providing information relevant to emerging markets and alternate marketing mechanisms, such as self-insured trusts, risk retention groups, purchasing groups, and the excess-surplus lines market.

(n)~~14.~~ Trends; emerging trends as exemplified by the percentage change in frequency and severity of both paid and incurred claims, and pure premium (Florida and countrywide).

(o)~~15.~~ Fast track loss ratios as defined and assimilated by the Insurance Services Office (Florida and countrywide).

(3) The department may contract with outside vendors, in accordance with chapter 287, to compile data in an electronic data processing format that is compatible with the systems of the department.

Section 9. Paragraph (c) of subsection (1) and paragraph (a) of subsection (2) of section 624.316, Florida Statutes, 1990 Supplement, are amended to read:

624.316 Examination of insurers.—

(1)

(c) The department shall examine each insurer according to accounting procedures designed to fulfill the requirements of generally accepted insurance accounting principles and practices and good internal control and in keeping with generally accepted accounting forms, accounts, records, methods, and practices relating to insurers. To facilitate uniformity in examinations, the department may adopt, by rule, the Market and Financial Conduct Examination Handbook of the National Association of Insurance Commissioners, *1990, and may adopt subsequent amendments thereto, if the examination methodology remains substantially consistent* ~~or its successor organization~~.

(2)(a) *The department may examine each insurer as often as may be warranted for the protection of the policyholders and in the public interest, and shall examine each domestic insurer not less frequently than once every 3 years. The examination shall cover the preceding 3 fiscal years of the insurer and shall be commenced within 12 months after the end of the most recent fiscal year being covered by the examination. The examination may cover any period of the insurer's operations since the last previous examination. The examination may include examination of events subsequent to the end of the most recent fiscal year and the events of any prior period that affect the present financial condition of the insurer.* ~~The department shall examine each domestic insurer not less frequently than every 3 years. The examination shall cover the 3 preceding fiscal years of the insurer and shall be commenced within 12 months of the end of the most recent fiscal year being covered by the examination. The examination may include examination of events subsequent to the end of the most recent fiscal year.~~ In lieu of making its own examination, the department may accept an independent certified public accountant's audit report prepared on a statutory basis consistent with the Florida Insurance Code *on that specific company*. The department may not accept the report in lieu of the requirement imposed by paragraph (1)(b). When an examination is conducted by the department for the sole purpose of examining the 3 preceding fiscal years of the insurer within 12 months after the opinion date of an independent certified public accountant's audit report prepared on a statutory basis *on that specific company* consistent with the Florida Insurance Code, the cost of the examination as charged to the insurer pursuant to s. 624.320 shall be reduced by the cost to the insurer of the independent certified public accountant's audit reports. Requests for the reduction in cost of examination must be submitted to the department in writing no later than 90 days after the conclusion of the examination and shall include sufficient documentation to support the charges incurred for the statutory audit performed by the independent certified public accountant.

Section 10. Section 627.321, Florida Statutes, is redesignated as section 624.3161 and is amended to read:

624.3161 ~~627.321~~ *Market conduct* examinations.—

(1) As often as it deems necessary, and not less frequently than each *5* ~~3~~ years, the department shall examine each licensed rating organization, each advisory organization, each group, association, or other organization of insurers which engages in joint underwriting or joint reinsurance, and each authorized insurer transacting in this state any class of insurance to which the provisions of ~~this~~ part *I of chapter 627* are applicable~~; however, as to any authorized insurer, if in the most recent 3-year period its average annual Florida direct written premium volume is less than $500,000 or its average annual number of Florida policyholders is less than 1,000, the department may, but shall not be required to, conduct the examination. The examination shall cover the 3 preceding years of the person examined and shall be commenced within 12 months of the end of the most recent year being covered by the examination. The examination may include examination of events subsequent to the end of the most recent year~~. The examination shall be for the purpose of ascertaining compliance by the person examined with the applicable provisions of *chapters 624, 626, 627, and 635* ~~this part. As to insurers, no such examination requirement shall be satisfied by the periodic examination of the insurer's general affairs~~.

(2) In lieu of any such examination, the department may accept the report of a similar examination made by the insurance supervisory official of another state.

(3) Upon agreement between the department and the insurer, such examination may be conducted by an independent professional examiner under contract to the department, in which case payment shall be made directly to the contracted examiner by the insurer examined in accordance with the rates and terms agreed to by the department, the insurer, and the examiner.

(4)~~(3)~~ The reasonable cost of the examination shall be paid by the person examined, and such person shall be subject, as though an insurer, to the provisions of s. 624.320.

(5)~~(4)~~ Such examinations shall also be subject to the applicable provisions of ss. 624.318, 624.319, 624.321, and 624.322.

Section 11. Subsection (2) of section 624.317, Florida Statutes, is amended to read:

624.317 Investigation of agents, adjusters, administrators, service companies, and others.—If it has reason to believe that any person has violated or is violating any provision of this code, or upon the written complaint signed by any interested person indicating that any such violation may exist, the department shall conduct such investigation as it deems necessary of the accounts, records, documents, and transactions pertaining to or affecting the insurance affairs of any:

(2) Insurance agent, *customer representative,* or solicitor, subject to the requirements of s. 626.601.

Section 12. Subsection (6) of section 624.320, Florida Statutes, is amended to read:

624.320 Examination expenses.—

(6) The provisions of this section shall apply to rate analysts and rate examiners in the discharge of their duties under s. *624.3161* ~~627.321~~.

Section 13. Subsection (5) of section 624.33, Florida Statutes, is amended to read:

624.33 Jurisdiction regarding health or life coverage.—

(5) This section does not apply to an insurer, ~~health care services plan,~~ health maintenance organization, professional service plan corpora-

tion, or person providing continuing care, which person or entity possesses a valid certificate of authority issued by the department, except to the extent that such person or entity provides the coverages described in subsection (1) to its employees other than under a policy or contract which is otherwise subject to regulation under *the Florida Insurance Code* ~~chapters 624-651~~.

Section 14. Section 624.401, Florida Statutes, is amended to read:

624.401 Certificate of authority required.—

(1) No person shall act as an insurer, and no insurer or its agents, attorneys, subscribers, or representatives shall directly or indirectly transact insurance, in this state except as authorized by a subsisting certificate of authority issued to the insurer by the department, except as to such transactions as are expressly otherwise provided for in this code.

(2) No insurer shall from offices or by personnel or facilities located in this state solicit insurance applications or otherwise transact insurance in another state or country unless it holds a subsisting certificate of authority issued to it by the department authorizing it to transact the same kind or kinds of insurance in this state.

(3) This state hereby preempts the field of regulating insurers and their agents and representatives; and no county, city, municipality, district, school district, or political subdivision shall require of any insurer, agent, or representative regulated under this code any authorization, permit, or registration of any kind for conducting transactions lawful under the authority granted by the state under this code.

(4) Any person who acts as an insurer, transacts insurance, or otherwise engages in insurance activities in this state without a certificate of authority in violation of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 15. Paragraph (d) is added to subsection (3) of section 624.404, Florida Statutes, and subsections (7) and (8) of said section are amended, to read:

624.404 General eligibility of insurers for certificate of authority.—To qualify for and hold authority to transact insurance in this state, an insurer must be otherwise in compliance with this code and with its charter powers and must be an incorporated stock insurer, an incorporated mutual insurer, or a reciprocal insurer, of the same general type as may be formed as a domestic insurer under this code; except that:

(3)

(d) The department may deny, suspend, or revoke the authority of an insurer to transact insurance in this state if any person, including any subscriber, stockholder, or incorporator, who exercises or has the ability to exercise effective control of the insurer, or who influences or has the ability to influence the transaction of the business of the insurer, which person the department has good reason to believe is now or was in the past affiliated directly or indirectly, through ownership interest of 10 percent or more, control, or reinsurance transactions, with any business, corporation, or other entity that has been found guilty of or has pleaded guilty or nolo contendere to any felony or crime punishable by imprisonment for 1 year or more under the laws of the United States, any state, or any other country, regardless of adjudication. However, in the case of an insurer operating under a subsisting certificate of authority, the insurer shall immediately remove such person or immediately notify the department of such person upon discovery of the conditions set forth in this paragraph, either when applicable to such person or upon order of the department; the failure to remove such person, provide such notice, or comply with such order constitutes grounds for suspension or revocation of the insurer's certificate of authority.

(7) For the purpose of satisfying the requirements of ss. 624.407 and 624.408, the investment portfolio of an insurer applying for an initial certificate of authority to do business in this state shall value its bonds and stocks in accordance with the provisions of the latest edition of the publication "Valuations of Securities" by the National Association of Insurance Commissioners, *1990, and subsequent amendments thereto, if the valuation methodology remains substantially unchanged* ~~or its successor organization, provided that such valuation methodology is substantially similar to the methodology used by the National Association of Insurance Commissioners in its 1988 edition of such publication~~.

~~(8) No insurer, the voting control or ownership of which is held in whole or substantial part by any government or governmental agency, or which is operated for or by any such government or agency, shall be authorized to transact insurance in this state. Membership in a mutual insurer, subscribership in a reciprocal insurer, ownership of stock of an insurer by the alien property custodian or similar official of the United States, or supervision of an insurer by a public insurance supervisory authority shall not be deemed to be an ownership, control, or operation of the insurer for the purposes of this subsection.~~

Section 16. Subsection (4) of section 624.407, Florida Statutes, is amended to read:

624.407 Capital funds required; new insurers.—

(4) For the purposes of this section, liabilities shall not include liabilities required under s. 625.041(4). *For purposes of computing minimum surplus as to policyholders pursuant to s. 625.305(1), liabilities shall include liabilities required under s. 625.041(4).*

Section 17. Subsection (6) of section 624.408, Florida Statutes, is amended to read:

624.408 Surplus as to policyholders required; new and existing insurers.—

(6) For purposes of this section, liabilities shall not include liabilities required under s. 625.041(4). *For purposes of computing minimum surplus as to policyholders pursuant to s 625 305(1), liabilities shall include liabilities required under s. 625.041(4)*

Section 18. Subsections (1) and (2) of section 624.412, Florida Statutes, are amended to read:

624.412 Deposit of alien insurers.—

(1) An alien insurer shall not have authority to transact insurance in this state unless it has and maintains within the United States as trust deposits with public officials having supervision over insurers, or with trustees, public depositories, or trust institutions approved by the department, assets available for discharge of its United States insurance obligations, which assets shall be in amount not less than the outstanding reserves and other liabilities of the insurer arising out of its insurance transactions in the United States together with the amount of *surplus as to policyholders required by s. 624.408* ~~paid-in capital stock required by s. 624.407~~ of a domestic stock insurer transacting like kinds of insurance.

(2) The amount so held on deposit under subsection (1) is, for the purposes of this code, deemed to be ~~the paid-in capital stock, if a stock insurer, or~~ minimum surplus~~, if a mutual insurer,~~ of the insurer required to be maintained.

Section 19. Paragraphs (d) and (e) of subsection (1) of section 624.413, Florida Statutes, are amended to read:

624.413 Application for certificate of authority.—

(1) To apply for a certificate of authority, an insurer shall file its application therefor with the department, upon a form furnished by it, showing its name; location of its home office and, if an alien insurer, its principal office in the United States; kinds of insurance to be transacted; state or country of domicile; and such additional information as the department may reasonably require, together with the following documents:

(d) A copy of its financial statement as of December 31 next preceding, containing information generally included in insurer financial statements prepared in accordance with generally accepted insurance accounting principles and practices and in a form generally utilized by insurers for financial statements, sworn to by at least two executive officers of the insurer, or certified by the public official having supervision of insurance in the insurer's state of domicile or of entry into the United States. To facilitate uniformity in financial statements, the department may by rule adopt the form for financial statements approved by the National Association of Insurance Commissioners *in 1990, and may adopt subsequent amendments thereto if the form remains substantially consistent* ~~or its successor organization~~.

(e) Supplemental quarterly financial statements for each calendar quarter since the beginning of the year of its application for the certificate of authority, sworn to by at least two of its executive officers. To facilitate uniformity in financial statements, the department may by rule adopt the form for quarterly financial statements approved by the National Association of Insurance Commissioners *in 1990, and may adopt subsequent amendments thereto if the form remains substantially consistent.*

Section 20. Subsection (1) of section 624.416, Florida Statutes, is amended to read:

624.416 Continuance, expiration, reinstatement, and amendment of certificate of authority.—

(1) A certificate of authority issued ~~or renewed~~ under this code shall continue in force as long as the insurer is entitled thereto under this code and until suspended, revoked, or terminated at the request of the insurer; subject, however, to continuance of the certificate by the insurer each year by:

(a) Payment prior to June 1 of the annual license tax provided for in s. 624.501(3);

(b) Due filing by the insurer of its annual statement for the calendar year preceding as required under s. 624.424; and

(c) Payment by the insurer of applicable taxes with respect to the preceding calendar year as required under this code.

Section 21. Section 624.424, Florida Statutes, 1990 Supplement, is amended to read:

624.424 Annual statement and other information.—

(1)*(a)* Each authorized insurer shall file with the department a full and true *statements* ~~statement~~ of its financial condition, transactions, and affairs. *An annual statement covering the preceding calendar year shall be filed on or before March 1, and quarterly statements covering the periods ending on March 31, June 30, and September 30 shall be filed within 45 days after each such date. The department may, for good cause, grant an extension of time for filing of an annual or quarterly statement. The statements* ~~The statement shall be filed annually on or before March 1, or within such extension of time therefor as the department, for good cause, may have granted, and shall be for the preceding calendar year. The statement~~ shall contain information generally included in *insurers'* ~~insurer~~ financial statements prepared in accordance with generally accepted insurance accounting principles and practices and in a form generally utilized by insurers for financial statements, sworn to by at least two executive officers of the insurer or, if a reciprocal insurer, by the oath of the attorney in fact or its like officer if a corporation. To facilitate uniformity in financial statements and to facilitate department analysis, the department may by rule adopt the form for financial statements approved by the National Association of Insurance Commissioners *in 1990, and may adopt subsequent amendments thereto if the methodology remains substantially consistent,* ~~or its successor organization~~ and may by rule require each insurer to submit to the department *or such organization as the department may designate,* ~~if available,~~ all or part of the information contained in the financial statement in a computer-readable form compatible with the electronic data processing system *specified by* ~~of~~ the department.

(b) The department may, by rule, require reports or filings required under the Insurance Code to be submitted on a computer-diskette compatible with the electronic data processing equipment specified by the department.

(2) The statement of an alien insurer shall be verified by the insurer's United States manager or other officer duly authorized. It shall be a separate statement, to be known as its general statement, of its transactions, assets, and affairs within the United States unless the department requires otherwise. If the department requires a statement as to the insurer's affairs elsewhere, the insurer shall file such statement with the department as soon as reasonably possible.

(3) Each insurer having a deposit as required under s. 624.411 shall file with the department annually with its annual statement a certificate to the effect that the assets so deposited have a market value equal to or in excess of the amount of deposit so required.

(4) At the time of filing, the insurer shall pay the fee for filing its annual statement in the amount specified in s. 624.501.

(5) The department may refuse to continue, or may suspend or revoke, the certificate of authority of an insurer failing to file its annual *or quarterly statements* ~~statement~~ and accompanying certificates when due.

(6) In addition to information called for and furnished in connection with its annual *or quarterly statements* ~~statement~~, an insurer shall furnish to the department as soon as reasonably possible such information as to its transactions or affairs as the department may from time to time request in writing. All such information furnished pursuant to the department's request shall be verified by the oath of two executive officers of the insurer or, if a reciprocal insurer, by the oath of the attorney in fact or its like officers if a corporation.

(7) The signatures of all such persons when written on annual *or quarterly* statements or other reports required by this section shall be presumed to have been so written by authority of the person whose signature is affixed thereon. The affixing of any signature by anyone other than the purported signer constitutes a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(8)(a) All authorized insurers must have conducted an annual audit by an independent certified public accountant and must file an audited financial report with the department on or before June 1 for the preceding year ending December 31. The department may require an insurer to file an audited financial report earlier than June 1 upon 90 days' advance notice to the insurer. The department may immediately suspend an insurer's certificate of authority by order if an insurer's failure to file required reports, financial statements, or information required by this subsection or rule adopted pursuant thereto creates a significant uncertainty as to the insurer's continuing eligibility for a certificate of authority.

(b) Any authorized insurer otherwise subject to this section having direct premiums written in this state of less than $1,000,000 in any calendar year and less than 1,000 policyholders or certificateholders of directly written policies nationwide at the end of such calendar year is exempt from this section for such year unless the department makes a specific finding that compliance is necessary in order for the department to carry out its statutory responsibilities. However, any insurer having assumed premiums pursuant to contracts or treaties or reinsurance of $1,000,000 or more is not exempt. Any insurer subject to an exemption must submit by March 1 following the year to which the exemption applies an affidavit sworn to by a responsible officer of the insurer specifying the amount of direct premiums written in this state and number of policyholders or certificateholders.

(c) The board of directors of an insurer shall hire the certified public accountant that prepares the audit required by this subsection and the board shall establish an audit committee of three or more directors of the insurer or an affiliated company. The audit committee shall be responsible for discussing audit findings and interacting with the certified public accountant with regard to his findings. The audit committee shall be comprised solely of members who are free from any relationship that, in the opinion of its board of directors, would interfere with the exercise of independent judgment as a committee member. The audit committee shall report to the board any findings of adverse financial conditions or significant deficiencies in internal controls that have been noted by the accountant. The insurer may request the department to waive this requirement of the audit committee membership based upon unusual hardship to the insurer.

(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 2 years, but may use another accountant or partner of the same firm. An insurer may request the department 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.

(e) The department shall adopt rules to implement this subsection, which rules must be in substantial conformity with the 1990 Model Rule Requiring Annual Audited Financial Reports adopted by the National Association of Insurance Commissioners, except where inconsistent with the requirements of this subsection.

~~(8)(a) In addition to the other requirements of this section, each authorized insurer shall on or before June 30th of each year, beginning in 1986, provide the audited financial statements, opinion, and letter report of material weaknesses as required herein.~~

~~(b) Each authorized insurer shall retain an independent certified public accountant, hereinafter "CPA," who agrees by written contract with the insurer to comply with the provisions of this subsection. The contract shall specify that:~~

~~1. On or before June 30th, the CPA shall provide to the insurer audited financial statements and opinion based upon generally accepted accounting principles for the preceding calendar year; a letter report of material weaknesses in accordance with generally accepted reporting standards on the accounting procedures and internal control systems of the insurer; and a report in accordance with generally accepted auditing standards on certain supplemental information which shall include the necessary data to enable the department to convert the audited financial statements to statements prepared on a statutory basis consistent with the Florida Insurance Code.~~

~~2. In lieu of the requirements imposed by subparagraph 1., the CPA may provide to the insurer audited financial statements and opinion based upon statutory principles consistent with the Florida Insurance Code and a letter report of material weaknesses in accordance with generally accepted reporting standards on the accounting procedures and internal control systems of the insurer.~~

~~3. Any determination by the CPA that the insurer has materially misstated its financial condition as reported to the department on its most recent annual statement or that the insurer does not meet minimum capital and surplus requirements set forth in the Florida Insurance Code shall be given by the CPA, in writing, to the insurer within 15 calendar days following a final determination by the CPA firm that such a misstatement was made. For purposes of this subparagraph and subparagraph 5., material misstatement shall mean a misstatement that overstates the surplus as regards policyholders in single financial statement items by 5 percent or more or, when taken together with all financial statement items, the surplus as regards policyholders is overstated by 10 percent or more.~~

~~4. The completed workpapers and any written communications between the CPA firm and the insurer relating to the audit of the insurer shall be made available for review on a visual inspection only basis by the department at the offices of the insurer, at the department, or at any other reasonable place as mutually agreed between the department and the insurer. The CPA must retain for review the workpapers and written communications for a period of not less than 6 years.~~

~~5. The necessary data to be furnished pursuant to subparagraph 1. shall include information that will enable the department to convert the audited financial statement to a statement that is in substantial compliance with the provisions of the Florida Insurance Code. The department shall provide to the insurer a form requesting specific supplemental information and this information shall include the following items:~~

~~a. Amounts of interest, rent, and other items of investment income that are due for periods of time in excess of those specified by the Florida Insurance Code.~~

~~b. Amount of premiums in the course of collection that are more than 3 months past due.~~

~~c. Amount of premiums due from controlling or controlled persons and the amount of premiums collected and held in trust by such persons.~~

~~d. An itemized list of those reinsurers whose reinsurance business results in $500,000 or more credit on the insurer's financial statements.~~

~~e. Advances to officers, directors, and controlling stockholders.~~

~~f. Amounts by which cost of investments in stocks, mortgages, real estate, or other investments exceeds statutory restrictions.~~

~~(c) Any authorized insurer otherwise subject to this subsection with less than $500,000 in direct premiums written in this state during the subject calendar year or with less than 1,000 policyholders or certificateholders at the end of the calendar year shall, in lieu of the required submission of the audited financial statements, opinion, and evaluation as required herein, submit an affidavit sworn to by a responsible officer of the insurer specifying the amount of direct premiums written in this state and number of policyholders or certificateholders.~~

~~(d) Any insurer otherwise subject to this subsection and not eligible for an exemption under paragraph (c) may submit to the department an exemption application. The department shall grant to the insurer an exemption to requirements of this subsection if the department determines that:~~

~~1. Compliance with paragraph (a) would result in an undue financial hardship on the insurer due to the cost of preparing such statements, including the direct and indirect expenses of the holding company system if the insurer is a member of one; and~~

~~2. The insurer will file financial statements which have been reviewed or compiled by an independent certified public accountant and which the department determines are sufficiently reliable and complete for the department to evaluate the financial condition and stability of the insurer. However, if the insurer is a member of an insurance holding company system, it shall file audited consolidated financial statements and opinion based upon generally accepted accounting principles or statutory principles consistent with the Florida Insurance Code. Such statement and opinion shall be for the preceding calendar year, shall be accompanied by a letter report of material weakness as described in paragraph (b), and shall be filed as provided in paragraph (f), but no later than July 10 subsequent to the preceding calendar year. Any determination by the CPA that the holding company or anyinsurer within the holding company has materially misstated its financial condition as reported to the department on its most recent annual statement or that the insurer does not meet minimum capital and surplus requirements set forth in the Florida Insurance Code shall be made in accordance with the provisions of paragraph (b) and shall be reported to the department as provided in paragraph (f). Each entity filing a consolidated statement pursuant to this paragraph shall retain an independent certified public accountant who agrees by written contract with the entity to comply with the provisions of this subsection relating to a contract between a certified public accountant and an insurer.~~

~~An application for exemption is required each year, and must be filed with the department prior to the end of the calendar year for which the exemption is being requested. The department may accept and grant exemption applications after the end of such calendar year subject to the imposition of an administrative fine on each insurer involved in such application as provided for in s. 624.4211(2), provided such application is received by the department prior to the March 1 immediately subsequent to the end of the calendar year for which such exemption is being requested.~~

~~(e) Each CPA who enters into a contract with an insurer pursuant to this subsection shall notify the department of the date of completion of any audit, report, determination, financial statement, or other requirement of this subsection within 10 days of providing notice or other communication to the insurer as to such completion. Failure to so notify the department may subject the affected insurer or insurers to an administrative fine as provided for in s. 624.4211(2).~~

~~(f) Each authorized insurer shall, within 10 days of receipt, file with the department any report, financial statements, or determination which it receives from a CPA pursuant to this subsection. The department may immediately suspend an insurer's certificate of authority for an insurer's willful failure to so file with the department.~~

~~(g) Upon consideration and review of the information provided pursuant to subparagraph (b)5., the insurer's solvency, and the best interests of its policyholders, the department may require an insurer to file an audited financial statement for the preceding calendar year based upon statutory principles consistent with the insurance laws of its state of domicile.~~

(9)(a) Each authorized insurer shall, pursuant to s. 409.2665(22), provide records and information to the Department of Health and Rehabilitative Services to identify potential insurance coverage for claims filed with that department and its fiscal agents for payment of medical services under s. 409.266.

(b) Each authorized insurer shall, pursuant to s. 409.2561(5)(c), notify the Medicaid agency of a cancellation or discontinuance of a policy within 30 days if the insurer received notification from the Medicaid agency to do so.

(c) Any information provided by an insurer under this subsection does not violate any right of confidentiality or contract that the insurer may have with covered persons. The insurer is immune from any liability that it may otherwise incur through its release of such information to the Department of Health and Rehabilitative Services.

Section 22. Subsection (1) of section 624.430, Florida Statutes, is amended to read:

624.430 Withdrawal of insurer or discontinuance of writing certain kinds or lines of insurance.—

(1) Any insurer desiring to surrender its certificate of authority, withdraw from this state, or discontinue the writing of any one or multiple

kinds or lines of insurance in this state shall give 90 days' notice in writing to the department setting forth its reasons for such action. Any insurer ~~other than a member of an insurer group which has annual direct written premiums exceeding one billion dollars in this state,~~ who does not write any premiums in a kind or line of insurance within a calendar year shall have that kind or line of insurance removed from its certificate of authority; *however, such line of insurance shall be restored to the insurer's certificate upon the insurer demonstrating that it has available the expertise necessary and meets the other requirements of this code to write that line of insurance.*

Section 23. Section 624.436, Florida Statutes, is amended to read:

624.436 Florida Nonprofit Multiple-Employer Welfare Arrangement Act.—Sections 624.436-*624.446* ~~624.44 shall be known and~~ may be cited as the "Florida Nonprofit Multiple-Employer Welfare Arrangement Act."

Section 24. Section 624.4361, Florida Statutes, is created to read:

624.4361 Definitions.—As used in ss. 624.436-624-446:

(1) "Arrangement" means a multiple-employer welfare arrangement.

(2) "Fund balance" means total statutory assets in excess of total statutory liabilities, except that assets pledged to secure debts not reflected on the books of the multiple-employer welfare arrangement shall not be included in the fund balance. "Fund balance" includes other contributed capital, retained earnings, and surplus notes.

(3) "Insolvent" or "insolvency" means that all the assets of the multiple-employer welfare arrangement, if made immediately available, would not be sufficient to discharge all of its liabilities, or that the multiple-employer welfare arrangement is unable to pay its debts as they become due in the usual course of business.

(4) "Reporting period" means the annual accounting period or fiscal year of the multiple-employer welfare arrangement.

(5) "Statutory accounting principles" means generally accepted accounting principles, except as modified by part I of chapter 625 and by rules adopted by the department which recognize the difference between an arrangement and an insurer.

(6) "Surplus notes" means funds borrowed by a multiple-employer welfare arrangement which result in a written instrument which includes all of the following:

(a) The effective date, amount, interest, and parties involved are clearly set forth.

(b) The principal sum and any interest accrued thereon are subject to and subordinate to all other liabilities of the multiple-employer welfare arrangement.

(c) The instrument states that the parties agree that the multiple-employer welfare arrangement shall satisfy the department that all claims of participants and general creditors of the organization have been paid or otherwise discharged prior to any payment of interest or repayment of principal.

(d) The instrument is executed by both parties and a certified copy of the instrument is filed with the department.

(e) The parties agree not to modify, terminate, or cancel the surplus note without the prior approval of the department.

(7) "Qualified actuary" means an actuary who is a member of the American Academy of Actuaries or the Society of Actuaries and has experience in establishing rates for a self-insured trust and the health services being provided.

Section 25. Section 624.437, Florida Statutes, is amended to read:

624.437 "Multiple-employer welfare arrangement" defined; *certificate of authority* ~~approval~~ required; penalty.—

(1) For the purposes of ss. 624.436-*624.446* ~~624.44~~, the term "multiple-employer welfare arrangement" means an employee welfare benefit plan or any other arrangement which is established or maintained for the purpose of offering or providing health insurance benefits or any other benefits described in s. 624.33, other than life insurance benefits, to the employees of two or more employers, or to their beneficiaries.

(2) No person shall *operate, maintain, or,* after October 1, 1983, establish a multiple-employer welfare arrangement unless such arrangement *has a valid certificate of authority issued* ~~is approved~~ by the department.

(3) This section does not apply to a multiple-employer welfare arrangement which offers or provides benefits which are fully insured by an authorized insurer or to an arrangement which is exempt from state insurance regulation in accordance with Pub. L. No. 93-406, the Employee Retirement Income Security Act.

(4)(a) Any person failing to hold a subsisting certificate of *authority* ~~approval~~ from the department while operating or maintaining a multiple-employer welfare arrangement shall be subject to a fine of not less than $5,000 or more than *$100,000* ~~$10,000~~ for each violation.

(b) Any person who operates or maintains a multiple-employer welfare arrangement without a subsisting certificate of *authority* ~~approval~~ from the department shall be subject to the cease and desist penalty powers of the department as set forth in ss. 626.9571, 626.9581, 626.9591, and 626.9601.

(c)1. Any person who operates or maintains a multiple-employer welfare arrangement without a subsisting certificate of *authority* ~~approval~~ as required under this section *commits* ~~is guilty of~~ a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

2. Except as provided in subparagraph 1., any person who violates the provisions of ss. 624.437-*624.446 commits* ~~624.466 is guilty of~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(d) In addition to the penalties and other enforcement provisions of the Florida Insurance Code, the department is vested with the power to seek both temporary and permanent injunctive relief when:

1. A multiple-employer welfare arrangement is being operated by any person or entity without a subsisting certificate of authority.

2. Any person, entity, or multiple-employer welfare arrangement has engaged in any activity prohibited by the Florida Insurance Code or by any rule adopted pursuant thereto.

3. Any multiple-employer welfare arrangement, person, or entity is renewing, issuing, or delivering a policy, contract, certificate, summary plan description, or other evidence of the benefits and coverages provided to employees or employee family members without a subsisting certificate of authority.

The department's authority to seek injunctive relief shall not be conditioned on having conducted any proceeding pursuant to chapter 120. The authority vested in the department by virtue of the operation of this section shall not act to reduce any other enforcement remedy or power to seek injunctive relief that may otherwise be available to the department.

Section 26. Section 624.438, Florida Statutes, is amended to read:

624.438 General eligibility.—

(1) To meet the requirements for *issuance of a certificate of authority* ~~approval~~ and to maintain a multiple-employer welfare arrangement, an arrangement must be:

(a) Nonprofit.;

(b) Established by a trade association, industry association, or professional association of employers or professionals which has a constitution or bylaws *specifically stating its purpose* and which has been organized and maintained in good faith for a continuous period of 1 year for purposes other than that of obtaining or providing insurance.;

(c) Operated pursuant to a trust agreement by a board of trustees which shall have complete fiscal control over the arrangement and which shall be responsible for all operations of the arrangement. The trustees selected shall be owners, partners, officers, directors, or employees of one or more employers in the arrangement. A trustee may not be an owner, officer, or employee of the administrator or service company of the arrangement. The trustees shall have the authority to approve applications of association members for participation in the arrangement and to contract with an authorized administrator or service company to administer the day-to-day affairs of the arrangement.;

(d) Neither offered nor advertised to the public generally.~~; and~~

(e) Offered only to eligible employers who have been members of the sponsoring association for at least 2 consecutive months. The requirements of this paragraph shall not apply to an arrangement that has been operating under a certificate for at least 3 years.

(f)~~(e)~~ Operated in accordance with sound actuarial principles.

(2) The arrangement shall issue to each covered employee a policy, contract, certificate, summary plan description, or other evidence of the benefits and coverages provided. This evidence of the benefits and coverages provided shall contain in boldfaced print *and in at least 12-point type* in a conspicuous location, the following statement: "The benefits and coverages described herein are provided through a trust fund established and funded by a group of employers. *It is not an insurance company and it is not protected by a guaranty fund in the event of insolvency. Participating employers are assessable for any losses incurred by the trust.*"

(3) Each arrangement shall maintain specific excess insurance with a retention level determined in accordance with *s. 624.439(6) and* sound actuarial principles.

(4) Each arrangement shall establish and maintain appropriate loss reserves determined in accordance with sound actuarial principles.

(5) The department shall not grant or continue *a certificate of authority for* ~~approval as to~~ any arrangement if the department determines any trustee, *manager, or administrator* to be incompetent, ~~or~~ untrustworthy, *or so lacking in insurance expertise as to make the operations of the arrangement hazardous to potential and existing insureds*; that any trustee, *manager, or administrator* has been found guilty of, or has pled 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; that any trustee, *manager, or administrator* has had any type of insurance license revoked in this or any other state; or that the business operations of the arrangement are or have been marked, to the detriment of the employers participating in the arrangement, of persons receiving benefits from the arrangement, or of creditors or the public, by the improper manipulation of assets, accounts, or specific excess insurance or by bad faith.

(6) To qualify for and retain approval to transact business, an arrangement shall make all contracts with administrators or service companies available for inspection by the department initially, and annually thereafter upon reasonable notice.

(7) Failure to maintain compliance with the eligibility requirements established by this section and the filing requirements of ss. 624.33(1) and 624.439 shall be grounds for suspension or revocation of *the certificate of authority* ~~approval~~ of an arrangement.

Section 27. Section 624.4385, Florida Statutes, is created to read:

624.4385 Certain words prohibited in name of organization.—No entity holding a certificate as a multiple-employer welfare arrangement other than a licensed insurer may use in its name, contracts, or literature the term "insurance," "casualty," "surety," or "mutual," or any other words descriptive of the insurance, casualty, or surety business or deceptively similar to the name or description of any insurance or surety company doing business in the state.

Section 28. Section 624.439, Florida Statutes, is amended to read:

624.439 Filing of application.—The sponsoring association shall file with the department an application for *a certificate of authority* ~~approval of the arrangement~~ upon a form to be furnished by the department, *signed under oath by officers of the trust,* which shall include or have attached the following:

(1) A copy of the *articles of incorporation,* constitution, *and* ~~or~~ bylaws of the association, *if any.*

(2) A list of the names, addresses, and official capacities within the arrangement of the individuals who are to be responsible for the management of and the conduct of the affairs of the arrangement, including all trustees, officers, and directors. Such individuals shall fully disclose to the department the extent and nature of any contracts or arrangements between themselves and the arrangement, including any possible conflicts of interest.

~~(2) The names and addresses of the trustees of the arrangement.~~

(3) A copy of the *articles of incorporation,* bylaws, or trust agreement which governs the operation of the arrangement.

(4) A copy of the policy, contract, certificate, summary plan description, or other evidence of the benefits and coverages provided to covered employees, *which shall be in accordance with s. 627.651(5), and which shall include a table of the rates charged, or proposed to be charged, for each form of such contract. A qualified actuary shall certify that:*

(a) The rates are not inadequate.

(b) The rates are appropriate for the class of risks for which they have been computed.

(c) An adequate description of the rating methodology has been filed with the department and such methodology follows consistent and equitable actuarial principles.

(5) A copy of the fidelity bond in an amount equal to not less than 10 percent of the funds handled annually and issued in the name of the arrangement covering its trustees, *directors, officers,* employees, administrator, or other individuals managing or handling the funds or assets of the arrangement. In no case may such bond be less than *$50,000* ~~$1,000~~ or more than $500,000, except that the department, after due notice to all interested parties and opportunity for hearing, and after consideration of the record, may prescribe an amount in excess of $500,000, subject to the 10-percent limitation of the preceding sentence.

(6)*(a)* A copy of the arrangement's excess insurance agreement, *which shall provide that the net retention level for any one risk shall not exceed $50,000, and which shall otherwise be in accordance with sound actuarial principles.*

(b) The department may waive or modify the maximum net retention requirement if:

1. The excess insurance is not available for a reasonable cost; or

2. The arrangement:

a. Has 150 percent of the statutory reserve requirement as specified in s. 624.441;

b. Has a fund balance in excess of that required by statute; and

c. Has a ratio of current assets to current liabilities of at least 2.0 to 1.0.

(7)(a) A feasibility study, done by an independent qualified actuary and an independent certified public accountant, determined by the department to satisfactorily address market potential, market penetration, market competition, operating expenses, gross revenues, net income, total assets and liabilities, cash flow, and such other items as the department may reasonably require. The study shall be for the greater of 3 years or until the arrangement has been projected to be profitable for 12 consecutive months. The study must show that the arrangement would not, at any month-end of the projection period, have less than the minimum statutory deposit as required by s. 624.441 or have a fund balance less than the amount required by s. 624.4392.

(b) The feasibility study shall reflect and support that initial gross premiums for the first year of operation will be at least $100,000.

(8)~~(7)~~ Evidence satisfactory to the department showing that the arrangement will be operated in accordance with sound actuarial principles. The department shall not approve the arrangement unless the department determines that the plan is designed to provide sufficient revenues to pay current and future liabilities, as determined in accordance with sound actuarial principles.

(9) Confirmation of insolvency protection as required by s. 624.441.

(10) A copy of each contract between the arrangement and any administrator or service company which may be made available for review rather than filed or attached.

(11)~~(8)~~ Such additional information as the department may reasonably require.

Section 29. Section 624.4392, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 624.4392, F.S., for present text.)

624.4392 Fund balance.—

(1) Each multiple-employer welfare arrangement licensed on or after October 1, 1991, shall have a fund balance equal to $200,000 before a certificate of authority may be issued by the department. After it has received a certificate of authority, the arrangement must maintain a fund balance equal to $100,000 or 10 percent of total liabilities, whichever is greater.

(2) A multiple-employer welfare arrangement holding a certificate of authority on October 1, 1991, shall increase and maintain its fund balance as follows:

(a) As of January 1, 1992, the balance shall be equal to $75,000 or 5 percent of total liabilities, whichever is greater.

(b) As of January 1, 1993, the balance shall be equal to $100,000 or 10 percent of total liabilities, whichever is greater.

(3) The department shall order the arrangement to assess participating employers at any time the fund balance does not meet the requirements of this section.

Section 30. Section 624.44, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 624.44, F.S., for present text.)

624.44 Examination by the department.—

(1)(a) The department shall examine the affairs, transactions, accounts, business records, and assets of any multiple-employer welfare arrangement as often as it deems necessary for the protection of the people of the state, but not less frequently than once every 3 years. For the purpose of examinations, the department may administer oaths and examine the trustees, directors, officers, and agents of an arrangement concerning its business and affairs.

(b) The expenses of examination of each arrangement by the department shall be subject to the same terms and conditions as apply to insurers under part II.

(c) The department may contract, at reasonable fees for work performed, with qualified, impartial, outside sources to perform audits or examinations or portions thereof to determine continued compliance with the requirements of ss. 624.436-624.446. Any contracted assistance shall be under direct supervision of the department. The results of any contracted assistance shall be subject to review, approval, disapproval, or modification by the department.

(2) If the department preliminarily finds that an arrangement is insolvent, the department shall notify the arrangement of such insolvency. Upon being so notified, the arrangement shall within 15 days file with the department all information that proves that the arrangement is not insolvent.

(3) If the arrangement fails within the 15-day period provided in subsection (2) to supply information showing to the satisfaction of the department that the arrangement is not insolvent, the department may:

(a)1. Suspend any new enrollment;

2. Suspend or revoke the arrangement's certificate of authority; or

3. Place the arrangement in administrative supervision under s. 624.80; or

(b) For the purposes of dissolution, liquidation, or rehabilitation, place the arrangement under the supervision of the department pursuant to chapter 631.

Section 31. Section 624.441, Florida Statutes, is amended to read:

624.441 Insolvency protection.—

(1) To assure the faithful performance of its obligations to its member employers and covered employees and their dependents, every arrangement shall~~, within 30 days of the close of each fiscal year,~~ deposit with the department cash, securities of the type eligible for deposit by insurers under s. 625.52, or any combination of these ~~or other measures acceptable to the department~~, in an amount equal to 25 percent of the preceding 12 months' health care claims expenditures or 5 percent of gross annual premiums for the succeeding year, whichever is greater, *which deposit shall be made within 30 days after the close of each fiscal year*; however, in no case shall the amount of the deposit exceed *$500,000* ~~$100,000~~.

(2) All income from deposits shall belong to the depositing arrangement and shall be paid to it as it becomes available. An arrangement that has made a securities deposit may withdraw that deposit, or any part thereof, after making a substitute deposit of cash, securities, or any combination of these or other measures of equal amount and value, upon approval by the department. No judgment creditor or other claimant of a multiple-employer welfare association shall have the right to levy upon any of the assets or securities held in this state as a deposit under this section.

~~(2) In lieu of the deposit required under subsection (1), an arrangement may file with the department a surety bond in like amount. The bond shall be one issued by an authorized surety insurer, shall be for the same purpose as the deposit in lieu of which it is filed, and shall be subject to the department's approval. No bond shall be canceled or subject to cancellation unless at least 60 days' advance notice thereof in writing is filed with the department. No bond shall be approved unless it covers liabilities arising from all policies and contracts issued and entered into during the time the bond is in effect and unless the department is satisfied that the bond provides the same degree of security as would be provided by a deposit of securities.~~

(3) Deposits of securities or cash pursuant to this section shall be administered by the department in accordance with part III of chapter 625.

Section 32. Section 624.4411, Florida Statutes, is created to read:

624.4411 Administrative, provider, and management contracts.—

(1) The department may require a multiple-employer welfare arrangement to submit any contract for administrative services, contract with a provider other than an individual physician, contract for management services, or contract with an affiliated person to the department, if the department has reason to believe that the arrangement has entered into a contract which requires it to pay a fee which is unreasonably high in relation to the services provided. Multiple-employer welfare arrangements are prohibited from paying a fee to a sponsoring association unless such fee is directly related to services provided by the association for the arrangement.

(2) After review of a contract, the department may order the arrangement to cancel the contract in accordance with the terms of the contract and applicable law if the department determines that the fees to be paid by the arrangement under the contract are so unreasonably high in relation to the services provided that the contract is detrimental to the policyholders or certificateholders of the arrangement.

(3) All contracts for administrative services, management services, and provider services other than individual physician contracts, and all contracts with affiliated entities, entered into or renewed by an arrangement on or after October 1, 1991, shall contain a provision that the contract shall be canceled upon issuance of an order by the department pursuant to this section.

Section 33. Section 624.4415, Florida Statutes, is amended to read:

624.4415 Assessments.—

(1) All multiple-employer welfare arrangements ~~receiving a certificate of authority on or after October 1, 1988,~~ shall provide that employers are assessable in accordance with this section.

~~(2) For those multiple-employer welfare arrangements which have a valid certificate of authority before October 1, 1988, the arrangement shall comply with this section and s. 624.4414 by September 30, 1989.~~

(2)~~(3)~~ Each multiple-employer welfare arrangement may assess all employers if its prior fiscal year statement of operations reflected a loss ~~or its fund balance is zero or greater~~.

(3)~~(4)~~ Each multiple-employer welfare arrangement shall assess all employers if the arrangement's fund balance at the end of *any accounting period* ~~its fiscal year~~ is less than *the fund balance required by statute* ~~zero~~.

(4)~~(5)~~(a) The minimum assessment shall be the amount necessary to comply with the requirements of s. 624.4392. Each employer's assessment shall be computed by applying the earned premium for each employer's plan of benefits during the prior fiscal year as a percent of the amount of the total of all employers' earned premium for the same year. Each employer's assessment shall be that employer's percent times the total assessment levied.

(b) In the event members fail to pay assessments, the other members shall be liable on a proportionate basis for an additional assessment.

(c) The multiple-employer welfare arrangement, acting on behalf of all members who paid the additional assessment, shall institute legal action, when necessary and appropriate, to recover the assessment from the members who fail to pay their assessment.

~~(d) The department shall have the authority to assess, as set forth in this section, all employers for all necessary funds in the event of the liquidation or the rehabilitation of the multiple-employer welfare arrangement.~~

~~(6) As used in this section, "fund balance" means total assets in excess of total liabilities, except that assets pledged to secure debts not reflected on the books of the multiple-employer welfare arrangement shall not be included in the fund balance. Fund balance includes other contributed capital, retained earnings, and surplus notes.~~

Section 34. Section 624.4416, Florida Statutes, is created to read:

624.4416 Assessments by receiver.—

(1) In the event of delinquency proceedings against a multiple-employer welfare arrangement, the department as receiver may assess employer participants. Any person or entity that was an employer participant in the arrangement at any time is liable for the assessments, regardless of whether or not it was a participant during the entire assessment period. The assessment period is the 12 months immediately preceding the date of the delinquency order or the period from the date of creation of the arrangement through the date of the delinquency order, whichever is shorter. Employer participants assessed under this section shall be assessed in the amounts specified by s. 624.4415.

(2) The total assessment must equal the projected amount which the department reasonably estimates to be necessary to pay all class four claims as defined in s. 631.271, whenever accrued, together with the costs and expenses of collecting the assessments, a reasonable loading factor for uncollected assessments, and the costs and expenses of the delinquency proceeding in full.

(3) To the extent not inconsistent with this section, the assessment must follow the procedure for assessments for reciprocal insurers provided in ss. 631.311, 631.321, and 631.331.

(4) No offset may be allowed against any assessment.

(5) If an arrangement, in violation of applicable laws or rules, issues coverage to a person or entity not eligible for coverage, the insured is eligible to participate in the proceeds of the assessment, and is assessable, subject to the relief provisions of s. 624.4417, if applicable.

Section 35. Section 624.4417, Florida Statutes, is created to read:

624.4417 Certain sales prohibited.—

(1) A multiple-employer welfare arrangement may not offer, advertise, or sell insurance coverage to the general public.

(2) As used in this section, a member of the general public is a person who:

(a) Purchases insurance directly from the arrangement or an agent rather than through an employer;

(b) Makes premium payments directly to the arrangement or through an agent rather than through an employer; or

(c) Is not employed by an employer subject to assessment.

(3) A person who violates this section is jointly and severally liable for the payment of assessments on behalf of any person who is sold coverage in violation of this section. A person to whom coverage is sold in violation of this section is not subject to assessment until the department determines that the assessment is not collectible in full from the agent, trustee, officer, or other person.

(4) Any person in violation of this section commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

Section 36. Section 624.442, Florida Statutes, is amended to read:

624.442 Annual reports; *actuarial certification; quarterly reports; penalties* ~~and triennial actuarial reports.~~—

(1) Every arrangement shall, annually within *3* 4 months *after* ~~of~~ the end of the fiscal year or within such extension of time therefor as the department for good cause may grant, file a report with the department, *on forms prescribed by the department*, verified by the oath of a member of the board of trustees *and* ~~or~~ by an administrative executive appointed by the board, showing its condition on the last day of the preceding fiscal year. The report shall contain *an audited* a financial statement of the arrangement *prepared in accordance with statutory accounting principles*, including its balance sheet and a statement of operations for the preceding year certified by an independent certified public accountant. The report shall also include an analysis of the adequacy of reserves and contributions or premiums charged, based on a review of past and projected claims and expenses.

(2) In addition to information called for and furnished in connection with the annual report, if reasonable grounds exist, the department may request information which summarizes paid and incurred expenses, and contributions or premiums received, and may request evidence satisfactory to the department that the arrangement is actuarially sound. Such information and evidence shall be furnished to the department by the arrangement as soon as reasonably possible after requested by the department, but not later than 30 days after such request, unless the department, for good cause, grants an extension.

(3) Annually, in conjunction with the annual report required by subsection (1), each arrangement shall submit an actuarial certification prepared by an independent actuary certifying that:

(a) The arrangement is actuarially sound. The certification shall consider the rates, benefits, and expenses of, and any other funds available for the payment of the obligations of, the arrangement.

(b) The rates being charged and to be charged for contracts are actuarially adequate through the end of the period for which rates have been guaranteed.

(c) Incurred but not reported claims and claims reported but not fully paid have been adequately provided for.

(d) Such other information relating to the performance of the arrangement as the department requires.

(4) Each arrangement shall file quarterly, within 45 days after the end of each of its four quarterly reporting periods, an unaudited financial statement of the arrangement on forms prescribed by the department, verified according to the best of their information, knowledge, and belief by the oath of a member of the board of trustees and by an administrative executive appointed by the board showing its condition on the last day of the preceding quarter.

(5) Any arrangement that fails to file an annual financial report, actuarial report, or quarterly financial report in the form and within the time required by this section shall forfeit to the department an amount set by order of the department which does not exceed $1,000 for each of the first 10 days of noncompliance and does not exceed $2,000 for each subsequent day of noncompliance. Upon notice by the department that the arrangement is not in compliance with this section, the arrangement's authority to enroll new enrollees or to do business in this state ceases until the department determines the arrangement to be in compliance. The department may not collect more than $100,000 under this paragraph with respect to any particular report.

(6) All moneys collected by the department under this section shall be deposited to the credit of the Insurance Commissioner's Regulatory Trust Fund.

(7) Each authorized arrangement must retain an independent certified public accountant, referred to in this subsection as "CPA," who agrees by written contract with the arrangement to comply with ss. 624.436-624.445. The contract must state that:

(a) The CPA will provide to the arrangement audited financial statements consistent with ss. 624.436-624.445.

(b) Any determination by the CPA that the arrangement does not meet the minimum surplus requirements set forth in ss. 624.436-624.445 will be stated by the CPA, in writing, in the audited financial statement.

(c) The completed workpapers and any written communications between the CPA and the arrangement will be made available for review on a visual inspection-only basis by the department at the offices of the arrangement, the department, or any other reasonable place agreeable to both the department and the arrangement.

(d) The CPA will retain for review the workpapers and written communications with the arrangement for not less than 6 years.

~~(3) At least once every 3 years, each arrangement shall have a report prepared by an actuary who is a member of the Society of Actuaries or the American Academy of Actuaries as to the actuarial soundness of the arrangement. The report shall be made available to the department upon request. The report shall consist of, but shall not be limited to, the following:~~

~~(a) Adequacy of contribution rates in meeting the level of benefits provided and changes, if any, needed in the contribution rates to achieve or preserve a level of funding deemed adequate to enable payment of the benefit amounts provided under the arrangement, which shall include a valuation of present assets, based on statement value, and prospective assets and liabilities of the plan and the extent of any unfunded accrued liabilities.~~

~~(b) A plan to amortize any unfunded liabilities and a description of actions taken to reduce unfunded liabilities.~~

~~(c) A description and explanation of actuarial assumptions.~~

~~(d) A schedule illustrating the amortization of any unfunded liabilities.~~

~~(e) A comparative review illustrating the level of funds available to the arrangement from rates, investment income, and other sources realized over the period covered by the report, indicating the assumptions used.~~

~~(f) A statement by the actuary that the report is complete and accurate and that in his opinion the techniques and assumptions used are reasonable and meet the requirements and intent of this subsection.~~

~~(g) Other factors or statements as may be reasonably required by the department in order to determine the actuarial soundness of the plan.~~

Section 37. Section 624.4431, Florida Statutes, is created to read:

624.4431 Administration; rules.—The administration of ss. 624.436-624.446 is vested in the department. The department may adopt reasonable rules to implement ss. 624.436-624.446.

Section 38. Section 624.4432, Florida Statutes, is created to read:

624.4432 Assets, liabilities, and investments.—Each arrangement that obtains or maintains a certificate of authority is subject to parts I and II of chapter 625 as they apply to domestic insurers.

Section 39. Section 624.444, Florida Statutes, is amended to read:

624.444 Suspension, revocation of approval.—

(1) The department shall deny, suspend, or revoke an arrangement's *certificate of authority* ~~approval~~ if it finds that the arrangement:

(a) Is *insolvent* ~~in unsound financial condition~~;

(b) Is using such methods and practices in the conduct of its business as to render its further transaction of business in this state hazardous or injurious to its participating employers, covered employees and dependents, or to the public;

(c) Has failed to pay any final judgment rendered against it in this state within 60 days after the judgment became final; ~~or~~

(d) Is in violation of any provision of this chapter, including any requirements for the granting of a certificate of authority;

(e) Is no longer actuarially sound or the arrangement does not have the minimum surplus required by this chapter; or

(f) The existing contract rates are inadequate.

~~(d) No longer meets the requirements for the authority originally granted.~~

(2) The department may, in its discretion, deny, suspend, or revoke the *certificate of authority* ~~approval~~ of any arrangement if it finds that the arrangement:

(a) Has violated any lawful order or rule of the department or any *applicable* provision of *the Florida Insurance Code* ~~this act~~; or

(b) Has refused to be examined or to produce its accounts, records, and files for examination, or if any of its officers have refused to give information with respect to its affairs or to perform any other legal obligation as to such examination, when required by the department.

(3) Whenever the financial condition of the arrangement is such that, if not modified or corrected, its continued operation would result in impairment or insolvency, the department may order the arrangement to file with the department and implement a corrective action plan designed to do one or more of the following:

(a) Reduce the total amount of present potential liability for benefits by reinsurance or other means.

(b) Reduce the volume of new business being accepted.

(c) Reduce the expenses of the arrangement by specified methods.

(d) Suspend or limit the writing of new business for a specified period of time.

(e) Require an increase in the arrangement's net worth.

If the arrangement fails to submit a plan within 30 days after the department's order, or if the plan submitted is insufficient to correct the arrangement's financial condition, the department may order the arrangement to implement one or more of the corrective actions specified in this subsection.

(4) In any order to suspend the authority of an arrangement to enroll new subscribers, the department shall specify the period during which the suspension is to be in effect and the conditions, if any, which must be met by the arrangement prior to reinstatement of its authority to enroll new subscribers. The order of suspension is subject to rescission or modification by further order of the department prior to the expiration of the suspension period. An arrangement's authority to enroll new subscribers shall not be reinstated unless it requests reinstatement, and shall not be reinstated if the department finds that the circumstances that gave rise to the suspension still exist.

Section 40. Section 624.445, Florida Statutes, is amended to read:

624.445 Order, notice, duration, effect of suspension or revocation; administrative fine.—

(1) Suspension or revocation of an arrangement's *certificate of authority* ~~approval~~ shall be in accordance with ss. 624.420 and 624.421.

(2) If the department finds that one or more grounds exist for the discretionary revocation or suspension of an arrangement's *certificate of authority* ~~approval~~ under *ss. 624.436-624.446* ~~this act~~, the department may, in lieu of or in addition to such revocation or suspension, impose a fine upon such arrangement, in accordance with s. 624.4211.

Section 41. Section 624.462, Florida Statutes, 1990 Supplement, is amended to read:

624.462 Commercial self-insurance funds.—

(1) Any group of persons may form a commercial self-insurance fund for the purpose of pooling and spreading liabilities of its group members in any commercial property or casualty risk or surety insurance. *Any fund established pursuant to subparagraph (2)(a)1. may be organized as a corporation under chapter 607.*

(2) As used in ss. 624.460-624.488, "commercial self-insurance fund" or "fund" means a group of members, operating individually and collectively through *a trust or corporation* ~~an association~~, that must be:

(a) Established by:

1. A not-for-profit trade association, industry association, or professional association of employers or professionals which has a constitution or bylaws, which is incorporated under the laws of this state, and which has been organized *for purposes other than that of obtaining or providing insurance* and *operated* ~~maintained~~ in good faith for a continuous period of 1 year ~~for purposes other than that of obtaining or providing insurance~~;

2. A self-insurance trust fund organized pursuant to s. 627 356 or s. 627.357 and maintained in good faith for a continuous period of 1 year for purposes other than that of obtaining or providing insurance pursuant to this section. Each member of a commercial self-insurance trust fund

established pursuant to this subsection must maintain membership in the self-insurance trust fund organized pursuant to s. 627.356 or s. 627.357; or

3. A not-for-profit group comprised of no less than 10 condominium associations as defined in s. 718.103(2), which is incorporated under the laws of this state, which restricts its membership to condominium associations only, and which has been organized and maintained in good faith for a continuous period of 1 year for purposes other than that of obtaining or providing insurance.

(b)*1. In the case of funds established pursuant to subparagraph (a)2. or subparagraph (a)3.,* operated pursuant to a trust agreement by a board of trustees which shall have complete fiscal control over the fund and which shall be responsible for all operations of the fund. The majority of the trustees shall be owners, partners, officers, directors, or employees of one or more members of the fund. The trustees shall have the authority to approve applications of members for participation in the fund and to contract with an authorized administrator or servicing company to administer the day-to-day affairs of the fund.

2. In the case of funds established pursuant to subparagraph (a)1., operated pursuant to a trust agreement by a board of trustees or as a corporation by a board of directors which board shall:

a. Be responsible to members of the fund or beneficiaries of the trust or policyholders of the corporation;

b. Appoint independent certified public accountants, legal counsel, actuaries, investment advisors as needed;

c. Approve payment of dividends to members;

d. Approve changes in corporate structure; and

e. Have the authority to contract with an administrator authorized under s. 626.88 to administer the day-to-day affairs of the fund including, but not limited to, marketing, underwriting, billing, collection, claims administration, safety and loss prevention, reinsurance, policy issuance, accounting, regulatory reporting, and general administration. The fees or compensation for services under such contract shall be comparable to the costs for similar services incurred by insurers writing the same lines of insurance, or where available such expenses as filed by boards, bureaus, and associations designated by insurers to file such data. A majority of the trustees or directors shall be owners, partners, officers, directors, or employees of one or more members of the fund.

(3) Each member of a commercial self-insurance trust fund established pursuant to this section must maintain membership in the association or self-insurance trust fund established under s. 627.356 or s. 627.357. Membership in a not-for-profit trade association, industry association, or professional association of employers or professionals for the purpose of obtaining or providing insurance shall be in accordance with the constitution or bylaws of the association, and the dues, fees, or other costs of membership shall not be different for members obtaining insurance from the commercial self-insurance fund. *The association shall not be liable for any actions of the fund nor shall it have any responsibility for establishing or enforcing any policy of the commercial self-insurance fund. Fees, services, and other aspects of the relationship between the association and the fund shall be subject to contractual agreement.*

(4) Any financial institution may participate as a member in a commercial self-insurance fund. A financial institution may not require as a condition precedent to making a loan that the prospective borrower insure with any commercial self-insurance fund. Any financial institution participating in a commercial self-insurance fund may participate only for the purpose of providing coverage on the financial institution's direct commercial property and commercial casualty or surety insurance exposures. The financial institution may not participate for the purpose of covering the direct or indirect exposures of its customers.

(5) A commercial self-insurance fund shall not participate in the Florida Insurance Guaranty Association.

(6) A governmental self-insurance pool created pursuant to s. 768.28(14) shall not be considered a commercial self-insurance fund.

Section 42. Subsection (1) of section 624.474, Florida Statutes, is amended to read:

624.474 Assessments.—

(1) The trustees *of a self-insurance fund operating as a trust, or the corporate directors of a self-insurance fund operating as a corporation,* may assess from time to time members of a commercial self-insurance fund liable therefor under the terms of their policies and pursuant to this section, or the department may assess the members in the event of liquidation of the fund.

Section 43. Subsection (7) of section 624.482, Florida Statutes, is amended to read:

624.482 Making and use of rates.—

(7) Nothing herein shall be construed to prohibit the department from examining a fund pursuant to s. *624.3161* ~~627.321~~.

Section 44. Section 624.489, Florida Statutes, is amended to read:

624.489 Liability of trustees of self-insurance trust fund *and directors of self-insurance funds operating as corporations.*—

(1) A trustee of any self-insurance trust fund organized under the laws of this state is not personally liable for monetary damages to any person for any statement, vote, decision, or failure to act, regarding the management or policy of the fund, by a trustee, unless:

(a) The trustee breached or failed to perform his duties as a trustee; and

(b) The trustee's breach of, or failure to perform, his duties constitutes:

1. A violation of the criminal law, unless the trustee had reasonable cause to believe his conduct was lawful or had no reasonable cause to believe his conduct was unlawful. A judgment or other final adjudication against a trustee in any criminal proceeding for violation of the criminal law estops that trustee from contesting the fact that his breach, or failure to perform, constitutes a violation of the criminal law; but does not estop the trustee from establishing that he had reasonable cause to believe that his conduct was lawful or had no reasonable cause to believe that his conduct was unlawful;

2. A transaction from which the trustee derived an improper personal benefit, either directly or indirectly; or

3. Recklessness or an act or omission which was committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

(2) For the purposes of this section, the term "recklessness" means the acting, or omission to act, in conscious disregard of a risk:

(a) Known, or so obvious that it should have been known, to the trustee; and

(b) Known to the trustee, or so obvious that it should have been known, to be so great as to make it highly probable that harm would follow from such action or omission.

(3) The immunities from liability provided in this section with respect to trustees also apply to members of the board of directors of a commercial self-insurance fund organized as a corporation under chapter 607 if the board of directors has contracted with an administrator authorized under s. 626.88 to administer the day-to-day affairs of the fund.

Section 45. Paragraphs (e), (n), (o), (p), (q), and (r) of subsection (1) of section 624.523, Florida Statutes, are amended to read:

624.523 Insurance Commissioner's Regulatory Trust Fund.—

(1) There is created in the State Treasury a trust fund designated "Insurance Commissioner's Regulatory Trust Fund" to which shall be credited all payments received on account of the following items:

(e) All payments received on account of items provided for under respective provisions of s. 624.501, as follows:

1. Subsection (1) (certificate of authority of insurer).;

2. Subsection (2) (charter documents of insurer).;

3. Subsection (4) (annual statement of insurer).;

4. Subsection (5) (application fee for insurance representatives).;

5. The "appointment fee" portion of any appointment provided for under paragraphs (6)(a) and (b) (insurance representatives, property, marine, casualty and surety insurance, agents, and solicitors).;

6. Paragraph (6)(c) (nonresident agents).;

7. Paragraph (6)(d) (service representatives).;

8. The "appointment fee" portion of any appointment provided for under paragraph (7)(a) (life insurance agents, original appointment, and renewal or continuation of appointment).;

9. Paragraph (7)(b) (nonresident agent license).;

10. The "appointment fee" portion of any appointment provided for under paragraph (8)(a) (health insurance agents, agent's appointment, and renewal or continuation fee).;

11. Paragraph (8)(b) (nonresident agent appointment).;

12. The "appointment fee" portion of any appointment provided for under subsections (9) and (10) (limited licenses and fraternal benefit society agents).;

13. Subsection (11) (vending machines).;

14. Subsection (12) (surplus lines agent).;

15. Subsection (13) (adjusters' appointment).;

16. Subsection (14) (examination fee).;

17. Subsection (15) (temporary license and appointment as agent or adjuster).;

18. Subsection (16) (reissuance, reinstatement, etc.).;

19. Subsection (17) (additional license continuation fees).;

20. Subsection (18) (filing application for permit to form insurer).;

21. Subsection (19) (license fee of rating organization).;

22. Subsection (20) (miscellaneous services).;

23. Subsection (21) (insurance agencies).;

~~(n) All sums received under s. 641.14.~~

(n)~~(o)~~ All sums received under s. 648.27(6) (bail bondsman, limited surety agent or runner, continuation fee), the "appointment fee" portion of any license or permit provided for under s. 648.31, and the application fees provided for under ss. 648.34(3), 648.37(3), and 648.38(4).

(o)~~(p)~~ All sums received under s. 651.015.

(p)~~(q)~~ All sums received by the Insurance Commissioner and Treasurer as fees for his services as service-of-process agent.

(q)~~(r)~~ All state tax portions of agents' and solicitors' licenses collected under s. 624.501.

Section 46. Paragraph (a) of subsection (2) and subsection (9) of section 624.610, Florida Statutes, are amended, and subsections (11) and (12) are added to said section, to read:

624.610 Reinsurance.—

(2)(a) If a ceding insurer reinsures all or any part of any particular risk or class of risks with an approved reinsurer, the ceding insurer may receive credit in accounting and financial statements on account of such reinsurance ceded. An approved reinsurer is:

1. An assuming insurer authorized by the department to transact such line of insurance or reinsurance in this state. Subject to the other requirements of this code, credit may be taken for reinsurance with an authorized insurer.

2. An assuming insurer approved by the department to transact such line of reinsurance in this state. The department shall approve only solvent insurers meeting the criteria established for authorized insurers in this state. From time to time, the department shall publish a list of insurers approved pursuant to this subsection. Subject to the other requirements of this code, credit may be taken for reinsurance with an approved reinsurer.

3. An assuming underwriting member of an insurance exchange domiciled in any other state or jurisdiction in the United States provided the insurance exchange presents to the department for its approval, and maintains, satisfactory evidence that such assuming underwriting member maintains the standards and meets the financial requirements applicable to an authorized insurer. Subject to the other requirements of this section, credit may be taken for reinsurance with members approved under this subsection by the department.

4. A group of individual, unincorporated, *or incorporated* alien insurers which maintains funds in an amount not less than $50 million held in trust for United States policyholders and beneficiaries in a bank or trust company that is subject to supervision by any state of the United States or that is a member of the Federal Reserve System and which group satisfies the department by annually filing evidence that it can meet its obligations under its reinsurance agreements. Subject to the other requirements of this section, credit may be taken for reinsurance with a group approved under this subsection by the department.

(9) Any authorized insurer ceding directly written risks of loss under this section shall within 30 days of receipt of a summary statement or cover note, or in no event no later than 6 months after the effective date of the reinsurance treaty, file with the department one copy of a summary statement containing the following information about each treaty:

(a) The contract period;

(b) The nature of the reinsured's business;

(c) An indication as to whether the treaty is proportional, nonproportional, coinsurance, modified coinsurance, or indemnity, as applicable;

(d) The ceding company's loss retention per risk;

(e) The reinsured limits;

(f) Any special contract restrictions;

(g) A schedule of reinsurers assuming the risks of loss;

(h) An indication as to whether payments to the assuming insurer are based on written premiums or earned premiums;

(i) Identification of any intermediary or broker used in obtaining the reinsurance and the commission paid them if known; and

(j) Ceding commissions and allowances.

The summary statement shall be signed and attested to by either the chief executive officer or the chief financial officer of the reporting insurer. In addition to the summary statement, the Insurance Commissioner may require the filing of any supporting information relating to the ceding of such risks as he deems necessary. *If a summarized reinsurance treaty (or series of treaties with one or more affiliated reinsurers entered into for the purpose of avoiding the following threshold amount) at any time results in an increase of more than 25 percent to the insurer's surplus as to policyholders, then the insurer shall certify in writing to the department that the relevant reinsurance treaty or treaties complies with the accounting requirements contained in any rule promulgated by the department pursuant to subsection (10) or subsection (12). If such certificate is filed after the summary statement of such reinsurance treaty or treaties, the insurer shall refile the summary statement with the certificate. In any event, the certificate shall state that a copy of the certificate was sent to the reinsurer under the reinsurance treaty. Such reinsurer shall notify the department in writing within 60 days after its receipt of a certificate if the reinsurer disagrees with the statements made herein.* ~~The summary statement shall be accompanied by a certification signed by the ceding insurer that the risk has been transferred and describing said risk. A copy of the summary statement and the certification shall be mailed or delivered to each reinsurer assuming any part of the risk that is transferred. Any such reinsurer shall notify the department in writing within 30 days of receipt of the summary statement and certification if the reinsurer believes that any information in the statement or certification is inaccurate. Any reinsurer who does not so notify the department shall be deemed to concur with the information in the summary statement and certification to the extent that such reinsurer should know the accuracy of such information or certification. The ceding insurer shall notify each reinsurer of such requirements together with the summary statement and certification.~~ This subsection applies to cessions of directly written risk of loss. This subsection does not apply to contracts of facultative reinsurance or to any ceding

insurer with surplus as to policyholder that exceeds $100 million as of the immediately preceding December 31. Additionally, any ceding insurer otherwise subject to this section with less than $500,000 in direct premiums written in this state during the preceding calendar year or with less than 1,000 policyholders at the end of the preceding calendar year is exempt from the requirements of this subsection. However, any ceding insurer otherwise subject to this section with more than $250,000 in direct premiums written in this state during the preceding calendar quarter is not exempt from the requirements of this subsection. The Insurance Commissioner may, upon a showing of good cause, waive the requirements of this subsection.

(11) If the department finds that a reinsurance agreement creates a substantial risk of insolvency to either insurer entering into the reinsurance agreement, the department may by order require a cancellation of the reinsurance agreement.

(12) No credit shall be allowed for reinsurance with regard to which the reinsurance agreement does not create a meaningful transfer of risk of loss to the reinsurer. The department shall adopt rules which are in substantial conformity with the 1991 National Association of Insurance Commissioners Examiners Handbook providing the criteria for determining whether a meaningful transfer of risk of loss has been accomplished.

Section 47. Paragraph (b) of subsection (1) of section 624.80, Florida Statutes, is amended to read:

624.80 Definitions.—As used in this part:

(1) "Insurer" means and includes every person as defined in s. 624.03 as limited to:

(b) Any *specialty* ~~domestic or commercially domiciled allied lines~~ insurer as that term is defined in s. 628.4615.

Section 48. Section 625.091, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 625.091, F.S., for present text.)

625.091 Losses and loss adjustment expense reserves; liability insurance and workers' compensation insurance.—The reserve liabilities recorded in the insurer's annual statement and financial statements for unpaid losses and loss adjustment expenses shall be the estimated value of its claims when ultimately settled and shall be computed as follows:

(1) For all liability and workers' compensation claims, the statement and statutory reserves and loss adjustment expenses shall be in accordance with the form of the annual statement as required in s. 624.424, and shall include the computed, determined, or estimated value of the unpaid reported claims and loss adjustment expenses, allocated and unallocated, and a provision for loss and loss adjustment expenses, allocated and unallocated, that are incurred but not reported. For claims under liability policies, the reserve for reported claims shall not be less than $1,000 for each outstanding liability suit.

(2)(a) Workers' compensation tabular reserves and long term disability claims including death claims may be reserved at the present value at 4 percent interest of the determined and the estimated future payments.

(b) If workers' compensation reserves are discounted in accordance with paragraph (a), discounted loss and loss expense reserves shall be used in the computation of excess statutory reserves over statement reserves.

(3) Structured settlements may be used to reduce reserves if:

(a) There is the purchase of an annuity by the insurer to fund future payments that are fixed or determined by settlement provisions or statutes wherein the claimant is the payee, the transaction may be treated as a paid claim and the reserve taken down accordingly. The appropriate disclosure of the contingent liability for such amount must be disclosed in notes to the financial statements of the annual statement; or

(b) The insurer assigns the obligation to make periodic payments to a third party and obtains a full and complete release from the claimant, the claim may be treated as a paid claim without additional disclosure.

Section 49. Section 625.121, Florida Statutes, is amended to read:

625.121 Standard Valuation Law; life insurance.—

(1) SHORT TITLE.—This section shall be known as the "Standard Valuation Law."

(2) ANNUAL VALUATION.—The department shall annually value, or cause to be valued, the reserve liabilities, hereinafter called "reserves," for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurer doing business in this state, and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest, and methods, net-level premium method or others, used in the calculation of such reserves. In the case of an alien insurer, such valuation shall be limited to its insurance transactions in the United States. In calculating such reserves, the department may use group methods and approximate averages for fractions of a year or otherwise. It may accept in its discretion the insurer's calculation of such reserves. In lieu of the valuation of the reserves herein required of any foreign or alien insurer, it may accept any valuation made or caused to be made by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard herein provided and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the department when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction. When any such valuation is made by the department, it may use the actuary of the department or employ an actuary for the purpose; and the reasonable compensation of the actuary, at a rate approved by the department, and reimbursement of travel expenses pursuant to s. 624.320 upon demand by the department, supported by an itemized statement of such compensation and expenses, shall be paid by the insurer. When a domestic insurer furnishes the department with a valuation of its outstanding policies as computed by its own actuary or by an actuary deemed satisfactory for the purpose by the department, the valuation shall be verified by the actuary of the department without cost to the insurer.

(3) ACTUARIAL OPINION OF RESERVES.—

(a)1. Each life insurance company doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the department by rule are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The department by rule shall define the specifics of this opinion and add any other items determined to be necessary to its scope.

2. The opinion shall be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after December 31, 1992.

3. The opinion shall apply to all business in force, including individual and group health insurance plans, in the form and substance acceptable to the department as specified by rule.

4. The department may adopt rules providing the standards of the actuarial opinion consistent with standards adopted by the Actuarial Standards Board on October 1, 1991, and subsequent revisions thereto, provided that the standards remain substantially consistent.

5. In the case of an opinion required to be submitted by a foreign or alien company, the department may accept the opinion filed by that company with the insurance supervisory official of another state if the department determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

6. For the purposes of this subsection, "qualified actuary" means a member in good standing of the American Academy of Actuaries who also meets the requirements specified by rule of the department.

7. Disciplinary action by the department against the company or the qualified actuary shall be in accordance with the insurance code and related rules adopted by the department.

8. A memorandum in the form and substance specified by rule shall be prepared to support each actuarial opinion.

9. If the insurance company fails to provide a supporting memorandum at the request of the department within a period specified by rule, or if the department determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed

by rule, the department may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare such supporting memorandum as is required by the department.

10. Any memorandum in support of the opinion, and any other material provided by the company to the department in connection therewith, is confidential and exempt from the provisions of s. 119.07(1) and shall not be made public and shall not be subject to subpoena, other than for the purpose of defending an action seeking damages from any person by reason of any action required by this subsection or by rules promulgated hereunder; however, the memorandum or other material may otherwise be released by the department with the written consent of the company, or to the American Academy of Actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the department for preserving the confidentiality of the memorandum or other material. If any portion of the confidential memorandum is cited by the company in its marketing or is cited before any governmental agency other than a state insurance department or is released by the company to the news media, no portion of the memorandum is confidential.

(b) In addition to the opinion required by subparagraph (a)1., the department may be rule require an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the department by rule, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts.

(c) The department may provide by rule for a transition period for establishing any higher reserves which the qualified actuary may deem necessary in order to render the opinion required by this subsection.

(4)~~(3)~~ MINIMUM STANDARD FOR VALUATION OF POLICIES AND CONTRACTS ISSUED BEFORE OPERATIVE DATE OF STANDARD NONFORFEITURE LAW.—The minimum standard for the valuation of all such policies and contracts issued prior to the operative date of s. 627.476 (Standard Nonforfeiture Law) shall be any basis satisfactory to the *department* ~~commissioner~~. Any basis satisfactory to the *department* ~~commissioner~~ on the effective date of this code shall be deemed to meet such minimum standards.

(5)~~(4)~~ MINIMUM STANDARD FOR VALUATION OF POLICIES AND CONTRACTS ISSUED ON OR AFTER OPERATIVE DATE OF STANDARD NONFORFEITURE LAW.—Except as otherwise provided in paragraph (h) and *subsections (6), (11), and (14)* ~~subsection (5)~~, the minimum standard for the valuation of all such policies and contracts issued on or after the operative date of s. 627.476 (Standard Nonforfeiture Law for Life Insurance) shall be the commissioners' reserve valuation method defined in *subsections (7), (11), and (14)* ~~subsection (6)~~; 5 percent interest for group annuity and pure endowment contracts and 3.5 percent interest for all other such policies and contracts, or in the case of *life insurance* policies and contracts, other than annuity and pure endowment contracts, issued on or after July 1, 1973, 4 percent interest for such policies issued prior to October 1, 1979, and 4.5 percent interest for such policies issued on or after October 1, 1979; and the following tables:

(a) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies:

1. For policies issued prior to the operative date of s. 627.476(9), the commissioners' 1958 Standard Ordinary Mortality Table; except that, for any category of such policies issued on female risks, modified net premiums and present values, referred to in subsection *(7)* ~~(6)~~, may be calculated according to an age not more than 6 years younger than the actual age of the insured; and

2. For policies issued on or after the operative date of s. 627.476(9), the commissioners' 1980 Standard Ordinary Mortality Table or, at the election of the insurer for any one or more specified plans of life insurance, the commissioners' 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors.

(b) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies:

1. For policies issued prior to the first date to which the commissioners' 1961 Standard Industrial Mortality Table is applicable according to s. 627.476, the 1941 Standard Industrial Mortality Table; and

2. For such policies issued on or after that date, the commissioners' 1961 Standard Industrial Mortality Table.

(c) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the 1937 Standard Annuity Mortality Table or, at the option of the insurer, the Annuity Mortality Table for 1949, Ultimate, or any modification of either of these tables approved by the department.

(d) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the Group Annuity Mortality Table for 1951; any modification of such table approved by the department; or, at the option of the insurer, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

(e) For total and permanent disability benefits in or supplementary to ordinary policies or contracts:

1. For policies or contracts issued on or after January 1, 1966, the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the Society of Actuaries, with due regard to the type of benefit;

2. For policies or contracts issued on or after January 1, 1961, and prior to January 1, 1966, either those tables or, at the option of the insurer, the class three disability table (1926); and

3. For policies issued prior to January 1, 1961, the class three disability table (1926).

Any such table for active lives shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(f) For accidental death benefits in or supplementary to policies:

1. For policies issued on or after January 1, 1966, the 1959 Accidental Death Benefits Table;

2. For policies issued on or after January 1, 1961, and prior to January 1, 1966, either that table or, at the option of the insurer, the Intercompany Double Indemnity Mortality Table; and

3. For policies issued prior to January 1, 1961, the Intercompany Double Indemnity Mortality Table.

Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(g) For group life insurance, life insurance issued on the substandard basis, and other special benefits, such tables as may be approved by the department as being sufficient with relation to the benefits provided by such policies.

(h) *Except as provided in subsection (6),* the minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this paragraph and for all annuities and pure endowments purchased on or after such operative date under group annuity and pure endowment contracts shall be the commissioners' reserve valuation method defined in subsection *(7)* ~~(6)~~ and the following tables and interest rates:

1. For individual annuity and pure endowment contracts issued prior to October 1, 1979, excluding any disability and accidental death benefits in such contracts, the 1971 Individual Annuity Mortality Table, or any modification of this table approved by the department, and 6 percent interest for single-premium immediate annuity contracts and 4 percent interest for all other individual annuity and pure endowment contracts.

2. For individual single-premium immediate annuity contracts issued on or after October 1, 1979, *and prior to October 1, 1986,* excluding any disability and accidental death benefits in such contracts, the 1971 Individual Annuity Mortality Table, or any modification of this table approved by the department, and 7.5 percent interest. *For such contracts issued on or after October 1, 1986, the 1983 Individual Annual Mortality*

Table, or any modification of such table approved by the department, and the applicable calendar year statutory valuation interest rate as described in subsection (6).

3. For individual annuity and pure endowment contracts issued on or after October 1, 1979, *and prior to October 1, 1986,* other than single-premium immediate annuity contracts, excluding any disability and accidental death benefits in such contracts, the 1971 Individual Annuity Mortality Table, or any modification of this table approved by the department, and 5.5 percent interest for single-premium deferred annuity and pure endowment contracts and 4.5 percent interest for all other such individual annuity and pure endowment contracts. *For such contracts issued on or after October 1, 1986, the 1983 Individual Annual Mortality Table, or any modification of such table approved by the department, and the applicable calendar year statutory valuation interest rate as described in subsection (6).*

4. For all annuities and pure endowments purchased prior to October 1, 1979, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 Group Annuity Mortality Table, or any modification of this table approved by the department, and 6 percent interest.

5. For all annuities and pure endowments purchased on or after October 1, 1979, *and prior to October 1, 1986,* under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 Group Annuity Mortality Table, or any modification of this table approved by the department, and 7.5 percent interest. *For such contracts purchased on or after October 1, 1986, the 1983 Group Annuity Mortality Table, or any modification of such table approved by the department, and the applicable calendar year statutory valuation interest rate as described in subsection (6).*

After July 1, 1973, any insurer may file with the department a written notice of its election to comply with the provisions of this paragraph after a specified date before January 1, 1979, which shall be the operative date of this paragraph for such insurer. However, an insurer may elect a different operative date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. If an insurer makes no such election, the operative date of this paragraph for such insurer shall be January 1, 1979.

(6)~~(5)~~ MINIMUM STANDARD OF VALUATION.—

(a) The interest rates used in determining the minimum standard for the valuation of:

1. All life insurance policies issued in a particular calendar year on or after the operative date of s. 627.476(9);

2. All individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1982;

3. All annuities and pure endowments purchased in a particular calendar year on or after January 1, 1982, under group annuity and pure endowment contracts; and

4. The net increase, if any, in a particular calendar year after January 1, 1982, in amounts held under guaranteed interest contracts,

shall be the calendar year statutory valuation interest rates for the year-of-issue purchase or increase as defined in this subsection.

(b) The calendar year statutory valuation interest rates I shall be determined as follows, and the results rounded to the nearest 0.25 percent:

1. For life insurance:

$$I = 0.03 + W(R1-0.03) + (W/2)(R2-0.09).$$

For purposes of this subparagraph, "R1" is the lesser of R and .09; "R2" is the greater of R and .09; "R" is the reference interest rate defined in this subsection; and "W" is the weighting factor defined in this subsection.

2. For single-premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options:

$$I = 0.03 + W(R-0.03).$$

For purposes of this subparagraph, "R" is the reference interest rate defined in this subsection, and "W" is the weighting factor defined in this subsection.

3. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue-year basis, except as stated in subparagraph 2., the formula for life insurance stated in subparagraph 1. shall apply to annuities and guaranteed interest contracts with guarantee durations in excess of 10 years, and the formula for single-premium immediate annuities stated in subparagraph 2. shall apply to annuities and guaranteed interest contracts with guarantee durations of 10 years or less.

4. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single-premium immediate annuities stated in subparagraph 2. shall apply.

5. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change-in-fund basis, the formula for single-premium immediate annuities stated in subparagraph 2. shall apply.

However, if the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year determined without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than 0.5 percent, the calendar year statutory valuation interest rate for such life insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1980, the reference interest rate defined for 1979 being used, and shall be determined for each subsequent calendar year regardless of when s. 627.476(9) becomes operative.

(c) The weighting factors referred to in the formulas stated in paragraph (b) are given in the following tables:

1. Weighting factors for life insurance:

Guarantee Duration (Years)	Weighting Factors
10 or less:	0.50
More than 10, but not more than 20:	0.45
More than 20:	0.35

For life insurance, the "guarantee duration" is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values or both which are guaranteed in the original policy.

2. Weighting factor for single-premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options: 0.80.

3. Weighting factors for other annuities and for guaranteed interest contracts, except as stated in subparagraph 2., shall be as specified in sub-subparagraphs a., b., and c., according to the rules and definitions in sub-subparagraphs d., e., and f. and in paragraph (f):

a. For annuities and guaranteed interest contracts valued on an issue-year basis:

Guarantee Duration (Years)	Weighting Factor for Plan Type
5 or less:	A—0.80
	B—0.60
	C—0.50
More than 5, but not more than 10:	A—0.75
	B—0.60
	C—0.50
More than 10, but not more than 20:	A—0.65
	B—0.50
	C—0.45
More than 20:	A—0.45
	B—0.35
	C—0.35

b. For annuities and guaranteed interest contracts valued on a change-in-fund basis, the factors shown in sub-subparagraph a. increased by: 0.15 for Plan Type A; 0.25 for Plan Type B; 0.05 for Plan Type C.

c. For annuities and guaranteed interest contracts valued on an issue-year basis, other than those with no cash settlement options, which do not guarantee interest on considerations received more than 1 year after issue or purchase and for annuities and guaranteed interest contracts valued on a change-in-fund basis which do not guarantee interest rates on considerations received more than 12 months beyond the valuation date, the factors shown in sub-subparagraph a. or derived in sub-subparagraph b. increased by: 0.05 for Plan Type A; 0.05 for Plan Type B; 0.05 for Plan Type C.

d. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the "guarantee duration" is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of 20 years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guarantee duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

e. "Plan type," as used in the tables above, is defined as follows:

(I) Plan Type A: At any time, the policyholder may withdraw funds only with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer; the policyholder may withdraw funds only without such adjustment but in installments over 5 years or more; the policyholder may withdraw funds only as an immediate life annuity; or no withdrawal is permitted.

(II) Plan Type B: Before expiration of the interest rate guarantee, the policyholder may withdraw funds only with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer; the policyholder may withdraw funds only without such adjustment but in installments over 5 years or more; or no withdrawal is permitted. At the end of interest rate guarantee, funds may be withdrawn without such adjustment in a single sum or installments over less than 5 years.

(III) Plan Type C: The policyholder may withdraw funds before expiration of interest rate guarantee in a single sum or installments over less than 5 years either without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer or subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

f. An insurer may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue-year basis or on a change-in-fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue-year basis.

(d) The "reference interest rate" referred to in paragraph (b) is defined as follows:

1. For all life insurance, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year next preceding the year of issue, of the interest rate index.

2. For single-premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or year of purchase, of the interest rate index.

3. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year-of-issue basis, except as stated in subparagraph 2., with guarantee duration in excess of 10 years, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of the interest rate index.

4. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year-of-issue basis, except as stated in subparagraph 2., with guarantee duration of 10 years or less, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of the interest rate index.

5. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of the interest rate index.

6. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change-in-fund basis, except as stated in subparagraph 2., the average over a period of 12 months, ending on June 30 of the calendar year of the change in the fund, of the interest rate index.

(e) The interest rate index shall be the Moody's Corporate Bond Yield Average-Monthly Average Corporates as published by Moody's Investors Service, Inc., as long as this index is calculated by using substantially the same methodology as used by it on January 1, 1981. If Moody's corporate bond yield average ceases to be calculated in this manner, the interest rate index shall be the index approved by rule promulgated by the department. The methodology used in determining the index approved by rule shall be substantially the same as the methodology employed on January 1, 1981, for determining Moody's Corporate Bond Yield Average-Monthly Average Corporates as published by Moody's Investors Services, Inc.

(f) As used in this subsection, an "issue-year basis" of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of purchase of the annuity or guaranteed interest contract; and the "change-in-fund" basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

(7)~~(6)~~ COMMISSIONERS' RESERVE VALUATION METHOD.—

(a)1. Except as otherwise provided in this subsection *and subsections (11) and (14)*, reserves according to the commissioners' reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums, shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of sub-subparagraph a. over sub-subparagraph b. as follows:

a. A net-level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due; provided, however, that such net-level annual premium shall not exceed the net-level annual premium on the 19-year premium whole life plan for insurance of the same amount at an age 1 year higher than the age at issue of such policy.

b. A net-1-year-term premium for such benefits provided for in the first policy year.

2. For any life insurance policy which is issued on or after January 1, 1985, for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess, and which provides an endowment benefit, a cash surrender value, or a combination thereof in an amount greater than such excess premium, the reserve according to the commissioners' reserve valuation method as of any policy anniversary occurring on or before the assumed ending date, defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such excess premium, shall, except as otherwise provided in subsection *(11)* ~~(10)~~, be the greater of the reserve as of such policy anniversary calculated as described in subparagraph 1. and the reserve as of such policy anniversary calculated as described in subparagraph 1. but with:

a. The value defined in subparagraph 1. being reduced by 15 percent of the amount of such excess first year premium;

b. All present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date;

c. The policy being assumed to mature on such date as an endowment; and

d. The cash surrender value provided on such date being considered as an endowment benefit.

In making the above comparison, the mortality and interest bases stated in subsections *(5)* ~~(4)~~ and *(6)* ~~(5)~~ shall be used.

(b) Reserves according to the commissioners' reserve valuation method for:

1. Life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums;

2. Group annuity and pure endowment contracts, purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under s. 408 of the Internal Revenue Code, as now or hereafter amended;

3. Disability and accidental death benefits in all policies and contracts; and

4. All other benefits, except life insurance and endowment benefits in life insurance policies, and benefits provided by all other annuity and pure endowment contracts,

shall be calculated by a method which is consistent with and yields results consistent with the principles of paragraph (a), except that any extra premiums charged because of impairments, nonrecurring expense factors, or special hazards shall be disregarded in the determination of modified net premiums.

(c) This subsection shall apply to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under s. 408 of the Internal Revenue Code, as now or hereafter amended. Reserves according to the commissioners' annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by such contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of such contract, that become payable prior to the end of such respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate or rates specified in such contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of such contracts to determine nonforfeiture values.

(8)~~(7)~~ MINIMUM AGGREGATE RESERVES.—

(a) In no event shall an insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after the operative date of s. 627.476, be less than the aggregate reserves calculated in accordance with the methods set forth in subsections *(7), (11), and (12)* ~~(6) and (11)~~ and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

(b) In no event may the aggregate reserves for all policies, contracts, and benefits be less than the aggregate reserves determined by the qualified actuary to be necessary to render the opinion required by subsection (3).

(9)~~(8)~~ OPTIONAL RESERVE BASIS.—

(a) Reserves for all policies and contracts issued prior to the operative date of s. 627.476 may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by the laws in effect immediately prior to such date.

(b) For any category of policies, contracts, or benefits specified in subsections *(5) and (6)* ~~(4) and (5)~~, issued on or after the operative date of s. 627.476 (the Standard Nonforfeiture Law for Life Insurance), reserves may be calculated, at the option of the insurer, according to any standard or standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided; but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein.

(10)~~(9)~~ LOWER VALUATIONS.—An insurer which at any time had adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the department, adopt any lower standard of valuation, but not lower than the minimum herein provided; *however, for the purposes of this subsection, the holding of additional reserves previously determined by a qualified actuary to be necessary to render the opinion required by subsection (3) shall not be deemed to be the adoption of a higher standard of valuation.*

(11)~~(10)~~ DEFICIENCY RESERVE.—If in any contract year the gross premium charged by any life insurer on any policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, there shall be maintained on such policy or contract a deficiency reserve in addition to the reserve defined by subsections *(7) and (12)* ~~(6) and (11)~~. For each such policy or contract, the deficiency reserve shall be the present value, according to the minimum valuation standards of mortality and rate of interest, of the differences between all such valuation net premiums and the corresponding premiums charged for such policy or contract during the remainder of the premium-paying period. As regards renewable term life insurance, the policy reserve and foregoing deficiency reserve shall be calculated using the current term period only. For any category of policies, contracts, or benefits specified in subsections *(5) and (6)* ~~(4) and (5)~~, issued on or after the operative date of s. 627.476 (the Standard Nonforfeiture Law for Life Insurance), the aggregate deficiency reserves may be reduced by the amount, if any, by which the aggregate reserves actually calculated in accordance with subsection *(9)* ~~(8)~~ exceed the minimum aggregate reserves prescribed by subsection *(8)* ~~(7)~~. The minimum valuation standards of mortality and rate of interest referred to in this subsection are those standards stated in subsections *(5) and (6)* ~~(4) and (5)~~. However, for any life insurance policy which is issued on or after January 1, 1985, for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess, and which provides an endowment benefit, a cash surrender value, or a combination thereof in an amount greater than such excess premium, the foregoing provisions of this subsection shall be applied as if the method actually used in calculating the reserve for such policy were the method described in subsection *(7)* ~~(6)~~, the provisions of subparagraph *(7)* ~~(6)~~(a)2. being ignored. The amount of the deficiency reserve, if any, at each policy anniversary of such a policy shall be the excess, if any, of the amount determined by the foregoing provisions of this subsection plus the reserve calculated by the method described in subsection *(7)* ~~(6)~~, the provisions of subparagraph *(7)* ~~(6)~~(a)2. being ignored, over the reserve actually calculated by the method described in subsection *(7)* ~~(6)~~, the provisions of subparagraph *(7)* ~~(6)~~(a)2. being taken into account.

(12)~~(11)~~ ALTERNATE METHOD FOR DETERMINING RESERVES IN CERTAIN CASES.—In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurer based on then estimates of future experience, or in the case of any plan of life insurance or annuity which is of such a nature that the minimum reserves cannot be determined by the methods described in subsection *(7)* ~~(6)~~, the reserves which are held under any such plan shall:

(a) Be appropriate in relation to the benefits and the pattern of premiums for that plan; and

(b) Be computed by a method which is consistent with the principles of this section, as determined by rules promulgated by the department.

(13)~~(12)~~ APPLICABILITY TO CREDIT LIFE INSURANCE POLICIES.—This section does not apply as to those credit life insurance policies for which reserves are computed and maintained as required under s. 625.131.

(14) MINIMUM STANDARDS FOR HEALTH PLANS.—The department shall adopt a rule containing the minimum standards applicable to the valuation of health plans in accordance with sound actuarial principles.

Section 50. Subsection (3) of section 625.151, Florida Statutes, 1990 Supplement, is amended to read:

625.151 Valuation of other securities.—

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

(a) If the surplus as to policyholders of an insurer including investments in subsidiaries does not exceed $100 million, investments in subsidiaries and related corporations as defined in s. 625.325, including common stock, preferred stock, debt obligations, other securities, and loans to such corporations, shall be valued in an amount which in the aggregate does not exceed the lesser of:

1.~~(a)~~ Ten percent of the insurer's admitted assets; or

2.~~(b)~~ Fifty percent of the insurer's surplus as to policyholders in excess of the minimum surplus as to policyholders required under this code.

(b) If the surplus as to policyholders of an insurer including investments in subsidiaries is $100 million or more, investments in subsidiaries and related corporations as defined in s. 625.325, including common stock, preferred stock, debt obligations, other securities, and loans to such corporations, shall be valued in an amount which in the aggregate does not exceed 25 percent of the insurer's admitted assets.

Section 51. Section 625.305, Florida Statutes, is amended to read:

625.305 Diversification.—

(1) Every insurer must *maintain* ~~have and keep to the extent of~~ an amount equal to its entire reserve, as required under part I of this chapter, and the minimum ~~capital and~~ surplus *as to policyholders* required to be maintained by the insurer under this code invested in coin or currency of the United States, *in assets allowed by s. 625.012, except loans or advances to affiliates to the extent unsecured* and in investments as authorized under this part, other than the investments authorized under either of the following sections:

(a) Section 625.331.

(b) Section 625.333, except paragraph (1)(a).

(2) Investments eligible under subsection (1), except investments acquired pursuant to s. 625.331, are subject to the following limitations:

(a) The cost of investments made by insurers in stock authorized by s. 625.324 shall not exceed 15 percent of the insurer's admitted assets; the cost of such investment in common stocks shall not exceed 10 percent of the insurer's admitted assets; and the cost of such investment in stock of any one corporation shall not exceed 3 percent of the insurer's admitted assets. Notwithstanding any other provision in this chapter, the cost basis or market value, if lower, of all stock investment shall be used for the purpose of determining the asset value against which such percentage limitations are to be applied.

(b) Such other limitations, if any, as may be expressly provided for in the section under which the investment is authorized.

(3) The cost of investments made by insurers in a mortgage loan authorized by s. 625.327 shall not exceed the lesser of 5 percent of the insurer's admitted assets or 10 percent of the insurer's capital and surplus. *An insurer shall not invest in additional mortgage loans without the consent of the department if the admitted value of all mortgage loans held by the insurer exceeds:*

(a) With respect to life and health insurers, 40 percent of the admitted assets of the insurer.

(b) With respect to property and casualty insurers, 10 percent of the admitted assets of the insurer.

An insurer that, as of October 1, 1991, has mortgage investments that exceed the aggregate limitation specified in this subsection shall submit to the department no later than January 31, 1992, a plan to bring the amount of mortgage investments into compliance with such limitations by January 1, 2001.

(4) Without the prior written approval of the department, the cost of investments in bonds, debentures, notes, commercial paper, or other debt obligations issued, assumed, or guaranteed by any solvent institution, and which are *classified as medium to lower quality obligations* ~~not rated as investment grade~~, other than obligations of subsidiaries or related corporations as that term is defined in s. 625.325, shall be limited to:

(a) No more than *13* ~~20~~ percent of an insurer's admitted assets. ~~or 200 percent of an insurer's capital and surplus, whichever is greater;~~

(b) No more than 5 percent of an insurer's admitted assets in obligations that have been given a rating of 4, 5, or 6 by the Securities Valuation Office of the National Association of Insurance Commissioners.

(c) No more than 1.5 percent of an insurer's admitted assets in obligations that have been given a rating of 5 or 6 by the Securities Valuation Office of the National Association of Insurance Commissioners.

(d) No more than .5 percent of an insurer's admitted assets in obligations that have been given a rating of 6 by the Securities Valuation Office of the National Association of Insurance Commissioners.

(e)~~(b)~~ No more than 10 percent of an insurer's admitted assets ~~or 100 percent of an insurer's capital and surplus, whichever is greater~~, if the investments are in issuers from any one industry.~~; and~~

(f)~~(c)~~ No more than 2 percent of an insurer's admitted assets ~~or 10 percent of an insurer's capital and surplus, whichever is greater,~~ if the investment is in any one issuer.

(5) For purposes of subsection (4), the following definitions shall apply:

(a) *"Medium to lower quality obligations" means obligations that have been given a rating of 3, 4, 5, or 6 by the Securities Valuation Office of the National Association of Insurance Commissioners.* ~~"Investment grade" means that the obligation has been determined to be in one of the top four generic lettered rating classifications by a securities rating agency or that the obligation has been determined to be investment grade (as indicated by a "yes" rating) by the Securities Valuation Office of the National Association of Insurance Commissioners. If the obligation is commercial paper then the rating shall be in one of the top three rating classifications to be considered investment grade.~~

(b) "Industry" means a distinct and recognized area of economic activity that consists of the production, manufacture, or distribution of common goods, products, commodities, or services.

~~(c) "Securities rating agency" means Moody's Investors Service, Standard & Poor's Corporation, Duff and Phelps, Inc., or any successor organization of the aforementioned companies.~~

(6) Each insurer shall possess and maintain adequate documentation to establish that its investments in *medium to lower quality* ~~other than investment grade~~ obligations do not exceed the limitations under subsection (4).

~~(7)(a) For purposes of this subsection, the term:~~

~~1. "Maximum grandfathered, lower grade, or unrated obligation" means the amount derived by multiplying the insurer's January 1, 1988, policyholders' liabilities outstanding at the end of each calendar year by the insurer's lower grade or unrated obligations' base percentage.~~

~~2. "Lower grade or unrated obligations' base percentage" means the percentage derived by dividing the amount of an insurer's policyholders' liabilities as of January 1, 1988, into the amount the insurer had invested in lower grade or unrated obligations on January 1, 1988.~~

~~3. "Obligation" means a bond, debenture, note, commercial paper, or other debt obligation which is issued, assumed, or guaranteed by any solvent institution and which is not rated as investment grade, other than an obligation of subsidiaries or related corporations, as defined in s. 625.325.~~

~~(b)~~ The provisions of subsections (4), (5), and (6) ~~shall~~ apply to any investment made after *September 30, 1991* ~~December 31, 1987~~. If an insurer's investments in *medium to lower quality* ~~lower grade or unrated~~

obligations equal or exceed the maximum amounts permitted by subsection (4) as of *October 1, 1991* ~~January 1, 1988~~, the insurer shall not acquire any additional *medium to lower quality* ~~low-grade or unrated~~ obligations without the prior written approval of the department. An insurer that is not in compliance with subsection (4) as of *October 1, 1991* ~~January 1, 1988~~, may hold until maturity *or until January 1, 1996, whichever is sooner,* only those *medium to lower quality* ~~lower-grade or unrated~~ obligations it owns on that date *if such obligations were obtained in compliance with the law in effect at the time the investments were made.* If the insurer sells, transfers, or otherwise disposes of such securities prior to maturity, the insurer may not acquire any *medium to lower quality* ~~lower-grade or unrated~~ obligations as substitutions or replacements without the prior approval of the department. *However, the consent of the department shall not be required if such replacement investment is acquired for the purpose of supporting an unexpired life insurance or annuity product liability and the insurer has filed with the department a schedule of such liabilities supported by the medium to lower quality investments.* ~~However, the consent of the department shall not be required if:~~

~~1. The investment in any lower-grade or unrated obligation will not result in the insurer's total investment in lower-grade or unrated obligation exceeding the greater of:~~

~~a. Twenty percent of the insurer's admitted assets associated with policies issued or assumed by the issuer after January 1, 1988, plus the insurer's maximum grandfathered lower-grade or unrated obligations amount; or~~

~~b. Forty percent of the insurer's total admitted assets; and~~

~~2. The investment in any lower-grade or unrated obligation will not result in the maximum limits of paragraphs (4)(b) and (c) being exceeded;~~

~~3. The investment in any lower-grade or unrated obligation will not result in the insurer's total investment in lower-grade or unrated obligations exceeding 70 percent of the insurer's total admitted assets;~~

~~4. When the lower-grade or unrated obligation is acquired by the insurer, the company issuing the replacement lower-grade or unrated obligation is current on all payments, has assets of at least $100 million, and has a due diligence report which was performed by the investment banker or other professional as to the company's ability to meet its obligations; and~~

~~5. The insurer exceeds otherwise applicable capital and surplus requirements by not less than an amount equal to 2 percent of the amount in which its investments in lower-grade or unrated obligations exceeds 20 percent of its total admitted assets.~~

An insurer that is not in compliance with subsection (4) on December 31, *1991* ~~1987~~, shall file with its annual statement a separate schedule of the *medium to lower quality* ~~lower-grade or unrated~~ obligations it owns on December 31, *1991* ~~1987~~. Until it is in compliance with subsection (4), the insurer shall file with each succeeding annual and quarterly statement a separate schedule of the *medium to lower quality* ~~lower-grade or unrated~~ obligations it owns as of the reporting date of the filed statement.

(8) Failure to obtain the prior written approval of the department shall result in any investments in excess of those permitted by subsection (4) not being allowed as an asset of the insurer.

(9) The department may limit the extent of an insurer's deposits with any financial institution which does not meet its regulatory capital requirement if the department determines that the financial solvency of the insurer is threatened by a deposit in excess of such limit.

(10) The provisions of this section supersede any inconsistent provision of section 106 of the Secondary Mortgage Market Enhancement Act of 1984 (Title 15, U.S.C., s. 77r).

Section 52. Section 625.316, Florida Statutes, is amended to read:

625.316 International development banks.—An insurer may invest in obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, or the African Development Bank, *or the International Finance Corporation.*

Section 53. Subsection (6) is added to section 625.327, Florida Statutes, to read:

625.327 Mortgage loans.—

(6) The provisions of this section supersede any inconsistent provision of section 106 of the Secondary Mortgage Market Enhancement Act of 1984 (Title 15 U.S.C., s. 77r).

Section 54. Subsection (2) of section 625.51, Florida Statutes, 1990 Supplement, is amended to read:

625.51 Purpose of deposit.—Such deposits shall be held for the following purposes:

(2)*(a)* A deposit made in this state by a domestic insurer transacting insurance in another state, province, or country, and as required by the laws of such state, province, or country, shall be held for the protection of the insurer's policyholders or policyholders and creditors.

(b) The deposit shall be certified to another state, province, or country upon request of the insurer.

(c) The deposit shall be maintained at the certified par value for any state, province, or country furnishing notification of reliance to the department.

Section 55. Section 625.52, Florida Statutes, 1990 Supplement, is amended to read:

(Substantial rewording of section. See s. 625.52, F.S., 1990 Supp., for present text.)

625.52 Securities eligible for deposit.—

(1) All deposits by insurers and agents required for authority to transact insurance in this state must be limited to the following types:

(a) Cash delivered to the department for the Treasury Cash Deposit Trust Fund.

(b) United States Government bonds, notes, and bills for which the full faith and credit of the Government of the United States is pledged for the payment of principal and interest.

(c) United States and Canadian public bonds and notes of any state or of the District of Columbia, or the Government of Canada or any province thereof, for which the full faith and credit of the issuer has been pledged for the payment of principal and interest.

(d) United States and Canadian county, provincial, municipal, and district bonds and notes for which the issuer has lawful authority to levy taxes or make assessments for the payment of principal and interest.

(e) Bonds and notes of any federal agency which are guaranteed as to payment of principal and interest by the United States.

(f) International development bank bonds and notes issued, assumed, and guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank or the International Finance Corporation.

(g) Corporate bonds and notes of any private corporations that are not affiliates or subsidiaries of the insurer, which corporations are organized under the laws of the United States, Canada, any state, the District of Columbia, any territory or possession of the United States, or any province of Canada.

(h) Certificates of deposit.

(2) To be eligible for deposit under subsection (1), any bond or note must have the following characteristics:

(a) The bond or note must be interest-bearing or interest-accruing, and the insurer must be the exclusive owner of the interest accruing thereon and entitled to receive the interest for its account.

(b) The issuer must be in a solvent financial condition and the bond or note must not be in default.

(c) The bond or note must be rated in one of the four highest classifications by an established, nationally recognized investment rating service or must have been given a rating of 1 by the Securities Valuation Office of the National Association of Insurance Commissioners.

(d) The market value of the bond or note must be readily ascertainable.

(e) The bond or note must be the direct obligation of the issuer.

(f) The bond or note must be stated in United States dollar denominations.

(g) After October 1, 1992, the bond or note must be eligible for book-entry form on the books of the Federal Reserve Book-Entry System or in a depository trust clearing system.

(3) To be eligible for deposit under subsection (1), any certificate of deposit must have the following characteristics:

(a) The certificate of deposit must be issued by a qualified public depository as defined in s. 280.02(11), and the depository must conform to and be bound by all provisions of chapter 280 with regard to such funds.

(b) The certificate of deposit must be interest-bearing and may not be issued in discounted form.

(c) The certificate of deposit must be issued for a period of not less than 1 year.

(d) The issuing qualified public depository must agree to the terms and conditions of the State Treasurer regarding the rights to the certificate of deposit and must provide written confirmation of such agreement to the State Treasurer. The terms and conditions must include, but need not be limited to:

1. Exclusive authorized signature authority for the State Treasurer.

2. Agreement to pay, without protest, the proceeds of its certificate of deposit to the department within thirty business days after presentation. If the depository fails to pay the proceeds, the State Treasurer may take legal title to, and sell, sufficient securities of the depository held pursuant to chapter 280 to pay to the department the face value of the certificate of deposit.

3. Prohibition against levies, setoffs, survivorship, or other conditions that might hinder the department's ability to recover the full face value of a certificate of deposit.

4. Instructions regarding interest payments, renewals, taxpayer identification, and early withdrawal penalties.

5. Such other conditions as the department may require.

(4) The department may refuse to accept certain securities or refuse to accept the reported market value of certain securities offered pursuant to this section in order to ensure that sufficient cash and securities are on hand to meet the purposes of the deposit. In making a refusal under this subsection, the guidelines for use of the department may include, but need not be limited to, whether the market value of the securities cannot be readily ascertained and the lack of liquidity of the securities. Securities refused under this subsection are not acceptable as deposits.

(5) All deposits required of a domestic insurer pursuant to the laws of another state, province, or country must be comprised of securities of the kinds required under subsection (1), having the characteristics required under subsections (2) and (3), and permitted by the laws of the other state, province, or country, except common stocks, mortgages or loans of any kind, real estate investment trust funds or programs, commercial paper, and letters of credit.

(6) Deposits of foreign insurers made in this state under the retaliatory provision, s. 624.5091, must consist of such securities or assets as are required by the department pursuant to the retaliatory provision.

Section 56. Subsection (2) of section 625.58, Florida Statutes, is amended to read:

625.58 Excess and deficit deposits.—

(2) The insurer is responsible at all times for having deposited with, or pledged to, if custodial arrangements are used, the department eligible securities which have a market value of not less than the amount specified pursuant to the law by which the deposit is required. If for any reason the market value of assets and securities of an insurer held on deposit in this state under this code falls below the amount required, the insurer shall promptly deposit other or additional assets or securities eligible for deposit sufficient to cure such deficiency. If the insurer has failed to cure the deficiency within 30 days after receipt of notice thereof by registered or certified mail from the department, the department shall revoke the insurer's certificate of authority *or may take such other administrative action as provided by law.*

Section 57. Subsection (1) of section 625.62, Florida Statutes, 1990 Supplement, is amended to read:

625.62 Duration and release of deposit.—

(1)*(a)* Every certificate of deposit filed and every deposit made in this state by an insurer, prior to or pursuant to this code, made voluntarily or pursuant to specific requirements shall be subject to the applicable provisions of this code as amended from time to time.

(b) If the deposit is required under the retaliatory provision, s. 624.5091, the deposit shall be held for so long as the basis for such retaliation exists.

(c) If the deposit is required under the requirements of another state, province, or country and is held pursuant to s. 625.51(2), the deposit shall be held for so long as another state, province, or country has filed notification of reliance on the deposit and has denied release authorization.

Section 58. Existing subsection (4) of section 625.63, Florida Statutes, is renumbered as subsection (5), and a new subsection (4) is added to said section to read:

625.63 Proofs for release of deposit.—

(4) The department may release a deposit upon sending notification by certified mail to the public official having supervision over insurers in another state, province, or country that has filed a notification of reliance on a deposit made pursuant to s. 625.51(2) unless the release is denied in writing to the department by another state, province, or country within 90 days. The department has no liability as to any such release so made or authorized by it in good faith.

Section 59. Section 626.2815, Florida Statutes, 1990 Supplement, is amended to read:

626.2815 Continuing education required; application; exceptions; requirements; penalties.—

(1) The purpose of this section is to establish requirements and standards for continuing education courses for persons licensed to solicit or sell insurance in the state.

(2) The provisions of this section apply to persons licensed to engage in the sale of insurance in this state for all lines of insurance for which an examination is required for licensing. The provisions of this section shall not apply to any person holding a license for the sale of any line of insurance for which an examination is not required by the laws of this state, nor shall the provisions of this section apply to any limited license as the department may exempt by rule.

(3)(a) Beginning with the renewal of appointments in *1993* ~~1992~~ and thereafter, each person subject to the provisions of this section must have completed a minimum of 7 ~~16~~ hours of continuing education courses every year or *14* ~~32~~ hours of continuing education courses every 2 years in courses prescribed by this section or in other courses approved by the department. Compliance with continuing education requirements is a condition precedent to the renewal of any appointment subject to the provisions of this section. *A licensee who has been licensed for 25 years or more and is a CLU or a CPCU, any person who holds a license as a customer representative, solicitor, or motor vehicle physical damage and mechanical breakdown insurance agent, as a crop, hail, and multiple-peril crop insurance agent, or as an industrial fire insurance or burglary insurance agent and who is not a licensed life or health agent, shall be required to complete 7 hours of continuing education courses every year or 14 hours of continuing education courses every two years.*

(b) Any person who holds a license to solicit or sell life or health insurance and a license to solicit or sell property, casualty, surety, or surplus lines insurance must complete the continuing education requirements by completing courses in life or health insurance for one-half of the total hours required and courses in property, casualty, surety, or surplus lines insurance for one-half of the total hours required. *However, a licensee who holds an industrial fire or burglary insurance license and who is a licensed life or health agent shall be required to complete every two years 4 hours of continuing education courses related to industrial fire or burglary insurance and 24 hours of continuing education courses related to life or health insurance.*

(c) A person teaching any approved course of instruction or lecturing at any approved seminar and attending the entire course or seminar shall

qualify for the same number of classroom hours as would be granted to a person taking and successfully completing such course, seminar, or program. Credit shall be limited to the number of hours actually taught unless a person attends the entire course or seminar.

(d) Excess classroom hours accumulated during any 1-year period may be carried forward to the next year.

(e) For good cause shown, the department may grant an extension of time during which the requirements imposed by this section may be completed, but such extension of time may not exceed 1 year.

(f) A nonresident who must complete continuing education requirements in his home state may use his home state requirements to meet this state's continuing education requirements as well, if the resident's state recognizes reciprocity with this state's continuing education requirements. A nonresident whose home state does not have such continuing education requirements must meet the continuing education requirements of this state.

(4) The following courses may be completed in order to meet the continuing education course requirements:

(a) Any part of the Life Underwriter Training Council Life Course Curriculum: *28* ~~32~~ hours; Health Course: *14* ~~16~~ hours.

(b) Any part of the American College "CLU" diploma curriculum: *28* ~~32~~ hours.

(c) Any part of the Insurance Institute of America's program in general insurance: *14* ~~16~~ hours.

(d) Any part of the American Institute for Property and Liability Underwriters' Chartered Property Casualty Underwriter (CPCU) professional designation program: *28* ~~32~~ hours.

(e) Any part of the Certified Insurance Counselor program: *21* ~~24~~ hours.

(f) Any part of the Accredited Advisor in Insurance: *21* ~~24~~ hours.

(g) Any insurance-related course which is approved by the department and taught by an accredited college or university per credit hour granted: *14* ~~16~~ hours.

(h) Any course developed or sponsored by any authorized insurer or recognized agents' association or insurance trade association or any independent study program of instruction, subject to approval by the department, qualifies for the equivalency of the number of classroom hours assigned thereto by the department. However, unless otherwise provided in this section, continuing education credit may not be given unless the course is provided by classroom instruction or results in a monitored examination.

(i) Each person subject to this section must furnish, in a form satisfactory to the department or its designee, written certification as to the courses, programs, or seminars of instruction taken and successfully completed by such person. Such certification must be executed by or on behalf of the organization sponsoring the course, program, or seminar of instruction.

(5) The Department of Insurance shall refuse to renew the appointment of any agent who has not had his continuing education requirements certified unless the agent has been granted an extension by the department. The department may not issue a new appointment of the same or similar type, with any insurer, to an agent who was denied a renewal appointment for failure to complete continuing education as required until the agent completes his continuing education requirement.

(6)(a) There is created a nine-member continuing education advisory board to be appointed by the Insurance Commissioner and Treasurer. The purpose of the board is to advise the Department of Insurance in developing necessary rules to carry out this section.

(b) The board members shall be appointed as follows:

1. Five members representing agents of which at least one must be from the Florida Association of Insurance Agents; one must be from the Florida Association of Life Underwriters; and one must be from the Professional Insurance Agents of Florida, Inc.

2. Three members representing insurance companies at least one of whom must represent a Florida Domestic Company.

3. One member representing the general public who is not directly employed in the insurance industry.

(c) The board is abolished June 30, 1992.

(d) The members of the board shall serve at the pleasure of the Insurance Commissioner and Treasurer. Each board member shall be entitled to reimbursement for expenses pursuant to s. 112.061. The board shall designate one member as chairman. The board shall meet at the call of the Insurance Commissioner and Treasurer.

Section 60. Present subsection (2) of section 626.431, Florida Statutes, 1990 Supplement, is redesignated as subsection (3), and a new subsection (2) is added to that section, to read:

626.431 Effect of expiration of license and appointment.—

(2) When a licensee's last appointment for a particular class of insurance has been terminated or not renewed, the department must notify the licensee that his eligibility for appointment as such an appointee will expire unless he is appointed prior to expiration of the 24-month period referred to in subsection (3).

Section 61. Subsection (4) is added to section 626.852, Florida Statutes, 1990 Supplement, to read:

626.852 Scope of this part.—

(4) This part does not apply to third-party administrators or a person employed by a third-party administrator holding a certificate of authority pursuant to ss. 626 88-626.894.

Section 62. Section 626.858, Florida Statutes, 1990 Supplement, is amended to read:

626.858 "Nonresident adjuster" defined.—A "nonresident adjuster" is a person who:

(1) Is not a resident of this state;

(2) Is a currently licensed or authorized adjuster in his home state for the type or kinds of insurance he intends to adjust claims for in this state;

(3)~~(a)~~ Is an employee of an insurer, or other insurers under the common control or ownership of such insurer, admitted to do business in this state; *and* ~~or~~

~~(b) Adjusts or settles claims on residents of this state while acting as, or employed by, a third-party administrator certificated by this state pursuant to ss. 626.88-626.894; and~~

(4) Does not maintain an office in this state for the purpose of adjusting losses in this state.

Section 63. Subsection (2) of section 626.873, Florida Statutes, 1990 Supplement, is amended to read:

626.873 Nonresident adjusters.—The department shall, upon application therefor, issue a license to an applicant for a nonresident adjuster's license upon determining that the applicant has paid the applicable license fees required under s. 624.501 and:

(2)~~(a)~~ Is an employee of an insurer admitted to do business in this state.~~; or~~

~~(b) Adjusts or settles claims on residents of this state while acting as, or employed by, a third-party administrator certificated by this state pursuant to ss. 626.88-626.894.~~

Section 64. Subsection (5) of section 627.091, Florida Statutes, is amended to read:

627.091 Rate filings; workers' compensation and employer's liability insurances.—

(5) Pursuant to the provisions of s. *624.3161* ~~627.321~~, the department may examine the underlying statistical data used in such filings.

Section 65. Subsection (1) of section 627.311, Florida Statutes, is amended to read:

627.311 Joint underwriters and joint reinsurers.—

(1) Every group, association, or other organization of insurers which engages in joint underwritings or joint reinsurance shall be subject to reg-

ulation with respect thereto as herein provided, subject, however, with respect to joint underwriting, to all other provisions of this chapter and, with respect to joint reinsurance, to ss. 624.15 and *624.3161* ~~627.321~~.

Section 66. Subsection (1) of section 627.4585, Florida Statutes, is amended to read:

627.4585 Maximum rate of interest on policy loans.—

(1) For the purposes of this section, the "published monthly average" means the value of the interest rate index, as defined in s. 625.121*(6)*~~(5)~~(e).

Section 67. Subsection (1) of section 627.482, Florida Statutes, 1990 Supplement, is amended to read:

627.482 Interest payable on cash surrender of policy.—

(1) If an insured requests payment of the cash surrender value of a policy from its insurer, such payment shall include interest at the rate of interest specified in s. 625.121*(6)*~~(5)~~(e), unless such payment is made by the insurer within 30 days of receipt of the insurance policy and request for cash surrender.

Section 68. Paragraph (b) of subsection (2) of section 628.051, Florida Statutes, is amended to read:

628.051 Application for permit to form insurer; contents; fee.—

(2) Written application for such permit shall be filed with the department. Such application and filing shall include:

(b) The name, residence address, business background, and qualifications of each person associated or to be associated in the formation or financing of the insurer. *Each such person with an ownership interest of 10 percent or more, or who will hold a position as an officer or director, must furnish on forms supplied by the department a sworn biographical statement, legible copies of fingerprints, and authority for release of information in regard to the investigation of such person's background.*

Section 69. Paragraphs (e) and (f) of subsection (3) of section 628.081, Florida Statutes, are amended to read:

628.081 Incorporation of domestic insurer.—

(3) The articles of incorporation shall state the purpose for which the corporation is formed and shall state and show:

(e) If a mutual corporation, the maximum contingent liability of its members, other than as to nonassessable policies, for payment of losses and expenses incurred; such liability shall be as stated in the articles of incorporation but shall not be less than *3* ~~1~~ nor more than 10 times the premium for the member's policy at the annual premium rate for a term of 1 year.

(f) The number of directors, not less than five, who shall constitute the board of directors and conduct the affairs of the corporation~~; also, the names, addresses, and terms of the members of the initial board of directors~~. The term of office of initial directors shall not be for more than 1 year after the date of incorporation.

Section 70. Section 628.161, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 628.161, F.S., for present text.)

628.161 Initial qualifications; mutuals.—

(1) When newly organized, a mutual insurer may be authorized to transact any of the kinds of insurance listed in the schedule contained in subsection (2).

(2)(a) When applying for an initial certificate of authority, the mutual insurer must have unencumbered surplus as to policyholders funds in the amount set out below as minimum initial surplus as to policyholders:

1. With respect to health insurance, $300,000.

2. With respect to property insurance, $200,000.

3. With respect to casualty insurance, $300,000.

4. With respect to any combination of health, property, or casualty insurance, $400,000.

5. With respect to life insurance, $2,500,000.

(b) Thereafter, the mutual insurer must maintain the maintenance level surplus as to policyholders set out below:

1. With respect to health insurance, $200,000.

2. With respect to property insurance, $150,000.

3. With respect to casualty insurance, $200,000.

4. With respect to any combination of health, property, or casualty insurance, $250,000.

5. With respect to life insurance, $1,500,000.

(3) The mutual insurer shall make an initial deposit with the department and thereafter maintain such deposit in an amount equal to one-half the minimum initial surplus as required in paragraph (2)(a), except that with respect to life insurance, the deposit shall be in the amount of $200,000.

(4) Unless a mutual insurer maintains the minimum surplus as to policyholders required by s. 624.408, the mutual insurer must be organized as an assessable mutual insurer subject to the requirements of Part II of this chapter.

(5) Deposits required by this section shall be made in compliance with part III of chapter 625. This deposit requirement is in lieu of the requirements of s. 624.411.

Section 71. Section 628.171, Florida Statutes, is amended to read:

628.171 Formation of mutual insurer; bond.—

(1) ~~Before soliciting any applications for insurance required under s. 628.161,~~ The incorporators of the proposed insurer shall file with the department a *copy of a fidelity bond or insurance policy providing coverage in an amount equal to not less than 10 percent of the funds handled annually and issued in the name of the insurer covering its directors, employees, administrator, or other individuals managing or handling the funds or assets of the insurer. In no case may such bond or policy be less than $1,000 or more than $500,000.* ~~corporate surety bond in the amount of $20,000 in favor of the State of Florida and for the use and benefit of the state and of applicant members and creditors of the corporation. The bond shall be conditioned as follows:~~

~~(a) Upon due accounting for and deposit, as required under s. 628.191, of funds received as premium upon preliminary applications for insurance;~~

~~(b) If the corporation fails to complete its organization and secure a certificate of authority issued by the department within 1 year after the date of its certificate of incorporation, all premiums collected in advance from applicant members shall be promptly returned to them; all other indebtedness of the corporation except compensation to directors, officers, or solicitors of insurance applications shall be paid; and costs incurred by the state in event of any legal proceedings for liquidation or dissolution of the corporation shall be paid.~~

~~(2) In lieu of such a bond, the incorporators may deposit with the department $20,000 in cash, or in United States Government bonds at par value, to be held in trust upon the same conditions as required for the bond.~~

~~(3) Any bond filed or such deposit or remaining portion thereof held under this section shall be released and discharged upon settlement and termination of all liabilities against it.~~

Section 72. Section 628.331, Florida Statutes, is transferred and renumbered as section 628.6018, Florida Statutes.

Section 73. Section 628.451, Florida Statutes, is amended to read:

628.451 Merger or *share exchange* ~~consolidation~~ of stock insurers.—

(1) A domestic stock insurer may merge ~~or consolidate~~ with one or more domestic or foreign stock insurers authorized to transact insurance in this state, by complying with the applicable provisions of the statutes of this state governing the merger or *share exchange* ~~consolidation~~ of stock corporations formed for profit, but subject to the special provisions of this section:

(a) A merger or *share exchange* ~~consolidation~~ may be initially proposed at any meeting of the board of directors of a domestic stock insurer by the affirmative vote of two-thirds of the total number of directors of the corporation, or at any meeting of the stockholders of the corporation by the affirmative vote of a majority of the total number of shares of stock outstanding and entitled to vote, provided the notice of such meeting sets forth such proposal.

(b) The plan of merger or *share exchange* ~~consolidation~~, proposed as required by paragraph (a), shall be submitted to a duly called meeting of the stockholders of record of each domestic stock insurer and may become effective only if adopted at such meeting by the affirmative vote of 75 percent of the total number of shares of stock outstanding and entitled to vote. The notice of such meeting shall set forth in full the proposed plan of merger or *share exchange* ~~consolidation~~.

(2) No such merger or *share exchange* ~~consolidation~~ shall be effectuated unless in advance thereof the plan and agreement therefor have been filed with the department and approved by it. The department shall give such approval unless it finds such plan or agreement:

(a) Is contrary to law;

(b) Is inequitable to the stockholders of any insurer involved; or

(c) Would substantially reduce the security of and service to be rendered to policyholders of the domestic insurer in this state or elsewhere.

(3) No director, officer, agent, or employee of any insurer party to such merger or *share exchange* ~~consolidation~~ shall receive any fee, commission, compensation, or other valuable consideration whatsoever for in any manner aiding, promoting, or assisting therein except as set forth in such plan or agreement.

(4) Any plan or proposal through which a stock insurer proposes to acquire a controlling stock interest in another stock insurer through an exchange of stock of the first insurer, issued by the insurer for the purpose, for such controlling stock of the second insurer is deemed to be a plan or proposal of merger of the second insurer into the first insurer for the purposes of this section and is subject to the applicable provisions hereof.

Section 74. Section 628.4615, Florida Statutes, 1990 Supplement, is amended to read:

628.4615 *Specialty* ~~Allied lines~~ insurers; acquisition of controlling stock, ownership interest, assets, or control; merger or consolidation.—

(1) For the purposes of this section, the term "*specialty* ~~allied lines~~ insurer" means any person holding a license or certificate of authority as:

(a) A motor vehicle service agreement company authorized to issue motor vehicle service agreements as those terms are defined in s. 634.011(8) and (9);

(b) A home warranty association authorized to issue "home warranties" as those terms are defined in s. 634.301(4) and (5);

(c) A service warranty association authorized to issue "service warranties" as those terms are defined in s. 634.401(14) and (15);

(d) An optometric service plan corporation authorized to issue optometric service plan contracts as those terms are defined in s. 637.001(2) and (3);

(e) A pharmaceutical service plan corporation authorized to issue pharmaceutical service plan contracts as those terms are defined in s. 637.1701(2) and (3);

(f) A dental service plan corporation licensed to issue contracts for dental services pursuant to a dental service plan as that term is defined in s. 637.401(1);

(g) An ambulance service association authorized to issue ambulance service contracts as those terms are defined in s. 638.021(1) and (2);

(h) A licensed direct disposer or a licensed funeral director authorized to issue preneed contracts as those terms are defined in s. 639.07(2), (4), and (6);

~~(i) A health care services plan authorized to issue health care services plan contracts to subscribers pursuant to s. 641.04;~~

(i)~~(j)~~ An authorized health maintenance organization operating pursuant to s. 641.21;

(j)~~(k)~~ An authorized prepaid health clinic operating pursuant to s. 641.405;

(k)~~(l)~~ A legal expense insurance corporation authorized to engage in a legal expense insurance business pursuant to s. 642.021; ~~or~~

(l)~~(m)~~ A provider which is licensed to operate a facility which undertakes to provide continuing care as those terms are defined in s. 651.011(2), (5), (6), and (7);

(m) A multiple-employer welfare arrangement operating pursuant to ss. 624.436-624.446;

(n) A premium finance company authorized to finance insurance premiums pursuant to s. 627.828; or

(o) A corporation authorized to accept donor annuity agreements pursuant to s. 627.481.

(2) No person shall, individually or in conjunction with any affiliated person of such person, directly or indirectly, conclude a tender offer or exchange offer for, enter into any agreement to exchange securities for, or otherwise finally acquire, 10 percent or more of the outstanding voting securities of *a specialty* ~~an allied lines~~ insurer which is a stock corporation or of a controlling company of *a specialty* ~~an allied lines~~ insurer which is a stock corporation; or conclude an acquisition of, or otherwise finally acquire, 10 percent or more of the ownership interest of *a specialty* ~~an allied lines~~ insurer which is not a stock corporation or of a controlling company of *a specialty* ~~an allied lines~~ insurer which is not a stock corporation, unless:

(a) The person or affiliated person has filed with the department and sent by registered mail to the principal office of the *specialty* ~~allied lines~~ insurer and controlling company *an application, signed under oath and prepared on forms prescribed by the department, that contains the information* ~~a statement as~~ specified in subsection (4) no later than 5 days after any form of tender offer or exchange offer is proposed, or no later than 5 days after the acquisition of the securities or ownership interest if no tender offer or exchange offer is involved.

(b) The department has approved the tender offer or exchange offer, or acquisition if no tender offer or exchange offer is involved.

(3) This section does not apply to any acquisition of voting securities or ownership interest of *a specialty* ~~an allied lines~~ insurer or of a controlling company by any person who, on July 9, 1986, is the owner of a majority of such voting securities or ownership interest or who, on or after July 9, 1986, becomes the owner of a majority of such voting securities or ownership interest with the approval of the department pursuant to this section.

(4) The *application* ~~statement~~ to be filed with the department and furnished to the *specialty* ~~allied lines~~ insurer and controlling company shall contain the following information and any additional information as the department may deem necessary to determine the character, experience, ability, and other qualifications of the person or affiliated person of such person for the protection of the insureds of the insurer and of the public:

(a)1. The identity of, and the background information specified in subsection (5) on, each natural person by whom, or on whose behalf, the acquisition is to be made; and,

2. If the acquisition is to be made by, or on behalf of, a person other than a natural person and as to any person who controls, either directly or indirectly, such other person, the identity of, and the background information specified in subsection (5) on:

a. Each director, officer, or trustee, if a corporation, or

b. Each partner, owner, manager, or joint venturer, or other person performing duties similar to those of persons in the aforementioned positions, if not a corporation,

for the person.

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

(c) Any plans or proposals which such persons may have made to liquidate the *specialty* ~~allied lines~~ insurer, to sell any of its assets or merge or consolidate it with any person, or to make any other major change in its business or corporate structure or management; and any plans or proposals which such persons may have made to liquidate any controlling company of the *specialty* ~~allied lines~~ insurer, to sell any of its assets or merge or consolidate it with any person, or to make any other major change in its business or corporate structure or management.

(d) The nature and the extent of the controlling interest which the person or affiliated person of such person proposes to acquire, the terms of the proposed acquisition, and the manner in which the controlling interest is to be acquired of *a specialty* ~~an allied lines~~ insurer or controlling company which is not a stock corporation.

(e) The number of shares or other securities which the person or affiliated person of such person proposes to acquire, the terms of the proposed acquisition, and the manner in which the securities are to be acquired.

(f) Information as to any contract, arrangement, or understanding with any party with respect to any of the securities of the *specialty* ~~allied lines~~ insurer or controlling company, including, but not limited to, information relating to the transfer of any of the securities, option arrangements, puts or calls, or the giving or withholding of proxies, which information names the party with whom the contract, arrangement, or understanding has been entered into and gives the details thereof.

(5)(a) The information as to the background and identity of each natural person, which information is required to be furnished pursuant to paragraph (4)(a), shall include:

1. The natural person's occupations, positions of employment, and offices held during the past 10 years.

2. The principal business and address of any business, corporation, or organization in which each such office of the natural person was held, or in which each such occupation or position of employment was carried on.

3. Whether the natural person was, at any time during such 10-year period, convicted of any crime other than a traffic violation.

4. Whether the natural person has been, during such 10-year period, the subject of any proceeding for the revocation of any license and, if so, the nature of the proceeding and the disposition of the proceeding.

5. Whether, during the 10-year period, the natural person has been the subject of any proceeding under the Federal Bankruptcy Act; or whether, during the 10-year period, any person or other business or organization in which the natural person was a director, officer, trustee, partner, owner, manager, or other official has been subject to any such proceeding, either during the time in which the natural person was a director, officer, or trustee, if a corporation, or a partner, owner, manager, joint venturer, or other official, if not a corporation, or within 12 months thereafter.

6. Whether, during the 10-year period, the natural person has been enjoined, either temporarily or permanently, by a court of competent jurisdiction from violating any federal or state law regulating the business of insurance, securities, or banking, or from carrying out any particular practice or practices in the course of the business of insurance, securities, or banking, together with details as to any such event.

7. *Fingerprints of each person referred to in subsection (4).*

(b) Any person filing the statement required by this section shall give all required information that is within the knowledge of:

1. The directors, officers, or trustees, if a corporation, or

2. The partners, owners, managers, or joint venturers, or others performing functions similar to those of a director, officer, or trustee, if not a corporation,

of the person making the filing and of any person controlling either directly or indirectly such person. If any material change occurs in the facts set forth in the *application* ~~statement~~ filed with the department pursuant to this section, an amendment setting forth such changes shall be filed immediately with the department, and a copy of the amendment shall be sent by registered mail to the principal office of the *specialty* ~~allied lines~~ insurer and to the principal office of the controlling company.

(6)(a) The acquisition *application shall be reviewed in accordance with chapter 120* ~~shall be deemed approved unless the department disapproves the proposed acquisition within 90 days after the statement required by subsection (2) has been filed~~. The department may on its own initiate, or, if requested to do so in writing by a substantially affected person, shall conduct, a proceeding to consider the appropriateness of the proposed filing. *Time periods for purposes of chapter 120* ~~The 90-day time period~~ shall be tolled during the pendency of the proceeding. Any written request for a proceeding must be filed with the department within 10 days of the date notice of the filing is given. During the pendency of the proceeding or review period by the department, any person or affiliated person complying with the filing requirements of this section may proceed and take all steps necessary to conclude the acquisition so long as the acquisition becoming final is conditioned upon obtaining departmental approval. The department shall, however, at any time it finds an immediate danger to the public health, safety, and welfare of the insureds exists, immediately order, pursuant to s. 120.59(3), the proposed acquisition ~~temporarily~~ disapproved and any further steps to conclude the acquisition ceased.

(b) During the pendency of the department's review of any acquisition subject to the provisions of this section, the acquiring person shall not make any material change in the operation of the *specialty* ~~allied lines~~ insurer or controlling company unless the department has specifically approved the change nor shall the acquiring person make any material change in the management of the *specialty* ~~allied lines~~ insurer unless advance written notice of the change in management is furnished to the department. A material change in the operation of the *specialty* ~~allied lines~~ insurer is a transaction which disposes of or obligates 5 percent or more of the capital and surplus of the *specialty* ~~allied lines~~ insurer. A material change in the management of the *specialty* ~~allied lines~~ insurer is any change in management involving officers or directors of the *specialty* ~~allied lines~~ insurer or any person of the *specialty* ~~allied lines~~ insurer or controlling company having authority to dispose of or obligate 5 percent or more of the *specialty* ~~allied lines~~ insurer's capital or surplus. The department shall approve a material change in operations if it finds the applicable provisions of subsection (8) have been met. The department may disapprove a material change in management if it finds that the applicable provisions of subsection (8) have not been met and in such case the *specialty* ~~allied lines~~ insurer shall promptly change management as acceptable to the department.

(c) If a request for a proceeding is filed, the proceeding shall be conducted within 60 days after the date the written request for a proceeding is received by the department. A recommended order shall be issued within 20 days of the date of the close of the proceedings. A final order shall be issued within 20 days of the date of the recommended order or, if exceptions to the recommended order are filed, within 20 days of the date the exceptions are filed.

(7) The department may disapprove any acquisition subject to the provisions of this section by any person or any affiliated person of such person who:

(a) Willfully violates this section;

(b) In violation of an order of the department issued pursuant to subsection (11), fails to divest himself of any stock or ownership interest obtained in violation of this section or fails to divest himself of any direct or indirect control of such stock or ownership interest, within 25 days after such order; or

(c) In violation of an order issued by the department pursuant to subsection (11), acquires an additional stock or ownership interest in *a specialty* ~~an allied lines~~ insurer or controlling company or direct or indirect control of such stock or ownership interest, without complying with this section.

(8) The person or persons filing the *application* ~~statement~~ required by subsection (2) shall have the burden of proof. The department shall approve any such acquisition if it finds, on the basis of the record made during any proceeding or on the basis of the filed *application* ~~statement~~ if no proceeding is conducted, that:

(a) Upon completion of the acquisition, the *specialty* ~~allied lines~~ insurer will be able to satisfy the requirements for the issuance of a license or certificate to write the line of insurance for which it is presently licensed or certificated.

(b) The financial condition of the acquiring person or persons will not jeopardize the financial stability of the *specialty* ~~allied lines~~ insurer or prejudice the interests of its insureds or the public.

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

1. To liquidate the *specialty* ~~allied lines~~ insurer, sell its assets, or merge or consolidate it with any person, or to make any other major change in its business or corporate structure or management, or

2. To liquidate any controlling company, sell its assets, or merge or consolidate it with any person, or to make any major change in its business or corporate structure or management which would have an effect upon the *specialty* insurer,

is fair and free of prejudice to the insureds of the *specialty* ~~allied lines~~ insurer or to the public.

(d) The competence, experience, and integrity of those persons who will control directly or indirectly the operation of the *specialty* ~~allied lines~~ insurer indicate that the acquisition is in the best interest of the insureds of the insurer and in the public interest.

(e) The natural persons for whom background information is required to be furnished pursuant to this section have such backgrounds as to indicate that it is in the best interests of the insureds of the *specialty* ~~allied lines~~ insurer and in the public interest to permit such persons to exercise control over the *specialty* ~~allied lines~~ insurer.

(f) The directors and officers, if such *specialty* ~~allied lines~~ insurer or controlling company is a stock corporation, or the trustees, partners, owners, managers, or joint venturers or other persons performing duties similar to those of persons in the aforementioned positions, if such *specialty* ~~allied lines~~ insurer or controlling company is not a stock corporation, to be employed after the acquisition have sufficient insurance experience and ability to assure reasonable promise of successful operation.

(g) The management of the *specialty* ~~allied lines~~ insurer after the acquisition will be competent and trustworthy, and will possess sufficient managerial experience so as to make the proposed operation of the *specialty* ~~allied lines~~ insurer not hazardous to the insurance-buying public.

(h) The management of the *specialty* ~~allied lines~~ insurer after the acquisition shall not include any person who has directly or indirectly through ownership, control, reinsurance transactions, or other insurance or business relations unlawfully manipulated the assets, accounts, finances, or books of any insurer or otherwise acted in bad faith with respect thereto.

(i) The acquisition is not likely to be hazardous or prejudicial to the insureds of the insurer or to the public.

(j) The effect of the acquisition would not substantially lessen competition in the line of insurance for which the *specialty* ~~allied lines~~ insurer is licensed or certified in this state or would not tend to create a monopoly therein.

(9) No vote by the stockholder of record, or by any other person, of any security acquired in contravention of the provisions of this section is valid. Any acquisition contrary to the provisions of this section is void. Upon the petition of the *specialty* ~~allied lines~~ insurer or the controlling company, the circuit court for the county in which the principal office of the *specialty* ~~allied lines~~ insurer is located may, without limiting the generality of its authority, order the issuance or entry of an injunction or other order to enforce the provisions of this section. There shall be a private right of action in favor of the *speciality* ~~allied lines~~ insurer or controlling company to enforce the provisions of this section. No demand upon the department that it perform its functions shall be required as a prerequisite to any suit by the *specialty* ~~allied lines~~ insurer or controlling company against any other person, and in no case shall the department be deemed a necessary party to any action by the *speciality* ~~allied lines~~ insurer or controlling company to enforce the provisions of this section. Any person who makes or proposes an acquisition requiring the filing of *an application* ~~a statement~~ pursuant to this section, or who files such *an application* ~~a statement~~, shall be deemed to have thereby designated the Insurance Commissioner and Treasurer, or his assistant or deputy or another person in charge of his office, as such person's agent for service of process under this section and shall thereby be deemed to have submitted himself to the administrative jurisdiction of the department and to the jurisdiction of the circuit court.

(10) Any approval by the department under this section does not constitute a recommendation by the department of the tender offer or exchange offer, or acquisition, if no tender offer or exchange offer is involved. It is unlawful for a person to represent that the department's approval constitutes a recommendation. A person who violates the provisions of this subsection *commits* ~~is guilty of~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The statute-of-limitations period for the prosecution of an offense committed under this subsection is 5 years.

(11) If the department determines that any person or any affiliated person of such person has acquired 10 percent or more of the outstanding voting securities of *a specialty* ~~an allied lines~~ insurer or controlling company which is a stock corporation, or 10 percent or more of the ownership interest of *a specialty* ~~an allied lines~~ insurer or controlling company which is not a stock corporation, without complying with the provisions of this section, the department may order that the person and any affiliated person of such person cease acquisition of the *specialty* ~~allied lines~~ insurer or controlling company and, if appropriate, divest itself of any stock or ownership interest acquired in violation of this section.

(12)(a) The department shall, if necessary to protect the public interest, suspend or revoke the certificate of authority of any *specialty* ~~allied lines~~ insurer or controlling company acquired in violation of this section.

(b) If any *specialty* ~~allied lines~~ insurer is subject to suspension or revocation pursuant to paragraph (a), the *specialty* ~~allied lines~~ insurer shall be deemed to be in such condition, or to be using or to have been subject to such methods or practices in the conduct of its business, as to render its further transaction of insurance presently or prospectively hazardous to its insureds, creditors, or stockholders or to the public.

(13)(a) For the purpose of this section, the term "acquisition" includes:

1. A tender offer or exchange offer for securities, assets, or other ownership interest;

2. An agreement to exchange securities for other securities, assets, or other ownership interest;

3. A merger of a person or affiliated person into *a specialty* ~~an allied lines~~ insurer or a merger of any person with *a specialty* ~~an allied lines~~ insurer;

4. A consolidation; or

5. Any other form of change of control

whereby any person or affiliated person acquires or attempts to acquire, directly or indirectly, 10 percent or more of the ownership interest or assets of *a specialty* ~~an allied lines~~ insurer or of a controlling company. However, in the case of a health maintenance organization organized as a for-profit corporation, the provisions of s. 628.451 shall govern with respect to any merger or consolidation, and, in the case of a health maintenance organization organized as a not-for-profit corporation, the provisions of s. 628.471 shall govern with respect to any merger or consolidation.

(b) For the purpose of this section, the term "affiliated person" of another person includes:

1. The spouse of such other natural person;

2. The parents of such other natural person and their lineal descendants and the parents of such other natural person's spouse and their lineal descendants;

3. Any person who directly or indirectly owns or controls, or holds with power to vote, 10 percent or more of the outstanding voting securities of such other person;

4. Any person who directly or indirectly owns 10 percent or more of the outstanding voting securities which are directly or indirectly owned or controlled, or held with power to vote, by such other person;

5. Any person or group of persons who directly or indirectly control, are controlled by, or are under common control with such other person;

6. Any director, officer, trustee, partner, owner, manager, joint venturer, or employee, or other person performing duties similar to those of persons in the aforementioned positions, of such other person;

7. If such other person is an investment company, any investment adviser of such company or any member of an advisory board of such company;

8. If such other person is an unincorporated investment company not having a board of directors, the depositor of such company; or

9. Any person who has entered into an agreement, written or unwritten, to act in concert with such other person in acquiring, or limiting the disposition of, securities of *a specialty* ~~an allied lines~~ insurer or controlling company which is a stock corporation or in acquiring, or limiting the disposition of, an ownership interest of *a specialty* ~~an allied lines~~ insurer or controlling company which is not a stock corporation.

(c) For the purposes of this section, the term "controlling company" means any corporation, trust, or association owning, directly or indirectly, 25 percent or more of the voting securities of one or more *specialty* ~~allied lines~~ insurance companies which are stock corporations, or 25 percent or more of the ownership interest of one or more *specialty* ~~allied lines~~ insurance companies which are not stock corporations.

(d) For the purpose of this section, the term "natural person" means an individual.

(e) For the purpose of this section, the term "person" includes a natural person, corporation, association, trust, general partnership, limited partnership, joint venture, firm, proprietorship, or any other entity which may hold a license or certificate as *a specialty* ~~an allied lines~~ insurer.

(14) The department is authorized to adopt, amend, or repeal rules that are necessary to implement the provisions of this section, pursuant to chapter 120.

Section 75. Section 628.471, Florida Statutes, is amended to read:

628.471 Mergers ~~and consolidations~~; mutual insurers.—

(1) A domestic mutual insurer shall not merge ~~or consolidate~~ with a stock insurer.

(2) A domestic mutual insurer may merge ~~or consolidate~~ with another mutual insurer under the applicable procedures prescribed by the statutes of this state applying to corporations formed for profit, except as hereinbelow provided.

(3) The plan and agreement for merger ~~or consolidation~~ shall be submitted to and approved by at least two-thirds of the members of each mutual insurer voting thereon at meetings called for the purpose pursuant to such reasonable notice and procedure as has been approved by the department. If a life insurer, the right to vote may be limited to members whose policies are other than term and group policies and have been in effect for more than 1 year.

(4) No such merger ~~or consolidation~~ shall be effectuated unless in advance thereof the plan and agreement therefor have been filed with the department and approved by it. The department shall give such approval unless it finds such plan or agreement:

(a) Is inequitable to the policyholders of any domestic insurer involved; or

(b) Would substantially reduce the security of and service to be rendered to policyholders of the domestic insurer in this state and elsewhere.

Section 76. Section 628.520, Florida Statutes, is amended to read:

628.520 Change of domicile of a foreign insurer.—Any insurer which is organized under the laws of any other state ~~and is admitted to do business in this state~~ for the purpose of writing insurance may become a domestic insurer by complying with all of the requirements of law relative to the organization and licensing of a domestic insurer of the same type and by designating its principal place of business at a place in this state upon approval by the department. Such domestic insurer shall be entitled to like certificates and licenses to transact business in this state and shall be subject to the authority and jurisdiction of this state.

Section 77. Parts II and III of chapter 628, Florida Statutes, are redesignated as parts III and IV of said chapter, respectively, and a new part II of said chapter, consisting of sections 628.6011, 628.6012, 628.6013, 628.6014, 628.6015, 628.6016, and 628.6017, is created to read:

PART II
ASSESSABLE MUTUAL INSURERS

628.6011 Assessable mutual insurers.—

(1) An "assessable mutual insurer" is an insurer incorporated in Florida without permanent capital stock which has only insureds or risks located in Florida and which transacts insurance only within Florida and is formed in accordance with part I. Members of the assessable mutual have a contingent liability for discharge of its liabilities as provided in this part. An assessable mutual may be authorized to offer only property, health, and casualty insurance.

(2) The assessable mutual shall not participate in the Florida Insurance Guaranty Association or the Florida Life and Health Insurance Guaranty Association.

628.6012 Premiums written; restrictions.—Assessable mutual insurers shall be subject to a cap on net annual premiums on the same basis and in the same manner as provided in s. 624.469 as to commercial self insurance funds. For an assessable mutual that has converted from a commercial self-insurance fund, the first 6 full calendar years of its operation as set forth in s. 624.469 shall be computed from the date of its certificate of authority as a commercial self-insurance fund.

628.6013 Converted commercial self-insurance fund; trade association; board of directors.—

(1) An assessable mutual insurer formed by the conversion of a commercial self-insurance fund pursuant to s. 624.463 shall be endorsed at the time of conversion by a statewide not-for-profit trade association, industry association, or professional association of employers or professionals which has a constitution or bylaws, which is incorporated under the laws of this state, and which has been organized for purposes other than that of obtaining or providing insurance and operated in good faith for a continuous period of 1 year. The association shall not be liable for any actions of the insurer nor shall it have any responsibility for establishing or enforcing any policy of the insurer. Fees, services, and other aspects of the relationship between the association and the insurer shall be subject to contractual agreement.

(2) The board of directors of the assessable mutual insurer formed pursuant to s. 624.463 shall:

(a) Be responsible to members of the insurer;

(b) Appoint independent certified public accountants, legal counsel, actuaries, and investment advisors as needed;

(c) Approve payment of dividends to members; and

(d) Approve changes in corporate structure.

(3) The board of directors of the assessable mutual insurer formed pursuant to s. 624.463 shall have the authority to contract with an authorized administrator or servicing company to administer the day-to-day affairs of the insurer including, but not limited to, marketing, underwriting, billing, collection, claims administration, safety and loss prevention, reinsurance, policy issuance, accounting, regulatory reporting, and general administration. The fees or compensation for services under such contract shall be comparable to the costs for similar services incurred by insurers writing the same lines of insurance, or where available such expenses as filed by boards, bureaus, and associations designated by insurers to file such data.

(4) The majority of the directors shall be individual members of, or owners, partners, officers, directors, or employees of one or more members of, the insurer or the endorsing association.

(5) If the board of directors contracts with an administrator authorized under s. 626.88 to administer the day-to-day affairs of the fund, a member of the board of directors is not personally liable for monetary damages to any person for any statement, vote, decision, or failure to act, regarding the management or policy of the fund, by a director, unless:

(a) The director breached or failed to perform his duties as a director; and

(b) The director's breach of, or failure to perform, his duties constitutes:

1. A violation of the criminal law, unless the director had reasonable cause to believe his conduct was lawful or had no reasonable cause to

believe his conduct was unlawful. A judgment or other final adjudication against a director in any criminal proceeding for violation of the criminal law estops that director from contesting the fact that his breach, or failure to perform, constitutes a violation of the criminal law; but does not estop the director from establishing that he had reasonable cause to believe that his conduct was lawful or had no reasonable cause to believe that his conduct was unlawful.

2. A transaction from which the director derived an improper personal benefit, either directly or indirectly; or

3. Recklessness or an act or omission which was committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. For purposes of this section, the term "recklessness" means the acting, or omission to act, in conscious disregard of a risk:

(a) Known, or so obvious that it should have been known, to the director; and

(b) Known to the director, or so obvious that it should have been known, to be so great as to make it highly probable that harm would follow from such action or omission.

628.6014 Annual reports.—An assessable mutual shall file a financial statement within 90 days of the end of its accounting year. The requirements of s. 624.470 shall apply except an entry for future investment income on losses and allocated loss adjustment expense reserves and unallocated loss adjustment expense reserves shall be reflected as an aggregate write-in on the balance sheet of the Annual Statement for assets and policyholders' surplus. Future investment income shall be calculated as follows:

$$A + B + C - D, \text{ where}$$

A = losses and allocated loss adjustment expense reserves,
B = unallocated loss adjustment expense reserves,
C = excess of statutory reserves over statement reserves, and
D = present value of A + B + C.

628.6015 Tax on premiums, contributions, and assessments of assessable mutual insurers.—Premiums, contributions, and assessments received by an assessable mutual insurer are subject to s. 624.509(1) and (2) and s. 624.5092, except that the tax rate shall be 1.6 percent of the gross amount of such premiums, contributions, and assessments.

628.6016 Applicability of related laws.—In addition to other provisions of the code cited in ss. 628.6011-628.6017:

(1) Sections 624.155, 624.308, 624.414, 624.415, and 624.416(4); ss. 624.418-624.4211, except s. 624.418(2)(f); ss. 624.464, 624.468(1), (2), (4), (6), and (11), 624.472, 624.473, 624.474, 624.478, 624.480, 624.482, 624.484, 624.486, and 624.501;

(2) Part II of chapter 625;

(3) Applicable sections of part VI of chapter 626; s. 626.9541(1)(a), (b), (c), (d), (e), (f), (h), (i), (j), (k), (l), (m), (n), (o), (q), (u), (w), and (x); and ss. 626.9561-626.9641;

(4) Sections 627.291, 627.413, 627.4132, 627.416, 627.418, 627.420, 627.421, 627.425, 627.426, 627.4265, 627.427, 627.428, 627.702, and 627.706; part XI of chapter 627; ss. 627.912, 627.913, and 627.918; and

(5) Relevant sections of part I of chapter 628 that are not in conflict with the express provisions of this part;

apply to assessable mutual insurers; however, ss. 628.255, 628.411, and 628.421 do not apply. No section of the code not expressly and specifically cited in ss. 628.6011-628.6017 applies to assessable mutual insurers. The term assessable mutual insurer shall be substituted for the term commercial self-insurer as appropriate.

628.6017 Converting assessable mutual insurer.—

(1) An assessable mutual insurer may become a stock insurer as provided in s. 628.441 or a nonassessable mutual pursuant to s. 628.341 if the assessable mutual insurer's ratio of actual annual written premiums, as adjusted in accordance with subsection (2), to current surplus as to policyholders does not exceed 10 to 1 for gross written premiums and does not exceed 4 to 1 for net written premiums.

(2) For the purposes of this section, premiums shall be calculated as the product of the actual or projected premiums and the following:

(a) For property insurance, 0.90.

(b) For casualty insurance, 1.25.

(c) For health insurance, 0.80.

(d) For all other kinds of insurance, 1.00.

(3) An assessable mutual insurer becoming a stock insurer or a nonassessable mutual insurer shall not be subject to s. 627.215 or s. 627.351(5) for 5 years following authorization of the conversion by the department. However, the converted stock insurer or nonassessable mutual insurer shall file all necessary data required by s. 627.215. Such amounts otherwise subject to s. 627.215(10) shall be maintained as surplus as to policyholders and not be available for dividends for a period of 5 years.

(4) Neither the Florida Insurance Guaranty Association nor the Florida Life and Health Insurance Guaranty Association shall be liable for any liability of an assessable mutual insurer except for claims incurred on policies issued on or after the date on which the assessable mutual insurer became a stock insurer or a nonassessable mutual insurer.

Section 78. Section 628.901, Florida Statutes, is amended to read:

628.901 "Captive insurer" defined.—For the purposes of this part, except as provided in s. 628.903, a "captive insurer" is a domestic insurer established under part I to insure the risks of a specific corporation or group of corporations *under common ownership* owned ~~or controlled~~ by the corporation or corporations from which it accepts risk under a contract of insurance.

Section 79. Subsection (1) of section 628.903, Florida Statutes, is amended to read:

628.903 "Industrial insured captive insurer" defined.—For purposes of this part:

(1) An "industrial insured" means an insured which:

(a) Has gross assets in excess of $50 million;

(b) Procures insurance through the use of a full-time employee of the insured who acts as an insurance manager or buyer or through the services of a person licensed as a property and casualty insurance agent, broker, or consultant in such person's state of domicile;

(c) Has at least 100 full-time employees; and

(d) Pays annual premiums of at least $200,000 for each line of insurance purchased from the industrial insured captive insurer or at least *$75,000* ~~$150,000~~, with respect to any line of coverage excess of at least $25 million in the annual aggregate. The purchase of umbrella or general liability coverage excess of $25 million in the annual aggregate shall be deemed to be the purchase of a single line of insurance.

Section 80. Subsection (1) of section 629.261, Florida Statutes, is amended to read:

629.261 Nonassessable policies.—

(1) If a reciprocal insurer has a surplus *as to policyholders* ~~of assets over all liabilities at least equal to the minimum paid in capital stock~~ required of a domestic stock insurer authorized to transact like kinds of insurance, upon application of the attorney and as approved by the subscribers' advisory committee the department shall issue its certificate authorizing the insurer to extinguish the contingent liability of subscribers under its policies then in force in this state and to omit provisions imposing contingent liability in all policies delivered or issued for delivery in this state for so long as all such surplus remains unimpaired.

Section 81. Subsection (4) of section 629.513, Florida Statutes, is amended to read:

629.513 Making and use of rates.—

(4) Nothing herein shall be construed to prohibit the department from examining a limited reciprocal insurer pursuant to s. *624.3161* ~~627.321~~.

Section 82. Section 629.520, Florida Statutes, is created to read:

629.520 Abolition of existing authority of the department to issue a certificate of authority as a limited reciprocal insurer.—On October 1, 1991, the existing authority of the department to issue a certificate of authority as a limited reciprocal insurer pursuant to this chapter is abolished. Existing limited reciprocal insurers which continue to hold a certificate of authority after this date shall have until October 1, 1992, to convert their certificate of authority by meeting the requirements for a certificate of authority as another type of insurer authorized under this code. All existing certificates of authority as a limited reciprocal insurer not so converted shall automatically terminate on October 1, 1992. The authority of any limited reciprocal insurer to accept new business or renewals shall not continue beyond October 1, 1992; however, such limited reciprocal insurer shall continue to service its obligations previously incurred or with the approval of the department, arrange for the transfer of these obligations to an authorized insurer. All power of the department with respect to limited reciprocal insurers shall continue undiminished. This section does not affect any other power of the department or any other function of the department.

Section 83. Existing subsections (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), and (17) of section 631.011, Florida Statutes, are renumbered as subsections (5), (6), (7), (8), (9), (10), (11), (12), (13), (15), (16), (17), (18), and (19), respectively, and new subsections (4) and (14) are added to said section, to read:

631.011 Definitions.—For the purpose of this part, the term:

(4) "Court" refers to the circuit court in which the receivership proceeding is pending.

(14) "Person" includes natural persons, corporations, partnerships, trusts, estates, and sole proprietorships.

Section 84. Subsection (1) of section 631.041, Florida Statutes, is amended to read:

631.041 Automatic stay; relief from stay; injunctions.—

(1) An application or petition under s. 631.031 operates *as a matter of law* as an automatic stay applicable to all persons and entities, other than the receiver, which shall be permanent and survive the entry of an order of conservation, rehabilitation, or liquidation, and which shall prohibit:

(a) The commencement or continuation of judicial, administrative, or other action or proceeding against the insurer or against its assets or any part thereof;

(b) The enforcement of a judgment against the insurer or an affiliate obtained either before or after the commencement of the delinquency proceeding;

(c) Any act to obtain possession of property of the insurer;

(d) Any act to create, perfect, or enforce a lien against property of the insurer, except *that* a secured claim as defined in s. 631.011*(17)*~~(15)~~ *may proceed under s. 631.191 after the order of liquidation is entered*;

(e) Any act to collect, assess, or recover a claim against the insurer, except claims as provided for under this chapter;

(f) The setoff or offset of any debt owing to the insurer, except offsets as provided in s. 631.281.

Section 85. Section 631.112, Florida Statutes, is created to read:

631.112 Subordination of claims for noncooperation.—If an ancillary receiver or another person performing the duties associated with an ancillary receiver in another state or foreign country fails to transfer to the domiciliary liquidator in this state any assets within his control other than special deposits, diminished only by the expenses of the ancillary receivership, if any, the claims filed in the ancillary receivership, other than special deposit claims or secured claims, shall be deemed class 8 claims as defined in s. 631.271(1)(h).

Section 86. Subsection (9) is added to section 631.141, Florida Statutes, to read:

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

(9) Records created by the entity in receivership shall be disposed of in accordance with the order of the court at such time as the receiver determines that the records are not needed for the administration of the estate.

Section 87. Subsection (2) of section 631.152, Florida Statutes, is amended to read:

631.152 Conduct of delinquency proceeding; foreign insurers.—

(2) The domiciliary receiver for the purpose of liquidating an insurer domiciled in a reciprocal state shall be vested by operation of law with the title to all of the property *(except statutory deposits, special statutory deposits, and property located in this state subject to a security interest)*, contracts, and rights of action, and all of the books and records of the insurer located in this state, and it shall have the immediate right to recover balances due from local agents and to obtain possession of any books and records of the insurer found in this state. It shall also be entitled to recover the *property subject to a security interest, statutory deposits, and special statutory deposits* ~~other assets~~ of the insurer located in this state, except that upon the appointment of an ancillary receiver in this state, the ancillary receiver shall during the ancillary receivership proceeding have the sole right to recover such other assets. The ancillary receiver shall, as soon as practicable, liquidate from their respective securities those special deposit claims and secured claims which are proved and allowed in the ancillary proceeding in this state, and shall pay the necessary expenses of the proceeding. All remaining assets it shall promptly transfer to the domiciliary receiver. Subject to the foregoing provisions, the ancillary receiver and its agents shall have the same powers and be subject to the same duties with respect to the administration of such assets as a receiver of an insurer domiciled in this state.

Section 88. Section 631.154, Florida Statutes, 1990 Supplement, is amended to read:

631.154 Funds or other property in the possession of third person.—

(1) *If the receiver determines that funds or property in the possession of another person are rightfully the property of the estate, the receiver shall deliver to such person a written demand for immediate delivery of the funds or property to the receiver, referencing this section by number, referencing the court and docket number of the receivership action, and notifying the person that any claim of right to the funds or property by him must be presented to the receivership court within 20 days after the date of the written demand.* Any person who holds funds or other property belonging to an entity subject to an order of conservation, rehabilitation, or liquidation under this chapter shall deliver the funds or other property to the receiver on demand. Should the person allege any right to retain the funds *or other property* pursuant to s. 631.155, s. 631.191, s. 631.261, s. 631.262, s. 631.263, or s. 631.281, a pleading setting out the right shall be filed with the court within 20 days of the receipt of the receiver's demand that the funds or property be delivered to the receiver. *The person shall serve a copy of the pleading on the receiver.* The pleading of the person shall inform the court as to the nature of the claim to the property, the alleged value of the property or amount of funds held, and what action has been taken by the person to preserve and protect the property or to preserve any funds *pending determination of the dispute.*

(2) If requested by the receiver, a hearing shall be held to determine where and under what conditions the property or funds shall be held by the person *pending determination of the dispute.* The court may impose conditions as it may deem necessary or appropriate for the preservation of the property ~~or funds to the receiver~~ until the court can determine the validity of the person's claim to the property or funds. If any property or funds are allowed to remain in the possession of the person after demand made by the receiver, that person shall be strictly liable for any waste, loss, or damage of the property or funds retained.

(3) If a person has filed a pleading alleging any right to retain funds or property, the court shall hold a subsequent hearing to determine entitlement to the funds or property claimed by the receiver.

(4) If a person fails to file the pleading required by subsection (1) within the 20-day period, the court may, upon petition of the receiver and upon a copy of the petition being served by the petitioner to such person, issue its summary order directing the immediate delivery of the funds or property to the receiver and finding that the person has waived all claims of right to the funds or property.

(5)~~(4)~~ This section shall apply to all proceedings brought by the receiver to recover funds or property believed by the receiver under this chapter to be assets of the entity subject to an order of conservation, rehabilitation, or liquidation. The receiver shall be exempt from the provisions of s. 57.111.

(6)~~(5)~~ Should the receiver be successful in establishing its claim or any part thereof, the receiver shall be entitled to recover judgment for the following:

(a) The property or its cash value as of the date of the order of conservation, rehabilitation, or liquidation, whichever is applicable.

(b) Rental for the use of the property to run from the date of the order of conservation, rehabilitation, or liquidation, whichever is applicable, to the date the property is delivered to the receiver.

(c) In the case of funds, interest at the statutory rate to run from the date of the order of conservation, rehabilitation, or liquidation, whichever is applicable, to the date the funds are delivered to the receiver.

(d) All costs, investigative and other expenses necessary to the recovery of the property or funds, and reasonable attorney's fees.

It is the intent of this section that a person found to be holding receivership assets fully reimburse the receiver for any and all efforts made to recover those assets.

Section 89. Section 631.155, Florida Statutes, is amended to read:

631.155 Agents' balances; *premiums and* unearned commissions ~~and unearned premiums~~.—*Premiums and* unearned commissions ~~and unearned premiums~~ which have been collected on behalf of an insurer by an agent, solicitor, agency, or other entity or person constitute an asset of the insurer for which the agent, solicitor, agency, or other entity or person has a duty to account to the receiver and to pay over amounts as may be due. The duty to account to the receiver shall encompass all persons or entities involved in the handling and transmittal of premium funds. *An accounting shall be provided to the receiver within 20 days after receipt of a written demand for an accounting. If there is a dispute regarding the accounting, the court shall hear and decide the matter upon petition of the receiver.* Compliance with this section and payment of sums determined to be owed by the court within 30 days of judgment, or within other payment terms approved by the court, shall constitute requirements for continued licensure of a person holding a license under the Florida Insurance Code, and failure to comply with this section shall be sufficient grounds for the license revocation.

Section 90. Section 631.171, Florida Statutes, is amended to read:

631.171 Claims of residents against insurers domiciled in reciprocal states.—

(1) In a liquidation proceeding in a reciprocal state against an insurer domiciled in that state, *if a notice to file claims has been issued by the Florida receiver pursuant to s. 631.181(3),* claimants against the insurer who reside within this state may file claims either with the ancillary receiver, if any, in this state or with the domiciliary receiver. Claims must be filed on or before the last date fixed for the filing of claims in the domiciliary liquidation proceeding.

(2) *If a notice to file claims has been issued by the Florida receiver pursuant to s. 631.181(3),* claims belonging to claimants residing in this state may be proved either in the domiciliary state under the law of that state or in the ancillary proceeding, if any, in this state. If a claimant elects to prove his claim in this state, he shall file his claim with the receiver in the manner provided in s. 631.181(1) and (2). The ancillary receiver shall make its recommendation to the court as under s. 631.182(2), shall arrange a date for hearing if necessary under s. 631.182(1), and shall give notice to the liquidator in the domiciliary state, either by certified mail or by personal service at least 40 days prior to the date set for hearing. If the domiciliary liquidator, within 30 days after the giving of such notice, gives notice in writing to the ancillary receiver and to the claimant, either by certified mail or by personal service, of his intention to contest the claim, he is entitled to appear or to be represented in any proceeding in this state involving the adjudication of the claim.

(3) If a notice to file claims has not been issued by the Florida receiver pursuant to s. 631.181(3), claims shall be proved and filed before the domiciliary receiver.

(4)~~(3)~~ The final allowance of the claim by the courts of this state shall be accepted as conclusive as to amount and as to priority against special deposits or other security located in this state.

Section 91. Section 631.181, Florida Statutes, is amended to read:

631.181 Filing and proof of claim.—

(1)(a) Proof of a claim shall be filed with the receiver in the form required by subsection (2) on or before the last day for filing specified in the notice required under subsection (3), except that proof of claim for cash surrender values or other investment values in life insurance and annuities need not be filed unless the receiver expressly so requires. *Claims filed after the deadline may not share in distributions from the estate except to the extent allowed by exceptions specified in this section.*

(b) The court may permit a claimant making a late filing to share in distributions, whether past or future, as if he were not late, to prevent manifest injustice to the extent that any such payment will not prejudice the orderly administration of the liquidation, under any of the following circumstances:

1. The existence of the claim was not known to the claimant and he filed his claim as promptly thereafter as reasonably possible after learning of it.

2. A transfer to the claimant was avoided under ss. 631.261 and 631.262.

3. The valuation under s. 631.191 of security held by a secured creditor shows a deficiency, which is filed within 30 days after the valuation.

(c) The court shall permit late-filed claims to share in distributions, whether past or future, as if they were not late, if such claims are claims of a guaranty association or foreign guaranty association for reimbursement of covered claims paid or expenses incurred, or both, subsequent to the last day for filing when such payments were made and expenses incurred as provided by law.

(d) The court may consider any claim filed late which is not covered by paragraph (b) and permit it to receive distributions which are subsequently declared on any claims of *a* ~~the same or~~ lower priority if the payment does not prejudice the orderly administration of the liquidation. The late-filing claimant shall receive, at each distribution, the same percentage of the amount allowed on his claim as is then being paid to claimants of any lower priority. This payment of percentages shall continue until his claim has been paid in full.

(2)(a) Proof of a claim shall consist of a statement signed by the claimant that includes all of the following information which is applicable:

1. The particulars of the claim, including the consideration given for it.

2. The identity and amount of the security on the claim.

3. The payments made on the debt, if any.

4. A statement that the sum claimed is justly owing and that there is no setoff, counterclaim, or defense to the claim.

5. Any right of priority of payment or other specific right asserted by the claimants.

6. A copy of the written instrument which is the foundation of the claim.

7. The name and address of the claimant and the attorney who represents him, if any.

(b) No claim need be considered or allowed if it does not contain all the information in paragraph (a) which is applicable. The receiver may require that a prescribed form be used, that other information and documents be included, and that the proof of claim be verified by an affidavit of the claimant.

(c) At any time, the receiver may request the claimant to present information or evidence supplementary to that required under paragraph (a) and may take testimony under oath, require production of affidavits or depositions, or otherwise obtain additional information or evidence.

(d) No judgment or order against an insured or the insurer entered after the date of filing of a successful petition for liquidation, and no judgment or order against an insured or the insurer entered at any time by default or by collusion, need be considered as evidence of liability or of the quantum of damages. No judgment or order against an insured or the insurer entered within 4 months before the filing of the petition need be considered as evidence of liability or of the quantum of damages.

(e) All claims of a guaranty association or foreign guaranty association shall be in such form and contain such substantiation as may be agreed to by the association and the receiver.

(3) After the entry of the order of liquidation *against a Florida-domiciled insurer*, regardless of any prior notice that may have been given to creditors, the receiver shall notify all persons who may have claims against the insurer that they must file such claims with it at a place and within the time specified in the notice, or else such claims will be forever barred. *The Florida receiver need not give such notice in ancillary proceedings if the receiver obtains an order from the court authorizing the receiver to not send out such notices, which order the court shall issue upon satisfactory evidence that the domiciliary receiver will be sending out similar notices and will accept and evaluate claims from Florida residents, that Florida residents may have objections to evaluations heard in Florida, and that there are reasonable assurances that Florida policyholders and claimants will be treated fairly and equally as compared to residents of the domicile state.* The time specified in the notice shall be as fixed by the court for filing of claims and shall be not less than 6 months after the entry of the order of insolvency. The notice shall be given in such manner and for such reasonable period of time as may be ordered by the court.

Section 92. Subsection (1) of section 631.182, Florida Statutes, is amended to read:

631.182 Receiver claims report and claimants objections procedure.—

(1) As soon as it has evaluated claims filed in the delinquency proceeding, the receiver shall report the claims to the circuit court, specifying in the report its recommendations with respect to the actions to be taken thereon. Upon receipt of the report, the court shall enter an order approving the claims so reported, unless an objection is filed thereto within a deadline set by the court. The court shall direct the receiver to provide notice to each claimant of the amount recommended on the claim and the deadline for filing objections to the receiver's report. The receiver shall *resolve objections to the satisfaction of the claimant or* schedule a hearing before the court on objections filed to its report, and shall provide reasonable written notice *of hearing* to each claimant *for which a hearing is scheduled.*

Section 93. Section 631.221, Florida Statutes, is amended to read:

631.221 Deposit of moneys collected.—The moneys collected by the department in a proceeding under this chapter shall be deposited in a qualified public depository as defined in s. 280.02, which depository with regards to such funds shall conform to and be bound by all the provisions of chapter 280, or invested with the State Treasurer pursuant to chapter 18. *For the purpose of accounting for the assets and transactions of the estate, the receiver shall use such accounting books, records, and systems as the court directs after it hears and considers the recommendations of the receiver.*

Section 94. Section 631.252, Florida Statutes, is amended to read:

631.252 Continuation of coverage.—

(1) 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* ~~continue in force until~~ the 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~~, if the order so specifies~~;

(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 termination of the coverage by the insured.

(2) A claim arising during ~~such~~ continuation of coverage *under paragraph (1)(a)* shall be treated as if it arose immediately before the *order of* ~~petition for~~ liquidation.

(3) The 30-day coverage continuation period provided in paragraph (1)(a) may in no event be extended; 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.

(4) Benefits under policies of life or health insurance or annuities and other coverages as defined in s. 631.713 shall continue in force for such period as provided for by s. 631.717 or any applicable law governing a foreign guaranty association.

(5) Benefits under membership in a health maintenance organization shall continue in force for such period as provided in part IV.

Section 95. Subsection (1) of section 631.271, Florida Statutes, is amended to read:

631.271 Priority of claims.—

(1) The priority of distribution of claims from the insurer's estate shall be in accordance with the order in which each class of claims is set forth in this subsection. Every claim in each class shall be paid in full or adequate funds shall be retained for such payment before the members of the next class may receive any payment. No subclasses may be established within any class. The order of distribution of claims shall be:

(a) Class 1.—

1. All of the receiver's costs and expenses of administration.

2. All of the expenses of a guaranty association or foreign guaranty association in handling claims.

(b) Class 2.—*Claims of the Federal Government.*

(c) Class 3.—Debts due to employees for services performed, to the extent that such debts do not exceed $2,000 for each employee and represent payment for services performed within 6 months before the filing of the petition for liquidation. Officers and directors are not entitled to the benefit of this priority. Such priority is in lieu of any other similar priority which may be authorized by law as to wages or compensation of employees.

(d)~~(c)~~ Class ~~3~~.—All claims under policies for losses incurred, including third-party claims, all claims against the insurer for liability for bodily injury or for injury to or destruction of tangible property which claims are not under policies, and all claims of a guaranty association or foreign guaranty association. All claims under life insurance and annuity policies, whether for death proceeds, annuity proceeds, or investment values, shall be treated as loss claims. That portion of any loss, indemnification for which is provided by other benefits or advantages recovered by the claimant, may not be included in this class, other than benefits or advantages recovered or recoverable in discharge of familial obligations of support or by way of succession at death or as proceeds of life insurance, or as gratuities. No payment by an employer to his employee may be treated as a gratuity.

~~(d) Class 4.—Claims of the Federal Government.~~

(e) Class 5.—Claims under nonassessable policies for unearned premiums or premium refunds and claims of general creditors.

(f) Class 6.—Claims of any state or local government. Claims, including those of any state or local government for a penalty or forfeiture, shall be allowed in this class, but only to the extent of the pecuniary loss sustained from the act, transaction, or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs occasioned thereby. The remainder of such claims shall be postponed to the class of claims under paragraph (i).

(g) Class 7.—Claims filed after the time specified in s. 631.181(3), except when ordered otherwise by the court to prevent manifest injustice, or any claims other than claims under paragraph (h) or under paragraph (i).

(h) Class 8.—Surplus or contribution notes, or similar obligations, and premium refunds on assessable policies. Payments to members of domestic mutual insurance companies shall be limited in accordance with law.

(i) Class 9.—The claims of shareholders or other owners.

Section 96. Subsection (1) of section 631.391, Florida Statutes, is amended to read:

631.391 Cooperation of officers and employees.—

(1) Any officer, director, manager, trustee, agent, adjuster, employee, or independent contractor of any insurer *or affiliate* and any other

person who possesses any executive authority over, or who exercises any control over, any segment of the affairs of the insurer *or affiliate* shall fully cooperate with the department in any proceeding under this chapter or any investigation preliminary or incidental to the proceeding. An order of rehabilitation or liquidation which results in the discharge or suspension of any of the persons listed above does not operate to release such person from the duty to cooperate with the department as set out herein. To "cooperate" includes, but is not limited to, the following:

(a) To reply promptly in writing to any inquiry from the department requesting such a reply;

(b) Promptly to make available and deliver to the department any books, accounts, documents, other records, information, data processing software, or property of or pertaining to the insurer and in his possession, custody, or control; or

(c) Promptly to provide access to all data processing records in hard copy and in electronic form and to data processing facilities and services.

Section 97. Section 631.66, Florida Statutes, is amended to read:

631.66 Immunity.—There shall be no liability on the part of, and no cause of action of any nature shall arise against, any member insurer, the association or its agents or employees, the board of directors, or the department or its representatives for any action taken by them in the performance of their powers and duties under this part. *Such immunity shall extend to the participation in any organization of one or more other state associations of similar purposes and to any such organization and its agents or employees.*

Section 98. Paragraph (1) is added to subsection (3) of section 631.713, Florida Statutes, to read:

631.713 Application of part.—

(3) This part shall not apply to:

(1) Any annuity contract or group annuity contract which is not issued to and owned by an individual, except to the extent of any annuity benefits guaranteed to an individual by an insurer under such contract or certificate.

Section 99. Subsection (4) of section 631.714, Florida Statutes, is amended to read:

631.714 Definitions.—As used in this part:

(4) "Covered policy" means any policy or contract set out in s. 631.713 *and reduced to written, printed, or other tangible form.*

Section 100. Subsection (11) is added to section 631.717, Florida Statutes, to read:

631.717 Powers and duties of the association.—

(11) The association shall not be liable for any civil action under s. 624.155 arising from any acts alleged to have been committed by a member insurer prior to its liquidation; however, this subsection does not affect the association's obligation to pay valid claims presented to it.

Section 101. Subsection (3) of section 631.722, Florida Statutes, is amended to read:

631.722 Powers and duties of department.—

(3) Any action of the board of directors or of the association may be appealed to the department by any member insurer if such appeal is taken within 30 days of the action being appealed. *If a member company is appealing an assessment, the amount assessed shall be paid to the association and available to meet association obligations during the pendency of the appeal. If the appeal on the assessment is upheld, the amount paid in error or excess shall be returned to the member company.* Any final action or order of the department shall be subject to judicial review in a court of competent jurisdiction.

Section 102. Section 631.727, Florida Statutes, is amended to read:

631.727 Immunity.—There shall be no liability on the part of, and no cause of action of any nature shall arise against, any member insurer or its agents or employees, the association or its agents or employees, members of the board of directors, or the department or its representatives for any action taken by them in the performance of their powers and duties under this part. *Such immunity shall extend to the participation in any organization of one or more other state associations of similar purposes and to any such organization and its agents or employees.*

Section 103. Section 631.737, Florida Statutes, is created to read:

631.737 Rescission and review generally.—The association shall review claims and matters regarding covered policies based upon the record available to it on and after the date of liquidation. Notwithstanding any other provision of this part, to allow for orderly claims administration by the association, entry of a liquidation order by a court of competent jurisdiction shall be deemed to toll for 1 year any rescission or noncontestable period allowed by the contract, the policy, or by law.

Section 104. Subsections (5) and (7) of section 631.814, Florida Statutes, are amended to read:

631.814 Definitions.—As used in this part:

(5) "Date of insolvency" means the *effective date of an order of liquidation entered by* ~~date~~ a court of competent jurisdiction ~~initially issues its order placing the department as the receiver of the HMO~~.

(7) "Health care services" means *comprehensive health care services as defined in s. 641.19* ~~services, medical equipment, and supplies furnished by a provider, which may include, but which are not limited to, medical, surgical, and dental care; psychological, optometric, optic, chiropractic, podiatric, nursing, physical therapy, and pharmaceutical services; health education, preventive medical, rehabilitative, and home health services; inpatient and outpatient hospital services; extended care; nursing home care; convalescent institutional care; laboratory and ambulance services; appliances, drugs, medicines, and supplies; and any other care, service, or treatment of disease, correction of defects, or maintenance of the physical and mental well-being of human beings~~

Section 105. Subsection (1) of section 631.816, Florida Statutes, is amended 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. 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. ~~If no members are selected by July 31, 1989, the department may appoint the initial members of the board of directors. To select the initial board of directors and initially organize the plan, the Insurance Commissioner shall give notice to all HMOs of the time and place of the organizational meeting.~~ In determining voting rights ~~at the organizational meeting~~, 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.

Section 106. Section 631.817, Florida Statutes, is amended to read:

631.817 Eligibility.—

(1) Except as provided in subsection (2), any person of this state who has lost their health care *coverage* ~~services~~ provided in an HMO due to insolvency shall be eligible to obtain coverage as provided herein. Eligible persons include all persons who were eligible to receive health care services under that subscriber's contract with the HMO.

(2)(a) A person shall cease to be covered by the plan after the plan has *provided* ~~paid out~~ $300,000 in covered benefits for that person.

(b) A person shall cease to be covered by the plan upon failure to pay, or failure to have paid on their behalf, premiums as set by the board. Coverage shall cease following a reasonable *grace* ~~time~~ period as set by the board.

(c) A person shall cease to be covered by the plan 6 months after the date of insolvency; however, if, at the time the plan's responsibility would otherwise cease under this paragraph, the person is under treatment for an injury that occurred or an illness that was diagnosed while the person was covered by the insolvent HMO or the plan, the plan shall

remain responsible for treatment of such injury or illness until treatment has been completed or until the conditions specified in paragraph (a) or paragraph (b) have been met.

Section 107. Section 631.818, Florida Statutes, is amended to read:

631.818 Powers and duties of the plan.—

(1) In the event that an HMO is insolvent, the plan shall:

(a) Guarantee, reinsure, assume, or provide coverage for or cause to be guaranteed, reinsured, assumed, or covered all of the subscriber contracts of the insolvent HMO subject to the terms and limitations provided in this part.

(b) Cover all services that would have been covered by the subscribers' contracts with the insolvent HMO during any period from the date of insolvency until the effective date of the replacement coverage with another HMO or other entity that provides health care services or reimbursement or with a product determined by the plan and approved by the department.

~~(a) Guarantee or reinsure, or cause to be guaranteed, assumed, or reinsured, all of the covered policies of the insolvent HMO.~~

~~(b) Consult with all HMOs in the same geographical area as the insolvent HMO and with any other HMO willing to begin providing services in the same geographical area in order to obtain coverage for all subscribers of the insolvent HMO.~~

~~(c) In the event that the plan is unable to obtain coverage voluntarily for any subscriber within 15 days of the date of insolvency, an open enrollment process shall be offered to eligible subscribers by all HMOs operating in the same or similar geographical area as the insolvent HMO.~~

~~1. Each eligible person who continues to reside in the service area shall be permitted to elect coverage from one of the available HMOs. The premium, services, benefits, and exclusions provided to each eligible person shall be the same as offered by the HMO in its current individual policy, or if the HMO does not offer individual policies, then the same as offered by the HMO in its current conversion policy; however, no waiting periods or preexisting conditions or limitation shall apply.~~

~~2. The open enrollment process shall be conducted over a 30-day period commencing on the date set by the plan. The plan shall be responsible for giving notice to each eligible person of the rights provided under this section.~~

~~3. During the open enrollment process, each participating organization shall accept for enrollment in its conversion plan all eligible subscribers who apply for coverage, regardless of age, sex, race, color, creed, marital status, or national origin, until such organization fills its enrollment quota as determined by the plan. To be accepted, an eligible person must meet any applicable health screening requirements and submit a completed enrollment application and the first monthly premium to an available HMO within the 30-day enrollment period.~~

~~4. The plan shall determine the enrollment quota for each HMO by determining the total number of eligible subscribers from the insolvent HMO and calculating the proportionate market shares for all HMOs available in the service area. No HMO shall be required to enroll more eligible subscribers than its proportionate market share. Market shares shall be calculated based upon the total number of non-Medicare and non-Medicaid subscribers covered through health care plans offered by each HMO in the service area, as reported in the most recent quarterly report submitted to the department.~~

~~5. Once enrolled, an eligible subscriber may not be terminated from coverage by the HMO for a period of 6 months, except for one of the following reasons:~~

~~a. Nonpayment of premiums.~~

~~b. Attainment of Medicare eligibility.~~

~~c. Nonresidency in the service area.~~

~~d. Abusive and disruptive behavior.~~

~~e. Fraud.~~

~~(d) Appoint an HMO in the same geographical area to provide health care services in accordance with a conversion policy to any subscriber in the event that all HMOs refuse to enroll the subscriber.~~

~~(e) Pay for the cost of all services provided by an HMO appointed to provide services which exceed the amount of premium or contribution paid by the subscriber.~~

~~(f) Pay for all services which would have been covered by the subscriber's contract with the insolvent HMO during any period of time from the date of insolvency until the date that the plan obtains coverage for the subscriber with another HMO or other entity which provides health care services.~~

(c)~~(g)~~ Defend any claim filed contrary to the provisions of s. 641.315 against a subscriber of an insolvent HMO asserted by a health care provider for services covered by the HMO contract. In the event that a provider obtains a judgment despite the provisions of s. 641.315, the plan shall pay the judgment. *If a provider fails to obtain a judgment as to such claim, the plan shall be entitled to recover its reasonable costs and attorney's fees incurred in defending the claim.*

(d)~~(h)~~ Levy and collect assessments from HMOs pursuant to s. 631.819.

(2) The plan may appoint one or more HMOs in the same geographical area as defined in s. 641.19 to provide health care services, subject to all of the following conditions:

(a) The plan must pay for the cost of all medical services provided by an HMO involuntarily appointed to provide services that exceed the amount of premium or contribution paid by the subscribers. Medical services cost may include a reasonable amount for administrative and other services as determined by the board.

(b) Once enrolled, an eligible subscriber may not be terminated from coverage by the HMO for a period of 6 months following the date of insolvency except for one of the following reasons:

1. Nonpayment of premiums.

2. Attainment of Medicare or Medicaid eligibility.

3. Nonresidency in the service area.

4. Abusive and disruptive behavior.

5. Fraud.

6. Termination of eligibility.

(c) The plan shall consider the premium, services, benefits, and exclusions to be provided to each eligible person in designating the contract of the appointed HMO to be used to provide services.

(d) Such coverage shall not exclude a preexisting condition not excluded by the policy of the insolvent HMO.

~~(2) The plan may consult with insurers to obtain coverage for subscribers or enrollees of an insolvent HMO.~~

~~(3) The plan's responsibility for the payment of services rendered to individuals by an HMO appointed by the plan to provide services shall terminate at the end of the subscriber's contract period with the prior HMO or after 6 months, whichever is later; however, if at the time the plan's responsibility would otherwise terminate, an individual is under treatment for an injury which occurred or an illness which was diagnosed while the individual was covered by the insolvent HMO, the plan shall remain responsible for treatment of such injury or illness until treatment has been completed.~~

~~(4) The plan shall determine the amount of the premium that an HMO appointed pursuant to paragraph (1)(c) shall charge to subscribers assigned to the HMO by the plan. The premium shall be set at a level comparable to the premium charged to individual subscribers by HMOs which voluntarily offer individual policies. The amount of premium to be charged shall be filed with and approved by the department prior to use.~~

~~(5) Coverage obtained by the plan, whether voluntary or involuntary, shall not exclude a preexisting condition not excluded by the policy of the insolvent HMO.~~

(3)~~(6)~~ If the plan fails to act within a reasonable period of time as provided in *this section* ~~subsections (1) and (2)~~, the department shall have the powers and duties of the plan under this part.

(4)~~(7)~~ The plan may render assistance and advice to the department, at the department's request, concerning rehabilitation, payment of

claims, continuance of coverage, or the performance of other contractual obligations of any ~~insolvent~~ HMO *subject to a delinquency proceeding or a proceeding under s. 624.90.*

(5)~~(8)~~ The plan shall have standing to appear before any court in this state which has jurisdiction over an insolvent HMO to which the plan is or may become obligated under this part. Such standing shall extend to all matters germane to the powers and duties of the plan, including, but not limited to, proposals for reinsuring or guaranteeing the covered policies of the insolvent HMO and the determination of the covered policies and contractual obligations.

(6)~~(9)~~ The plan may:

(a) Enter into such contracts *or perform such other actions* as are necessary or proper to carry out the provisions and purposes of this part.

(b) Sue or be sued, including the taking of any legal actions necessary or proper for the recovery of any unpaid assessments under this part.

(c) Borrow money to effect the purposes of this part. Any notes or other evidence of indebtedness of the plan not in default shall be legal investments for domestic insurers or HMOs and may be carried as admitted assets.

(d) Employ or retain such persons as are necessary to handle the financial transactions of the plan and to perform such other functions as become necessary or proper under this part.

(e) Negotiate and contract with any liquidator, rehabilitator, conservator, or ancillary receiver to carry out the powers and duties of the plan.

(f) Take such legal action as may be necessary to avoid payment of improper claims.

Section 108. Section 631.819, Florida Statutes, is amended to read:

631.819 Assessments.—

(1) For the purposes of providing the funds necessary to carry out the powers and duties of the plan, the board of directors shall assess the member HMOs ~~and the Health Care Financing Administration separately~~ at such time and for such amounts as the board finds necessary. Assessments shall be due not less than 30 days after written notice to the member insurers.

~~(2) There shall be two classes of assessments made by the board of directors, each of which shall be maintained in a separate fund:~~

~~(a) Class A assessments which shall be for the purposes of carrying out the powers and duties of the plan as they relate to non-Medicare and non-Medicaid subscribers for the member HMOs.~~

~~(b) Class B assessments which shall be for the purpose of carrying out the powers and duties of the plan as they relate to Medicare subscribers of the member HMOs.~~

~~(c) Allocation of expenses to the two classes of funds under this subsection shall be based on the actual expenses of each class of membership and an allocation of all other expenses on a basis, as set by the board of directors, which is fair and has a reasonable degree of accuracy, recognizing that exact determinations may not always be possible.~~

~~(3) Assessments for Medicare subscribers shall be collected only from the Health Care Financing Administration and shall be based on the Florida earned premium revenue for each year for all Florida Medicare HMO premium revenue.~~

~~(a) The Health Care Financing Administration shall have until July 1, 1989, to notify the plan if it desires to have its Medicare subscribers covered by the plan and receive the benefits of the plan. Such notification shall obligate the Health Care Financing Administration to pay the Medicare portion of all assessments of the plan. If the Health Care Financing Administration fails to notify the plan of its intention to participate in the plan or notifies the plan that it does not desire to join the plan by July 1, 1989, then Medicare subscribers of Florida HMOs shall not be eligible to participate in or receive any benefits of the plan.~~

~~(b) If the Health Care Financing Administration declines to participate in the association, the assessments shall apply to all Florida earned premiums for non-Medicare and non-Medicaid premium revenue only.~~

(2)~~(4)~~ Assessments for funds to meet the requirements of the plan with respect to an insolvent HMO shall not be made until necessary to implement the purposes of this part. In order to carry out its duties and powers under this part, upon the insolvency of an HMO, the plan shall levy and collect assessments as follows:

(a) Each HMO, *prior to receiving* ~~possessing~~ a certificate of authority *after* ~~on~~ July 1, 1989, shall pay an assessment of $25,000 to the plan ~~by July 1, 1989~~.

(b) If the funds provided under paragraph (a) are insufficient to carry out the powers and duties of the plan, the plan shall levy an assessment directly against all HMOs.

(3)~~(5)~~ All assessments against HMOs shall be levied as a percentage of annual earned premium revenue for non-Medicare and non-Medicaid contracts. In no event may the plan assess in any calendar year more than 0.5 percent of each HMO's annual earned premium revenue for non-Medicare and non-Medicaid contracts.

(4)~~(6)~~ The plan may temporarily defer, in whole or in part, the assessment of a member HMO, if, in the opinion of the board, payment of the assessment would endanger the ability of the HMO to fulfill its contractual obligations.

(5)~~(7)~~ It shall be proper for any member HMO, in determining its premium rates, to consider the amount reasonably necessary to meet its assessment obligations under this part.

Section 109. Subsection (1) and paragraph (a) of subsection (4) of section 631.820, Florida Statutes, are amended to read:

631.820 Plan of operation.—

(1)~~(a)~~ The plan shall submit to the department a proposed plan of operation and any amendments thereto necessary or suitable to assure the fair, reasonable, and equitable administration of the plan. The proposed plan of operation and any amendments thereto shall become effective upon approval in writing by the department.

~~(b) If the plan fails to submit a suitable proposed plan of operation by October 31, 1989, or within an extension of time therefore as the department, for good cause, may grant, or if at any time thereafter the plan fails to submit suitable amendments to the plan, the department shall, after notice and hearing, adopt such reasonable rules as are necessary to effectuate the provisions of this part. Such rules shall continue in force until modified by the department or superseded by a proposed plan submitted by the plan and approved by the department.~~

(4)(a) The plan of operation may provide that any or all powers and duties of the plan, except those under s. 631.818*(6)*~~(9)~~(b) and (c) and s. 631.819, are delegated to an administrator which may be a corporation, association, or other organization which performs or will perform functions similar to those of this plan, or its equivalent.

Section 110. Subsection (1) of section 631.821, Florida Statutes, is amended to read:

631.821 Powers and duties of the department.—

(1) The department may suspend or revoke, after notice and hearing, the certificate of authority of a member HMO that fails to pay an assessment when due, ~~or~~ fails to comply with the approved plan of operation of the plan, *or fails either to timely comply with or to timely appeal pursuant to subsection (2) its appointment under s. 631.818(2).*

Section 111. Section 631.822, Florida Statutes, is amended to read:

631.822 Records of plan.—Records shall be kept of all ~~negotiations and~~ meetings *of the board and transactions under* ~~in~~ which the plan or its representatives *carry out the plan's* ~~discuss the activities of the plan in carrying out its~~ powers and duties. Records of such ~~negotiations or~~ meetings *or transactions* shall be made public upon the termination of a liquidation, rehabilitation, or revocation proceeding involving the *insolvent* HMO.

Section 112. Section 641.19, Florida Statutes, is amended to read:

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

(1) "Affiliate" means any entity which exercises control over or is controlled by the health maintenance organization, directly or indirectly, through:

(a) Equity ownership of voting securities;

(b) Common managerial control; or

(c) Collusive participation by the management of the health maintenance organization and affiliate in the management of the health maintenance organization or the affiliate.

(2) "Comprehensive health care services" means services, medical equipment, and supplies furnished by a provider, which may include, but which are not limited to, medical, surgical, and dental care; psychological, optometric, optic, chiropractic, podiatric, nursing, physical therapy, and pharmaceutical services; health education, preventive medical, rehabilitative, and home health services; inpatient and outpatient hospital services; extended care; nursing home care; convalescent institutional care; *technical and professional clinical pathology laboratory services;* laboratory and ambulance services; appliances, drugs, medicines, and supplies; and any other care, service, or treatment of disease, *or* correction of defects *for*~~, or maintenance of the physical and mental well being of~~ human beings.

(3) "Department" means the Department of Insurance.

(4) "Entity" means any legal entity with continuing existence, including, but not limited to, a corporation, association, trust, or partnership.

(5) "Guaranteeing organization" is an organization which is domiciled in the United States; which has authorized service of process against it; and which has appointed the Insurance Commissioner *and* ~~as~~ Treasurer as its agent for service of process issuing upon any cause of action arising in this state, based upon any guarantee entered into under this part.

(6) "Health maintenance contract" means any contract entered into by a health maintenance organization with a subscriber or group of subscribers to provide comprehensive health care services in exchange for a prepaid per capita or prepaid aggregate fixed sum.

(7) "Health maintenance organization" means any organization authorized under this part which:

(a) Provides emergency care, inpatient hospital services, physician care including care provided by physicians licensed under chapters 458, 459, 460, and 461, ambulatory diagnostic treatment, and preventive health care services;

(b) Provides, either directly or through arrangements with other persons, health care services to persons enrolled with such organization, on a prepaid per capita or prepaid aggregate fixed-sum basis;

(c) Provides, either directly or through arrangements with other persons, *comprehensive* ~~those~~ health care services which subscribers *are entitled to receive pursuant to a contract* ~~might reasonably require to maintain good health~~;

(d) Provides physician services, by physicians licensed under chapters 458, 459, 460, and 461, directly through physicians who are either employees or partners of such organization or under arrangements with a physician or any group of physicians; and

(e) If an HMO offers services through a managed care system, then the managed care system must be a system in which a primary physician licensed under chapter 458 or chapter 459 and chapters 460 and 461 is designated for each subscriber upon request of a subscriber requesting service by a physician licensed under any of those chapters, and is responsible for coordinating the health care of the subscriber of the respectively requested service and for referring the subscriber to other providers of the same discipline when necessary.

(8) "Insolvent" or "insolvency" means that all the statutory assets of the health maintenance organization, if made immediately available, would not be sufficient to discharge all of its liabilities or that the health maintenance organization is unable to pay its debts as they become due in the usual course of business. In the event that all the assets of the health maintenance organization, if made immediately available, would not be sufficient to discharge all of its liabilities, but the organization has a written guarantee of the type and subject to the same provisions as outlined in s. 641.225, the organization shall not be considered insolvent unless it is unable to pay its debts as they become due in the usual course of business.

(9) "Provider" means any physician, hospital, or other institution, organization, or person that furnishes health care services and is licensed or otherwise authorized to practice in the state.

(10) "Statutory accounting principles" means generally accepted accounting principles, except as modified by this part.

(11) "Subscriber" ~~or "enrollee"~~ means an *entity or* individual who has contracted, or on whose behalf a contract has been entered into, with a health maintenance organization for health care services or other persons who also receive health care services as a result of the contract.

(12) "Surplus" means total statutory assets in excess of total liabilities, except that assets pledged to secure debts not reflected on the books of the health maintenance organization shall not be included in surplus. Surplus includes capital stock, capital in excess of par, other contributed capital, retained earnings, and surplus notes.

(13) "Surplus notes" means debt which has been guaranteed by the United States Government or its agencies, or debt which has been subordinated to all claims of subscribers and general creditors of the organization.

(14) "Uncovered expenditures" means the cost of health care services that are covered by a health maintenance organization, for which a subscriber would also be liable in the event of the insolvency of the organization.

(15) "Reporting period" means the annual accounting period or *any part thereof or the* fiscal year of the health maintenance organization.

(16) "Geographic area" means the county or counties, or any portion of a county or counties, within which the health maintenance organization provides or arranges for comprehensive health care services to be available to its subscribers.

(17) "Capitation" means the fixed amount paid by an HMO to a health care provider under contract with the health maintenance organization in exchange for the rendering of covered medical services.

(18) "Copayment" means a specific dollar amount, except as otherwise provided for by statute, that the subscriber must pay upon receipt of covered health care services. Copayments may not be established in an amount that will prevent a person from receiving a covered service or benefit as specified in the subscriber contract approved by the department.

Section 113. Subsection (1) of section 641.21, Florida Statutes, is amended to read:

641.21 Application for certificate.—

(1) Before any entity may operate a health maintenance organization, it shall obtain a certificate of authority from the department. The department shall accept and shall begin its review of an application for a certificate of authority anytime after an organization has filed an application for a Health Care Provider Certificate pursuant to part IV of this chapter. However, the department shall not issue a certificate of authority to any applicant which does not possess a valid Health Care Provider Certificate issued by the Department of Health and Rehabilitative Services. Each application for a certificate shall be on such form as the department shall prescribe, *shall be verified by the oath of two officers of the corporation and properly notarized,* and shall be accompanied by the following:

(a) A copy of the articles of incorporation and all amendments thereto;

(b) A copy of the bylaws, rules and regulations, or similar form of document, if any, regulating the conduct of the affairs of the applicant;

(c) A list of the names, addresses, and official capacities with the organization of the persons who are to be responsible for the conduct of the affairs of the health maintenance organization, including all officers, directors, and owners of in excess of 5 percent of the common stock of the corporation. Such persons shall fully disclose to the department and the directors of the health maintenance organization the extent and nature of any contracts or arrangements between them and the health maintenance organization, including any possible conflicts of interest;

(d) A complete biographical statement on forms prescribed by the department, and an independent investigation report and fingerprints obtained pursuant to chapter 624, of all of the individuals referred to in paragraph (c);

(e)~~(d)~~ A statement generally describing the health maintenance organization, its operations, and its grievance procedures;

(f)~~(e)~~ Forms of all health maintenance contracts, certificates, and member handbooks the applicant proposes to offer the subscribers, showing the benefits to which they are entitled, together with a table of the rates charged, or proposed to be charged, for each form of such contract. A certified actuary shall:

1. Certify that the rates are neither inadequate nor excessive nor unfairly discriminatory;

2. Certify that the rates are appropriate for the classes of risks for which they have been computed; and

3. File an adequate description of the rating methodology showing that such methodology follows consistent and equitable actuarial principles;

(g)~~(f)~~ A statement describing with reasonable certainty the geographic area or areas to be served by the health maintenance organization;

(h)~~(g)~~ An audited financial statement prepared on the basis of statutory accounting principles and certified by an independent certified public accountant, except that surplus notes acceptable to the department and meeting the requirements of this act shall be included in the calculation of surplus; and

(i)~~(h)~~ Such additional reasonable data, financial statements, and other pertinent information as the department may require with respect to the determination that the applicant can provide the services to be offered.

Section 114. Section 641.215, Florida Statutes, is created to read:

641.215 Conditions precedent to issuance or maintenance of certificate of authority; effect of bankruptcy proceedings.—

(1) As a condition precedent to the issuance or maintenance of a certificate of authority, a health maintenance organization insurer must file or have on file with the department:

(a) An acknowledgment that a delinquency proceeding pursuant to part I of chapter 631 or supervision by the department pursuant to ss. 624.80-624.87 constitutes the sole and exclusive method for the liquidation, rehabilitation, reorganization, or conservation of a health maintenance organization.

(b) A waiver of any right to file or be subject to a bankruptcy proceeding.

(2) The commencement of a bankruptcy proceeding either by or against a health maintenance organization shall, by operation of law:

(a) Terminate the health maintenance organization's certificate of authority.

(b) Vest in the department for the use and benefit of the subscribers of the health maintenance organization the title to any deposits of the insurer held by the department.

If the proceeding is initiated by a party other than the health maintenance organization, the operation of subsection (2) shall be stayed for a period of 60 days following the date of commencement of the proceeding.

Section 115. Subsection (1) of section 641.228, Florida Statutes, is amended to read:

641.228 Florida Health Maintenance Organization Consumer Assistance Plan.—

(1) The department shall not issue a certificate to any health maintenance organization after July 1, 1989, until the applicant health maintenance organization has paid in full its special assessment as set forth in s. 631.819*(2)*~~(4)~~(a).

Section 116. Subsection (1) of section 641.23, Florida Statutes, is amended to read:

641.23 Revocation or cancellation of certificate of authority; suspension of enrollment of new subscribers; terms of suspension.—

(1) The maintenance of a valid and current Health Care Provider Certificate issued pursuant to part IV of this chapter is a condition of the maintenance of a valid and current certificate of authority issued by the department to operate a health maintenance organization. Denial *or*~~,~~ revocation~~, or nonrenewal~~ of a Health Care Provider Certificate shall be deemed to be an automatic and immediate cancellation of a health maintenance organization's certificate of authority. *At the discretion of the Department of Insurance, nonrenewal of a Health Care Provider Certificate may be deemed to be an automatic and immediate cancellation of a health maintenance organization's certificate of authority if the Department of Health and Rehabilitative Services notifies the Department of Insurance, in writing, that the Health Care Provider Certificate will not be renewed.*

Section 117. Subsections (1) and (2) of section 641.26, Florida Statutes, are amended to read:

641.26 Annual report.—

(1) Every health maintenance organization shall, annually within 3 months after the end of its fiscal year, or within an extension of time therefor as the department, for good cause, may grant, *in a form* ~~on forms~~ prescribed by the department, file a report with the department, verified by the oath of two ~~executive~~ officers of the organization or, if not a corporation, of two persons who are principal managing directors of the affairs of the organization, *properly notarized,* showing its condition on the last day of the immediately preceding reporting period. Such report shall include:

(a) A financial statement of the organization filed on a computer diskette using a format acceptable to the department;

(b) A financial statement of the organization filed on forms acceptable to the department;

(c)~~(a)~~ An audited financial statement of the organization, including its balance sheet and a statement of operations for the preceding year certified by an independent certified public accountant, prepared in accordance with statutory accounting principles;

(d)~~(b)~~ The number of health maintenance contracts issued and outstanding and the number of health maintenance contracts terminated;

(e)~~(c)~~ The number and amount of damage claims for medical injury initiated against the health maintenance organization and any of the providers engaged by it during the reporting year, broken down into claims with and without formal legal process, and the disposition, if any, of each such claim;

(f)~~(d)~~ An actuarial certification that:

1. The health maintenance organization is actuarially sound, which certification shall consider the rates, benefits, and expenses of, and any other funds available for the payment of obligations of, the organization;

2. The rates being charged or to be charged are actuarially adequate to the end of the period for which rates have been guaranteed;

3. Incurred but not reported claims and claims reported but not fully paid have been adequately provided for; and

(g)~~(e)~~ Such other information relating to the performance of health maintenance organizations as is required by the department.

(2) Every health maintenance organization shall file quarterly, within 45 days after each of its quarterly reporting periods, an unaudited financial statement of the organization *as described in paragraphs (1)(a) and (1)(b). The quarterly report shall be verified by the oath of two officers of the organization, properly notarized.*

Section 118. Subsection (1) of section 641.27, Florida Statutes, is amended to read:

641.27 Examination by the department.—

(1) The department shall examine the affairs, transactions, accounts, business records, and assets of any health maintenance organization as often as it deems it expedient for the protection of the people of this state, but not less frequently than once every 3 years. In lieu of making its own financial examination, the department may accept an independent certified public accountant's audit report prepared on a statutory accounting basis consistent with this part. However, except when the medical records are requested and copies furnished pursuant to s.

455.241, medical records of individuals and records of physicians providing service under contract to the health maintenance organization shall not be subject to audit, although they may be subject to subpoena by court order upon a showing of good cause. For the purpose of examinations, the department may administer oaths to and examine the officers and agents of a health maintenance organization concerning its business and affairs. The ~~expenses of~~ examination of each health maintenance organization by the department shall be subject to the same terms and conditions as apply to insurers under ~~part II of~~ chapter 624 ~~of the Florida Insurance Code~~. In no event shall expenses of all examinations exceed a maximum of $20,000 for any 1-year period. Any rehabilitation, liquidation, conservation, or dissolution of a health maintenance organization shall be conducted under the supervision of the department, which shall have all power with respect thereto granted to it under the laws governing the rehabilitation, liquidation, *reorganization,* conservation, or dissolution of life insurance companies.

Section 119. Section 641.28, Florida Statutes, is amended to read:

641.28 Civil remedy.—In any civil action brought *by the subscriber after the completion of the statewide subscriber assistance program provided for in s. 641.311* to enforce the terms and conditions of a health maintenance organization contract, *the provisions of s. 627.428 shall apply and a health maintenance organization shall be liable for reasonable attorney's fees and costs under this section. If the subscriber does not complete the statewide subscriber assistance program, attorney's fees may be awarded to the prevailing party* ~~the prevailing party is entitled to recover reasonable attorney's fees and court costs~~. This section shall not be construed to authorize a civil action against the department, its employees, or the Insurance Commissioner or against the Department of Health and Rehabilitative Services, its employees, or the secretary of that department.

Section 120. Section 641.284, Florida Statutes, is created to read:

641.284 Liquidation, rehabilitation, reorganization, and conservation; exclusive methods of remedy.—A delinquency proceeding under part I of chapter 631 or supervision by the department under ss. 624.80-624.87 constitute the sole and exclusive means of liquidating, reorganizing, rehabilitating, or conserving a health maintenance organization.

Section 121. Subsection (2) of section 641.29, Florida Statutes, is amended to read:

641.29 Fees.—Every health maintenance organization shall pay to the department the following fees:

(2) For filing each annual report, *which must be filed on computer diskettes,* $150.

Section 122. Section 641.309, Florida Statutes, is created to read:

641.309 Standards for marketing to persons eligible for Medicare.—

(1) Every health maintenance organization marketing coverage to Medicare participants or persons eligible for Medicare in this state, directly or through its agents, shall:

(a) Establish marketing procedures to assure that any comparison of benefits between Medicare or any other health maintenance organization offering such coverage by its agents will be fair and accurate.

(b) Establish marketing procedures to assure proper notification to the Medicare participant of enrollment or disenrollment from the health maintenance organization. Such notification shall be made in a timely manner.

(c) Display prominently by type, stamp, or other appropriate means, on the first page of the application and contract, the following:

"Notice to buyer: When you enroll in this health maintenance organization, you will be disenrolled from Medicare. The buyer should be aware that in order to receive payment or coverage for services such services must be rendered by physicians, hospitals, and other health care providers designated by the health maintenance organization. If the services are rendered by a nonparticipating physician, hospital, or other health care provider, the purchaser may be liable for payment for such services except in very limited circumstances."

(d) Inquire and otherwise make every reasonable effort to identify whether a prospective Medicare participant has previously been enrolled in either the same health maintenance organization as a Medicare participant or in another health maintenance organization as a Medicare participant.

(2) In addition to the practices prohibited in s. 641.3903:

(a) No health maintenance organization or person representing such health maintenance organization shall employ any method of marketing having the effect of or tending to induce the purchase of health care plans through fraud, deceit, force, fright, threat whether explicit or implied, intimidation, harassment, or undue pressure to purchase or recommend the purchase of a health maintenance organization contract.

(b) No participating provider, employee, or agent of such participating provider shall be an agent for or conduct any sales activities for a health maintenance organization with whom they have a provider contract.

Section 123. Subsections (3), (5), (8), (13), (16), and (18) of section 641.31, Florida Statutes, 1990 Supplement, are amended, and subsection (22) is added to said section, to read:

641.31 Health maintenance contracts.—

(3)(a) If a health maintenance organization desires to amend any contract with its subscribers or any certificate or member handbook, or desires to change any rate charged for the contract or to change any basic health maintenance contract, certificate, grievance procedure, or member handbook form, or application form where written application is required and is to be made a part of the contract, or printed amendment, addendum, rider, or endorsement form or form of renewal certificate, it may do so, upon filing with the department the proposed change, amendment, or change in rates. Any proposed change shall be effective immediately, subject to disapproval by the department. Following receipt of notice of such disapproval or withdrawal of approval, no health maintenance organization shall issue or use any form *or rate* disapproved by the department or as to which the department has withdrawn approval. *Any change in the rate requires at least 30 days' advance written notice to the subscriber. In the case of a group member, there may be a contractual agreement with the health maintenance organization to have the employer provide the required notice to the individual members of the group.*

(b) The department shall disapprove any form filed under this subsection, or withdraw any previous approval thereof, if the form:

1. Is in any respect in violation of, or does not comply with, any provision of this part or rule adopted thereunder.

2. Contains or incorporates by reference, where such incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract.

3. Has any title, heading, or other indication of its provisions which is misleading.

4. Is printed or otherwise reproduced in such a manner as to render any material provision of the form substantially illegible.

5. Contains provisions which are unfair, inequitable, or contrary to the public policy of this state or which encourage misrepresentation.

6. Charges rates that are determined by the department to be inadequate, excessive, or unfairly discriminatory, or the rating methodology followed by the health maintenance organization is determined by the department to be inconsistent, indeterminate, ambiguous, or encouraging misrepresentation or misunderstanding. *Use of the rating methodology must be discontinued immediately upon disapproval unless the health maintenance organization seeks administrative relief. If a new rating methodology is filed with the department, the premiums determined by such newly filed rating methodology may apply prospectively only to new or renewal business written on or after the effective date of the responsive filing made by the health maintenance organization.*

7. Excludes coverage for human immunodeficiency virus infection or acquired immune deficiency syndrome or contains limitations in the benefits payable, or in the terms or conditions of such contract, for human immunodeficiency virus infection or acquired immune deficiency syndrome which are different than those which apply to any other sickness or medical condition.

(c) It is not the intent of this subsection to restrict unduly the right to modify rates in the exercise of reasonable business judgment.

(5) Every subscriber shall receive a clear and understandable description of the method of the health maintenance organization for resolving subscriber grievances, and the method shall be set forth in the contract, certificate, and member handbook. *The organization shall also furnish, at the time of initial enrollment and when necessary due to substantial changes to the grievance process a separate and additional communication prepared or approved by the department notifying the contract holder of a group contract or subscriber of an individual contract of their rights and responsibilities under the grievance process.*

(8) A health maintenance organization providing medical benefits or payments to a subscriber who suffers injury, disease, or illness by virtue of the negligent act or omission of a third party is entitled to reimbursement from the subscriber *in accordance with the provisions of s. 768.76(4)*~~, on a fee-for-service basis, for the reasonable value of the benefits or payments provided. However, the health maintenance organization is not entitled to reimbursement for medical expenses rendered in excess of the subscriber's monetary recovery from the third party~~.

(13) In addition to the requirements of this section, with respect to a person who is entitled to have payments for health care costs made under Medicare, Title XVIII of the Social Security Act ("Medicare"), Parts A and/or B:

(a) The health maintenance organization shall mail or deliver notification to the Medicare beneficiary of the date of enrollment in the health maintenance organization within 10 days after receiving notification of enrollment approval from the United States Department of Health and Human Services, Health Care Financing Administration. When a Medicare beneficiary who is a subscriber of the health maintenance organization requests disenrollment from the organization, the organization shall mail or deliver to the beneficiary notice of the effective date of the disenrollment within 10 days after receipt of the written disenrollment request. The health maintenance organization shall forward the disenrollment request to the United States Department of Health and Human Services, Health Care Financing Administration, in a timely manner so as to effectuate the next available disenrollment date, as prescribed by such federal agency.

(b) The health maintenance contract, certificate, or member handbook shall be delivered to the subscriber no later than the earlier of 10 working days after the health maintenance organization and the Health Care Financing Administration of the United States Department of Health and Human Services approve the subscriber's enrollment application or the effective date of coverage of the subscriber under the health maintenance contract. However, if notice from the Health Care Financing Administration of its approval of the subscriber's enrollment application is received by the health maintenance organization after the effective coverage date prescribed by the Health Care Financing Administration, the health maintenance organization shall deliver the contract, certificate, or member handbook to the subscriber within 10 days after receiving such notice. When a Medicare recipient is enrolled in a health maintenance organization program, the contract, certificate, or member handbook shall be accompanied by a health maintenance organization identification sticker with instruction to the Medicare beneficiary to place the sticker on the Medicare identification card.

~~(c) The Department of Health and Rehabilitative Services is prohibited from contracting on a prepaid or fixed-sum basis for Medicaid services with an entity if any officer, director, agent, managing employee, or owner of stock or beneficial interest in excess of 5 percent common or preferred stock or the entity itself has been convicted of a criminal offense related to the delivery of an item or service under Title XVIII or Title XIX of the Social Security Act or has been found guilty of a crime involving fraud, income tax evasion, or obstruction of justice.~~

(16) The *contracts* ~~contract~~ must clearly disclose the intent of the health maintenance organization as to the applicability or nonapplicability of coverage to preexisting conditions. If coverage of the contract is not to be applicable to preexisting conditions, the contract shall specify, in substance, that coverage pertains solely to accidental bodily injuries resulting from accidents occurring after the effective date of coverage and that sicknesses are limited to those which first manifest themselves subsequent to the effective date of coverage.

(18) Health maintenance contracts which provide coverage, benefits, or services for maternity care shall provide, as an option to the subscriber, the services of nurse-midwives and midwives licensed pursuant to chapter 467, and the services of birth centers licensed pursuant to ss. 383.30-383.335, *if such services are available within the service area.*

(22) Each health maintenance organization that offers a group plan within this state must have at least one open enrollment period of not less than 30 days every 18 months. Such open enrollment periods are required for as long as the group exists unless the health maintenance organization and the employer mutually agree to a shorter period of time than 18 months.

(23) The contract shall include the following provision:

"Time limit on certain defenses: Relative to a misstatement in the application, after 2 years from the issue date, only fraudulent misstatements in the application may be used to void the policy or deny any claim for loss incurred or disability starting after the 2-year period."

(24) Each health maintenance organization that provides for inpatient and outpatient services by allopathic hospitals shall provide as an option of the subscriber similar inpatient and outpatient services by hospitals accredited by the American Osteopathic Association when such services are available in the same service area of the HMO and the osteopathic hospital agrees to provide the services as specified herein. As a condition precedent to providing osteopathic inpatient and outpatient services through an osteopathic hospital that has not entered into a written contract with the HMO, the HMO may require the subscriber or any other person receiving osteopathic services to release the HMO from any liability arising from any act of omission or commission constituting malpractice in the delivery of osteopathic care from that hospital. The osteopathic hospital providing the inpatient and outpatient services for the HMO shall charge rates that do not exceed the osteopathic hospital's usual and customary rates less the average discount provided by allopathic hospitals providing the HMO services in the same service area of the HMO.

Section 124. Section 641.3108, Florida Statutes, is amended to read:

641.3108 Notice of cancellation of contract.—Except for nonpayment of premium or termination of eligibility, no health maintenance organization may cancel or otherwise terminate or fail to renew a health maintenance contract without giving the subscriber at least *45* ~~30~~ days' notice in writing of the cancellation, termination, or nonrenewal of the contract. The written notice shall state the reason or reasons for the cancellation, termination, or nonrenewal. All health maintenance contracts shall contain a clause which requires that this notice be given. In the case of a health maintenance contract issued to an employer or person holding the contract on behalf of the subscriber group, the health maintenance organization may make the notification through the employer or group contract holder, and, if the health maintenance organization elects to take this action through the employer or group contract holder, the organization shall be deemed to have complied with the provisions of this section upon notifying the employer or group contract holder of the requirements of this section and requesting the employer or group contract holder to forward to all subscribers the notice required herein.

Section 125. Section 641.311, Florida Statutes, is amended to read:

641.311 Statewide Subscriber Assistance Program.—

(1) The department shall adopt and implement a program to provide assistance to subscribers, including those whose grievances are not satisfactorily resolved by the health maintenance organization. The program shall include the following:

~~(1)~~(a) A review panel which may periodically review, consider, and recommend to the department any actions the department should take concerning individual cases heard by the panel as well as the types of subscriber grievances which have not been satisfactorily resolved after the subscribers follow the full grievance procedures of the health maintenance organizations. The proceedings of the grievance panel shall not be subject to the provisions of chapter 120. The review panel shall consist of members employed by the department and members employed by the Department of Health and Rehabilitative Services, chosen by their respective agencies. *The Department of Insurance may contract with a medical director and a primary care physician who shall provide additional technical expertise to the review panel. The medical director shall be selected from a health maintenance organization with a current certificate of authority to operate in Florida.* ~~Outside qualified, impartial consultants may be consulted in connection with the types of grievances outside the expertise of the review panel.~~

(b) A plan to disseminate information concerning the program to the general public as widely as possible.

(2)~~(b)~~ Every health maintenance organization shall submit a quarterly report to the department listing the number and the nature of all subscribers' grievances which have not been resolved to the satisfaction of the subscriber after the subscriber follows the full grievance procedure of the organization.

~~(2) A plan to disseminate information concerning the program to the general public as widely as possible.~~

(3)(a) The Department of Health and Rehabilitative Services may impose an administrative fine, after a formal investigation has been conducted on the health maintenance organization's failure to comply with quality of health services standards set forth in statute or rule. The Department of Health and Rehabilitative Services may initiate such an investigation based on the recommendations related to the quality of health services received from the Statewide Subscriber Assistance Panel pursuant to paragraph (1)(a). The fine shall not exceed $2,500 per violation and in no event shall such fine exceed an aggregate amount of $10,000 for noncompliance arising out of the same action.

(b) In determining the amount to be levied for noncompliance, under paragraph (a), the following factors shall be considered:

1. The severity of the noncompliance, including the probability that death or serious harm to the health or safety of the subscriber will result or has resulted, the severity of actual or potential harm and the extent to which provisions of this part were violated.

2. Actions taken by the health maintenance organization to resolve or remedy any quality of care grievance.

3. Any previous incidences of noncompliance by the health maintenance organization.

(c) All amounts collected pursuant to this subsection shall be deposited into the Health Maintenance Organization Quality Care Trust Fund.

Section 126. Section 641.3111, Florida Statutes, is amended to read:

641.3111 Extension of benefits.—

(1) Every health maintenance contract shall provide that termination of the contract by the health maintenance organization shall be without prejudice to any continuous loss which commenced while the contract was in force, but any extension of benefits beyond the period the contract was in force may be predicated upon the continuous total disability of the subscriber, and may be limited to *payment for the treatment of a specific accident or illness incurred while the subscriber was a member. Such extension of benefits may be limited to the occurrence of the earliest of the following events:*

(a) The expiration of 12 months.

(b) Such time as the member is no longer totally disabled.

(c) A succeeding carrier elects to provide replacement coverage without limitation as to the disability condition.

(d) The maximum benefits payable under the contract have been paid. ~~the duration of the contract benefit period if greater than 3 months, or for a time period of not less than 3 months, or to the payment of the maximum benefits payable under the contract.~~

(2) For the purposes of this section, an individual is totally disabled if the individual has a condition resulting from an illness or injury which prevents an individual from engaging in any employment or occupation for which the individual is or may become qualified by reason of education, training, or experience and the individual is under the regular care of a physician.

(3) In the case of maternity coverage, when not covered by the succeeding carrier, a reasonable extension of benefits or accrued liability provision is required, which provision provides for continuation of the contract benefits in connection with maternity expenses for a pregnancy that commenced while the policy was in effect. The extension shall be for the period of that pregnancy and shall not be based upon total disability.

(4) Except as provided in subsection (1), no subscriber is entitled to an extension of benefits if the termination of the contract by the health maintenance organization is based upon any event referred to in s. 641.3922(7)(a)-(g).

Section 127. Section 641.315, Florida Statutes, is amended to read:

641.315 Provider contracts.—

(1) Whenever a contract exists between a health maintenance organization and a provider and the organization fails to meet its obligations to pay fees for services already rendered to a subscriber, the health maintenance organization shall be liable for such fee or fees rather than the subscriber; and the contract shall so state.

(2) No subscriber of an HMO shall be liable to any provider of health care services for any services covered by the HMO.

(3) No provider of services or any representative of such provider shall collect or attempt to collect from an HMO subscriber any money for services covered by an HMO and no provider or representative of such provider may maintain any action at law against a subscriber of an HMO to collect money owed to such provider by an HMO.

(4) Every contract between an HMO and a provider of health care services shall be in writing and shall contain a provision that the subscriber shall not be liable to the provider for any services covered by the subscriber's ~~or enrollee's~~ contract with the HMO.

(5) The provisions of this section shall not be construed to apply to the amount of any deductible or copayment which is not covered by the contract of the HMO.

(6) For all provider contracts executed after October 1, *1991* ~~1988~~, and within 180 days after October 1, *1991* ~~1988~~, for contracts in existence as of October 1, *1991* ~~1988~~:

(a) The contracts *must* ~~shall~~ provide that the provider shall provide *60* ~~30~~ days' advance written notice to the health maintenance organization and the department before canceling the contract with the health maintenance organization for any reason; and

(b) The contract must also provide that nonpayment for goods or services rendered by the provider to the health maintenance organization shall not be a valid reason for avoiding the *60-day* ~~30-day~~ advance notice of cancellation.

(7) Upon receipt by the health maintenance organization of a *60-day* ~~30-day~~ cancellation notice, the health maintenance organization may, if requested by the provider, terminate the contract in less than *60* ~~30~~ days if the health maintenance organization is not financially impaired or insolvent.

Section 128. Subsections (10), (13), and (14) of section 641.35, Florida Statutes, are amended, and subsection (18) is added to said section, to read:

641.35 Assets, liabilities, and investments.—

(10) PROPERTY USED IN THE HEALTH MAINTENANCE ORGANIZATION'S BUSINESS.—Real estate, including leasehold estates, for the convenient accommodation of the organization's business operations, including home office, branch administrative offices, hospitals, medical clinics, medical professional buildings, and any other facility to be used in the provision of health care services, or real estate for rental to any health care provider under contract with the organization to provide health care services which shall be used in the provision of health care services to members of the organization by that provider, *is acceptable as an investment* on the following conditions:

(a) Any parcel of real estate acquired under this subsection may include excess space for rent to others if it is reasonably anticipated that the excess will be required by the health maintenance organization for expansion or if the excess is reasonably required in order to have one or more buildings that will function as an economic unit.

(b) The real estate may be subject to a mortgage.

(c) The greater of the admitted value of the asset, as determined by statutory accounting principles, or, if approved by the department, the health maintenance organization's equity in the real estate plus all encumbrances on the real estate owned by the organization under this subsection, when added to the value of all personal and mixed property used in the organization's business, shall not exceed 75 percent of its admitted assets unless, with the permission of the department, it finds that the percentage of its admitted assets is insufficient to provide convenient accommodation for the organization's business and the operations of the organization would not otherwise be impaired.

(13) OTHER INVESTMENTS.—After satisfying the requirements of subsections (9), (10), (11), and (12), any funds of the health maintenance organization in excess of the minimum surplus required to be maintained under this part may be invested in any investment listed in this subsection or in subsections (9) and (14).

(a) United States Government obligations.—A health maintenance organization may invest in bonds, notes, warrants, and other evidences of indebtedness which are direct obligations of the Government of the United States or for which the full faith and credit of the Government of the United States is pledged for the payment of principal and interest.

(b) Loans guaranteed by the United States.—

1. A health maintenance organization may invest in loans insured or guaranteed as to principal and interest by the Government of the United States, or by any agency or instrumentality of the Government of the United States, to the extent of such insurance or guaranty.

2. A health maintenance organization may invest in student loans insured or guaranteed as to principal by the Government of the United States, or by any agency or instrumentality of the Government of the United States, to the extent of such insurance or guaranty.

(c) State public obligations.—A health maintenance organization may invest in bonds, notes, warrants, and other securities not in default which are the direct obligations of any state of the United States or the District of Columbia, or for which the full faith and credit of such state or district has been pledged for the payment of principal and interest.

(d) County, municipal, and district obligations.—A health maintenance organization may invest in bonds, notes, warrants, and other securities not in default of any county, district, incorporated city, or school district in any state of the United States or the District of Columbia, which are the direct obligations of such county, district, city, or school district and for payment of the principal and interest of which the county, district, city, or school district has lawful authority to levy taxes or make assessments.

(e) Public improvement bonds.—A health maintenance organization may invest in bonds, notes, certificates of indebtedness, warrants, or other evidences of indebtedness which are payable from revenues or earnings specifically pledged therefor of any public toll bridge, structure, or improvement owned by any state, incorporated city, or legally constituted public corporation or commission, all within the United States, for the payment of the principal and interest of which a lawful sinking fund has been established and is being maintained if no default on the part of the issuer in payment of principal or interest has occurred on any of its bonds, notes, warrants, or other securities within 5 years prior to the date of investment therein.

(f) Public utility obligations.—The health maintenance organization may invest in the bonds, notes, certificates of indebtedness, warrants, or other evidences of indebtedness which are valid obligations issued, assumed, or guaranteed by the United States or any state thereof or by any county, municipal corporation, district, political subdivision, civil division, or public instrumentality of any such government or unit thereof, if by statute or other legal requirements such obligations are payable as to both principal and interest from revenues or earnings from the whole or any part of any utility supplying water, gas, sewage disposal, electricity, or any other public service, including, but not limited to, a toll road or toll bridge.

(g) Securities of certain agencies.—The health maintenance organization may invest in bonds, debentures, or other securities of the following agencies, whether or not such obligations are guaranteed by the Government of the United States:

1. The Federal National Mortgage Association, and stock thereof, when acquired in connection with the sale of mortgage loans to such association.

2. Any federal land bank, when such securities are issued under provisions of the Act of Congress entitled the "Federal Farm Loan Act" and approved July 17, 1916, and any acts amendatory or supplementary to that act.

3. Any federal home loan bank, when such securities are issued under provisions of the Act of Congress entitled the "Federal Home Loan Bank Act" and approved July 22, 1932.

4. The Home Owners' Loan Corporation, created by the Act of Congress entitled "Home Owners' Loan Act of 1933" and approved June 13, 1933.

5. Any federal intermediate credit bank, created by the Act of Congress entitled "Agricultural Credits Act of March 4, 1923."

6. The Central Bank for Cooperatives and regional banks for cooperatives organized under the Farm Credit Act of 1933, or by any of such banks; and any notes, bonds, debentures, or other similar obligations, consolidated or otherwise, issued by farm credit institutions pursuant to the Farm Credit Act of 1971, Pub. L. No. 92-181.

7. Any other similar agency of the Government of the United States which is of similar financial quality.

(h) Public housing obligations.—The health maintenance organization may invest in the bonds, debentures, or other securities of public housing authorities, issued under the provisions of the Act of Congress entitled the "Housing Act of 1949" and approved July 1949, the "Municipal Housing Commission Act," or the "Rural Housing Commission Act," and any additional amendments, or issued by any public housing authority or agency in the United States, if such bonds, debentures, or other securities are secured by a pledge of annual contributions to be paid by the United States or any agency thereof.

(i) Obligations of State Board of Education.—The health maintenance organization may invest in bonds or motor vehicle anticipation certificates issued by the State Board of Education under authority of s. 18, Art. XII of the State Constitution of 1885 as adopted by s. 9(d), Art. XII of the State Constitution, 1968 Revision, and the additional provisions of s. 9(d) thereof.

(j) Corporate bonds and debentures.—A health maintenance organization may invest in bonds, notes, or other interest-bearing or interest-accruing obligations of any solvent corporation organized under the laws of the United States or any state, territory, or possession of the United States, including the District of Columbia, but such investment must be in securities of investment grade and may not exceed 10 percent of admitted assets for any one corporate entity. As used in this paragraph, "investment grade" means that the obligation has been determined to be in one of the top two rating classifications used by the Securities Valuation Office of the National Association of Insurance Commissioners.

(14) SPECIAL LIMITATION INVESTMENTS.—

(a) After satisfying the requirements of this part, any funds of the health maintenance organization may be invested in the following investments, subject to a cost limitation of 10 percent of its admitted assets in each category of investment:

1. Anticipation obligations of political subdivisions of a state.—Anticipation obligations of any political subdivision of any state of the United States, including, but not limited to, bond anticipation notes, tax anticipation notes, preliminary loan anticipation notes, revenue anticipation notes, and construction anticipation notes, for the payment of money within 12 months from the issuance of the obligation, on the following conditions:

a. The anticipation notes are a direct obligation of the issuer under conditions set forth in subsection (9).

b. The political subdivision is not in default in the payment of the principal or interest on any of its direct general obligations or any obligation guaranteed by such political subdivision.

c. The anticipated funds are specifically pledged to secure the obligations.

2. Revenue obligations of state or municipal public utilities.—Obligations of any state of the United States, a political subdivision thereof, or a public instrumentality of any one or more of the foregoing for the payment of money, on the following conditions:

a. The obligations are payable from revenues or earnings of a public utility of such state, political subdivision, or public instrumentality which are specifically pledged therefor.

b. The law under which the obligations are issued requires that such rates for service shall be charged and collected at all times so as to produce sufficient revenue or earning, together with any other revenues or moneys pledged, to pay all operating and maintenance charges of the public utility and all principal and interest on such charges.

c. No prior or parity obligations payable from the revenues or earnings of that public utility are in default at the date of such investment.

3. Other revenue obligations.—Obligations of any state of the United States, a political subdivision thereof, or a public instrumentality of any of the foregoing for the payment of money, on the following conditions:

a. The obligations are payable from revenues or earnings, excluding revenues or earnings from public utilities, specifically pledged therefor by such state, political subdivision, or public instrumentality.

b. No prior or parity obligation of the same issuer payable from revenues or earnings from the same source has been in default as to principal or interest during the 5 years next preceding the date of the investment, but the issuer need not have been in existence for that period, and obligations acquired under this paragraph may be newly issued.

~~4. Corporate bonds and debentures.—Bonds, notes, or other interest-bearing or interest-accruing obligations of any solvent corporation organized under the laws of the United States or under the laws of any state, territory, or possession of the United States, including the District of Columbia.~~

~~4.~~5. Corporate stocks.—Stocks, common or preferred, of any corporation created or existing under the laws of the United States or any state thereof. The organization may invest in stocks, common or preferred, of any corporation created or existing under the laws of any foreign country if such stocks are listed and traded on a national securities exchange in the United States or, in the alternative, if such investment in stocks of any corporation created or existing under the laws of any foreign country are first approved by the department. Investment in common stock of any one corporation shall not exceed 3 percent of the health maintenance organization's admitted assets.

(b) After satisfying the requirements of this part, the health maintenance organization may invest its funds and accumulations in the following investments, subject to a cost limitation of 5 percent of admitted assets in each category of investment:

1. Obligations of the International Bank for Reconstruction and Development.—Obligations issued or guaranteed by the International Bank for Reconstruction and Development.

2. Obligations of the Inter-American Development Bank.—Obligations issued or guaranteed by the Inter-American Development Bank.

3. Obligations of the Asian Development Bank.—Obligations issued or guaranteed by the Asian Development Bank.

4. Obligations of the State of Israel.—Direct obligations of the State of Israel for the payment of money, or obligations for the payment of money which are guaranteed as to the payment of principal and interest by the State of Israel, on the condition that the State of Israel shall not be in default in the payment of principal or interest on any of its direct, general obligations on the date of such investment.

5. Obligations of the African Development Bank.—Obligations issued or guaranteed by the African Development Bank.

6. Obligations of the Government of Canada or any province thereof.—Obligations issued or guaranteed by the Government of Canada or any province thereof.

7. Obligations of the International Finance Corporation.—Obligations issued or guaranteed by the International Finance Corporation.

(18) The provisions of this section supersede any inconsistent provision of section 106 of the Secondary Mortgage Market Enhancement Act of 1984 (Title 15, U.S.C., s. 77r).

Section 129. Section 641.36, Florida Statutes, is amended to read:

641.36 *Adoption* ~~Promulgation~~ of rules*; penalty for violation.*—The department shall *adopt* ~~promulgate~~ rules necessary to carry out the provisions of this part. The department shall collect and make available ~~in a single volume~~ all health maintenance organization rules *adopted* ~~promulgated~~ by the department ~~and by the Department of Health and Rehabilitative Services~~. *Any violation of a rule adopted under this section shall subject the violating entity to the provisions of s. 641.23.*

Section 130. Section 641.3905, Florida Statutes, is amended to read:

641.3905 *General powers and duties of the* ~~Investigative power of~~ department.—*In addition to the powers and duties set forth in s. 624.307,* the department shall have the power to examine and investigate the affairs of every person, entity, or health maintenance organization in order to determine whether the person, entity, or health maintenance organization is operating in accordance with the provisions of this part or has been or is engaged in any unfair method of competition or in any unfair or deceptive act or practice prohibited by s. 641.3901.

Section 131. Paragraph (b) of subsection (4) of section 641.3921, Florida Statutes, is amended to read:

641.3921 Conversion on termination of eligibility.—A group health maintenance contract delivered or issued for delivery in this state by a health maintenance organization shall provide that a subscriber or covered dependent whose coverage under the group health maintenance contract has been terminated for any reason, including discontinuance of the group health maintenance contract in its entirety or with respect to a covered class, and who has been continuously covered under the group health maintenance contract, and under any group health maintenance contract providing similar benefits which it replaces, for at least 3 months immediately prior to termination, shall be entitled to have issued to him by the health maintenance organization a health maintenance contract, hereafter referred to as a "converted contract." A subscriber or covered dependent shall not be entitled to have a converted contract issued to him if termination of his coverage under the group health maintenance contract occurred for any of the following reasons:

(4) Disenrollment for cause. When the requirements of paragraphs (a), (b), and (c) have been met, a health maintenance organization may disenroll a subscriber for cause if the subscriber's behavior is disruptive, unruly, abusive, or uncooperative to the extent that his continuing membership in the organization seriously impairs the organization's ability to furnish services to either the subscriber or other subscribers.

(b) Consideration of extenuating circumstances. The organization must ascertain that the subscriber's behavior *does not directly result from an existing medical condition* ~~is not related to the use of medical services or mental illness~~.

Section 132. Existing subsections (7), (8), (9), (10), (11), (12), and (13) of section 641.3922, Florida Statutes, are renumbered as subsections (8), (9), (10), (11), (12), (13), and (14), respectively, and paragraph (c) of subsection (6) of said section is redesignated as new subsection (7) and amended to read:

641.3922 Conversion contracts; conditions.—Issuance of a converted contract shall be subject to the following conditions:

(7)~~(c)~~ *REASONS FOR CANCELLATION; TERMINATION.*—The converted health maintenance contract *must contain a cancellation or nonrenewability clause providing that the health maintenance organization may refuse to renew the contract of any person covered thereunder, but cancellation or nonrenewal must be limited to one or more of the following reasons* ~~may provide that the health maintenance organization may refuse to renew the contract of any person covered thereunder for the following reasons only~~:

(a)~~1.~~ Fraud or material misrepresentation*, subject to the limitations of s. 641.31(23),* in applying for any benefits under the converted health maintenance contract;

(b)~~2.~~ Eligibility of the covered person for coverage under Medicare, Title XVIII of the Social Security Act, as added by the Social Security Amendments of 1965, or as later amended or superseded, or under any other state or federal law providing for benefits similar to those provided by the converted health maintenance contract, except for Medicaid, Title XIX of the Social Security Act, as amended by the Social Security Amendments of 1965, or as later amended or superseded.

(c)~~3.~~ Disenrollment for cause, after following the procedures outlined in s. 641.3921(4).

(d)~~4.~~ Willful and knowing misuse of the health maintenance organization identification membership card by the subscriber or the willful and knowing furnishing to the organization by the subscriber of incorrect or incomplete information for the purpose of fraudulently obtaining coverage or benefits from the organization.

(e)~~5.~~ Failure, after notice, to pay required premiums.

(f)~~6.~~ The subscriber has left the geographic area of the health maintenance organization with the intent to relocate or establish a new residence outside the organization's geographic area.

(g)~~7.~~ A dependent of the subscriber has reached the limiting age under the converted contract, subject to subsection *(12)* ~~(11)~~; but the refusal to renew coverage shall apply only to coverage of the dependent, *except in the case of handicapped children.*

(h)~~8.~~ A change in marital status that makes a person ineligible under the original terms of the converted contract, subject to subsection *(12)* ~~(11)~~.

Section 133. Subsection (5) of section 642.032, Florida Statutes, 1990 Supplement, is amended to read:

642.032 Provisions of general insurance law applicable to legal expense insurance corporations.—The following provisions of the Florida Insurance Code shall apply to legal expense insurance corporations, to the extent that they are not inconsistent with the provisions of ss. 642.011-642.049:

(5) Section 628.4615, *specialty* ~~allied lines~~ insurers; acquisition of controlling stock, ownership interest, assets, or control; merger or consolidation.

Section 134. The Department of Labor and Employment Security may enforce, with respect to group self-insurance funds established or operated pursuant to section 440.57, Florida Statutes, the provisions of section 624.316, section 624.424, section 625.091, or section 625.305, Florida Statutes, as they relate to workers' compensation insurers, and may adopt rules to implement the enforcement authority granted by this section.

Section 135. Subsection (12) of section 627.944, Florida Statutes, is amended to read:

627.944 Risk retention groups not certificated in this state.—Risk retention groups certificated or licensed in states other than this state and seeking to do business as a risk retention group in this state must observe and abide by the laws of this state as follows:

(12) UTILIZATION OF AGENT.—A risk retention group shall utilize an agent licensed *and appointed* in this state in order to solicit, transact, underwrite, or provide insurance on a risk of a group member, which risk is located in this state.

Section 136. Subsection (2) of section 627.949, Florida Statutes, is amended to read:

627.949 Restrictions on insurance purchased by purchasing groups.—

(2) A purchasing group shall utilize an agent licensed *and appointed* in this state in order to solicit, transact, or purchase insurance or coverage for a risk located in this state, which risk is a subject of insurance of a member of the purchasing group.

Section 137. Section 627.952, Florida Statutes, is amended to read:

627.952 Risk retention and purchasing group agents.—

(1) Any person offering, soliciting, selling, purchasing, administering, or otherwise servicing insurance contracts, certificates, or agreements for any purchasing group or risk retention group to any resident of this state, either directly or indirectly, by the use of mail, advertising, or other means of communication, shall obtain a license *and appointment* to act as a resident general lines agent, if a resident of this state, or a nonresident general lines agent if not a resident. Any such person shall be subject to all requirements of the Florida Insurance Code.

(a) All books, records, statements, and accounts required to be established and maintained with respect to activities described in this subsection shall be established and maintained on a segregated basis, separate and apart from all other books, records, statements, and accounts regarding the agent's other transactions.

(b) Any person required to be licensed *and appointed* by this subsection, in order to place business through Florida eligible surplus lines carriers, shall, if a resident of this state, be licensed *and appointed* as a surplus lines agent. Any such person, if not a resident of this state, shall be licensed *and appointed* as a surplus lines agent in his state of residence and shall file and thereafter maintain a fidelity bond in favor of the people of the State of Florida executed by a surety company admitted in this state and payable to the State of Florida; provided, however, any activities carried out by such nonresident pursuant to this part shall be limited to the provision of insurance for purchasing groups. The bond shall be continuous in form and maintained in the amount set out in s. 626.928. The bond shall remain in force and effect until the surety is released from liability by the department or until the bond is canceled by the surety. The surety may cancel the bond and be released from further liability thereunder upon 30 days' prior written notice to the department. The cancellation shall not affect any liability incurred or accrued thereunder before the termination of the 30-day period. Upon receipt of a notice of cancellation, the department shall immediately notify the agent.

(2) In addition to any other lawful duties, any person engaging in the activities described in subsection (1) is obligated to exercise reasonable and customary skill and diligence to ascertain that any purchasing group or purchasing group member, to or for whom an offer or solicitation is made with respect to coverage being placed with a risk retention group, receives a written disclosure that the liability insurance coverage being offered may not be subject to all of the insurance laws and rules of this state and that insolvency guaranty fund protection is not available for the purchasing groups or purchasing group members.

(3) Any insurance agent who breaches a fiduciary duty; who solicits, offers, sells, transacts, or purchases insurance coverage from a risk retention group which is not in compliance with the applicable provisions of this part; or who violates any provision of the Florida Insurance Code shall be subject to fine and revocation or suspension of his license *and appointment*, in accordance with the procedures established under the Florida Insurance Code and may be held liable for civil damages to any person or group resulting from such violation or breach of a fiduciary duty.

(4) Any person retained or employed to solicit, offer, sell, or purchase memberships in a purchasing group may be ordered to cease any such enrollment activity in this state whenever the department has reason to believe that any such purchasing group has liability insurance coverage from a risk retention group or insurance company which is insolvent or in a hazardous financial condition. Orders entered under this subsection shall be issued in accordance with the procedures set forth in s. 627.951.

(5) Any person licensed *and appointed* as an agent to act on behalf of a risk retention group or a purchasing group shall be *appointed* ~~licensed~~ with at least one authorized property and casualty insurer.

(6) Any person licensed *and appointed* as an agent to act on behalf of a risk retention group or a purchasing group shall, except as otherwise provided in this part, be subject to all provisions of the Florida Insurance Code applicable to the type of agent's license held by such person.

Section 138. Section 632.634, Florida Statutes, is amended to read:

632.634 Licensing *and appointment* of agents.—

(1) Agents of societies shall be licensed *and appointed* in accordance with the provisions of the Florida Insurance Code regulating the licensing, *appointment,* examination, revocation, suspension, or termination of the license of resident and nonresident life, health, and variable annuity insurance agents.

(2) No examination, ~~or~~ license, *or appointment* shall be required of any regular salaried officer, employee, or member of a licensed society who devotes substantially all of his services to activities other than the solicitation of benefit contracts from the public and who receives no commission or other compensation directly dependent upon the amount of business obtained for the solicitation of such contracts.

(3) Any agent, representative, or member of a society who in any preceding calendar year has solicited and procured life insurance benefit contracts on behalf of any society in a total amount of insurance less than $50,000, or, in the case of any other kind or kinds of insurance benefit contracts which the society might write, on not more than 25 individuals, shall be exempt from the agent licensing *and appointment* requirements of subsection (1). Every society shall register, on forms prescribed by the department and on or before March 1 of each year, the name and residence address of each agent, representative, or member exempt under the provisions of this subsection and shall, within 30 days of termination of employment, notify the department of the termination. Any agent, representative, or member for which an exemption is claimed due to employment by the society subsequent to March 1 shall be registered by the society with the department within 10 days of the date of employment.

Section 139. Section 634.171, Florida Statutes, is amended to read:

634.171 Salesman to be *licensed and appointed* ~~registered~~.—*Salesmen of motor vehicle service agreement companies shall be licensed, appointed, renewed, continued, reinstated, or terminated as prescribed in chapter 626 for insurance representatives in general, except they shall be exempt from fingerprinting, photo, education, and examination provisions. License, appointment, and other fees shall be those prescribed in s. 624.501. A licensed and appointed salesman shall be directly responsible and accountable for all acts of his employees and other representatives. Each service agreement company or insurer shall, on forms prescribed by the department, within 30 day after termination of the appointment, notify the department of such termination.* ~~Each motor vehicle service agreement company or insurer shall on forms prescribed by the department register, on or before March 1 of each odd-numbered year, the name and business office address of each salesman employed by it and shall within 30 days after termination of the employment notify the department of such termination. At the time of registration, a $40 filing fee for each registered salesman shall be paid by the service agreement company or insurer to the department. Any salesman employed subsequent to the March 1 filing date shall be registered with the department within 10 days after such employment. Registration shall be made biennially on March 1 of each odd-numbered year, and the filing fee shall be $40.~~ No employee or salesman of a motor vehicle service agreement company or insurer may directly or indirectly solicit or negotiate insurance contracts, or hold himself out in any manner to be an insurance agent or solicitor, unless so qualified and licensed *and appointed* therefor under the Florida Insurance Code.

Section 140. Section 634.181, Florida Statutes, is amended to read:

634.181 Grounds for compulsory refusal, suspension, or revocation of *license or appointment* ~~registration~~ of salesmen.—The department shall deny, suspend, revoke, or refuse to renew or continue the *license or appointment* ~~registration~~ of any such salesman if it finds that as to the salesman any one or more of the following applicable grounds exist:

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

(2) If the *license or appointment* ~~registration~~ is willfully used, or to be used, to circumvent any of the requirements or prohibitions of this act.

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

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

(5) For demonstrated lack of fitness or trustworthiness to engage in the business authorized under this part.

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

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

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

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

(10) Willful failure to comply with, or willful violation of any proper order, rule, or regulation of the department, or willful violation of any provision of this act.

(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 such cases.

Section 141. Section 634.191, Florida Statutes, is amended to read:

634.191 Grounds for discretionary refusal, suspension, revocation of *license or appointment* ~~registration~~ of salesmen.—The department may, in its discretion, deny, suspend, revoke, or refuse to renew or continue the *license or appointment* ~~registration~~ of any salesman if it finds that as to the salesman 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:

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

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

(3) Has violated any lawful order or rule or regulation of the department.

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

(5) If, in the conduct of business under the *license or appointment* ~~registration~~, he 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 part X of chapter 626, or has otherwise shown himself to be a source of injury or loss to the public or detrimental to the public interest.

(6) 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 such cases.

Section 142. Section 634.201, Florida Statutes, is amended to read:

634.201 Refusal, suspension, or revocation of *license or appointment* ~~registration~~ of salesmen.—

(1) If any salesman is convicted by a court of a violation of this act, the *license and appointment* ~~registration~~ of such individual shall thereby be deemed to be immediately revoked.

(2) If after an investigation, or upon other evidence, the department has reason to believe that there may exist any one or more grounds therefor, as such grounds are specified in ss. 634.181 and 634.191, the department may suspend, revoke, or refuse to renew or continue the *license or appointment* ~~registration~~ of any salesman.

(3) The department's papers, documents, reports, or evidence relative to a hearing for revocation or suspension of a license *or appointment* pursuant to the provisions of this chapter and chapter 120 shall not be subject to subpoena without the department's consent, except for subpoenas issued pursuant to the hearing for revocation or suspension, until after the same shall have been published at the hearing, unless after notice to the department and hearing the court determines that the department would not be unnecessarily hindered or embarrassed by such subpoenas.

(4) Whenever it appears that any licensed *or appointed* insurance agent has violated the provisions of this act, the department may take such action relative thereto as is authorized by the Florida Insurance Code as for a violation of the Florida Insurance Code by such agent.

Section 143. Section 634.211, Florida Statutes, is amended to read:

634.211 Administrative fine in lieu of suspension or revocation of *license or appointment* ~~registration~~.—

(1) If the department finds that one or more grounds exist for the suspension, revocation, or refusal to renew or continue any *license or appointment* ~~registration~~ issued under this act, the department may, in its discretion, in lieu of such suspension, revocation, or refusal, on a first offense and except where such suspension, revocation, or refusal is mandatory, impose upon the *licensee or appointee* ~~registrant~~ an administrative penalty in the amount of $100, or if the department has found willful misconduct or willful violation on the part of the *licensee or appointee* ~~registrant~~, an administrative fine of $500. The administrative penalty

may, in the department's discretion, be augmented in amount by an amount equal to any commissions received by or accruing to the credit of the *licensee or appointee* ~~registrant~~ in connection with any transaction as to which the grounds for suspension, revocation, or refusal related.

(2) The department may allow the *licensee or appointee* ~~registrant~~ a reasonable period, not to exceed 30 days, within which to pay to the department the amount of the penalty so imposed. If the *licensee or appointee* ~~registrant~~ fails to pay the penalty in its entirety to the department at its office at Tallahassee within the period so allowed, the *license and appointment* ~~registration~~ of the *licensee or appointee* ~~registrant~~ shall stand suspended, revoked, or renewal or continuation refused, as the case may be, upon expiration of such period.

Section 144. Section 634.317, Florida Statutes, is amended to read:

634.317 *License and appointment* ~~Registration~~ required.—No person may solicit, negotiate, or effectuate home warranty contracts for remuneration in this state unless such person is *licensed and appointed* ~~registered~~ as a sales representative. If a real estate office sells or issues home warranties, only one real estate broker for each office licensed under chapter 475 is required to be *licensed and appointed* ~~registered~~ as a sales representative under this part. The broker acting as sales representative is responsible for the warranties sold or issued through the office.

Section 145. Section 634.318, Florida Statutes, is amended to read:

634.318 *License and appointment* ~~Registration~~ of sales representatives.—*Sales representatives of home warranty associations shall be licensed, appointed, renewed, continued, reinstated, or terminated as prescribed in chapter 626 for insurance representatives in general, except they shall be exempt from the fingerprinting, photo, education, and examination provisions. License, appointment, and other fees shall be those prescribed in s. 624.501.* ~~Every home warranty association or insurer shall, on forms prescribed by the department, register, on or before March 1 of each odd-numbered year, the name and business address of each sales representative utilized by it in this state and shall, within 30 days after termination of the contract, notify the department of such termination. At the time of biennial registration, a $40 filing fee for each sales representative shall be paid by the warranty association or insurer to the department. Any sales representative utilized subsequent to the March 1 filing date shall be registered with the department within 10 days after such utilization.~~ No employee or sales representative of a home warranty association or insurer may directly or indirectly solicit or negotiate insurance contracts, or hold himself out in any manner to be an insurance agent or solicitor, unless so qualified, ~~and~~ licensed, *and appointed* therefor under the insurance code.

Section 146. Subsection (1) of section 634.319, Florida Statutes, is amended to read:

634.319 Reporting and accounting for funds.—

(1) All funds belonging to insurers, home warranty associations, or others received by a sales representative in transactions under his *license and appointment* ~~registration~~ are trust funds so received by such sales representative in a fiduciary capacity; and the sales representative, in the applicable regular course of business, shall account for and pay such funds to the insurer, association, warranty holder, or other person entitled thereto.

Section 147. Section 634.320, Florida Statutes, is amended to read:

634.320 Grounds for compulsory refusal, suspension, or revocation of *license or appointment* ~~registration~~ of sales representatives.—The department shall deny, suspend, revoke, or refuse to renew or continue the *license or appointment* ~~registration~~ of any sales representative if it is found that any one or more of the following grounds applicable to the sales representative exist:

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

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

(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.

(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.

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

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

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

(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* ~~registration~~.

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

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

(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.

Section 148. Section 634.321, Florida Statutes, is amended to read:

634.321 Grounds for discretionary refusal, suspension, or revocation of *license or appointment* ~~registration~~ of sales representatives.—The department may, in its discretion, deny, suspend, revoke, or refuse to renew or continue the *license or appointment* ~~registration~~ of any sales representative if it is found, after notice and hearing thereon as provided in s. 634.322, 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:

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

(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* ~~registration~~.

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

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

(5) In the conduct of business under the *license or appointment* ~~registration~~, 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 himself to be a source of injury or loss to the public or detriment to the public interest.

(6) 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.

Section 149. Section 634.322, Florida Statutes, is amended to read:

634.322 Procedure for refusal, suspension, or revocation of *license or appointment* ~~registration~~ of sales representatives.—

(1) If any sales representative is convicted by a court of a violation of any provision of this part, the *license or appointment* ~~registration~~ of such individual shall thereby be deemed to be immediately revoked without any further procedure relative thereto by the department.

(2) Whenever it appears that any licensed *or appointed* insurance agent has violated the provisions of this part, the department may take such action relative thereto as is authorized by the insurance code as for a violation of the insurance code by such agent.

Section 150. Section 634.3225, Florida Statutes, is amended to read:

634.3225 Duration of suspension or revocation of *license or appointment* ~~registration~~.—

(1) The department shall, in its order suspending a *license or appointment* ~~registration~~, specify the time period during which the suspension is to be effective. Such period may not exceed 1 year. The *license or appointment* ~~registration~~ shall remain suspended during the period specified, subject to any rescission or modification by the department. A *license or appointment* ~~registration~~ which has been suspended may be reinstated, but the department may not grant such reinstatement if it determines that the circumstances for which the *license or appointment* ~~registration~~ was suspended still exist or are likely to recur.

(2) No person whose *license or appointment* ~~registration~~ has been revoked by the department has the right to apply for another *license or appointment* ~~registration~~ within 2 years from the effective date of revocation or, if judicial review of the revocation is sought, within 2 years from the date of the final court order or decree affirming the revocation. The department may not grant a new *license or appointment* ~~registration~~ if it determines that the circumstances for which the previous *license or appointment* ~~registration~~ was revoked still exist or are likely to recur.

(3) The department may not grant or issue any *license or appointment* ~~registration~~ to any individual whose *license or appointment* ~~registration~~ has been revoked twice.

(4) During any period of suspension or revocation of the *license or appointment* ~~registration~~, the former *licensee or appointee* ~~registrant~~ may not engage in or attempt to engage in any transaction or business for which a *license or appointment* ~~registration~~ is required under this part.

Section 151. Section 634.323, Florida Statutes, is amended to read:

634.323 Administrative fine in lieu of suspension or revocation of sales representative's *license or appointment* ~~registration~~.—

(1) If, pursuant to procedures provided for in this part, it is found that one or more grounds exist for the suspension or revocation of, or refusal to renew or continue, any sales representative's *license or appointment* ~~registration~~ issued under this part, on a first offense, an order may be entered imposing upon the *licensee or appointee* ~~registrant~~, in lieu of such suspension, revocation, or refusal, an administrative penalty for each violation in the amount of $500 or, in the event of willful misconduct or willful violation on the part of the *licensee or appointee* ~~registrant~~, an administrative fine of $1,000. The administrative penalty may be augmented in amount by an amount equal to any commissions received by or accruing to the credit of the *licensee or appointee* ~~registrant~~ in connection with any transaction to which the grounds for suspension, revocation, or refusal related.

(2) The order may allow the *licensee or appointee* ~~registrant~~ a reasonable period, not to exceed 30 days, within which to pay to the department the amount of the penalty so imposed. If the *licensee or appointee* ~~registrant~~ fails to pay the penalty in its entirety to the department at its office in Tallahassee within the period so allowed, the *license or appointment* ~~registration~~ of the *licensee or appointee* ~~registrant~~ shall stand suspended or revoked, or renewal or continuation may be refused, as the case may be, upon expiration of such period and without any further proceedings.

Section 152. Section 634.419, Florida Statutes, is amended to read:

634.419 *License and appointment* ~~Registration~~ required.—No person shall solicit, negotiate, advertise, or effectuate service warranty contracts in this state unless such person is *licensed and appointed* ~~registered~~ as a sales representative or acts under the supervision of a sales representative. Sales representatives shall be responsible for the actions of persons under their supervision. *However, a service warranty association licensed under this part shall not be required to be licensed and appointed as a sales representative to advertise its products.*

Section 153. Section 634.420, Florida Statutes, is amended to read:

634.420 *License and appointment* ~~Registration~~ of sales representatives.—*Salesmen for service warranty associations or insurers shall be licensed, appointed, renewed, continued, reinstated, or terminated as prescribed in chapter 626 for insurance representatives in general, except they shall be exempt from the fingerprinting, photo, education, and examination provisions. License, appointment, and other fees shall be those prescribed in s. 624.501. A licensed and appointed salesman shall be directly responsible and accountable for all acts of his employees or other representatives. Each service warranty association or insurer shall, on forms prescribed by the department, within 30 days after termination of the appointment, notify the department of such termination.* ~~Each service warranty association or insurer shall, on forms prescribed by the department, register, on or before March 1 of each odd-numbered year, the name and business address of each sales representative utilized by it in this state and shall, within 30 days after termination of the contract, notify the department of such termination. At the time of biennial registration, a $40 filing fee for each sales representative shall be paid by the service warranty association or insurer to the department. Any sales representative utilized subsequent to the March 1 filing date shall be registered with the department within 10 days after such utilization.~~ No employee or sales representative of a service warranty association or insurer may directly or indirectly solicit or negotiate insurance contracts, or hold himself out in any manner to be an insurance agent or solicitor, unless so qualified, ~~and~~ licensed, *and appointed* therefor under the insurance code.

Section 154. Subsection (1) of section 634.421, Florida Statutes, is amended to read:

634.421 Reporting and accounting for funds.—

(1) All funds belonging to insurers, service warranty associations, or others received by a sales representative in transactions under his *license or appointment* ~~registration~~ are trust funds so received by such agent in a fiduciary capacity; and the agent, in the applicable regular course of business, shall account for and pay such funds to the insurer, association, warranty holder, or other person entitled thereto.

Section 155. Section 634.422, Florida Statutes, is amended to read:

634.422 Grounds for compulsory refusal, suspension, or revocation of *license or appointment* ~~registration~~ of sales representatives.—The department shall deny, suspend, revoke, or refuse to renew or continue the *license or appointment* ~~registration~~ of any sales representative if it is found that any one or more of the following grounds applicable to the sales representative exist:

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

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

(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.

(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 such claim on less favorable terms than those provided in and contemplated by the contract.

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

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

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

(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* ~~registration~~.

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

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

(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 such case.

Section 156. Section 634.423, Florida Statutes, is amended to read:

634.423 Grounds for discretionary refusal, suspension, or revocation of *license or appointment* ~~registration~~ of sales representatives.—The department may deny, suspend, revoke, or refuse to renew or continue the *license or appointment* ~~registration~~ 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:

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

(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* ~~registration~~.

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

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

(5) In the conduct of business under the *license or appointment* ~~registration~~, 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 himself to be a source of injury or loss to the public or detriment to the public interest.

(6) 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.

Section 157. Section 634.424, Florida Statutes, is amended to read:

634.424 Procedure for refusal, suspension, or revocation of *license or appointment* ~~registration~~ of sales representatives.—

(1) If any sales representative is convicted by a court of a violation of any provision of this part, the *license and appointment* ~~registration~~ of such individual shall thereby be deemed to be immediately revoked without any further procedure relative thereto by the department.

(2) If, after an investigation or upon other evidence, the department has reason to believe that there may exist any one or more grounds for the suspension, revocation, or refusal to renew or continue the *license or appointment* ~~registration~~ of any sales representative, as such grounds are specified in ss. 634.422 and 634.423, the department may proceed to suspend, revoke, or refuse to renew or continue the *license or appointment* ~~registration~~, as the case may be.

(3) If such *licensed and appointed* ~~registered~~ sales representative also holds a license to perform professional services of the type covered by the service warranty issued, the department shall file with the regulatory authority that issued such license a recommendation that such license be suspended or revoked. Such regulatory authority shall promptly review the recommendation and take appropriate action in accordance with its laws and rules to suspend or revoke such license.

(4) Whenever it appears that any licensed *or appointed* insurance agent has violated the provisions of this part, the department may take such action relative thereto as is authorized by the insurance code for a violation of the insurance code by such agent.

Section 158. Section 634.425, Florida Statutes, is amended to read:

634.425 Duration of suspension or revocation.—

(1) The department shall, in its order suspending a *license or appointment* ~~registration~~, specify the time period during which the suspension is to be in effect. Such period may not exceed 1 year. The *license or appointment* ~~registration~~ shall remain suspended during the period so specified, subject to any rescission or modification of the order by the department before the expiration of the suspension period. A *license or appointment* ~~registration~~ which has been suspended may not be reinstated except upon request, but the department may not grant such reinstatement if it finds that the circumstances for which the *license or appointment* ~~registration~~ was suspended still exist or are likely to recur.

(2) No person whose *license or appointment* ~~registration~~ has been revoked by the department has the right to apply for another *license or appointment* ~~registration~~ within 2 years from the effective date of such revocation or, if judicial review of such revocation is sought, within 2 years from the date of the final court order or decree affirming the revocation. The department, however, may not grant a new *license or appointment* ~~registration~~ if it finds that the circumstance or circumstances for which the previous *license or appointment* ~~registration~~ was revoked still exist or are likely to recur.

(3) The department may not grant or issue any *license or appointment* ~~registration~~ to any individual whose *license or appointment* ~~registration~~ has been revoked twice.

(4) During the period of suspension, or after revocation of the *license or appointment* ~~registration~~, the former *licensee or appointee* ~~registrant~~ may not engage in or attempt to engage in any transaction or business for which a *license or appointment* ~~registration~~ is required under this part.

Section 159. Section 634.426, Florida Statutes, is amended to read:

634.426 Administrative fine in lieu of suspension or revocation of *license or appointment* ~~registration~~.—

(1) If, pursuant to procedures provided for in this part, it is found that one or more grounds exist for the suspension, revocation, or refusal to renew or continue any *license or appointment* ~~registration~~ issued under this act, on a first offense and except when such suspension, revocation, or refusal is mandatory, an order may be entered imposing upon the *licensee or appointee* ~~registrant~~, in lieu of such suspension, revocation, or refusal, an administrative penalty for each violation in the amount of $100, or in the event of willful misconduct or willful violation on the part of the *licensee or appointee* ~~registrant~~, an administrative fine not to exceed $1,000 for each violation. The administrative penalty may be augmented by an amount equal to any commissions received by or accruing to the credit of the *licensee or appointee* ~~registrant~~ in connection with any transaction to which the grounds for suspension, revocation, or refusal are related.

(2) The order may allow the *licensee or appointee* ~~registrant~~ a reasonable period, not to exceed 30 days, within which to pay to the department the amount of the penalty so imposed. If the *licensee or appointee* ~~registrant~~ fails to pay the penalty in its entirety to the department at its office in Tallahassee within the period so allowed, the *license and appointment* ~~registration~~ of the *licensee or appointee* ~~registrant~~ shall stand suspended or revoked or renewal or continuation may be refused, as the case may be, upon expiration of such period and without any further proceedings.

Section 160. Section 635.051, Florida Statutes, is amended to read:

635.051 Licensing *and appointment* of mortgage guaranty insurance agents.—

(1) Agents of mortgage guaranty insurers shall be licensed *and appointed* and shall be subject to the same qualifications and requirements applicable to general lines agents under the laws of this state, except that:

(a) No particular preliminary specialized education or training shall be required of an applicant for such an agent's license if, as part of the application for license *and appointment*, the insurer guarantees that the applicant will receive the necessary training to enable him properly to hold himself out to the public as a mortgage guaranty insurance agent and if the department, in its discretion, accepts such guaranty;

(b) The agent's license *and appointment* shall be a limited license, limited to the handling of mortgage guaranty insurance only; and

(c) An examination may be required of an applicant for such a license if the insurer fails to provide the guaranty described in paragraph (a).

(2) Any general lines agent licensed under chapter 626 is qualified to represent a mortgage guaranty insurer without additional examination.

(3) The department shall charge mortgage guaranty insurance agents the same applicable license *and appointment* taxes and fees as charged general lines agents in s. 624.501. The department shall deposit such license *and appointment* taxes and fees in the same manner as provided in s. 624.523 for the deposit of license *and appointment* taxes and fees by general lines agents.

Section 161. Section 637.141, Florida Statutes, is amended to read:

637.141 Regulation of sales representatives of optometric service plan corporations.—Every sales representative of any optometric service plan corporation shall be *appointed* ~~registered~~ by the corporation with the department. *Licensure and appointment* ~~Registration~~ shall be on forms prescribed by the department and shall show the information requested. *Sales representatives of optometric service plan corporations shall be licensed, appointed, renewed, continued, reinstated, or terminated as prescribed in chapter 626 for insurance representatives in general, and shall pay the license and appointment fees prescribed in s. 624.501.* ~~Registration shall be made on or before the date of employment by the corporation of the sales representative. The corporation shall pay to the department, for deposit into the Insurance Commissioner's Regulatory Trust Fund, a permit fee of $12 for each sales representative and a like amount by October 1 of each odd-numbered year thereafter.~~ No permit is transferable from one person or corporation to another.

Section 162. Section 637.143, Florida Statutes, is amended to read:

637.143 Grounds for compulsory refusal, suspension, or revocation of *license or appointment* ~~registration~~.—The department shall deny, suspend, revoke, or refuse to renew or continue the *license or appointment* ~~registration~~ and eligibility for *license or appointment* ~~registration~~ of any sales representative who sells or writes contracts for an optometric service plan corporation if it finds that any one or more of the following grounds applicable to the sales representative exist:

(1) Willful use of *a license or appointment* ~~registration~~ to circumvent any of the requirements or prohibitions of this part.

(2) Willful misrepresentation of any optometric service plan contract or willful deception with regard to the plan or contract, done either in person or by any form of dissemination of information or advertising.

(3) Material misrepresentation to a subscriber or other interested party of the terms and coverage of a nonprofit optometric service plan with intent and for the purpose of effecting settlement of claim for loss or damage or benefit under the contract on less favorable terms than those provided in and contemplated by the contract.

(4) Demonstrated lack of fitness or trustworthiness.

(5) Demonstrated lack of reasonably adequate knowledge and technical competence to engage in the transactions authorized by the *license or appointment* ~~registration~~.

(6) Fraudulent or dishonest practices in the conduct of business under the *license or appointment* ~~registration~~.

(7) Misappropriation, conversion, or unlawful withholding of moneys belonging to subscribers or the optometric service plan corporation or to others and received in the conduct of business under the *license or appointment* ~~registration~~.

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

(9) A verdict of guilty or an entered plea of guilty or nolo contendere, in this state or any other state, to a felony which involves moral turpitude, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of such cases.

Section 163. Section 637.144, Florida Statutes, is amended to read:

637.144 Grounds for discretionary refusal, suspension, or revocation of *license or appointment* ~~registration~~.—The department may, in its discretion, deny, suspend, revoke, or refuse to renew or continue the *license or appointment* ~~registration~~ and eligibility for *license or appointment* ~~registration~~ of any sales representative who sells or writes contracts for an optometric service plan corporation if it finds 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. 637.143:

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

(2) Violation of any provision of this part.

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

(4) Failure or refusal, upon demand, to pay over to any optometric service plan corporation he represents or has represented any money coming into his hands belonging to the corporation.

(5) Business conduct under the *license or appointment* ~~registration~~ involving unfair methods of competition or unfair or deceptive acts or practices, as prohibited under part X of chapter 626, or otherwise causing injury or loss to the public or detriment to the public interest.

(6) A verdict of guilty or an entered plea of guilty or nolo contendere to a felony, in this state or any other state, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of such cases.

Section 164. Section 637.145, Florida Statutes, is amended to read:

637.145 Duration of suspension or revocation.—

(1) The department shall, in its order suspending a *license or appointment* ~~registration~~, specify the period, not to exceed 1 year, during which the suspension is to be in effect. The *license or appointment* ~~registration~~ shall remain suspended during the specified period, subject, however, to any rescission or modification of the order by the department, or modification or reversal thereof by the court, before expiration of the suspension period. A *license or appointment* ~~registration~~ which has been suspended may not be reinstated except upon request for such reinstatement. The department may not grant such reinstatement if it finds that the circumstance or circumstances for which the *license or appointment* ~~registration~~ was suspended still exist or are likely to recur.

(2) No individual whose *license or appointment* ~~registration~~ was revoked by the department has the right to apply for another *license or appointment* ~~registration~~ within 2 years from the effective date of such revocation or, if judicial review of such revocation is sought, within 2 years from the date of final court order or decree affirming the revocation. The department may not, however, grant a new *license or appointment* ~~registration~~ if it finds that the circumstance or circumstances for which the *license or appointment* ~~registration~~ was revoked still exist or are likely to recur.

(3) The department may not grant or issue a *license or appointment* ~~registration~~ to any individual whose *license or appointment* ~~registration~~ has been revoked twice.

Section 165. Section 637.146, Florida Statutes, is amended to read:

637.146 Administrative fine in lieu of suspension, revocation, or refusal of *license or appointment* ~~registration~~.—

(1) If the department finds that one or more grounds exist for the discretionary suspension, revocation, or refusal to renew or continue any *license or appointment* ~~registration~~ under this part, the department may, in its discretion, impose upon the person, in lieu of such penalty, an administrative penalty not to exceed $100 for each nonwillful violation and not to exceed $1,000 for each willful violation.

(2) The department may allow a reasonable period, not to exceed 30 days, within which there may be paid to the department the amount of the penalty so imposed. If the penalty is not paid in its entirety to the department at its office at Tallahassee within the period so allowed, the *license or appointment* ~~registration~~ shall stand suspended or revoked or the renewal or continuation shall be refused, as the case may be, upon the expiration of such period. The penalty shall be deposited into the Insurance Commissioner's Regulatory Trust Fund.

Section 166. Section 637.301, Florida Statutes, is amended to read:

637.301 Regulation of sales representatives of pharmaceutical service plan corporations.—Every sales representative of any pharmaceutical service plan corporation shall be *appointed* ~~registered~~ by the corporation with the department. *Licensure and appointment* ~~Registration~~ shall be on forms prescribed by the department and shall show the information requested. *Sales representatives of pharmaceutical service plan corporations shall be licensed, appointed, renewed, continued, reinstated, or terminated as prescribed in chapter 626 for insurance representatives in general, and shall pay the license and appointment fees prescribed in s. 624.501.* ~~Registration shall be made on or before the date of employment by the corporation of the sales representative. The corporation shall pay to the department, for deposit into the Insurance Commissioner's Regulatory Trust Fund, a permit fee of $12 for each sales representative and a like amount by October 1 of each odd-numbered year thereafter.~~ No permit is transferable from one person or corporation to another.

Section 167. Section 637.302, Florida Statutes, is amended to read:

637.302 Grounds for compulsory refusal, suspension, or revocation of *license or appointment* ~~registration~~.—The department shall deny, suspend, revoke, or refuse to renew or continue the *license or appointment* ~~registration~~ and eligibility for *license or appointment* ~~registration~~ of any sales representative who sells or writes contracts for a pharmaceutical service plan corporation if it finds that any one or more of the following grounds applicable to the sales representative exist:

(1) Willful use of *a license or appointment* ~~registration~~ to circumvent any of the requirements or prohibitions of this part.

(2) Willful misrepresentation of any pharmaceutical service plan contract or willful deception with regard to the plan or contract, done either in person or by any form of dissemination of information or advertising.

(3) Material misrepresentation to a subscriber or other interested party of the terms and coverage of a nonprofit pharmaceutical service plan with intent and for the purpose of effecting settlement of claim for loss or damage or benefit under the contract on less favorable terms than those provided in and contemplated by the contract.

(4) Demonstrated lack of fitness or trustworthiness.

(5) Demonstrated lack of reasonably adequate knowledge and technical competence to engage in the transactions authorized by the *license or appointment* ~~registration~~.

(6) Fraudulent or dishonest practices in the conduct of business under the *license or appointment* ~~registration~~.

(7) Misappropriation, conversion, or unlawful withholding of moneys belonging to subscribers or the pharmaceutical service plan corporation or to others and received in the conduct of business under the *license or appointment* ~~registration~~.

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

(9) A verdict of guilty or an entered plea of guilty or nolo contendere, in this state or any other state, to a felony which involves moral turpitude, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of such cases.

Section 168. Section 637.303, Florida Statutes, is amended to read:

637.303 Grounds for discretionary refusal, suspension, or revocation of *license or appointment* ~~registration~~.—The department may, in its discretion, deny, suspend, revoke, or refuse to renew or continue the *license or appointment* ~~registration~~ of any sales representative who sells or writes contracts for a pharmaceutical service plan corporation and it shall suspend or revoke the eligibility to hold a *license or appointment* ~~registration~~ of any such person if it finds that as to the applicant for *license or appointment* ~~registration~~ any one or more of the following grounds exist under circumstances for which such denial, suspension, revocation, or refusal is not mandatory under s. 637.302:

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

(2) Violation of any provision of this part.

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

(4) Failure or refusal, upon demand, to pay over to any pharmaceutical service plan corporation he represents or has represented any money coming into his hands belonging to the corporation.

(5) Business conduct under the *license or appointment* ~~registration~~ involving unfair methods of competition or unfair or deceptive acts or practices, as prohibited under part X of chapter 626, or otherwise causing injury or loss to the public or detriment to the public interest.

(6) A verdict of guilty or an entered plea of guilty or nolo contendere to a felony, in this state or any other state, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of such cases.

Section 169. Section 637.304, Florida Statutes, is amended to read:

637.304 Duration of suspension or revocation.—

(1) The department shall, in its order suspending a *license or appointment* ~~registration~~, specify the period, not to exceed 1 year, during which the suspension is to be in effect. The *license or appointment* ~~registration~~ shall remain suspended during the specified period, subject, however, to any rescission or modification of the order by the department, or modification or reversal thereof by the court, before expiration of the suspension period. A *license or appointment* ~~registration~~ which has been suspended may not be reinstated except upon request for such reinstatement. The department may not grant such reinstatement if it finds that the circumstance or circumstances for which the *license or appointment* ~~registration~~ was suspended still exist or are likely to recur.

(2) No individual whose *license or appointment* ~~registration~~ was revoked by the department has the right to apply for another *license or appointment* ~~registration~~ within 2 years from the effective date of such revocation or, if judicial review of such revocation is sought, within 2 years from the date of final court order or decree affirming the revocation. The department may not, however, grant a new *license or appointment* ~~registration~~ if it finds that the circumstance or circumstances for which the *license or appointment* ~~registration~~ was revoked still exist or are likely to recur.

(3) The department may not thereafter grant or issue a *license or appointment* ~~registration~~ to any individual whose *license or appointment* ~~registration~~ has been revoked twice.

Section 170. Section 637.305, Florida Statutes, is amended to read:

637.305 Administrative fine in lieu of suspension, revocation, or refusal of *license or appointment* ~~registration~~.—

(1) If the department finds that one or more grounds exist for the discretionary suspension, revocation, or refusal to renew or continue any *license or appointment* ~~registration~~ under this part, the department may, in its discretion, impose upon the person, in lieu of such penalty, an administrative penalty not to exceed $100 for each nonwillful violation and not to exceed $1,000 for each willful violation.

(2) The department may allow a reasonable period, not to exceed 30 days, within which there may be paid to the department the amount of the penalty so imposed. If the penalty is not paid in its entirety to the department at its office at Tallahassee within the period so allowed, the *license or appointment* ~~registration~~ shall stand suspended or revoked or the renewal or continuation shall be refused, as the case may be, upon the expiration of such period. The penalty shall be deposited in the Insurance Commissioner's Regulatory Trust Fund.

Section 171. Section 637.415, Florida Statutes, 1990 Supplement, is amended to read:

637.415 Regulation of employees or representatives of dental service plan corporations.—

(1) With respect to contracts or certificates for dental services issued by any dental service plan corporation subject to the provisions of this part, no person shall, unless licensed *and appointed* therefor:

(a) Solicit contracts or certificates for dental services or procure applications therefor;

(b) Receive or issue a receipt in this state for any money on account of or for any dental service plan corporation, or receive or issue a receipt in this state for money from a third party to be transmitted to any dental service plan corporation, for a contract or certificate providing dental services or benefits or for the renewal thereof; or

(c) In any way, directly or indirectly, make or cause to be made, or attempt to make or cause to be made, any contract or certificate for dental services on account of any dental service plan corporation.

(2) The department shall not grant or issue any license *or appointment* required by the provisions of this part to any individual who is found by the department to be untrustworthy or incompetent or who does not meet all of the qualifications of s. 626.831.

(3) No person holding a license *or appointment* required by the provisions of this part shall violate the provisions of part X of chapter 626, Unfair Insurance Trade Practices.

(4) *Sales representatives of dental service plan corporations shall be licensed, appointed, renewed, continued, reinstated, or terminated as prescribed in chapter 626 for insurance representatives in general, and*

shall pay the license and appointment fees prescribed in s. 624.501. ~~Every dental service plan corporation shall pay to the department the fees as specified in s. 624.501(8)(a) for each licensed employee or representative thereof.~~

(5) The grounds and procedures for refusal, suspension, or revocation of a license *or appointment* issued to any employee or representative of a dental service plan corporation shall be as set forth in ss. 626.611-626.691.

Section 172. Section 638.181, Florida Statutes, is amended to read:

638.181 *License and appointment* ~~Registration~~ of sales representatives.—*Sales representatives of ambulance service associations or insurers shall be licensed, appointed, renewed, continued, reinstated, or terminated as prescribed in chapter 626 for insurance representatives in general, and shall pay the license and appointment fees prescribed in s. 624.501.* ~~Every ambulance service association or insurer shall on forms prescribed by the department register, on or before October 1 of each year, the name and business office address of each sales representative employed by it, and shall within 30 days after termination of the employment notify the department of such termination. Any sales representative employed subsequent to the October 1 filing date shall be registered with the department within 10 days after such employment.~~ No employee or sales representative of an ambulance service association or insurer shall directly or indirectly solicit or negotiate insurance contracts, or hold himself out in any manner to be an insurance agent or solicitor, unless so qualified and licensed *and appointed* therefor under the insurance code.

Section 173. Section 638.191, Florida Statutes, is amended to read:

638.191 Grounds for compulsory refusal, suspension, or revocation of *license or appointment* ~~registration~~ of sales representative.—The department shall deny, suspend, revoke, or refuse to renew the *license or appointment* ~~registration~~ of any sales representative if it finds that, as to the sales representative, any one or more of the following grounds exist:

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

(2) Willful use of the *license or appointment* ~~registration~~ to circumvent any of the requirements or prohibitions of this chapter.

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

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

(5) Demonstrated lack of fitness or trustworthiness to engage in the business of ambulance service contracts.

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

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

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

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

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

(11) Being found guilty of, or pleading guilty or nolo contendere to, a felony which involves moral turpitude, without regard to whether a judgment of conviction has been entered.

Section 174. Section 638.201, Florida Statutes, is amended to read:

638.201 Grounds for discretionary refusal, suspension, or revocation of *license or appointment* ~~registration~~ of sales representative.—The department may, in its discretion, deny, suspend, revoke, or refuse to renew the *license or appointment* ~~registration~~ of any sales representative if it finds that the sales representative has committed any of the following acts under circumstances for which such denial, suspension, revocation, or refusal is not mandatory under s. 638.191:

(1) Any act which provides cause for which granting of the *license or appointment* ~~registration~~ could have been refused had such cause then existed and been known to the department.

(2) Violation of any provision of this chapter or of any other law applicable to the business of ambulance service contracts in the course of dealings under the *license or appointment* ~~registration~~.

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

(4) Failure or refusal, upon demand, to pay over to any association or insurer he represents or has represented any money belonging to the association or insurer.

(5) In the conduct of business under the *license or appointment* ~~registration~~, 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 part X of chapter 626, or has otherwise shown himself to be a source of injury or loss to the public or detrimental to the public interest.

(6) Being found guilty of, or having pled guilty or nolo contendere to, a felony without regard to whether a judgment of conviction has been entered.

Section 175. Subsections (1) and (2) of section 638.211, Florida Statutes, are amended to read:

638.211 Refusal, suspension, or revocation of *license or appointment* ~~registration~~ of sales representative.—

(1) If any sales representative is convicted by a court of a violation of this chapter, the *license or appointment* ~~registration~~ of such individual shall thereby be deemed to be immediately revoked.

(2) If after an investigation, or upon other evidence, the department has reason to believe that there may exist any one or more grounds therefor, as such grounds are specified in ss. 638.191 and 638.201, the department may suspend, revoke, or refuse to renew or continue the *license or appointment* ~~registration~~ of any sales representative.

Section 176. Section 638.221, Florida Statutes, is amended to read:

638.221 Administrative fine in lieu of suspension or revocation of *license or appointment* ~~registration~~.—

(1) If the department finds that one or more grounds exist for the suspension of, revocation of, or refusal to renew or continue any *license or appointment* ~~registration~~ issued under this chapter, the department may, in its discretion, in lieu of such suspension, revocation, or refusal, on a first offense and except when such suspension, revocation, or refusal is mandatory, impose upon the *licensee or appointee* ~~registrant~~ an administrative penalty in an amount not to exceed $500 or, if the department has found willful misconduct or willful violation on the part of the *licensee or appointee* ~~registrant~~, an administrative fine not to exceed $1,000. The administrative penalty may, in the discretion of the department, be augmented in amount by an amount equal to any commissions received by or accruing to the credit of the *licensee or appointee* ~~registrant~~ in connection with any transaction as to which the grounds for suspension, revocation, or refusal relate.

(2) The department may allow the *licensee or appointee* ~~registrant~~ a reasonable period, not to exceed 30 days, within which to pay to the department the amount of the penalty so imposed. If the *licensee or appointee* ~~registrant~~ fails to pay the penalty in its entirety to the department at its office at Tallahassee within the period so allowed, the *license or appointment* ~~registration~~ of the *licensee or appointee* ~~registrant~~ shall stand suspended, revoked, or renewal or continuation refused, as the case may be, upon expiration of such period.

Section 177. Section 639.185, Florida Statutes, is amended to read:

639.185 Preneed sales; *licensure and appointment* ~~registration~~ of sales agents and sales persons.—

(1) *Sales agents and sales persons selling preneed contracts, other than licensed funeral directors, funeral establishments, or direct dispos-*

ers shall be licensed, appointed, renewed, continued, reinstated, or terminated as prescribed in chapter 626 for insurance representatives in general, and shall pay the license and appointment fees prescribed in s. 624.501. However, they are exempt from the fingerprinting, photograph, education, and examination provisions. ~~Any person, except a licensed funeral director, a funeral establishment, or a direct disposer, selling preneed contracts on or after April 1, 1984, shall be registered with the department. The application for registration shall be signed by the sales agent or other sales person and by the certificateholder to whom the sales agent or sales person will be responsible. The department shall register such person upon receipt of the application and a registration fee of $40. The registration shall be renewed biennially on April 1, and each even-numbered year thereafter, upon receipt of the renewal fee of $40. The certificateholder who has registered such sales agent or sales person shall notify the department within 10 days after such person's status as sales agent or sales person has terminated.~~

(2) Each certificateholder is subject to discipline if his sales agent or sales person violates any provision of this chapter. The department may refuse to *license or appoint* ~~register~~, or may revoke the *license or appointment* ~~registration~~ of, a sales agent or sales person who has violated the provisions of this chapter.

(3) All fees collected pursuant to this section shall be payable to the Insurance Commissioner's Regulatory Trust Fund.

(4) The grounds and procedures for refusal, suspension, or revocation of a license or appointment issued to a sales agent or sales person under this section are as set forth in ss. 626.611-626.691.

Section 178. Section 641.386, Florida Statutes, is amended to read:

641.386 Agent licensing *and appointment* required; exceptions.—

(1) With respect to a health maintenance contract, no person shall, unless licensed *and appointed* as a health insurance agent in accordance with the applicable provisions of the Florida Insurance Code:

(a) Solicit contracts or procure applications; or

(b) Engage or hold himself out as engaging in the business of analyzing or abstracting health maintenance contracts or of counseling or advising or giving opinions to persons relative to such contracts other than as a consulting actuary advising a health maintenance organization or as a salaried bona fide full-time employee so counseling and advising his employer relative to coverage for the employer and his employees.

(2) All qualifications, disciplinary provisions, licensing *and appointment* procedures, fees, and related matters contained in the Florida Insurance Code which apply to the licensing *and appointment* of health insurance agents by insurers shall apply to health maintenance organizations and to persons licensed *or appointed* by the health maintenance organization as their agents.

(3) No examination, ~~or~~ license, *or appointment* shall be required of any regular salaried officer or employee of a health maintenance organization who devotes substantially all of his services to activities other than the solicitation of health maintenance organization contracts from the public and who receives no commission or other compensation directly dependent upon the solicitation of such contracts.

Section 179. Section 642.034, Florida Statutes, is amended to read:

642.034 *License and appointment* ~~Registration~~ required.—No person may solicit, negotiate, sell, or execute legal expense insurance contracts on behalf of an insurer in this state unless such person is *licensed and appointed* ~~registered~~ as a sales representative or is licensed *and appointed* under the insurance code as a general lines agent or solicitor. No person *licensed and appointed* ~~registered~~ as a legal expense insurance sales representative may solicit, negotiate, sell, or execute any other contract of insurance unless such person is duly licensed *and appointed* to do so under the provisions of chapter 626.

Section 180. Subsection (1) of section 642.036, Florida Statutes, is amended to read:

642.036 Sales representatives to be *licensed and appointed* ~~registered~~.—

(1) *Sales representatives of legal expense insurers shall be licensed, appointed, renewed, continued, reinstated, or terminated as prescribed in chapter 626 for insurance representatives in general, and shall pay the license and appointment fees prescribed in s. 624.501.* ~~Each insurer shall, on forms prescribed by the department and on or before March 1 of each odd-numbered year, register the name and business address of each sales representative under contract with it in this state and shall, within 30 days after termination of the contract, notify the department of such termination. At the time of the biennial registration, a $20 filing fee for each sales representative shall be paid by the insurer to the department. Any sales representative employed after the March 1 filing date shall be registered with the department within 10 days after such employment.~~ No employee or sales representative of an insurer may directly or indirectly solicit or negotiate insurance contracts, or hold himself out in any manner to be an insurance agent or solicitor, unless so qualified, ~~and~~ licensed, *and appointed* therefor under the insurance code.

Section 181. Subsection (1) of section 642.038, Florida Statutes, is amended to read:

642.038 Reporting and accounting for funds.—

(1) All funds belonging to an insurer or other person received by a sales representative in transactions under his *license and appointment* ~~registration~~ shall be trust funds so received by such representative in a fiduciary capacity; and the representative, in the applicable regular course of business, shall account for and pay the same to the insurer or other person entitled thereto.

Section 182. Section 642.041, Florida Statutes, is amended to read:

642.041 Grounds for compulsory refusal, suspension, or revocation of *license or appointment* ~~registration~~ of contracting sales representatives.—The department shall, pursuant to the insurance code, deny, suspend, revoke, or refuse to renew or continue the *license or appointment* ~~registration~~ of any sales representative or the license *or appointment* of any general lines agent or solicitor if it finds that, as to the sales representative, general lines agent, or solicitor, any one or more of the following applicable grounds exist:

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

(2) The *license or appointment* ~~registration~~ is willfully used, or to be used, to circumvent any of the requirements or prohibitions of ss. 642.011-642.049.

(3) Willful misrepresentation of any legal expense contract or willful deception with regard to any such contract, performed either in person or by any form of dissemination of information or advertising.

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

(5) Demonstrated lack of fitness or trustworthiness to engage in the business of legal expense insurance.

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

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

(8) Misappropriation, conversion, or unlawful withholding of moneys belonging to an insurer or other person and received in the conduct of business under the *license or appointment* ~~registration~~.

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

(10) Willful failure to comply with, or willful violation of, any proper order or rule of the department or willful violation of any provision of ss. 642.011-642.049.

(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 which involves moral turpitude, without regard to whether a judgment of conviction has been entered.

Section 183. Section 642.043, Florida Statutes, is amended to read:

642.043 Grounds for discretionary refusal, suspension, or revocation of *license or appointment* ~~registration~~ of sales representatives.—The department may, in its discretion, deny, suspend, revoke, or refuse to renew or continue the *license or appointment* ~~registration~~ of any sales representative if it finds that, as to the representative, 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. 642.041:

(1) Any cause for which granting of the *license or appointment* ~~registration~~ could have been refused had it been known to the department at the time of application.

(2) Violation of any provision of ss. 642.011-642.049, or of any other law applicable to the business of legal expense insurance in the course of dealings under the *license or appointment* ~~registration~~.

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

(4) Failure or refusal to pay over, upon demand, to any insurer he represents, or has represented, any money which belongs to the insurer.

(5) In the conduct of business under the *license or appointment* ~~registration~~, having engaged in unfair methods of competition or in unfair or deceptive acts or practices, as such methods, acts, or practices are defined under part X of chapter 626, or having otherwise shown himself to be a source of injury or loss to the public or detrimental to the public interest.

(6) Having been found guilty of, or having pled guilty or nolo contendere to, a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States of America or any state thereof or under the law of any other country, whether or not a judgment of conviction has been entered.

Section 184. Subsection (1) of section 642.045, Florida Statutes, is amended to read:

642.045 Procedure for refusal, suspension, or revocation of *license and appointment* ~~registration~~ of sales representative; departmental action upon violation by licensed insurance agent or solicitor.—

(1) If any sales representative is convicted by a court of a violation of any provision of ss. 642.011-642.049, the *license and appointment* ~~registration~~ of such individual shall thereby be deemed to be immediately revoked without any further procedure relative thereto by the department.

Section 185. Section 642.047, Florida Statutes, is amended to read:

642.047 Administrative fine in lieu of suspension or revocation of *license or appointment* ~~registration~~.—

(1) If, pursuant to procedures provided for in ss. 642.011-642.049, it is found that one or more grounds exist for the suspension or revocation of, or refusal to renew or continue, any *license or appointment* ~~registration~~ issued under ss. 642.011-642.049, and except when such suspension, revocation, or refusal is mandatory, an order may be entered imposing upon the *licensee or appointee* ~~registrant~~, in lieu of such suspension, revocation, or refusal, an administrative penalty for each violation in the amount of $100 or, in the event of willful misconduct or willful violation on the part of the *licensee or appointee* ~~registrant~~, an administrative fine of $500. The administrative penalty may be augmented in amount by an amount equal to any commissions received by or accruing to the credit of the *licensee or appointee* ~~registrant~~ in connection with any transaction to which the grounds for suspension, revocation, or refusal related.

(2) The order may allow the *licensee or appointee* ~~registrant~~ a reasonable period not to exceed 30 days, within which to pay to the department the amount of the penalty so imposed. If the *licensee or appointee* ~~registrant~~ fails to pay the penalty in its entirety to the department at its office in Tallahassee within the period so allowed, the *license or appointment* ~~registration~~ of the *licensee or appointee* ~~registrant~~ shall stand suspended or revoked, or renewal or continuation may be refused, as the case may be, upon expiration of such period and without any further proceedings.

Section 186. For the purpose of incorporating the amendments to various sections of Florida Statutes made by this act in references thereto, the sections or subdivisions of Florida Statutes set forth below are reenacted to read:

395.0172 Private utilization review.—

(2) As used in this section, the term:

(c) "Private review agent" means any person or entity which performs utilization review services for third-party payors on a contractual basis for outpatient or inpatient services. However, the term shall not include full-time employees, personnel, or staff of health insurers, health maintenance organizations, or hospitals, or wholly owned subsidiaries thereof or affiliates under common ownership, when performing utilization review for their respective hospitals, health maintenance organizations, or insureds of the same insurance group. For this purpose, health insurers, health maintenance organizations, and hospitals, or wholly owned subsidiaries thereof or affiliates under common ownership, include such entities engaged as administrators of self-insurance as defined in s. 624.031.

402.48 Health care services pools.—

(8)

(c) Proof of financial responsibility must be demonstrated to the satisfaction of the department, through one of the following methods:

1. Establishing and maintaining an escrow account consisting of cash or assets eligible for deposit in accordance with s. 625.52;

2. Obtaining and maintaining an unexpired irrevocable letter of credit established pursuant to chapter 675. Such letters of credit shall be nontransferrable and nonassignable and shall be issued by any bank or savings association organized and existing under the laws of this state or any bank or savings association organized under the laws of the United States that has its principal place of business in this state or has a branch office which is authorized under the laws of this state or of the United States to receive deposits in this state; or

3. Obtaining and maintaining professional liability coverage from one of the following:

a. An authorized insurer as defined under s. 624.09;

b. An eligible surplus lines insurer as defined under s. 626.918(2);

c. A risk retention group or purchasing group as defined under s. 627.942; or

d. A plan of self-insurance as provided in s. 627.357.

404.111 Surety requirements.—

(2) In lieu of posting a bond as required under subsection (1), a licensee may:

(a) Deposit with the Treasurer securities of the type eligible for deposit by insurers under s. 625.52, which securities must have at all times a market value of not less than the amount of the bond required under subsection (1).

458.320 Financial responsibility.—

(1) As a condition of licensing and prior to the issuance or renewal of an active license or reactivation of an inactive license for the practice of medicine, an applicant shall by one of the following methods demonstrate to the satisfaction of the board and the department financial responsibility to pay claims and costs ancillary thereto arising out of the rendering of, or the failure to render, medical care or services:

(b) Obtaining and maintaining professional liability coverage in an amount not less than $100,000 per claim, with a minimum annual aggregate of not less than $300,000, from an authorized insurer as defined under s. 624.09, from a surplus lines insurer as defined under s. 626.914(2), from a risk retention group as defined under s. 627.942, from the Joint Underwriting Association established under s. 627.351(4), or through a plan of self-insurance as provided in s. 627.357.

(2) As a continuing condition of hospital staff privileges, physicians with staff privileges shall also be required to establish financial responsibility by one of the following methods:

(a) Establishing and maintaining an escrow account consisting of cash or assets eligible for deposit in accordance with s. 625.52 in the per claim amounts specified in paragraph (b).

This subsection shall be inclusive of the coverage in subsection (1).

459.0085 Financial responsibility.—

(1) As a condition of licensing and prior to the issuance or renewal of an active license or reactivation of an inactive license for the practice of osteopathic medicine, an applicant shall by one of the following methods demonstrate to the satisfaction of the board and the department financial responsibility to pay claims and costs ancillary thereto arising out of the rendering of, or the failure to render, medical care or services:

(a) Establishing and maintaining an escrow account consisting of cash or assets eligible for deposit in accordance with s. 625.52 in the per-claim amounts specified in paragraph (b).

(2) As a continuing condition of hospital staff privileges, osteopathic physicians with staff privileges shall also be required to establish financial responsibility by one of the following methods:

(a) Establishing and maintaining an escrow account consisting of cash or assets eligible for deposit in accordance with s. 625.52 in the per-claim amounts specified in paragraph (b).

This subsection shall be inclusive of the coverage in subsection (1).

624.11 Compliance required.—

(2) Any risk retention group organized and existing under the provisions of the Product Liability Risk Retention Act of 1981 (Pub. L. No. 97-45), which has been licensed as an insurance company and authorized to engage in the business of insurance may transact insurance in this state and shall be subject to the provisions of ss. 624.15, 624.316, 624.418, 624.421, 624.4211, 624.422, 624.509, 626.041, 626.112, 626.611, 626.621, 626.741, 626.932, 626.938, 626.9541, 627.351, and 627.915; part I of chapter 631; and all other applicable provisions of the laws of this state. Any such group formed in another jurisdiction shall furnish to the department, upon request, a copy of any financial report submitted by the group in the licensing jurisdiction.

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

(4) Reinsurance, when transacted as authorized under s. 624.610.

624.4414 Employer participants' liability.—

(1) The liability of each employer participant for the obligations of the multiple-employer welfare arrangement shall be individual, several, and proportionate, but not joint, except as provided in this section and s. 624.4415.

(2) Each employer participant shall have a contingent assessment liability pursuant to s. 624.4415 for payment of actual losses and expenses incurred while the policy was in force.

624.466 Application requirements for certificate of authority.—All applications for a certificate of authority for a commercial self-insurance fund shall be on a form furnished by the department and shall include or have attached the following:

(9)(a) An initial deposit of cash or securities of the type eligible for deposit by insurers under s. 625.52 in the amount of $100,000.

1. All income from deposits shall belong to the fund and shall be transmitted to the fund as it becomes available.

2. No judgment creditor or other claimant of the fund shall have the right to levy upon any of the assets or securities held as a deposit under this section.

624.488 Applicability of related laws.—In addition to other provisions of the code cited in ss. 624.460-624.488:

(1) Sections 624.155, 624.308, 624.414, 624.415, and 624.416(4); ss. 624.418-624.4211, except s. 624.418(2)(f); and s. 624.501;

(2) Part II of chapter 625;

shall apply to commercial self-insurance funds. No section of the code not expressly and specifically cited in ss. 624.460-624.488 shall apply to commercial self-insurance funds.

624.606 "Surety insurance" defined.—

(2) "Surety insurance" does not include:

(c) Any reinsurance contract authorized pursuant to s. 624.610.

624.609 Limit of risk.—

(3) Reinsurance ceded as authorized by s. 624.610 shall be deducted in determining risk retained. As to surety risks, a deduction shall also be made of the amount assumed by any established incorporated cosurety and the value of any security deposited, pledged, or held subject to the surety's consent and for the surety's protection.

625.012 "Assets" defined.—In any determination of the financial condition of an insurer, there shall be allowed as "assets" only such assets as are owned by the insurer and which consist of:

(8) The full amount of reinsurance recoverable by a ceding insurer from a solvent reinsurer and which reinsurance is authorized under s. 624.610.

626.8417 Title insurance agent's license; application and qualification; errors and omissions insurance; bond and deposit requirements; exemptions.—

(3) The department shall not grant or issue a license as title agent to any individual or entity found by it to be untrustworthy or incompetent, or to a corporation or other legal entity, the principals of which are found to be untrustworthy or incompetent, or who do not meet the following qualifications:

(g) Has deposited with the department securities of the type eligible for deposit by insurers under s. 625.52 and having at all times a market value of not less than $35,000. In lieu of such a deposit, the agent may post a surety bond of like amount payable to the department. The required deposit or bond shall be made by the title insurance agent, and a title insurer shall not provide the deposit or bond directly or indirectly on behalf of a title insurance agent. The deposit or bond shall secure the performance by the agent of his duties and responsibilities under his issuing agency contracts with each underwriter for which he is appointed. The agent shall have the right to exchange or substitute other securities of like quality and value for securities on deposit, to receive the interest and other income accruing on such securities, and to inspect the deposit at all reasonable times. Such deposit or bond shall be maintained unimpaired as long as the agent continues in business in this state and until one year after termination of all title insurance agent appointments held by the agent. The agent shall be entitled to the return of the deposit or bond together with accrued interest after such year has passed, provided that no claim has been made against the deposit or bond. In the event a surety bond is unavailable generally, then the department may promulgate rules for alternative methods to comply with this paragraph. With respect to such alternative methods for compliance, the department shall be guided by the past business performance and good reputation and character of the proposed title insurance agent. A surety bond is deemed to be unavailable generally if the prevailing annual premium exceeds 25 percent of the principal amount of the bond.

626.88 Definitions of "administrator" and "insurer".—

(1) For the purposes of this part, an "administrator" is any person who directly or indirectly solicits or effects coverage of, collects charges or premiums from, or adjusts or settles claims on residents of this state in connection with authorized commercial self-insurance funds or with insured or self-insured programs which provide life or health insurance coverage or coverage of any other expenses described in s. 624.33(1), other than any of the following persons:

(i) A trust exempt from taxation under s. 501(a) of the Internal Revenue Code, a trust satisfying the requirements of ss. 624.438 and 624.439, or any governmental trust as defined in s. 624.33(3), and the trustees and employees acting pursuant to such trust, or a custodian and its agents and employees, including individuals representing the trustees in overseeing the activities of a service company or administrator, acting pursuant to a custodial account which meets the requirements of s. 401(f) of the Internal Revenue Code.

627.9403 Scope.—The provisions of this part shall apply to long-term care insurance policies delivered or issued for delivery in this state, and to policies delivered or issued for delivery outside this state to the extent provided in s. 627.9406, by an insurer, a fraternal benefit society as defined in s. 632.601, a health care services plan as defined in s. 641.01, a health maintenance organization as defined in s. 641.19, a prepaid health clinic as defined in s. 641.402, or a multiple-employer welfare arrangement as defined in s. 624.437. A policy which is advertised, marketed, or offered as a long-term care policy and as a Medicare supplement policy shall meet the requirements of this part and the requirements of ss. 627.671-627.675 and, to the extent of a conflict, be subject to the

requirement that is more favorable to the policyholder or certificateholder. The provisions of this part shall not apply to a continuing care contract issued pursuant to chapter 651 and shall not apply to guaranteed renewable policies issued prior to October 1, 1988.

628.071 Granting, denial of permit.—

(2) If the department does not so find, or finds that the insurer if formed or financed would not be able to qualify for or retain a certificate of authority by reason of the provisions of s. 624.404(3), a permit shall not be granted.

628.261 Notice of change of director or officer.—An insurer shall give the department written notice of any change of personnel among the directors or principal officers of the insurer within 45 days of such change. The written notice shall include all information necessary to allow the department to determine that the insurer will be in compliance with s. 624.404(3) and at a minimum shall contain the information required by s. 628.051(2)(b), (c), and (d).

629.131 Deposit in lieu of bond.—In lieu of the bond required under s. 629.121, the attorney may maintain on deposit through the office of the department a like amount in value of securities qualified for deposit under s. 625.52 and subject to the same conditions as the bond.

631.061 Grounds for liquidation.—The department may apply to the court for an order appointing it as receiver (if its appointment as receiver is not then in effect) and directing it to liquidate the business of a domestic insurer or of the United States branch of an alien insurer having trusteed assets in this state, regardless of whether or not there has been a prior order directing it to rehabilitate such insurer, upon any of the grounds specified in s. 631.051, or if such insurer:

(1) Is or is about to become insolvent.

(2) Is an insolvent insurer and has commenced or is attempting to commence voluntary liquidation or dissolution except under this code.

(3) Has not completed its organization and obtained a certificate of authority as an insurer within the time allowed therefor under any applicable law.

631.071 Grounds for conservation; foreign insurers.—The department may apply to the court for an order appointing it as receiver or ancillary receiver, and directing it to conserve the assets within this state, of a foreign insurer upon any of the following grounds:

(1) Upon any of the grounds specified in s. 631.051 or s. 631.061, or

631.081 Grounds for conservation; alien insurers.—The department may apply to the court for an order appointing it as receiver or ancillary receiver, and directing it to conserve the assets within this state, of any alien insurer upon any of the following grounds:

(1) Upon any of the grounds specified in s. 631.051 or s. 631.061;

631.371 Seizure under order of the department.—

(1) Upon the department filing a verified petition with any circuit judge of the proper judicial circuit as required by s. 631.021(2), which states that it believes that the interest of policyholders, the insurer, claimants, creditors, or the public will be endangered or jeopardized and that prima facie grounds exist for rehabilitation, liquidation, or conservation of an insurer under s. 631.051, s. 631.061, or s. 631.131, the department may request a seizure order and shall be entitled to an ex parte hearing forthwith and an appropriate seizure order from the judge or court in the interest of protecting the public and such insurer and its policyholders, claimants, or creditors. After a diligent effort is made to be heard by the judges of the circuit and such judges or the court fails or refuses to hear such petition for any reason, the department shall then file a duplicate original of said petition and exhibits, if any, in the Circuit Court of Leon County along with an affidavit which shall state that a diligent effort was made to obtain such initial hearing in the judicial circuit where such hearing was sought and that the request to be heard was refused or that a hearing was not granted and the reasons therefor, if known. Upon compliance with the above and if said affidavit further states that the department believes that irreparable harm will result to the public and the insurer and its policyholders, creditors, or claimants as a result of further delay, it may thereafter issue a seizure order on any ground that would justify court seizure under s. 631.361. Such seizure order may contain any or all the provisions of s. 631.361(1). The department shall retain possession and control until the order is vacated or is replaced by an order of court pursuant to subsection (2) or subsection (3) or pursuant to a formal delinquency proceeding under this chapter.

631.828 Assessments against member HMOs; income tax credit for assessments paid.—Any provisions of the law to the contrary notwithstanding, a member HMO may offset against its corporate income tax liability or other liabilities, on an individual or consolidated basis, as applicable, any assessment described in s. 631.819 to the extent of 20 percent of the amount of such assessment for each of the 5 calendar years following the year in which such assessment was paid.

632.638 Applicability of other code provisions.—In addition to the provisions heretofore contained or referred to in this chapter, other chapters and provisions of this code shall apply to fraternal benefit societies, to the extent applicable and not in conflict with the express provisions of this chapter and the reasonable implications thereof, as follows:

(3) Sections 624.404, 624.415, 624.416, 624.418, 624.420, 624.421, 624.4211, 624.422, and 624.423;

634.052 Required deposit.—

(1) To assure the faithful performance of its obligations to its members or subscribers, each motor vehicle service agreement company shall, prior to issuance of its license by the department, deposit with the department securities of the type eligible for deposit by insurers under s. 625.52 and having at all times a market value of not less than $100,000.

(2) In addition to the deposits otherwise required pursuant to this section, the department may, after notice and hearing, require any company for good cause shown to deposit and maintain deposited in trust for the protection of the contract holders and creditors of the company, for such time as the department deems necessary, securities eligible for such deposit under s. 625.52 having a value of not less than the amount which the department determines is necessary, which amount shall be neither less than $100,000, nor more than $500,000, depending on the obligation of the company in this state.

634.252 Acquisition.—Every motor vehicle service agreement company shall be subject to the provisions of s. 628.4615. However, in the case of a health maintenance organization organized as a for-profit corporation, the provisions of s. 628.451 govern with respect to any merger or consolidation, and, in the case of a health maintenance organization organized as a not-for-profit corporation, the provisions of s. 628.471 govern with respect to any merger or consolidation.

634.253 Delinquency proceedings.—

(1) If any of the grounds for rehabilitation, liquidation, conservation, reorganization, seizure, or summary proceedings of an insurer as set forth in ss. 631.051, 631.061, and 631.071 exist as to a company, the department may petition for an appropriate court order or may pursue such other relief as is afforded in part I of chapter 631.

634.305 Required deposit or bond.—

(1) To assure the faithful performance of its obligations to its members or subscribers in the event of insolvency, every home warranty association shall, before the issuance of its license by the department, deposit with the department securities of the type eligible for deposit by insurers under s. 625.52, which securities shall have at all times a market value of not less than $100,000.

(2) In lieu of any deposit of securities required under subsection (1), the association may:

(a) Deposit with the department securities of the type eligible for deposit by insurers under s. 625.52, which securities shall have at all times a market value of not less than $25,000; and

634.3073 Acquisition.—Every home warranty association shall be subject to the provisions of s. 628.4615.

634.405 Required deposit or bond.—

(1) To assure the faithful performance of its obligations to its members or subscribers in the event of insolvency, each service warranty association shall, before the issuance of its license by the department and during such time as the association may have premiums in force in this state, deposit and maintain securities of the type eligible for deposit by insurers under s. 625.52. Whenever the market value of the securities deposited with the department is less than 95 percent of the amount

required, the association shall deposit additional securities or otherwise increase the deposit to the amount required. Such securities shall have at all times a market value as follows:

(a) Warrantors.—

1. Any warrantor which:

a. Was licensed under this part before October 1, 1983;

b. Was transacting service warranty business in this state before June 14, 1978;

c. Has continuously transacted service warranty business in this state since June 14, 1978; and

d. Has not during any year since June 14, 1978, written more than $100,000 of gross written premiums,

shall place and maintain in trust with the department an amount equal to 50 percent of the gross written premiums in force.

2. A warrantor which has $300,000 or less of gross written premiums in this state and to which the provisions of subparagraph 1. do not apply shall place and maintain in trust with the department an amount not less than $50,000. A new warrantor, before the issuance of its license and before receiving any premiums, shall place and maintain in trust with the department the amount of $50,000.

3. A warrantor which has more than $300,000 but less than $750,000 of gross written premiums in this state shall place and maintain in trust with the department an amount not less than $75,000.

4. A warrantor which has $750,000 or more of gross written premiums in this state shall place and maintain in trust with the department an amount equal to $100,000.

5. All warrantors, upon receipt of written notice from the department, shall have 30 calendar days in which to make additional deposits.

(b) Warranty sellers.—A warranty seller shall, before the issuance of its license, place in trust with the department an amount not less than $100,000.

634.4085 Acquisition.—Except for manufacturers as defined in this part, every service warranty association shall be subject to the provisions of s. 628.4615.

637.153 Acquisition of optometric service plan.—Every optometric service plan shall be subject to the provisions of s. 628.4615.

637.316 Acquisition of pharmaceutical service plan corporation.—Every pharmaceutical service plan corporation shall be subject to the provisions of s. 628.4615.

637.422 Acquisition of dental service plan corporation.—Every dental service plan corporation shall be subject to the provisions of s. 628.4615.

638.052 Acquisition of ambulance service association.—Every ambulance service association shall be subject to the provisions of s. 628.4615.

638.081 Required deposit or bond.—

(1) To assure the faithful performance of its obligations to its members or subscribers, every ambulance service association shall, prior to issuance of its certificate of authority by the department, deposit with the department securities of the type eligible for deposit by insurers under s. 625.52, and having a market value of not less than $20,000. Such deposit requirement shall be in addition to the capital funds requirement in s. 638.061. Whenever the market value of the securities deposited with the department is less than 95 percent of the amount required under this subsection, the association shall deposit additional securities or otherwise increase the deposit to the amount specified in this subsection.

639.106 Acquisition.—Every person issued a certificate of authority to sell preneed contracts shall be subject to the provisions of s. 628.4615.

641.255 Acquisition.—Every health maintenance organization shall be subject to the provisions of s. 628.4615. However, in the case of a health maintenance organization organized as a for-profit corporation, the provisions of s. 628.451 govern with respect to any merger or consolidation; and, in the case of a health maintenance organization organized as a not-for-profit corporation, the provisions of s. 628.471 govern with respect to any merger or consolidation.

641.285 Insolvency protection.—

(1) Unless otherwise provided in this section, each health maintenance organization shall deposit with the department cash or securities of the type eligible under s. 625.52, which shall have at all times a market value in the amount set forth in this subsection. The amount of the deposit shall be reviewed annually, or more often, as the department deems necessary. The market value of the deposit shall be the greater of:

(a) Twice its reasonably estimated average monthly uncovered expenditures; or

(b) $100,000.

641.35 Assets, liabilities, and investments.—

(1) ASSETS.—In any determination of the financial condition of a health maintenance organization, there shall be allowed as "assets" only those assets that are owned by the health maintenance organization and which assets consist of:

(d) The full amount of reinsurance recoverable from a solvent reinsurer, which reinsurance is authorized under s. 624.610.

The department, upon determining that a health maintenance organization's asset has not been evaluated according to applicable law or that it does not qualify as an asset, shall require the health maintenance organization to properly reevaluate the asset or replace the asset with an asset suitable to the department within 30 days of receipt of written notification by the department of this determination, if the removal of the asset from the organization's assets would impair the organization's solvency.

641.416 Acquisition.—Every prepaid health clinic shall be subject to the provisions of s. 628.4615.

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

(1) "Health care services" means comprehensive health care services, as defined in s. 641.19, when applicable to a health maintenance organization, and means basic services, as defined in s. 641.402(1), when applicable to a prepaid health clinic.

(5) "Organization" means any health maintenance organization as defined in s. 641.19 and any prepaid health clinic as defined in s. 641.402(5).

642.023 Required deposit or bond.—

(1) To assure the faithful performance of its obligations in the event of insolvency, each legal expense insurance corporation, prior to the issuance of its certificate of authority, shall deposit and maintain with the department securities of the type eligible for deposit by insurers under s. 625.52, which securities shall be held in trust and shall have at all times a market value in the amount specified. Whenever the market value of the securities deposited with the department is less than 95 percent of the amount of the deposit required, the insurer shall deposit additional securities or otherwise increase the deposit to the amount required. The initial deposit for a corporation shall be in the amount of $50,000 for at least the first full year of operation. The amount of the initial deposit shall be adjusted annually thereafter on October 1 as follows:

(a) Each corporation having in force $300,000 or less of gross written premiums shall deposit with the department an amount equal to $30,000.

(b) Each corporation having in force more than $300,000 of gross written premiums, but less than $750,000, shall deposit with the department an amount equal to $75,000.

(c) Each corporation having in force more than $750,000 of gross written premiums shall deposit with the department an amount equal to $100,000.

651.024 Acquisition.—A person issued a certificate of authority to operate a continuing care facility or a provisional certificate of authority shall be subject to the provisions of s. 628.4615.

651.035 Minimum liquid reserve requirements.—

(7)

(e) In the event the issuing financial institution no longer participates in the State of Florida Treasury Certificate of Deposit Program, such financial institution shall deposit as collateral with the State of Florida Treasury eligible securities, as prescribed by s. 625.52 having a market value equal to or greater than 100 percent of the stated amount of the letter of credit.

651.071 Agreements as preferred claims on liquidation.—

(1) In the event of liquidation of the provider, all care agreements executed by a provider shall be deemed preferred claims against all assets owned by the provider; however, such claims shall be subordinate to those priority claims set forth in s. 631.271 and any secured claim as defined in s. 631.011.

651.105 Examination and inspections; fines.—

(1) The department may at any time, and shall at least once every 3 years, examine the business of any applicant for a certificate of authority and any provider engaged in the execution of care agreements or engaged in the performance of obligations under such agreements, in the same manner as is provided for examination of insurance companies pursuant to s. 624.316. Such examinations shall be made by a representative or examiner designated by the department, whose compensation will be fixed by the department pursuant to s. 624.320. Routine examinations may be made by having the necessary documents submitted to the department; and, for this purpose, financial documents and records conforming to commonly accepted accounting principles and practices, as required under s. 651.026, will be deemed adequate. The final written report of each such examination shall be filed in the office of the department and, when so filed, will constitute a public record. Any provider being examined shall, upon request, give reasonable and timely access to all of its records. The representative or examiner designated by the department may at any time examine the records and affairs and inspect the physical property of any provider, whether in connection with a formal examination or not.

651.114 Delinquency proceedings.—

(5) Should the department find that sufficient grounds exist as to a provider for rehabilitation, liquidation, conservation, reorganization, seizure, or summary proceedings of an insurer as set forth in ss. 631.051, 631.061, and 631.071, the department may petition for an appropriate court order or may pursue such other relief as is afforded in part I of chapter 631.

Section 187. Sections 624.308(3), 627.9301, 627.9302, 627.9303, 627.9304, 627.9305, 628.181, 628.191, 628.201, 628.311, 628.321, 628.4314, 631.243, 641.01, 641.02, 641.025, 641.03, 641.04, 641.05, 641.06, 641.08, 641.12, 641.125, 641.13, 641.14, 641.151, and 641.155, Florida Statutes, and section 624.3151, Florida Statutes, as created by chapter 90-119, Laws of Florida, are hereby repealed.

Section 188. Sections 629.50, 629.501, 629.502, 629.504, 629.506, 629.507, 629.508, 629.509, 629.511, 629.512, 629.513, 629.514, 629.516, 629.517, 629.518, and 629.519, Florida Statutes, are hereby repealed on October 1, 1992.

Section 189. Notwithstanding the Regulatory Sunset Act or any other provision of law which provides for review and repeal in accordance with s. 11.61, Florida Statutes, and except as otherwise specifically provided herein, the following chapters or parts of chapters of Florida Statutes shall not stand repealed on October 1, 1991, and shall continue in full force and effect as amended herein:

(1) Chapter 624, parts I, II, III, and V.

(2) Chapter 625.

(3) Chapter 628.

(4) Chapter 629.

(5) Chapter 630.

(6) Chapter 631.

(7) Chapter 641.

Section 190. The following chapters or parts of chapters of Florida Statutes, including any sections added by this act, are repealed on October 1, 1992, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes:

(1) Chapter 624, parts I, II, III, and V.

(2) Chapter 625.

(3) Chapter 628.

(4) Chapter 629.

(5) Chapter 630.

(6) Chapter 631.

(7) Chapter 641.

Section 191. The purpose of the redefinition of the term "damages" in the amendment to section 624.155, Florida Statutes, contained in this act is to clarify existing legislative intent, rather than to change substantive remedies. The amendment to section 624.155, Florida Statutes, contained in this act shall take effect upon becoming a law, and, as the redefinition of "damages" serves only to clarify or interpret existing law, the portion of such amendment relating to the definition of "damages" shall take effect upon this act becoming law and shall apply to actions filed or pending on or after such date.

Section 192. Except as otherwise expressly provided in this act, this act shall take effect October 1, 1991.

Senator Childers moved the following amendments to **Amendment 1** which were adopted:

Amendment 1A—On page 85, strike all of lines 9 and 10 and insert: *standards of the actuarial opinion consistent with the most recent standards adopted by the Actuarial Standards Board*

Amendment 1B—On page 150, line 28, strike "and 628.6017" and insert: 628.6017, and 628.6018

Amendment 1 as amended was adopted.

Senator Childers moved the following amendment:

Amendment 2—In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to insurance; amending s. 407.07, F.S.; deleting a reference to a repealed section; amending s. 624.01, F.S.; including ch. 635, F.S., within the Florida Insurance Code; amending s. 624.031, F.S.; defining "self-insurance"; amending s. 624.125, F.S., exempting certain motor vehicle service agreements from the Insurance Code; amending s. 624.155, F.S.; providing a civil remedy for certain persons injured by insurers; amending s. 624.310, F.S.; specifying enforcement powers of the Department of Insurance; providing definitions; providing for cease and desist orders; providing for removal or restriction of affiliated parties; providing for administrative fines and suspension or revocation of authority; specifying applicable procedures; amending s. 624.313, F.S.; requiring the department to publish certain reports; amending s. 624.315, F.S.; providing for the annual report of the department; amending s. 624.316, F.S.; providing for examination of insurers; redesignating s. 627.321, F.S., as s. 624.3161, F.S., and amending said section; providing for market conduct examinations; amending s. 624.317, F.S.; providing for investigation of customer representatives; amending s. 624.320, F.S., relating to examination expenses, to conform; amending s. 624.33, F.S., relating to jurisdiction of the department, to conform; amending s. 624.401, F.S.; providing criminal penalties for acting as an insurer without a certificate of authority; amending s. 624.404, F.S.; providing eligibility criteria for issuance of a certificate of authority; amending ss. 624.407 and 624.408, F.S., specifying surplus requirements for insurers; amending s. 624.412, F.S.; specifying required deposits of alien insurers; amending s. 624.413, F.S.; specifying form for financial statements; amending s. 624.416, F.S.; providing for continuation of certificates of authority; amending s. 624.424, F.S.; requiring filing of annual statements and other information; amending s. 624.430, F.S.; providing for removal of a line of insurance from a certificate of authority; amending s. 624.436, F.S.; specifying sections included within the Florida Nonprofit Multiple-Employer Welfare Arrangement Act; creating s. 624.4361, F.S.; providing definitions; amending s. 624.437, F.S.; requiring a certificate of authority for operation of a multiple-employer welfare arrangement; amending s. 624.438, F.S.; specifying eligibility criteria for issuance of a certificate of authority to an arrangement; creating s. 624.4385, F.S.; prohibiting an arrangement from using certain words in its name; amending s. 624.439, F.S.; providing for application for certificate of authority; amending s. 624.4392, F.S.; specifying fund balance required of an arrangement; amending s. 624.44, F.S.; providing for examination by the department; amending s. 624.441, F.S.; providing for insolvency protection; creating s. 624.4411, F.S.; providing for approval of certain contracts of an arrangement by the department; amending s. 624.4415, F.S.; providing for assessments of employers; creating s. 624.4416, F.S.; providing for assessments by the receiver of an arrangement; creating s. 624.4417, F.S.; prohibiting an arrangement from selling coverage to the general public or certain employers; specifying liability for assessments of persons who sell coverage in violation of the prohibition and of persons to whom coverage was so sold; providing penalties; amending s. 624.442, F.S.; requiring

annual and quarterly reports; providing administrative penalties; requiring retention of an independent certified public accountant by each authorized arrangement; providing for terms of contract; creating s. 624.4431, F.S.; specifying administrative and rulemaking authority of the department; creating s. 624.4432, F.S.; requiring arrangements to comply with specified provisions relating to assets, liabilities, and investments; amending s. 624.444, F.S.; providing for denial, suspension, or revocation of an arrangement's certificate of authority; amending s. 624.445, F.S.; specifying provisions applicable to denial, suspension, or revocation of a certificate of authority; providing administrative penalties; amending s. 624.462, F.S.; providing criteria for establishment of commercial self-insurance funds; amending s. 624.474, F.S.; providing that the trustees or directors of a self-insurance fund may assess members; amending s. 624.482, F.S., relating to making and use of rates, to conform; amending s. 624.489, F.S.; specifying liability of directors of self-insurance funds operating as corporations; amending s. 624.523, F.S.; providing for deposit of certain moneys in the Insurance Commissioner's Regulatory Trust Fund; amending s. 624.610, F.S.; specifying entities that are approved reinsurers; limiting reinsurance agreements in certain circumstances; providing circumstances under which no credit is allowed for reinsurance; amending s. 624.80, F.S., relating to a definition of "insurer", to conform; amending s. 625.091, F.S.; specifying reserves required for losses and loss adjustment expenses; amending s. 625.121, F.S.; revising the standard valuation law for life insurance; amending s. 625.151, F.S.; providing for valuation of securities; amending s. 625.305, F.S.; providing for diversification; amending s. 625.316, F.S.; authorizing insurers to invest in certain international development banks; amending s. 625.327, F.S.; providing that said section supersedes a specified provision of federal law; amending s. 625.51, F.S.; providing for deposits of domestic insurers; amending s. 625.52, F.S.; specifying securities eligible for deposit; amending s. 625.58, F S.; specifying actions the department may take with respect to an insurer that fails to cure a deficiency in its deposit; amending s. 625.62, F.S.; providing for holding and release of deposit; amending s. 625.63, F.S.; providing for release of deposit; amending s. 626.2815, F.S.; changing certain continuing education requirements for insurance agents and other licensees; amending s. 626.431, F.S.; requiring the Department of Insurance to notify certain agents that eligibility for appointment may expire; amending s. 626.852, F.S.; providing that third-party administrators and employees are exempt from licensure as adjusters; amending s. 626.858, F.S.; deleting provisions of definitions; amending s. 626.873, F.S.; deleting provisions requiring issuance of licenses; amending s. 627.091, F.S., relating to workers' compensation and employer's liability rate filings, to conform; amending s. 627.311, F.S., relating to joint underwriters and joint reinsurers, to conform; amending s. 627.4585, F.S., relating to interest on policy loans, to conform; amending s. 627.482, F.S., relating to interest payable on cash surrender of policy, to conform; amending s. 628.051, F.S.; specifying content of application for permit to form insurer; amending s. 628.081, F.S.; specifying content of articles of incorporation of domestic insurer; amending s. 628.161, F.S.; specifying qualifications for mutual insurers; amending s. 628.171, F.S.; providing bond requirements for mutual insurers; redesignating s. 628.331, F.S., relating to enforcement of contingent liability, as s. 628.615, F.S.; amending s. 628.451, F.S.; providing for merger or share exchange of stock insurers; amending s. 628.4615, F.S.; redesignating allied lines insurers as specialty insurers; providing for acquisition of controlling stock, ownership interest, assets, or control; amending s. 628.471, F.S.; providing for mergers of mutual insurers; amending s. 628.520, F.S.; providing for change of domicile of a foreign insurer; creating ss. 628.6011, 628.6012, 628.6013, 628.6014, 628.6015, 628.6016, and 628.6017, F.S.; providing for creation, regulation, and conversion of assessable mutual insurers; amending s. 628.901, F.S.; defining "captive insurer"; amending ss. 627.944, 627.949, 627.952, 632.634, 634.171, 634.181, 634.191, 634.201, 634.211, 634.317, 634.318, 634.319, 634.320, 634.321, 634.322, 634.3225, 634.323, 634.419, 634.420, 634.421, 634.422, 634.423, 634.424, 634.425, 634.426, 635.051, 637.141, 637.143, 637.144, 637.145, 637.146, 637.301, 637.302, 637.303, 637.304, 637.305, 637.415, 638.181, 638.191, 638.201, 638.211, 638.221, 639.185, 641.386, 642.034, 642.036, 642.038, 642.041, 642.043, 642.045, and 642.047, F.S.; applying provisions relating to licensure, appointment, and discipline of insurance agents, unlawful rebating, and fees, to persons engaged in sales for risk retention and purchasing groups, fraternal benefit societies, motor vehicle service agreement companies, home warranty associations, service warranty associations, mortgage guaranty insurance, optometric service plan corporations, pharmaceutical service plan corporations, dental service plan corporations, ambulance service associations, preneed funeral merchandise or service contracts, health maintenance organizations, and legal expense insurers; amending s. 628.903, F.S.; increasing the minimum premium for certain industrial insured captive insurers; amending s. 629.261, F.S.; conforming a reference to surplus to current usage; amending s. 629.513, F.S., relating to making and use of rates of limited reciprocal insurers, to conform; creating s. 629.520, F.S.; abolishing the power of the department to issue certificates of authority as limited reciprocal insurers; amending s. 631.011, F.S.; providing definitions; amending s. 631.041, F.S.; providing for automatic stays in delinquency proceedings; creating s. 631.112, F.S.; providing for subordination of claims for noncooperation; amending s. 631.141, F.S.; providing for disposition of records of delinquency proceedings for domestic and alien insurers; amending s. 631.152, F.S.; providing for conduct of delinquency proceedings of foreign insurers; amending s. 631.154, F.S.; providing procedures for delivery to the receiver of funds or property in the possession of third parties; amending s. 631.155, F.S.; providing for an accounting of premiums and unearned commissions collected by an agent; amending s. 631.171, F.S.; specifying rights of Florida residents with respect to liquidation proceedings in other states; amending s. 631.181, F.S.; providing for filing and proof of claims; amending s. 631.182, F.S.; providing for resolution of objections to the receiver's report; amending s. 631.221, F.S.; specifying accounting practices to be used by receivers; amending s. 631.252, F.S.; providing for continuation of coverage; amending s. 631.271, F.S.; specifying priority of distribution of claims from the insurer's estate; amending s. 631.391, F.S.; requiring officers and employees of an insurer's affiliate to cooperate with the department; amending s. 631.66, F.S.; providing immunity for members of the Florida Insurance Guaranty Association; amending s. 631.713, F.S.; revising application; amending s. 631.714, F.S.; defining "covered policy"; amending s. 631.717, F.S.; limiting liability of the Florida Life and Health Insurance Guaranty Association; amending s. 631.722, F.S.; requiring members of the Florida Life and Health Insurance Guaranty Association to pay assessments that are under appeal; providing for subsequent refund; amending s. 631.727, F.S.; providing immunity for members of the association; amending s. 631.737, F.S.; providing for review and tolling of noncontestable period; amending s. 631.814, F.S.; providing definitions; amending s. 631.816, F.S.; specifying membership of the board of the Florida Health Maintenance Organization Consumer Assistance Plan; amending s. 631.817, F.S.; specifying eligibility for coverage under the plan; amending s. 631.818, F.S.; specifying powers and duties of the plan; amending s. 631.819, F.S.; providing for assessment by board of directors; amending s. 631.820, F.S.; providing for the plan of operation of the plan; amending s. 631.821, F.S.; providing circumstances for suspension or revocation of the certificate of authority of a member health maintenance organization; amending s. 631.822, F.S.; providing for records of the plan; amending s. 641.19, F.S.; providing definitions; amending s. 641.21, F.S.; providing for application for certificate of authority to operate a health maintenance organization; creating s. 641.215, F.S.; providing conditions for issuance or maintenance of a health maintenance organization's certificate of authority; specifying effect of bankruptcy proceedings; amending s. 641.228, F.S., relating to the Florida Health Maintenance Organization Consumer Assistance Plan, to conform; amending s. 641.23, F.S.; specifying effect of denial, revocation, or nonrenewal of a Health Care Provider Certificate; amending s. 641.26, F.S.; specifying form and content of a health maintenance organization's annual report; amending s. 641.27, F.S.; providing for examination by the department; amending s. 641.28, F.S.; providing for attorney's fees and costs in certain actions against health maintenance organizations; creating s. 641.284, F.S.; specifying exclusive methods of liquidation, rehabilitation, reorganization, and conservation; amending s. 641.29, F.S.; providing fees; creating s. 641.309, F.S.; providing standards for marketing to persons eligible for Medicare; amending s. 641.31, F.S.; requiring notice of rate changes in health maintenance contracts; providing for discontinuation of disapproved rating methodologies; specifying content of contracts; requiring open enrollment periods; limiting certain defenses; requiring health maintenance organizations to make available at the option of the subscriber certain osteopathic hospital services; amending s. 641.3108, F.S.; requiring advance notice of termination, cancellation, or nonrenewal of contract; amending s. 641.311, F.S.; providing for a statewide subscriber assistance program; authorizing the Department of Health and Rehabilitative Services to impose fines on health maintenance organizations that fail to meet certain standards; amending s. 641.3111, F.S.; providing for extension of benefits; amending s. 641.315, F.S.; providing for contracts with health care providers; amending s. 641.35, F.S.; providing for assets, liabilities, and investments of health maintenance organizations; amending s. 641.36, F.S.; providing for rules; specifying sanctions for violation of rules; amending s. 641.3905, F.S.; specifying powers and duties of the department; amending s. 641.3921, F.S.; specifying limits on convertibility of contract; amending s. 641.3922, F.S.; providing for cancellation or nonrenewability clause of contracts;

amending s. 642.032, F.S., relating to legal expense insurance, to conform; specifying enforcement authority of the Department of Labor and Employment Security; reenacting ss. 395.0172(2)(c), 402.48(8)(c), 404.111(2)(a), 458.320(1)(b) and (2)(a), 459.0085(1)(a) and (2)(a), 624.11(2), 624.402(4), 624.4414(1) and (2), 624.466(9)(a), 624.488(1) and (2), 624.606(2)(c), 624.609(3), 625.012(8), 626.8417(3)(g), 626.88(1)(i), 627.9403, 628.071(2), 628.261, 629.131, 631.061, 631.071(1), 631.081(1), 631.371(1), 631.828, 632.638(3), 634.052(1) and (2), 634.252, 634.253(1), 634.305(1) and (2)(a), 634.3073, 634.405(1), 634.4085, 637.153, 637.316, 637.422, 638.052, 638.081(1), 639.106, 641.255, 641.285(1), 641.35(1)(d), 641.416, 641.47(1) and (5), 642.023(1), 651.024, 651.035(7)(e), 651.071(1), 651.105(1), and 651.114(5), relating to health care utilization review, health care services pools, surety requirements, physicians' and osteopaths' financial responsibility, risk retention groups, reinsurance, employers' liability in multiple-employer welfare arrangements, commercial self-insurance funds, reinsurance, title insurance agents, administrators, long-term care insurance policies, permits to form insurers, notice of change of director or officer, attorney's deposit in lieu of bond, grounds for liquidation or conservation, seizure, assessments against health maintenance organizations, fraternal benefit societies, motor vehicle service agreement companies, home warranty associations, service warranty associations, optometric service plans, pharmaceutical service plans, dental service plans, ambulance service associations, preneed funeral contracts, health maintenance organizations, prepaid health clinics, legal expense insurance corporations, and continuing care facilities and contracts, to incorporate amendments to various provisions in references thereto; repealing ss. 624.308(3), 624.3151, 627.9301, 627.9302, 627.9303, 627.9304, 627.9305, 628.181, 628.191, 628.201, 628.311, 628.321, 628.4314, 631.243, 641.01, 641.02, 641.025, 641.03, 641.04, 641.05, 641.06, 641.08, 641.12, 641.125, 641.13, 641.14, 641.151, and 641.155, F.S., relating to administrative rules, complaint ratios, life maintenance contracts, mutual insurers, captive insurers, and health care services plan corporations; repealing ss. 629.50, 629.501, 629.502, 629.504, 629.506, 629.507, 629.508, 629.509, 629.511, 629.512, 629.513, 629.514, 629.516, 629.517, 629.518, and 629.519, F.S., relating to limited reciprocal insurers, effective October 1, 1992; saving parts I, II, III, and V of chapter 624 and chapters 625, 628, 629, 630, 631, and 641, F.S., from Sunset repeal; providing for future review and repeal; providing applicability; providing an effective date.

Senator Childers moved the following amendment to **Amendment 2** which was adopted:

Amendment 2A—In title, on page 6, line 22, strike "628.615" and insert: 628.6018

Amendment 2 as amended was adopted.

ROLL CALLS ON SENATE BILLS

CS for SB 114

Yeas—35

Madam President	Dantzler	Johnson	Scott
Bankhead	Davis	Kiser	Souto
Beard	Diaz-Balart	Kurth	Thomas
Brown	Dudley	Langley	Thurman
Bruner	Forman	Malchon	Walker
Casas	Girardeau	McKay	Weinstein
Childers	Gordon	Meek	Weinstock
Crenshaw	Grant	Myers	Yancey
Crotty	Jennings	Plummer	

Nays—None

SB 154

Yeas—36

Madam President	Dantzler	Grizzle	Plummer
Bankhead	Davis	Jenne	Scott
Beard	Diaz-Balart	Jennings	Souto
Brown	Dudley	Johnson	Thurman
Bruner	Forman	Kurth	Walker
Casas	Gardner	Langley	Weinstein
Childers	Girardeau	Malchon	Weinstock
Crenshaw	Gordon	Meek	Wexler
Crotty	Grant	Myers	Yancey

Nays—None

Vote after roll call:

Yea to Nay—Bruner

CS for SB 654

Yeas—36

Madam President	Dantzler	Jenne	Myers
Bankhead	Davis	Jennings	Souto
Beard	Diaz-Balart	Johnson	Thomas
Brown	Dudley	Kiser	Thurman
Bruner	Forman	Kurth	Walker
Casas	Girardeau	Langley	Weinstein
Childers	Gordon	Malchon	Weinstock
Crenshaw	Grant	McKay	Wexler
Crotty	Grizzle	Meek	Yancey

Nays—None

CS for SB 760

Yeas—36

Bankhead	Davis	Jenne	Myers
Beard	Diaz-Balart	Jennings	Scott
Brown	Dudley	Johnson	Souto
Bruner	Forman	Kiser	Thomas
Casas	Gardner	Kurth	Thurman
Childers	Girardeau	Langley	Walker
Crenshaw	Gordon	Malchon	Weinstock
Crotty	Grant	McKay	Wexler
Dantzler	Grizzle	Meek	Yancey

Nays—None

SB 804

Yeas—32

Madam President	Dantzler	Jenne	Plummer
Bankhead	Davis	Jennings	Scott
Beard	Dudley	Johnson	Souto
Brown	Gardner	Kiser	Walker
Bruner	Girardeau	Langley	Weinstein
Casas	Gordon	Malchon	Weinstock
Childers	Grant	McKay	Wexler
Crenshaw	Grizzle	Myers	Yancey

Nays—None

CS for SB 880

Yeas—33

Madam President	Dudley	Kiser	Souto
Bankhead	Forman	Kurth	Thomas
Beard	Girardeau	Langley	Walker
Casas	Gordon	Malchon	Weinstein
Childers	Grant	McKay	Weinstock
Crenshaw	Grizzle	Meek	Wexler
Dantzler	Jenne	Myers	
Davis	Jennings	Plummer	
Diaz-Balart	Johnson	Scott	

Nays—None

CS for SB 1148

Yeas—36

Madam President	Dantzler	Jennings	Scott
Bankhead	Davis	Johnson	Souto
Beard	Diaz-Balart	Kiser	Thomas
Brown	Dudley	Kurth	Thurman
Bruner	Forman	Langley	Walker
Casas	Gordon	McKay	Weinstein
Childers	Grant	Meek	Weinstock
Crenshaw	Grizzle	Myers	Wexler
Crotty	Jenne	Plummer	Yancey

Nays—None

CS for SB 1192

Yeas—37

Madam President	Davis	Kirkpatrick	Souto
Bankhead	Diaz-Balart	Kiser	Thomas
Beard	Dudley	Kurth	Thurman
Brown	Forman	Langley	Walker
Bruner	Gardner	Malchon	Weinstein
Casas	Girardeau	McKay	Weinstock
Childers	Gordon	Meek	Yancey
Crenshaw	Grizzle	Myers	
Crotty	Jennings	Plummer	
Dantzler	Johnson	Scott	

Nays—None

CS for SB 1330

Yeas—38

Madam President	Diaz-Balart	Johnson	Souto
Bankhead	Dudley	Kiser	Thomas
Beard	Forman	Kurth	Thurman
Brown	Gardner	Langley	Walker
Bruner	Girardeau	Malchon	Weinstein
Casas	Gordon	McKay	Weinstock
Childers	Grant	Meek	Wexler
Crotty	Grizzle	Myers	Yancey
Dantzler	Jenne	Plummer	
Davis	Jennings	Scott	

Nays—None

Vote after roll call:

Yea—Crenshaw

CS for SB 1430

Yeas—35

Madam President	Davis	Jennings	Souto
Bankhead	Diaz-Balart	Johnson	Thomas
Beard	Dudley	Kirkpatrick	Thurman
Brown	Forman	Kiser	Walker
Bruner	Girardeau	Kurth	Weinstein
Casas	Gordon	Langley	Weinstock
Childers	Grant	Meek	Wexler
Crenshaw	Grizzle	Myers	Yancey
Dantzler	Jenne	Plummer	

Nays—None

CS for SB 1610

Yeas—36

Madam President	Diaz-Balart	Jennings	Plummer
Bankhead	Dudley	Johnson	Scott
Beard	Forman	Kirkpatrick	Souto
Brown	Gardner	Kiser	Thurman
Casas	Girardeau	Kurth	Walker
Childers	Gordon	Langley	Weinstein
Crotty	Grant	Malchon	Weinstock
Dantzler	Grizzle	McKay	Wexler
Davis	Jenne	Myers	Yancey

Nays—None

Vote after roll call:

Yea—Crenshaw

CS for SB 1626

Yeas—26

Madam President	Diaz-Balart	Jenne	Thurman
Bankhead	Dudley	Kurth	Weinstein
Brown	Forman	Malchon	Weinstock
Casas	Gardner	McKay	Wexler
Childers	Gordon	Plummer	Yancey
Crotty	Grant	Souto	
Davis	Grizzle	Thomas	

Nays—7

Beard	Jennings	Kiser	Myers
Dantzler	Johnson	Langley	

CS for SB 1694—After Reconsideration

Yeas—38

Madam President	Davis	Jennings	Souto
Bankhead	Diaz-Balart	Johnson	Thomas
Beard	Dudley	Kirkpatrick	Thurman
Brown	Forman	Kurth	Walker
Bruner	Gardner	Langley	Weinstein
Casas	Girardeau	Malchon	Weinstock
Childers	Gordon	McKay	Wexler
Crenshaw	Grant	Meek	Yancey
Crotty	Grizzle	Myers	
Dantzler	Jenne	Plummer	

Nays—None

CS for CS for SB 1890

Yeas—37

Madam President	Diaz-Balart	Kirkpatrick	Thomas
Bankhead	Dudley	Kiser	Thurman
Beard	Forman	Kurth	Walker
Brown	Girardeau	Langley	Weinstein
Bruner	Gordon	McKay	Weinstock
Casas	Grant	Meek	Wexler
Crenshaw	Grizzle	Myers	Yancey
Crotty	Jenne	Plummer	
Dantzler	Jennings	Scott	
Davis	Johnson	Souto	

Nays—None

CS for SB 2058—Amendment 1

Yeas—12

Bankhead	Dudley	Grizzle	Meek
Brown	Girardeau	Jenne	Souto
Diaz-Balart	Gordon	Kiser	Weinstein

Nays—21

Beard	Davis	McKay	Weinstock
Bruner	Forman	Myers	Wexler
Casas	Grant	Plummer	Yancey
Childers	Jennings	Scott	
Crenshaw	Kurth	Thomas	
Crotty	Langley	Thurman	

SB 2112

Yeas—38

Madam President	Davis	Jennings	Scott
Bankhead	Diaz-Balart	Johnson	Souto
Beard	Dudley	Kirkpatrick	Thomas
Brown	Forman	Kurth	Thurman
Bruner	Gardner	Langley	Walker
Casas	Girardeau	Malchon	Weinstock
Childers	Gordon	McKay	Wexler
Crenshaw	Grant	Meek	Yancey
Crotty	Grizzle	Myers	
Dantzler	Jenne	Plummer	

Nays—None

CS for SB 2280

Yeas—35

Madam President	Childers	Dudley	Grizzle
Bankhead	Crenshaw	Forman	Jenne
Beard	Crotty	Girardeau	Jennings
Brown	Dantzler	Gordon	Johnson
Bruner	Davis	Grant	Kirkpatrick

Kiser	Meek	Thomas	Weinstock
Kurth	Myers	Thurman	Wexler
Langley	Plummer	Walker	Yancey
McKay	Scott	Weinstein	

Nays—3

Casas	Diaz-Balart	Souto

CS for SB 2342

Yeas—35

Madam President	Diaz-Balart	Jennings	Plummer
Beard	Dudley	Johnson	Souto
Brown	Forman	Kirkpatrick	Thurman
Bruner	Gardner	Kurth	Walker
Casas	Girardeau	Langley	Weinstein
Childers	Gordon	Malchon	Weinstock
Crotty	Grant	McKay	Wexler
Dantzler	Grizzle	Meek	Yancey
Davis	Jenne	Myers	

Nays—None

SR 2484

Yeas—38

Madam President	Dudley	Kirkpatrick	Souto
Beard	Forman	Kiser	Thomas
Brown	Gardner	Kurth	Thurman
Bruner	Girardeau	Langley	Walker
Casas	Gordon	Malchon	Weinstein
Childers	Grant	McKay	Weinstock
Crenshaw	Grizzle	Meek	Wexler
Crotty	Jenne	Myers	Yancey
Dantzler	Jennings	Plummer	
Diaz-Balart	Johnson	Scott	

Nays—None

All Senators voting were recorded as co-sponsors of **SR 2484**.

ROLL CALLS ON HOUSE BILLS

CS for HB's 91 and 1053

Yeas—37

Madam President	Davis	Jennings	Thomas
Bankhead	Diaz-Balart	Johnson	Thurman
Beard	Dudley	Kirkpatrick	Walker
Brown	Forman	Kiser	Weinstein
Bruner	Gardner	Langley	Weinstock
Casas	Girardeau	Meek	Wexler
Childers	Gordon	Myers	Yancey
Crenshaw	Grant	Plummer	
Crotty	Grizzle	Scott	
Dantzler	Jenne	Souto	

Nays—None

Vote after roll call:

Yea—Kurth, Malchon

CS for HB 207

Yeas—37

Madam President	Davis	Jennings	Souto
Bankhead	Diaz-Balart	Johnson	Thurman
Beard	Dudley	Kiser	Walker
Brown	Forman	Langley	Weinstein
Bruner	Gardner	Malchon	Weinstock
Casas	Girardeau	McKay	Wexler
Childers	Gordon	Meek	Yancey
Crenshaw	Grant	Myers	
Crotty	Grizzle	Plummer	
Dantzler	Jenne	Scott	

Nays—None

Vote after roll call:

Yea—Kurth

CS for HB 207—After Reconsideration

Yeas—30

Madam President	Diaz-Balart	Jennings	Plummer
Beard	Dudley	Johnson	Souto
Brown	Forman	Kirkpatrick	Thurman
Casas	Gardner	Kurth	Weinstein
Childers	Gordon	Langley	Weinstock
Crotty	Grant	McKay	Wexler
Dantzler	Grizzle	Meek	
Davis	Jenne	Myers	

Nays—None

CS for HB 417

Yeas—39

Madam President	Davis	Jennings	Plummer
Bankhead	Diaz-Balart	Johnson	Scott
Beard	Dudley	Kirkpatrick	Souto
Brown	Forman	Kiser	Thurman
Bruner	Gardner	Kurth	Walker
Casas	Girardeau	Langley	Weinstein
Childers	Gordon	Malchon	Weinstock
Crenshaw	Grant	McKay	Wexler
Crotty	Grizzle	Meek	Yancey
Dantzler	Jenne	Myers	

Nays—None

CS for HB 457

Yeas—33

Beard	Diaz-Balart	Kurth	Thurman
Brown	Dudley	Langley	Walker
Bruner	Forman	Malchon	Weinstein
Casas	Gordon	McKay	Weinstock
Childers	Grant	Myers	Wexler
Crenshaw	Jenne	Plummer	Yancey
Crotty	Jennings	Scott	
Dantzler	Johnson	Souto	
Davis	Kiser	Thomas	

Nays—None

Vote after roll call:

Yea—Bankhead, Girardeau

CS for HB's 539 and 757

Yeas—36

Madam President	Diaz-Balart	Jennings	Plummer
Bankhead	Dudley	Johnson	Scott
Bruner	Forman	Kirkpatrick	Souto
Casas	Gardner	Kiser	Thurman
Childers	Girardeau	Kurth	Walker
Crenshaw	Gordon	Langley	Weinstein
Crotty	Grant	Malchon	Weinstock
Dantzler	Grizzle	Meek	Wexler
Davis	Jenne	Myers	Yancey

Nays—None

Vote after roll call:

Yea—Beard

CS for CS for HB 1005

Yeas—37

Madam President	Childers	Dudley	Jenne
Bankhead	Crenshaw	Forman	Jennings
Beard	Crotty	Gardner	Johnson
Brown	Dantzler	Girardeau	Kiser
Bruner	Davis	Grant	Kurth
Casas	Diaz-Balart	Grizzle	Langley

Malchon	Plummer	Thurman	Yancey
McKay	Scott	Weinstein	
Meek	Souto	Weinstock	
Myers	Thomas	Wexler	

Nays—None

CS for HB 1493

Yeas—34

Madam President	Dantzler	Jenne	Scott
Bankhead	Davis	Jennings	Souto
Beard	Diaz-Balart	Johnson	Thurman
Brown	Forman	Kurth	Walker
Bruner	Gardner	Langley	Weinstock
Casas	Girardeau	Malchon	Wexler
Childers	Gordon	McKay	Yancey
Crenshaw	Grant	Meek	
Crotty	Grizzle	Myers	

Nays—None

Vote after roll call:

Yea—Dudley, Weinstein

HB 2251—Amendment 1D

Yeas—19

Bankhead	Crenshaw	Grizzle	McKay
Beard	Crotty	Jennings	Myers
Bruner	Diaz-Balart	Johnson	Scott
Casas	Dudley	Kiser	Souto
Childers	Grant	Langley	

Nays—20

Madam President	Gardner	Kurth	Walker
Brown	Girardeau	Meek	Weinstein
Dantzler	Gordon	Plummer	Weinstock
Davis	Jenne	Thomas	Wexler
Forman	Kirkpatrick	Thurman	Yancey

HB 2251—Amendment 1E

Yeas—23

Beard	Crotty	Jennings	Scott
Brown	Diaz-Balart	Johnson	Souto
Bruner	Dudley	Kiser	Thomas
Casas	Girardeau	Langley	Walker
Childers	Grant	McKay	Wexler
Crenshaw	Grizzle	Myers	

Nays—15

Madam President	Forman	Kurth	Weinstein
Bankhead	Gardner	Meek	Weinstock
Dantzler	Gordon	Plummer	Yancey
Davis	Kirkpatrick	Thurman	

HB 2251—Amendment 1L

Yeas—31

Bankhead	Dudley	Johnson	Souto
Beard	Forman	Kirkpatrick	Thomas
Brown	Girardeau	Kiser	Thurman
Bruner	Gordon	Kurth	Walker
Casas	Grant	Langley	Weinstein
Crenshaw	Grizzle	McKay	Weinstock
Crotty	Jenne	Myers	Wexler
Dantzler	Jennings	Scott	

Nays—4

Davis	Gardner	Meek	Yancey

Vote after roll call:

Yea—Diaz-Balart

HB 2251

Yeas—26

Madam President	Diaz-Balart	Kirkpatrick	Walker
Brown	Dudley	Kurth	Weinstein
Bruner	Forman	Meek	Weinstock
Casas	Gardner	Plummer	Wexler
Crotty	Girardeau	Souto	Yancey
Dantzler	Gordon	Thomas	
Davis	Jenne	Thurman	

Nays—13

Bankhead	Grant	Kiser	Scott
Beard	Grizzle	Langley	
Childers	Jennings	McKay	
Crenshaw	Johnson	Myers	

Explanation of Vote

I have voted for **HB 2251** because of the good campaign reforms contained therein. However, I remain adamantly opposed to public funding of campaigns, particularly in a year where economic circumstances have prevented us from providing needed funding for existing programs, such as public education. The use of any public funds for political campaigns is wrong; it discourages voter participation at a time when we should be doing everything possible to increase such participation.

Fred R. Dudley, 38th District

CS for HB 2309

Yeas—36

Madam President	Dantzler	Jenne	Myers
Bankhead	Davis	Jennings	Plummer
Beard	Diaz-Balart	Johnson	Souto
Brown	Dudley	Kirkpatrick	Thomas
Bruner	Forman	Kiser	Thurman
Casas	Girardeau	Kurth	Walker
Childers	Gordon	Langley	Weinstock
Crenshaw	Grant	McKay	Wexler
Crotty	Grizzle	Meek	Yancey

Nays—None

Vote after roll call:

Yea—Weinstein

ROLL CALLS ON MOTIONS

Reconsideration of Motions by Senator Thomas

Yeas—21

Bankhead	Diaz-Balart	Kiser	Souto
Brown	Girardeau	Langley	Weinstock
Casas	Grant	McKay	Wexler
Crenshaw	Grizzle	Meek	
Crotty	Jennings	Myers	
Dantzler	Johnson	Plummer	

Nays—11

Bruner	Forman	Kurth	Thurman
Childers	Gordon	Scott	Walker
Davis	Kirkpatrick	Thomas	

CORRECTION AND APPROVAL OF JOURNAL

The Journal of April 19 was corrected and approved.

CO-SPONSORS

Senator Davis—SB 396; Senator Diaz-Balart—SB 2148; Senator Myers—CS for SB 1192; Senator Souto—CS for SB's 404 and 638, CS for SB 1116, SB 1724

RECESS

On motion by Senator Thomas, the Senate recessed at 6:31 p.m. to reconvene at 9:30 a.m., Tuesday, April 23.

SENATE PAGES
April 22-26

Robert Albury, Oviedo; Michele Desvousges, Tallahassee; Thomas M. Ervin, III, Tallahassee; Mary Claire Estes, Oviedo; Thomas J. Fraites, Jr., Niceville; Jessica Irene Francis, Inverness; William Jerome Golden, Tallahassee; Alicia J. Goree, Niceville; Heidi Hatton, Seminole; Jennifer M. James, Immokalee; Desiree Emily Jerrels, Bronson; Jenine Korfant, Seminole; Leonard LeBaron Inge, Jr., Tallahassee; Jason Lindsey, Niceville; Keisha Miller, Immokalee; Jessica Patrick, Tallahassee; Brian James Musselwhite, Tallahassee; Lisa Rowe, St. Petersburg; Jonathan Sansom, Ft. Walton Beach; Andra Kay Smith, Tallahassee