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A bill to be entitled
 An act relating to governmental reorganization; conforming
 the Florida Statutes to the amendment of Article IV,
 Section 4 of the State Constitution, in which the
 functions of the former positions of Comptroller and
 Treasurer were combined into the office of Chief Financial
 Officer, and chapter 2002-404, Laws of Florida, which
 reorganized certain executive-branch duties and functions
 to implement such constitutional amendment; amending ss.
 11.12, 11.13, 11.147, 11.151, 11.40, 11.42, 14.057,
 14.058, 14.203, 15.09, 16.10, 17.001, 17.002, 17.011,
 17.02, 17.03, 17.031, 17.04, 17.0401, 17.041, 17.0415,
 17.05, 17.075, 17.076, 17.08, 17.09, 17.10, 17.11, 17.12,
 17.13, 17.14, 17.16, 17.17, 17.20, 17.21, 17.22, 17.25,
 17.26, 17.27, 17.28, 17.29, 17.30, 17.32, 17.325, 17.41,
 and 17.43, F.S.; to conform; transferring, renumbering,
 and amending ss. 18.01, 18.02, 18.021, 18.05, 18.06,
 18.07, 18.08, 18.091, 18.10, 18.101, 18.103, 18.104,
 18.125, 18.15, 18.17, 18.20, 18.23, and 18.24, F.S.; to
 conform; amending ss. 20.04, 20.055, 20.195, 20.425,
 20.435, 24.105, 24.111, 24.112, 24.120, 25.241, 26.39,
 27.08, 27.10, 27.11, 27.12, 27.13, 27.34, 27.3455, 27.703,
 27.710, 27.711, 28.235, 28.24, 30.49, 30.52, 40.30, 40.31,
 40.33, 40.34, 40.35, 43.16, 43.19, 48.151, 55.03, 57.091,
 68.083, 68.084, 68.087, 68.092, 77.0305, 92.39, 99.097,
 107.11, 110.113, 110.114, 110.116, 110.1227, 110.1228,
 110.123, 110.125, 110.181, 110.2037, 110.205, 112.061,
 112.08, 112.191, 112.3144, 112.3145, 112.3189, 112.31895,
 112.3215, 112.63, 116.03, 116.04, 116.05, 116.06, 116.14,
 120.52, 120.80, 121.051, 121.055, 121.061, 121.133,



HB 1803

2003

31 122.35, 125.0104, 129.201, 131.05, 137.09, 145.141,
 32 154.02, 154.03, 154.05, 154.06, 154.209, 154.314, 163.01,
 33 163.055, 163.3167, 166.111, 175.032, 175.101, 175.121,
 34 175.151, 185.08, 185.10, 185.13, 189.4035, 189.412,
 35 189.427, 190.007, 191.006, 192.091, 192.102, 193.092,
 36 195.101, 198.29, 199.232, 203.01, 206.46, 210.16, 210.20,
 37 210.50, 211.06, 211.31, 211.32, 212.08, 212.12, 212.20,
 38 213.053, 213.054, 213.255, 213.67, 213.75, 215.02, 215.03,
 39 215.04, 215.05, 215.11, 215.20, 215.22, 215.23, 215.24,
 40 215.25, 215.26, 215.29, 215.31, 215.32, 215.3206,
 41 215.3208, 215.322, 215.34, 215.35, 215.405, 215.42,
 42 215.422, 215.50, 215.551, 215.552, 215.56005, 215.5601,
 43 215.58, 215.684, 215.70, 215.91, 215.92, 215.93, 215.94,
 44 215.96, 215.965, 215.97, 216.0442, 216.102, 216.141,
 45 216.177, 216.181, 216.183, 216.192, 216.212, 216.221,
 46 216.222, 216.235, 216.237, 216.251, 216.271, 216.275,
 47 216.292, 216.301, 217.07, 218.06, 218.23, 218.31, 218.321,
 48 218.325, 220.151, 220.187, 220.62, 220.723, 238.11,
 49 238.15, 238.172, 238.173, 250.22, 250.24, 250.25, 250.26,
 50 250.34, 252.87, 253.025, 255.03, 255.052, 255.258,
 51 255.503, 255.521, 257.22, 258.014, 259.032, 259.041,
 52 265.53, 265.55, 267.075, 272.18, 280.02, 280.04, 280.041,
 53 280.05, 280.051, 280.052, 280.053, 280.054, 280.055,
 54 280.06, 280.07, 280.071, 280.08, 280.085, 280.09, 280.10,
 55 280.11, 280.13, 280.16, 280.17, 280.18, 280.19, 282.1095,
 56 284.02, 284.04, 284.05, 284.06, 284.08, 284.14, 284.17,
 57 284.30, 284.31, 284.32, 284.33, 284.34, 284.35, 284.37,
 58 284.385, 280.39, 284.40, 284.41, 284.42, 284.44, 284.50,
 59 287.042, 287.057, 287.058, 287.063, 287.064, 287.09451,
 60 287.115, 287.131, 287.175, 288.1045, 288.106, 288.109,



HB 1803

2003

61 288.1253, 288.709, 288.712, 288.776, 292.085, 313.02,
 62 314.02, 316.3025, 316.545, 320.02, 320.081, 320.20,
 63 320.71, 320.781, 322.21, 324.032, 324.171, 326.006,
 64 331.303, 331.309, 331.3101, 331.348, 331.419, 336.022,
 65 337.25, 339.035, 339.081, 344.17, 350.06, 354.03, 365.173,
 66 370.06, 370.16, 370.19, 370.20, 373.503, 373.59, 373.6065,
 67 374.983, 374.986, 376.11, 376.123, 376.307, 376.3071,
 68 376.3072, 376.3075, 376.3078, 376.3079, 376.40, 377.23,
 69 377.2425, 377.705, 378.035, 378.037, 378.208, 381.765,
 70 381.90, 385.207, 388.201, 388.301, 391.025, 392.69,
 71 393.002, 393.075, 394.482, 400.0238, 400.063, 400.071,
 72 400.4174, 400.4298, 400.471, 400.962, 401.25, 402.04,
 73 402.17, 402.33, 403.1835, 403.1837, 403.706, 403.724,
 74 403.8532, 404.111, 406.58, 408.040, 408.08, 408.18,
 75 408.50, 408.902, 408.909, 409.175, 409.25656, 409.25658,
 76 409.2673, 409.8132, 409.817, 409.818, 409.910, 409.912,
 77 409.9124, 409.915, 411.01, 413.32, 414.27, 414.28,
 78 420.0005, 420.0006, 420.123, 420.131, 420.141, 420.5092,
 79 430.42, 430.703, 440.015, 440.02, 440.05, 440.09, 440.10,
 80 440.1025, 440.103, 440.105, 440.1051, 440.106, 440.107,
 81 440.134, 440.14, 440.17, 440.40, 440.49, 440.50, 440.51,
 82 440.515, 440.591, 443.131, 443.191, 443.211, 445.0325,
 83 447.12, 450.155, 468.392, 468.529, 473.3065, 475.045,
 84 475.484, 475.485, 489.114, 489.144, 489.145, 489.510,
 85 489.533, 494.001, 494.0011, 494.0012, 494.0013, 494.0014,
 86 494.0016, 494.00165, 494.0017, 494.0021, 494.0025,
 87 494.0028, 494.0029, 494.00295, 494.0031, 494.0032,
 88 494.0033, 494.0034, 494.0035, 494.0036, 494.0038, 494.004,
 89 494.0041, 494.0061, 494.0062, 494.0064, 494.0065,
 90 494.0066, 494.0067, 494.0069, 494.0072, 494.00721,



HB 1803

2003

91 494.0076, 494.0079, 494.00795, 494.00797, 497.005,
 92 497.101, 497.105, 497.107, 497.109, 497.115, 497.117,
 93 497.131, 497.201, 497.253, 497.313, 497.403, 498.025,
 94 498.049, 499.057, 501.212, 507.03, 509.215, 513.055,
 95 516.01, 516.02, 516.03, 516.031, 516.05, 516.07, 516.11,
 96 516.12, 516.22, 516.221, 516.23, 516.32, 516.33, 516.35,
 97 518.115, 518.116, 518.15, 518.151, 518.152, 519.101,
 98 520.02, 520.03, 520.07, 520.31, 520.32, 520.34, 520.52,
 99 520.61, 520.63, 520.73, 520.76, 520.81, 520.83, 520.90,
 100 520.994, 520.995, 520.997, 520.998, 526.141, 537.003,
 101 537.004, 537.005, 537.006, 548.066, 548.077, 550.0251,
 102 550.054, 550.0951, 550.125, 550.135, 550.1645, 552.081,
 103 552.161, 552.21, 552.26, 553.72, 553.73, 553.79, 553.88,
 104 554.1021, 554.105, 554.111, 559.10, 559.543, 559.544,
 105 559.545, 559.546, 559.548, 559.55, 559.553, 559.555,
 106 559.563, 559.730, 559.785, 559.9232, 559.928, 560.102,
 107 560.103, 560.105, 560.106, 560.107, 560.1073, 560.108,
 108 560.109, 560.111, 560.112, 560.113, 560.114, 560.115,
 109 560.116, 560.117, 560.118, 560.119, 560.121, 560.123,
 110 560.125, 560.126, 560.127, 560.202, 560.205, 560.206,
 111 560.207, 560.208, 560.209, 560.210, 560.211, 560.302,
 112 560.305, 560.306, 560.307, 560.308, 560.309, 560.310,
 113 560.402, 560.403, 560.4041, 560.407, 560.408, 561.051,
 114 562.44, 567.08, 569.205, 569.215, 570.13, 570.195, 570.20,
 115 574.03, 589.06, 597.010, 601.10, 601.15, 601.28, 607.0501,
 116 607.14401, 617.0501, 617.1440, 624.01, 624.07, 624.09,
 117 624.11, 624.124, 624.129, 624.19, 624.302, 624.307,
 118 624.308, 624.310, 624.3102, 624.311, 624.312, 624.313,
 119 624.314, 624.315, 624.3161, 624.318, 624.319, 624.320,
 120 624.321, 624.322, 624.324, 624.33, 624.34, 624.401,



HB 1803

2003

121 624.4031, 624.4085, 624.40851, 624.4094, 624.4095,
 122 624.410, 624.411, 624.412, 624.4135, 624.414, 624.415,
 123 624.416, 624.418, 624.420, 624.421, 624.4211, 624.422,
 124 624.423, 624.4241, 624.4243, 624.4245, 624.430, 624.4361,
 125 624.437, 624.438, 624.439, 624.4392, 624.44, 624.441,
 126 624.4411, 624.4412, 624.442, 624.443, 624.4431, 624.444,
 127 624.445, F.S.; amending and renumbering s. 624.4435, F.S.;
 128 amending ss. 624.45, 624.4621, 624.4622, 624.464, 624.466,
 129 624.468, 624.470, 624.473, 624.4741, 624.480, 624.482,
 130 624.484, 624.486, 624.487, 624.501, 624.5015, 624.502,
 131 624.506, 624.509, 624.5091, 624.5092, 624.516, 624.517,
 132 624.519, 624.521, 624.523, 624.6012, 624.605, 624.607,
 133 624.609, 624.610, 624.80, 624.81, 624.82, 624.83, 624.84,
 134 624.85, 624.86, 624.87, 625.012, 625.041, 625.051,
 135 625.061, 625.071, 625.081, 625.091, 625.101, 625.131,
 136 625.141, 625.161, 625.172, 625.181, 625.303, 625.305,
 137 625.322, 625.324, 625.326, 625.330, 625.331, 625.332,
 138 625.333, 625.338, 625.52, 625.53, 625.55, 625.56, 625.57,
 139 625.58, 625.62, 625.63, 625.75, 625.765, 625.78, 625.79,
 140 625.80, 625.82, 625.83, 627.031, 627.0612, 627.0613,
 141 627.062, 627.0625, 627.0645, 627.06501, 627.0651,
 142 627.0652, 627.0653, 627.06535, 627.066, 627.072, 627.091,
 143 627.0915, 627.0916, 627.092, 627.096, 627.101, 627.111,
 144 627.141, 627.151, 627.171, 627.192, 627.211, 627.212,
 145 627.215, 627.221, 627.231, 627.241, 627.281, 627.291,
 146 627.301, 627.314, 627.318, 627.331, 627.3512, 627.3517,
 147 627.361, 627.371, 627.381, 627.4035, 627.410, 627.4101,
 148 627.4105, 627.411, 627.412, 627.413, 627.4145, 627.417,
 149 627.418, 627.4234, 627.4238, 627.427, 627.429, 627.452,
 150 627.458, 627.462, 627.464, 627.476, 627.479, 627.480,



HB 1803

2003

151 | 627.481, 627.482, 627.502, 627.503, 627.510, 627.5515,
 152 | 627.5565, 627.558, 627.602, 627.604, 627.605, 627.6131,
 153 | 627.618, 627.622, 627.623, 627.624, 627.635, 627.640,
 154 | 627.6425, 627.643, 627.647, 627.6472, 627.6475, 627.6482,
 155 | 627.6484, 627.6487, 627.649, 627.6494, 627.6498, 627.6499,
 156 | 627.6515, 627.6561, 627.6571, 627.6675, 627.6685,
 157 | 627.6692, 627.673, 627.6735, 627.674, 627.6741, 627.6742,
 158 | 627.6744, 627.6745, 627.678, 627.6785, 627.682, 627.6844,
 159 | 627.6845, 627.701, 627.7011, 627.7012, 627.7017, 627.702,
 160 | 627.706, 627.727, 627.7275, 627.728, 627.7282, 627.7295,
 161 | 627.736, 627.739, 627.7401, 627.744, 627.758, 627.7711,
 162 | 627.777, 627.7773, 627.780, 627.782, 627.783, 627.7843,
 163 | 627.7845, 627.786, 627.7865, 627.791, 627.793, 627.798,
 164 | 627.805, 627.8055, 627.828, 627.829, 627.832, 627.833,
 165 | 627.834, 627.836, 627.838, 627.840, 627.8405, 627.848,
 166 | 627.849, 627.912, 627.9122, 627.9126, 627.913, 627.914,
 167 | 627.915, 627.917, 627.9175, 627.918, 627.919, 627.9403,
 168 | 627.9404, 627.9405, 627.9406, 627.9407, 627.94072,
 169 | 627.94074, 627.9408, 627.942, 627.943, 627.944, 627.948,
 170 | 627.950, 627.951, 627.952, 627.954, 627.971, 627.972,
 171 | 627.973, 627.974, 627.986, 627.987, 628.051, 628.061,
 172 | 62.071, 628.091, 628.101, 628.111, 628.152, 628.161,
 173 | 628.171, 628.221, 628.251, 628.255, 628.261, 628.271,
 174 | 628.281, 628.341, 628.351, 628.371, 628.391, 628.401,
 175 | 628.411, 628.421, 628.431, 628.441, 628.451, 628.461,
 176 | 628.471, 628.481, 628.491, 628.501, 628.511, 628.520,
 177 | 628.525, 628.530, 628.535, 628.6013, 628.6014, 628.6017,
 178 | 628.705, 628.707, 628.711, 628.713, 628.715, 628.717,
 179 | 628.719, 628.721, 628.725, 628.729, 628.730, 628.733,
 180 | 628.801, 628.802, 628.803, 628.905, 628.911, 628.913,



HB 1803

2003

181 629.081, 629.101, 629.121, 629.131, 629.161, 629.171,
 182 629.181, 629.231, 629.241, 629.261, 629.281, 629.291,
 183 629.301, 629.401, 629.520, 630.021, 630.031, 630.051,
 184 630.071, 630.081, 630.091, 630.101, 630.131, 630.151,
 185 630.161, 632.611, 632.612, 632.614, 632.615, 632.616,
 186 632.621, 632.622, 632.627, 632.628, 632.629, 632.631,
 187 632.632, 632.633, 632.637, 633.01, 633.022, 633.025,
 188 633.052, 633.061, 633.081, 633.111, 633.161, 633.162,
 189 633.30, 633.31, 633.353, 633.382, 633.43, 633.445, 633.45,
 190 633.46, 633.461, 633.47, 633.50, 633.524, 633.802,
 191 633.811, 633.814, 634.011, 634.021, 634.031, 634.041,
 192 634.044, 634.045, 634.052, 634.053, 634.061, 634.081,
 193 634.095, 634.101, 634.111, 634.121, 634.1213, 634.1216,
 194 634.137, 634.141, 634.151, 634.161, 634.181, 634.191,
 195 634.211, 634.221, 634.231, 634.242, 634.253, 634.261,
 196 634.282, 634.283, 634.284, 634.285, 634.286, 634.287,
 197 634.288, 634.289, 634.301, 634.302, 634.303, 634.304,
 198 634.305, 634.306, 634.307, 634.3077, 634.3078, 634.308,
 199 634.310, 634.311, 634.3112, 634.312, 634.3123, 634.3126,
 200 634.313, 634.314, 634.320, 634.321, 634.324, 634.325,
 201 634.327, 634.336, 634.337, 634.338, 634.339, 634.34,
 202 634.341, 634.342, 634.343, 634.344, 634.345, 634.348,
 203 634.401, 634.402, 634.403, 634.404, 634.405, 634.406,
 204 634.4061, 634.4065, 634.407, 634.409, 634.411, 634.413,
 205 634.414, 634.4145, 634.415, 634.416, 634.422, 634.423,
 206 634.426, 634.427, 634.428, 634.437, 634.438, 634.439,
 207 634.44, 634.441, 634.442, 634.443, 634.444, 635.011,
 208 635.031, 635.041, 635.042, 635.071, 635.081, 636.003,
 209 636.006, 636.007, 636.008, 636.009, 636.015, 636.016,
 210 636.017, 636.018, 636.025, 636.029, 636.036, 636.037,



HB 1803

2003

211 636.038, 636.039, 636.043, 636.045, 636.046, 636.047,
 212 636.048, 636.049, 636.052, 636.053, 636.055, 636.056,
 213 636.057, 636.058, 636.062, 636.063, 636.064, 642.015,
 214 642.017, 642.021, 642.022, 642.023, 642.025, 642.027,
 215 642.029, 642.0301, 642.0331, 642.0334, 642.0338, 642.041,
 216 642.043, 642.047, 648.25, 648.26, 648.33, 648.34, 648.35,
 217 648.355, 648.365, 648.386, 648.44, 648.442, 648.571,
 218 650.06, 651.011, 651.012, 651.013, 651.014, 651.015,
 219 651.018, 651.019, 651.021, 651.022, 651.023, 651.0235,
 220 651.026, 651.0261, 651.028, 651.033, 651.035, 651.051,
 221 651.055, 651.083, 651.085, 651.091, 651.095, 651.105,
 222 651.106, 651.107, 651.108, 651.1081, 651.111, 651.114,
 223 651.1151, 651.118, 651.121, 651.123, 651.125, 651.134,
 224 655.001, 655.005, 655.015, 655.016, 655.031, 655.032,
 225 655.0321, 655.0322, 655.033, 655.034, 655.037, 655.0385,
 226 655.0386, 655.0391, 655.041, 655.043, 655.044, 655.045,
 227 655.047, 655.049, 655.057, 655.059, 655.061, 655.071,
 228 655.411, 655.412, 655.414, 655.416, 655.418, 655.50,
 229 655.60, 655.762, 655.89, 655.90, 655.922, 655.942,
 230 655.943, 655.948, 655.949, 655.963, 657.002, 657.005,
 231 657.0061, 657.008, 657.021, 657.026, 657.028, 657.031,
 232 657.033, 657.0335, 657.038, 657.042, 657.043, 657.053,
 233 657.062, 657.063, 657.064, 657.065, 657.066, 657.068,
 234 658.12, 658.16, 658.165, 658.19, 658.20, 658.21, 658.22,
 235 658.23, 658.235, 658.24, 658.25, 658.26, 658.27, 658.28,
 236 658.285, 658.295, 658.2953, 658.296, 658.32, 658.33,
 237 658.34, 658.35, 658.36, 658.37, 658.39, 658.40, 658.41,
 238 658.42, 658.43, 658.44, 658.45, 658.48, 658.53, 658.67,
 239 658.68, 658.73, 658.79, 658.80, 658.81, 658.82, 658.83,
 240 658.84, 658.90, 658.94, 658.95, 658.96, 658.995, 660.26,



HB 1803

2003

241 660.265, 660.27, 660.28, 660.33, 660.40, 660.47, 660.48,
 242 663.02, 663.04, 663.05, 663.055, 663.06, 663.061, 663.064,
 243 663.065, 663.07, 663.08, 663.083, 663.09, 663.10, 663.11,
 244 663.12, 663.13, 663.14, 663.16, 663.17, 663.171, 663.172,
 245 663.173, 663.174, 663.175, 663.176, 663.177, 663.178,
 246 663.18, 663.181, 663.301, 663.302, 663.303, 663.304,
 247 663.305, 663.306, 663.308, 663.309, 663.311, 663.312,
 248 663.316, 663.319, 665.012, 665.013, 665.0315, 665.033,
 249 665.0335, 665.034, 665.0345, 665.0711, 665.1001, 667.002,
 250 667.003, 667.005, 667.006, 667.007, 667.008, 667.013,
 251 687.13, 687.14, 687.141, 687.143, 687.144, 687.145,
 252 687.148, 697.05, 713.596, 716.02, 716.03, 716.04, 716.05,
 253 716.06, 716.07, 717.101, 717.117, 717.135, 717.138,
 254 718.501, 719.501, 721.24, 721.26, 723.006, 732.107,
 255 733.816, 744.534, 766.105, 766.1115, 766.314, 766.315,
 256 768.28, 790.001, 790.1612, 791.01, 791.015, 817.16,
 257 817.234, 817.2341, 817.50, 839.06, 849.086, 849.33,
 258 860.154, 860.157, 896.102, 896.104, 903.09, 903.101,
 259 903.27, 925.037, 932.7055, 932.707, 938.27, 939.13,
 260 943.031, 943.032, 944.516, 946.33, 946.509, 946.5095,
 261 946.510, 946.517, 946.522, 946.525, 947.12, 950.002,
 262 957.04, 985.406, 985.409, 1000.05, 1001.23, 1002.36,
 263 1002.38, 1002.39, 1003.48, 1004.30, 1004.725, 1006.29,
 264 1006.33, 1006.34, 1006.39, 1008.33, 1009.265, 1009.54,
 265 1009.56, 1009.66, 1009.72, 1009.73, 1009.765, 1009.77,
 266 1009.971, 1009.972, 1010.56, 1010.74, 1010.75, 1011.10,
 267 1011.17, 1011.18, 1011.4105, 1011.57, 1011.94, 1012.59,
 268 1012.79, and 1013.79, F.S.; to conform; amending section.
 269 52 of chapter 2001-45, Laws of Florida, to conform;
 270 amending s. 288.99, F.S.; requiring the Office of Tourism,



HB 1803

2003

271 Trade, and Economic Development to allocate certain
272 Program Two tax credits to certified investors under the
273 Certified Capital Company Act; deleting provisions
274 authorizing use of certain insurance premium tax credits
275 on certain returns and estimated payments; repealing s.
276 17.06, F.S., relating to items and accounts disallowed by
277 the Comptroller; repealing s. 18.03, F.S., relating to
278 residence and office of the Treasurer; repealing s. 18.09,
279 F.S., relating to delivery to the Legislature of the
280 annual report of the Treasurer; repealing s. 18.22, F.S.
281 relating to rulemaking authority of the Department of
282 Banking and Finance; repealing s. 20.12, F.S., relating to
283 the Department of Banking and Finance; repealing s. 20.13,
284 F.S., relating to the Department of Insurance; repealing
285 s. 440.135, F.S., relating to pilot programs for medical
286 and remedial care in workers' compensation; repealing s.
287 624.4071, F.S., relating to special purpose homeowner
288 insurance companies; repealing s. 624.463, F.S., relating
289 to conversion of self-insurance funds; repealing s.
290 627.0623, F.S., relating to restrictions on expenditures
291 and solicitations of insurers and affiliates; repealing s.
292 627.3516, F.S., relating to residential property insurance
293 market coordinating council; repealing s. 627.7825, F.S.,
294 relating to alternative rate adoption; repealing s.
295 657.067, F.S., relating to conversion from federal to
296 state charter and to requirements for application
297 approval; repealing ss. 657.25-657.269, relating to the
298 Florida Credit Union Guaranty Corporation, Inc.;
299 preserving the running of certain time periods; protecting
300 the validity of certain administrative and judicial



HB 1803

2003

301 actions; providing for substitution of parties; providing
 302 for continuation and effect of certain certificates of
 303 authority, forms, licenses, rates, filings, and actions;
 304 providing for controlling effect; providing for
 305 retroactive application; providing effective dates.

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

309 Section 1. Section 11.12, Florida Statutes, is amended to
 310 read:

311 11.12 Salary, subsistence, and mileage of members and
 312 employees; expenses authorized by resolution; appropriation;
 313 preaudit ~~by Comptroller.~~--

314 (1) The Chief Financial Officer ~~Treasurer~~ is authorized to
 315 pay the salary, subsistence, and mileage of the members of the
 316 Legislature, as the same shall be authorized ~~from time to time~~
 317 by law, ~~upon receipt of a warrant therefor of the Comptroller~~
 318 ~~for the stated amount.~~ The Chief Financial Officer ~~may Treasurer~~
 319 ~~is authorized~~ to pay the compensation of employees of the
 320 Legislature, together with reimbursement for their authorized
 321 travel as provided in s. 112.061, and such expense of the
 322 Legislature as shall be authorized by law, a concurrent
 323 resolution, a resolution of either house, or rules adopted by
 324 the respective houses, provided the total amount appropriated to
 325 the legislative branch shall not be altered, upon receipt of
 326 such warrant therefor. The number, duties, and compensation of
 327 the employees of the respective houses and of their committees
 328 shall be determined as provided by the rules of the respective
 329 house or in this chapter. Each legislator may designate no more
 330 than two employees to attend sessions of the Legislature, and



HB 1803

2003

331 those employees who change their places of residence in order to
 332 attend the session shall be paid subsistence at a rate to be
 333 established by the President of the Senate for Senate employees
 334 and the Speaker of the House of Representatives for House
 335 employees. Such employees, in addition to subsistence, shall be
 336 paid transportation expenses in accordance with s. 112.061(7)
 337 and (8) for actual transportation between their homes and the
 338 seat of government in order to attend the legislative session
 339 and return home, as well as for two round trips during the
 340 course of any regular session of the Legislature.

341 (2) All vouchers covering legislative expenses shall be
 342 preaudited by the Chief Financial Officer ~~Comptroller~~, and, if
 343 found to be correct, state warrants shall be issued therefor.

344 Section 2. Paragraph (c) of subsection (5) of section
 345 11.13, Florida Statutes, is amended to read:

346 11.13 Compensation of members.--

347 (5)

348 (c) The Office of Legislative Services shall submit on
 349 forms prescribed by the Chief Financial Officer ~~Comptroller~~
 350 requested allotments of appropriations for the fiscal year. It
 351 shall be the duty of the Chief Financial Officer ~~Comptroller~~ to
 352 release the funds and authorize the expenditures for the
 353 legislative branch to be made from the appropriations on the
 354 basis of the requested allotments. However, the aggregate of
 355 such allotments shall not exceed the total appropriations
 356 available for the fiscal year.

357 Section 3. Subsection (4) of section 11.147, Florida
 358 Statutes, is amended to read:

359 11.147 Office of Legislative Services.--

360 (4) The Office of Legislative Services shall deliver such



HB 1803

2003

361 vouchers covering legislative expenses as required to the Chief
 362 Financial Officer ~~Comptroller~~ and, if found to be correct, state
 363 warrants shall be issued therefor.

364 Section 4. Section 11.151, Florida Statutes, is amended to
 365 read:

366 11.151 Annual legislative appropriation to contingency
 367 fund for use of Senate President and House Speaker.--There is
 368 established a legislative contingency fund consisting of \$10,000
 369 for the President of the Senate and \$10,000 for the Speaker of
 370 the House of Representatives, which amounts shall be set aside
 371 annually from moneys appropriated for legislative expense.
 372 These funds shall be disbursed by the Chief Financial Officer
 373 ~~Comptroller~~ upon receipt of vouchers authorized by the President
 374 of the Senate or the Speaker of the House of Representatives.
 375 Such ~~Said~~ funds may be expended at the unrestricted discretion
 376 of the President of the Senate or the Speaker of the House of
 377 Representatives in carrying out their official duties during the
 378 entire period between the date of their election as such
 379 officers at the organizational meeting held pursuant to s. 3(a),
 380 Art. III of the State Constitution and the next general
 381 election.

382 Section 5. Subsection (5) of section 11.40, Florida
 383 Statutes, is amended to read:

384 11.40 Legislative Auditing Committee.--

385 (5) Following notification by the Auditor General, the
 386 Department of Financial Services ~~Banking and Finance~~, or the
 387 Division of Bond Finance of the State Board of Administration of
 388 the failure of a local governmental entity, district school
 389 board, charter school, or charter technical career center to
 390 comply with the applicable provisions within s. 11.45(5)-(7), s.



HB 1803

2003

391 218.32(1), or s. 218.38, the Legislative Auditing Committee may
 392 schedule a hearing. If a hearing is scheduled, the committee
 393 shall determine if the entity should be subject to further state
 394 action. If the committee determines that the entity should be
 395 subject to further state action, the committee shall:

396 (a) In the case of a local governmental entity or district
 397 school board, request the Department of Revenue and the
 398 Department of Financial Services ~~Banking and Finance~~ to withhold
 399 any funds not pledged for bond debt service satisfaction which
 400 are payable to such entity until the entity complies with the
 401 law. The committee, in its request, shall specify the date such
 402 action shall begin, and the request must be received by the
 403 Department of Revenue and the Department of Financial Services
 404 ~~Banking and Finance~~ 30 days before the date of the distribution
 405 mandated by law. The Department of Revenue and the Department of
 406 Financial Services may ~~Banking and Finance~~ are authorized to
 407 implement the provisions of this paragraph.

408 (b) In the case of a special district, notify the
 409 Department of Community Affairs that the special district has
 410 failed to comply with the law. Upon receipt of notification, the
 411 Department of Community Affairs shall proceed pursuant to the
 412 provisions specified in ss. 189.421 and 189.422.

413 (c) In the case of a charter school or charter technical
 414 career center, notify the appropriate sponsoring entity, which
 415 may terminate the charter pursuant to ss. 1002.33 and 1002.34.

416 Section 6. Paragraph (b) of subsection (6) of section
 417 11.42, Florida Statutes, is amended to read:

418 11.42 The Auditor General.--

419 (6)

420 (b) All payrolls and vouchers for the operations of the



HB 1803

2003

421 Auditor General's office shall be submitted to the Chief
 422 Financial Officer ~~Comptroller~~ and, if found to be correct,
 423 payments shall be issued therefor.

424 Section 7. Subsection (1) of section 14.057, Florida
 425 Statutes, is amended to read:

426 14.057 Governor-elect; establishment of operating fund.--

427 (1) There is established an operating fund for the use of
 428 the Governor-elect during the period dating from the
 429 certification of his or her election by the Elections Canvassing
 430 Commission to his or her inauguration as Governor. The Governor-
 431 elect during this period may allocate the fund to travel,
 432 expenses, his or her salary, and the salaries of the Governor-
 433 elect's staff as he or she determines. Such staff may include,
 434 but not be limited to, a chief administrative assistant, a legal
 435 adviser, a fiscal expert, and a public relations and information
 436 adviser. The salary of the Governor-elect and each member of the
 437 Governor-elect's staff during this period shall be determined by
 438 the Governor-elect, except that the total expenditures
 439 chargeable to the state under this section, including salaries,
 440 shall not exceed the amount appropriated to the operating fund.
 441 The Executive Office of the Governor shall supply to the
 442 Governor-elect suitable forms to provide for the expenditure of
 443 the fund and suitable forms to provide for the reporting of all
 444 expenditures therefrom. The Chief Financial Officer ~~Comptroller~~
 445 shall release moneys from this fund upon the request of the
 446 Governor-elect properly filed.

447 Section 8. Section 14.058, Florida Statutes, is amended to
 448 read:

449 14.058 Inauguration expense fund.--There is established an
 450 inauguration expense fund for the use of the Governor-elect in



HB 1803

2003

451 planning and conducting the inauguration ceremonies. The
 452 Governor-elect shall appoint an inauguration coordinator and
 453 such staff as necessary to plan and conduct the inauguration.
 454 Salaries for the inauguration coordinator and the inauguration
 455 coordinator's staff shall be determined by the Governor-elect
 456 and shall be paid from the inauguration expense fund. The
 457 Executive Office of the Governor shall supply to the
 458 inauguration coordinator suitable forms to provide for the
 459 expenditure of the fund and suitable forms to provide for the
 460 reporting of all expenditures therefrom. The Chief Financial
 461 Officer ~~Comptroller~~ shall release moneys from this fund upon the
 462 request of the inauguration coordinator properly filed.

463 Section 9. Paragraph (f) of subsection (3) of section
 464 14.203, Florida Statutes, is amended to read:

465 14.203 State Council on Competitive Government.--It is the
 466 policy of this state that all state services be performed in the
 467 most effective and efficient manner in order to provide the best
 468 value to the citizens of the state. The state also recognizes
 469 that competition among service providers may improve the quality
 470 of services provided, and that competition, innovation, and
 471 creativity among service providers should be encouraged.

472 (3) In performing its duties under this section, the
 473 council may:

474 (f) Require that an identified state service be submitted
 475 to competitive bidding or another process that creates
 476 competition with private sources or other governmental entities.
 477 In determining whether an identified state service should be
 478 submitted to competitive bidding, the council shall consider, at
 479 a minimum:

480 1. Any constitutional and legal implications which may



HB 1803

2003

481 arise as a result of such action.

482 2. The cost of supervising the work of any private
483 contractor.

484 3. The total cost to the state agency of such state
485 agency's performance of a service, including all indirect costs
486 related to that state agency and costs of such agencies as the
487 Chief Financial Officer ~~Comptroller, the Treasurer~~, the Attorney
488 General, and other such support agencies to the extent such
489 costs would not be incurred if a contract is awarded. Costs for
490 the current provision of the service shall be considered only
491 when such costs would actually be saved if the contract were
492 awarded to another entity.

493 Section 10. Subsection (3) of section 15.09, Florida
494 Statutes, is amended to read:

495 15.09 Fees.--

496 (3) All fees arising from certificates of election or
497 appointment to office and from commissions to officers shall be
498 paid to the Chief Financial Officer ~~Treasurer~~ for deposit in the
499 General Revenue Fund.

500 Section 11. Section 16.10, Florida Statutes, is amended to
501 read:

502 16.10 Receipt of Supreme Court reports for office.--The
503 Clerk of the Supreme Court shall deliver to the Attorney General
504 a copy of each volume, or part of volume, of the decisions of
505 the Supreme Court, which may be in the care or custody of said
506 clerk, and which the Attorney General's office may be without,
507 and take the Attorney General's receipt for the same. The
508 Attorney General shall keep the same in her or his office at the
509 capitol, and each retiring Attorney General shall take the
510 receipt of her or his successor for the same and file such



HB 1803

2003

511 receipt in the Chief Financial Officer's ~~Treasurer's~~ office;
 512 provided that this shall not authorize the taking away of any
 513 book belonging to the Supreme Court library, kept for the use of
 514 said court.

515 Section 12. Section 17.001, Florida Statutes, is created
 516 to read:

517 17.001 Chief Financial Officer.--As provided in s. 4(c),
 518 Art. IV of the State Constitution, the Chief Financial Officer
 519 is the chief fiscal officer of the state and is responsible for
 520 settling and approving accounts against the state and keeping
 521 all state funds and securities.

522 Section 13. Section 17.002, Florida Statutes, is created
 523 to read:

524 17.002 Definition.--For the purposes of this chapter, the
 525 term "department" means the Department of Financial Services.

526 Section 14. Section 17.011, Florida Statutes, is amended
 527 to read:

528 17.011 Assistant Chief Financial Officer ~~comptroller~~.--The
 529 Chief Financial Officer ~~Comptroller~~ of the state may appoint an
 530 Assistant Chief Financial Officer ~~comptroller~~ to hold office
 531 during the pleasure of the Chief Financial Officer ~~Comptroller~~.

532 Section 15. Section 17.02, Florida Statutes, is amended to
 533 read:

534 17.02 Place of residence and office.--The Chief Financial
 535 Officer ~~Comptroller~~ shall reside at the seat of government of
 536 this state, and shall hold office in a room in the capitol.

537 Section 16. Section 17.03, Florida Statutes, is amended to
 538 read:

539 17.03 To audit claims against the state.--

540 (1) The Chief Financial Officer ~~Comptroller~~ of this state,



HB 1803

2003

541 using generally accepted auditing procedures for testing or
 542 sampling, shall examine, audit, and settle all accounts, claims,
 543 and demands, whatsoever, against the state, arising under any
 544 law or resolution of the Legislature, and issue a warrant ~~to the~~
 545 ~~Treasurer~~ directing the payment ~~Treasurer to pay~~ out of the
 546 State Treasury of such amount as he or she allows ~~shall be~~
 547 ~~allowed by the Comptroller~~ thereon.

548 (2) The Chief Financial Officer ~~Comptroller~~ may establish
 549 dollar thresholds applicable to each invoice amount and other
 550 criteria for testing or sampling invoices on a preaudit and
 551 postaudit basis. The Chief Financial Officer ~~Comptroller~~ may
 552 revise such thresholds and other criteria for an agency or the
 553 unit of any agency as he or she deems appropriate.

554 (3) The Chief Financial Officer ~~Comptroller~~ may adopt and
 555 disseminate to the agencies procedural and documentation
 556 standards for payment requests and may provide training and
 557 technical assistance to the agencies for these standards.

558 (4) The Chief Financial Officer ~~Comptroller~~ shall have the
 559 legal duty of delivering all state warrants and shall be charged
 560 with the official responsibility of the protection and security
 561 of the state warrants while in his or her custody. The Chief
 562 Financial Officer ~~Comptroller~~ may delegate this authority to
 563 other state agencies or officers.

564 Section 17. Section 17.031, Florida Statutes, is amended
 565 to read:

566 17.031 Security of Chief Financial Officer's ~~Comptroller's~~
 567 office.--The Chief Financial Officer may ~~Comptroller is~~
 568 ~~authorized to~~ engage the full-time services of two law
 569 enforcement officers, with power of arrest, to prevent all acts
 570 of a criminal nature directed at the property in the custody or



HB 1803

2003

571 control of the Chief Financial Officer ~~Comptroller~~. While so
 572 assigned, such ~~said~~ officers shall be under the direction and
 573 supervision of the Chief Financial Officer ~~Comptroller~~, and
 574 their salaries and expenses shall be paid from the general fund
 575 of the office of Chief Financial Officer ~~Comptroller~~.

576 Section 18. Section 17.04, Florida Statutes, is amended to
 577 read:

578 17.04 To audit and adjust accounts of officers and those
 579 indebted to the state.--The Chief Financial Officer ~~Department~~
 580 ~~of Banking and Finance of this state~~, using generally accepted
 581 auditing procedures for testing or sampling, shall examine,
 582 audit, adjust, and settle the accounts of all the officers of
 583 this state, and any other person in anywise entrusted with, or
 584 who may have received any property, funds, or moneys of this
 585 state, or who may be in anywise indebted or accountable to this
 586 state for any property, funds, or moneys, and require such
 587 officer or persons to render full accounts thereof, and to yield
 588 up such property or funds according to law, or pay such moneys
 589 into the treasury of this state, or to such officer or agent of
 590 the state as may be appointed to receive the same, and on
 591 failure so to do, to cause to be instituted and prosecuted
 592 proceedings, criminal or civil, at law or in equity, against
 593 such persons, according to law. The Division of Accounting and
 594 Auditing ~~Financial Investigations~~ may conduct investigations
 595 within or outside of this state as it deems necessary to aid in
 596 the enforcement of this section. If during an investigation the
 597 division has reason to believe that any criminal statute of this
 598 state has or may have been violated, the division shall refer
 599 any records tending to show such violation to state or federal
 600 law enforcement or prosecutorial agencies and shall provide



HB 1803

2003

601 investigative assistance to those agencies as required.

602 Section 19. Section 17.0401, Florida Statutes, is amended
603 to read:

604 17.0401 Confidentiality of information relating to
605 financial investigations.--Except as otherwise provided by this
606 section, information relative to an investigation conducted by
607 the Division of Accounting and Auditing ~~Financial Investigations~~
608 pursuant to s. 17.04, including any consumer complaint, is
609 confidential and exempt from the provisions of s. 119.07(1) and
610 s. 24(a), Art. I of the State Constitution until the
611 investigation is completed or ceases to be active. Any
612 information relating to an investigation conducted by the
613 division pursuant to s. 17.04 shall remain confidential and
614 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I
615 of the State Constitution after the division's investigation is
616 completed or ceases to be active if the division submits the
617 information to any law enforcement or prosecutorial agency for
618 further investigation. Such information shall remain
619 confidential and exempt from the provisions of s. 119.07(1) and
620 s. 24(a), Art. I of the State Constitution until that agency's
621 investigation is completed or ceases to be active. For purposes
622 of this section, an investigation shall be considered "active"
623 so long as the division or any law enforcement or prosecutorial
624 agency is proceeding with reasonable dispatch and has a
625 reasonable good faith belief that the investigation may lead to
626 the filing of an administrative, civil, or criminal proceeding.
627 This section shall not be construed to prohibit disclosure of
628 information that ~~which~~ is required by law to be filed with the
629 Department of Financial Services or the Office of Financial
630 Institutions and Securities Regulation ~~Banking and Finance~~ and



HB 1803

2003

631 that ~~which~~, but for the investigation, would otherwise be
 632 subject to public disclosure. Nothing in this section shall be
 633 construed to prohibit the division from providing information to
 634 any law enforcement or prosecutorial agency. Any law
 635 enforcement or prosecutorial agency receiving confidential
 636 information from the division in connection with its official
 637 duties shall maintain the confidentiality of the information as
 638 provided for in this section.

639 Section 20. Section 17.041, Florida Statutes, is amended
 640 to read:

641 17.041 County and district accounts and claims.--

642 (1) It shall be the duty of the Chief Financial Officer
 643 ~~Department of Banking and Finance of this state~~ to adjust and
 644 settle, or cause to be adjusted and settled, all accounts and
 645 claims heretofore or hereafter reported to it by the Auditor
 646 General, the appropriate county or district official, or any
 647 person against all county and district officers and employees,
 648 and against all other persons entrusted with, or who may have
 649 received, any property, funds, or moneys of a county or district
 650 or who may be in anywise indebted to or accountable to a county
 651 or district for any property, funds, moneys, or other thing of
 652 value, and to require such officer, employee, or person to
 653 render full accounts thereof and to yield up such property,
 654 funds, moneys, or other thing of value according to law to the
 655 officer or authority entitled by law to receive the same.

656 (2) On the failure of such officer, employee, or person to
 657 adjust and settle such account, or to yield up such property,
 658 funds, moneys, or other thing of value, the Chief Financial
 659 Officer ~~department~~ shall direct the attorney for the board of
 660 county commissioners, the district school board, or the



HB 1803

2003

661 district, as the case may be, entitled to such account,
 662 property, funds, moneys, or other thing of value to represent
 663 such county or district in enforcing settlement, payment or
 664 delivery of such account, property, funds, moneys, or other
 665 thing of value. The Chief Financial Officer ~~department~~ may
 666 enforce such settlement, payment, or delivery pursuant to s.
 667 17.20.

668 (3) Should the attorney for the county or district
 669 aforesaid be disqualified or unable to act, and no other
 670 attorney be furnished by the county or district, or should the
 671 Chief Financial Officer ~~department~~ otherwise deem it advisable,
 672 such account or claim may be certified to the Department of
 673 Legal Affairs by the Chief Financial Officer ~~department~~, to be
 674 prosecuted by the Department of Legal Affairs at county or
 675 district expense, as the case may be, including necessary per
 676 diem and travel expense in accordance with s. 112.061, as now
 677 or hereafter amended. Such expenses, when approved by the Chief
 678 Financial Officer ~~department~~, shall be paid forthwith by such
 679 county or district.

680 (4) ~~If Should~~ it appears ~~appear~~ to the Chief Financial
 681 Officer ~~department~~ that any criminal statute of this state has
 682 or may have been violated by such defaulting officer, employee,
 683 or person, such information, evidence, documents, and other
 684 things tending to show such a violation, whether in the hands of
 685 the Chief Financial Officer ~~Comptroller~~, the Auditor General,
 686 the county, or the district, shall be forthwith turned over to
 687 the proper state attorney for inspection, study, and such action
 688 as may be deemed proper, or the same may be brought to the
 689 attention of the proper grand jury.

690 (5) No such account or claim, after it has been certified



HB 1803

2003

691 to the Chief Financial Officer ~~department~~, may be settled for
692 less than the amount due according to law without the written
693 consent of the Chief Financial Officer ~~department~~, and any
694 attempt to make settlement in violation of this subsection shall
695 be deemed null and void. A county or district board desiring to
696 make such a settlement shall incorporate the proposed settlement
697 into a resolution, stating that the proposed settlement is
698 contingent upon the Chief Financial Officer's ~~Comptroller's~~
699 approval, and shall submit two copies of the resolution to the
700 department. The Chief Financial Officer ~~department~~ shall return
701 one copy with his or her ~~the Comptroller's~~ action endorsed
702 thereon.

703 (6) No settlement of account of any such officer,
704 employee, or person, with the county or district, or any of
705 their officers or agents, made in an amount or manner other than
706 as authorized by law or for other than a lawful county or
707 district purpose, shall be binding upon such county or district
708 unless and until approved by the Chief Financial Officer
709 ~~department~~, or unless more than 4 years shall have elapsed from
710 the date of such settlement.

711 (7) Nothing in this section shall supersede the continuing
712 duty of the proper county and district officers to require any
713 officer, employee, or person to render full accounts of and to
714 yield up according to law to the officer or authority entitled
715 by law to receive the same, any property, funds, moneys, or
716 other thing of value as to which such officer, employee, or
717 person is in anywise indebted to or accountable to such county
718 or district. The provisions of this section provide for
719 collections and recoveries which the proper county or district
720 officers have failed to make, and for correction of settlements



HB 1803

2003

721 made in an amount or manner other than as authorized by law.

722 Section 21. Section 17.0415, Florida Statutes, is amended
723 to read:

724 17.0415 Transfer and assignment of claims.--In order to
725 facilitate their collection from third parties, the Chief
726 Financial Officer ~~Comptroller~~ may authorize the assignment of
727 claims among the state, its agencies, and its subdivisions,
728 whether arising from criminal, civil, or other judgments in
729 state or federal court. The state, its agencies, and its
730 subdivisions, may assign claims under such terms as are mutually
731 acceptable to the Chief Financial Officer ~~Comptroller~~ and the
732 assignee and assignor. The assigned claim may be enforced as a
733 setoff to any claim against the state, its agencies, or its
734 subdivisions, by garnishment or in the same manner as a judgment
735 in a civil action. Claims against the state, its agencies, and
736 its subdivisions resulting from the condemnation of property
737 protected by the provisions of s. 4, Art. X of the State
738 Constitution are not subject to setoff pursuant to this section.

739 Section 22. Section 17.05, Florida Statutes, is amended to
740 read:

741 17.05 Subpoenas; sworn statements; enforcement
742 proceedings.--

743 (1) The Chief Financial Officer ~~Comptroller~~ may demand and
744 require full answers on oath from any and every person, party or
745 privy to any account, claim, or demand against or by the state,
746 such as it may be the Chief Financial Officer's ~~Comptroller's~~
747 official duty to examine into, and which answers the Chief
748 Financial Officer ~~Comptroller~~ may require to be in writing and
749 to be sworn to before the Chief Financial Officer ~~Comptroller~~ or
750 the department or before any judicial officer or clerk of any



HB 1803

2003

751 court of the state so as to enable the Chief Financial Officer
 752 ~~Comptroller~~ to determine the justice or legality of such
 753 account, claim, or demand.

754 (2) In exercising authority under this chapter, the Chief
 755 Financial Officer ~~Comptroller~~ or his or her designee may:

756 (a) Issue subpoenas, administer oaths, and examine
 757 witnesses.

758 (b) Require or permit a person to file a statement in
 759 writing, under oath or otherwise as the Chief Financial Officer
 760 ~~Comptroller~~ or his or her designee requires, as to all the facts
 761 and circumstances concerning the matter to be audited, examined,
 762 or investigated.

763 (3) Subpoenas shall be issued by the Chief Financial
 764 Officer ~~Comptroller~~ or his or her designee under seal commanding
 765 such witnesses to appear before the Chief Financial Officer
 766 ~~Comptroller~~ or his or her ~~the Comptroller's~~ representative or
 767 the department at a specified time and place and to bring books,
 768 records, and documents as specified or to submit books, records,
 769 and documents for inspection. Such subpoenas may be served by
 770 an authorized representative of the Chief Financial Officer
 771 ~~Comptroller~~ or the department.

772 (4) In the event of noncompliance with a subpoena issued
 773 pursuant to this section, the Chief Financial Officer
 774 ~~Comptroller~~ or the department may petition the circuit court of
 775 the county in which the person subpoenaed resides or has his or
 776 her principal place of business for an order requiring the
 777 subpoenaed person to appear and testify and to produce books,
 778 records, and documents as specified in the subpoena. The court
 779 may grant legal, equitable, or injunctive relief, including, but
 780 not limited to, issuance of a writ of ne exeat or the restraint



HB 1803

2003

781 by injunction or appointment of a receiver of any transfer,
 782 pledge, assignment, or other disposition of such person's assets
 783 or any concealment, alteration, destruction, or other
 784 disposition of subpoenaed books, records, or documents, as the
 785 court deems appropriate, until such person has fully complied
 786 with such subpoena and the Chief Financial Officer ~~Comptroller~~
 787 or the department has completed the audit, examination, or
 788 investigation. The Chief Financial Officer ~~Comptroller~~ or the
 789 department is entitled to the summary procedure provided in s.
 790 51.011, and the court shall advance the cause on its calendar.
 791 Costs incurred by the Chief Financial Officer ~~Comptroller~~ or the
 792 department to obtain an order granting, in whole or in part,
 793 such petition for enforcement of a subpoena shall be charged
 794 against the subpoenaed person, and failure to comply with such
 795 order shall be a contempt of court.

796 Section 23. Section 17.075, Florida Statutes, is amended
 797 to read:

798 17.075 Form of state warrants and other payment orders;
 799 rules.--

800 (1) The Chief Financial Officer ~~Department of Banking and~~
 801 ~~Finance~~ is authorized to establish the form or forms of state
 802 warrants which are to be drawn by him or her ~~it~~ and of other
 803 orders for payment or disbursement of moneys out of the State
 804 Treasury and to change the form thereof from time to time as the
 805 Chief Financial Officer ~~department~~ may consider necessary or
 806 appropriate. Such orders for payment may be in any form, but,
 807 regardless of form, each order shall be subject to the
 808 accounting and recordkeeping requirements applicable to state
 809 warrants.

810 (2) The Chief Financial Officer ~~department~~ shall adopt



HB 1803

2003

811 rules establishing accounting and recordkeeping procedures for
 812 all payments made by electronic transfer of funds or by any
 813 other means. Such procedures shall be consistent with the
 814 statutory requirements applicable to payments by state warrant.

815 Section 24. Section 17.076, Florida Statutes, is amended
 816 to read:

817 17.076 Direct deposit of funds.--

818 (1) As used in this section, the term+

819 ~~(a)~~ "beneficiary" means any person who is drawing salary
 820 or retirement benefits from the state or who is the recipient of
 821 any lawful payment from state funds.

822 ~~(b) "Department" means the Department of Banking and~~
 823 ~~Finance.~~

824 (2) The Chief Financial Officer ~~department~~ shall establish
 825 a program for the direct deposit of funds to the account of the
 826 beneficiary of such a payment or disbursement in any financial
 827 institution equipped for electronic fund transfers, which
 828 institution is designated in writing by such beneficiary and has
 829 lawful authority to accept such deposits. Direct deposit of
 830 funds shall be by any electronic or other transfer medium
 831 approved by the Chief Financial Officer ~~department~~ for such
 832 purpose.

833 (3) The Chief Financial Officer ~~department~~ may contract
 834 with an authorized financial institution for the services
 835 necessary to operate the program. In order to implement the
 836 provisions of this section, the Chief Financial Officer ~~may~~
 837 ~~Comptroller is authorized to~~ deposit with that financial
 838 institution the funds payable to the beneficiaries, in lump sum,
 839 by Chief Financial Officer's ~~Comptroller's~~ warrant to make the
 840 authorized direct deposits.



HB 1803

2003

841 (4) The written authorization of a beneficiary shall be
842 filed with the department or its designee. Such authorization
843 shall remain in effect until withdrawn in writing by the
844 beneficiary or dishonored by the designated financial
845 institution.

846 (5) All direct deposit records made prior to October 1,
847 1986, are exempt from the provisions of s. 119.07(1). With
848 respect to direct deposit records made on or after October 1,
849 1986, the names of the authorized financial institutions and the
850 account numbers of the beneficiaries are confidential and exempt
851 from the provisions of s. 119.07(1).

852 ~~(6) The department shall implement local option direct~~
853 ~~deposit of funds for local governmental entities by January 1,~~
854 ~~1996.~~

855 (6)~~(7)~~ To cover the department's actual costs for
856 processing the direct deposit of funds other than salary or
857 retirement benefits, the department may charge the beneficiary
858 of the direct deposit a reasonable fee. The department may
859 collect the fee by direct receipt from the beneficiary or by
860 subtracting the amount of the fee from the funds due the
861 beneficiary. Such fees collected by the department shall be
862 deposited into the Department of Financial Services ~~Banking and~~
863 ~~Finance~~ Administrative Trust Fund.

864 (7)~~(8)~~ Effective July 1, 2000, all new recipients of
865 retirement benefits from this state shall be paid by direct
866 deposit of funds. A retiree may request from the department an
867 exemption from the provisions of this subsection when such
868 retiree can demonstrate a hardship. The department may pay
869 retirement benefits by state warrant when deemed
870 administratively necessary.



HB 1803

2003

871 Section 25. Section 17.08, Florida Statutes, is amended to
872 read:

873 17.08 Accounts, etc., on which warrants drawn, to be
874 filed.--All accounts, vouchers, and evidence, upon which
875 warrants have heretofore been, or shall hereafter be, drawn upon
876 the treasury by the Chief Financial Officer ~~Comptroller~~ shall be
877 filed and deposited in the office of Chief Financial Officer
878 ~~Comptroller~~ or the office of the Chief Financial Officer's
879 ~~Comptroller's~~ designee, in accordance with requirements
880 established by the Secretary of State.

881 Section 26. Section 17.09, Florida Statutes, is amended to
882 read:

883 17.09 Application for warrants for salaries.--All public
884 officers who are entitled to salaries in this state, shall make
885 their application for warrants in writing, stating for what
886 terms and the amount they claim, which written application shall
887 be filed by the Chief Financial Officer ~~Comptroller~~ as vouchers
888 for the warrants issued thereupon.

889 Section 27. Section 17.10, Florida Statutes, is amended to
890 read:

891 17.10 Record of warrants and of state funds and securities
892 ~~issued~~.--The Chief Financial Officer ~~Comptroller~~ shall cause to
893 be entered in the warrant register a record of the warrants
894 issued during the previous month, and shall make such entry in
895 the record so required to be kept as shall show the number of
896 each warrant issued, in whose favor drawn, and the date it was
897 issued. He or she shall account for all state funds and
898 securities.

899 Section 28. Section 17.11, Florida Statutes, is amended to
900 read:



HB 1803

2003

901 17.11 To report disbursements made.--

902 (1) The Chief Financial Officer ~~Comptroller~~ shall make in
 903 all his or her future annual reports an exhibit stated from the
 904 record of disbursements made during the fiscal year, and the
 905 several heads of expenditures under which such disbursements
 906 were made.

907 (2) The Chief Financial Officer ~~Comptroller~~ shall also
 908 cause to have reported from the Florida Accounting Information
 909 Resource Subsystem no less than quarterly the disbursements
 910 which agencies made to small businesses, as defined in the
 911 Florida Small and Minority Business Assistance Act of 1985; to
 912 certified minority business enterprises in the aggregate; and to
 913 certified minority business enterprises broken down into
 914 categories of minority persons, as well as gender and
 915 nationality subgroups. This information shall be made available
 916 to the agencies, the Office of Supplier Diversity, the Governor,
 917 the President of the Senate, and the Speaker of the House of
 918 Representatives. Each agency shall be responsible for the
 919 accuracy of information entered into the Florida Accounting
 920 Information Resource Subsystem for use in this reporting.

921 Section 29. Section 17.12, Florida Statutes, is amended to
 922 read:

923 17.12 Authorized to issue warrants to tax collector or
 924 sheriff for payment.--Whenever it shall appear to the
 925 satisfaction of the Chief Financial Officer ~~Comptroller of this~~
 926 ~~state~~ from examination of the books of his or her office that
 927 the tax collector or the sheriff for any county in this state
 928 has paid into the State Treasury, through mistake or otherwise,
 929 a larger or greater sum than is actually due from such ~~said~~
 930 collector or sheriff, then the Chief Financial Officer



HB 1803

2003

931 ~~Comptroller~~ may issue a warrant to such said collector or
 932 sheriff for the sum so found to be overpaid.

933 Section 30. Section 17.13, Florida Statutes, is amended to
 934 read:

935 17.13 To duplicate warrants lost or destroyed.--

936 (1) The Chief Financial Officer ~~Comptroller~~ is required to
 937 duplicate any Chief Financial Officer's ~~Comptroller's~~ warrants
 938 that may have been lost or destroyed, or may hereafter be lost
 939 or destroyed, upon the owner thereof or the owner's agent or
 940 attorney presenting the Chief Financial Officer ~~Comptroller~~ the
 941 statement, under oath, reciting the number, date, and amount of
 942 any warrant or the best and most definite description in his or
 943 her knowledge and the circumstances of its loss; if the Chief
 944 Financial Officer ~~Comptroller~~ deems it necessary, the owner or
 945 the owner's agent or attorney shall file in the office of the
 946 Chief Financial Officer ~~Comptroller~~ a surety bond, or a bond
 947 with securities, to be approved by one of the judges of the
 948 circuit court or one of the justices of the Supreme Court, in a
 949 penalty of not less than twice the amount of any warrants so
 950 duplicated, conditioned to indemnify the state and any innocent
 951 holders thereof from any damages that may accrue from such
 952 duplication.

953 (2) The Chief Financial Officer ~~Comptroller~~ is required to
 954 duplicate any Chief Financial Officer's ~~Comptroller's~~ warrant
 955 that may have been lost or destroyed, or may hereafter be lost
 956 or destroyed, when sent to any payee via any state agency when
 957 such warrant is lost or destroyed prior to being received by the
 958 payee and provided the director of the state agency to whom the
 959 warrant was sent presents to the Chief Financial Officer
 960 ~~Comptroller~~ a statement, under oath, reciting the number, date,



HB 1803

2003

961 and amount of the warrant lost or destroyed, the circumstances
 962 surrounding the loss or destruction of such warrant, and any
 963 additional information that the Chief Financial Officer
 964 ~~Comptroller~~ shall request in regard to such warrant.

965 (3) Any duplicate Chief Financial Officer's ~~Comptroller's~~
 966 warrant issued in pursuance of the above provisions shall be of
 967 the same validity as the original was before its loss.

968 Section 31. Section 17.14, Florida Statutes, is amended to
 969 read:

970 17.14 To prescribe forms.--The Chief Financial Officer
 971 ~~Department of Banking and Finance~~ may prescribe the forms of all
 972 papers, vouchers, reports, and returns and the manner of keeping
 973 the accounts and papers to be used by the officers of this state
 974 or other persons having accounts, claims, or demands against the
 975 state or entrusted with the collection of any of the revenue
 976 thereof or any demand due the same, which form shall be pursued
 977 by such officer or other persons.

978 Section 32. Section 17.16, Florida Statutes, is amended to
 979 read:

980 17.16 Seal.--The seal of office of the Chief Financial
 981 Officer ~~Comptroller of the state~~ shall be the same as the seal
 982 heretofore used for that purpose.

983 Section 33. Section 17.17, Florida Statutes, is amended to
 984 read:

985 17.17 Examination by Governor and report.--The office of
 986 Chief Financial Officer ~~Comptroller of the state~~, and the books,
 987 files, documents, records, and papers shall always be subject to
 988 the examination of the Governor of this state, or any person the
 989 Governor may authorize to examine the same; and on the first day
 990 of January of each and every year, or oftener if called for by



HB 1803

2003

991 the Governor, the Chief Financial Officer ~~Comptroller~~ shall make
 992 a full report of all his or her official acts and proceedings
 993 for the last fiscal year to the Governor, to be laid before the
 994 Legislature with the Governor's message, and shall make such
 995 further report as the constitution may require.

996 Section 34. Section 17.20, Florida Statutes, is amended to
 997 read:

998 17.20 Assignment of claims for collection.--

999 (1) The Chief Financial Officer ~~Department of Banking and~~
 1000 ~~Finance~~ shall charge the state attorneys with the collection of
 1001 all claims that are placed in their hands for collection of
 1002 money or property for the state or any county or special
 1003 district, or that it otherwise requires them to collect. The
 1004 charges are evidence of indebtedness of a state attorney against
 1005 whom any charge is made for the full amount of the claim, until
 1006 the charges have been collected and paid into the treasury of
 1007 the state or of the county or special district or the legal
 1008 remedies of the state have been exhausted, or until the state
 1009 attorney demonstrates to the Chief Financial Officer ~~department~~
 1010 that the failure to collect the charges is not due to negligence
 1011 and the Chief Financial Officer ~~department~~ has made a proper
 1012 entry of satisfaction of the charge against the state attorney.

1013 (2) The Chief Financial Officer ~~department~~ may assign the
 1014 collection of any claim to a collection agent who is registered
 1015 and in good standing pursuant to chapter 559, if the Chief
 1016 Financial Officer ~~department~~ determines the assignation to be
 1017 cost-effective. The Chief Financial Officer ~~department~~ may pay
 1018 an agent from any amount collected under the claim a fee that
 1019 the Chief Financial Officer ~~department~~ and the agent have agreed
 1020 upon; may authorize the agent to deduct the fee from the amount



HB 1803

2003

1021 collected; may require the appropriate state agency, county, or
 1022 special district to pay the agent the fee from any amount
 1023 collected by the agent on its behalf; or may authorize the agent
 1024 to add the fee to the amount to be collected.

1025 (3) Notwithstanding any other provision of law, in any
 1026 contract providing for the location or collection of unclaimed
 1027 property, the Chief Financial Officer ~~department~~ may authorize
 1028 the contractor to deduct its fees and expenses for services
 1029 provided under the contract from the unclaimed property that the
 1030 contractor has recovered or collected under the contract. The
 1031 Chief Financial Officer ~~department~~ shall annually report to the
 1032 Governor, President of the Senate, and the Speaker of the House
 1033 of Representatives the total amount collected or recovered by
 1034 each contractor during the previous fiscal year and the total
 1035 fees and expenses deducted by each contractor.

1036 Section 35. Section 17.21, Florida Statutes, is amended to
 1037 read:

1038 17.21 Not to allow any claim of state attorney against
 1039 state until report made.--The Chief Financial Officer
 1040 ~~Comptroller~~ shall not audit or allow any claim which any state
 1041 attorney may have against the state for services who shall fail
 1042 to make any report which by law the state attorney is required
 1043 to make to the Chief Financial Officer ~~Comptroller~~ of claims of
 1044 the state which it is his or her duty to collect.

1045 Section 36. Section 17.22, Florida Statutes, is amended to
 1046 read:

1047 17.22 Notice to Department of Legal Affairs.--Whenever the
 1048 Chief Financial Officer ~~Department of Banking and Finance~~
 1049 forwards any bond or account or claim for suit to any state
 1050 attorney, he or she ~~it~~ shall advise the Department of Legal



HB 1803

2003

1051 Affairs of the fact, giving it the amount of the claim and other
 1052 necessary particulars for its full information upon the subject.

1053 Section 37. Section 17.25, Florida Statutes, is amended to
 1054 read:

1055 17.25 May certify copies.--The Chief Financial Officer
 1056 ~~Comptroller of this state~~ may certify, under his or her seal of
 1057 office, copies of any record, paper, or document, by law placed
 1058 in the Chief Financial Officer's ~~Comptroller's~~ custody, keeping,
 1059 and care; and such certified copy shall have the same force and
 1060 effect as evidence as the original would have.

1061 Section 38. Sections (1) and (3) of section 17.26, Florida
 1062 Statutes, are amended to read:

1063 17.26 Cancellation of state warrants not presented within
 1064 1 year.--

1065 (1) If any state warrant issued by the Chief Financial
 1066 Officer or ~~Comptroller~~ against any fund in the State Treasury is
 1067 not presented for payment within 1 year after the last day of
 1068 the month in which it was originally issued, the Chief Financial
 1069 Officer ~~Comptroller~~ may cancel the warrant and credit the amount
 1070 of the warrant to the fund upon which it is drawn. If the
 1071 warrant so canceled was issued against a fund that is no longer
 1072 operative, the amount of the warrant shall be credited to the
 1073 General Revenue Fund. The Chief Financial Officer ~~Treasurer~~
 1074 shall not honor any state warrant after it has been canceled.

1075 (3) When a warrant canceled under subsection (1)
 1076 represents funds that are in whole or in part derived from
 1077 federal contributions and disposition of the funds under chapter
 1078 717 would cause a loss of the federal contributions, the
 1079 Governor shall certify to the Chief Financial Officer
 1080 ~~Comptroller~~ that funds represented by such warrants are for that



HB 1803

2003

1081 reason exempt from treatment as unclaimed property. Obligations
 1082 represented by warrants are unenforceable after 1 year from the
 1083 last day of the month in which the warrant was originally
 1084 issued. An action may not be commenced thereafter on the
 1085 obligation unless authorized by the federal program from which
 1086 the original warrant was funded and unless payment of the
 1087 obligation is authorized to be made from the current federal
 1088 funding. When a payee or person entitled to a warrant subject
 1089 to this paragraph requests payment, and payment from current
 1090 federal funding is authorized by the federal program from which
 1091 the original warrant was funded, the Chief Financial Officer
 1092 ~~Comptroller~~ may, upon investigation, issue a new warrant to be
 1093 paid out of the proper fund in the State Treasury, provided the
 1094 payee or other person executes under oath the statement required
 1095 by s. 17.13 or surrenders the canceled warrant.

1096 Section 39. Subsections (1), (2), and (3) of section
 1097 17.27, Florida Statutes, are amended to read:

1098 17.27 Microfilming and destroying records and
 1099 correspondence.--

1100 (1) The Department of Financial Services ~~Banking and~~
 1101 ~~Finance~~ may destroy general correspondence files and also any
 1102 other records which the department may deem no longer necessary
 1103 to preserve in accordance with retention schedules and
 1104 destruction notices established under rules of the Division of
 1105 Library and Information Services, records and information
 1106 management program, of the Department of State. Such schedules
 1107 and notices relating to financial records of the department
 1108 shall be subject to the approval of the Auditor General.

1109 (2) The Department of Financial Services ~~Banking and~~
 1110 ~~Finance~~ may photograph, microphotograph, or reproduce on film



HB 1803

2003

1111 such documents and records as it may select, in such manner that
 1112 each page will be exposed in exact conformity with the original.

1113 (3) The Department of Financial Services ~~Banking and~~
 1114 ~~Finance~~ may destroy any of such said documents after they have
 1115 been photographed and filed in accordance with the provisions of
 1116 subsection (1).

1117 Section 40. Section 17.28, Florida Statutes, is amended to
 1118 read:

1119 17.28 Chief Financial Officer ~~Comptroller~~ may authorize
 1120 biweekly salary payments.--The Chief Financial Officer
 1121 ~~Comptroller is authorized and~~ may permit biweekly salary
 1122 payments to personnel upon written request by a specific state
 1123 agency. The Chief Financial Officer ~~Comptroller~~ shall adopt
 1124 ~~promulgate~~ reasonable rules ~~and regulations~~ to carry out the
 1125 intent of this section.

1126 Section 41. Section 17.29, Florida Statutes, is amended to
 1127 read:

1128 17.29 Authority to prescribe rules.--The Chief Financial
 1129 Officer may ~~Comptroller has authority to~~ adopt rules pursuant to
 1130 ss. 120.54 and 120.536(1) to implement this chapter and duties
 1131 assigned by statute or the State Constitution. Such rules may
 1132 include, but are not limited to, the following:

1133 (1) Procedures or policies relating to the processing of
 1134 payments from salaries, other personal services, or any other
 1135 applicable appropriation.

1136 (2) Procedures for processing interagency and intraagency
 1137 payments which do not require the issuance of a state warrant.

1138 Section 42. Section 17.30, Florida Statutes, is amended to
 1139 read:

1140 17.30 Dissemination of information.--The Chief Financial



HB 1803

2003

1141 Officer ~~Comptroller~~ may disseminate, in any form or manner he or
 1142 she considers appropriate, information regarding the Chief
 1143 Financial Officer's ~~Comptroller's~~ official duties.

1144 Section 43. Section 17.32, Florida Statutes, is amended to
 1145 read:

1146 17.32 Annual report of trust funds; duties of Chief
 1147 Financial Officer ~~Comptroller~~.--

1148 (1) On February 1 of each year, the Chief Financial
 1149 Officer ~~Comptroller~~ shall present to the President of the Senate
 1150 and the Speaker of the House of Representatives a report listing
 1151 all trust funds as defined in s. 215.32. The report shall
 1152 contain the following data elements for each fund for the
 1153 preceding fiscal year:

- 1154 (a) The fund code.
- 1155 (b) The title.
- 1156 (c) The fund type according to generally accepted
 1157 accounting principles.
- 1158 (d) The statutory authority.
- 1159 (e) The beginning cash balance.
- 1160 (f) Direct revenues.
- 1161 (g) Nonoperating revenues.
- 1162 (h) Operating disbursements.
- 1163 (i) Nonoperating disbursements.
- 1164 (j) The ending cash balance.
- 1165 (k) The department and budget entity in which the fund is
 1166 located.

1167 (2) The report shall separately list all funds that
 1168 received no revenues other than interest earnings or transfers
 1169 from the General Revenue Fund or from other trust funds during
 1170 the preceding fiscal year.



HB 1803

2003

1171 (3) The report shall separately list all funds that had
 1172 unencumbered balances in excess of \$2 million in each of the 2
 1173 preceding fiscal years.

1174 Section 44. Section 17.325, Florida Statutes, is amended
 1175 to read:

1176 17.325 Governmental efficiency hotline; duties of Chief
 1177 Financial Officer ~~Comptroller~~.--

1178 (1) ~~By September 1, 1992,~~ The Chief Financial Officer
 1179 ~~Comptroller~~ shall establish and operate a statewide toll-free
 1180 telephone hotline to receive information or suggestions from the
 1181 citizens of this state on how to improve the operation of
 1182 government, increase governmental efficiency, and eliminate
 1183 waste in government. The Chief Financial Officer ~~Comptroller~~
 1184 shall report each month to the Appropriations Committee of the
 1185 House of Representatives and of the Senate the information or
 1186 suggestions received through the hotline and the evaluations and
 1187 determinations made by the affected agency, as provided in
 1188 subsection (3), with respect to such information or suggestions.

1189 (2) The Chief Financial Officer ~~Comptroller~~ shall operate
 1190 the hotline 24 hours a day. The Chief Financial Officer
 1191 ~~Comptroller~~ shall advertise the availability of the hotline in
 1192 newspapers of general circulation in this state and shall
 1193 provide for the posting of notices in conspicuous places in
 1194 state agency offices, city halls, county courthouses, and places
 1195 in which there is exposure to significant numbers of the general
 1196 public, including, but not limited to, local convenience stores,
 1197 shopping malls, shopping centers, gasoline stations, or
 1198 restaurants. The Chief Financial Officer ~~Comptroller~~ shall use
 1199 the slogan "Tell us where we can 'Get Lean'" for the hotline and
 1200 in advertisements for the hotline.



HB 1803

2003

1201 (3) Each telephone call on the hotline shall be received
1202 by the office of the Chief Financial Officer ~~Comptroller~~, and
1203 the office of the Chief Financial Officer ~~Comptroller~~ shall
1204 conduct an evaluation to determine if it is appropriate for the
1205 telephone call to be processed as a "Get Lean" telephone call.
1206 If it is determined that the telephone call should be processed
1207 as a "Get Lean" telephone call, a record of each suggestion or
1208 item of information received shall be entered into a log kept by
1209 the Chief Financial Officer ~~Comptroller~~. A caller on the
1210 hotline may remain anonymous, and, if the caller provides his or
1211 her name, the name shall be confidential. If a caller discloses
1212 that he or she is a state employee, the Chief Financial Officer
1213 ~~Comptroller~~, in addition to maintaining a record as required by
1214 this section, may refer any information or suggestion from the
1215 caller to an existing state awards program administered by the
1216 affected agency. The affected agency shall conduct a
1217 preliminary evaluation of the efficacy of any suggestion or item
1218 of information received through the hotline and shall provide
1219 the Chief Financial Officer ~~Comptroller~~ with a preliminary
1220 determination of the amount of revenues the state might save by
1221 implementing the suggestion or making use of the information.

1222 (4) Any person who provides any information through the
1223 hotline shall be immune from liability for any use of such
1224 information and shall not be subject to any retaliation by any
1225 employee of the state for providing such information or making
1226 such suggestion.

1227 (5) The Chief Financial Officer ~~Comptroller~~ shall adopt
1228 any rule necessary to implement the establishment, operation,
1229 and advertisement of the hotline.

1230 Section 45. Section 17.41, Florida Statutes, is amended to



HB 1803

2003

1231 read:

1232 17.41 Department of Financial Services ~~Banking and Finance~~
1233 Tobacco Settlement Clearing Trust Fund.--

1234 (1) The Department of Financial Services ~~Banking and~~
1235 ~~Finance~~ Tobacco Settlement Clearing Trust Fund is created within
1236 that department.

1237 (2) Funds to be credited to the Tobacco Settlement
1238 Clearing Trust Fund shall consist of payments received by the
1239 state from settlement of State of Florida v. American Tobacco
1240 Co., No. 95-1466AH (Fla. 15th Cir. Ct. 1996). Moneys received
1241 from the settlement and deposited into the trust fund are exempt
1242 from the service charges imposed under s. 215.20.

1243 (3)(a) Subject to approval of the Legislature, all or any
1244 portion of the state's right, title, and interest in and to the
1245 tobacco settlement agreement may be sold to the Tobacco
1246 Settlement Financing Corporation created pursuant to s.
1247 215.56005. Any such sale shall be a true sale and not a
1248 borrowing.

1249 (b) Any moneys received by the state pursuant to any
1250 residual interest retained in the tobacco settlement agreement
1251 or the payments to be made under the tobacco settlement
1252 agreement shall be deposited into the Tobacco Settlement
1253 Clearing Trust Fund.

1254 (4) Net proceeds of the sale of the tobacco settlement
1255 agreement received by the state shall be immediately deposited
1256 into the Lawton Chiles Endowment Fund, created in s. 215.5601,
1257 without deposit to the Tobacco Settlement Clearing Trust Fund.

1258 (5) The department shall disburse funds, by nonoperating
1259 transfer, from the Tobacco Settlement Clearing Trust Fund to the
1260 tobacco settlement trust funds of the various agencies in



HB 1803

2003

1261 amounts equal to the annual appropriations made from those
 1262 agencies' trust funds in the General Appropriations Act.

1263 (6) Pursuant to the provisions of s. 19(f)(3), Art. III of
 1264 the State Constitution, the Tobacco Settlement Clearing Trust
 1265 Fund is exempt from the termination provisions of s. 19(f)(2),
 1266 Art. III of the State Constitution.

1267 Section 46. Section 17.43, Florida Statutes, is amended to
 1268 read:

1269 17.43 Chief Financial Officer's ~~Comptroller's~~ Federal
 1270 Equitable Sharing Trust Fund.--

1271 (1) The Chief Financial Officer's ~~Comptroller's~~ Federal
 1272 Equitable Sharing Trust Fund is created within the Department of
 1273 Financial Services ~~Banking and Finance~~. The department may
 1274 deposit into the trust fund receipts and revenues received as a
 1275 result of federal criminal, administrative, or civil forfeiture
 1276 proceedings and receipts and revenues received from federal
 1277 asset-sharing programs. The trust fund is exempt from the
 1278 service charges imposed by s. 215.20.

1279 (2) Notwithstanding the provisions of s. 216.301 and
 1280 pursuant to s. 216.351, any balance in the trust fund at the end
 1281 of any fiscal year shall remain in the trust fund at the end of
 1282 the year and shall be available for carrying out the purposes of
 1283 the trust fund.

1284 Section 47. Section 18.01, Florida Statutes, is
 1285 transferred, renumbered as section 17.51, Florida Statutes, and
 1286 amended to read:

1287 17.51 ~~18.01~~ Oath and certificate of Chief Financial
 1288 Officer ~~Treasurer~~.--The Chief Financial Officer ~~Treasurer~~ shall,
 1289 within 10 days before he or she enters upon the duties of
 1290 office, take and subscribe an oath or affirmation faithfully to



HB 1803

2003

1291 discharge the duties of office, which oath or affirmation must
 1292 be deposited with the Department of State. The Chief Financial
 1293 Officer ~~Treasurer~~ shall also file with the Department of State a
 1294 certificate ~~from the Comptroller~~ attesting that the retiring
 1295 Treasurer or Chief Financial Officer ~~has turned over vouchers~~
 1296 ~~for all payments made as required by law, and that the~~
 1297 ~~Treasurer's account has been truly credited with the same, and~~
 1298 ~~that he or she~~ has filed receipts from his or her successor for
 1299 ~~all vouchers paid since the end of last quarter, and for balance~~
 1300 of cash, and for all bonds and other securities held by the
 1301 Treasurer or Chief Financial Officer as such, and a certificate
 1302 from each board of which he or she is made by law ex officio
 1303 treasurer, that he or she has satisfactorily accounted to such
 1304 board as its treasurer.

1305 Section 48. Section 18.02, Florida Statutes, is
 1306 transferred, renumbered as section 17.52, Florida Statutes, and
 1307 amended to read:

1308 17.52 ~~18.02~~ Moneys paid on warrants.--The Division of
 1309 Treasury ~~Treasurer~~ shall pay all warrants on the treasury drawn
 1310 by the Chief Financial Officer or Comptroller and other orders
 1311 by the Chief Financial Officer or Comptroller for the
 1312 disbursement of state funds by electronic means or by means of a
 1313 magnetic tape or any other transfer medium. No moneys shall be
 1314 paid out of the treasury except on such warrants or other orders
 1315 of the Chief Financial Officer or Comptroller.

1316 Section 49. Section 18.021, Florida Statutes, is
 1317 transferred, renumbered as section 17.53, Florida Statutes, and
 1318 amended to read:

1319 17.53 ~~18.021~~ Chief Financial Officer ~~Treasurer~~ to operate
 1320 personal check-cashing service.--



HB 1803

2003

1321 (1) The Chief Financial Officer ~~Treasurer~~ is authorized to
 1322 operate a personal check-cashing service or a remote financial
 1323 service unit at the capitol for the benefit of state employees
 1324 or other responsible persons who properly identify themselves.

1325 (2) If a personal check is dishonored or a state warrant
 1326 is forged and the Chief Financial Officer ~~Treasurer~~ has made
 1327 diligent but unsuccessful effort to collect and has forwarded
 1328 the returned check for prosecution by the appropriate state
 1329 attorney, then he or she may include such amount in his or her
 1330 budget request to be considered during the next legislative
 1331 session.

1332 Section 50. Section 18.05, Florida Statutes, is
 1333 transferred, renumbered as section 17.54, Florida Statutes, and
 1334 amended to read:

1335 17.54 ~~18.05~~ Annual report to Governor.--The Chief
 1336 Financial Officer ~~Treasurer~~ shall make a report in detail to the
 1337 Governor, with a copy to the President of the Senate and the
 1338 Speaker of the House of Representatives as soon after the 1st
 1339 day of July of each year as it is practicable to prepare same of
 1340 the transactions of the Division of Treasury ~~his or her office~~
 1341 for the preceding fiscal year, embracing a statement of the
 1342 receipts and payments on account of each of the several funds of
 1343 which he or she has the care and custody.

1344 Section 51. Section 18.06, Florida Statutes, is
 1345 transferred, renumbered as section 17.55, Florida Statutes, and
 1346 amended to read:

1347 17.55 ~~18.06~~ Examination by and monthly statements to the
 1348 Governor.--The office of the Chief Financial Officer ~~Treasurer~~
 1349 ~~of this state~~, and the books, files, documents, records, and
 1350 papers thereof, shall always be subject to the examination of



HB 1803

2003

1351 the Governor of the state, or any person he or she may authorize
 1352 to examine same. The Chief Financial Officer ~~Treasurer~~ shall
 1353 exhibit to the Governor monthly a trial balance sheet from the
 1354 Division of Treasury ~~his or her books~~ and a statement of all the
 1355 credits, moneys, or effects on hand on the day for which such
 1356 ~~said~~ trial balance sheet is made, and such ~~said~~ statement
 1357 accompanying such ~~said~~ trial balance sheet shall particularly
 1358 describe the exact character of funds, credits, and securities,
 1359 and shall state in detail the amount which he or she may have
 1360 representing cash, including any not yet entered upon the books
 1361 of his or her office, and such statement shall be certified and
 1362 signed by the Chief Financial Officer ~~Treasurer~~ officially.

1363 Section 52. Section 18.07, Florida Statutes, is
 1364 transferred, renumbered as section 17.555, Florida Statutes, and
 1365 amended to read:

1366 17.555 ~~18.07~~ Division of Treasury ~~Treasurer~~ to keep record
 1367 of warrants and of state funds and securities.--The Division of
 1368 Treasury ~~Treasurer~~ shall keep a record of the warrants or other
 1369 orders of the Chief Financial Officer ~~Comptroller~~ which the
 1370 Division of Treasury ~~Treasurer~~ pays and shall account for all
 1371 state funds and securities.

1372 Section 53. Section 18.091, Florida Statutes, is
 1373 transferred, renumbered as section 17.556, Florida Statutes, and
 1374 amended to read:

1375 17.556 ~~18.091~~ Legislative sessions; additional employees.-
 1376 -

1377 (1) Hereafter during any period of time the Legislature of
 1378 Florida may be in actual session, the Chief Financial Officer
 1379 ~~Treasurer~~ is empowered to employ additional persons to assist in
 1380 performing the services required of the Chief Financial Officer



HB 1803

2003

1381 ~~Treasurer~~ in connection with s. 17.53(1) ~~s. 18.021(1)~~. The
 1382 salaries to be paid such employees of the Chief Financial
 1383 Officer ~~Treasurer~~ shall not be in excess of the highest salary
 1384 paid by the House of Representatives or the state Senate for
 1385 secretarial services; and the salaries for said employees shall
 1386 begin with the convening of the Legislature in session and shall
 1387 continue for not more than 7 days after the close of the
 1388 legislative session; provided, that recesses of the Legislature
 1389 not in excess of 3 days shall be considered as time during which
 1390 the Legislature is actually in session.

1391 (2) In addition to the regular annual appropriations for
 1392 the Chief Financial Officer ~~Treasurer~~, there is hereby
 1393 appropriated for use of the Chief Financial Officer ~~Treasurer~~
 1394 from the General Revenue Fund, from time to time as necessary,
 1395 sufficient sums to pay the salaries of the above-described
 1396 employees ~~of the Treasurer~~.

1397 Section 54. Section 18.08, Florida Statutes, is
 1398 transferred, renumbered as section 17.56, Florida Statutes, and
 1399 amended to read:

1400 17.56 ~~18.08~~ Division of Treasury ~~Treasurer~~ to turn over to
 1401 the Division of Accounting and Auditing ~~Comptroller~~ all warrants
 1402 paid.--The Division of Treasury ~~Treasurer~~ shall turn over to the
 1403 Division of Accounting and Auditing ~~Comptroller~~, through the
 1404 ~~data service center~~, all warrants drawn by the Chief Financial
 1405 Officer or the Comptroller and paid by the Division of Treasury
 1406 ~~Treasurer~~. The ~~Said~~ warrants shall be turned over as soon as
 1407 the Division of Treasury ~~Treasurer~~ shall have recorded such
 1408 warrants and charged the same against the accounts upon which
 1409 such warrants are drawn.

1410 Section 55. Section 18.10, Florida Statutes, is



HB 1803

2003

1411 transferred, renumbered as section 17.57, Florida Statutes, and
 1412 amended to read:

1413 17.57 ~~18.10~~ Deposits and investments of state money.--

1414 (1) The Chief Financial Officer ~~Treasurer~~, or other
 1415 parties with the permission of the Chief Financial Officer
 1416 ~~Treasurer~~, shall deposit the money of the state or any money in
 1417 the State Treasury in such qualified public depositories of the
 1418 state as will offer satisfactory collateral security for such
 1419 deposits, pursuant to chapter 280. It is the duty of the Chief
 1420 Financial Officer ~~Treasurer~~, consistent with the cash
 1421 requirements of the state, to keep such money fully invested or
 1422 deposited as provided herein in order that the state may realize
 1423 maximum earnings and benefits.

1424 (2) The Chief Financial Officer ~~Treasurer~~ shall make funds
 1425 available to meet the disbursement needs of the state. Funds
 1426 which are not needed for this purpose shall be placed in
 1427 qualified public depositories that will pay rates established by
 1428 the Chief Financial Officer ~~Treasurer~~ at levels not less than
 1429 the prevailing rate for United States Treasury securities with a
 1430 corresponding maturity. In the event money is available for
 1431 interest-bearing time deposits or savings accounts as provided
 1432 herein and qualified public depositories are unwilling to accept
 1433 such money and pay thereon the rates established above, then
 1434 such money which qualified public depositories are unwilling to
 1435 accept shall be invested in:

- 1436 (a) Direct United States Treasury obligations.
- 1437 (b) Obligations of the Federal Farm Credit Banks.
- 1438 (c) Obligations of the Federal Home Loan Bank and its
 1439 district banks.
- 1440 (d) Obligations of the Federal Home Loan Mortgage



HB 1803

2003

1441 Corporation, including participation certificates.

1442 (e) Obligations guaranteed by the Government National
1443 Mortgage Association.

1444 (f) Obligations of the Federal National Mortgage
1445 Association.

1446 (g) Commercial paper of prime quality of the highest
1447 letter and numerical rating as provided for by at least one
1448 nationally recognized rating service.

1449 (h) Time drafts or bills of exchange drawn on and accepted
1450 by a commercial bank, otherwise known as "bankers acceptances,"
1451 which are accepted by a member bank of the Federal Reserve
1452 System having total deposits of not less than \$400 million or
1453 which are accepted by a commercial bank which is not a member of
1454 the Federal Reserve System with deposits of not less than \$400
1455 million and which is licensed by a state government or the
1456 Federal Government, and whose senior debt issues are rated in
1457 one of the two highest rating categories by a nationally
1458 recognized rating service and which are held in custody by a
1459 domestic bank which is a member of the Federal Reserve System.

1460 (i) Corporate obligations or corporate master notes of any
1461 corporation within the United States, if the long-term
1462 obligations of such corporation are rated by at least two
1463 nationally recognized rating services in any one of the four
1464 highest classifications. However, if such obligations are rated
1465 by only one nationally recognized rating service, then the
1466 obligations shall be rated in any one of the two highest
1467 classifications.

1468 (j) Obligations of the Student Loan Marketing Association.

1469 (k) Obligations of the Resolution Funding Corporation.

1470 (l) Asset-backed or mortgage-backed securities of the



HB 1803

2003

1471 highest credit quality.

1472 (m) Any obligations not previously listed which are
1473 guaranteed as to principal and interest by the full faith and
1474 credit of the United States Government or are obligations of
1475 United States agencies or instrumentalities which are rated in
1476 the highest category by a nationally recognized rating service.

1477 (n) Commingled no-load investment funds or no-load mutual
1478 funds in which all securities held by the funds are authorized
1479 in this subsection.

1480 (o) Money market mutual funds as defined and regulated by
1481 the Securities and Exchange Commission.

1482 (p) Obligations of state and local governments rated in
1483 any of the four highest classifications by at least two
1484 nationally recognized rating services. However, if such
1485 obligations are rated by only one nationally recognized rating
1486 service, then the obligations shall be rated in any one of the
1487 two highest classifications.

1488 (q) Derivatives of investment instruments authorized in
1489 paragraphs(a)-(m).

1490 (r) Covered put and call options on investment instruments
1491 authorized in this subsection for the purpose of hedging
1492 transactions by investment managers to mitigate risk or to
1493 facilitate portfolio management.

1494 (s) Negotiable certificates of deposit issued by financial
1495 institutions whose long-term debt is rated in one of the three
1496 highest categories by at least two nationally recognized rating
1497 services, the investment in which shall not be prohibited by any
1498 provision of chapter 280.

1499 (t) Foreign bonds denominated in United States dollars and
1500 registered with the Securities and Exchange Commission for sale



HB 1803

2003

1501 in the United States, if the long-term obligations of such
 1502 issuers are rated by at least two nationally recognized rating
 1503 services in any one of the four highest classifications.
 1504 However, if such obligations are rated by only one nationally
 1505 recognized rating service, the obligations shall be rated in any
 1506 one of the two highest classifications.

1507 (u) Convertible debt obligations of any corporation
 1508 domiciled within the United States, if the convertible debt
 1509 issue is rated by at least two nationally recognized rating
 1510 services in any one of the four highest classifications.
 1511 However, if such obligations are rated by only one nationally
 1512 recognized rating service, then the obligations shall be rated
 1513 in any one of the two highest classifications.

1514 (v) Securities not otherwise described in this subsection.
 1515 However, not more than 3 percent of the funds under the control
 1516 of the Chief Financial Officer ~~Treasurer~~ shall be invested in
 1517 securities described in this paragraph.

1518
 1519

1520 These investments may be in varying maturities and may be in
 1521 book-entry form. Investments made pursuant to this subsection
 1522 may be under repurchase agreement. The Chief Financial Officer
 1523 may ~~Treasurer is authorized to~~ hire registered investment
 1524 advisers and other consultants to assist in investment
 1525 management and to pay fees directly from investment earnings.
 1526 Investment securities, proprietary investment services related
 1527 to contracts, performance evaluation services, investment-
 1528 related equipment or software used directly to assist investment
 1529 trading or investment accounting operations including bond
 1530 calculators, telerates, Bloombergs, special program calculators,



HB 1803

2003

1531 intercom systems, and software used in accounting,
1532 communications, and trading, and advisory and consulting
1533 contracts made under this section are exempt from the provisions
1534 of chapter 287.

1535 (3) In the event the financial institutions in the state
1536 do not make sufficient loan funds available for a residential
1537 conservation program pursuant to any plan approved by the
1538 Florida Public Service Commission under the Florida Energy
1539 Efficiency and Conservation Act, the board may authorize the
1540 investment of state funds, except retirement trust funds, in
1541 such a loan program at rates not less than prevailing United
1542 States Treasury bill rates. However, prior to investment of such
1543 funds, the Florida Public Service Commission shall develop a
1544 plan which must be approved by the Legislature before
1545 implementation.

1546 (4) All earnings on any investments made pursuant to this
1547 section are hereby appropriated to the General Revenue Fund,
1548 except that earnings attributable to moneys made available
1549 pursuant to s. 17.61(3) ~~s. 18.125(3)(a) and (b)~~ shall be
1550 credited pro rata to the funds from which such moneys were made
1551 available.

1552 (5) The fact that a municipal officer or a state officer,
1553 including an officer of any municipal or state agency, board,
1554 bureau, commission, institution, or department, is a stockholder
1555 or an officer or director of a bank or savings and loan
1556 association will not bar such bank or savings and loan
1557 association from being a depository of funds coming under the
1558 jurisdiction of any such municipal officer or state officer if
1559 it shall appear in the records of the municipal or state office
1560 that the governing body of such municipality or state agency has



HB 1803

2003

1561 investigated and determined that such municipal or state officer
 1562 is not favoring such banks or savings and loan associations over
 1563 other qualified banks or savings and loan associations.

1564 (6) The Chief Financial Officer ~~Treasurer~~ is designated
 1565 the cash management officer for the state and is charged with
 1566 the coordination and supervision of procedures providing for the
 1567 efficient handling of financial assets under the control of the
 1568 State Treasury and each of the various state agencies, and of
 1569 the judicial branch, as defined in s. 216.011. This
 1570 responsibility shall include the supervision and approval of all
 1571 banking relationships. Pursuant to this responsibility, the
 1572 Chief Financial Officer may ~~Treasurer is authorized to~~ obtain
 1573 information from financial institutions regarding depository
 1574 accounts maintained by any agency or institution of the State of
 1575 Florida.

1576 Section 56. Effective July 1, 2003, subsection (4) of
 1577 section 17.57, Florida Statutes, as amended by this act, is
 1578 amended to read:

1579 17.57 Deposits and investments of state money.--

1580 (4) All earnings on any investments made pursuant to this
 1581 section shall be credited to the General Revenue Fund, except
 1582 that earnings attributable to moneys made available pursuant to
 1583 s. 17.61(3) ~~s. 18.125(3)~~ shall be credited pro rata to the funds
 1584 from which such moneys were made available.

1585 Section 57. Section 18.101, Florida Statutes, is
 1586 transferred, renumbered as section 17.58, Florida Statutes, and
 1587 amended to read:

1588 17.58 ~~18.101~~ Deposits of public money outside the State
 1589 Treasury; revolving funds.--

1590 (1) All moneys collected by state agencies, boards,



HB 1803

2003

1591 bureaus, commissions, institutions, and departments shall,
1592 except as otherwise provided by law, be deposited in the State
1593 Treasury. However, when the volume and complexity of collections
1594 so justify, the Chief Financial Officer ~~Treasurer~~ may give
1595 written approval for such moneys to be deposited in clearing
1596 accounts outside the State Treasury in qualified public
1597 depositories pursuant to chapter 280. Such deposits shall only
1598 be made in depositories designated by the Chief Financial
1599 Officer ~~Treasurer~~. No money may be maintained in such clearing
1600 accounts for a period longer than approved by the Chief
1601 Financial Officer ~~Treasurer~~ or 40 days, whichever is shorter,
1602 prior to its being transmitted to the Chief Financial Officer
1603 ~~Treasurer~~ or to an account designated by him or her, distributed
1604 to a statutorily authorized account outside the State Treasury,
1605 refunded, or transmitted to the Department of Revenue. All
1606 depositories so designated shall pledge sufficient collateral to
1607 be security for such funds as provided in chapter 280.

1608 (2) Revolving funds authorized by the Chief Financial
1609 Officer ~~Comptroller~~ for all state agencies, boards, bureaus,
1610 commissions, institutions, and departments may be deposited by
1611 such agencies, boards, bureaus, commissions, institutions, and
1612 departments in qualified public depositories designated by the
1613 Chief Financial Officer ~~Treasurer~~ for such revolving fund
1614 deposits; and the depositories in which such deposits are made
1615 shall pledge collateral security as provided in chapter 280.

1616 (3) Notwithstanding the foregoing provisions, clearing and
1617 revolving accounts may be established outside the state when
1618 necessary to facilitate the authorized operations of any agency,
1619 board, bureau, commission, institution, or department. Any of
1620 such accounts established in the United States shall be subject



HB 1803

2003

1621 to the collateral security requirements of chapter 280. Accounts
 1622 established outside the United States may be exempted from the
 1623 requirements of chapter 280 as provided in chapter 280; but
 1624 before any unsecured account is established, the agency
 1625 requesting or maintaining the account shall recommend a
 1626 financial institution to the Chief Financial Officer ~~Treasurer~~
 1627 for designation to hold the account and shall submit evidence of
 1628 the financial condition, size, reputation, and relative
 1629 prominence of the institution from which the Chief Financial
 1630 Officer ~~Treasurer~~ can reasonably conclude that the institution
 1631 is financially sound before designating it to hold the account.

1632 (4) Each department shall furnish a statement to the Chief
 1633 Financial Officer ~~Treasurer~~, on or before the 20th of the month
 1634 following the end of each calendar quarter, listing each
 1635 clearing account and revolving fund within that department's
 1636 jurisdiction. Such statement shall report, as of the last day of
 1637 the calendar quarter, the cash balance in each revolving fund
 1638 and that portion of the cash balance in each clearing account
 1639 that will eventually be deposited to the State Treasury as
 1640 provided by law. The Chief Financial Officer ~~Treasurer~~ shall
 1641 show the sum total of state funds in clearing accounts and
 1642 revolving funds, as most recently reported to the Chief
 1643 Financial Officer ~~Treasurer~~ by various departments, in his or
 1644 her monthly statement to the Governor, pursuant to s. 17.55 ~~s.~~
 1645 ~~18.06~~.

1646 Section 58. Section 18.103, Florida Statutes, is
 1647 transferred, renumbered as section 17.59, Florida Statutes, and
 1648 amended to read:

1649 17.59 ~~18.103~~ Safekeeping services ~~of Treasurer~~.--

1650 (1) The Chief Financial Officer ~~Treasurer~~ may accept for



HB 1803

2003

1651 safekeeping purposes, deposits of cash, securities, and other
 1652 documents or articles of value from any state agency as defined
 1653 in s. 216.011, or any county, city, or political subdivision
 1654 thereof, or other public authority.

1655 (2) The Chief Financial Officer ~~Treasurer~~ may, in his or
 1656 her discretion, establish a fee for processing, servicing, and
 1657 safekeeping deposits and other documents or articles of value
 1658 held in the Chief Financial Officer's ~~Treasurer's~~ vaults as
 1659 requested by the various entities or as provided for by law.
 1660 Such fee shall be equivalent to the fee charged by financial
 1661 institutions for processing, servicing, and safekeeping the same
 1662 types of deposits and other documents or articles of value.

1663 (3) The Chief Financial Officer ~~Treasurer~~ shall collect in
 1664 advance, and persons so served shall pay to the Chief Financial
 1665 Officer ~~Treasurer~~ in advance, the miscellaneous charges as
 1666 follows:

1667 (a) For copies of documents or records on file with the
 1668 Chief Financial Officer ~~Treasurer~~, per page....\$.50.

1669 (b) For each certificate of the Chief Financial Officer
 1670 ~~Treasurer~~, certified or under the Chief Financial Officer's
 1671 ~~Treasurer's~~ seal, authenticating any document or other
 1672 instrument....\$5.00.

1673 (4) All fees collected for the services described in this
 1674 section shall be deposited in the Treasury ~~Treasurer's~~
 1675 Administrative and Investment Trust Fund.

1676 Section 59. Section 18.104, Florida Statutes, is
 1677 transferred, renumbered as section 17.60, Florida Statutes, and
 1678 amended to read:

1679 17.60 ~~18.104~~ Treasury Cash Deposit Trust Fund.--

1680 (1) There is ~~hereby~~ created in the State Treasury the



HB 1803

2003

1681 Treasury Cash Deposit Trust Fund. Cash deposits made pursuant
 1682 to s. 17.59 ~~s. 18.103~~ shall be deposited into this fund.

1683 (2) Interest earned on cash deposited into this fund shall
 1684 be prorated and paid to the depositing entities.

1685 Section 60. Section 18.125, Florida Statutes, is
 1686 transferred, renumbered as section 17.61, Florida Statutes, and
 1687 amended to read:

1688 17.61 ~~18.125~~ Chief Financial Officer ~~Treasurer~~; powers and
 1689 duties in the investment of certain funds.--

1690 (1) The Chief Financial Officer ~~Treasurer~~, ~~acting with the~~
 1691 ~~approval of a majority of the State Board of Administration,~~
 1692 shall invest all general revenue funds and all the trust funds
 1693 and all agency funds of each state agency, and of the judicial
 1694 branch, as defined in s. 216.011, and may, upon request, invest
 1695 funds of any statutorily created board, association, or entity,
 1696 except for the funds required to be invested pursuant to ss.
 1697 215.44-215.53, by the procedure and in the authorized securities
 1698 prescribed in s. 17.57 ~~s. 18.10~~; for this purpose, the Chief
 1699 Financial Officer ~~may~~ ~~Treasurer~~ ~~shall be authorized to~~ open and
 1700 maintain one or more demand and safekeeping accounts in any bank
 1701 or savings association for the investment and reinvestment and
 1702 the purchase, sale, and exchange of funds and securities in the
 1703 accounts. Funds in such accounts used solely for investments
 1704 and reinvestments shall be considered investment funds and not
 1705 funds on deposit, and such funds shall be exempt from the
 1706 provisions of chapter 280. In addition, the securities or
 1707 investments purchased or held under the provisions of this
 1708 section and s. 17.57 ~~s. 18.10~~ may be loaned to securities
 1709 dealers and banks and may be registered by the Chief Financial
 1710 Officer ~~Treasurer~~ in the name of a third-party nominee in order



HB 1803

2003

1711 to facilitate such loans, provided the loan is collateralized by
1712 cash or United States government securities having a market
1713 value of at least 100 percent of the market value of the
1714 securities loaned. The Chief Financial Officer ~~Treasurer~~ shall
1715 keep a separate account, designated by name and number, of each
1716 fund. Individual transactions and totals of all investments, or
1717 the share belonging to each fund, shall be recorded in the
1718 accounts.

1719 (2) By and with the consent and approval of any
1720 constitutional board, the judicial branch, or agency now having
1721 the constitutional power to make investments and in accordance
1722 with this section, the Chief Financial Officer ~~may Treasurer~~
1723 ~~shall have the power to~~ make purchases, sales, exchanges,
1724 investments, and reinvestments for and on behalf of any such
1725 board.

1726 (3)(a) Except as otherwise provided in this subsection, it
1727 is the duty of each state agency, and of the judicial branch,
1728 now or hereafter charged with the administration of the funds
1729 referred to in subsection (1) to make such moneys available for
1730 investment as fully as is consistent with the cash requirements
1731 of the particular fund and to authorize investment of such
1732 moneys by the Chief Financial Officer ~~Treasurer~~.

1733 (b) Monthly, and more often as circumstances require, such
1734 agency or judicial branch shall notify the Chief Financial
1735 Officer ~~Treasurer~~ of the amount available for investment; and
1736 the moneys shall be invested by the Chief Financial Officer
1737 ~~Treasurer~~. Such notification shall include the name and number
1738 of the fund for which the investments are to be made and the
1739 life of the investment if the principal sum is to be required
1740 for meeting obligations. This subsection, however, shall not be



HB 1803

2003

1741 construed to make available for investment any funds other than
 1742 those referred to in subsection(1).

1743 (c) Except as provided in this paragraph and except for
 1744 moneys described in paragraph (d), the following agencies shall
 1745 not invest trust fund moneys as provided in this section, but
 1746 shall retain such moneys in their respective trust funds for
 1747 investment, with interest appropriated to the General Revenue
 1748 Fund, pursuant to s. 17.57 ~~s. 18.10~~:

1749 1. The Agency for Health Care Administration, except for
 1750 the Tobacco Settlement Trust Fund.

1751 2. The Department of Children and Family Services, except
 1752 for:

- 1753 a. The Alcohol, Drug Abuse, and Mental Health Trust Fund.
- 1754 b. The Community Resources Development Trust Fund.
- 1755 c. The Refugee Assistance Trust Fund.
- 1756 d. The Social Services Block Grant Trust Fund.
- 1757 e. The Tobacco Settlement Trust Fund.
- 1758 f. The Working Capital Trust Fund.

1759 3. The Department of Community Affairs, only for the
 1760 Operating Trust Fund.

1761 4. The Department of Corrections.

1762 5. The Department of Elderly Affairs, except for:

- 1763 a. The Federal Grants Trust Fund.
- 1764 b. The Tobacco Settlement Trust Fund.

1765 6. The Department of Health, except for:

- 1766 a. The Federal Grants Trust Fund.
- 1767 b. The Grants and Donations Trust Fund.
- 1768 c. The Maternal and Child Health Block Grant Trust Fund.
- 1769 d. The Tobacco Settlement Trust Fund.

1770 7. The Department of Highway Safety and Motor Vehicles,



HB 1803

2003

1771 only for:

1772 a. The DUI Programs Coordination Trust Fund.

1773 b. The Security Deposits Trust Fund.

1774 8. The Department of Juvenile Justice.

1775 9. The Department of Labor and Employment Security, only

1776 for the Administrative Trust Fund.

1777 10. The Department of Law Enforcement.

1778 11. The Department of Legal Affairs.

1779 12. The Department of State, only for:

1780 a. The Grants and Donations Trust Fund.

1781 b. The Records Management Trust Fund.

1782 13. The Executive Office of the Governor, only for:

1783 a. The Economic Development Transportation Trust Fund.

1784 b. The Economic Development Trust Fund.

1785 14. The Florida Public Service Commission, only for the

1786 Florida Public Service Regulatory Trust Fund.

1787 15. The Justice Administrative Commission.

1788 16. The state courts system.

1789 (d) Moneys in any trust funds of the agencies in paragraph

1790 (c) may be invested pursuant to the provisions of this section

1791 if:

1792 1. Investment of such moneys and the retention of interest

1793 is required by federal programs or mandates;

1794 2. Investment of such moneys and the retention of interest

1795 is required by bond covenants, indentures, or resolutions;

1796 3. Such moneys are held by the state in a trustee capacity

1797 as an agent or fiduciary for individuals, private organizations,

1798 or other governmental units; or

1799 4. The Executive Office of the Governor determines, after

1800 consultation with the Legislature pursuant to the procedures of



HB 1803

2003

1801 s. 216.177, that federal matching funds or contributions or
1802 private grants to any trust fund would be lost to the state.

1803 (4)(a) There is hereby created in the State Treasury the
1804 Treasury ~~Treasurer's~~ Administrative and Investment Trust Fund.

1805 (b) The Chief Financial Officer ~~Treasurer~~ shall make an
1806 annual assessment of 0.12 percent against the average daily
1807 balance of those moneys made available pursuant to this section
1808 and 0.2 percent against the average daily balance of those funds
1809 requiring investment in a separate account. The proceeds of this
1810 assessment shall be deposited in the Treasury ~~Treasurer's~~
1811 Administrative and Investment Trust Fund.

1812 (c) The moneys so received and deposited in the fund shall
1813 be used by the Chief Financial Officer ~~Treasurer~~ to defray the
1814 expense of his or her office in the discharge of the
1815 administrative and investment powers and duties prescribed by
1816 this section and this chapter, including the maintaining of an
1817 office and necessary supplies therefor, essential equipment and
1818 other materials, salaries and expenses of required personnel,
1819 and all other legitimate expenses relating to the administrative
1820 and investment powers and duties imposed upon and charged to the
1821 Chief Financial Officer ~~Treasurer~~ under this section and this
1822 chapter. The unencumbered balance in the trust fund at the close
1823 of each quarter shall not exceed \$750,000. Any funds in excess
1824 of this amount shall be transferred unallocated to the General
1825 Revenue Fund. However, fees received from deferred compensation
1826 participants pursuant to s. 112.215 shall not be transferred to
1827 the General Revenue Fund and shall be used to operate the
1828 deferred compensation program.

1829 (5) The transfer of the powers, duties, and
1830 responsibilities of existing state agencies and of the judicial



HB 1803

2003

1831 branch made by this section to the Chief Financial Officer
 1832 ~~Treasurer~~ shall include only the particular powers, duties, and
 1833 responsibilities hereby transferred, and all other existing
 1834 powers shall in no way be affected by this section.

1835 Section 61. Effective July 1, 2003, subsection (3) of
 1836 section 17.61, Florida Statutes, as amended by this act, is
 1837 amended to read:

1838 17.61 Chief Financial Officer; powers and duties in the
 1839 investment of certain funds.--

1840 (3)(a) It is the duty of each state agency, and of the
 1841 judicial branch, now or hereafter charged with the
 1842 administration of the funds referred to in subsection (1) to
 1843 make such moneys available for investment as fully as is
 1844 consistent with the cash requirements of the particular fund and
 1845 to authorize investment of such moneys by the Chief Financial
 1846 Officer ~~Treasurer~~.

1847 (b) Monthly, and more often as circumstances require, such
 1848 agency or judicial branch shall notify the Chief Financial
 1849 Officer ~~Treasurer~~ of the amount available for investment; and
 1850 the moneys shall be invested by the Chief Financial Officer
 1851 ~~Treasurer~~. Such notification shall include the name and number
 1852 of the fund for which the investments are to be made and the
 1853 life of the investment if the principal sum is to be required
 1854 for meeting obligations. This subsection, however, shall not be
 1855 construed to make available for investment any funds other than
 1856 those referred to in subsection(1).

1857 Section 62. Section 18.15, Florida Statutes, is
 1858 transferred, renumbered as section 17.62, Florida Statutes, and
 1859 amended to read:

1860 17.62 ~~18.15~~ Interest on state moneys deposited; when



HB 1803

2003

1861 paid.--Interest on state moneys deposited in qualified public
 1862 depositories under s. 17.57 ~~s. 18.10~~ shall be payable to the
 1863 Chief Financial Officer ~~Treasurer~~ quarterly ~~or semiannually~~.

1864 Section 63. Section 18.17, Florida Statutes, is
 1865 transferred, renumbered as section 17.63, Florida Statutes, and
 1866 amended to read:

1867 17.63 ~~18.17~~ Chief Financial Officer ~~Treasurer~~ not to issue
 1868 evidences of indebtedness.--It is not lawful for the Chief
 1869 Financial Officer ~~Treasurer~~ of this state to issue any treasury
 1870 certificates, or any other evidences of indebtedness, for any
 1871 purpose whatever, and the Chief Financial Officer ~~Treasurer~~ is
 1872 prohibited from issuing the same.

1873 Section 64. Section 18.20, Florida Statutes, is
 1874 transferred, renumbered as section 17.64, Florida Statutes, and
 1875 amended to read:

1876 17.64 ~~18.20~~ Division of Treasury ~~Treasurer~~ to make
 1877 reproductions of certain warrants, records, and documents.--

1878 ~~(1) All vouchers or checks heretofore or hereafter drawn~~
 1879 ~~by appropriate court officials of the several counties of the~~
 1880 ~~state against money deposited with the Treasurer under the~~
 1881 ~~provisions of s. 43.17, and paid by the Treasurer, may be~~
 1882 ~~photographed, microphotographed, or reproduced on film by the~~
 1883 ~~Treasurer. Such photographic film shall be durable material and~~
 1884 ~~the device used to so reproduce such warrants, vouchers, or~~
 1885 ~~checks shall be one which accurately reproduces the originals~~
 1886 ~~thereof in all detail; and such photographs, microphotographs,~~
 1887 ~~or reproductions on film shall be placed in conveniently~~
 1888 ~~accessible and identified files and shall be preserved by the~~
 1889 ~~Treasurer as a part of the permanent records of office. When~~
 1890 ~~any such warrants, vouchers, or checks have been so~~



HB 1803

2003

1891 ~~photographed, microphotographed, or reproduced on film, and the~~
 1892 ~~photographs, microphotographs, or reproductions on film thereof~~
 1893 ~~have been placed in files as a part of the permanent records of~~
 1894 ~~the office of the Treasurer as aforesaid, the Treasurer is~~
 1895 ~~authorized to return such warrants, vouchers, or checks to the~~
 1896 ~~offices of the respective county officials who drew the same and~~
 1897 ~~such warrants, vouchers, or checks shall be retained and~~
 1898 ~~preserved in such offices to which returned as a part of the~~
 1899 ~~permanent records of such offices.~~

1900 (1)~~(2)~~ ~~Such~~ Photographs, microphotographs, or
 1901 reproductions on film of ~~said~~ warrants, vouchers, or checks
 1902 shall be deemed to be original records for all purposes; and any
 1903 copy or reproduction thereof made from such original film, duly
 1904 certified by the Division of Treasury ~~Treasurer~~ as a true and
 1905 correct copy or reproduction made from such film, shall be
 1906 deemed to be a transcript, exemplification or certified copy of
 1907 the original warrant, voucher, or check such copy represents,
 1908 and shall in all cases and in all courts and places be admitted
 1909 and received in evidence with the like force and effect as the
 1910 original thereof might be.

1911 (2)~~(3)~~ The Division of Treasury ~~may~~ ~~Treasurer is also~~
 1912 ~~hereby authorized to~~ photograph, microphotograph, or reproduce
 1913 on film, all records and documents of the division ~~said office,~~
 1914 as the Chief Financial Officer ~~Treasurer may,~~ in his or her
 1915 discretion, selects ~~select;~~ and the division may ~~said Treasurer~~
 1916 ~~is hereby authorized to~~ destroy any such ~~of the said~~ documents
 1917 or records after they have been photographed and filed and after
 1918 audit of the division ~~Treasurer's office~~ has been completed for
 1919 the period embracing the dates of such ~~said~~ documents and
 1920 records.



HB 1803

2003

1921 (3)~~(4)~~ Photographs or microphotographs in the form of film
 1922 or prints of any records made in compliance with the provisions
 1923 of this section shall have the same force and effect as the
 1924 originals thereof would have, and shall be treated as originals
 1925 for the purpose of their admissibility in evidence. Duly
 1926 certified or authenticated reproductions of such photographs or
 1927 microphotographs shall be admitted in evidence equally with the
 1928 original photographs or microphotographs.

1929 Section 65. Section 18.23, Florida Statutes, is
 1930 transferred, renumbered as section 17.65, Florida Statutes, and
 1931 amended to read:

1932 17.65 ~~18.23~~ Chief Financial Officer ~~Treasurer~~ to prescribe
 1933 forms.--The Chief Financial Officer ~~Treasurer~~ may prescribe the
 1934 forms, and the manner of keeping the same, for all receipts,
 1935 credit advices, abstracts, reports, and other papers furnished
 1936 the Chief Financial Officer ~~Treasurer~~ by the officers of this
 1937 state or other persons or entities as a result of their having,
 1938 or depositing, state moneys.

1939 Section 66. Section 18.24, Florida Statutes, is
 1940 transferred, renumbered as section 17.66, Florida Statutes, and
 1941 amended to read:

1942 17.66 ~~18.24~~ Securities in book-entry form.--Any security
 1943 that ~~which~~:

1944 (1)(a) Is eligible to be held in book-entry form on the
 1945 books of the Federal Reserve Book-Entry System; or

1946 (b) Is eligible for deposit in a depository trust clearing
 1947 system established to hold and transfer securities by
 1948 computerized book-entry systems; and which

1949 (2)(a) Is held in the name of the Chief Financial Officer,
 1950 in the name of the State Treasurer, or in the name of the State



HB 1803

2003

1951 Insurance Commissioner; or

1952 (b) Is pledged to the Chief Financial Officer, to the
 1953 State Treasurer, or to the State Insurance Commissioner;

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1956 under any state law for any purpose whatsoever, may be held in
 1957 book-entry form on the books of the Federal Reserve Book-Entry
 1958 System or on deposit in a depository trust clearing system.

1959 Section 67. Subsection (3) of section 20.04, Florida
 1960 Statutes, is amended to read:

1961 20.04 Structure of executive branch.--The executive branch
 1962 of state government is structured as follows:

1963 (3) For their internal structure, all departments, except
 1964 for the Department of Financial Services, the Department of
 1965 Children and Family Services, the Department of Corrections, the
 1966 Department of Management Services, the Department of Revenue,
 1967 and the Department of Transportation, must adhere to the
 1968 following standard terms:

1969 (a) The principal unit of the department is the
 1970 "division." Each division is headed by a "director."

1971 (b) The principal unit of the division is the "bureau."
 1972 Each bureau is headed by a "chief."

1973 (c) The principal unit of the bureau is the "section."
 1974 Each section is headed by an "administrator."

1975 (d) If further subdivision is necessary, sections may be
 1976 divided into "subsections," which are headed by "supervisors."

1977 Section 68. Paragraph (h) of subsection (5) of section
 1978 20.055, Florida Statutes, is amended to read:

1979 20.055 Agency inspectors general.--

1980 (5) In carrying out the auditing duties and



HB 1803

2003

1981 responsibilities of this act, each inspector general shall
 1982 review and evaluate internal controls necessary to ensure the
 1983 fiscal accountability of the state agency. The inspector general
 1984 shall conduct financial, compliance, electronic data processing,
 1985 and performance audits of the agency and prepare audit reports
 1986 of his or her findings. The scope and assignment of the audits
 1987 shall be determined by the inspector general; however, the
 1988 agency head may at any time direct the inspector general to
 1989 perform an audit of a special program, function, or
 1990 organizational unit. The performance of the audit shall be under
 1991 the direction of the inspector general, except that if the
 1992 inspector general does not possess the qualifications specified
 1993 in subsection (4), the director of auditing shall perform the
 1994 functions listed in this subsection.

1995 (h) The inspector general shall develop long-term and
 1996 annual audit plans based on the findings of periodic risk
 1997 assessments. The plan, where appropriate, should include
 1998 postaudit samplings of payments and accounts. The plan shall
 1999 show the individual audits to be conducted during each year and
 2000 related resources to be devoted to the respective audits. The
 2001 Chief Financial Officer ~~Comptroller~~, to assist in fulfilling the
 2002 responsibilities for examining, auditing, and settling accounts,
 2003 claims, and demands pursuant to s. 17.03(1), and examining,
 2004 auditing, adjusting, and settling accounts pursuant to s. 17.04,
 2005 may utilize audits performed by the inspectors general and
 2006 internal auditors. For state agencies under the Governor, the
 2007 audit plans shall be submitted to the Governor's Chief Inspector
 2008 General. The plan shall be submitted to the agency head for
 2009 approval. A copy of the approved plan shall be submitted to the
 2010 Auditor General.



HB 1803

2003

2011 Section 69. Section 20.195, Florida Statutes, is amended
 2012 to read:

2013 20.195 Department of Children and Family Services Tobacco
 2014 Settlement Trust Fund.--

2015 (1) The Department of Children and Family Services Tobacco
 2016 Settlement Trust Fund is created within that department. Funds
 2017 to be credited to the trust fund shall consist of funds
 2018 disbursed, by nonoperating transfer, from the Department of
 2019 Financial Services ~~Banking and Finance~~ Tobacco Settlement
 2020 Clearing Trust Fund in amounts equal to the annual
 2021 appropriations made from this trust fund.

2022 (2) Notwithstanding the provisions of s. 216.301 and
 2023 pursuant to s. 216.351, any unencumbered balance in the trust
 2024 fund at the end of any fiscal year and any encumbered balance
 2025 remaining undisbursed on December 31 of the same calendar year
 2026 shall revert to the Department of Financial Services ~~Banking and~~
 2027 ~~Finance~~ Tobacco Settlement Clearing Trust Fund.

2028 Section 70. Section 20.425, Florida Statutes, is amended
 2029 to read:

2030 20.425 Agency for Health Care Administration Tobacco
 2031 Settlement Trust Fund.--

2032 (1) The Agency for Health Care Administration Tobacco
 2033 Settlement Trust Fund is created within the agency. Funds to be
 2034 credited to the trust fund shall consist of funds disbursed, by
 2035 nonoperating transfer, from the Department of Financial Services
 2036 ~~Banking and Finance~~ Tobacco Settlement Clearing Trust Fund in
 2037 amounts equal to the annual appropriations made from this trust
 2038 fund.

2039 (2) Notwithstanding the provisions of s. 216.301 and
 2040 pursuant to s. 216.351, any unencumbered balance in the trust



HB 1803

2003

2041 fund at the end of any fiscal year and any encumbered balance
 2042 remaining undisbursed on December 31 of the same calendar year
 2043 shall revert to the Department of Financial Services ~~Banking and~~
 2044 ~~Finance~~ Tobacco Settlement Clearing Trust Fund.

2045 Section 71. Paragraph (g) of subsection (1) of section
 2046 20.435, Florida Statutes, is amended to read:

2047 20.435 Department of Health; trust funds.--

2048 (1) The following trust funds are hereby created, to be
 2049 administered by the Department of Health:

2050 (g) Department of Health Tobacco Settlement Trust Fund.

2051 1. Funds to be credited to the trust fund shall consist of
 2052 funds disbursed, by nonoperating transfer, from the Department
 2053 of Financial Services ~~Banking and Finance~~ Tobacco Settlement
 2054 Clearing Trust Fund in amounts equal to the annual
 2055 appropriations made from this trust fund.

2056 2. Notwithstanding the provisions of s. 216.301 and
 2057 pursuant to s. 216.351, any unencumbered balance in the trust
 2058 fund at the end of any fiscal year and any encumbered balance
 2059 remaining undisbursed on December 31 of the same calendar year
 2060 shall revert to the Department of Financial Services ~~Banking and~~
 2061 ~~Finance~~ Tobacco Settlement Clearing Trust Fund.

2062 Section 72. Subsection (4) of section 24.105, Florida
 2063 Statutes, is amended to read:

2064 24.105 Powers and duties of department.--The department
 2065 shall:

2066 (4) Submit monthly and annual reports to the Governor, the
 2067 Chief Financial Officer ~~Treasurer~~, the President of the Senate,
 2068 and the Speaker of the House of Representatives disclosing the
 2069 total lottery revenues, prize disbursements, and other expenses
 2070 of the department during the preceding month. The annual report



HB 1803

2003

2071 shall additionally describe the organizational structure of the
 2072 department, including its hierarchical structure, and shall
 2073 identify the divisions and bureaus created by the secretary and
 2074 summarize the departmental functions performed by each.

2075 Section 73. Subsection (5) of section 24.111, Florida
 2076 Statutes, is amended to read:

2077 24.111 Vendors; disclosure and contract requirements.--

2078 (5) Each vendor in a major procurement in excess of
 2079 \$25,000, and any other vendor if the department deems it
 2080 necessary to protect the state's financial interest, shall, at
 2081 the time of executing the contract with the department, post an
 2082 appropriate bond with the department in an amount determined by
 2083 the department to be adequate to protect the state's interests,
 2084 but not higher than the full amount estimated to be paid
 2085 annually to the vendor under the contract. In lieu of the bond,
 2086 a vendor may, to assure the faithful performance of its
 2087 obligations, file with the department an irrevocable letter of
 2088 credit acceptable to the department in an amount determined by
 2089 the department to be adequate to protect the state's interests
 2090 or deposit and maintain with the Chief Financial Officer

2091 ~~Treasurer~~ securities that are interest bearing or accruing and
 2092 that, with the exception of those specified in paragraphs (a)
 2093 and (b), are rated in one of the four highest classifications by
 2094 an established nationally recognized investment rating service.
 2095 Securities eligible under this subsection shall be limited to:

2096 (a) Certificates of deposit issued by solvent banks or
 2097 savings associations organized and existing under the laws of
 2098 this state or under the laws of the United States and having
 2099 their principal place of business in this state.

2100 (b) United States bonds, notes, and bills for which the



HB 1803

2003

2101 full faith and credit of the government of the United States is
 2102 pledged for the payment of principal and interest.

2103 (c) General obligation bonds and notes of any political
 2104 subdivision of the state.

2105 (d) Corporate bonds of any corporation that is not an
 2106 affiliate or subsidiary of the depositor.

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2109 Such securities shall be held in trust and shall have at all
 2110 times a market value at least equal to an amount determined by
 2111 the department to be adequate to protect the state's interests,
 2112 which amount shall not be set higher than the full amount
 2113 estimated to be paid annually to the vendor under contract.

2114 Section 74. Paragraph (b) of subsection (9) of section
 2115 24.112, Florida Statutes, is amended to read:

2116 24.112 Retailers of lottery tickets.--

2117 (9)

2118 (b) In lieu of such bond, the department may purchase
 2119 blanket bonds covering all or selected retailers or may allow a
 2120 retailer to deposit and maintain with the Chief Financial
 2121 Officer ~~Treasurer~~ securities that are interest bearing or
 2122 accruing and that, with the exception of those specified in
 2123 subparagraphs 1. and 2., are rated in one of the four highest
 2124 classifications by an established nationally recognized
 2125 investment rating service. Securities eligible under this
 2126 paragraph shall be limited to:

2127 1. Certificates of deposit issued by solvent banks or
 2128 savings associations organized and existing under the laws of
 2129 this state or under the laws of the United States and having
 2130 their principal place of business in this state.



HB 1803

2003

2131 2. United States bonds, notes, and bills for which the
 2132 full faith and credit of the government of the United States is
 2133 pledged for the payment of principal and interest.

2134 3. General obligation bonds and notes of any political
 2135 subdivision of the state.

2136 4. Corporate bonds of any corporation that is not an
 2137 affiliate or subsidiary of the depositor.

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2140 Such securities shall be held in trust and shall have at all
 2141 times a market value at least equal to an amount required by the
 2142 department.

2143 Section 75. Subsections (3) and (4) of section 24.120,
 2144 Florida Statutes, are amended to read:

2145 24.120 Financial matters; Administrative Trust Fund;
 2146 interagency cooperation.--

2147 (3) Any action required by law to be taken by the Chief
 2148 Financial Officer ~~State Treasurer or the Comptroller~~ shall be
 2149 taken within 2 business days after the department's request
 2150 therefor. If the request for such action is not approved or
 2151 rejected within such period, the request shall be deemed to be
 2152 approved. The department shall reimburse the Chief Financial
 2153 Officer ~~State Treasurer or the Comptroller~~ for any additional
 2154 costs involved in providing the level of service required by
 2155 this subsection.

2156 (4) The department shall cooperate with the Chief
 2157 Financial Officer ~~State Treasurer, the Comptroller~~, the Auditor
 2158 General, and the Office of Program Policy Analysis and
 2159 Government Accountability by giving employees designated by any
 2160 of them access to facilities of the department for the purpose



HB 1803

2003

2161 of efficient compliance with their respective responsibilities.

2162 Section 76. Subsection (5) of section 25.241, Florida
 2163 Statutes, is amended to read:

2164 25.241 Clerk of Supreme Court; compensation; assistants;
 2165 filing fees, etc.--

2166 (5) The Clerk of the Supreme Court is hereby required to
 2167 prepare a statement of all fees collected in duplicate each
 2168 month and remit one copy of such ~~said~~ statement, together with
 2169 all fees collected by him or her, to the Chief Financial Officer
 2170 ~~State Treasurer~~, who shall place the same to the credit of the
 2171 General Revenue Fund.

2172 Section 77. Section 26.39, Florida Statutes, is amended to
 2173 read:

2174 26.39 Penalty for nonattendance of judge.--Whenever such
 2175 default shall occur, the clerk of the court (unless such judge
 2176 shall file his or her reasons for such default as hereinbefore
 2177 provided) shall certify the fact, under his or her official
 2178 signature and seal, to the Chief Financial Officer ~~Comptroller~~
 2179 of the state, who shall deduct from the warrants ~~on the~~
 2180 ~~Treasurer~~, thereafter to be issued in favor of the judge making
 2181 such default, the sum of \$100 as aforesaid for every such
 2182 default.

2183 Section 78. Section 27.08, Florida Statutes, is amended to
 2184 read:

2185 27.08 State claims; surrender of papers to successor.--
 2186 Upon the qualification of the successor of any state attorney,
 2187 the state attorney going out of office shall deliver to his or
 2188 her successor a statement of all cases for the collection of
 2189 money in favor of the state under his or her control and the
 2190 papers connected with the same, and take his or her receipt for



HB 1803

2003

2191 the same, which receipt, when filed with the Department of
 2192 Financial Services ~~Banking and Finance~~, shall release such state
 2193 attorney from any further liability to the state upon the claims
 2194 receipted for; and the state attorney receiving the claims shall
 2195 be liable in all respects for the same, as provided against
 2196 state attorneys in s. 17.20.

2197 Section 79. Section 27.10, Florida Statutes, is amended to
 2198 read:

2199 27.10 Obligation as to claims; how discharged.--The
 2200 charges mentioned in s. 17.20 shall be evidence of indebtedness
 2201 on the part of any state attorney against whom any charge is
 2202 made for the full amount of such claim to the state until the
 2203 same shall be collected and paid into the treasury or sued to
 2204 insolvency, which fact of insolvency shall be certified by the
 2205 circuit judge of his or her circuit, unless the ~~said~~ state
 2206 attorney makes ~~shall make~~ it fully appear to the Department of
 2207 Financial Services ~~Banking and Finance~~ that the failure to
 2208 collect the same did not result from his or her neglect.

2209 Section 80. Section 27.11, Florida Statutes, is amended to
 2210 read:

2211 27.11 Report upon claims committed to state attorney.--The
 2212 state attorney shall make a report to the Chief Financial
 2213 Officer ~~Comptroller~~ on the first Monday in January and July in
 2214 each and every year of the condition of all claims placed in his
 2215 or her hands or which the state attorney may have been required
 2216 to prosecute and collect, whether the same is in suit or in
 2217 judgment, or collected, and the probable solvency or insolvency
 2218 of claims not collected, and shall at the same time pay over all
 2219 moneys which he or she may have collected belonging to the
 2220 state; and the Chief Financial Officer ~~Comptroller~~ shall not



HB 1803

2003

2221 | audit or allow any claim which any state attorney may have
 2222 | against the state for services until he or she makes the report
 2223 | herein required.

2224 | Section 81. Subsection (1) of section 27.12, Florida
 2225 | Statutes, is amended to read:

2226 | 27.12 Power to compromise.--

2227 | (1) The state attorney may, with the approval of the
 2228 | Department of Financial Services ~~Banking and Finance~~, compromise
 2229 | and settle all judgments, claims, and demands in favor of the
 2230 | state in his or her circuit against defaulting collectors of
 2231 | revenue, sheriffs and other officers, and the sureties on their
 2232 | bonds, on such terms as the state attorney may deem equitable
 2233 | and proper.

2234 | Section 82. Section 27.13, Florida Statutes, is amended to
 2235 | read:

2236 | 27.13 Completion of compromise.--The state attorney shall,
 2237 | on agreeing to any compromise or settlement, report the same to
 2238 | the Department of Financial Services ~~Banking and Finance~~ for its
 2239 | approval; and, on its approving such compromise or settlement,
 2240 | the ~~said~~ state attorney, on a compliance with the terms of such
 2241 | compromise or settlement shall give a receipt to the collector
 2242 | of revenue, sheriff or other officer, or the sureties on their
 2243 | bonds, or to the legal representatives, which receipt shall be a
 2244 | discharge from all judgments, claims or demands of the state
 2245 | against such collector of revenue or other officer, or the
 2246 | sureties on their bonds.

2247 | Section 83. Subsection (4) of section 27.34, Florida
 2248 | Statutes, is amended to read:

2249 | 27.34 Salaries and other related costs of state attorneys'
 2250 | offices; limitations.--



HB 1803

2003

2251 (4) Notwithstanding s. 27.25, the Chief Financial Officer
 2252 ~~Insurance Commissioner~~ may contract with the state attorney of
 2253 any judicial circuit of the state for the prosecution of
 2254 criminal violations of the Workers' Compensation Law and related
 2255 crimes and may contribute funds for such purposes. Such
 2256 contracts may provide for the training, salary, and expenses of
 2257 one or more assistant state attorneys used in the prosecution of
 2258 such crimes.

2259 Section 84. Section 27.3455, Florida Statutes, is amended
 2260 to read:

2261 27.3455 Annual statement of certain revenues and
 2262 expenditures.--

2263 (1) Each county shall submit annually to the Chief
 2264 Financial Officer ~~Comptroller~~ a statement of revenues and
 2265 expenditures as set forth in this section in the form and manner
 2266 prescribed by the Chief Financial Officer ~~Comptroller~~ in
 2267 consultation with the Legislative Committee on Intergovernmental
 2268 Relations, provided that such statement identify total county
 2269 expenditures on:

- 2270 (a) Medical examiner services.
- 2271 (b) County victim witness programs.
- 2272 (c) Each of the services outlined in ss. 27.34(2) and
 2273 27.54(3).
- 2274 (d) Appellate filing fees in criminal cases in which an
 2275 indigent defendant appeals a judgment of a county or circuit
 2276 court to a district court of appeal or the Florida Supreme
 2277 Court.
- 2278 (e) Other court-related costs of the state attorney and
 2279 public defender that were paid by the county where such costs
 2280 were included in a judgment or order rendered by the trial court



HB 1803

2003

2281 against the county.

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2284 Such statement also shall identify the revenues provided by s.
2285 938.05(1) that were used to meet or reimburse the county for
2286 such expenditures.

2287 (2)(a) Within 6 months of the close of the local
2288 government fiscal year, each county shall submit to the Chief
2289 Financial Officer ~~Comptroller~~ a statement of compliance from its
2290 independent certified public accountant, engaged pursuant to s.
2291 218.39, that the certified statement of expenditures was in
2292 accordance with ss. 27.34(2), 27.54(3), and this section. All
2293 discrepancies noted by the independent certified public
2294 accountant shall be included in the statement furnished by the
2295 county to the Chief Financial Officer ~~Comptroller~~.

2296 (b) ~~If Should~~ the Chief Financial Officer determines
2297 ~~Comptroller determine~~ that additional auditing procedures are
2298 appropriate because:

2299 1. The county failed to submit timely its annual
2300 statement;

2301 2. Discrepancies were noted by the independent certified
2302 public accountant; or

2303 3. The county failed to file before March 31 of each year
2304 the certified public accountant statement of compliance, the
2305 Chief Financial Officer may ~~Comptroller is hereby authorized to~~
2306 send his or her personnel or ~~to~~ contract for services to bring
2307 the county into compliance. The costs incurred by the Chief
2308 Financial Officer ~~Comptroller~~ shall be paid promptly by the
2309 county upon certification by the Chief Financial Officer
2310 ~~Comptroller~~.



HB 1803

2003

2311 (c) Where the Chief Financial Officer ~~Comptroller~~ elects
 2312 to utilize the services of an independent contractor, such
 2313 certification by the Chief Financial Officer ~~Comptroller~~ may
 2314 require the county to make direct payment to a contractor. Any
 2315 funds owed by a county in such matters shall be recovered
 2316 pursuant to s. 17.04 or s. 17.041.

2317 (3) The priority for the allocation of funds collected
 2318 pursuant to s. 938.05(1) shall be as follows:

2319 (a) Reimbursement to the county for actual county
 2320 expenditures incurred in providing the state attorney and public
 2321 defender the services outlined in ss. 27.34(2) and 27.54(3),
 2322 with the exception of office space, utilities, and custodial
 2323 services.

2324 (b) At the close of the local government fiscal year,
 2325 funds remaining on deposit in the special trust fund of the
 2326 county after reimbursements have been made pursuant to paragraph
 2327 (a) shall be reimbursed to the county for actual county
 2328 expenditures made in support of the operations and services of
 2329 medical examiners, including the costs associated with the
 2330 investigation of state prison inmate deaths. Special county
 2331 trust fund revenues used to reimburse the county for medical
 2332 examiner expenditures in any year shall not exceed \$1 per county
 2333 resident.

2334 (c) At the close of the local government fiscal year,
 2335 counties establishing or having in existence a comprehensive
 2336 victim-witness program which meets the standards set by the
 2337 Crime Victims' Services Office shall be eligible to receive 50
 2338 percent matching moneys from the balance remaining in the
 2339 special trust fund after reimbursements have been made pursuant
 2340 to paragraphs (a) and (b). Special trust fund moneys used in



HB 1803

2003

2341 any year to supplement such programs shall not exceed 25 cents
 2342 per county resident.

2343 (d) At the close of the local government fiscal year,
 2344 funds remaining in the special trust fund after reimbursements
 2345 have been made pursuant to paragraphs (a), (b), and (c) shall be
 2346 used to reimburse the county for county costs incurred in the
 2347 provision of office space, utilities, and custodial services to
 2348 the state attorney and public defender, for county expenditures
 2349 on appellate filing fees in criminal cases in which an indigent
 2350 defendant appeals a judgment of a county or circuit court to a
 2351 district court of appeal or the Florida Supreme Court, and for
 2352 county expenditures on court-related costs of the state attorney
 2353 and public defender that were paid by the county, provided that
 2354 such court-related costs were included in a judgment or order
 2355 rendered by the trial court against the county. Where a state
 2356 attorney or a public defender is provided space in a county-
 2357 owned facility, responsibility for calculating county costs
 2358 associated with the provision of such office space, utilities,
 2359 and custodial services is ~~hereby~~ vested in the Chief Financial
 2360 Officer ~~Comptroller~~ in consultation with the Legislative
 2361 Committee on Intergovernmental Relations.

2362 (4) At the end of the local government fiscal year, all
 2363 funds remaining on deposit in the special trust fund after all
 2364 reimbursements have been made as provided for in subsection (3)
 2365 shall be forwarded to the Chief Financial Officer ~~Treasurer~~ for
 2366 deposit in the General Revenue Fund of the state.

2367 (5) The Chief Financial Officer ~~Comptroller~~ shall adopt
 2368 any rules necessary to implement his or her responsibilities
 2369 pursuant to this section.

2370 Section 85. Subsection (2) of section 27.703, Florida



HB 1803

2003

2371 Statutes, is amended to read:

2372 27.703 Conflict of interest and substitute counsel.--

2373 (2) Appointed counsel shall be paid from funds
 2374 appropriated to the Chief Financial Officer ~~Comptroller~~. The
 2375 hourly rate may not exceed \$100. However, ~~effective July 1,~~
 2376 ~~1999,~~ all appointments of private counsel under this section
 2377 shall be in accordance with ss. 27.710 and 27.711.

2378 Section 86. Subsection (4) of section 27.710, Florida
 2379 Statutes, is amended to read:

2380 27.710 Registry of attorneys applying to represent persons
 2381 in postconviction capital collateral proceedings; certification
 2382 of minimum requirements; appointment by trial court.--

2383 (4) Each private attorney who is appointed by the court to
 2384 represent a capital defendant must enter into a contract with
 2385 the Chief Financial Officer ~~Comptroller~~. If the appointed
 2386 attorney fails to execute the contract within 30 days after the
 2387 date the contract is mailed to the attorney, the executive
 2388 director of the Commission on Capital Cases shall notify the
 2389 trial court. The Chief Financial Officer ~~Comptroller~~ shall
 2390 develop the form of the contract, function as contract manager,
 2391 and enforce performance of the terms and conditions of the
 2392 contract. By signing such contract, the attorney certifies that
 2393 he or she intends to continue the representation under the terms
 2394 and conditions set forth in the contract until the sentence is
 2395 reversed, reduced, or carried out or until released by order of
 2396 the trial court.

2397 Section 87. Subsections (3), (4), (5), (6), (7), (12), and
 2398 (13) of section 27.711, Florida Statutes, are amended to read:

2399 27.711 Terms and conditions of appointment of attorneys as
 2400 counsel in postconviction capital collateral proceedings.--



HB 1803

2003

2401 (3) An attorney appointed to represent a capital defendant
2402 is entitled to payment of the fees set forth in this section
2403 only upon full performance by the attorney of the duties
2404 specified in this section and approval of payment by the trial
2405 court, and the submission of a payment request by the attorney,
2406 subject to the availability of sufficient funding specifically
2407 appropriated for this purpose. The Chief Financial Officer
2408 ~~Comptroller~~ shall notify the executive director and the court if
2409 it appears that sufficient funding has not been specifically
2410 appropriated for this purpose to pay any fees which may be
2411 incurred. The attorney shall maintain appropriate documentation,
2412 including a current and detailed hourly accounting of time spent
2413 representing the capital defendant. The fee and payment schedule
2414 in this section is the exclusive means of compensating a court-
2415 appointed attorney who represents a capital defendant. When
2416 appropriate, a court-appointed attorney must seek further
2417 compensation from the Federal Government, as provided in 18
2418 U.S.C. s. 3006A or other federal law, in habeas corpus
2419 litigation in the federal courts.

2420 (4) Upon approval by the trial court, an attorney
2421 appointed to represent a capital defendant under s. 27.710 is
2422 entitled to payment of the following fees by the Chief Financial
2423 Officer ~~Comptroller~~:

2424 (a) Regardless of the stage of postconviction capital
2425 collateral proceedings, the attorney is entitled to \$100 per
2426 hour, up to a maximum of \$2,500, after accepting appointment and
2427 filing a notice of appearance.

2428 (b) The attorney is entitled to \$100 per hour, up to a
2429 maximum of \$20,000, after timely filing in the trial court the
2430 capital defendant's complete original motion for postconviction



HB 1803

2003

2431 relief under the Florida Rules of Criminal Procedure. The motion
 2432 must raise all issues to be addressed by the trial court.
 2433 However, an attorney is entitled to fees under this paragraph if
 2434 the court schedules a hearing on a matter that makes the filing
 2435 of the original motion for postconviction relief unnecessary or
 2436 if the court otherwise disposes of the case.

2437 (c) The attorney is entitled to \$100 per hour, up to a
 2438 maximum of \$20,000, after the trial court issues a final order
 2439 granting or denying the capital defendant's motion for
 2440 postconviction relief.

2441 (d) The attorney is entitled to \$100 per hour, up to a
 2442 maximum of \$20,000, after timely filing in the Supreme Court the
 2443 capital defendant's brief or briefs that address the trial
 2444 court's final order granting or denying the capital defendant's
 2445 motion for postconviction relief and the state petition for writ
 2446 of habeas corpus.

2447 (e) The attorney is entitled to \$100 per hour, up to a
 2448 maximum of \$10,000, after the trial court issues an order,
 2449 pursuant to a remand from the Supreme Court, which directs the
 2450 trial court to hold further proceedings on the capital
 2451 defendant's motion for postconviction relief.

2452 (f) The attorney is entitled to \$100 per hour, up to a
 2453 maximum of \$4,000, after the appeal of the trial court's denial
 2454 of the capital defendant's motion for postconviction relief and
 2455 the capital defendant's state petition for writ of habeas corpus
 2456 become final in the Supreme Court.

2457 (g) At the conclusion of the capital defendant's
 2458 postconviction capital collateral proceedings in state court,
 2459 the attorney is entitled to \$100 per hour, up to a maximum of
 2460 \$2,500, after filing a petition for writ of certiorari in the



HB 1803

2003

2461 Supreme Court of the United States.

2462 (h) If, at any time, a death warrant is issued, the
2463 attorney is entitled to \$100 per hour, up to a maximum of
2464 \$5,000. This payment shall be full compensation for attorney's
2465 fees and costs for representing the capital defendant throughout
2466 the proceedings before the state courts of Florida.

2467

2468

2469 The hours billed by a contracting attorney under this
2470 subsection may include time devoted to representation of the
2471 defendant by another attorney who is qualified under s. 27.710
2472 and who has been designated by the contracting attorney to
2473 assist him or her.

2474 (5) An attorney who represents a capital defendant may use
2475 the services of one or more investigators to assist in
2476 representing a capital defendant. Upon approval by the trial
2477 court, the attorney is entitled to payment from the Chief
2478 Financial Officer ~~Comptroller~~ of \$40 per hour, up to a maximum
2479 of \$15,000, for the purpose of paying for investigative
2480 services.

2481 (6) An attorney who represents a capital defendant is
2482 entitled to a maximum of \$15,000 for miscellaneous expenses,
2483 such as the costs of preparing transcripts, compensating expert
2484 witnesses, and copying documents. Upon approval by the trial
2485 court, the attorney is entitled to payment by the Chief
2486 Financial Officer ~~Comptroller~~ of up to \$15,000 for miscellaneous
2487 expenses, except that, if the trial court finds that
2488 extraordinary circumstances exist, the attorney is entitled to
2489 payment in excess of \$15,000.

2490 (7) An attorney who is actively representing a capital



HB 1803

2003

2491 defendant is entitled to a maximum of \$500 per fiscal year for
2492 tuition and expenses for continuing legal education that
2493 pertains to the representation of capital defendants. Upon
2494 approval by the trial court, the attorney is entitled to payment
2495 by the Chief Financial Officer ~~Comptroller~~ for expenses for such
2496 tuition and continuing legal education.

2497 (12) The court shall monitor the performance of assigned
2498 counsel to ensure that the capital defendant is receiving
2499 quality representation. The court shall also receive and
2500 evaluate allegations that are made regarding the performance of
2501 assigned counsel. The Chief Financial Officer ~~Comptroller~~, the
2502 Department of Legal Affairs, the executive director, or any
2503 interested person may advise the court of any circumstance that
2504 could affect the quality of representation, including, but not
2505 limited to, false or fraudulent billing, misconduct, failure to
2506 meet continuing legal education requirements, solicitation to
2507 receive compensation from the capital defendant, or failure to
2508 file appropriate motions in a timely manner.

2509 (13) Prior to the filing of a motion for order approving
2510 payment of attorney's fees, costs, or related expenses, the
2511 assigned counsel shall deliver a copy of his intended billing,
2512 together with supporting affidavits and all other necessary
2513 documentation, to the Chief Financial Officer's ~~Comptroller's~~
2514 named contract manager. The contract manager shall have 10
2515 business days from receipt to review the billings, affidavit,
2516 and documentation for completeness and compliance with
2517 contractual and statutory requirements. If the contract manager
2518 objects to any portion of the proposed billing, the objection
2519 and reasons therefor shall be communicated to the assigned
2520 counsel. The assigned counsel may thereafter file his or her



HB 1803

2003

2521 motion for order approving payment of attorney's fees, costs, or
 2522 related expenses together with supporting affidavits and all
 2523 other necessary documentation. The motion must specify whether
 2524 the Chief Financial Officer's ~~Comptroller's~~ contract manager
 2525 objects to any portion of the billing or the sufficiency of
 2526 documentation and, if so, the reason therefor. A copy of the
 2527 motion and attachments shall be served on the Chief Financial
 2528 Officer's ~~Comptroller's~~ contract manager, who shall have
 2529 standing to file pleadings and appear before the court to
 2530 contest any motion for order approving payment. The fact that
 2531 the Chief Financial Officer's ~~Comptroller's~~ contract manager has
 2532 not objected to any portion of the billing or to the sufficiency
 2533 of the documentation is not binding on the court, which retains
 2534 primary authority and responsibility for determining the
 2535 reasonableness of all billings for fees, costs, and related
 2536 expenses, subject to statutory limitations.

2537 Section 88. Section 28.235, Florida Statutes, is amended
 2538 to read:

2539 28.235 Advance payments by clerk of circuit court.--The
 2540 clerk of the circuit court is authorized to make advance
 2541 payments on behalf of the county for goods and services,
 2542 including, but not limited to, maintenance agreements and
 2543 subscriptions, pursuant to rules or procedures adopted by the
 2544 Chief Financial Officer ~~Comptroller~~ for advance payments of
 2545 invoices submitted to agencies of the state.

2546 Section 89. Subsections (7) and (23) of section 28.24,
 2547 Florida Statutes, are amended to read:

2548 28.24 Service charges by clerk of the circuit court.--The
 2549 clerk of the circuit court shall make the following charges for
 2550 services rendered by the clerk's office in recording documents



HB 1803

2003

2551 and instruments and in performing the duties enumerated.

2552 However, in those counties where the clerk's office operates as
 2553 a fiscal unit of the county pursuant to s. 145.022(1), the clerk
 2554 shall not charge the county for such services.

2555
 2556 Charges

2558 (7) For making and reporting payrolls of jurors to Chief
 2559 Financial Officer ~~State Comptroller~~, per page, per copy....5.00

2560 (23) For paying of witnesses and making and reporting
 2561 payroll to Chief Financial Officer ~~State Comptroller~~, per copy,
 2562 per page....5.00

2563 Section 90. Paragraph (b) of subsection (2) of section
 2564 30.49, Florida Statutes, is amended to read:

2565 30.49 Budgets.--

2566 (2)

2567 (b) Within the appropriate fund and functional category,
 2568 expenditures shall be itemized in accordance with the uniform
 2569 chart of accounts prescribed by the Department of Financial
 2570 Services ~~Banking and Finance~~, as follows:

- 2571 1. Personal services.
- 2572 2. Operating expenses.
- 2573 3. Capital outlay.
- 2574 4. Debt service.
- 2575 5. Nonoperating disbursements and contingency reserves.

2576 Section 91. Section 30.52, Florida Statutes, is amended to
 2577 read:

2578 30.52 Handling of public funds.--The sheriff shall keep
 2579 public funds in his or her custody, either in his or her office
 2580 in an amount not in excess of the burglary, theft, and robbery



HB 1803

2003

2581 insurance provided, the cost of which is hereby authorized as an
 2582 expense of the office, or in a depository in an amount not in
 2583 excess of the security provided pursuant to s. 658.60 and the
 2584 regulations of the Department of Financial Services ~~Banking and~~
 2585 ~~Finance~~. The title of the depository accounts shall include the
 2586 word "sheriff" and the name of the county, and withdrawals from
 2587 the accounts shall be made by checks signed by the duly
 2588 qualified and acting sheriff of the county, or his or her
 2589 designated deputy or agent.

2590 Section 92. Section 40.30, Florida Statutes, is amended to
 2591 read:

2592 40.30 Requisition endorsed by State Courts Administrator
 2593 or designee.--Upon receipt of such estimate and the requisition
 2594 from the clerk of the court, the State Courts Administrator or
 2595 designee shall endorse the amount that he or she may deem
 2596 necessary for the pay of jurors and witnesses during the
 2597 quarterly fiscal period and shall submit a request for payment
 2598 to the Chief Financial Officer ~~Comptroller~~.

2599 Section 93. Section 40.31, Florida Statutes, is amended to
 2600 read:

2601 40.31 State Courts Administrator may apportion
 2602 appropriation.--If the State Courts Administrator shall have
 2603 reason to believe that the amount appropriated by the
 2604 Legislature is insufficient to meet the expenses of jurors and
 2605 witnesses during the remaining part of the state fiscal year, he
 2606 or she may apportion the money in the treasury for that purpose
 2607 among the several counties, basing such apportionment upon the
 2608 amount expended for the payment of jurors and witnesses in each
 2609 county during the prior fiscal year. In such case, each county
 2610 shall be paid by warrant, issued by the Chief Financial Officer



HB 1803

2003

2611 ~~Comptroller~~, only the amount so apportioned to each county, and,
 2612 when the amount so apportioned is insufficient to pay in full
 2613 all the jurors and witnesses during a quarterly fiscal period,
 2614 the clerk of the court shall apportion the money received pro
 2615 rata among the jurors and witnesses entitled to pay and shall
 2616 give to each juror or witness a certificate of the amount of
 2617 compensation still due, which certificate shall be held by the
 2618 State Courts Administrator as other demands against the state.

2619 Section 94. Section 40.33, Florida Statutes, is amended to
 2620 read:

2621 40.33 Deficiency.--If the compensation of jurors and
 2622 witnesses during a quarterly fiscal period exceeds the amount
 2623 estimated by the clerk of the court and therefore is
 2624 insufficient to pay in full the jurors and witnesses, the clerk
 2625 of the court shall make a further requisition upon the State
 2626 Courts Administrator for the amount necessary to pay such
 2627 default, and the amount required shall be transmitted to the
 2628 clerk of the court by warrant issued by the Chief Financial
 2629 Officer ~~Comptroller~~ in the same manner as the original
 2630 requisition or order.

2631 Section 95. Subsection (2) of section 40.34, Florida
 2632 Statutes, is amended to read:

2633 40.34 Clerks to make triplicate payroll.--

2634 (2) The form of such payroll shall be prescribed by the
 2635 Chief Financial Officer ~~Comptroller~~.

2636 Section 96. Section 40.35, Florida Statutes, is amended to
 2637 read:

2638 40.35 Accounting and payment to the State Courts
 2639 Administrator.--

2640 (1) The clerk of the court shall, within 2 weeks after the



HB 1803

2003

2641 last day of the quarterly fiscal period, render to the State
 2642 Courts Administrator a full statement of accounts for moneys
 2643 received and disbursed under the provisions of this chapter and
 2644 refund to the State Courts Administrator any balance in the
 2645 clerk's hands. If upon audit the State Courts Administrator
 2646 shall determine a balance due the clerk of the court, the State
 2647 Courts Administrator shall submit a request for payment to the
 2648 Chief Financial Officer ~~Comptroller~~.

2649 (2) If a clerk of the court fails to account for and pay
 2650 over promptly the balance of all moneys paid him or her, the
 2651 sureties, if any, on a clerk's official bond are liable and
 2652 responsible for same; and the State Courts Administrator shall
 2653 report to the Governor and the Chief Financial Officer
 2654 ~~Comptroller~~ any failure on the part of the clerk of the court to
 2655 report and faithfully account for any such moneys.

2656 Section 97. Paragraph (b) of subsection (5) of section
 2657 43.16, Florida Statutes, is amended to read:

2658 43.16 Justice Administrative Commission; membership,
 2659 powers and duties.--

2660 (5) The duties of the commission shall include, but not be
 2661 limited to, the following:

2662 (b) Each state attorney and public defender and the
 2663 Judicial Qualifications Commission shall continue to prepare
 2664 necessary budgets, vouchers which represent valid claims for
 2665 reimbursement by the state for authorized expenses, and other
 2666 things incidental to the proper administrative operation of the
 2667 office, such as revenue transmittals to the Chief Financial
 2668 Officer ~~treasurer~~, automated systems plans, etc., but will
 2669 forward same to the commission for recording and submission to
 2670 the proper state officer. However, when requested by a state



HB 1803

2003

2671 attorney or a public defender or the Judicial Qualifications
 2672 Commission, the commission will either assist in the preparation
 2673 of budget requests, voucher schedules, and other forms and
 2674 reports or accomplish the entire project involved.

2675 Section 98. Subsections (1), (3), and (4) of section
 2676 43.19, Florida Statutes, are amended to read:

2677 43.19 Money paid into court; unclaimed funds.--

2678 (1) In every case in which the right to withdraw money
 2679 deposited as hereinbefore provided has been adjudicated or is
 2680 not in dispute and the money has remained so deposited for 5
 2681 years or more unclaimed by the person, firm, or corporation
 2682 entitled thereto, on or before December 1 of each year the
 2683 judge, or one of the judges, of the court shall direct that the
 2684 money be deposited with the Chief Financial Officer ~~Treasurer~~ to
 2685 the credit of the State School Fund, to become a part of that
 2686 fund, subject to the right of the person, firm, or corporation
 2687 entitled thereto to receive the money as provided in subsection
 2688 (3).

2689 (3) Any person, firm, or corporation entitled to any of
 2690 the money may obtain an order directing the payment of the money
 2691 to the claimant on written petition to the court from which the
 2692 money was deposited or its successor, and written notice to the
 2693 state attorney of the circuit wherein the court is situate,
 2694 whether or not the court is a circuit court, and proof of right
 2695 thereto, and the money deposited shall constitute and be a
 2696 permanent appropriation for payments by the Chief Financial
 2697 Officer ~~Treasurer~~ of the state in obedience of such orders.

2698 (4) All interest and income that accrue from the money
 2699 while on deposit with the Chief Financial Officer ~~Treasurer~~ to
 2700 the credit of the State School Fund belong to that fund.



HB 1803

2003

2701 Section 99. Subsections (3) and (4) of section 48.151,
 2702 Florida Statutes, are amended to read:

2703 48.151 Service on statutory agents for certain persons.--

2704 (3) The Chief Financial Officer ~~Insurance Commissioner and~~
 2705 ~~Treasurer~~ or his or her assistant or deputy or another person in
 2706 charge of the office is the agent for service of process on all
 2707 insurers applying for authority to transact insurance in this
 2708 state, all licensed nonresident insurance agents, all
 2709 nonresident disability insurance agents licensed ~~by the~~
 2710 ~~Department of Insurance~~ pursuant to s. 626.835, any unauthorized
 2711 insurer under s. 626.906 or s. 626.937, domestic reciprocal
 2712 insurers, fraternal benefit societies under chapter 632,
 2713 ~~automobile inspection and warranty associations~~ under chapter
 2714 634, prepaid limited health service organizations under chapter
 2715 636 ambulance service associations, and persons required to file
 2716 statements under s. 628.461.

2717 (4) The Director of the Office of Financial Institutions
 2718 and Securities Regulation of the Financial Services Commission
 2719 ~~Comptroller~~ is the agent for service of process for any issuer
 2720 as defined in s. 517.021, or any dealer, investment adviser, or
 2721 associated person registered with that office ~~the Department of~~
 2722 ~~Banking and Finance~~, for any violation of any provision of
 2723 chapter 517.

2724 Section 100. Subsection (1) of section 55.03, Florida
 2725 Statutes, is amended to read:

2726 55.03 Judgments; rate of interest, generally.--

2727 (1) On December 1 of each year ~~beginning December 1, 1994,~~
 2728 the Chief Financial Officer ~~Comptroller of the State of Florida~~
 2729 shall set the rate of interest that shall be payable on
 2730 judgments or decrees for the year beginning January 1 by



HB 1803

2003

2731 averaging the discount rate of the Federal Reserve Bank of New
2732 York for the preceding year, then adding 500 basis points to the
2733 averaged federal discount rate. The Chief Financial Officer
2734 ~~Comptroller~~ shall inform the clerk of the courts and chief judge
2735 for each judicial circuit of the rate that has been established
2736 for the upcoming year. The ~~initial interest rate established by~~
2737 ~~the Comptroller shall take effect on January 1, 1995, and the~~
2738 interest rate established by the Chief Financial Officer
2739 ~~Comptroller in subsequent years~~ shall take effect on January 1
2740 of each following year. Judgments obtained on or after January
2741 1, 1995, shall use the previous statutory rate for time periods
2742 before January 1, 1995, for which interest is due and shall
2743 apply the rate set by the Chief Financial Officer ~~Comptroller~~
2744 for time periods after January 1, 1995, for which interest is
2745 due. Nothing contained herein shall affect a rate of interest
2746 established by written contract or obligation.

2747 Section 101. Section 57.091, Florida Statutes, is amended
2748 to read:

2749 57.091 Costs; refunded to counties in certain proceedings
2750 relating to state prisoners.--All lawful fees, costs, and
2751 expenses hereafter adjudged against, and paid by, any county in
2752 all competency proceedings and all criminal prosecutions against
2753 state prisoners imprisoned in a state correctional institution,
2754 and in all habeas corpus cases brought to test the legality of
2755 the imprisonment of state prisoners of such correctional
2756 institutions, shall be refunded to the county paying the sum
2757 from the General Revenue Fund in the State Treasury in the
2758 manner and to the extent herein provided, to wit: between the
2759 1st and 15th of the month next succeeding the month in which the
2760 fees, costs, and expenses have been allowed and paid by the



HB 1803

2003

2761 county, the clerk of the court shall make requisition on the
 2762 Department of Corrections for the fees, costs, and expenses so
 2763 allowed and paid during the preceding month, giving the style of
 2764 the cases in which fees, costs, and expenses were incurred and
 2765 the amount and items of cost in each case; providing a certified
 2766 copy of the judgment adjudging the fees, costs, and expenses
 2767 against the county and showing that the amount represented
 2768 thereby has been approved by the presiding judge, paid by the
 2769 county, and verified by the clerk; and attaching a certified
 2770 copy of the bill as approved and allowed by the board of county
 2771 commissioners of the county. If the Department of Corrections
 2772 finds the bills legal and adjudged against and paid by the
 2773 county, the department shall submit a request to the Chief
 2774 Financial Officer ~~Comptroller~~ to draw a warrant in the amount
 2775 thereof, or in the amount the department finds legal and
 2776 adjudged against and paid by the county, in favor of the county
 2777 paying the fees, costs, and expenses, which shall be paid by the
 2778 Chief Financial Officer ~~State Treasurer~~ from the general revenue
 2779 funds of the state.

2780 Section 102. Subsections (1), (3), and (4) of section
 2781 68.083, Florida Statutes, are amended to read:

2782 68.083 Civil actions for false claims.--

2783 (1) The department may diligently investigate a violation
 2784 under s. 68.082. If the department finds that a person has
 2785 violated or is violating s. 68.082, the department may bring a
 2786 civil action under the Florida False Claims Act against the
 2787 person. The Department of Financial Services ~~Banking and Finance~~
 2788 may bring a civil action under this section if the action arises
 2789 from an investigation by that department and the Department of
 2790 Legal Affairs has not filed an action under this act.



HB 1803

2003

2791 (3) The complaint shall be identified on its face as a qui
 2792 tam action and shall be filed in the circuit court of the Second
 2793 Judicial Circuit, in and for Leon County. Immediately upon the
 2794 filing of the complaint, a copy of the complaint and written
 2795 disclosure of substantially all material evidence and
 2796 information the person possesses shall be served on the Attorney
 2797 General, as head of the department, and on the Chief Financial
 2798 Officer ~~Comptroller~~, as head of the Department of Financial
 2799 Services ~~Banking and Finance~~, by registered mail, return receipt
 2800 requested. The department, or the Department of Financial
 2801 Services ~~Banking and Finance~~ under the circumstances specified
 2802 in subsection (4), may elect to intervene and proceed with the
 2803 action, on behalf of the state, within 90 days after it receives
 2804 both the complaint and the material evidence and information.

2805 (4) If a person brings an action under subsection (2) and
 2806 the action is based upon the facts underlying a pending
 2807 investigation by the Department of Financial Services ~~Banking~~
 2808 ~~and Finance~~, the Department of Financial Services ~~Banking and~~
 2809 ~~Finance~~, instead of the department, may take over the action on
 2810 behalf of the state. In order to take over the action, the
 2811 Department of Financial Services ~~Banking and Finance~~ must give
 2812 the department written notification within 20 days after the
 2813 action is filed that the Department of Financial Services
 2814 ~~Banking and Finance~~ is conducting an investigation of the facts
 2815 of the action and that the Department of Financial Services
 2816 ~~Banking and Finance~~, instead of the department, will take over
 2817 the action filed under subsection (2). If the Department of
 2818 Financial Services ~~Banking and Finance~~ takes over the action
 2819 under this subsection, the word "department" as used in this act
 2820 means the Department of Financial Services ~~Banking and Finance~~,



HB 1803

2003

2821 and that department, for purposes of that action, shall have all
 2822 rights and standing granted the department under this act.

2823 Section 103. Subsections (3) and (6) of section 68.084,
 2824 Florida Statutes, are amended to read:

2825 68.084 Rights of the parties in civil actions.--

2826 (3) If the department elects not to proceed with the
 2827 action, the person who initiated the action has the right to
 2828 conduct the action. If the Attorney General, as head of the
 2829 department, or the Chief Financial Officer ~~Comptroller~~, as head
 2830 of the Department of Financial Services ~~Banking and Finance~~, so
 2831 requests, it shall be served, at the requesting department's
 2832 expense, with copies of all pleadings and motions filed in the
 2833 action and copies of all deposition transcripts. When a person
 2834 proceeds with the action, the court, without limiting the rights
 2835 of the person initiating the action, may nevertheless permit the
 2836 department to intervene and take over the action on behalf of
 2837 the state at a later date upon showing of good cause.

2838 (6) The Department of Financial Services ~~Banking and~~
 2839 ~~Finance~~, or the department, may intervene on its own behalf as a
 2840 matter of right.

2841 Section 104. Subsection (3) of section 68.087, Florida
 2842 Statutes, is amended to read:

2843 68.087 Exemptions to civil actions.--

2844 (3) No court shall have jurisdiction over an action
 2845 brought under this act based upon the public disclosure of
 2846 allegations or transactions in a criminal, civil, or
 2847 administrative hearing; in a legislative, administrative,
 2848 inspector general, or Auditor General, Chief Financial Officer
 2849 ~~Comptroller~~, or Department of Financial Services ~~Banking and~~
 2850 ~~Finance~~ report, hearing, audit, or investigation; or from the



HB 1803

2003

2851 news media, unless the action is brought by the department, or
 2852 unless the person bringing the action is an original source of
 2853 the information. For purposes of this subsection, the term
 2854 "original source" means an individual who has direct and
 2855 independent knowledge of the information on which the
 2856 allegations are based and has voluntarily provided the
 2857 information to the department before filing an action under this
 2858 act based on the information.

2859 Section 105. Section 68.092, Florida Statutes, is amended
 2860 to read:

2861 68.092 Deposit of recovered moneys.--All moneys recovered
 2862 by the Chief Financial Officer ~~Comptroller~~, as head of the
 2863 Department of Financial Services ~~Banking and Finance~~, under s.
 2864 68.086(1) in any civil action for violation of the Florida False
 2865 Claims Act shall be deposited in the Administrative Trust Fund
 2866 of the Department of Financial Services ~~Banking and Finance~~.

2867 Section 106. Section 77.0305, Florida Statutes, is amended
 2868 to read:

2869 77.0305 Continuing writ of garnishment against salary or
 2870 wages.--Notwithstanding any other provision of this chapter, if
 2871 salary or wages are to be garnished to satisfy a judgment, the
 2872 court shall issue a continuing writ of garnishment to the
 2873 judgment debtor's employer which provides for the periodic
 2874 payment of a portion of the salary or wages of the judgment
 2875 debtor as the salary or wages become due until the judgment is
 2876 satisfied or until otherwise provided by court order. A
 2877 debtor's status as an employee of the state or its agencies or
 2878 political subdivisions does not preclude a judgment creditor's
 2879 right to garnish the debtor's wages. For the purposes of this
 2880 section, the state includes the judicial branch and the



HB 1803

2003

2881 legislative branch as defined in s. 216.011. The state, for
 2882 itself and for its agencies and subdivisions, waives sovereign
 2883 immunity for the express and limited purpose necessary to carry
 2884 out this section. The court shall allow the judgment debtor's
 2885 employer to collect up to \$5 against the salary or wages of the
 2886 judgment debtor to reimburse the employer for administrative
 2887 costs for the first deduction from the judgment debtor's salary
 2888 or wages and up to \$2 for each deduction thereafter. The funds
 2889 collected by the state under this section must be deposited in
 2890 the Department of Financial Services ~~Banking and Finance~~
 2891 Administrative Trust Fund for purposes of carrying out this
 2892 section.

2893 Section 107. Section 92.39, Florida Statutes, is amended
 2894 to read:

2895 92.39 Evidence of individual's claim against the state in
 2896 suits between them.--In suits between the state and individuals,
 2897 no claim for a credit shall be allowed upon trial, but such as
 2898 shall appear to have been presented to the Chief Financial
 2899 Officer ~~Comptroller~~ for his or her ~~the Comptroller's~~
 2900 examination, and by him or her disallowed in whole or in part,
 2901 unless it shall be proved to the satisfaction of the court that
 2902 the defendant is, at the time of the trial, in possession of
 2903 vouchers not before in the defendant's power to procure, and
 2904 that the defendant was prevented from exhibiting a claim for
 2905 such credit at the Chief Financial Officer's ~~Comptroller's~~
 2906 office by unavoidable accident.

2907 Section 108. Subsection (4) of section 99.097, Florida
 2908 Statutes, is amended to read:

2909 99.097 Verification of signatures on petitions.--

2910 (4) The supervisor shall be paid in advance the sum of 10



HB 1803

2003

2911 cents for each signature checked or the actual cost of checking
 2912 such signature, whichever is less, by the candidate or, in the
 2913 case of a petition to have an issue placed on the ballot, by the
 2914 person or organization submitting the petition. However, if a
 2915 candidate, person, or organization seeking to have an issue
 2916 placed upon the ballot cannot pay such charges without imposing
 2917 an undue burden on personal resources or upon the resources
 2918 otherwise available to such candidate, person, or organization,
 2919 such candidate, person, or organization shall, upon written
 2920 certification of such inability given under oath to the
 2921 supervisor, be entitled to have the signatures verified at no
 2922 charge. In the event a candidate, person, or organization
 2923 submitting a petition to have an issue placed upon the ballot is
 2924 entitled to have the signatures verified at no charge, the
 2925 supervisor of elections of each county in which the signatures
 2926 are verified at no charge shall submit the total number of such
 2927 signatures checked in the county to the Chief Financial Officer
 2928 ~~Comptroller~~ no later than December 1 of the general election
 2929 year, and the Chief Financial Officer ~~Comptroller~~ shall cause
 2930 such supervisor of elections to be reimbursed from the General
 2931 Revenue Fund in an amount equal to 10 cents for each name
 2932 checked or the actual cost of checking such signatures,
 2933 whichever is less. In no event shall such reimbursement of
 2934 costs be deemed or applied as extra compensation for the
 2935 supervisor. Petitions shall be retained by the supervisors for
 2936 a period of 1 year following the election for which the
 2937 petitions were circulated.

2938 Section 109. Section 107.11, Florida Statutes, is amended
 2939 to read:

2940 107.11 Appropriation for expenses.--For the purpose of



HB 1803

2003

2941 defraying the expenses of preparing for, conducting, holding and
 2942 declaring the result of the election provided for by this
 2943 chapter and also for the purpose of defraying the expenses
 2944 allowed by this chapter for the holding of sessions of the
 2945 convention as herein provided, to be audited by the Chief
 2946 Financial Officer ~~Comptroller~~, there is appropriated out of the
 2947 General Revenue Fund of the State of Florida a sufficient sum of
 2948 money for the payment of all amounts necessary to be expended
 2949 under the terms of this chapter, which sums of money shall be
 2950 disbursed by the State of Florida pursuant to warrants drawn by
 2951 the Chief Financial Officer ~~Comptroller~~ ~~upon the Treasurer~~ for
 2952 the payment of same.

2953 Section 110. Subsection (1) of section 110.113, Florida
 2954 Statutes, is amended to read:

2955 110.113 Pay periods for state officers and employees;
 2956 salary payments by direct deposit.--

2957 (1) The normal pay period for salaries of state officers
 2958 and employees shall be 1 month. The Department of Financial
 2959 Services ~~Banking and Finance~~ shall issue either monthly or
 2960 biweekly salary payments by state warrants or by direct deposit
 2961 pursuant to s. 17.076 or make semimonthly salary payments by
 2962 direct deposit pursuant to s. 17.076, as requested by the head
 2963 of each state agency and approved by the Executive Office of the
 2964 Governor and the Department of Financial Services ~~Banking and~~
 2965 ~~Finance~~.

2966 Section 111. Subsection (1) of section 110.114, Florida
 2967 Statutes, is amended to read:

2968 110.114 Employee wage deductions.--

2969 (1) The state or any of its departments, bureaus,
 2970 commissions, and officers are authorized and permitted, with the



HB 1803

2003

2971 concurrence of the Department of Financial Services ~~Banking and~~
 2972 ~~Finance~~, to make deductions from the salary or wage of any
 2973 employee or employees in such amount as shall be authorized and
 2974 requested by such employee or employees and for such purpose as
 2975 shall be authorized and requested by such employee or employees
 2976 and shall pay such sums so deducted as directed by such employee
 2977 or employees. The concurrence of the Department of Financial
 2978 Services ~~Banking and Finance~~ shall not be required for the
 2979 deduction of a certified bargaining agent's membership dues
 2980 deductions pursuant to s. 447.303 or any deductions authorized
 2981 by a collective bargaining agreement.

2982 Section 112. Subsection (1) of section 110.116, Florida
 2983 Statutes, is amended to read:

2984 110.116 Personnel information system; payroll procedures.-
 2985 -

2986 (1) The Department of Management Services shall establish
 2987 and maintain, in coordination with the payroll system of the
 2988 Department of Financial Services ~~Banking and Finance~~, a complete
 2989 personnel information system for all authorized and established
 2990 positions in the state service, with the exception of employees
 2991 of the Legislature. The specifications shall be developed in
 2992 conjunction with the payroll system of the Department of
 2993 Financial Services ~~Banking and Finance~~ and in coordination with
 2994 the Auditor General. The Department of Financial Services
 2995 ~~Banking and Finance~~ shall determine that the position occupied
 2996 by each employee has been authorized and established in
 2997 accordance with the provisions of s. 216.251. The Department of
 2998 Management Services shall develop and maintain a position
 2999 numbering system that will identify each established position,
 3000 and such information shall be a part of the payroll system of



HB 1803

2003

3001 the Department of Financial Services ~~Banking and Finance~~. With
 3002 the exception of employees of the Legislature, this system shall
 3003 include all career service positions and those positions
 3004 exempted from career service provisions, notwithstanding the
 3005 funding source of the salary payments, and information regarding
 3006 persons receiving payments from other sources. Necessary
 3007 revisions shall be made in the personnel and payroll procedures
 3008 of the state to avoid duplication insofar as is feasible. A
 3009 list shall be organized by budget entity to show the employees
 3010 or vacant positions within each budget entity. This list shall
 3011 be available to the Speaker of the House of Representatives and
 3012 the President of the Senate upon request.

3013 Section 113. Paragraph (a) of subsection (3) and paragraph
 3014 (b) of subsection (6) of section 110.1227, Florida Statutes, are
 3015 amended to read:

3016 110.1227 Florida Employee Long-Term-Care Plan Act.--

3017 (3) The Department of Management Services and the
 3018 department shall, in consultation with public employers and
 3019 employees and representatives from unions and associations
 3020 representing state, university, local government, and other
 3021 public employees, establish and supervise the implementation and
 3022 administration of a self-funded or fully insured long-term-care
 3023 plan entitled "Florida Employee Long-Term-Care Plan."

3024 (a) The Department of Management Services and the
 3025 department shall, in consultation with the Office of Insurance
 3026 Regulation of the Financial Services Commission ~~Department of~~
 3027 ~~Insurance~~, contract for actuarial, professional-administrator,
 3028 and other services for the Florida Employee Long-Term-Care Plan.

3029 (6) A Florida Employee Long-Term-Care Plan Board of
 3030 Directors is created, composed of nine members who shall serve



HB 1803

2003

3031 2-year terms, to be appointed after May 1, 1999, as follows:

3032 (b) The Chief Financial Officer ~~Insurance Commissioner~~
 3033 shall appoint an actuary.

3034 Section 114. Paragraph (f) of subsection (5) of section
 3035 110.1228, Florida Statutes, is amended to read:

3036 110.1228 Participation by small counties, small
 3037 municipalities, and district school boards located in small
 3038 counties.--

3039 (5) If the department determines that a small county,
 3040 small municipality, or district school board is eligible to
 3041 enroll, the small county, small municipality, or district school
 3042 board must agree to the following terms and conditions:

3043 (f) If a small county, small municipality, or district
 3044 school board employer fails to make the payments required by
 3045 this section to fully reimburse the state, the Department of
 3046 Revenue or the Department of Financial Services ~~Banking and~~
 3047 ~~Finance~~ shall, upon the request of the Department of Management
 3048 Services, deduct the amount owed by the employer from any funds
 3049 not pledged to bond debt service satisfaction that are to be
 3050 distributed by it to the small county, small municipality, or
 3051 district school board. The amounts so deducted shall be
 3052 transferred to the Department of Management Services for further
 3053 distribution to the trust funds in accordance with this chapter.

3054 Section 115. Paragraph (f) of subsection (4) and
 3055 paragraphs (b) and (c) of subsection (5) of section 110.123,
 3056 Florida Statutes, are amended to read:

3057 110.123 State group insurance program.--

3058 (4) PAYMENT OF PREMIUMS; CONTRIBUTION BY STATE; LIMITATION
 3059 ON ACTIONS TO PAY AND COLLECT PREMIUMS.--

3060 (f) Pursuant to the request of each state officer, full-



HB 1803

2003

3061 time or part-time state employee, or retiree participating in
 3062 the state group insurance program, and upon certification of the
 3063 employing agency approved by the department, the Chief Financial
 3064 Officer ~~Comptroller~~ shall deduct from the salary or retirement
 3065 warrant payable to each participant the amount so certified and
 3066 shall handle such deductions in accordance with rules
 3067 established by the department.

3068 (5) DEPARTMENT POWERS AND DUTIES.--The department is
 3069 responsible for the administration of the state group insurance
 3070 program. The department shall initiate and supervise the
 3071 program as established by this section and shall adopt such
 3072 rules as are necessary to perform its responsibilities. To
 3073 implement this program, the department shall, with prior
 3074 approval by the Legislature:

3075 (b) Prepare, in cooperation with the Office of Insurance
 3076 Regulation of the Financial Services Commission ~~Department of~~
 3077 ~~Insurance~~, the specifications necessary to implement the
 3078 program.

3079 (c) Contract on a competitive proposal basis with an
 3080 insurance carrier or carriers, or professional administrator,
 3081 determined by the Office of Insurance Regulation of the
 3082 Financial Services Commission ~~Department of Insurance~~ to be
 3083 fully qualified, financially sound, and capable of meeting all
 3084 servicing requirements. Alternatively, the department may self-
 3085 insure any plan or plans contained in the state group insurance
 3086 program subject to approval based on actuarial soundness by the
 3087 Office of Insurance Regulation ~~Department of Insurance~~. The
 3088 department may contract with an insurance company or
 3089 professional administrator qualified and approved by the Office
 3090 of Insurance Regulation ~~Department of Insurance~~ to administer



HB 1803

2003

3091 such plan. Before entering into any contract, the department
 3092 shall advertise for competitive proposals, and such contract
 3093 shall be let upon the consideration of the benefits provided in
 3094 relationship to the cost of such benefits. In determining which
 3095 entity to contract with, the department shall, at a minimum,
 3096 consider: the entity's previous experience and expertise in
 3097 administering group insurance programs of the type it proposes
 3098 to administer; the entity's ability to specifically perform its
 3099 contractual obligations in this state and other governmental
 3100 jurisdictions; the entity's anticipated administrative costs and
 3101 claims experience; the entity's capability to adequately provide
 3102 service coverage and sufficient number of experienced and
 3103 qualified personnel in the areas of claims processing,
 3104 recordkeeping, and underwriting, as determined by the
 3105 department; the entity's accessibility to state employees and
 3106 providers; the financial solvency of the entity, using accepted
 3107 business sector measures of financial performance. The
 3108 department may contract for medical services which will improve
 3109 the health or reduce medical costs for employees who participate
 3110 in the state group insurance plan.

3111
 3112
 3113 Final decisions concerning enrollment, the existence of
 3114 coverage, or covered benefits under the state group insurance
 3115 program shall not be delegated or deemed to have been delegated
 3116 by the department.

3117 Section 116. Section 110.125, Florida Statutes, is amended
 3118 to read:

3119 110.125 Administrative costs.--The administrative expenses
 3120 and costs of operating the personnel program established by this



HB 1803

2003

3121 chapter shall be paid by the various agencies of the state
 3122 government, and each such agency shall include in its budget
 3123 estimates its pro rata share of such cost as determined by the
 3124 Department of Management Services. To establish an equitable
 3125 division of the costs, the amount to be paid by each agency
 3126 shall be determined in such proportion as the service rendered
 3127 to each agency bears to the total service rendered under the
 3128 provisions of this chapter. The amounts paid to the Department
 3129 of Management Services which are attributable to positions
 3130 within the Senior Management Service and the Selected
 3131 Professional Service shall be used for the administration of
 3132 such services, training activities for positions within those
 3133 services, and the development and implementation of a database
 3134 of pertinent historical information on exempt positions. Should
 3135 any state agency become more than 90 days delinquent in payment
 3136 of this obligation, the department shall certify to the Chief
 3137 Financial Officer ~~Comptroller~~ the amount due and the Chief
 3138 Financial Officer ~~Comptroller~~ shall transfer the amount due to
 3139 the department from any debtor agency funds available.

3140 Section 117. Paragraph (a) of subsection (1) of section
 3141 110.181, Florida Statutes, is amended to read:

3142 110.181 Florida State Employees' Charitable Campaign.--

3143 (1) CREATION AND ORGANIZATION OF CAMPAIGN.--

3144 (a) The Department of Management Services shall establish
 3145 and maintain, in coordination with the payroll system of the
 3146 Department of Financial Services ~~Banking and Finance~~, an annual
 3147 Florida State Employees' Charitable Campaign. Except as
 3148 provided in subsection (5), this annual fundraising drive is the
 3149 only authorized charitable fundraising drive directed toward
 3150 state employees within work areas during work hours, and for



HB 1803

2003

3151 which the state will provide payroll deduction.

3152 Section 118. Subsection (1) of section 110.2037, Florida
 3153 Statutes, is amended to read:

3154 110.2037 Alternative benefits; tax-sheltered annual leave
 3155 and sick leave payments and special compensation payments.--

3156 (1) The Department of Management Services has authority to
 3157 adopt tax-sheltered plans under s. 401(a) of the Internal
 3158 Revenue Code for state employees who are eligible for payment
 3159 for accumulated leave. The department, upon adoption of the
 3160 plans, shall contract for a private vendor or vendors to
 3161 administer the plans. These plans shall be limited to state
 3162 employees who are over age 55 and who are: eligible for
 3163 accumulated leave and special compensation payments and
 3164 separating from employment with 10 years of service in
 3165 accordance with the Internal Revenue Code, or who are
 3166 participating in the Deferred Retirement Option Program on or
 3167 after July 1, 2001. The plans must provide benefits in a manner
 3168 that minimizes the tax liability of the state and participants.
 3169 The plans must be funded by employer contributions of payments
 3170 for accumulated leave or special compensation payments, or both,
 3171 as specified by the department. The plans must have received all
 3172 necessary federal and state approval as required by law, must
 3173 not adversely impact the qualified status of the Florida
 3174 Retirement System defined benefit or defined contribution plans
 3175 or the pretax benefits program, and must comply with the
 3176 provisions of s. 112.65. Adoption of any plan is contingent on:
 3177 the department receiving appropriate favorable rulings from the
 3178 Internal Revenue Service; the department negotiating under the
 3179 provisions of chapter 447, where applicable; and the Chief
 3180 Financial Officer ~~Comptroller~~ making appropriate changes to the



HB 1803

2003

3181 state payroll system. The department's request for proposals by
3182 vendors for such plans may require that the vendors provide
3183 market-risk or volatility ratings from recognized rating
3184 agencies for each of their investment products. The department
3185 shall provide for a system of continuous quality assurance
3186 oversight to ensure that the program objectives are achieved and
3187 that the program is prudently managed.

3188 Section 119. Subsection (6) of section 110.205, Florida
3189 Statutes, is amended to read:

3190 110.205 Career service; exemptions.--

3191 (6) EXEMPTION OF CHIEF INSPECTOR OF BOILER SAFETY PROGRAM,
3192 DEPARTMENT OF FINANCIAL SERVICES ~~INSURANCE~~.--In addition to
3193 those positions exempted from this part, there is hereby
3194 exempted from the Career Service System the chief inspector of
3195 the boiler inspection program of the Department of Financial
3196 Services ~~Insurance~~. The salary range of this position shall be
3197 established by the Department of Management Services in
3198 accordance with the classification and pay plan established for
3199 the Selected Exempt Service.

3200 Section 120. Paragraph (b) of subsection (5), paragraph
3201 (b) of subsection (7), paragraph (b) of subsection (8), and
3202 subsections (9), (11), and (13) of section 112.061, Florida
3203 Statutes, are amended to read:

3204 112.061 Per diem and travel expenses of public officers,
3205 employees, and authorized persons.--

3206 (5) COMPUTATION OF TRAVEL TIME FOR REIMBURSEMENT.--For
3207 purposes of reimbursement and methods of calculating fractional
3208 days of travel, the following principles are prescribed:

3209 (b) A traveler shall not be reimbursed on a per diem basis
3210 for Class C travel, but shall receive subsistence as provided in



HB 1803

2003

3211 this section, which allowance for meals shall be based on the
 3212 following schedule:

3213 1. Breakfast--When travel begins before 6 a.m. and extends
 3214 beyond 8 a.m.

3215 2. Lunch--When travel begins before 12 noon and extends
 3216 beyond 2 p.m.

3217 3. Dinner--When travel begins before 6 p.m. and extends
 3218 beyond 8 p.m., or when travel occurs during nighttime hours due
 3219 to special assignment.

3220
 3221
 3222 No allowance shall be made for meals when travel is confined to
 3223 the city or town of the official headquarters or immediate
 3224 vicinity; except assignments of official business outside the
 3225 traveler's regular place of employment if travel expenses are
 3226 approved. The Chief Financial Officer ~~Comptroller~~ shall
 3227 establish a schedule for processing Class C travel subsistence
 3228 payments at least on a monthly basis.

3229 (7) TRANSPORTATION.--

3230 (b) The Department of Financial Services ~~Banking and~~
 3231 ~~Finance~~ may provide any form it deems necessary to cover travel
 3232 requests for traveling on official business and when paid by the
 3233 state.

3234 (8) OTHER EXPENSES.--

3235 (b) Other expenses which are not specifically authorized
 3236 by this section may be approved by the Department of Financial
 3237 Services ~~Banking and Finance~~ pursuant to rules adopted by it.
 3238 Expenses approved pursuant to this paragraph shall be reported
 3239 by the Department of Financial Services ~~Banking and Finance~~ to
 3240 the Auditor General annually.



HB 1803

2003

3241 (9) ~~RULES AND REGULATIONS.~~--

3242 (a) The Department of Financial Services ~~Banking and~~
 3243 ~~Finance~~ shall adopt ~~promulgate~~ such rules and regulations,
 3244 including, but not limited to, the general criteria to be used
 3245 by a state agency to predetermine justification for attendance
 3246 by state officers and employees and authorized persons at
 3247 conventions and conferences, and prescribe such forms as are ~~may~~
 3248 ~~be~~ necessary to effectuate the purposes of this section. The
 3249 department may also adopt rules prescribing the proper
 3250 disposition and use of promotional items and rebates offered by
 3251 common carriers and other entities in connection with travel at
 3252 public expense; however, before adopting such rules, the
 3253 department shall consult with the appropriation committees of
 3254 the Legislature.

3255 (b) Each state agency shall adopt ~~promulgate~~ such
 3256 additional specific rules ~~and regulations~~ and specific criteria
 3257 to be used by it to predetermine justification for attendance by
 3258 state officers and employees and authorized persons at
 3259 conventions and conferences, not in conflict with the rules ~~and~~
 3260 ~~regulations~~ of the Department of Financial Services ~~Banking and~~
 3261 ~~Finance~~ or with the general criteria to be used by a state
 3262 agency to predetermine justification for attendance by state
 3263 officers and employees and authorized persons at conventions, as
 3264 may be necessary to effectuate the purposes of this section.

3265 (11) TRAVEL AUTHORIZATION AND VOUCHER FORMS.--

3266 (a) Authorization forms.--The Department of Financial
 3267 Services ~~Banking and Finance~~ shall furnish a uniform travel
 3268 authorization request form which shall be used by all state
 3269 officers and employees and authorized persons when requesting
 3270 approval for the performance of travel to a convention or



HB 1803

2003

3271 conference. The form shall include, but not be limited to,
 3272 provision for the name of each traveler, purpose of travel,
 3273 period of travel, estimated cost to the state, and a statement
 3274 of benefits accruing to the state by virtue of such travel. A
 3275 copy of the program or agenda of the convention or conference,
 3276 itemizing registration fees and any meals or lodging included in
 3277 the registration fee, shall be attached to, and filed with, the
 3278 copy of the travel authorization request form on file with the
 3279 agency. The form shall be signed by the traveler and by the
 3280 traveler's supervisor stating that the travel is to be incurred
 3281 in connection with official business of the state. The head of
 3282 the agency or his or her designated representative shall not
 3283 authorize or approve such request in the absence of the
 3284 appropriate signatures. A copy of the travel authorization form
 3285 shall be attached to, and become a part of, the support of the
 3286 agency's copy of the travel voucher.

3287 (b) Voucher forms.--

3288 1. The Department of Financial Services ~~Banking and~~
 3289 ~~Finance~~ shall furnish a uniform travel voucher form which shall
 3290 be used by all state officers and employees and authorized
 3291 persons when submitting travel expense statements for approval
 3292 and payment. No travel expense statement shall be approved for
 3293 payment by the Chief Financial Officer ~~Comptroller~~ unless made
 3294 on the form prescribed and furnished by the department. The
 3295 travel voucher form shall provide for, among other things, the
 3296 purpose of the official travel and a certification or
 3297 affirmation, to be signed by the traveler, indicating the truth
 3298 and correctness of the claim in every material matter, that the
 3299 travel expenses were actually incurred by the traveler as
 3300 necessary in the performance of official duties, that per diem



HB 1803

2003

3301 claimed has been appropriately reduced for any meals or lodging
 3302 included in the convention or conference registration fees
 3303 claimed by the traveler, and that the voucher conforms in every
 3304 respect with the requirements of this section. The original
 3305 copy of the executed uniform travel authorization request form
 3306 shall be attached to the uniform travel voucher on file with the
 3307 respective agency.

3308 2. Statements for travel expenses incidental to the
 3309 rendering of medical services for and on behalf of clients of
 3310 the Department of Health shall be on forms approved by the
 3311 Department of Financial Services ~~Banking and Finance~~.

3312 (13) DIRECT PAYMENT OF EXPENSES BY AGENCY.--Whenever an
 3313 agency requires an employee to incur either Class A or Class B
 3314 travel on emergency notice to the traveler, such traveler may
 3315 request the agency to pay his or her expenses for meals and
 3316 lodging directly to the vendor, and the agency may pay the
 3317 vendor the actual expenses for meals and lodging during the
 3318 travel period, limited to an amount not to exceed that
 3319 authorized pursuant to this section. In emergency situations,
 3320 the agency head or his or her designee may authorize an increase
 3321 in the amount paid for a specific meal, provided that the total
 3322 daily cost of meals does not exceed the total amount authorized
 3323 for meals each day. The agency head or his or her designee may
 3324 also grant prior approval for a state agency to make direct
 3325 payments of travel expenses in other situations that result in
 3326 cost savings to the state, and such cost savings shall be
 3327 documented in the voucher submitted to the Chief Financial
 3328 Officer ~~Comptroller~~ for the direct payment of travel expenses.
 3329 The provisions of this subsection shall not be deemed to apply
 3330 to any legislator or to any employee of the Legislature.



HB 1803

2003

3331 Section 121. Subsections (2), (5), and (6) of section
 3332 112.08, Florida Statutes, are amended to read:

3333 112.08 Group insurance for public officers, employees, and
 3334 certain volunteers; physical examinations.--

3335 (2)(a) Every local governmental unit is authorized to
 3336 provide and pay out of its available funds for all or part of
 3337 the premium for life, health, accident, hospitalization, legal
 3338 expense, or annuity insurance, or all or any kinds of such
 3339 insurance, for the officers and employees of the local
 3340 governmental unit and for health, accident, hospitalization, and
 3341 legal expense insurance for the dependents of such officers and
 3342 employees upon a group insurance plan and, to that end, to enter
 3343 into contracts with insurance companies or professional
 3344 administrators to provide such insurance. Before entering any
 3345 contract for insurance, the local governmental unit shall
 3346 advertise for competitive bids; and such contract shall be let
 3347 upon the basis of such bids. If a contracting health insurance
 3348 provider becomes financially impaired as determined by the
 3349 Office of Insurance Regulation of the Financial Services
 3350 Commission ~~Department of Insurance~~ or otherwise fails or refuses
 3351 to provide the contracted-for coverage or coverages, the local
 3352 government may purchase insurance, enter into risk management
 3353 programs, or contract with third-party administrators and may
 3354 make such acquisitions by advertising for competitive bids or by
 3355 direct negotiations and contract. The local governmental unit
 3356 may undertake simultaneous negotiations with those companies
 3357 which have submitted reasonable and timely bids and are found by
 3358 the local governmental unit to be fully qualified and capable of
 3359 meeting all servicing requirements. Each local governmental
 3360 unit may self-insure any plan for health, accident, and



HB 1803

2003

3361 hospitalization coverage or enter into a risk management
 3362 consortium to provide such coverage, subject to approval based
 3363 on actuarial soundness by the Office of Insurance Regulation
 3364 ~~Department of Insurance~~; and each shall contract with an
 3365 insurance company or professional administrator qualified and
 3366 approved by the office ~~Department of Insurance~~ to administer
 3367 such a plan.

3368 (b) In order to obtain approval from the Office of
 3369 Insurance Regulation ~~Department of Insurance~~ of any self-insured
 3370 plan for health, accident, and hospitalization coverage, each
 3371 local governmental unit or consortium shall submit its plan
 3372 along with a certification as to the actuarial soundness of the
 3373 plan, which certification is prepared by an actuary who is a
 3374 member of the Society of Actuaries or the American Academy of
 3375 Actuaries. The Office of Insurance Regulation ~~Department of~~
 3376 ~~Insurance~~ shall not approve the plan unless it determines that
 3377 the plan is designed to provide sufficient revenues to pay
 3378 current and future liabilities, as determined according to
 3379 generally accepted actuarial principles. After implementation
 3380 of an approved plan, each local governmental unit or consortium
 3381 shall annually submit to the Office of Insurance Regulation
 3382 ~~Department of Insurance~~ a report which includes a statement
 3383 prepared by an actuary who is a member of the Society of
 3384 Actuaries or the American Academy of Actuaries as to the
 3385 actuarial soundness of the plan. The report is due 90 days
 3386 after the close of the fiscal year of the plan. The report
 3387 shall consist of, but is not limited to:

3388 1. The adequacy of contribution rates in meeting the level
 3389 of benefits provided and the changes, if any, needed in the
 3390 contribution rates to achieve or preserve a level of funding



HB 1803

2003

3391 deemed adequate to enable payment of the benefit amounts
 3392 provided under the plan and a valuation of present assets, based
 3393 on statement value, and prospective assets and liabilities of
 3394 the plan and the extent of any unfunded accrued liabilities.

3395 2. A plan to amortize any unfunded liabilities and a
 3396 description of actions taken to reduce unfunded liabilities.

3397 3. A description and explanation of actuarial assumptions.

3398 4. A schedule illustrating the amortization of any
 3399 unfunded liabilities.

3400 5. A comparative review illustrating the level of funds
 3401 available to the plan from rates, investment income, and other
 3402 sources realized over the period covered by the report with the
 3403 assumptions used.

3404 6. A statement by the actuary that the report is complete
 3405 and accurate and that in the actuary's opinion the techniques
 3406 and assumptions used are reasonable and meet the requirements
 3407 and intent of this subsection.

3408 7. Other factors or statements as required by the
 3409 Department of Insurance in order to determine the actuarial
 3410 soundness of the plan.

3411
 3412 All assumptions used in the report shall be based on recognized
 3413 actuarial principles acceptable to the Office of Insurance
 3414 Regulation Department of Insurance. The office Department of
 3415 Insurance shall review the report and shall notify the
 3416 administrator of the plan and each entity participating in the
 3417 plan, as identified by the administrator, of any actuarial
 3418 deficiencies. Each local governmental unit is responsible for
 3419 payment of valid claims of its employees that are not paid
 3420 within 60 days after receipt by the plan administrator or



HB 1803

2003

3421 consortium.

3422 (c) Every local governmental unit is authorized to expend
 3423 funds for preemployment physical examinations and postemployment
 3424 physical examinations.

3425 (5) The Department of Management Services shall initiate
 3426 and supervise a group insurance program providing death and
 3427 disability benefits for active members of the Florida Highway
 3428 Patrol Auxiliary, with coverage beginning July 1, 1978, and
 3429 purchased from state funds appropriated for that purpose. The
 3430 Department of Management Services, in cooperation with the
 3431 Office of Insurance Regulation ~~Department of Insurance~~, shall
 3432 prepare specifications necessary to implement the program, and
 3433 the Department of Management Services shall receive bids and
 3434 award the contract in accordance with general law.

3435 (6) The Financial Services Commission ~~Department of~~
 3436 ~~Insurance~~ is authorized to adopt rules to carry out the
 3437 provisions of this section as they pertain to its duties.

3438 Section 122. Paragraph (h) of subsection (2) of section
 3439 112.191, Florida Statutes, is amended to read:

3440 112.191 Firefighters; death benefits.--

3441 (2)

3442 (h) The Division of the State Fire Marshal within the
 3443 Department of Financial Services ~~Insurance~~ shall adopt rules
 3444 necessary to implement this section.

3445 Section 123. Paragraph (h) of subsection (4) of section
 3446 112.3144, Florida Statutes, is amended to read:

3447 112.3144 Full and public disclosure of financial
 3448 interests.--

3449 (4) Forms for compliance with the full and public
 3450 disclosure requirements of s. 8, Art. II of the State



HB 1803

2003

3451 Constitution shall be created by the Commission on Ethics. The
 3452 commission shall give notice of disclosure deadlines and
 3453 delinquencies and distribute forms in the following manner:

3454 (h) Notwithstanding any provision of chapter 120, any fine
 3455 imposed under this subsection which is not waived by final order
 3456 of the commission and which remains unpaid more than 60 days
 3457 after the notice of payment due or more than 60 days after the
 3458 commission renders a final order on the appeal must be submitted
 3459 to the Department of Financial Services ~~Banking and Finance~~ as a
 3460 claim, debt, or other obligation owed to the state, and the
 3461 department shall assign the collection of such fine to a
 3462 collection agent as provided in s. 17.20.

3463 Section 124. Paragraph (i) of subsection (6) of section
 3464 112.3145, Florida Statutes, is amended to read:

3465 112.3145 Disclosure of financial interests and clients
 3466 represented before agencies.--

3467 (6) Forms for compliance with the disclosure requirements
 3468 of this section and a current list of persons subject to
 3469 disclosure shall be created by the commission and provided to
 3470 each supervisor of elections. The commission and each supervisor
 3471 of elections shall give notice of disclosure deadlines and
 3472 delinquencies and distribute forms in the following manner:

3473 (i) Notwithstanding any provision of chapter 120, any fine
 3474 imposed under this subsection which is not waived by final order
 3475 of the commission and which remains unpaid more than 60 days
 3476 after the notice of payment due or more than 60 days after the
 3477 commission renders a final order on the appeal must be submitted
 3478 to the Department of Financial Services ~~Banking and Finance~~ as a
 3479 claim, debt, or other obligation owed to the state, and the
 3480 department shall assign the collection of such a fine to a



HB 1803

2003

3481 collection agent as provided in s. 17.20.

3482 Section 125. Paragraph (c) of subsection (9) of section
 3483 112.3189, Florida Statutes, is amended to read:

3484 112.3189 Investigative procedures upon receipt of whistle-
 3485 blower information from certain state employees.--

3486 (9)

3487 (c) The Chief Inspector General shall transmit any final
 3488 report under this section, any comments provided by the
 3489 complainant, and any appropriate comments or recommendations by
 3490 the Chief Inspector General to the Governor, to the Joint
 3491 Legislative Auditing Committee, to the investigating agency, and
 3492 to the Chief Financial Officer ~~Comptroller~~.

3493 Section 126. Paragraph (e) of subsection (3) of section
 3494 112.31895, Florida Statutes, is amended to read:

3495 112.31895 Investigative procedures in response to
 3496 prohibited personnel actions.--

3497 (3) CORRECTIVE ACTION AND TERMINATION OF INVESTIGATION.--

3498 (e)1. The Florida Commission on Human Relations may
 3499 request an agency or circuit court to order a stay, on such
 3500 terms as the court requires, of any personnel action for 45 days
 3501 if the Florida Commission on Human Relations determines that
 3502 reasonable grounds exist to believe that a prohibited personnel
 3503 action has occurred, is occurring, or is to be taken. The
 3504 Florida Commission on Human Relations may request that such stay
 3505 be extended for appropriate periods of time.

3506 2. If, in connection with any investigation, the Florida
 3507 Commission on Human Relations determines that reasonable grounds
 3508 exist to believe that a prohibited action has occurred, is
 3509 occurring, or is to be taken which requires corrective action,
 3510 the Florida Commission on Human Relations shall report the



HB 1803

2003

3511 determination together with any findings or recommendations to
3512 the agency head and may report that determination and those
3513 findings and recommendations to the Governor and the Chief
3514 Financial Officer ~~Comptroller~~. The Florida Commission on Human
3515 Relations may include in the report recommendations for
3516 corrective action to be taken.

3517 3. If, after 20 days, the agency does not implement the
3518 recommended action, the Florida Commission on Human Relations
3519 shall terminate the investigation and notify the complainant of
3520 the right to appeal under subsection (4), or may petition the
3521 agency for corrective action under this subsection.

3522 4. If the Florida Commission on Human Relations finds, in
3523 consultation with the individual subject to the prohibited
3524 action, that the agency has implemented the corrective action,
3525 the commission shall file such finding with the agency head,
3526 together with any written comments that the individual provides,
3527 and terminate the investigation.

3528 Section 127. Paragraph (f) of subsection (5) of section
3529 112.3215, Florida Statutes, is amended to read:

3530 112.3215 Lobbyists before the executive branch or the
3531 Constitution Revision Commission; registration and reporting;
3532 investigation by commission.--

3533 (5)

3534 (f) The commission shall provide by rule a procedure by
3535 which a lobbyist who fails to timely file a report shall be
3536 notified and assessed fines. The rule shall provide for the
3537 following:

3538 1. Upon determining that the report is late, the person
3539 designated to review the timeliness of reports shall immediately
3540 notify the lobbyist as to the failure to timely file the report



HB 1803

2003

3541 and that a fine is being assessed for each late day. The fine
3542 shall be \$50 per day per report for each late day up to a
3543 maximum of \$5,000 per late report.

3544 2. Upon receipt of the report, the person designated to
3545 review the timeliness of reports shall determine the amount of
3546 the fine due based upon the earliest of the following:

3547 a. When a report is actually received by the lobbyist
3548 registration and reporting office.

3549 b. When the report is postmarked.

3550 c. When the certificate of mailing is dated.

3551 d. When the receipt from an established courier company is
3552 dated.

3553 3. Such fine shall be paid within 30 days after the notice
3554 of payment due is transmitted by the Lobbyist Registration
3555 Office, unless appeal is made to the commission. The moneys
3556 shall be deposited into the Executive Branch Lobby Registration
3557 Trust Fund.

3558 4. A fine shall not be assessed against a lobbyist the
3559 first time any reports for which the lobbyist is responsible are
3560 not timely filed. However, to receive the one-time fine waiver,
3561 all reports for which the lobbyist is responsible must be filed
3562 within 30 days after the notice that any reports have not been
3563 timely filed is transmitted by the Lobbyist Registration Office.
3564 A fine shall be assessed for any subsequent late-filed reports.

3565 5. Any lobbyist may appeal or dispute a fine, based upon
3566 unusual circumstances surrounding the failure to file on the
3567 designated due date, and may request and shall be entitled to a
3568 hearing before the commission, which shall have the authority to
3569 waive the fine in whole or in part for good cause shown. Any
3570 such request shall be made within 30 days after the notice of



HB 1803

2003

3571 payment due is transmitted by the Lobbyist Registration Office.

3572 In such case, the lobbyist shall, within the 30-day period,
3573 notify the person designated to review the timeliness of reports
3574 in writing of his or her intention to bring the matter before
3575 the commission.

3576 6. The person designated to review the timeliness of
3577 reports shall notify the commission of the failure of a lobbyist
3578 to file a report after notice or of the failure of a lobbyist to
3579 pay the fine imposed.

3580 7. Notwithstanding any provision of chapter 120, any fine
3581 imposed under this subsection that is not waived by final order
3582 of the commission and that remains unpaid more than 60 days
3583 after the notice of payment due or more than 60 days after the
3584 commission renders a final order on the lobbyist's appeal shall
3585 be collected by the Department of Financial Services ~~Banking and~~
3586 ~~Finance~~ as a claim, debt, or other obligation owed to the state,
3587 and the department may assign the collection of such fine to a
3588 collection agent as provided in s. 17.20.

3589 Section 128. Subsection (4) of section 112.63, Florida
3590 Statutes, is amended to read:

3591 112.63 Actuarial reports and statements of actuarial
3592 impact; review.--

3593 (4) Upon receipt, pursuant to subsection (2), of an
3594 actuarial report, or upon receipt, pursuant to subsection (3),
3595 of a statement of actuarial impact, the Department of Management
3596 Services shall acknowledge such receipt, but shall only review
3597 and comment on each retirement system's or plan's actuarial
3598 valuations at least on a triennial basis. If the department
3599 finds that the actuarial valuation is not complete, accurate, or
3600 based on reasonable assumptions, or if the department does not



HB 1803

2003

3601 receive the actuarial report or statement of actuarial impact,
 3602 the department shall notify the local government and request
 3603 appropriate adjustment. If, after a reasonable period of time, a
 3604 satisfactory adjustment is not made, the affected local
 3605 government or the department may petition for a hearing under
 3606 the provisions of ss. 120.569 and 120.57. If the administrative
 3607 law judge recommends in favor of the department, the department
 3608 shall perform an actuarial review or prepare the statement of
 3609 actuarial impact. The cost to the department of performing such
 3610 actuarial review or preparing such statement shall be charged to
 3611 the governmental entity of which the employees are covered by
 3612 the retirement system or plan. If payment of such costs is not
 3613 received by the department within 60 days after receipt by the
 3614 governmental entity of the request for payment, the department
 3615 shall certify to the Chief Financial Officer ~~Comptroller~~ the
 3616 amount due, and the Chief Financial Officer ~~Comptroller~~ shall
 3617 pay such amount to the department from any funds payable to the
 3618 governmental entity of which the employees are covered by the
 3619 retirement system or plan. If the administrative law judge
 3620 recommends in favor of the local retirement system and the
 3621 department performs an actuarial review, the cost to the
 3622 department of performing the actuarial review shall be paid by
 3623 the department.

3624 Section 129. Section 116.03, Florida Statutes, is amended
 3625 to read:

3626 116.03 Officers to report fees collected.--Each state and
 3627 county officer who receives all or any part of his or her
 3628 compensation in fees or commissions, or other remuneration,
 3629 shall keep a complete report of all fees and commissions, or
 3630 other remuneration collected, and shall make a report to the



HB 1803

2003

3631 Department of Financial Services ~~Banking and Finance~~ of all such
 3632 fees and commissions, or other remuneration, annually on
 3633 December 31 of each and every year. Such report shall be made
 3634 upon forms to be prescribed from time to time by the department,
 3635 and shall show in detail the source, character and amount of all
 3636 his or her official expenses and the net amount that the office
 3637 has paid up to the time of making such report. All officers
 3638 shall make out, fill in and subscribe and properly forward to
 3639 the department such reports, and swear to the accuracy and
 3640 competency of such reports.

3641 Section 130. Section 116.04, Florida Statutes, is amended
 3642 to read:

3643 116.04 Failure of officer to make sworn report of fees.--
 3644 Any officer who shall fail or refuse to make, subscribe, and
 3645 swear, or to file with the Department of Financial Services
 3646 ~~Banking and Finance~~ a report of all fees, commissions, or other
 3647 remuneration collected, as required by law, or if any officer
 3648 shall knowingly or willfully make false or incomplete reports,
 3649 or in any report violate any of the provisions of s. 116.03 he
 3650 or she shall be guilty of a misdemeanor of the first degree,
 3651 punishable as provided in s. 775.082 or s. 775.083.

3652 Section 131. Section 116.05, Florida Statutes, is amended
 3653 to read:

3654 116.05 Examination and publication by Department of
 3655 Financial Services ~~Banking and Finance~~.--The Department of
 3656 Financial Services ~~Banking and Finance~~ shall have examined and
 3657 verified any of the reports received under s. 116.03 whenever in
 3658 its judgment the same may be necessary, and the department shall
 3659 cause the matter and things in each of said reports to be
 3660 published one time in a newspaper published in the county in



HB 1803

2003

3661 which such report originated, in such form as it shall direct,
 3662 and the expense of such publication shall be paid by the county
 3663 commissioners of such county.

3664 Section 132. Section 116.06, Florida Statutes, is amended
 3665 to read:

3666 116.06 Summary of reports; certain officers not required
 3667 to report fees.--A summary of all such reports shall be included
 3668 by the Department of Financial Services ~~Banking and Finance~~ in
 3669 its annual report to the Governor, except that jurors and
 3670 notaries public shall not be required to make such reports as
 3671 provided for in s. 116.03.

3672 Section 133. Section 116.14, Florida Statutes, is amended
 3673 to read:

3674 116.14 Receipts required from purchasers of state
 3675 property.--Upon the sale of any state property by the
 3676 superintendent and presidents of state institutions as provided
 3677 by law, they shall take receipt for the same from the purchaser,
 3678 which receipt shall be forwarded, together with the proceeds of
 3679 the sale, to the Chief Financial Officer ~~State Treasurer~~.

3680 Section 134. Paragraph (c) of subsection (15) of section
 3681 120.52, Florida Statutes, is amended to read:

3682 120.52 Definitions.--As used in this act:

3683 (15) "Rule" means each agency statement of general
 3684 applicability that implements, interprets, or prescribes law or
 3685 policy or describes the procedure or practice requirements of an
 3686 agency and includes any form which imposes any requirement or
 3687 solicits any information not specifically required by statute or
 3688 by an existing rule. The term also includes the amendment or
 3689 repeal of a rule. The term does not include:

3690 (c) The preparation or modification of:



HB 1803

2003

3691 1. Agency budgets.
 3692 2. Statements, memoranda, or instructions to state
 3693 agencies issued by the Chief Financial Officer or Comptroller as
 3694 chief fiscal officer of the state and relating or pertaining to
 3695 claims for payment submitted by state agencies to the Chief
 3696 Financial Officer or Comptroller.

3697 3. Contractual provisions reached as a result of
 3698 collective bargaining.

3699 4. Memoranda issued by the Executive Office of the
 3700 Governor relating to information resources management.

3701 Section 135. Subsections (3) and (9) of section 120.80,
 3702 Florida Statutes, are amended to read:

3703 120.80 Exceptions and special requirements; agencies.--

3704 (3) OFFICE OF FINANCIAL INSTITUTIONS AND SECURITIES
 3705 REGULATION ~~DEPARTMENT OF BANKING AND FINANCE~~.--

3706 (a) Notwithstanding s. 120.60(1), in proceedings for the
 3707 issuance, denial, renewal, or amendment of a license or approval
 3708 of a merger pursuant to title XXXVIII:

3709 1.a. The Office of Financial Institutions and Securities
 3710 Regulation of the Financial Services Commission ~~Department of~~
 3711 ~~Banking and Finance~~ shall have published in the Florida
 3712 Administrative Weekly notice of the application within 21 days
 3713 after receipt.

3714 b. Within 21 days after publication of notice, any person
 3715 may request a hearing. Failure to request a hearing within 21
 3716 days after notice constitutes a waiver of any right to a
 3717 hearing. The Office of Financial Institutions and Securities
 3718 Regulation ~~Department of Banking and Finance~~ or an applicant may
 3719 request a hearing at any time prior to the issuance of a final
 3720 order. Hearings shall be conducted pursuant to ss. 120.569 and



HB 1803

2003

3721 120.57, except that the Financial Services Commission ~~Department~~
3722 ~~of Banking and Finance~~ shall by rule provide for participation
3723 by the general public.

3724 2. Should a hearing be requested as provided by sub-
3725 subparagraph 1.b., the applicant or licensee shall publish at
3726 its own cost a notice of the hearing in a newspaper of general
3727 circulation in the area affected by the application. The
3728 Financial Services Commission ~~Department of Banking and Finance~~
3729 may by rule specify the format and size of the notice.

3730 3. Notwithstanding s. 120.60(1), and except as provided in
3731 subparagraph 4., every application for license for a new bank,
3732 new trust company, new credit union, or new savings and loan
3733 association shall be approved or denied within 180 days after
3734 receipt of the original application or receipt of the timely
3735 requested additional information or correction of errors or
3736 omissions. Any application for such a license or for acquisition
3737 of such control which is not approved or denied within the 180-
3738 day period or within 30 days after conclusion of a public
3739 hearing on the application, whichever is later, shall be deemed
3740 approved subject to the satisfactory completion of conditions
3741 required by statute as a prerequisite to license and approval of
3742 insurance of accounts for a new bank, a new savings and loan
3743 association, or a new credit union by the appropriate insurer.

3744 4. In the case of every application for license to
3745 establish a new bank, trust company, or capital stock savings
3746 association in which a foreign national proposes to own or
3747 control 10 percent or more of any class of voting securities,
3748 and in the case of every application by a foreign national for
3749 approval to acquire control of a bank, trust company, or capital
3750 stock savings association, the Office of Financial Institutions



HB 1803

2003

3751 and Securities Regulation ~~Department of Banking and Finance~~
 3752 shall request that a public hearing be conducted pursuant to ss.
 3753 120.569 and 120.57. Notice of such hearing shall be published by
 3754 the applicant as provided in subparagraph 2. The failure of any
 3755 such foreign national to appear personally at the hearing shall
 3756 be grounds for denial of the application. Notwithstanding the
 3757 provisions of s. 120.60(1) and subparagraph 3., every
 3758 application involving a foreign national shall be approved or
 3759 denied within 1 year after receipt of the original application
 3760 or any timely requested additional information or the correction
 3761 of any errors or omissions, or within 30 days after the
 3762 conclusion of the public hearing on the application, whichever
 3763 is later.

3764 (b) In any application for a license or merger pursuant to
 3765 title XXXVIII which is referred by the agency to the division
 3766 for hearing, the administrative law judge shall complete and
 3767 submit to the agency and to all parties a written report
 3768 consisting of findings of fact and rulings on evidentiary
 3769 matters. The agency shall allow each party at least 10 days in
 3770 which to submit written exceptions to the report.

3771 (9) OFFICE OF INSURANCE REGULATION ~~DEPARTMENT OF~~
 3772 ~~INSURANCE~~.--Notwithstanding s. 120.60(1), every application for
 3773 a certificate of authority as required by s. 624.401 shall be
 3774 approved or denied within 180 days after receipt of the original
 3775 application. Any application for a certificate of authority
 3776 which is not approved or denied within the 180-day period, or
 3777 within 30 days after conclusion of a public hearing held on the
 3778 application, shall be deemed approved, subject to the
 3779 satisfactory completion of conditions required by statute as a
 3780 prerequisite to licensure.



HB 1803

2003

3781 Section 136. Subsection (8) of section 121.051, Florida
3782 Statutes, is amended to read:

3783 121.051 Participation in the system.--

3784 (8) DIVISION OF REHABILITATION AND LIQUIDATION EMPLOYEES
3785 MEMBERSHIP.--Effective July 1, 1994, the regular receivership
3786 employees of the Division of Rehabilitation and Liquidation of
3787 the Department of Financial Services who are assigned to
3788 established positions and are subject to established rules and
3789 regulations regarding discipline, pay, classification, and time
3790 and attendance are hereby declared to be state employees within
3791 the meaning of this chapter and shall be compulsory members in
3792 compliance with this chapter, the provisions of s.

3793 216.011(1)(dd)2., notwithstanding. Employment performed before
3794 July 1, 1994, as such a receivership employee may be claimed as
3795 creditable retirement service upon payment by the employee or
3796 employer of contributions required in s. 121.081(1), as
3797 applicable for the period claimed.

3798 Section 137. Paragraph (e) of subsection (1) of section
3799 121.055, Florida Statutes, is amended to read:

3800 121.055 Senior Management Service Class.--There is hereby
3801 established a separate class of membership within the Florida
3802 Retirement System to be known as the "Senior Management Service
3803 Class," which shall become effective February 1, 1987.

3804 (1)

3805 (e) Effective January 1, 1991, participation in the Senior
3806 Management Service Class shall be compulsory for the number of
3807 senior managers who have policymaking authority with the State
3808 Board of Administration, as determined by the Governor, Chief
3809 Financial Officer ~~Treasurer~~, and Attorney General ~~Comptroller~~
3810 acting as the State Board of Administration, unless such member



HB 1803

2003

3811 elects to participate in the Senior Management Service Optional
 3812 Annuity Program as established in subsection (6) in lieu of
 3813 participation in the Senior Management Service Class. Such
 3814 election shall be made in writing and filed with the division
 3815 and the personnel officer of the State Board of Administration
 3816 within 90 days after becoming eligible for membership in the
 3817 Senior Management Service Class.

3818 Section 138. Paragraph (a) of subsection (2) of section
 3819 121.061, Florida Statutes, is amended to read:

3820 121.061 Funding.--

3821 (2)(a) Should any employer other than a state employer
 3822 fail to make the retirement and social security contributions,
 3823 both member and employer contributions, required by this
 3824 chapter, then, upon request by the administrator, the Department
 3825 of Revenue or the Department of Financial Services ~~Banking and~~
 3826 ~~Finance~~, as the case may be, shall deduct the amount owed by the
 3827 employer from any funds to be distributed by it to the county,
 3828 city, special district, or consolidated form of government. The
 3829 amounts so deducted shall be transferred to the administrator
 3830 for further distribution to the trust funds in accordance with
 3831 this chapter.

3832 Section 139. Section 121.133, Florida Statutes, is amended
 3833 to read:

3834 121.133 Cancellation of uncashed warrants.--

3835 Notwithstanding the provisions of s. 17.26 or s. 717.123 to the
 3836 contrary, ~~effective July 1, 1998,~~ if any state warrant issued by
 3837 the Chief Financial Officer ~~Comptroller~~ for the payment of
 3838 retirement benefits from the Florida Retirement System Trust
 3839 Fund, or any other pension trust fund administered by the
 3840 department, is not presented for payment within 1 year after the



HB 1803

2003

3841 last day of the month in which it was originally issued, the
3842 Chief Financial Officer ~~Comptroller~~ shall cancel the benefit
3843 warrant and credit the amount of the warrant to the Florida
3844 Retirement System Trust Fund or other pension trust fund
3845 administered by the department, as appropriate. The department
3846 may provide for issuance of a replacement warrant when deemed
3847 appropriate.

3848 Section 140. Paragraph (b) of subsection (4) of section
3849 122.35, Florida Statutes, is amended to read:

3850 122.35 Funding.--

3851 (4) Effective October 1, 1967, the proceeds of the
3852 intangible tax collections of the state remaining after the
3853 payment of administrative expenses, commissions which are
3854 applicable, and other costs incident to its collection shall be
3855 set aside into an account designated as account B of the
3856 Intangible Tax Trust Fund, which account shall also receive all
3857 of the matching payments for retirement and social security
3858 remitted by each officer or board as provided in subsection (1).

3859 The amounts received and deposited into account B of the
3860 Intangible Tax Trust Fund are appropriated and shall be used for
3861 the following purposes and paid out on the priority basis as
3862 shown below:

3863 (b) After the retirement and social security contributions
3864 of all members have been matched as provided in paragraph (a),
3865 the balance remaining in account B of the Intangible Tax Trust
3866 Fund shall be distributed as follows:

3867 1. Each county shall receive each fiscal year ending June
3868 30 an allocation in an amount equal to 55 percent of the total
3869 net intangible taxes collected and remitted to the Department of
3870 Revenue by the tax collector of the county during the prior



HB 1803

2003

3871 fiscal year.

3872 a. Commencing October 1, 1967, and every October 1
 3873 thereafter and continuing on the first day of each subsequent
 3874 month through June 30 of each fiscal year each board of county
 3875 commissions of the several counties of the state shall receive
 3876 an allocation from account B of the Intangible Tax Trust Fund.
 3877 This allocation shall not include the school boards of the
 3878 several counties of the state. The amount of said monthly
 3879 allocation shall be equal to the average amount required to be
 3880 matched by the Intangible Tax Trust Fund for the corresponding
 3881 months during the 1966-1967 fiscal year as computed by the Chief
 3882 Financial Officer ~~Comptroller~~, or one-twelfth of the Chief
 3883 Financial Officer's ~~Comptroller's~~ estimate of the county's
 3884 allocation, whichever is smaller, and an adjustment to reconcile
 3885 the monthly allocations with the actual amount to be received
 3886 pursuant to this subparagraph, shall be made not later than 60
 3887 days after the end of the fiscal year.

3888 b. Each county, county agency and school board shall pay
 3889 all matching cost for retirement and social security as required
 3890 by this act and s. 238.11(1), notwithstanding the provisions of
 3891 any other law.

3892 2. The balance remaining in account B of the Intangible
 3893 Tax Trust Fund after the retirement and social security
 3894 contributions have been matched and the allocations to each
 3895 county have been paid as provided in this act, shall be paid
 3896 over to the General Revenue Fund of the state.

3897 Section 141. Paragraphs (a) and (b) of subsection (11) of
 3898 section 125.0104, Florida Statutes, are amended to read:

3899 125.0104 Tourist development tax; procedure for levying;
 3900 authorized uses; referendum; enforcement.--



HB 1803

2003

3901 (11) INTEREST PAID ON DISTRIBUTIONS.--

3902 (a) Interest shall be paid on undistributed taxes
 3903 collected and remitted to the Department of Revenue under this
 3904 section. Such interest shall be included along with the tax
 3905 proceeds distributed to the counties and shall be paid from
 3906 moneys transferred from the General Revenue Fund. The
 3907 department shall calculate the interest for net tax
 3908 distributions using the average daily rate that was earned by
 3909 the State Treasury for the preceding calendar quarter and paid
 3910 to the General Revenue Fund. This rate shall be certified by
 3911 the Chief Financial Officer ~~Treasurer~~ to the department by the
 3912 20th day following the close of each quarter.

3913 (b) The interest applicable to taxes collected under this
 3914 section shall be calculated by multiplying the tax amounts to be
 3915 distributed times the daily rate times the number of days after
 3916 the third working day following the date the tax is due and
 3917 payable pursuant to s. 212.11 until the date the department
 3918 issues a voucher to request the Chief Financial Officer
 3919 ~~Comptroller~~ to issue the payment warrant. The warrant shall be
 3920 issued within 7 days after the request.

3921 Section 142. Paragraph (b) of subsection (2) of section
 3922 129.201, Florida Statutes, is amended to read:

3923 129.201 Budget of supervisor of elections; manner and time
 3924 of preparation and presentation.--

3925 (2)

3926 (b) To the extent appropriate, the budget shall be further
 3927 itemized in conformance with the Uniform Accounting System for
 3928 Local Units of Government in Florida adopted ~~promulgated~~ by rule
 3929 of the Chief Financial Officer ~~Comptroller of the state~~.

3930 Section 143. Section 131.05, Florida Statutes, is amended



HB 1803

2003

3931 to read:

3932 131.05 Disposition of proceeds of sale.--In the event
 3933 refunding bonds are issued under the provisions of this chapter
 3934 prior to the date of maturity or option date of the obligations
 3935 proposed to be refunded, the proceeds of said refunding bonds
 3936 shall be deposited in a bank or trust company within the state,
 3937 which depository shall give a surety bond, or other such bonds
 3938 as are authorized by law to be accepted for securing county and
 3939 city funds, satisfactory to the Department of Financial Services
 3940 ~~Banking and Finance~~ for the full amount of money so deposited,
 3941 and the funds so deposited shall only be withdrawn with the
 3942 approval of the department, for the purpose of paying the
 3943 obligations to refund which said bonds were issued.

3944 Section 144. Section 137.09, Florida Statutes, is amended
 3945 to read:

3946 137.09 Justification and approval of bonds.--Each surety
 3947 upon every bond of any county officer shall make affidavit that
 3948 he or she is a resident of the county for which the officer is
 3949 to be commissioned, and that he or she has sufficient visible
 3950 property therein unencumbered and not exempt from sale under
 3951 legal process to make good his or her bond. Every such bond
 3952 shall be approved by the board of county commissioners and by
 3953 the Department of Financial Services ~~Banking and Finance~~ when
 3954 they and it are satisfied in their judgment that the same is
 3955 legal, sufficient, and proper to be approved.

3956 Section 145. Section 145.141, Florida Statutes, is amended
 3957 to read:

3958 145.141 Deficiency to be paid by board of county
 3959 commissioners.--Should any county officer have insufficient
 3960 revenue from the income of his or her office, after paying



HB 1803

2003

3961 office personnel and expenses, to pay his or her total annual
 3962 salary, the board of county commissioners shall pay any
 3963 deficiency in salary from the general revenue fund and notify
 3964 the Department of Financial Services ~~Banking and Finance~~. The
 3965 deficiency shall be listed in the comptroller's annual report of
 3966 county finances and county fee officers.

3967 Section 146. Subsections (1) and (2) of section 154.02,
 3968 Florida Statutes, are amended to read:

3969 154.02 County Health Department Trust Fund.--

3970 (1) To enable counties to provide public health services
 3971 and maintain public health equipment and facilities, each county
 3972 in the state with a population exceeding 100,000, according to
 3973 the last state census, may levy an annual tax not exceeding 0.5
 3974 mill; each county in the state with a population exceeding
 3975 40,000 and not exceeding 100,000, according to the last state
 3976 census, may levy an annual tax not exceeding 1 mill; and each
 3977 county in the state with a population not exceeding 40,000,
 3978 according to the last state census, may levy an annual tax not
 3979 exceeding 2 mills, on the dollar on all taxable property in such
 3980 county, the proceeds of which tax, if so contracted with the
 3981 state, shall be paid to the Chief Financial Officer ~~Treasurer~~.
 3982 However, the board of county commissioners may elect to pay in
 3983 12 equal monthly installments. Such funds in the hands of the
 3984 Chief Financial Officer ~~Treasurer~~ shall be placed in the county
 3985 health department trust funds of the county by which such funds
 3986 were raised, and such funds shall be expended by the Department
 3987 of Health solely for the purpose of carrying out the intent and
 3988 object of the public health contract.

3989 (2) The Chief Financial Officer ~~Treasurer~~ shall maintain a
 3990 full-time County Health Department Trust Fund which shall



HB 1803

2003

3991 contain all state and local funds to be expended by county
 3992 health departments. Such funds shall be expended by the
 3993 Department of Health solely for the purposes of carrying out the
 3994 intent and purpose of this part. Federal funds may be deposited
 3995 in the trust fund.

3996 Section 147. Subsection (1) of section 154.03, Florida
 3997 Statutes, is amended to read:

3998 154.03 Cooperation with Department of Health and United
 3999 States Government.--

4000 (1) The county commissioners of any county may agree with
 4001 the Department of Health upon the expenditure by the department
 4002 in such county of any funds allotted for that purpose by the
 4003 department or received by it for such purposes from private
 4004 contributions or other sources, and such funds shall be paid to
 4005 the Chief Financial Officer ~~Treasurer~~ and shall form a part of
 4006 the full-time county health department trust fund of such
 4007 county; and such funds shall be expended by the department
 4008 solely for the purposes of this chapter. The department is
 4009 further authorized to arrange and agree with the United States
 4010 Government, through its duly authorized officials, for the
 4011 allocation and expenditure by the United States of funds of the
 4012 United States in the study of causes of disease and prevention
 4013 thereof in such full-time county health departments when and
 4014 where established by the department under this part.

4015 Section 148. Section 154.05, Florida Statutes, is amended
 4016 to read:

4017 154.05 Cooperation and agreements between counties.--Two
 4018 or more counties may combine in the establishment and
 4019 maintenance of a single full-time county health department for
 4020 the counties which combine for that purpose; and, pursuant to



HB 1803

2003

4021 such combination or agreement, such counties may cooperate with
 4022 one another and the Department of Health and contribute to a
 4023 joint fund in carrying out the purpose and intent of this
 4024 chapter. The duration and nature of such agreement shall be
 4025 evidenced by resolutions of the boards of county commissioners
 4026 of such counties and shall be submitted to and approved by the
 4027 department. In the event of any such agreement, a full-time
 4028 county health department shall be established and maintained by
 4029 the department in and for the benefit of the counties which have
 4030 entered into such an agreement; and, in such case, the funds
 4031 raised by taxation pursuant to this chapter by each such county
 4032 shall be paid to the Chief Financial Officer ~~Treasurer~~ for the
 4033 account of the department and shall be known as the full-time
 4034 county health department trust fund of the counties so
 4035 cooperating. Such trust funds shall be used and expended by the
 4036 department for the purposes specified in this chapter in each
 4037 county which has entered into such agreement. In case such an
 4038 agreement is entered into between two or more counties, the work
 4039 contemplated by this chapter shall be done by a single full-time
 4040 county health department in the counties so cooperating; and the
 4041 nature, extent, and location of such work shall be under the
 4042 control and direction of the department.

4043 Section 149. Subsection (2) of section 154.06, Florida
 4044 Statutes, is amended to read:

4045 154.06 Fees and services rendered; authority.--

4046 (2) All funds collected under this section shall be
 4047 expended solely for the purpose of providing health services and
 4048 facilities within the county served by the county health
 4049 department. Fees collected by county health departments pursuant
 4050 to department rules shall be deposited with the Chief Financial



HB 1803

2003

4051 Officer ~~Treasurer~~ and credited to the County Health Department
 4052 Trust Fund. Fees collected by the county health department for
 4053 public health services or personal health services shall be
 4054 allocated to the state and the county based upon the pro rata
 4055 share of funding for each such service. The board of county
 4056 commissioners, if it has so contracted, shall provide for the
 4057 transmittal of funds collected for its pro rata share of
 4058 personal health services or primary care services rendered under
 4059 the provisions of this section to the State Treasury for credit
 4060 to the County Health Department Trust Fund, but in any event the
 4061 proceeds from such fees may only be used to fund county health
 4062 department services.

4063 Section 150. Paragraphs (d) and (e) of subsection (17) of
 4064 section 154.209, Florida Statutes, are amended to read:

4065 154.209 Powers of authority.--The purpose of the authority
 4066 shall be to assist health facilities in the acquisition,
 4067 construction, financing, and refinancing of projects in any
 4068 incorporated or unincorporated area within the geographical limits
 4069 of the local agency. For this purpose, the authority is
 4070 authorized and empowered:

4071 (17) To issue special obligation revenue bonds for the
 4072 purpose of establishing and maintaining the self-insurance pool
 4073 and to provide reserve funds in connection therewith, such bonds
 4074 to be payable from funds available in the pool from time to time
 4075 or from assessments against participating health facilities for
 4076 the purpose of providing required contributions to the fund.
 4077 With respect to the issuance of such bonds or notes the
 4078 following provisions shall apply:

4079 (d) Any self-insurance pool funded pursuant to this
 4080 section shall maintain excess insurance which provides specific



HB 1803

2003

4081 and aggregate limits and a retention level determined in
 4082 accordance with sound actuarial principles. The Office of
 4083 Insurance Regulation of the Financial Services Commission
 4084 ~~Department of Insurance~~ may waive this requirement if the fund
 4085 demonstrates that its operation is and will be actuarially sound
 4086 without obtaining excess insurance.

4087 (e) Prior to the issuance of any bonds pursuant to this
 4088 section for the purpose of acquiring liability coverage
 4089 contracts from the self-insurance pool, the Office of Insurance
 4090 Regulation ~~Department of Insurance~~ shall certify that excess
 4091 liability coverage for the health facility is reasonably
 4092 unobtainable in the amounts provided by such pool or that the
 4093 liability coverage obtained through acquiring contracts from the
 4094 self-insurance pool, after taking into account costs of issuance
 4095 of bonds and any other administrative fees, is less expensive to
 4096 the health facility than similar commercial coverage then
 4097 reasonably available.

4098 Section 151. Section 154.314, Florida Statutes, is amended
 4099 to read:

4100 154.314 Certification of the State of Florida.--

4101 (1) In the event payment for the costs of services
 4102 rendered by a participating hospital or a regional referral
 4103 hospital is not received from the responsible county within 90
 4104 days of receipt of a statement for services rendered to a
 4105 qualified indigent who is a certified resident of the county, or
 4106 if the payment is disputed and said payment is not received from
 4107 the county determined to be responsible within 60 days of the
 4108 date of exhaustion of all administrative and legal remedies, the
 4109 hospital shall certify to the Chief Financial Officer
 4110 ~~Comptroller~~ the amount owed by the county.



HB 1803

2003

4111 (2) The Chief Financial Officer ~~Comptroller~~ shall have no
 4112 longer than 45 days from the date of receiving the hospital's
 4113 certified notice to forward the amount delinquent to the
 4114 appropriate hospital from any funds due to the county under any
 4115 revenue-sharing or tax-sharing fund established by the state,
 4116 except as otherwise provided by the State Constitution. The
 4117 Chief Financial Officer ~~Comptroller~~ shall provide the Governor
 4118 and the fiscal committees in the House of Representatives and
 4119 the Senate with a quarterly accounting of the amounts certified
 4120 by hospitals as owed by counties and the amount paid to
 4121 hospitals out of any revenue or tax sharing funds due to the
 4122 county.

4123 Section 152. Paragraph (e) of subsection (7) of section
 4124 163.01, Florida Statutes, is amended to read:

4125 163.01 Florida Interlocal Cooperation Act of 1969.--

4126 (7)

4127 (e)1. Notwithstanding the provisions of paragraph (c), any
 4128 separate legal entity, created pursuant to the provisions of
 4129 this section and controlled by counties or municipalities of
 4130 this state, the membership of which consists or is to consist
 4131 only of public agencies of this state, may, for the purpose of
 4132 financing acquisition of liability coverage contracts from one
 4133 or more local government liability pools to provide liability
 4134 coverage for counties, municipalities, or other public agencies
 4135 of this state, exercise all powers in connection with the
 4136 authorization, issuance, and sale of bonds. All of the
 4137 privileges, benefits, powers, and terms of s. 125.01 relating to
 4138 counties and s. 166.021 relating to municipalities shall be
 4139 fully applicable to such entity and such entity shall be
 4140 considered a unit of local government for all of the privileges,



HB 1803

2003

4141 benefits, powers, and terms of part I of chapter 159. Bonds
4142 issued by such entity shall be deemed issued on behalf of
4143 counties, municipalities, or public agencies which enter into
4144 loan agreements with such entity as provided in this paragraph.
4145 Proceeds of bonds issued by such entity may be loaned to
4146 counties, municipalities, or other public agencies of this
4147 state, whether or not such counties, municipalities, or other
4148 public agencies are also members of the entity issuing the
4149 bonds, and such counties, municipalities, or other public
4150 agencies may in turn deposit such loan proceeds with a separate
4151 local government liability pool for purposes of acquiring
4152 liability coverage contracts.

4153 2. Counties or municipalities of this state are authorized
4154 pursuant to this section, in addition to the authority provided
4155 by s. 125.01, part II of chapter 166, and other applicable law,
4156 to issue bonds for the purpose of acquiring liability coverage
4157 contracts from a local government liability pool. Any individual
4158 county or municipality may, by entering into interlocal
4159 agreements with other counties, municipalities, or public
4160 agencies of this state, issue bonds on behalf of itself and
4161 other counties, municipalities, or other public agencies, for
4162 purposes of acquiring a liability coverage contract or contracts
4163 from a local government liability pool. Counties,
4164 municipalities, or other public agencies are also authorized to
4165 enter into loan agreements with any entity created pursuant to
4166 subparagraph 1., or with any county or municipality issuing
4167 bonds pursuant to this subparagraph, for the purpose of
4168 obtaining bond proceeds with which to acquire liability coverage
4169 contracts from a local government liability pool. No county,
4170 municipality, or other public agency shall at any time have more



HB 1803

2003

4171 than one loan agreement outstanding for the purpose of obtaining
 4172 bond proceeds with which to acquire liability coverage contracts
 4173 from a local government liability pool. Obligations of any
 4174 county, municipality, or other public agency of this state
 4175 pursuant to a loan agreement as described above may be validated
 4176 as provided in chapter 75. Prior to the issuance of any bonds
 4177 pursuant to subparagraph 1. or this subparagraph for the purpose
 4178 of acquiring liability coverage contracts from a local
 4179 government liability pool, the reciprocal insurer or the manager
 4180 of any self-insurance program shall demonstrate to the
 4181 satisfaction of the Office of Insurance Regulation of the
 4182 Financial Services Commission ~~Department of Insurance~~ that
 4183 excess liability coverage for counties, municipalities, or other
 4184 public agencies is reasonably unobtainable in the amounts
 4185 provided by such pool or that the liability coverage obtained
 4186 through acquiring contracts from a local government liability
 4187 pool, after taking into account costs of issuance of bonds and
 4188 any other administrative fees, is less expensive to counties,
 4189 municipalities, or special districts than similar commercial
 4190 coverage then reasonably available.

4191 3. Any entity created pursuant to this section or any
 4192 county or municipality may also issue bond anticipation notes,
 4193 as provided by s. 215.431, in connection with the authorization,
 4194 issuance, and sale of such bonds. In addition, the governing
 4195 body of such legal entity or the governing body of such county
 4196 or municipality may also authorize bonds to be issued and sold
 4197 from time to time and may delegate, to such officer, official,
 4198 or agent of such legal entity as the governing body of such
 4199 legal entity may select, the power to determine the time; manner
 4200 of sale, public or private; maturities; rate or rates of



HB 1803

2003

4201 interest, which may be fixed or may vary at such time or times
 4202 and in accordance with a specified formula or method of
 4203 determination; and other terms and conditions as may be deemed
 4204 appropriate by the officer, official, or agent so designated by
 4205 the governing body of such legal entity. However, the amounts
 4206 and maturities of such bonds and the interest rate or rates of
 4207 such bonds shall be within the limits prescribed by the
 4208 governing body of such legal entity and its resolution
 4209 delegating to such officer, official, or agent the power to
 4210 authorize the issuance and sale of such bonds. Any series of
 4211 bonds issued pursuant to this paragraph shall mature no later
 4212 than 7 years following the date of issuance thereof.

4213 4. Bonds issued pursuant to subparagraph 1. may be
 4214 validated as provided in chapter 75. The complaint in any
 4215 action to validate such bonds shall be filed only in the Circuit
 4216 Court for Leon County. The notice required to be published by
 4217 s. 75.06 shall be published in Leon County and in each county
 4218 which is an owner of the entity issuing the bonds, or in which a
 4219 member of the entity is located, and the complaint and order of
 4220 the circuit court shall be served only on the State Attorney of
 4221 the Second Judicial Circuit and on the state attorney of each
 4222 circuit in each county or municipality which is an owner of the
 4223 entity issuing the bonds or in which a member of the entity is
 4224 located.

4225 5. Bonds issued pursuant to subparagraph 2. may be
 4226 validated as provided in chapter 75. The complaint in any action
 4227 to validate such bonds shall be filed in the circuit court of
 4228 the county or municipality which will issue the bonds. The
 4229 notice required to be published by s. 75.06 shall be published
 4230 only in the county where the complaint is filed, and the



HB 1803

2003

4231 complaint and order of the circuit court shall be served only on
 4232 the state attorney of the circuit in the county or municipality
 4233 which will issue the bonds.

4234 6. The participation by any county, municipality, or other
 4235 public agency of this state in a local government liability pool
 4236 shall not be deemed a waiver of immunity to the extent of
 4237 liability coverage, nor shall any contract entered regarding
 4238 such a local government liability pool be required to contain
 4239 any provision for waiver.

4240 Section 153. Subsections (4), (5), (6), (7), (8), and (9)
 4241 of section 163.055, Florida Statutes, are amended to read:

4242 163.055 Local Government Financial Technical Assistance
 4243 Program.--

4244 (4) The Chief Financial Officer ~~Comptroller~~ shall enter
 4245 into contracts with program providers who shall:

4246 (a) Be a public agency or private, nonprofit corporation,
 4247 association, or entity.

4248 (b) Use existing resources, services, and information that
 4249 are available from state or local agencies, universities, or the
 4250 private sector.

4251 (c) Seek and accept funding from any public or private
 4252 source.

4253 (d) Annually submit information to assist the Legislative
 4254 Committee on Intergovernmental Relations in preparing a
 4255 performance review that will include an analysis of the
 4256 effectiveness of the program.

4257 (e) Assist municipalities and independent special
 4258 districts in developing alternative revenue sources.

4259 (f) Provide for an annual independent financial audit of
 4260 the program, if the program receives funding.



HB 1803

2003

4261 (g) Provide assistance to municipalities and special
4262 districts in the areas of financial management, accounting,
4263 investing, budgeting, and debt issuance.

4264 (h) Develop a needs assessment to determine where
4265 assistance should be targeted, and to establish a priority
4266 system to deliver assistance to those jurisdictions most in need
4267 through the most economical means available.

4268 (i) Provide financial emergency assistance upon direction
4269 from the Executive Office of the Governor pursuant to s.
4270 218.503.

4271 (5)(a) The Chief Financial Officer ~~Comptroller~~ shall issue
4272 a request for proposals to provide assistance to municipalities
4273 and special districts. At the request of the Chief Financial
4274 Officer ~~Comptroller~~, the Legislative Committee on
4275 Intergovernmental Relations shall assist in the preparation of
4276 the request for proposals.

4277 (b) The Chief Financial Officer ~~Comptroller~~ shall review
4278 each contract proposal submitted.

4279 (c) The Legislative Committee on Intergovernmental
4280 Relations shall review each contract proposal and submit to the
4281 Chief Financial Officer ~~Comptroller~~, in writing, advisory
4282 comments and recommendations, citing with specificity the
4283 reasons for its recommendations.

4284 (d) The Chief Financial Officer ~~Comptroller~~ and the
4285 Legislative Committee on Intergovernmental Relations shall
4286 consider the following factors in reviewing contract proposals:

4287 1. The demonstrated capacity of the provider to conduct
4288 needs assessments and implement the program as proposed.

4289 2. The number of municipalities and special districts to
4290 be served under the proposal.



HB 1803

2003

4291 3. The cost of the program as specified in a proposed
4292 budget.

4293 4. The short-term and long-term benefits of the assistance
4294 to municipalities and special districts.

4295 5. The form and extent to which existing resources,
4296 services, and information that are available from state and
4297 local agencies, universities, and the private sector will be
4298 used by the provider under the contract.

4299 (6) A decision of the Chief Financial Officer ~~Comptroller~~
4300 to award a contract under this section is final and shall be in
4301 writing with a copy provided to the Legislative Committee on
4302 Intergovernmental Relations.

4303 (7) The Chief Financial Officer ~~Comptroller~~ may enter into
4304 contracts and agreements with other state and local agencies and
4305 with any person, association, corporation, or entity other than
4306 the program providers, for the purpose of administering this
4307 section.

4308 (8) The Chief Financial Officer ~~Comptroller~~ shall provide
4309 fiscal oversight to ensure that funds expended for the program
4310 are used in accordance with the contracts entered into pursuant
4311 to subsection (4).

4312 (9) The Legislative Committee on Intergovernmental
4313 Relations shall annually conduct a performance review of the
4314 program. The findings of the review shall be presented in a
4315 report submitted to the Governor, the President of the Senate,
4316 the Speaker of the House of Representatives, and the Chief
4317 Financial Officer ~~Comptroller~~ by January 15 of each year.

4318 Section 154. Subsection (6) of section 163.3167, Florida
4319 Statutes, is amended to read:

4320 163.3167 Scope of act.--



HB 1803

2003

4321 (6) When a regional planning agency is required to prepare
 4322 or amend a comprehensive plan, or element or portion thereof,
 4323 pursuant to subsections (3) and (4), the regional planning
 4324 agency and the local government may agree to a method of
 4325 compensating the regional planning agency for any verifiable,
 4326 direct costs incurred. If an agreement is not reached within 6
 4327 months after the date the regional planning agency assumes
 4328 planning responsibilities for the local government pursuant to
 4329 subsections (3) and (4) or by the time the plan or element, or
 4330 portion thereof, is completed, whichever is earlier, the
 4331 regional planning agency shall file invoices for verifiable,
 4332 direct costs involved with the governing body. Upon the failure
 4333 of the local government to pay such invoices within 90 days, the
 4334 regional planning agency may, upon filing proper vouchers with
 4335 the Chief Financial Officer ~~State Comptroller~~, request payment
 4336 by the Chief Financial Officer ~~State Comptroller~~ from
 4337 unencumbered revenue or other tax sharing funds due such local
 4338 government from the state for work actually performed, and the
 4339 Chief Financial Officer ~~State Comptroller~~ shall pay such
 4340 vouchers; however, the amount of such payment shall not exceed
 4341 50 percent of such funds due such local government in any one
 4342 year.

4343 Section 155. Section 166.111, Florida Statutes, is amended
 4344 to read:

4345 166.111 Authority to borrow.--

4346 ~~(1)~~ The governing body of every municipality may borrow
 4347 money, contract loans, and issue bonds as defined in s. 166.101
 4348 from time to time to finance the undertaking of any capital or
 4349 other project for the purposes permitted by the State
 4350 Constitution and may pledge the funds, credit, property, and



HB 1803

2003

4351 taxing power of the municipality for the payment of such debts
4352 and bonds.

4353 ~~(2)(a) The Legislature finds:~~

4354 ~~1. The widespread and massive damage to persons and~~
4355 ~~property caused by the August 24, 1992, storm known as Hurricane~~
4356 ~~Andrew has generated insurance claims of such a nature as to~~
4357 ~~render numerous insurers operating within this state insolvent,~~
4358 ~~and therefore unable to satisfy covered claims.~~

4359 ~~2. The inability of insureds within this state to receive~~
4360 ~~payment of covered claims or to receive such payment on a timely~~
4361 ~~basis creates financial and other hardships for such insureds~~
4362 ~~and places undue burdens on the state, the affected units of~~
4363 ~~local government, and the community at large.~~

4364 ~~3. In addition, the failure of insurers to pay covered~~
4365 ~~claims or to pay such claims on a timely basis due to the~~
4366 ~~insolvency of such insurers can undermine the public's~~
4367 ~~confidence in insurers operating within this state, thereby~~
4368 ~~adversely affecting the stability of the insurance industry in~~
4369 ~~this state.~~

4370 ~~4. The state has previously taken action to address these~~
4371 ~~problems by adopting the Florida Insurance Guaranty Association~~
4372 ~~Act, which, among other things, provides a mechanism for the~~
4373 ~~payment of covered claims under certain insurance policies to~~
4374 ~~avoid excessive delay in payment and to avoid financial loss to~~
4375 ~~claimants or policyholders because of the insolvency of an~~
4376 ~~insurer.~~

4377 ~~5. In the wake of the unprecedented destruction caused by~~
4378 ~~Hurricane Andrew, the resultant covered claims, and the number~~
4379 ~~of insurers rendered insolvent thereby, it is evident that~~
4380 ~~alternative programs must be developed to allow the Florida~~



HB 1803

2003

4381 ~~Insurance Guaranty Association to more expeditiously and~~
4382 ~~effectively provide for the payment of covered claims.~~

4383 ~~6. It is therefore determined to be in the best interests~~
4384 ~~of, and necessary for, the protection of the public health,~~
4385 ~~safety, and general welfare of the residents of this state, and~~
4386 ~~for the protection and preservation of the economic stability of~~
4387 ~~insurers operating in this state, and it is hereby declared to~~
4388 ~~be an essential public purpose, to permit certain municipalities~~
4389 ~~to take such actions as will provide relief to claimants and~~
4390 ~~policyholders having covered claims against insolvent insurers~~
4391 ~~operating in this state, by expediting the handling and payment~~
4392 ~~of covered claims.~~

4393 ~~7. To achieve the foregoing purposes, it is proper to~~
4394 ~~authorize municipalities of this state substantially affected by~~
4395 ~~Hurricane Andrew to issue bonds to assist the Florida Insurance~~
4396 ~~Guaranty Association in expediting the handling and payment of~~
4397 ~~covered claims against insolvent insurers operating in this~~
4398 ~~state.~~

4399 ~~8. In order to avoid the needless and indiscriminate~~
4400 ~~proliferation, duplication, and fragmentation of such assistance~~
4401 ~~programs, it is proper to authorize a municipality severely~~
4402 ~~affected by Hurricane Andrew to provide for the payment of~~
4403 ~~covered claims beyond its territorial limits in the~~
4404 ~~implementation of such programs.~~

4405 ~~(b) The governing body of any municipality the residents~~
4406 ~~of which have been substantially affected by the August 24,~~
4407 ~~1992, storm known as Hurricane Andrew, or any county as defined~~
4408 ~~in s. 125.011(1), may issue no more than \$500 million, in~~
4409 ~~aggregate principal amount, of bonds as defined in s. 166.101~~
4410 ~~from time to time to fund an assistance program, in conjunction~~



HB 1803

2003

4411 ~~with the Florida Insurance Guaranty Association, for the purpose~~
4412 ~~of paying to claimants or policyholders covered claims, as such~~
4413 ~~term is defined in s. 631.54(3), arising through the insolvency~~
4414 ~~of an insurer occurring on or before March 31, 1993, which~~
4415 ~~insolvency is determined by the Florida Insurance Guaranty~~
4416 ~~Association to have been a result of Hurricane Andrew,~~
4417 ~~regardless of whether such claimants or policyholders are~~
4418 ~~residents of such municipality or the property to which such~~
4419 ~~claim relates is located within or outside of the territorial~~
4420 ~~jurisdiction of such municipality. A municipality issuing bonds~~
4421 ~~for this purpose shall enter into such contracts with the~~
4422 ~~Florida Insurance Guaranty Association or any entity acting on~~
4423 ~~behalf of the Florida Insurance Guaranty Association as are~~
4424 ~~necessary to implement the assistance program. Any bonds issued~~
4425 ~~by a municipality under this subsection shall be payable from~~
4426 ~~and secured by moneys received by or on behalf of the~~
4427 ~~municipality from assessments levied under s. 631.57(3)(c), and~~
4428 ~~assigned and pledged under s. 631.57(3)(c) to or on behalf of~~
4429 ~~the municipality for the benefit of the holders of such bonds in~~
4430 ~~connection with such assistance program. The funds, credit,~~
4431 ~~property, and taxing power of the municipality shall not be~~
4432 ~~pledged for the payment of such bonds.~~

4433 ~~(c) The governing body of the municipality issuing bonds~~
4434 ~~authorized by paragraph (b) shall require all firms, including,~~
4435 ~~but not limited to, the financial advisers, legal counsel, and~~
4436 ~~underwriters, providing professional services in the issuance of~~
4437 ~~such bonds to include minority firms in the provision of such~~
4438 ~~services. To meet such participation requirement, the minority~~
4439 ~~firm must have full-time employees located in this state and a~~
4440 ~~permanent place of business located in this state, and must be a~~



HB 1803

2003

4441 ~~firm which is at least 51 percent owned by minority persons as~~
 4442 ~~defined by s. 288.703(3), or any combination thereof, and whose~~
 4443 ~~management and daily operations are controlled by such persons.~~
 4444 ~~Minority firms must be offered participation in not less than 20~~
 4445 ~~percent of the respective contracts for professional services.~~

4446 Section 156. Paragraph (a) of subsection (8) of section
 4447 175.032, Florida Statutes, is amended to read:

4448 175.032 Definitions.--For any municipality, special fire
 4449 control district, chapter plan, local law municipality, local
 4450 law special fire control district, or local law plan under this
 4451 chapter, the following words and phrases have the following
 4452 meanings:

4453 (8)(a) "Firefighter" means any person employed solely by a
 4454 constituted fire department of any municipality or special fire
 4455 control district who is certified as a firefighter as a
 4456 condition of employment in accordance with the provisions of s.
 4457 633.35 and whose duty it is to extinguish fires, to protect
 4458 life, or to protect property. However, for purposes of this
 4459 chapter only, "firefighter" also includes public safety officers
 4460 who are responsible for performing both police and fire
 4461 services, who are certified as police officers or firefighters,
 4462 and who are certified by their employers to the Chief Financial
 4463 Officer ~~Insurance Commissioner and Treasurer~~ as participating in
 4464 this chapter prior to October 1, 1979. Effective October 1,
 4465 1979, public safety officers who have not been certified as
 4466 participating in this chapter shall be considered police
 4467 officers for retirement purposes and shall be eligible to
 4468 participate in chapter 185. Any plan may provide that the fire
 4469 chief shall have an option to participate, or not, in that plan.

4470 Section 157. Subsection (1) of section 175.101, Florida



HB 1803

2003

4471 Statutes, is amended to read:

4472 175.101 State excise tax on property insurance premiums
 4473 authorized; procedure.--For any municipality, special fire
 4474 control district, chapter plan, local law municipality, local
 4475 law special fire control district, or local law plan under this
 4476 chapter:

4477 (1) Each municipality or special fire control district in
 4478 this state described and classified in s. 175.041, having a
 4479 lawfully established firefighters' pension trust fund or
 4480 municipal fund or special fire control district fund, by
 4481 whatever name known, providing pension benefits to firefighters
 4482 as provided under this chapter, may assess and impose on every
 4483 insurance company, corporation, or other insurer now engaged in
 4484 or carrying on, or who shall hereinafter engage in or carry on,
 4485 the business of property insurance as shown by the records of
 4486 the Office of Insurance Regulation of the Financial Services
 4487 Commission ~~Department of Insurance~~ an excise tax in addition to
 4488 any lawful license or excise tax now levied by each of the
 4489 municipalities or special fire control districts, respectively,
 4490 amounting to 1.85 percent of the gross amount of receipts of
 4491 premiums from policyholders on all premiums collected on
 4492 property insurance policies covering property within the
 4493 corporate limits of such municipalities or within the legally
 4494 defined boundaries of special fire control districts,
 4495 respectively. Whenever the boundaries of a special fire control
 4496 district that has lawfully established a firefighters' pension
 4497 trust fund encompass a portion of the corporate territory of a
 4498 municipality that has also lawfully established a firefighters'
 4499 pension trust fund, that portion of the tax receipts
 4500 attributable to insurance policies covering property situated



HB 1803

2003

4501 both within the municipality and the special fire control
 4502 district shall be given to the fire service provider. The agent
 4503 shall identify the fire service provider on the property owner's
 4504 application for insurance. Remaining revenues collected
 4505 pursuant to this chapter shall be distributed to the
 4506 municipality or special fire control district according to the
 4507 location of the insured property.

4508
 4509 This section also applies to any municipality consisting of a
 4510 single consolidated government which is made up of a former
 4511 county and one or more municipalities, consolidated pursuant to
 4512 the authority in s. 3 or s. 6(e), Art. VIII of the State
 4513 Constitution, and to property insurance policies covering
 4514 property within the boundaries of the consolidated government,
 4515 regardless of whether the properties are located within one or
 4516 more separately incorporated areas within the consolidated
 4517 government, provided the properties are being provided fire
 4518 protection services by the consolidated government.

4519 Section 158. Subsection (2) of section 175.121, Florida
 4520 Statutes, is amended to read:

4521 175.121 Department of Revenue and Division of Retirement
 4522 to keep accounts of deposits; disbursements.--For any
 4523 municipality or special fire control district having a chapter
 4524 or local law plan established pursuant to this chapter:

4525 (2) The Chief Financial Officer ~~Comptroller~~ shall, on or
 4526 before July 1 of each year, and at such other times as
 4527 authorized by the division, draw his or her warrants on the full
 4528 net amount of money then on deposit in the Police and
 4529 Firefighters' Premium Tax Trust Fund pursuant to this chapter,
 4530 specifying the municipalities and special fire control districts



HB 1803

2003

4531 to which the moneys must be paid and the net amount collected
 4532 for and to be paid to each municipality or special fire control
 4533 district, respectively, subject to the limitation on
 4534 disbursement under s. 175.122. The sum payable to each
 4535 municipality or special fire control district is appropriated
 4536 annually out of the Police and Firefighters' Premium Tax Trust
 4537 Fund. The warrants of the Chief Financial Officer ~~Comptroller~~
 4538 shall be payable to the respective municipalities and special
 4539 fire control districts entitled to receive them and shall be
 4540 remitted annually by the division to the respective
 4541 municipalities and special fire control districts. In lieu
 4542 thereof, the municipality or special fire control district may
 4543 provide authorization to the division for the direct payment of
 4544 the premium tax to the board of trustees. In order for a
 4545 municipality or special fire control district and its pension
 4546 fund to participate in the distribution of premium tax moneys
 4547 under this chapter, all the provisions shall be complied with
 4548 annually, including state acceptance pursuant to part VII of
 4549 chapter 112.

4550 Section 159. Section 175.151, Florida Statutes, is amended
 4551 to read:

4552 175.151 Penalty for failure of insurers to comply with
 4553 this act.--If ~~Should~~ any insurance company, corporation or other
 4554 insurer fails ~~fail~~ to comply with the provisions of this act, on
 4555 or before March 1 of each year as herein provided, the
 4556 certificate of authority issued to said insurance company,
 4557 corporation or other insurer to transact business in this state
 4558 may be canceled and revoked by the Office of Insurance
 4559 Regulation of the Financial Services Commission ~~Department of~~
 4560 Insurance, and it is unlawful for any such insurance company,



HB 1803

2003

4561 corporation, or other insurer to transact business thereafter in
 4562 this state unless such insurance company, corporation, or other
 4563 insurer shall be granted a new certificate of authority to
 4564 transact any business in this state, in compliance with
 4565 provisions of law authorizing such certificate of authority to
 4566 be issued. The division is responsible for notifying the Office
 4567 of Insurance Regulation ~~Department of Insurance~~ regarding any
 4568 such failure to comply.

4569 Section 160. Subsection (1) of section 185.08, Florida
 4570 Statutes, is amended to read:

4571 185.08 State excise tax on casualty insurance premiums
 4572 authorized; procedure.--For any municipality, chapter plan,
 4573 local law municipality, or local law plan under this chapter:

4574 (1) Each incorporated municipality in this state described
 4575 and classified in s. 185.03, as well as each other city or town
 4576 of this state which on July 31, 1953, had a lawfully established
 4577 municipal police officers' retirement trust fund or city fund,
 4578 by whatever name known, providing pension or relief benefits to
 4579 police officers as provided under this chapter, may assess and
 4580 impose on every insurance company, corporation, or other insurer
 4581 now engaged in or carrying on, or who shall hereafter engage in
 4582 or carry on, the business of casualty insurance as shown by
 4583 records of the Office of Insurance Regulation of the Financial
 4584 Services Commission ~~Department of Insurance~~, an excise tax in
 4585 addition to any lawful license or excise tax now levied by each
 4586 of the said municipalities, respectively, amounting to .85
 4587 percent of the gross amount of receipts of premiums from
 4588 policyholders on all premiums collected on casualty insurance
 4589 policies covering property within the corporate limits of such
 4590 municipalities, respectively.



HB 1803

2003

4591 Section 161. Subsection (2) of section 185.10, Florida
 4592 Statutes, is amended to read:

4593 185.10 Department of Revenue and Division of Retirement to
 4594 keep accounts of deposits; disbursements.--For any municipality
 4595 having a chapter plan or local law plan under this chapter:

4596 (2) The Chief Financial Officer ~~Comptroller~~ shall, on or
 4597 before July 1 of each year, and at such other times as
 4598 authorized by the division, draw his or her warrants on the full
 4599 net amount of money then on deposit pursuant to this chapter in
 4600 the Police and Firefighters' Premium Tax Trust Fund, specifying
 4601 the municipalities to which the moneys must be paid and the net
 4602 amount collected for and to be paid to each municipality,
 4603 respectively. The sum payable to each municipality is
 4604 appropriated annually out of the Police and Firefighters'
 4605 Premium Tax Trust Fund. The warrants of the Chief Financial
 4606 Officer ~~Comptroller~~ shall be payable to the respective
 4607 municipalities entitled to receive them and shall be remitted
 4608 annually by the division to the respective municipalities. In
 4609 lieu thereof, the municipality may provide authorization to the
 4610 division for the direct payment of the premium tax to the board
 4611 of trustees. In order for a municipality and its retirement
 4612 fund to participate in the distribution of premium tax moneys
 4613 under this chapter, all the provisions shall be complied with
 4614 annually, including state acceptance pursuant to part VII of
 4615 chapter 112.

4616 Section 162. Section 185.13, Florida Statutes, is amended
 4617 to read:

4618 185.13 Failure of insurer to comply with chapter;
 4619 penalty.--~~If should~~ any insurance company, corporation, or other
 4620 insurer fails ~~fail~~ to comply with the provisions of this



HB 1803

2003

4621 chapter, on or before March 1 in each year as herein provided,
 4622 the certificate of authority issued to said insurance company,
 4623 corporation or other insurer to transact business in this state
 4624 may be canceled and revoked by the Office of Insurance
 4625 Regulation of the Financial Services Commission ~~Department of~~
 4626 ~~Insurance~~, and it is unlawful for any such insurance company,
 4627 corporation or other insurer to transact any business thereafter
 4628 in this state unless such insurance company, corporation or
 4629 other insurer shall be granted a new certificate of authority to
 4630 transact business in this state, in compliance with provisions
 4631 of law authorizing such certificate of authority to be issued.
 4632 The division shall be responsible for notifying the Office of
 4633 Insurance Regulation ~~Department of Insurance~~ regarding any such
 4634 failure to comply.

4635 Section 163. Subsections (2), (3), and (5) of section
 4636 189.4035, Florida Statutes, are amended to read:

4637 189.4035 Preparation of official list of special
 4638 districts.--

4639 (2) The official list shall be produced by the department
 4640 after the department has notified each special district that is
 4641 currently reporting to the department, the Department of
 4642 Financial Services ~~Banking and Finance~~ pursuant to s. 218.32, or
 4643 the Auditor General pursuant to s. 218.39. Upon notification,
 4644 each special district shall submit, within 60 days, its
 4645 determination of its status. The determination submitted by a
 4646 special district shall be consistent with the status reported in
 4647 the most recent local government audit of district activities
 4648 submitted to the Auditor General pursuant to s. 218.39.

4649 (3) The Department of Financial Services ~~Banking and~~
 4650 ~~Finance~~ shall provide the department with a list of dependent



HB 1803

2003

4651 special districts reporting pursuant to s. 218.32 for inclusion
 4652 on the official list of special districts.

4653 (5) The official list of special districts shall be
 4654 distributed by the department on October 1 of each year to the
 4655 President of the Senate, the Speaker of the House of
 4656 Representatives, the Auditor General, the Department of Revenue,
 4657 the Department of Financial Services ~~Banking and Finance~~, the
 4658 Department of Management Services, the State Board of
 4659 Administration, counties, municipalities, county property
 4660 appraisers, tax collectors, and supervisors of elections and to
 4661 all interested parties who request the list.

4662 Section 164. Subsection (1) of section 189.412, Florida
 4663 Statutes, is amended to read:

4664 189.412 Special District Information Program; duties and
 4665 responsibilities.--The Special District Information Program of
 4666 the Department of Community Affairs is created and has the
 4667 following special duties:

4668 (1) The collection and maintenance of special district
 4669 compliance status reports from the Auditor General, the
 4670 Department of Financial Services ~~Banking and Finance~~, the
 4671 Division of Bond Finance of the State Board of Administration,
 4672 the Department of Management Services, the Department of
 4673 Revenue, and the Commission on Ethics for the reporting required
 4674 in ss. 112.3144, 112.3145, 112.3148, 112.3149, 112.63, 200.068,
 4675 218.32, 218.38, 218.39, and 280.17 and chapter 121 and from
 4676 state agencies administering programs that distribute money to
 4677 special districts. The special district compliance status
 4678 reports must consist of a list of special districts used in that
 4679 state agency and a list of which special districts did not
 4680 comply with the reporting statutorily required by that agency.



HB 1803

2003

4681 Section 165. Section 189.427, Florida Statutes, is amended
4682 to read:

4683 189.427 Fee schedule; Operating Trust Fund.--The
4684 Department of Community Affairs, by rule, shall establish a
4685 schedule of fees to pay one-half of the costs incurred by the
4686 department in administering this act, except that the fee may
4687 not exceed \$175 per district per year. The fees collected under
4688 this section shall be deposited in the Operating Trust Fund,
4689 which shall be administered by the Department of Community
4690 Affairs. Any fee rule must consider factors such as the
4691 dependent and independent status of the district and district
4692 revenues for the most recent fiscal year as reported to the
4693 Department of Financial Services ~~Banking and Finance~~. The
4694 department may assess fines of not more than \$25, with an
4695 aggregate total not to exceed \$50, as penalties against special
4696 districts that fail to remit required fees to the department. It
4697 is the intent of the Legislature that general revenue funds will
4698 be made available to the department to pay one-half of the cost
4699 of administering this act.

4700 Section 166. Subsection (3) of section 190.007, Florida
4701 Statutes, is amended to read:

4702 190.007 Board of supervisors; general duties.--

4703
4704 (3) The board is authorized to select as a depository for
4705 its funds any qualified public depository as defined in s.
4706 280.02 which meets all the requirements of chapter 280 and has
4707 been designated by the Chief Financial Officer ~~Treasurer~~ as a
4708 qualified public depository, upon such terms and conditions as
4709 to the payment of interest by such depository upon the funds so
4710 deposited as the board may deem just and reasonable.



HB 1803

2003

4711 Section 167. Subsection (16) of section 191.006, Florida
 4712 Statutes, is amended to read:

4713 191.006 General powers.--The district shall have, and the
 4714 board may exercise by majority vote, the following powers:

4715 (16) To select as a depository for its funds any qualified
 4716 public depository as defined in s. 280.02 which meets all the
 4717 requirements of chapter 280 and has been designated by the Chief
 4718 Financial Officer ~~State Treasurer~~ as a qualified public
 4719 depository, upon such terms and conditions as to the payment of
 4720 interest upon the funds deposited as the board deems just and
 4721 reasonable.

4722 Section 168. Subsection (4) of section 192.091, Florida
 4723 Statutes, is amended to read:

4724 192.091 Commissions of property appraisers and tax
 4725 collectors.--

4726 (4) The commissions for collecting taxes assessed for or
 4727 levied by the state shall be audited, and allowed, ~~by the~~
 4728 ~~Comptroller~~ and ~~shall be paid by the~~ Chief Financial Officer
 4729 ~~Treasurer~~ as other ~~Comptroller's~~ warrants are paid; and
 4730 commissions for collecting the county taxes shall be audited and
 4731 paid by the boards of county commissioners of the several
 4732 counties of this state. The commissions for collecting all
 4733 special school district taxes shall be audited by the school
 4734 board of each respective district and taken out of the funds of
 4735 the respective special school district under its control and
 4736 allowed and paid to the tax collectors for collecting such
 4737 taxes; and the commissions for collecting all other district
 4738 taxes, whether special or not, shall be audited and paid by the
 4739 governing board or commission having charge of the financial
 4740 obligations of such district. All commissions for collecting



HB 1803

2003

4741 special tax district taxes shall be paid at the time and in the
 4742 manner now, or as may hereafter be, provided for the payment of
 4743 the commissions for the collection of county taxes. All amounts
 4744 paid as compensation to any tax collector under the provisions
 4745 of this or any other law shall be a part of the general income
 4746 or compensation of such officer for the year in which received,
 4747 and nothing contained in this section shall be held or construed
 4748 to affect or increase the maximum salary as now provided by law
 4749 for any such officer.

4750 Section 169. Subsection (3) of section 192.102, Florida
 4751 Statutes, is amended to read:

4752 192.102 Payment of property appraisers' and collectors'
 4753 commissions.--

4754 (3) The Chief Financial Officer ~~Comptroller of the state~~
 4755 shall issue to each of the county property appraisers and
 4756 collectors of taxes, on the first Monday of January, April,
 4757 July, and October, on demand of such county property appraisers
 4758 and collectors of taxes after approval by the Department of
 4759 Revenue, and shall pay his or her warrant, ~~which shall be paid~~
 4760 ~~by the Treasurer of the state,~~ for an amount equal to one-fourth
 4761 of four-fifths of the total amount of commissions received by
 4762 such county property appraisers and collectors of taxes or their
 4763 predecessors in office from the state during and for the
 4764 preceding year, and the balance of the commissions earned by
 4765 such county property appraiser and collector of taxes,
 4766 respectively, during each year, over and above the amount of
 4767 such installment payments herein provided for, shall be payable
 4768 when a report of errors and double assessments is approved by
 4769 the county commissioners and a copy thereof filed with the
 4770 Department of Revenue.



HB 1803

2003

4771 Section 170. Subsection (1) of section 193.092, Florida
 4772 Statutes, is amended to read:

4773 193.092 Assessment of property for back taxes.--

4774 (1) When it shall appear that any ad valorem tax might
 4775 have been lawfully assessed or collected upon any property in
 4776 the state, but that such tax was not lawfully assessed or
 4777 levied, and has not been collected for any year within a period
 4778 of 3 years next preceding the year in which it is ascertained
 4779 that such tax has not been assessed, or levied, or collected,
 4780 then the officers authorized shall make the assessment of taxes
 4781 upon such property in addition to the assessment of such
 4782 property for the current year, and shall assess the same
 4783 separately for such property as may have escaped taxation at and
 4784 upon the basis of valuation applied to such property for the
 4785 year or years in which it escaped taxation, noting distinctly
 4786 the year when such property escaped taxation and such assessment
 4787 shall have the same force and effect as it would have had if it
 4788 had been made in the year in which the property shall have
 4789 escaped taxation, and taxes shall be levied and collected
 4790 thereon in like manner and together with taxes for the current
 4791 year in which the assessment is made. But no property shall be
 4792 assessed for more than 3 years' arrears of taxation, and all
 4793 property so escaping taxation shall be subject to such taxation
 4794 to be assessed in whomsoever's hands or possession the same may
 4795 be found, except that property acquired by a bona fide purchaser
 4796 who was without knowledge of the escaped taxation shall not be
 4797 subject to assessment for taxes for any time prior to the time
 4798 of such purchase, but it is the duty of the property appraiser
 4799 making such assessment to serve upon the previous owner a notice
 4800 of intent to record in the public records of the county a notice



HB 1803

2003

4801 of tax lien against any property owned by that person in the
 4802 county. Any property owned by such previous owner which is
 4803 situated in this state is subject to the lien of such assessment
 4804 in the same manner as a recorded judgment. Before any such lien
 4805 may be recorded, the owner so notified must be given 30 days to
 4806 pay the taxes, penalties, and interest. Once recorded, such lien
 4807 may be recorded in any county in this state and shall constitute
 4808 a lien on any property of such person in such county in the same
 4809 manner as a recorded judgment, and may be enforced by the tax
 4810 collector using all remedies pertaining to same; provided, that
 4811 the county property appraiser shall not assess any lot or parcel
 4812 of land certified or sold to the state for any previous years
 4813 unless such lot or parcel of lands so certified or sold shall be
 4814 included in the list furnished by the Chief Financial Officer
 4815 ~~Comptroller~~ to the county property appraiser as provided by law;
 4816 provided, if real or personal property be assessed for taxes,
 4817 and because of litigation delay ensues and the assessment be
 4818 held invalid the taxing authorities, may reassess such property
 4819 within the time herein provided after the termination of such
 4820 litigation; provided further, that personal property acquired in
 4821 good faith by purchase shall not be subject to assessment for
 4822 taxes for any time prior to the time of such purchase, but the
 4823 individual or corporation liable for any such assessment shall
 4824 continue personally liable for same. As used in this subsection,
 4825 the term "bona fide purchaser" means a purchaser for value, in
 4826 good faith, before certification of such assessment of back
 4827 taxes to the tax collector for collection.

4828 Section 171. Section 195.101, Florida Statutes, is amended
 4829 to read:

4830 195.101 Withholding of state funds.--



HB 1803

2003

4831 (1) The Department of Revenue is hereby directed to
 4832 determine each year whether the several counties of this state
 4833 are assessing the real and tangible personal property within
 4834 their jurisdiction in accordance with law. If the Department of
 4835 Revenue determines that any county is assessing property at less
 4836 than that prescribed by law, the Chief Financial Officer
 4837 ~~Comptroller~~ shall withhold from such county a portion of any
 4838 state funds to which the county may be entitled equal to the
 4839 difference of the amount assessed and the amount required to be
 4840 assessed by law.

4841 (2) The Department of Revenue is hereby directed to
 4842 determine each year whether the several municipalities of this
 4843 state are assessing the real and tangible personal property
 4844 within their jurisdiction in accordance with law. If the
 4845 Department of Revenue determines that any municipality is
 4846 assessing property at less than that prescribed by law, the
 4847 Chief Financial Officer ~~Comptroller~~ shall withhold from such
 4848 municipality a portion of any state funds to which that
 4849 municipality may be entitled equal to the difference of the
 4850 amount assessed and the amount required to be assessed by law.

4851 Section 172. Subsection (1) of section 198.29, Florida
 4852 Statutes, is amended to read:

4853 198.29 Refunds of excess tax paid.--

4854 (1) Whenever it appears, upon the examination of any
 4855 return made under this chapter or upon proof submitted to the
 4856 department by the personal representative, that an amount of
 4857 estate tax has been paid in excess of the tax legally due under
 4858 this chapter, the amount of such overpayment, together with any
 4859 overpayment of interest thereon shall be refunded to the
 4860 personal representative and paid by ~~upon the warrant of~~ the



HB 1803

2003

4861 Chief Financial Officer ~~Comptroller, drawn upon the Treasurer~~
 4862 ~~who shall honor and pay the same~~; such refund shall be made by
 4863 the department as a matter of course regardless of whether or
 4864 not the personal representative has filed a written claim
 4865 therefor, except that upon request of the department, the
 4866 personal representative shall file with the department a
 4867 conformed copy of any written claim for refund of federal estate
 4868 tax which has theretofore been filed with the United States.

4869 Section 173. Paragraph (a) of subsection (7) of section
 4870 199.232, Florida Statutes, is amended to read:

4871 199.232 Powers of department.--

4872 (7)(a) If it appears, upon examination of an intangible
 4873 tax return made under this chapter or upon proof submitted to
 4874 the department by the taxpayer, that an amount of intangible
 4875 personal property tax has been paid in excess of the amount due,
 4876 the department shall refund the amount of the overpayment to the
 4877 taxpayer by a warrant of the Chief Financial Officer
 4878 ~~Comptroller, drawn upon the Treasurer~~. The department shall
 4879 refund the overpayment without regard to whether the taxpayer
 4880 has filed a written claim for a refund; however, the department
 4881 may request that the taxpayer file a statement affirming that
 4882 the taxpayer made the overpayment.

4883 Section 174. Paragraph (a) of subsection (1) of section
 4884 203.01, Florida Statutes, is amended to read:

4885 203.01 Tax on gross receipts for utility and
 4886 communications services.--

4887 (1)(a)1. Every person that receives payment for any
 4888 utility service shall report by the last day of each month to
 4889 the Department of Revenue, under oath of the secretary or some
 4890 other officer of such person, the total amount of gross receipts



HB 1803

2003

4891 derived from business done within this state, or between points
 4892 within this state, for the preceding month and, at the same
 4893 time, shall pay into the State Treasury an amount equal to a
 4894 percentage of such gross receipts at the rate set forth in
 4895 paragraph (b). Such collections shall be certified by the Chief
 4896 Financial Officer ~~Comptroller~~ upon the request of the State
 4897 Board of Education.

4898 2. A tax is levied on communications services as defined
 4899 in s. 202.11(3). Such tax shall be applied to the same services
 4900 and transactions as are subject to taxation under chapter 202,
 4901 and to communications services that are subject to the exemption
 4902 provided in s. 202.125(1). Such tax shall be applied to the
 4903 sales price of communications services when sold at retail and
 4904 to the actual cost of operating substitute communications
 4905 systems, as such terms are defined in s. 202.11, shall be due
 4906 and payable at the same time as the taxes imposed pursuant to
 4907 chapter 202, and shall be administered and collected pursuant to
 4908 the provisions of chapter 202.

4909 Section 175. Subsection (1) of section 206.46, Florida
 4910 Statutes, is amended to read:

4911 206.46 State Transportation Trust Fund.--

4912 (1) All moneys in the State Transportation Trust Fund,
 4913 which is hereby created, shall be used for transportation
 4914 purposes, as provided by law, under the direction of the
 4915 Department of Transportation, which department may from time to
 4916 time make requisition on the Chief Financial Officer ~~Comptroller~~
 4917 for such funds. Moneys from such fund shall be drawn by the
 4918 Chief Financial Officer ~~Comptroller~~ by warrant upon the State
 4919 Treasury pursuant to vouchers and shall be paid in like manner
 4920 as other state warrants are paid out of the appropriated fund



HB 1803

2003

4921 against which the warrants are drawn. All sums of money
 4922 necessary to provide for the payment of the warrants by the
 4923 Chief Financial Officer ~~Comptroller~~ drawn upon such fund are
 4924 appropriated annually out of the fund for the purpose of making
 4925 such payments from time to time.

4926 Section 176. Subsection (4) of section 210.16, Florida
 4927 Statutes, is amended to read:

4928 210.16 Revocation or suspension of permit.--

4929 (4) In lieu of the suspension or revocation of permits,
 4930 the division may impose civil penalties against holders of
 4931 permits for violations of this part or rules and regulations
 4932 relating thereto. No civil penalty so imposed shall exceed
 4933 \$1,000 for each offense, and all amounts collected shall be
 4934 deposited with the Chief Financial Officer ~~State Treasurer~~ to
 4935 the credit of the General Revenue Fund. If the holder of the
 4936 permit fails to pay the civil penalty, his or her permit shall
 4937 be suspended for such period of time as the division may
 4938 specify.

4939 Section 177. Subsection (2) of section 210.20, Florida
 4940 Statutes, is amended to read:

4941 210.20 Employees and assistants; distribution of funds.--

4942 (2) As collections are received by the division from such
 4943 cigarette taxes, it shall pay the same into a trust fund in the
 4944 State Treasury designated "Cigarette Tax Collection Trust Fund"
 4945 which shall be paid and distributed as follows:

4946 (a) The division shall from month to month certify to the
 4947 Chief Financial Officer ~~Comptroller~~ the amount derived from the
 4948 cigarette tax imposed by s. 210.02, less the service charges
 4949 provided for in s. 215.20 and less 0.9 percent of the amount
 4950 derived from the cigarette tax imposed by s. 210.02, which shall



HB 1803

2003

4951 be deposited into the Alcoholic Beverage and Tobacco Trust Fund,
 4952 specifying the amounts to be transferred from the Cigarette Tax
 4953 Collection Trust Fund and credited on the basis of 2.9 percent
 4954 of the net collections to the Revenue Sharing Trust Fund for
 4955 Counties and 29.3 percent of the net collections for the funding
 4956 of indigent health care to the Public Medical Assistance Trust
 4957 Fund.

4958 (b)1. Beginning January 1, 1999, and continuing for 10
 4959 years thereafter, the division shall from month to month certify
 4960 to the Chief Financial Officer ~~Comptroller~~ the amount derived
 4961 from the cigarette tax imposed by s. 210.02, less the service
 4962 charges provided for in s. 215.20 and less 0.9 percent of the
 4963 amount derived from the cigarette tax imposed by s. 210.02,
 4964 which shall be deposited into the Alcoholic Beverage and Tobacco
 4965 Trust Fund, specifying an amount equal to 2.59 percent of the
 4966 net collections, and that amount shall be paid to the Board of
 4967 Directors of the H. Lee Moffitt Cancer Center and Research
 4968 Institute, established under s. 1004.43, by warrant drawn by the
 4969 Chief Financial Officer ~~Comptroller~~ upon the State Treasury.
 4970 These funds are hereby appropriated monthly out of the Cigarette
 4971 Tax Collection Trust Fund, to be used for the purpose of
 4972 constructing, furnishing, and equipping a cancer research
 4973 facility at the University of South Florida adjacent to the H.
 4974 Lee Moffitt Cancer Center and Research Institute. In fiscal
 4975 years 1999-2000 and thereafter with the exception of fiscal year
 4976 2008-2009, the appropriation to the H. Lee Moffitt Cancer Center
 4977 and Research Institute authorized by this subparagraph shall not
 4978 be less than the amount that would have been paid to the H. Lee
 4979 Moffitt Cancer Center and Research Institute for fiscal year
 4980 1998-1999 had payments been made for the entire fiscal year



HB 1803

2003

4981 rather than for a 6-month period thereof.

4982 2. Beginning July 1, 2002, and continuing through June 30,

4983 2004, the division shall, in addition to the distribution

4984 authorized in subparagraph 1., from month to month certify to

4985 the Chief Financial Officer ~~Comptroller~~ the amount derived from

4986 the cigarette tax imposed by s. 210.02, less the service charges

4987 provided for in s. 215.20 and less 0.9 percent of the amount

4988 derived from the cigarette tax imposed by s. 210.02, which shall

4989 be deposited into the Alcoholic Beverage and Tobacco Trust Fund,

4990 specifying an amount equal to 0.2632 percent of the net

4991 collections, and that amount shall be paid to the Board of

4992 Directors of the H. Lee Moffitt Cancer Center and Research

4993 Institute, established under s. 1004.43, by warrant drawn by the

4994 Chief Financial Officer ~~Comptroller~~. Beginning July 1, 2004,

4995 and continuing through June 30, 2016, the division shall, in

4996 addition to the distribution authorized in subparagraph 1., from

4997 month to month certify to the Chief Financial Officer

4998 ~~Comptroller~~ the amount derived from the cigarette tax imposed by

4999 s. 210.02, less the service charges provided for in s. 215.20

5000 and less 0.9 percent of the amount derived from the cigarette

5001 tax imposed by s. 210.02, which shall be deposited into the

5002 Alcoholic Beverage and Tobacco Trust Fund, specifying an amount

5003 equal to 1.47 percent of the net collections, and that amount

5004 shall be paid to the Board of Directors of the H. Lee Moffitt

5005 Cancer Center and Research Institute, established under s.

5006 1004.43, by warrant drawn by the Chief Financial Officer

5007 ~~Comptroller~~. These funds are appropriated monthly out of the

5008 Cigarette Tax Collection Trust Fund, to be used for the purpose

5009 of constructing, furnishing, and equipping a cancer research

5010 facility at the University of South Florida adjacent to the H.



HB 1803

2003

5011 Lee Moffitt Cancer Center and Research Institute. In fiscal
5012 years 2004-2005 and thereafter, the appropriation to the H. Lee
5013 Moffitt Cancer Center and Research Institute authorized by this
5014 subparagraph shall not be less than the amount that would have
5015 been paid to the H. Lee Moffitt Cancer Center and Research
5016 Institute in fiscal year 2001-2002, had this subparagraph been
5017 in effect.

5018 Section 178. Subsection (4) of section 210.50, Florida
5019 Statutes, is amended to read:

5020 210.50 Revocation or suspension of license.--

5021 (4) In lieu of the suspension or revocation of licenses,
5022 the division may impose civil penalties against holders of
5023 licenses for violations of this part or rules relating thereto.
5024 No civil penalty so imposed shall exceed \$1,000 for each
5025 offense, and all amounts collected shall be deposited with the
5026 Chief Financial Officer ~~State Treasurer~~ to the credit of the
5027 General Revenue Fund. If the holder of the license fails to pay
5028 the civil penalty, his or her license shall be suspended for
5029 such period of time as the division may specify.

5030 Section 179. Subsection (1) of section 211.06, Florida
5031 Statutes, is amended to read:

5032 211.06 Oil and Gas Tax Trust Fund; distribution of tax
5033 proceeds.--All taxes, interest, and penalties imposed under this
5034 part shall be collected by the department and placed in a
5035 special fund designated the "Oil and Gas Tax Trust Fund."

5036 (1) There is hereby annually appropriated a sufficient
5037 amount from the Oil and Gas Tax Trust Fund for the Chief
5038 Financial Officer ~~Comptroller~~ to refund any overpayments that
5039 ~~which~~ have been properly approved.



HB 1803

2003

5040 Section 180. Subsection (3) of section 211.31, Florida
 5041 Statutes, is amended to read:

5042 211.31 Levy of tax on severance of certain solid minerals;
 5043 rate, basis, and distribution of tax.--

5044 (3) Interest earned on funds within any trust fund created
 5045 under this part shall be invested and reinvested to the credit
 5046 of such trust fund in accordance with s. 17.61 ~~18.125~~.

5047 Section 181. Paragraph (d) of subsection (1) of section
 5048 211.32, Florida Statutes, is amended to read:

5049 211.32 Tax on solid minerals; Land Reclamation Trust Fund;
 5050 refund for restoration and reclamation.--

5051 (1)

5052 (d) The Chief Financial Officer ~~Comptroller~~ shall, upon
 5053 written verification of compliance with paragraph (a), paragraph
 5054 (b), or paragraph (c) by the Department of Environmental
 5055 Protection, and upon verification of the cost of the restoration
 5056 and reclamation program or, if paragraph (c) is elected, the
 5057 fair market value of the land, grant refunds, to be paid from
 5058 the Land Reclamation Trust Fund, of the taxes paid under this
 5059 part, in an amount equal to 100 percent of the costs incurred in
 5060 complying with paragraph (a) or paragraph (b), or 100 percent of
 5061 the fair market value of the land transferred in complying with
 5062 paragraph (c), subject to the following limitations:

5063 1. A taxpayer shall not be entitled to refunds in excess
 5064 of the amount of taxes paid by the taxpayer under this part
 5065 which are deposited in the Land Reclamation Trust Fund.

5066 2. A taxpayer shall not be entitled to the payment of a
 5067 refund for costs incurred in connection with a particular
 5068 restoration and reclamation program unless and until the
 5069 taxpayer is accomplishing the program in reasonable compliance



HB 1803

2003

5070 with the criteria established by the Department of Environmental
5071 Protection.

5072 Section 182. Paragraph (m) of subsection (5) of section
5073 212.08, Florida Statutes, is amended to read:

5074 212.08 Sales, rental, use, consumption, distribution, and
5075 storage tax; specified exemptions.--The sale at retail, the
5076 rental, the use, the consumption, the distribution, and the
5077 storage to be used or consumed in this state of the following
5078 are hereby specifically exempt from the tax imposed by this
5079 chapter.

5080 (5) EXEMPTIONS; ACCOUNT OF USE.--

5081 (m) Educational materials purchased by certain child care
5082 facilities.--Educational materials, such as glue, paper, paints,
5083 crayons, unique craft items, scissors, books, and educational
5084 toys, purchased by a child care facility that meets the
5085 standards delineated in s. 402.305, is licensed under s.
5086 402.308, holds a current Gold Seal Quality Care designation
5087 pursuant to s. 402.281, and provides basic health insurance to
5088 all employees are exempt from the taxes imposed by this chapter.
5089 For purposes of this paragraph, the term "basic health
5090 insurance" shall be defined and promulgated in rules developed
5091 jointly by the Department of Children and Family Services, the
5092 Agency for Health Care Administration, and the Financial
5093 Services Commission ~~Department of Insurance~~.

5094 Section 183. Paragraph (c) of subsection (6) of section
5095 212.12, Florida Statutes, is amended to read:

5096 212.12 Dealer's credit for collecting tax; penalties for
5097 noncompliance; powers of Department of Revenue in dealing with
5098 delinquents; brackets applicable to taxable transactions;
5099 records required.--



HB 1803

2003

5100 (6)

5101 (c)1. If the records of a dealer are adequate but
5102 voluminous in nature and substance, the department may sample
5103 such records, except for fixed assets, and project the audit
5104 findings derived therefrom over the entire audit period to
5105 determine the proportion that taxable retail sales bear to total
5106 retail sales or the proportion that taxable purchases bear to
5107 total purchases. In order to conduct such a sample, the
5108 department must first make a good faith effort to reach an
5109 agreement with the dealer, which agreement provides for the
5110 means and methods to be used in the sampling process. In the
5111 event that no agreement is reached, the dealer is entitled to a
5112 review by the executive director.

5113 2. For the purposes of sampling pursuant to subparagraph
5114 1., the department shall project any deficiencies and
5115 overpayments derived therefrom over the entire audit period. In
5116 determining the dealer's compliance, the department shall reduce
5117 any tax deficiency as derived from the sample by the amount of
5118 any overpayment derived from the sample. In the event the
5119 department determines from the sample results that the dealer
5120 has a net tax overpayment, the department shall provide the
5121 findings of this overpayment to the Chief Financial Officer
5122 ~~Comptroller~~ for repayment of funds paid into the State Treasury
5123 through error pursuant to s. 215.26.

5124 3.a. A taxpayer is entitled, both in connection with an
5125 audit and in connection with an application for refund filed
5126 independently of any audit, to establish the amount of any
5127 refund or deficiency through statistical sampling when the
5128 taxpayer's records, other than those regarding fixed assets, are
5129 adequate but voluminous. Alternatively, a taxpayer is entitled



HB 1803

2003

5130 to establish any refund or deficiency through any other sampling
5131 method agreed upon by the taxpayer and the department when the
5132 taxpayer's records, other than those regarding fixed assets, are
5133 adequate but voluminous. Whether done through statistical
5134 sampling or any other sampling method agreed upon by the
5135 taxpayer and the department, the completed sample must reflect
5136 both overpayments and underpayments of taxes due. The sample
5137 shall be conducted through:

5138 (I) A taxpayer request to perform the sampling through the
5139 certified audit program pursuant to s. 213.285;

5140 (II) Attestation by a certified public accountant as to
5141 the adequacy of the sampling method utilized and the results
5142 reached using such sampling method; or

5143 (III) A sampling method that has been submitted by the
5144 taxpayer and approved by the department before a refund claim is
5145 submitted. This sub-sub-subparagraph does not prohibit a
5146 taxpayer from filing a refund claim prior to approval by the
5147 department of the sampling method; however, a refund claim
5148 submitted before the sampling method has been approved by the
5149 department cannot be a complete refund application pursuant to
5150 s. 213.255 until the sampling method has been approved by the
5151 department.

5152 b. The department shall prescribe by rule the procedures
5153 to be followed under each method of sampling. Such procedures
5154 shall follow generally accepted auditing procedures for
5155 sampling. The rule shall also set forth other criteria regarding
5156 the use of sampling, including, but not limited to, training
5157 requirements that must be met before a sampling method may be
5158 utilized and the steps necessary for the department and the
5159 taxpayer to reach agreement on a sampling method submitted by



HB 1803

2003

5160 the taxpayer for approval by the department.

5161 Section 184. Subsection (1) of section 212.20, Florida
 5162 Statutes, is amended to read:

5163 212.20 Funds collected, disposition; additional powers of
 5164 department; operational expense; refund of taxes adjudicated
 5165 unconstitutionally collected.--

5166 (1) The department shall pay over to the Chief Financial
 5167 Officer ~~Treasurer~~ of the state all funds received and collected
 5168 by it under the provisions of this chapter, to be credited to
 5169 the account of the General Revenue Fund of the state.

5170 Section 185. Subsections (4) and (6), paragraph (e) of
 5171 subsection (7), and subsection (13) of section 213.053, Florida
 5172 Statutes, are amended to read:

5173 213.053 Confidentiality and information sharing.--

5174 (4) Nothing contained in this section shall prevent the
 5175 department from publishing statistics so classified as to
 5176 prevent the identification of particular accounts, reports,
 5177 declarations, or returns or prevent the department from
 5178 disclosing to the Chief Financial Officer ~~Comptroller~~ the names
 5179 and addresses of those taxpayers who have claimed an exemption
 5180 pursuant to s. 199.185(1)(i) or a deduction pursuant to s.
 5181 220.63(5).

5182 (6) Any information received by the Department of Revenue
 5183 in connection with the administration of taxes, including, but
 5184 not limited to, information contained in returns, reports,
 5185 accounts, or declarations filed by persons subject to tax, shall
 5186 be made available by the department to the Auditor General or
 5187 his or her authorized agent, the director of the Office of
 5188 Program Policy Analysis and Government Accountability or his or
 5189 her authorized agent, the Chief Financial Officer ~~Comptroller~~ or



HB 1803

2003

5190 his or her authorized agent, the Director of the Office of
 5191 Insurance Regulation of the Financial Services Commission
 5192 ~~Insurance Commissioner~~ or his or her authorized agent, the
 5193 ~~Treasurer or his or her authorized agent~~, or a property
 5194 appraiser or tax collector or their authorized agents pursuant
 5195 to s. 195.084(1), in the performance of their official duties,
 5196 or to designated employees of the Department of Education solely
 5197 for determination of each school district's price level index
 5198 pursuant to s. 1011.62(2); however, no information shall be
 5199 disclosed to the Auditor General or his or her authorized agent,
 5200 the director of the Office of Program Policy Analysis and
 5201 Government Accountability or his or her authorized agent, the
 5202 Chief Financial Officer ~~Comptroller~~ or his or her authorized
 5203 agent, the Director of the Office of Insurance Regulation
 5204 ~~Insurance Commissioner~~ or his or her authorized agent, the
 5205 ~~Treasurer or his or her authorized agent~~, or to a property
 5206 appraiser or tax collector or their authorized agents, or to
 5207 designated employees of the Department of Education if such
 5208 disclosure is prohibited by federal law. The Auditor General or
 5209 his or her authorized agent, the director of the Office of
 5210 Program Policy Analysis and Government Accountability or his or
 5211 her authorized agent, the Chief Financial Officer ~~Comptroller~~ or
 5212 his or her authorized agent, the Director of the Office of
 5213 Insurance Regulation ~~Treasurer~~ or his or her authorized agent,
 5214 and the property appraiser or tax collector and their authorized
 5215 agents, or designated employees of the Department of Education
 5216 shall be subject to the same requirements of confidentiality and
 5217 the same penalties for violation of the requirements as the
 5218 department. For the purpose of this subsection, "designated
 5219 employees of the Department of Education" means only those



HB 1803

2003

5220 employees directly responsible for calculation of price level
 5221 indices pursuant to s. 1011.62(2). It does not include the
 5222 supervisors of such employees or any other employees or elected
 5223 officials within the Department of Education.

5224 (7) Notwithstanding any other provision of this section,
 5225 the department may provide:

5226 (e) Names, addresses, taxpayer identification numbers, and
 5227 outstanding tax liabilities to the Department of the Lottery and
 5228 the Office of Financial Institutions and Securities Regulation
 5229 of the Financial Services Commission ~~Department of Banking and~~
 5230 ~~Finance~~ in the conduct of their official duties.

5231

5232

5233 Disclosure of information under this subsection shall be
 5234 pursuant to a written agreement between the executive director
 5235 and the agency. Such agencies, governmental or nongovernmental,
 5236 shall be bound by the same requirements of confidentiality as
 5237 the Department of Revenue. Breach of confidentiality is a
 5238 misdemeanor of the first degree, punishable as provided by s.
 5239 775.082 or s. 775.083.

5240 (13) Notwithstanding the provisions of s. 896.102(2), the
 5241 department may allow full access to the information and
 5242 documents required to be filed with it under s. 896.102(1) to
 5243 federal, state, and local law enforcement and prosecutorial
 5244 agencies, and to the Office of Financial Institutions and
 5245 Securities Regulation of the Financial Services Commission
 5246 ~~Department of Banking and Finance~~, and any of those agencies may
 5247 use the information and documents in any civil or criminal
 5248 investigation and in any court proceedings.

5249 Section 186. Section 213.054, Florida Statutes, is amended



HB 1803

2003

5250 to read:

5251 213.054 Persons claiming tax exemptions or deductions;
 5252 annual report.--The Department of Revenue shall be responsible
 5253 for monitoring the utilization of tax exemptions and tax
 5254 deductions authorized pursuant to chapter 81-179, Laws of
 5255 Florida. On or before September 1 of each year, the department
 5256 shall report to the Chief Financial Officer ~~Comptroller~~ the
 5257 names and addresses of all persons who have claimed an exemption
 5258 pursuant to s. 199.185(1)(i) or a deduction pursuant to s.
 5259 220.63(5).

5260 Section 187. Subsection (6) of section 213.255, Florida
 5261 Statutes, is amended to read:

5262 213.255 Interest.--Interest shall be paid on overpayments
 5263 of taxes, payment of taxes not due, or taxes paid in error,
 5264 subject to the following conditions:

5265 (6) Interest shall be paid until a date determined by the
 5266 department which shall be no more than 7 days prior to the date
 5267 of the issuance of the refund warrant by the Chief Financial
 5268 Officer ~~Comptroller~~.

5269 Section 188. Subsection (9) of section 213.67, Florida
 5270 Statutes, is amended to read:

5271 213.67 Garnishment.--

5272 (9) The department shall provide notice to the Chief
 5273 Financial Officer ~~Comptroller~~, in electronic or other form
 5274 specified by the Chief Financial Officer ~~Comptroller~~, listing
 5275 the taxpayers for which tax warrants are outstanding. Pursuant
 5276 to subsection (1), the Chief Financial Officer ~~Comptroller~~
 5277 shall, upon notice from the department, withhold all payments to
 5278 any person or business, as defined in s. 212.02, which provides
 5279 commodities or services to the state, leases real property to



HB 1803

2003

5280 the state, or constructs a public building or public work for
 5281 the state. The department may levy upon the withheld payments in
 5282 accordance with subsection (3). The provisions of s. 215.422 do
 5283 not apply from the date the notice is filed with the Chief
 5284 Financial Officer ~~Comptroller~~ until the date the department
 5285 notifies the Chief Financial Officer ~~Comptroller~~ of its consent
 5286 to make payment to the person or 60 days after receipt of the
 5287 department's notice in accordance with subsection (1), whichever
 5288 occurs earlier.

5289 Section 189. Subsection (4) of section 213.75, Florida
 5290 Statutes, is amended to read:

5291 213.75 Application of payments.--

5292 (4) Any surplus proceeds remaining after the application
 5293 of subsection (3) shall, upon application and satisfactory proof
 5294 thereof, be refunded by the Chief Financial Officer ~~Comptroller~~
 5295 to the person or persons legally entitled thereto pursuant to s.
 5296 215.26.

5297 Section 190. Section 215.02, Florida Statutes, is amended
 5298 to read:

5299 215.02 Manner of paying money into the Treasury.--Whenever
 5300 any officer of this state or other person desires to pay any
 5301 money into the Treasury of the state on account of his or her
 5302 indebtedness to the state, the person shall first go to ~~into~~ the
 5303 Department of Financial Services ~~Banking and Finance~~, and there
 5304 ascertain from the department's books the amount of his or her
 5305 indebtedness to the state, and ~~thereupon the department shall~~
 5306 ~~give that person a memorandum or certificate of the amount of~~
 5307 ~~such indebtedness, and on what account. Second, the person~~
 5308 ~~shall take said certificate with him or her to the Department of~~
 5309 ~~Insurance and deliver the same and pay over to the~~ Chief



HB 1803

2003

5310 Financial Officer ~~Insurance Commissioner and Treasurer~~ the
 5311 amount ascertained ~~called for in said certificate~~. ~~Third, The~~
 5312 Chief Financial Officer ~~Insurance Commissioner and Treasurer~~
 5313 shall receive the money, make a proper entry thereof, ~~file the~~
 5314 ~~certificate of the Department of Banking and Finance, and give a~~
 5315 ~~certificate to the party paying over the money, acknowledging~~
 5316 ~~the receipt of the money, and on what account; which certificate~~
 5317 ~~thus received, the party shall return to the Department of~~
 5318 ~~Banking and Finance, on receipt of which the department shall~~
 5319 ~~give the party a receipt for the amount, and enter a credit on~~
 5320 ~~the party's account in his or her books for the amount thus paid~~
 5321 ~~by him or her to the Insurance Commissioner and Treasurer, and~~
 5322 ~~file the certificate received from the Insurance Commissioner~~
 5323 ~~and Treasurer.~~

5324 Section 191. Section 215.03, Florida Statutes, is amended
 5325 to read:

5326 215.03 Party to be reimbursed on reversal of judgment for
 5327 state.--Whenever upon appeal in civil cases, any judgment in
 5328 favor of the state has been or shall be reversed and set aside,
 5329 which may have been paid in part by the appellant, the Chief
 5330 Financial Officer ~~Comptroller~~ shall issue his or her warrant
 5331 ~~upon the Treasurer~~ to reimburse the appellant for all sums paid
 5332 in discharge of such judgment and cost, provided the appellant
 5333 shall adduce satisfactory evidence to the Chief Financial
 5334 Officer ~~Comptroller~~ of the sums paid as aforesaid.

5335 Section 192. Section 215.04, Florida Statutes, is amended
 5336 to read:

5337 215.04 Department of Financial Services ~~Banking and~~
 5338 ~~Finance~~ to report delinquents.--The Department of Financial
 5339 Services ~~Banking and Finance~~ shall report to the state attorney



HB 1803

2003

5340 of the proper circuit the name of any delinquent officer whose
5341 delinquency concerns the department, so soon as such delinquency
5342 shall occur; and the state attorney shall proceed forthwith
5343 against such delinquent.

5344 Section 193. Section 215.05, Florida Statutes, is amended
5345 to read:

5346 215.05 Department of Financial Services ~~Banking and~~
5347 ~~Finance~~ to certify accounts of delinquents.--When any revenue
5348 officer or other person accountable for public money shall
5349 neglect or refuse to pay into the treasury the sum or balance
5350 reported to be due to the state, upon the adjustment of that
5351 person's account, the Department of Financial Services ~~Banking~~
5352 ~~and Finance~~ shall immediately hand over to the state attorney of
5353 the proper circuit the statement of the sum or balance certified
5354 under its seal of office, so due; and the state attorney shall
5355 institute suit for the recovery of the same, adding to the sum
5356 or balance stated to be due on such account the commissions of
5357 the delinquent, which shall be forfeited in every instance where
5358 suit is commenced and judgment is obtained thereon, and an
5359 interest of 8 percent per annum from the time of the
5360 delinquent's receiving the money until it shall be paid into the
5361 State Treasury.

5362 Section 194. Section 215.11, Florida Statutes, is amended
5363 to read:

5364 215.11 Defaulting officers; Department of Financial
5365 Services ~~Banking and Finance~~ to report to clerk.--The Department
5366 of Financial Services ~~Banking and Finance~~ shall, within 90 days
5367 after the expiration of the term of office of any tax collector,
5368 sheriff, clerk of the circuit or county court, treasurer, or any
5369 other officer of any county who has the collection, custody, and



HB 1803

2003

5370 control of any state funds, who shall be in arrears in his or
 5371 her accounts with the state, make up and forward to the clerk of
 5372 the circuit court of such county a statement of his or her
 5373 accounts with the state.

5374 Section 195. Paragraphs (d), (n), and (o) of subsection
 5375 (4) of section 215.20, Florida Statutes, are amended, and
 5376 paragraphs (p) through (y) of said subsection are renumbered as
 5377 paragraphs (o) through (x), respectively, to read:

5378 215.20 Certain income and certain trust funds to
 5379 contribute to the General Revenue Fund.--

5380 (4) The income of a revenue nature deposited in the
 5381 following described trust funds, by whatever name designated, is
 5382 that from which the appropriations authorized by subsection (3)
 5383 shall be made:

5384 (d) Within the Office of Financial Institutions and
 5385 Securities Regulation of the Financial Services Commission
 5386 ~~Department of Banking and Finance:~~

- 5387 1. The Administrative Trust Fund.
- 5388 2. The Anti-Fraud Trust Fund.
- 5389 3. The Financial Institutions' Regulatory Trust Fund.
- 5390 4. The Mortgage Brokerage Guaranty Fund.
- 5391 5. The Regulatory Trust Fund.

5392 (n) Within the Department of Financial Services Insurance:

- 5393 1. The Agents and Solicitors County Tax Trust Fund.
- 5394 2. The Insurance ~~Commissioner's~~ Regulatory Trust Fund.

5395 ~~(o) Within the Department of Labor and Employment Security~~
 5396 ~~or, if such department is terminated, within the agency or~~
 5397 ~~department to which the named trust fund has been transferred:~~

- 5398 ~~3.1-~~ The Special Disability Trust Fund.
- 5399 ~~4.2-~~ The Special Employment Security Administration Trust



HB 1803

2003

- 5400 Fund.
- 5401 5.3. The Workers' Compensation Administration Trust Fund.
- 5402 (o)~~(p)~~ Within the Department of Legal Affairs, the Crimes
- 5403 Compensation Trust Fund.
- 5404 (p)~~(q)~~ Within the Department of Management Services:
- 5405 1. The Administrative Trust Fund.
- 5406 2. The Architects Incidental Trust Fund.
- 5407 3. The Bureau of Aircraft Trust Fund.
- 5408 4. The Florida Facilities Pool Working Capital Trust Fund.
- 5409 5. The Grants and Donations Trust Fund.
- 5410 6. The Motor Vehicle Operating Trust Fund.
- 5411 7. The Police and Firefighters' Premium Tax Trust Fund.
- 5412 8. The Public Employees Relations Commission Trust Fund.
- 5413 9. The State Personnel System Trust Fund.
- 5414 10. The Supervision Trust Fund.
- 5415 11. The Working Capital Trust Fund.
- 5416 (q)~~(r)~~ Within the Department of Revenue:
- 5417 1. The Additional Court Cost Clearing Trust Fund.
- 5418 2. The Administrative Trust Fund.
- 5419 3. The Apalachicola Bay Oyster Surcharge Clearing Trust
- 5420 Fund.
- 5421 4. The Certification Program Trust Fund.
- 5422 5. The Fuel Tax Collection Trust Fund.
- 5423 6. The Land Reclamation Trust Fund.
- 5424 7. The Local Alternative Fuel User Fee Clearing Trust
- 5425 Fund.
- 5426 8. The Local Option Fuel Tax Trust Fund.
- 5427 9. The Motor Vehicle Rental Surcharge Clearing Trust Fund.
- 5428 10. The Motor Vehicle Warranty Trust Fund.
- 5429 11. The Oil and Gas Tax Trust Fund.



HB 1803

2003

5430 12. The Secondhand Dealer and Secondary Metals Recycler
5431 Clearing Trust Fund.

5432 13. The Severance Tax Solid Mineral Trust Fund.

5433 14. The State Alternative Fuel User Fee Clearing Trust
5434 Fund.

5435 15. All taxes levied on motor fuels other than gasoline
5436 levied pursuant to the provisions of s. 206.87(1)(a).

5437 (r)~~(s)~~ Within the Department of State:

5438 1. The Division of Licensing Trust Fund.

5439 2. The Records Management Trust Fund.

5440 3. The trust funds administered by the Division of
5441 Historical Resources.

5442 (s)~~(t)~~ Within the Department of Transportation, all income
5443 derived from outdoor advertising and overweight violations which
5444 is deposited in the State Transportation Trust Fund.

5445 (t)~~(u)~~ Within the Department of Veterans' Affairs:

5446 1. The Grants and Donations Trust Fund.

5447 2. The Operations and Maintenance Trust Fund.

5448 3. The State Homes for Veterans Trust Fund.

5449 (u)~~(v)~~ Within the Division of Administrative Hearings, the
5450 Administrative Trust Fund.

5451 (v)~~(w)~~ Within the Fish and Wildlife Conservation
5452 Commission:

5453 1. The Conservation and Recreation Lands Program Trust
5454 Fund.

5455 2. The Florida Panther Research and Management Trust Fund.

5456 3. The Land Acquisition Trust Fund.

5457 4. The Marine Resources Conservation Trust Fund, with the
5458 exception of those fees collected for recreational saltwater
5459 fishing licenses as provided in s. 372.57.



HB 1803

2003

5460 (w)~~(x)~~ Within the Florida Public Service Commission, the
 5461 Florida Public Service Regulatory Trust Fund.

5462 (x)~~(y)~~ Within the Justice Administrative Commission, the
 5463 Indigent Criminal Defense Trust Fund.

5464
 5465 The enumeration of the foregoing moneys or trust funds shall not
 5466 prohibit the applicability thereto of s. 215.24 should the
 5467 Governor determine that for the reasons mentioned in s. 215.24
 5468 the money or trust funds should be exempt herefrom, as it is the
 5469 purpose of this law to exempt income from its force and effect
 5470 when, by the operation of this law, federal matching funds or
 5471 contributions or private grants to any trust fund would be lost
 5472 to the state.

5473 Section 196. Effective July 1, 2003, paragraph (cc) of
 5474 subsection (4) of section 215.20, Florida Statutes, is amended
 5475 to read:

5476 215.20 Certain income and certain trust funds to
 5477 contribute to the General Revenue Fund.--

5478 (4) The income of a revenue nature deposited in the
 5479 following described trust funds, by whatever name designated, is
 5480 that from which the deductions authorized by subsection (3)
 5481 shall be made:

5482 (cc) The Insurance ~~Commissioner's~~ Regulatory Trust Fund
 5483 created by s. 624.523.

5484
 5485 The enumeration of the foregoing moneys or trust funds shall not
 5486 prohibit the applicability thereto of s. 215.24 should the
 5487 Governor determine that for the reasons mentioned in s. 215.24
 5488 the money or trust funds should be exempt herefrom, as it is the
 5489 purpose of this law to exempt income from its force and effect



HB 1803

2003

5490 when, by the operation of this law, federal matching funds or
 5491 contributions or private grants to any trust fund would be lost
 5492 to the state.

5493 Section 197. Paragraphs (e) and (g) of subsection (1) of
 5494 section 215.22, Florida Statutes, are amended to read:

5495 215.22 Certain income and certain trust funds exempt.--

5496 (1) The following income of a revenue nature or the
 5497 following trust funds shall be exempt from the appropriation
 5498 required by s. 215.20(1):

5499 (e) State, agency, or political subdivision investments by
 5500 the Chief Financial Officer ~~Treasurer~~.

5501 (g) Self-insurance programs administered by the Chief
 5502 Financial Officer ~~Treasurer~~.

5503 Section 198. Effective July 1, 2003, paragraphs (e) and
 5504 (g) of subsection (1) of section 215.22, Florida Statutes, are
 5505 amended to read:

5506 215.22 Certain income and certain trust funds exempt.--

5507 (1) The following income of a revenue nature or the
 5508 following trust funds shall be exempt from the deduction
 5509 required by s. 215.20(1):

5510 (e) State, agency, or political subdivision investments by
 5511 the Chief Financial Officer ~~Treasurer~~.

5512 (g) Self-insurance programs administered by the Chief
 5513 Financial Officer ~~Treasurer~~.

5514 Section 199. Section 215.23, Florida Statutes, is amended
 5515 to read:

5516 215.23 When contributions to be made.--The deductions
 5517 required by s. 215.20 shall be paid into the appropriate fund ~~by~~
 5518 ~~the Department of Banking and Finance or~~ by the Chief Financial
 5519 Officer ~~State Treasurer, as the case may be,~~ for quarterly



HB 1803

2003

5520 periods ending March 31, June 30, September 30, and December 31
 5521 of each year, and when so paid shall thereupon become a part of
 5522 that fund to be accounted for and disbursed as provided by law.

5523 Section 200. Section 215.24, Florida Statutes, is amended
 5524 to read:

5525 215.24 Exemptions where federal contributions or private
 5526 grants.--

5527 (1) Should any state fund be the recipient of federal
 5528 contributions or private grants, either by the matching of state
 5529 funds or by a general donation to state funds, and the payment
 5530 of moneys into the General Revenue Fund under s. 215.20 should
 5531 cause such fund to lose federal or private assistance, the
 5532 Governor shall certify to the Chief Financial Officer ~~Department~~
 5533 ~~of Banking and Finance and to the State Treasurer~~ that said
 5534 income is for that reason exempt from the force and effect of s.
 5535 215.20.

5536 (2) Should it be determined by the Governor that by reason
 5537 of payments already made into the General Revenue Fund by any
 5538 fund under this law, such fund is subject to the loss of federal
 5539 or private assistance, then the Governor shall certify to the
 5540 Chief Financial Officer ~~Department of Banking and Finance and to~~
 5541 ~~the State Treasurer~~ that the income from such assistance is
 5542 exempt from the provisions of this law, and the Chief Financial
 5543 Officer ~~Department of Banking and Finance or the State~~
 5544 ~~Treasurer, as the case may be,~~ shall thereupon refund and pay
 5545 over to such fund any amount previously paid into the General
 5546 Revenue Fund from such income.

5547 Section 201. Section 215.25, Florida Statutes, is amended
 5548 to read:

5549 215.25 Manner of contributions; rules and regulations.--



HB 1803

2003

5550 The Chief Financial Officer is ~~Department of Banking and Finance~~
 5551 ~~and the State Treasurer are hereby~~ authorized to ascertain and
 5552 determine the manner in which the required amounts shall be
 5553 deducted and paid and to adopt and effectuate such rules and
 5554 procedure as may be necessary for carrying out the provisions of
 5555 this law. Such rules and procedure shall be approved by the
 5556 Executive Office of the Governor.

5557 Section 202. Subsections (1), (2), and (5) of section
 5558 215.26, Florida Statutes, are amended to read:

5559 215.26 Repayment of funds paid into State Treasury through
 5560 error.--

5561 (1) The Chief Financial Officer ~~Comptroller of the state~~
 5562 may refund to the person who paid same, or his or her heirs,
 5563 personal representatives, or assigns, any moneys paid into the
 5564 State Treasury which constitute:

5565 (a) An overpayment of any tax, license, or account due;

5566 (b) A payment where no tax, license, or account is due;

5567 and

5568 (c) Any payment made into the State Treasury in error;

5569

5570 and if any such payment has been credited to an appropriation,
 5571 such appropriation shall at the time of making any such refund,
 5572 be charged therewith. There are appropriated from the proper
 5573 respective funds from time to time such sums as may be necessary
 5574 for such refunds.

5575 (2) Application for refunds as provided by this section
 5576 must be filed with the Chief Financial Officer ~~Comptroller~~,
 5577 except as otherwise provided in this subsection, within 3 years
 5578 after the right to the refund has accrued or else the right is
 5579 barred. Except as provided in chapter 198 and s. 220.23, an



HB 1803

2003

5580 application for a refund of a tax enumerated in s. 72.011, which
 5581 tax was paid after September 30, 1994, and before July 1, 1999,
 5582 must be filed with the Chief Financial Officer ~~Comptroller~~
 5583 within 5 years after the date the tax is paid, and within 3
 5584 years after the date the tax was paid for taxes paid on or after
 5585 July 1, 1999. The Chief Financial Officer ~~Comptroller~~ may
 5586 delegate the authority to accept an application for refund to
 5587 any state agency, or the judicial branch, vested by law with the
 5588 responsibility for the collection of any tax, license, or
 5589 account due. The application for refund must be on a form
 5590 approved by the Chief Financial Officer ~~Comptroller~~ and must be
 5591 supplemented with additional proof the Chief Financial Officer
 5592 ~~Comptroller~~ deems necessary to establish the claim; provided,
 5593 the claim is not otherwise barred under the laws of this state.
 5594 Upon receipt of an application for refund, the judicial branch
 5595 or the state agency to which the funds were paid shall make a
 5596 determination of the amount due. If an application for refund is
 5597 denied, in whole or in part, the judicial branch or such state
 5598 agency shall notify the applicant stating the reasons therefor.
 5599 Upon approval of an application for refund, the judicial branch
 5600 or such state agency shall furnish the Chief Financial Officer
 5601 ~~Comptroller~~ with a properly executed voucher authorizing
 5602 payment.

5603 (5) When a taxpayer has pursued administrative remedies
 5604 before the Department of Revenue pursuant to s. 213.21 and has
 5605 failed to comply with the time limitations and conditions
 5606 provided in ss. 72.011 and 120.80(14)(b), a claim of refund
 5607 under subsection (1) shall be denied by the Chief Financial
 5608 Officer ~~Comptroller~~. However, the Chief Financial Officer
 5609 ~~Comptroller~~ may entertain a claim for refund under this



HB 1803

2003

5610 subsection when the taxpayer demonstrates that his or her
 5611 failure to pursue remedies under chapter 72 was not due to
 5612 neglect or for the purpose of delaying payment of lawfully
 5613 imposed taxes and can demonstrate reasonable cause for such
 5614 failure.

5615 Section 203. Section 215.29, Florida Statutes, is amended
 5616 to read:

5617 215.29 Classification of Chief Financial Officer's
 5618 ~~Comptroller's~~ warrants; report.--All disbursements made by the
 5619 state upon Chief Financial Officer's ~~Comptroller's~~ warrants
 5620 shall be classified according to officers, offices, bureaus,
 5621 divisions, boards, commissions, institutions, other agencies and
 5622 undertakings, or the judicial branch, and shall be further
 5623 classified according to personal services, contractual services,
 5624 commodities, current charges, current obligations, capital
 5625 outlays, debt payments, or investments or such additional
 5626 classifications as may be prescribed or authorized by law. Such
 5627 detail classifications shall be printed in the Chief Financial
 5628 Officer's ~~Comptroller's~~ annual reports.

5629 Section 204. Section 215.31, Florida Statutes, is amended
 5630 to read:

5631 215.31 State funds; deposit in State Treasury.--Revenue,
 5632 including licenses, fees, imposts, or exactions collected or
 5633 received under the authority of the laws of the state by each
 5634 and every state official, office, employee, bureau, division,
 5635 board, commission, institution, agency, or undertaking of the
 5636 state or the judicial branch shall be promptly deposited in the
 5637 State Treasury, and immediately credited to the appropriate fund
 5638 as herein provided, properly accounted for by the Department of
 5639 Financial Services ~~Banking and Finance~~ as to source and no money



HB 1803

2003

5640 shall be paid from the State Treasury except as appropriated and
 5641 provided by the annual General Appropriations Act, or as
 5642 otherwise provided by law.

5643 Section 205. Section 215.32, Florida Statutes, is amended
 5644 to read:

5645 215.32 State funds; segregation.--

5646 (1) All moneys received by the state shall be deposited in
 5647 the State Treasury unless specifically provided otherwise by law
 5648 and shall be deposited in and accounted for by the Chief
 5649 Financial Officer ~~Treasurer and the Department of Banking and~~
 5650 ~~Finance~~ within the following funds, which funds are hereby
 5651 created and established:

- 5652 (a) General Revenue Fund.
- 5653 (b) Trust funds.
- 5654 (c) Working Capital Fund.
- 5655 (d) Budget Stabilization Fund.

5656 (2) The source and use of each of these funds shall be as
 5657 follows:

5658 (a) The General Revenue Fund shall consist of all moneys
 5659 received by the state from every source whatsoever, except as
 5660 provided in paragraphs (b) and(c). Such moneys shall be
 5661 expended pursuant to General Revenue Fund appropriations acts or
 5662 transferred as provided in paragraph (c). Annually, at least 5
 5663 percent of the estimated increase in General Revenue Fund
 5664 receipts for the upcoming fiscal year over the current year
 5665 General Revenue Fund effective appropriations shall be
 5666 appropriated for state-level capital outlay, including
 5667 infrastructure improvement and general renovation, maintenance,
 5668 and repairs.

5669 (b)1. The trust funds shall consist of moneys received by



HB 1803

2003

5670 the state which under law or under trust agreement are
5671 segregated for a purpose authorized by law. The state agency or
5672 branch of state government receiving or collecting such moneys
5673 shall be responsible for their proper expenditure as provided by
5674 law. Upon the request of the state agency or branch of state
5675 government responsible for the administration of the trust fund,
5676 the Chief Financial Officer ~~Comptroller~~ may establish accounts
5677 within the trust fund at a level considered necessary for proper
5678 accountability. Once an account is established within a trust
5679 fund, the Chief Financial Officer ~~Comptroller~~ may authorize
5680 payment from that account only upon determining that there is
5681 sufficient cash and releases at the level of the account.

5682 2. In order to maintain a minimum number of trust funds in
5683 the State Treasury, each state agency or the judicial branch may
5684 consolidate, if permitted under the terms and conditions of
5685 their receipt, the trust funds administered by it; provided,
5686 however, the agency or judicial branch employs effectively a
5687 uniform system of accounts sufficient to preserve the integrity
5688 of such trust funds; and provided, further, that consolidation
5689 of trust funds is approved by the Governor or the Chief Justice.

5690 3. All such moneys are hereby appropriated to be expended
5691 in accordance with the law or trust agreement under which they
5692 were received, subject always to the provisions of chapter 216
5693 relating to the appropriation of funds and to the applicable
5694 laws relating to the deposit or expenditure of moneys in the
5695 State Treasury.

5696 4.a. Notwithstanding any provision of law restricting the
5697 use of trust funds to specific purposes, unappropriated cash
5698 balances from selected trust funds may be authorized by the
5699 Legislature for transfer to the Budget Stabilization Fund and



HB 1803

2003

5700 Working Capital Fund in the General Appropriations Act.

5701 b. This subparagraph does not apply to trust funds
 5702 required by federal programs or mandates; trust funds
 5703 established for bond covenants, indentures, or resolutions whose
 5704 revenues are legally pledged by the state or public body to meet
 5705 debt service or other financial requirements of any debt
 5706 obligations of the state or any public body; the State
 5707 Transportation Trust Fund; the trust fund containing the net
 5708 annual proceeds from the Florida Education Lotteries; the
 5709 Florida Retirement System Trust Fund; trust funds under the
 5710 management of the Board of Regents, where such trust funds are
 5711 for auxiliary enterprises, self-insurance, and contracts,
 5712 grants, and donations, as those terms are defined by general
 5713 law; trust funds that serve as clearing funds or accounts for
 5714 the Chief Financial Officer ~~Comptroller~~ or state agencies; trust
 5715 funds that account for assets held by the state in a trustee
 5716 capacity as an agent or fiduciary for individuals, private
 5717 organizations, or other governmental units; and other trust
 5718 funds authorized by the State Constitution.

5719 (c)1. The Budget Stabilization Fund shall consist of
 5720 amounts equal to at least 5 percent of net revenue collections
 5721 for the General Revenue Fund during the last completed fiscal
 5722 year. The Budget Stabilization Fund's principal balance shall
 5723 not exceed an amount equal to 10 percent of the last completed
 5724 fiscal year's net revenue collections for the General Revenue
 5725 Fund. As used in this paragraph, the term "last completed fiscal
 5726 year" means the most recently completed fiscal year prior to the
 5727 regular legislative session at which the Legislature considers
 5728 the General Appropriations Act for the year in which the
 5729 transfer to the Budget Stabilization Fund must be made under



HB 1803

2003

5730 this paragraph.

5731 2. By September 15 of each year, the Governor shall
5732 authorize the Chief Financial Officer ~~Comptroller~~ to transfer,
5733 and the Chief Financial Officer ~~Comptroller~~ shall transfer
5734 pursuant to appropriations made by law, to the Budget
5735 Stabilization Fund the amount of money needed for the balance of
5736 that fund to equal the amount specified in subparagraph 1., less
5737 any amounts expended and not restored. The moneys needed for
5738 this transfer may be appropriated by the Legislature from any
5739 funds.

5740 3. Unless otherwise provided in this subparagraph, an
5741 expenditure from the Budget Stabilization Fund must be restored
5742 pursuant to a restoration schedule that provides for making five
5743 equal annual transfers from the General Revenue Fund, beginning
5744 in the fiscal year following that in which the expenditure was
5745 made. For any Budget Stabilization Fund expenditure, the
5746 Legislature may establish by law a different restoration
5747 schedule and such change may be made at any time during the
5748 restoration period. Moneys are hereby appropriated for transfers
5749 pursuant to this subparagraph.

5750 4. The Budget Stabilization Fund and the Working Capital
5751 Fund may be used as revolving funds for transfers as provided in
5752 s. 17.61 ~~18.125~~; however, any interest earned must be deposited
5753 in the General Revenue Fund.

5754 5. The Chief Financial Officer ~~Comptroller~~ and the
5755 Department of Management Services shall transfer funds to water
5756 management districts to pay eligible water management district
5757 employees for all benefits due under s. 373.6065, as long as
5758 funds remain available for the program described under s.
5759 100.152.



HB 1803

2003

5760 (d) The Working Capital Fund shall consist of moneys in
 5761 the General Revenue Fund which are in excess of the amount
 5762 needed to meet General Revenue Fund appropriations for the
 5763 current fiscal year. Each year, no later than the publishing
 5764 date of the annual financial statements for the state by the
 5765 Chief Financial Officer ~~Comptroller~~ under s. 216.102, funds
 5766 shall be transferred between the Working Capital Fund and the
 5767 General Revenue Fund to establish the balance of the Working
 5768 Capital Fund for that fiscal year at the amount determined
 5769 pursuant to this paragraph.

5770 Section 206. Subsections (2) and (3) of section 215.3206,
 5771 Florida Statutes, are amended to read:

5772 215.3206 Trust funds; termination or re-creation.--

5773 (2) If the trust fund is terminated and not immediately
 5774 re-created, all cash balances and income of the trust fund shall
 5775 be deposited into the General Revenue Fund. The agency or Chief
 5776 Justice shall pay any outstanding debts of the trust fund as
 5777 soon as practicable, and the Chief Financial Officer ~~Comptroller~~
 5778 shall close out and remove the trust fund from the various state
 5779 accounting systems, using generally accepted accounting
 5780 practices concerning warrants outstanding, assets, and
 5781 liabilities. No appropriation or budget amendment shall be
 5782 construed to authorize any encumbrance of funds from a trust
 5783 fund after the date on which the trust fund is terminated or is
 5784 judicially determined to be invalid.

5785 (3) On or before September 1 of each year, the Chief
 5786 Financial Officer ~~Comptroller~~ shall submit to the Executive
 5787 Office of the Governor, the President of the Senate, and the
 5788 Speaker of the House of Representatives a list of trust funds
 5789 that are scheduled to terminate within 12 months after that date



HB 1803

2003

5790 and also, beginning September 1, 1996, a list of all trust funds
 5791 that are exempt from automatic termination pursuant to the
 5792 provisions of s. 19(f)(3), Art. III of the State Constitution,
 5793 listing revenues of the trust funds by major revenue category
 5794 for each of the last 4 fiscal years.

5795 Section 207. Paragraph (a) of subsection (2) of section
 5796 215.3208, Florida Statutes, is amended to read:

5797 215.3208 Trust funds; legislative review.--

5798 (2)(a) When the Legislature terminates a trust fund, the
 5799 agency or branch of state government that administers the trust
 5800 fund shall pay any outstanding debts or obligations of the trust
 5801 fund as soon as practicable, and the Chief Financial Officer
 5802 ~~Comptroller~~ shall close out and remove the trust fund from the
 5803 various state accounting systems, using generally accepted
 5804 accounting principles concerning assets, liabilities, and
 5805 warrants outstanding.

5806 Section 208. Subsections (2), (3), and (4) of section
 5807 215.322, Florida Statutes, are amended to read:

5808 215.322 Acceptance of credit cards, charge cards, or debit
 5809 cards by state agencies, units of local government, and the
 5810 judicial branch.--

5811 (2) A state agency as defined in s. 216.011, or the
 5812 judicial branch, may accept credit cards, charge cards, or debit
 5813 cards in payment for goods and services with the prior approval
 5814 of the Chief Financial Officer ~~Treasurer~~. When the Internet or
 5815 other related electronic methods are to be used as the
 5816 collection medium, the State Technology Office shall review and
 5817 recommend to the Chief Financial Officer ~~Treasurer~~ whether to
 5818 approve the request with regard to the process or procedure to
 5819 be used.



HB 1803

2003

5820 (3) The Chief Financial Officer ~~Treasurer~~ shall adopt
5821 rules governing the establishment and acceptance of credit
5822 cards, charge cards, or debit cards by state agencies or the
5823 judicial branch, including, but not limited to, the following:

5824 (a) Utilization of a standardized contract between the
5825 financial institution or other appropriate intermediaries and
5826 the agency or judicial branch which shall be developed by the
5827 Chief Financial Officer ~~Treasurer~~ or approval by the Chief
5828 Financial Officer ~~Treasurer~~ of a substitute agreement.

5829 (b) Procedures which permit an agency or officer accepting
5830 payment by credit card, charge card, or debit card to impose a
5831 convenience fee upon the person making the payment. However, the
5832 total amount of such convenience fees shall not exceed the total
5833 cost to the state agency. A convenience fee is not refundable to
5834 the payor. Notwithstanding the foregoing, this section shall not
5835 be construed to permit surcharges on any other credit card
5836 purchase in violation of s. 501.0117.

5837 (c) All service fees payable pursuant to this section when
5838 practicable shall be invoiced and paid by state warrant or such
5839 other manner that is satisfactory to the Chief Financial Officer
5840 ~~Comptroller~~ in accordance with the time periods specified in s.
5841 215.422.

5842 (d) Submission of information to the Chief Financial
5843 Officer ~~Treasurer~~ concerning the acceptance of credit cards,
5844 charge cards, or debit cards by all state agencies or the
5845 judicial branch.

5846 (e) A methodology for agencies to use when completing the
5847 cost-benefit analysis referred to in subsection (1). The
5848 methodology must consider all quantifiable cost reductions,
5849 other benefits to the agency, and potential impact on general



HB 1803

2003

5850 revenue. The methodology must also consider nonquantifiable
5851 benefits such as the convenience to individuals and businesses
5852 that would benefit from the ability to pay for state goods and
5853 services through the use of credit cards, charge cards, and
5854 debit cards.

5855 (4) The Chief Financial Officer ~~may Treasurer is~~
5856 ~~authorized to~~ establish contracts with one or more financial
5857 institutions, credit card companies, or other entities which may
5858 lawfully provide such services, in a manner consistent with
5859 chapter 287, for processing credit card, charge card, or debit
5860 card collections for deposit into the State Treasury or another
5861 qualified public depository. Any state agency, or the judicial
5862 branch, which accepts payment by credit card, charge card, or
5863 debit card shall use at least one of the contractors established
5864 by the Chief Financial Officer ~~Treasurer~~ unless the state agency
5865 or judicial branch obtains authorization from the Chief
5866 Financial Officer ~~Treasurer~~ to use another contractor which is
5867 more advantageous to such state agency or the judicial branch.
5868 Such contracts may authorize a unit of local government to use
5869 the services upon the same terms and conditions for deposit of
5870 credit card, charge card, or debit card transactions into its
5871 qualified public depositories.

5872 Section 209. Subsections (1) and (2) of section 215.34,
5873 Florida Statutes, are amended to read:

5874 215.34 State funds; noncollectible items; procedure.--

5875 (1) Any check, draft, or other order for the payment of
5876 money in payment of any licenses, fees, taxes, commissions, or
5877 charges of any sort authorized to be made under the laws of the
5878 state and deposited in the State Treasury as provided herein,
5879 which may be returned for any reason by the bank or other payor



HB 1803

2003

5880 upon which same shall have been drawn shall be forthwith
5881 returned by the Chief Financial Officer ~~State Treasurer~~ for
5882 collection to the state officer, the state agency, or the entity
5883 of the judicial branch making the deposit. In such case, the
5884 Chief Financial Officer may ~~Treasurer is hereby authorized to~~
5885 issue a debit memorandum charging an account of the agency,
5886 officer, or entity of the judicial branch which originally
5887 received the payment. The original of the debit memorandum
5888 shall state the reason for the return of the check, draft, or
5889 other order and shall accompany the item being returned to the
5890 officer, agency, or entity of the judicial branch being charged,
5891 ~~and a copy of the debit memorandum shall be sent to the~~
5892 ~~Comptroller~~. The officer, agency, or entity of the judicial
5893 branch receiving the charged-back item shall prepare a journal
5894 transfer which shall debit the charge against the fund or
5895 account to which the same shall have been originally credited.
5896 Such procedure for handling noncollectible items shall not be
5897 construed as paying funds out of the State Treasury without an
5898 appropriation, but shall be considered as an administrative
5899 procedure for the efficient handling of state records and
5900 accounts.

5901 (2) Whenever a check, draft, or other order for the
5902 payment of money is returned by the Chief Financial Officer
5903 ~~State Treasurer~~, or by a qualified public depository as defined
5904 in s. 280.02, to a state officer, a state agency, or the
5905 judicial branch for collection, the officer, agency, or judicial
5906 branch shall add to the amount due a service fee of \$15 or 5
5907 percent of the face amount of the check, draft, or order,
5908 whichever is greater. An agency or the judicial branch may
5909 adopt a rule which prescribes a lesser maximum service fee,



HB 1803

2003

5910 which shall be added to the amount due for the dishonored check,
 5911 draft, or other order tendered for a particular service,
 5912 license, tax, fee, or other charge, but in no event shall the
 5913 fee be less than \$15. The service fee shall be in addition to
 5914 all other penalties imposed by law, except that when other
 5915 charges or penalties are imposed by an agency related to a
 5916 noncollectible item, the amount of the service fee shall not
 5917 exceed \$150. Proceeds from this fee shall be deposited in the
 5918 same fund as the collected item. Nothing in this section shall
 5919 be construed as authorization to deposit moneys outside the
 5920 State Treasury unless specifically authorized by law.

5921 Section 210. Section 215.35, Florida Statutes, is amended
 5922 to read:

5923 215.35 State funds; warrants and their issuance.--All
 5924 warrants issued by the Chief Financial Officer ~~Comptroller~~ shall
 5925 be numbered in chronological order commencing with number one in
 5926 each fiscal year and each warrant shall refer to the Chief
 5927 Financial Officer's ~~Comptroller's~~ voucher by the number thereof,
 5928 which voucher shall also be numbered as above set forth. Each
 5929 warrant shall state the name of the payee thereof and the amount
 5930 allowed, and said warrant shall be stated in words at length.
 5931 No warrant shall issue until same has been authorized by an
 5932 appropriation made by law but such warrant need not state or set
 5933 forth such authorization. The Chief Financial Officer
 5934 ~~Comptroller~~ shall register and maintain a record of each warrant
 5935 in his or her office. The record shall show the funds,
 5936 accounts, purposes, and departments involved in the issuance of
 5937 each warrant. In those instances where the expenditure of funds
 5938 of regulatory boards or commissions has been provided for by
 5939 laws other than the annual appropriations bill, warrants shall



HB 1803

2003

5940 be issued upon requisition to the Chief Financial Officer ~~State~~
 5941 ~~Comptroller~~ by the governing body of such board or commission.

5942 Section 211. Section 215.405, Florida Statutes, is amended
 5943 to read:

5944 215.405 State agencies and the judicial branch authorized
 5945 to collect costs of fingerprinting.--Any state agency, or the
 5946 judicial branch, exercising regulatory authority and authorized
 5947 to take fingerprints of persons within or seeking to come within
 5948 such agency's or the judicial branch's regulatory power may
 5949 collect from the person or entity on whose behalf the
 5950 fingerprints were submitted the actual costs of processing such
 5951 fingerprints including, but not limited to, any charges imposed
 5952 by the Department of Law Enforcement or any agency or branch of
 5953 the United States Government. This provision shall constitute
 5954 express authority for state agencies and the judicial branch to
 5955 collect the actual costs of processing the fingerprints either
 5956 prior to or subsequent to the actual processing and shall
 5957 supersede any other law to the contrary. To administer the
 5958 provisions of this section, a state agency, or the judicial
 5959 branch, electing to collect the cost of fingerprinting is
 5960 empowered to promulgate and adopt rules to establish the amounts
 5961 and the methods of payment needed to collect such costs.
 5962 Collections made under these provisions shall be deposited with
 5963 the Chief Financial Officer ~~Treasurer~~ to an appropriate trust
 5964 fund account to be designated by the Executive Office of the
 5965 Governor.

5966 Section 212. Section 215.42, Florida Statutes, is amended
 5967 to read:

5968 215.42 Purchases from appropriations, proof of delivery.--
 5969 The Chief Financial Officer ~~State Comptroller~~ may require proof,



HB 1803

2003

5970 as he or she deems necessary, of delivery and receipt of
 5971 purchases before honoring any voucher for payment from
 5972 appropriations made in the General Appropriations Act or
 5973 otherwise provided by law.

5974 Section 213. Section 215.422, Florida Statutes, is amended
 5975 to read:

5976 215.422 Warrants, vouchers, and invoices; processing time
 5977 limits; dispute resolution; agency or judicial branch
 5978 compliance.--

5979 (1) The voucher authorizing payment of an invoice
 5980 submitted to an agency of the state or the judicial branch,
 5981 required by law to be filed with the Chief Financial Officer
 5982 ~~Comptroller~~, shall be filed with the Chief Financial Officer
 5983 ~~Comptroller~~ not later than 20 days after receipt of the invoice
 5984 and receipt, inspection, and approval of the goods or services,
 5985 except that in the case of a bona fide dispute the voucher shall
 5986 contain a statement of the dispute and authorize payment only in
 5987 the amount not disputed. The Chief Financial Officer
 5988 ~~Comptroller~~ may establish dollar thresholds and other criteria
 5989 for all invoices and may delegate to a state agency or the
 5990 judicial branch responsibility for maintaining the official
 5991 vouchers and documents for invoices which do not exceed the
 5992 thresholds or which meet the established criteria. Such records
 5993 shall be maintained in accordance with the requirements
 5994 established by the Secretary of State. The electronic payment
 5995 request transmission to the Chief Financial Officer ~~Comptroller~~
 5996 shall constitute filing of a voucher for payment of invoices for
 5997 which the Chief Financial Officer ~~Comptroller~~ has delegated to
 5998 an agency custody of official records. Approval and inspection
 5999 of goods or services shall take no longer than 5 working days



HB 1803

2003

6000 unless the bid specifications, purchase order, or contract
6001 specifies otherwise. If a voucher filed within the 20-day
6002 period is returned by the Department of Financial Services
6003 ~~Banking and Finance~~ because of an error, it shall nevertheless
6004 be deemed timely filed. The 20-day filing requirement may be
6005 waived in whole or in part by the Department of Financial
6006 Services ~~Banking and Finance~~ on a showing of exceptional
6007 circumstances in accordance with rules and regulations of the
6008 department. For the purposes of determining the receipt of
6009 invoice date, the agency or the judicial branch is deemed to
6010 receive an invoice on the date on which a proper invoice is
6011 first received at the place designated by the agency or the
6012 judicial branch. The agency or the judicial branch is deemed to
6013 receive an invoice on the date of the invoice if the agency or
6014 the judicial branch has failed to annotate the invoice with the
6015 date of receipt at the time the agency or the judicial branch
6016 actually received the invoice or failed at the time the order is
6017 placed or contract made to designate a specific location to
6018 which the invoice must be delivered.

6019 (2) The warrant in payment of an invoice submitted to an
6020 agency of the state or the judicial branch shall be issued not
6021 later than 10 days after filing of the voucher authorizing
6022 payment. However, this requirement may be waived in whole or in
6023 part by the Department of Financial Services ~~Banking and Finance~~
6024 on a showing of exceptional circumstances in accordance with
6025 rules and regulations of the department. If the 10-day period
6026 contains fewer than 6 working days, the Department of Financial
6027 Services ~~Banking and Finance~~ shall be deemed in compliance with
6028 this subsection if the warrant is issued within 6 working days
6029 without regard to the actual number of calendar days. For



HB 1803

2003

6030 purposes of this section, a payment is deemed to be issued on
6031 the first working day that payment is available for delivery or
6032 mailing to the vendor.

6033 (3)(a) Each agency of the state or the judicial branch
6034 which is required by law to file vouchers with the Chief
6035 Financial Officer ~~Comptroller~~ shall keep a record of the date of
6036 receipt of the invoice; dates of receipt, inspection, and
6037 approval of the goods or services; date of filing of the
6038 voucher; and date of issuance of the warrant in payment thereof.
6039 If the voucher is not filed or the warrant is not issued within
6040 the time required, an explanation in writing by the agency head
6041 or the Chief Justice shall be submitted to the Department of
6042 Financial Services ~~Banking and Finance~~ in a manner prescribed by
6043 it. Agencies and the judicial branch shall continue to deliver
6044 or mail state payments promptly.

6045 (b) If a warrant in payment of an invoice is not issued
6046 within 40 days after receipt of the invoice and receipt,
6047 inspection, and approval of the goods and services, the agency
6048 or judicial branch shall pay to the vendor, in addition to the
6049 amount of the invoice, interest at a rate as established
6050 pursuant to s. 55.03(1) on the unpaid balance from the
6051 expiration of such 40-day period until such time as the warrant
6052 is issued to the vendor. Such interest shall be added to the
6053 invoice at the time of submission to the Chief Financial Officer
6054 ~~Comptroller~~ for payment whenever possible. If addition of the
6055 interest penalty is not possible, the agency or judicial branch
6056 shall pay the interest penalty payment within 15 days after
6057 issuing the warrant. The provisions of this paragraph apply only
6058 to undisputed amounts for which payment has been authorized.
6059 Disputes shall be resolved in accordance with rules developed



HB 1803

2003

6060 and adopted by the Chief Justice for the judicial branch, and
6061 rules adopted by the Department of Financial Services ~~Banking~~
6062 ~~and Finance~~ or in a formal administrative proceeding before an
6063 administrative law judge of the Division of Administrative
6064 Hearings for state agencies, provided that, for the purposes of
6065 ss. 120.569 and 120.57(1), no party to a dispute involving less
6066 than \$1,000 in interest penalties shall be deemed to be
6067 substantially affected by the dispute or to have a substantial
6068 interest in the decision resolving the dispute. In the case of
6069 an error on the part of the vendor, the 40-day period shall
6070 begin to run upon receipt by the agency or the judicial branch
6071 of a corrected invoice or other remedy of the error. The
6072 provisions of this paragraph do not apply when the filing
6073 requirement under subsection (1) or subsection (2) has been
6074 waived in whole by the Department of Financial Services ~~Banking~~
6075 ~~and Finance~~. The various state agencies and the judicial branch
6076 shall be responsible for initiating the penalty payments
6077 required by this subsection and shall use this subsection as
6078 authority to make such payments. The budget request submitted to
6079 the Legislature shall specifically disclose the amount of any
6080 interest paid by any agency or the judicial branch pursuant to
6081 this subsection. The temporary unavailability of funds to make a
6082 timely payment due for goods or services does not relieve an
6083 agency or the judicial branch from the obligation to pay
6084 interest penalties under this section.

6085 (c) An agency or the judicial branch may make partial
6086 payments to a contractor upon partial delivery of goods or
6087 services or upon partial completion of construction when a
6088 request for such partial payment is made by the contractor and
6089 approved by the agency. Provisions of this section and rules of



HB 1803

2003

6090 the Department of Financial Services ~~Banking and Finance~~ shall
6091 apply to partial payments in the same manner as they apply to
6092 full payments.

6093 (4) If the terms of the invoice provide a discount for
6094 payment in less than 30 days, agencies of the state and the
6095 judicial branch shall preferentially process it and use all
6096 diligence to obtain the saving by compliance with the invoice
6097 terms.

6098 (5) All purchasing agreements between a state agency or
6099 the judicial branch and a vendor, applicable to this section,
6100 shall include a statement of the vendor's rights and the state's
6101 responsibilities under this section. The vendor's rights shall
6102 include being provided with the telephone number of the vendor
6103 ombudsman within the Department of Financial Services ~~Banking
6104 and Finance~~, which information shall also be placed on all
6105 agency or judicial branch purchase orders.

6106 (6) The Department of Financial Services ~~Banking and
6107 Finance~~ shall monitor each agency's and the judicial branch's
6108 compliance with the time limits and interest penalty provisions
6109 of this section. The department shall provide a report to an
6110 agency or to the judicial branch if the department determines
6111 that the agency or the judicial branch has failed to maintain an
6112 acceptable rate of compliance with the time limits and interest
6113 penalty provisions of this section. The department shall
6114 establish criteria for determining acceptable rates of
6115 compliance. The report shall also include a list of late
6116 vouchers or payments, the amount of interest owed or paid, and
6117 any corrective actions recommended. The department shall
6118 perform monitoring responsibilities, pursuant to this section,
6119 using the Management Services and Purchasing Subsystem or the



HB 1803

2003

6120 Florida Accounting Information Resource Subsystem provided in s.
 6121 215.94. Each agency and the judicial branch shall be
 6122 responsible for the accuracy of information entered into the
 6123 Management Services and Purchasing Subsystem and the Florida
 6124 Accounting Information Resource Subsystem for use in this
 6125 monitoring.

6126 (7) There is created a vendor ombudsman within the
 6127 Department of Financial Services ~~Banking and Finance~~ who shall
 6128 be responsible for the following functions:

6129 (a) Performing the duties of the department pursuant to
 6130 subsection (6).

6131 (b) Reviewing requests for waivers due to exceptional
 6132 circumstances.

6133 (c) Disseminating information relative to the prompt
 6134 payment policies of this state and assisting vendors in
 6135 receiving their payments in a timely manner.

6136 (d) Performing such other duties as determined by the
 6137 department.

6138 (8) The Department of Financial Services ~~Banking and~~
 6139 ~~Finance~~ is authorized and directed to adopt and promulgate rules
 6140 and regulations to implement this section and for resolution of
 6141 disputes involving amounts of less than \$1,000 in interest
 6142 penalties for state agencies. No agency or the judicial branch
 6143 shall adopt any rule or policy that is inconsistent with this
 6144 section or the Department of Financial Services' ~~Banking and~~
 6145 ~~Finance's~~ rules or policies.

6146 (9) Each agency and the judicial branch shall include in
 6147 the official position description of every officer or employee
 6148 who is responsible for the approval or processing of vendors'
 6149 invoices or distribution of warrants to vendors that the



HB 1803

2003

6150 requirements of this section are mandatory.

6151 (10) Persistent failure to comply with this section by any
6152 agency of the state or the judicial branch shall constitute good
6153 cause for discharge of employees duly found responsible, or
6154 predominantly responsible, for failure to comply.

6155 (11) Travel and other reimbursements to state officers and
6156 employees must be the same as payments to vendors under this
6157 section, except payment of Class C travel subsistence. Class C
6158 travel subsistence shall be paid in accordance with the schedule
6159 established by the Chief Financial Officer ~~Comptroller~~ pursuant
6160 to s. 112.061(5)(b). This section does not apply to payments
6161 made to state agencies, the judicial branch, or the legislative
6162 branch.

6163 (12) In the event that a state agency or the judicial
6164 branch contracts with a third party, uses a revolving fund, or
6165 pays from a local bank account to process and pay invoices for
6166 goods or services, all requirements for financial obligations
6167 and time processing set forth in this section shall be
6168 applicable and the state agency or the judicial branch shall be
6169 responsible for paying vendors the interest assessed for
6170 untimely payment. The state agency or the judicial branch may,
6171 through its contract with a third party, require the third party
6172 to pay interest from the third party's funds.

6173 (13) Notwithstanding the provisions of subsections (3) and
6174 (12), in order to alleviate any hardship that may be caused to a
6175 health care provider as a result of delay in receiving
6176 reimbursement for services, any payment or payments for
6177 hospital, medical, or other health care services which are to be
6178 reimbursed by a state agency or the judicial branch, either
6179 directly or indirectly, shall be made to the health care



HB 1803

2003

6180 provider not more than 35 days from the date eligibility for
6181 payment of such claim is determined. If payment is not issued
6182 to a health care provider within 35 days after the date
6183 eligibility for payment of the claim is determined, the state
6184 agency or the judicial branch shall pay the health care provider
6185 interest at a rate of 1 percent per month calculated on a
6186 calendar day basis on the unpaid balance from the expiration of
6187 such 35-day period until such time as payment is made to the
6188 health care provider, unless a waiver in whole has been granted
6189 by the Department of Financial Services ~~Banking and Finance~~
6190 pursuant to subsection (1) or subsection (2).

6191 (14) The Chief Financial Officer ~~Comptroller~~ may adopt
6192 rules to authorize advance payments for goods and services,
6193 including, but not limited to, maintenance agreements and
6194 subscriptions. Such rules shall provide objective criteria for
6195 determining when it is in the best interest of the state to make
6196 payments in advance and shall also provide for adequate
6197 protection to ensure that such goods or services will be
6198 provided.

6199 (15) Nothing contained in this section shall be construed
6200 to be an appropriation. Any interest which becomes due and
6201 owing pursuant to this section shall only be payable from the
6202 appropriation charged for such goods or services.

6203 (16) Notwithstanding the provisions of s. 24.120(3),
6204 applicable to warrants issued for payment of invoices submitted
6205 by the Department of the Lottery, the Chief Financial Officer
6206 ~~Comptroller~~ may, by written agreement with the Department of the
6207 Lottery, establish a shorter time requirement than the 10 days
6208 provided in subsection (2) for warrants issued for payment.
6209 Pursuant to such written agreement, the Department of the



HB 1803

2003

6210 Lottery shall reimburse the Chief Financial Officer ~~Comptroller~~
 6211 for costs associated with processing invoices under the
 6212 agreement.

6213 Section 214. Section 215.50, Florida Statutes, is amended
 6214 to read:

6215 215.50 Custody of securities purchased; income.--

6216 (1) All securities purchased or held may, with the
 6217 approval of the board, be in the custody of the Chief Financial
 6218 Officer ~~Treasurer~~ or the Chief Financial Officer ~~Treasurer~~ as
 6219 treasurer ex officio of the board, or be deposited with a bank
 6220 or trust company to be held in safekeeping by such bank or trust
 6221 company for the collection of principal and interest or of the
 6222 proceeds of the sale thereof.

6223 (2) It shall be the duty of the board or of the Chief
 6224 Financial Officer ~~Treasurer~~, as custodian of the securities of
 6225 the board, to collect the interest or other income on, and the
 6226 principal of, such securities in their custody as the sums
 6227 become due and payable and to pay the same, when so collected,
 6228 into the investment account of the fund to which the investments
 6229 belong.

6230 (3) The Chief Financial Officer ~~Treasurer~~, as custodian of
 6231 securities owned by the Florida Retirement System Trust Fund and
 6232 the Florida Survivor Benefit Trust Fund, shall collect the
 6233 interest, dividends, prepayments, maturities, proceeds from
 6234 sales, and other income accruing from such assets. As such
 6235 income is collected by the Chief Financial Officer ~~Treasurer~~, it
 6236 shall be deposited directly into a commercial bank to the credit
 6237 of the State Board of Administration. Such bank accounts as may
 6238 be required for this purpose shall offer satisfactory collateral
 6239 security as provided by chapter 280. In the event funds so



HB 1803

2003

6240 deposited according to the provisions of this section are
6241 required for the purpose of paying benefits or other operational
6242 needs, the State Board of Administration shall remit to the
6243 Florida Retirement System Trust Fund in the State Treasury such
6244 amounts as may be requested by the Department of Management
6245 Services.

6246 (4) Securities that the board selects to use for options
6247 operations under s. 215.45 or for lending under s. 215.47(16)
6248 shall be registered by the Chief Financial Officer ~~Treasurer~~ in
6249 the name of a third-party nominee in order to facilitate such
6250 operations.

6251 Section 215. Section 215.551, Florida Statutes, is amended
6252 to read:

6253 215.551 Federal Use of State Lands Trust Fund; county
6254 distribution.--

6255 (1) The Chief Financial Officer ~~Comptroller~~ may make
6256 distribution of the Federal Use of State Lands Trust Fund, when
6257 so requested by the counties in interest, of such amounts as may
6258 be accumulated in that fund.

6259 (2) The Chief Financial Officer ~~Comptroller~~ shall
6260 ascertain, from the records of the General Land Office or other
6261 departments in Washington, D.C., the number of acres of land
6262 situated in the several counties in which the Apalachicola,
6263 Choctawhatchee, Ocala, and Osceola Forest Reserves are located,
6264 the number of acres of land of such forest reserve embraced in
6265 each of the counties in each of the reserves, and, also, the
6266 amount of money received by the United States Government from
6267 each of the reserves, respectively. The Chief Financial Officer
6268 ~~Comptroller~~ shall apportion the money on hand to each county in
6269 each reserve, respectively and separately; such distribution



HB 1803

2003

6270 shall be based upon the number of acres of land embraced in the
 6271 Apalachicola Forest, Choctawhatchee Forest, Ocala Forest, and
 6272 Osceola Forest, respectively, in each county and shall be
 6273 further based upon the amount collected by the United States
 6274 from each of such forests, so that such distribution, when made,
 6275 will include for each county the amount due each county, based
 6276 upon the receipts for the particular forest and the acreage in
 6277 the particular county in which such forest is located. The
 6278 Chief Financial Officer ~~Comptroller~~ shall issue two warrants ~~on~~
 6279 ~~the Treasurer~~ in each case, the sum of which shall be the amount
 6280 due each of such counties from the fund. One warrant shall be
 6281 payable to the county for the county general road fund, and one
 6282 warrant, of equal amount, shall be payable to such county's
 6283 district school board for the district school fund.

6284 (3) In the event that actual figures of receipts from
 6285 different reserves cannot be obtained by counties, so as to
 6286 fully comply with subsections (1) and(2), the Chief Financial
 6287 Officer ~~Comptroller~~ may adjust the matter according to the
 6288 United States statutes, or as may appear to him or her to be
 6289 just and fair, and with the approval of all counties in
 6290 interest.

6291 (4) The moneys that may be received and credited to the
 6292 Federal Use of State Lands Trust Fund are appropriated for the
 6293 payment of the warrants of the Chief Financial Officer
 6294 ~~Comptroller drawn on the Treasurer~~ in pursuance of this section.

6295 Section 216. Section 215.552, Florida Statutes, is amended
 6296 to read:

6297 215.552 Federal Use of State Lands Trust Fund; land within
 6298 military installations; county distribution.--The Chief
 6299 Financial Officer ~~Comptroller~~ shall distribute moneys from the



HB 1803

2003

6300 Federal Use of State Lands Trust Fund when so requested by the
 6301 counties so affected. The Chief Financial Officer ~~Comptroller~~
 6302 shall apportion the money on hand equal to the percentage of
 6303 land in each county within each military installation, and the
 6304 amount so apportioned to each county shall be applied by such
 6305 counties equally divided between the district school fund and
 6306 the general road fund of such counties.

6307 Section 217. Paragraph (c) of subsection (1), paragraph
 6308 (b) of subsection (2), and paragraph (a) of subsection (3) of
 6309 section 215.56005, Florida Statutes, are amended to read:

6310 215.56005 Tobacco Settlement Financing Corporation.--

6311 (1) DEFINITIONS.--As used in this section:

6312 (c) "Department" means the Department of Financial
 6313 Services ~~Banking and Finance~~ or its successor.

6314 (2) CORPORATION CREATION AND AUTHORITY.--

6315 (b) The corporation shall be governed by a board of
 6316 directors consisting of the Governor, the Chief Financial
 6317 Officer or the Chief Financial Officer's designee ~~Treasurer, the~~
 6318 ~~Comptroller~~, the Attorney General, two directors appointed from
 6319 the membership of the Senate by the President of the Senate, and
 6320 two directors appointed from the membership of the House of
 6321 Representatives by the Speaker of the House of Representatives.
 6322 ~~On January 7, 2003, the board shall include the Chief Financial~~
 6323 ~~Officer or the Chief Financial Officer's designee, in place of~~
 6324 ~~the Treasurer and the Comptroller or their designees.~~ The
 6325 executive director of the State Board of Administration shall be
 6326 the chief executive officer of the corporation and shall direct
 6327 and supervise the administrative affairs and operation of the
 6328 corporation. The corporation shall also have such other
 6329 officers as may be determined by the board of directors.



HB 1803

2003

6330 (3) POWERS OF THE DEPARTMENT.--

6331 (a) The department is authorized, on behalf of the state,
 6332 to do all things necessary or desirable to assist the
 6333 corporation in the execution of the corporation's
 6334 responsibilities, including, but not limited to, processing
 6335 budget amendments against the Department of Financial Services
 6336 ~~Banking and Finance~~ Tobacco Settlement Clearing Trust Fund,
 6337 subject to the requirements of s. 216.177, for the costs and
 6338 expenses of administration of the corporation in an amount not
 6339 to exceed \$500,000; entering into one or more purchase
 6340 agreements to sell to the corporation any or all of the state's
 6341 right, title, and interest in and to the tobacco settlement
 6342 agreement; executing any administrative agreements with the
 6343 corporation to fund the administration, operation, and expenses
 6344 of the corporation from moneys appropriated for such purpose;
 6345 and executing and delivering any and all other documents and
 6346 agreements necessary or desirable in connection with the sale of
 6347 any or all of the state's right, title, and interest in and to
 6348 the tobacco settlement agreement to the corporation or the
 6349 issuance of the bonds by the corporation. The department's
 6350 authority to sell any or all of the state's right, title, and
 6351 interest in and to the tobacco settlement agreement is subject
 6352 to approval by the Legislature in a regular, extended, or
 6353 special session.

6354 Section 218. Subsection (3) and paragraph (a) of
 6355 subsection (5) of section 215.5601, Florida Statutes, are
 6356 amended to read:

6357 215.5601 Lawton Chiles Endowment Fund.--

6358 (3) LAWTON CHILES ENDOWMENT FUND; CREATION; PRINCIPAL.--

6359 (a) There is created the Lawton Chiles Endowment Fund, to



HB 1803

2003

6360 be administered by the State Board of Administration. The
6361 endowment shall serve as a clearing trust fund, not subject to
6362 termination under s. 19(f), Art. III of the State Constitution.
6363 The endowment fund shall be exempt from the service charges
6364 imposed by s. 215.20.

6365 (b) The endowment shall receive moneys from the sale of
6366 the state's right, title, and interest in and to the tobacco
6367 settlement agreement as defined in s. 215.56005, including the
6368 right to receive payments under such agreement, and from
6369 accounts transferred from the Department of Financial Services
6370 ~~Banking and Finance~~ Tobacco Settlement Clearing Trust Fund
6371 established under s. 17.41. Amounts to be transferred from the
6372 Department of Financial Services ~~Banking and Finance~~ Tobacco
6373 Settlement Clearing Trust Fund to the endowment shall be in the
6374 following amounts for the following fiscal years:

- 6375 1. For fiscal year 1999-2000, \$1.1 billion;
- 6376 2. For fiscal year 2000-2001, \$200 million;
- 6377 3. For fiscal year 2001-2002, \$200 million;
- 6378 4. For fiscal year 2002-2003, \$200 million; and

6379 (c) Amounts to be transferred under subparagraphs (b)2.,
6380 3., and 4. may be reduced by an amount equal to the lesser of
6381 \$200 million or the amount the endowment receives in that fiscal
6382 year from the sale of the state's right, title, and interest in
6383 and to the tobacco settlement agreement.

6384 (d) For fiscal year 2001-2002, \$150 million of the
6385 existing principal in the endowment shall be reserved and
6386 accounted for within the endowment, the income from which shall
6387 be used solely for the funding for biomedical research
6388 activities as provided in s. 215.5602. The income from the
6389 remaining principal shall be used solely as the source of



HB 1803

2003

6390 funding for health and human services programs for children and
 6391 elders as provided in subsection (5). The separate account for
 6392 biomedical research shall be dissolved and the entire principal
 6393 in the endowment shall be used exclusively for health and human
 6394 services programs when cures have been found for tobacco-related
 6395 cancer, heart, and lung disease.

6396 (5) AVAILABILITY OF FUNDS; USES.--

6397 (a) Funds from the endowment which are available for
 6398 legislative appropriation shall be transferred by the board to
 6399 the Department of Financial Services ~~Banking and Finance~~ Tobacco
 6400 Settlement Clearing Trust Fund, created in s. 17.41, and
 6401 disbursed in accordance with the legislative appropriation.

6402 1. Appropriations by the Legislature to the Department of
 6403 Health from endowment earnings from the principal set aside for
 6404 biomedical research shall be from a category called the Florida
 6405 Biomedical Research Program and shall be deposited into the
 6406 Biomedical Research Trust Fund in the Department of Health
 6407 established in s. 20.435.

6408 2. Appropriations by the Legislature to the Department of
 6409 Children and Family Services, the Department of Health, or the
 6410 Department of Elderly Affairs for health and human services
 6411 programs shall be from a category called the Lawton Chiles
 6412 Endowment Fund Programs and shall be deposited into each
 6413 department's respective Tobacco Settlement Trust Fund as
 6414 appropriated.

6415 Section 219. Section 215.58, Florida Statutes, is amended
 6416 to read:

6417 215.58 Definitions relating to State Bond Act.--The
 6418 following words or terms when used in this act shall have the
 6419 following meanings:



HB 1803

2003

6420 (1) "Governor" means ~~shall mean~~ the Governor of the state
 6421 or any Acting Governor or other person then exercising the
 6422 duties of the office of Governor.

6423 ~~(2) "Treasurer" shall mean the Insurance Commissioner and~~
 6424 ~~Treasurer.~~

6425 ~~(3) "Comptroller" shall mean the State Comptroller.~~

6426 ~~(2)(4)~~ "State" means ~~shall mean~~ the State of Florida.

6427 ~~(3)(5)~~ "Division" means ~~shall mean~~ the Division of Bond
 6428 Finance.

6429 ~~(4)(6)~~ "Board" means ~~shall mean~~ the governing board of the
 6430 ~~said~~ division, which shall be composed of the Governor and
 6431 Cabinet.

6432 ~~(5)(7)~~ "Director" means ~~shall mean~~ the chief administrator
 6433 of the division, who shall act on behalf of the division when
 6434 authorized by the board, as provided by this act.

6435 ~~(6)(8)~~ "State agency" means ~~shall mean~~ any board,
 6436 commission, authority, or other state agency heretofore or
 6437 hereafter created by the constitution or statutes of the state.

6438 ~~(7)(9)~~ "Bonds" means ~~shall mean~~ state bonds, or any
 6439 revenue bonds, certificates or other obligations heretofore or
 6440 hereafter authorized to be issued by said division or by any
 6441 state agency.

6442 ~~(8)(10)~~ "State bonds" means ~~shall mean~~ bonds pledging the
 6443 full faith and credit of the State of Florida.

6444 ~~(9)(11)~~ "Legislature" means ~~shall mean~~ the State
 6445 Legislature.

6446 ~~(10)(12)~~ "Constitution" means ~~shall mean~~ the existing
 6447 constitution of the state, or any constitution hereafter adopted
 6448 by the people of the state, together with all amendments
 6449 thereof.



HB 1803

2003

6450 (11)~~(13)~~ "Original issue discount" means the amount by
 6451 which the par value of a bond exceeds its public offering price
 6452 at the time it is originally offered to an investor.

6453 (12)~~(14)~~ "Governmental agency" means ~~shall mean~~:

6454 (a) The state or any department, commission, agency, or
 6455 other instrumentality thereof.

6456 (b) Any county or municipality or any department,
 6457 commission, agency, or other instrumentality thereof.

6458 (c) Any school board or special district, authority, or
 6459 governmental entity.

6460 Section 220. Subsections (2), (3), (4), (5), and (8) of
 6461 section 215.684, Florida Statutes, are amended to read:

6462 215.684 Limitation on engaging services of securities
 6463 broker or bond underwriter convicted of fraud.--

6464 (2) Upon notification under chapter 517 that a person or
 6465 firm has been convicted or has pleaded as provided in subsection
 6466 (1), the Chief Financial Officer ~~Comptroller~~ shall issue a
 6467 notice of intent to take action to disqualify such person or
 6468 firm, which notice must state that:

6469 (a) Such person or firm is considered a disqualified
 6470 securities broker or bond underwriter;

6471 (b) A state agency may not enter into a contract with such
 6472 person or firm as a securities broker or bond underwriter for
 6473 any new business for a period of 2 years;

6474 (c) The substantial rights of such person or firm as a
 6475 securities broker or bond underwriter are being affected and the
 6476 person or firm has the rights accorded pursuant to ss. 120.569
 6477 and 120.57; and

6478 (d) Such person or firm may petition to mitigate the
 6479 duration of his or her disqualification, based on the criteria



HB 1803

2003

6480 established in subsection (3) and may request that such
6481 mitigation be considered as part of any hearing under ss.
6482 120.569 and 120.57.

6483 (3) The Chief Financial Officer ~~Comptroller~~ shall decide,
6484 based on the following criteria, whether or not to mitigate the
6485 duration of the disqualification:

6486 (a) The nature and details of the crime;

6487 (b) The degree of culpability of the person or firm
6488 proposed to be requalified;

6489 (c) Prompt or voluntary payment of any damages or penalty
6490 as a result of the conviction and disassociation from any other
6491 person or firm involved in the crimes of fraud;

6492 (d) Cooperation with state or federal investigation or
6493 prosecution of the crime of fraud;

6494 (e) Prior or future self-policing by the person or firm to
6495 prevent crimes of fraud; and

6496 (f) Reinstatement or clemency in any jurisdiction in
6497 relation to the crime at issue in the proceeding.

6498 (4) If the Chief Financial Officer ~~Comptroller~~ in his or
6499 her sole discretion decides to mitigate the duration of the
6500 disqualification based on the foregoing, the duration of
6501 disqualification shall be for any period the Chief Financial
6502 Officer ~~Comptroller~~ specifies up to 2 years from the date of the
6503 person's or firm's conviction or plea. If the Chief Financial
6504 Officer ~~Comptroller~~ refuses to mitigate the duration of the
6505 disqualification, such person or firm may again file for
6506 mitigation no sooner than 9 months after denial by the Chief
6507 Financial Officer ~~Comptroller~~.

6508 (5) Notwithstanding subsection (4), a firm or person at
6509 any time may petition the Chief Financial Officer ~~Comptroller~~



HB 1803

2003

6510 for termination of the disqualification based upon a reversal of
 6511 the conviction of the firm or person by an appellate court or a
 6512 pardon.

6513 (8) Except when otherwise provided by law for crimes of
 6514 fraud with respect to the transaction of business with any
 6515 public entity or with an agency or political subdivision of any
 6516 other state or with the United States, this act constitutes the
 6517 sole authorization for determining when a person or firm
 6518 convicted or having pleaded guilty or nolo contendere to the
 6519 crime of fraud may not be engaged to provide services as a
 6520 securities broker or bond underwriter with the state. Nothing
 6521 in this act shall be construed to affect the authority granted
 6522 the Chief Financial Officer ~~Comptroller~~ under chapter 517 to
 6523 revoke or suspend the license of such securities dealer or bond
 6524 underwriter.

6525 Section 221. Subsection (4) of section 215.70, Florida
 6526 Statutes, is amended to read:

6527 215.70 State Board of Administration to act in case of
 6528 defaults.--

6529 (4) Whenever it becomes necessary for state funds to be
 6530 appropriated for the payment of principal or interest on bonds
 6531 which have been issued by the Division of Bond Finance on behalf
 6532 of any local government or authority and for which the full
 6533 faith and credit of the state has been pledged, any state shared
 6534 revenues otherwise earmarked for the local government or
 6535 authority shall be used by the Chief Financial Officer
 6536 ~~Comptroller~~ to reimburse the state, until the local government
 6537 or authority has reimbursed the state in full.

6538 Section 222. Subsection (4) of section 215.91, Florida
 6539 Statutes, is amended to read:



HB 1803

2003

6540 215.91 Florida Financial Management Information System;
6541 board; council.--

6542 (4) The council shall provide ongoing counsel to the board
6543 and act to resolve problems among or between the functional
6544 owner subsystems. The board, through the coordinating council,
6545 shall direct and manage the development, implementation, and
6546 operation of the information subsystems that together are the
6547 Florida Financial Management Information System. The
6548 coordinating council shall approve the information subsystems'
6549 designs prior to the development, implementation, and operation
6550 of the subsystems and shall approve subsequent proposed design
6551 modifications to the information subsystems subject to the
6552 guidelines issued by the council. The coordinating council
6553 shall ensure that the information subsystems' operations support
6554 the exchange of unified and coordinated data between information
6555 subsystems. The coordinating council shall establish the common
6556 data codes for financial management, and it shall require and
6557 ensure the use of common data codes by the information
6558 subsystems that together constitute the Florida Financial
6559 Management Information System. The Chief Financial Officer
6560 ~~Comptroller~~ shall adopt a chart of accounts consistent with the
6561 common financial management data codes established by the
6562 coordinating council. The board, through the coordinating
6563 council, shall establish the financial management policies and
6564 procedures for the executive branch of state government. The
6565 coordinating council shall notify in writing the chairs of the
6566 legislative fiscal committees and the Chief Justice of the
6567 Supreme Court regarding the adoption of, or modification to, a
6568 proposed financial management policy or procedure. The notice
6569 shall solicit comments from the chairs of the legislative fiscal



HB 1803

2003

6570 committees and the Chief Justice of the Supreme Court at least
 6571 14 consecutive days before the final action by the coordinating
 6572 council.

6573 Section 223. Subsection (5) of section 215.92, Florida
 6574 Statutes, is amended to read:

6575 215.92 Definitions relating to Florida Financial
 6576 Management Information System Act.--For the purposes of ss.
 6577 215.90-215.96:

6578 (5) "Design and coordination staff" means the personnel
 6579 responsible for providing administrative and clerical support to
 6580 the board, coordinating council, and secretary to the board.
 6581 The design and coordination staff shall function as the agency
 6582 clerk for the board and the coordinating council. For
 6583 administrative purposes, the design and coordination staff are
 6584 assigned to the Department of Financial Services ~~Banking and~~
 6585 ~~Finance~~ but they are functionally assigned to the board.

6586 Section 224. Subsection (3) of section 215.93, Florida
 6587 Statutes, is amended to read:

6588 215.93 Florida Financial Management Information System.--

6589 (3) The Florida Financial Management Information System
 6590 shall include financial management data and utilize the chart of
 6591 accounts approved by the Chief Financial Officer ~~Comptroller~~.
 6592 Common financial management data shall include, but not be
 6593 limited to, data codes, titles, and definitions used by one or
 6594 more of the functional owner subsystems. The Florida Financial
 6595 Management Information System shall utilize common financial
 6596 management data codes. The council shall recommend and the
 6597 board shall adopt policies regarding the approval and
 6598 publication of the financial management data. The Chief
 6599 Financial Officer ~~Comptroller~~ shall adopt policies regarding the



HB 1803

2003

6600 approval and publication of the chart of accounts. The Chief
 6601 Financial Officer's ~~Comptroller's~~ chart of accounts shall be
 6602 consistent with the common financial management data codes
 6603 established by the coordinating council. Further, all systems
 6604 not a part of the Florida Financial Management Information
 6605 System which provide information to the system shall use the
 6606 common data codes from the Florida Financial Management
 6607 Information System and the Chief Financial Officer's
 6608 ~~Comptroller's~~ chart of accounts. Data codes that cannot be
 6609 supplied by the Florida Financial Management Information System
 6610 and the Chief Financial Officer's ~~Comptroller's~~ chart of
 6611 accounts and that are required for use by the information
 6612 subsystems shall be approved by the board upon recommendation of
 6613 the coordinating council. However, board approval shall not be
 6614 required for those data codes specified by the Auditor General
 6615 under the provisions of s. 215.94(6)(c).

6616 Section 225. Subsections (2) and (3) and paragraph (a) of
 6617 subsection (5) of section 215.94, Florida Statutes, are amended
 6618 to read:

6619 215.94 Designation, duties, and responsibilities of
 6620 functional owners.--

6621 (2) The Department of Financial Services ~~Banking and~~
 6622 ~~Finance~~ shall be the functional owner of the Florida Accounting
 6623 Information Resource Subsystem established pursuant to ss.
 6624 17.03, 215.86, 216.141, and 216.151 and further developed in
 6625 accordance with the provisions of ss. 215.90-215.96. The
 6626 subsystem shall include, but shall not be limited to, the
 6627 following functions:

6628 (a) Accounting and reporting so as to provide timely data
 6629 for producing financial statements for the state in accordance



HB 1803

2003

6630 with generally accepted accounting principles.

6631 (b) Auditing and settling claims against the state.

6632 (3) The Chief Financial Officer ~~Treasurer~~ shall be the
6633 functional owner of the Cash Management Subsystem. The Chief
6634 Financial Officer ~~Treasurer~~ shall design, implement, and operate
6635 the subsystem in accordance with the provisions of ss. 215.90-
6636 215.96. The subsystem shall include, but shall not be limited
6637 to, functions for:

6638 (a) Recording and reconciling credits and debits to
6639 treasury fund accounts.

6640 (b) Monitoring cash levels and activities in state bank
6641 accounts.

6642 (c) Monitoring short-term investments of idle cash.

6643 (d) Administering the provisions of the Federal Cash
6644 Management Improvement Act of 1990.

6645 (5) The Department of Management Services shall be the
6646 functional owner of the Cooperative Personnel Employment
6647 Subsystem. The department shall design, implement, and operate
6648 the subsystem in accordance with the provisions of ss. 110.116
6649 and 215.90-215.96. The subsystem shall include, but shall not
6650 be limited to, functions for:

6651 (a) Maintenance of employee and position data, including
6652 funding sources and percentages and salary lapse. The employee
6653 data shall include, but not be limited to, information to meet
6654 the payroll system requirements of the Department of Financial
6655 Services ~~Banking and Finance~~ and to meet the employee benefit
6656 system requirements of the Department of Management Services.

6657 Section 226. Subsections (1) and (2) of section 215.96,
6658 Florida Statutes, are amended to read:

6659 215.96 Coordinating council and design and coordination



HB 1803

2003

6660 staff.--

6661 (1) The Chief Financial Officer ~~Comptroller~~, as chief
6662 fiscal officer of the state, shall establish a coordinating
6663 council to function on a continuing basis. The coordinating
6664 council shall review and recommend to the board solutions and
6665 policy alternatives to ensure coordination between functional
6666 owners of the various information subsystems described in ss.
6667 215.90-215.96 to the extent necessary to unify all the
6668 subsystems into a financial management information system.

6669 (2) The coordinating council shall consist of the Chief
6670 Financial Officer ~~Comptroller~~; ~~the Treasurer~~; the secretary of
6671 the Department of Management Services; the Attorney General; and
6672 the Director of Planning and Budgeting, Executive Office of the
6673 Governor, or their designees. The Chief Financial Officer
6674 ~~Comptroller~~, or his or her designee, shall be chair of the
6675 coordinating council, and the design and coordination staff
6676 shall provide administrative and clerical support to the council
6677 and the board. The design and coordination staff shall maintain
6678 the minutes of each meeting and shall make such minutes
6679 available to any interested person. The Auditor General, the
6680 State Courts Administrator, an executive officer of the Florida
6681 Association of State Agency Administrative Services Directors,
6682 and an executive officer of the Florida Association of State
6683 Budget Officers, or their designees, shall serve without voting
6684 rights as ex officio members on the coordinating council. The
6685 chair may call meetings of the coordinating council as often as
6686 necessary to transact business; however, the coordinating
6687 council shall meet at least once a year. Action of the
6688 coordinating council shall be by motion, duly made, seconded and
6689 passed by a majority of the coordinating council voting in the



HB 1803

2003

6690 affirmative for approval of items that are to be recommended for
6691 approval to the Financial Management Information Board.

6692 Section 227. Section 215.965, Florida Statutes, is amended
6693 to read:

6694 215.965 Disbursement of state moneys.--Except as provided
6695 in s. 17.076, s. 253.025(14), s. 259.041(18), s. 717.124(5), s.
6696 732.107(5), or s. 733.816(5), all moneys in the State Treasury
6697 shall be disbursed by state warrant, drawn by the Chief
6698 Financial Officer ~~Comptroller~~ upon the State Treasury and
6699 payable to the ultimate beneficiary. This authorization shall
6700 include electronic disbursement.

6701 Section 228. Paragraphs (a), (c), (j), (n), (p), and (s)
6702 of subsection (2), subsections (3) and (4), paragraphs (a) and
6703 (b) of subsection (5), paragraphs (a) and (d) of subsection (6),
6704 paragraphs (a) and (c) of subsection (7), paragraphs (e) and (g)
6705 of subsection (8), paragraph (e) of subsection (9), and
6706 paragraphs (d) and (f) of subsection (10) of section 215.97,
6707 Florida Statutes, are amended to read:

6708 215.97 Florida Single Audit Act.--

6709 (2) Definitions; as used in this section, the term:

6710 (a) "Audit threshold" means the amount to use in
6711 determining when a state single audit of a nonstate entity shall
6712 be conducted in accordance with this section. Each nonstate
6713 entity that expends a total amount of state financial assistance
6714 equal to or in excess of \$300,000 in any fiscal year of such
6715 nonstate entity shall be required to have a state single audit
6716 for such fiscal year in accordance with the requirements of this
6717 section. Every 2 years the Auditor General, after consulting
6718 with the Executive Office of the Governor, the Chief Financial
6719 Officer ~~Comptroller~~, and all state agencies that provide state



HB 1803

2003

6720 financial assistance to nonstate entities, shall review the
6721 amount for requiring audits under this section and may adjust
6722 such dollar amount consistent with the purpose of this section.

6723 (c) "Catalog of State Financial Assistance" means a
6724 comprehensive listing of state projects. The Catalog of State
6725 Financial Assistance shall be issued by the Executive Office of
6726 the Governor after conferring with the Chief Financial Officer
6727 ~~Comptroller~~ and all state agencies that provide state financial
6728 assistance to nonstate entities. The Catalog of State Financial
6729 Assistance shall include for each listed state project: the
6730 responsible state agency; standard state project number
6731 identifier; official title; legal authorization; and description
6732 of the state project, including objectives, restrictions,
6733 application and awarding procedures, and other relevant
6734 information determined necessary.

6735 (j) "Major state project" means any state project meeting
6736 the criteria as stated in the rules of the Executive Office of
6737 the Governor. Such criteria shall be established after
6738 consultation with the Chief Financial Officer ~~Comptroller~~ and
6739 appropriate state agencies that provide state financial
6740 assistance and shall consider the amount of state project
6741 expenditures or expenses or inherent risks. Each major state
6742 project shall be audited in accordance with the requirements of
6743 this section.

6744 (n) "Schedule of State Financial Assistance" means a
6745 document prepared in accordance with the rules of the Chief
6746 Financial Officer ~~Comptroller~~ and included in each financial
6747 reporting package required by this section.

6748 (p) "State financial assistance" means financial
6749 assistance from state resources, not including federal financial



HB 1803

2003

6750 assistance and state matching, provided to nonstate entities to
6751 carry out a state project. "State financial assistance" includes
6752 all types of state assistance as stated in the rules of the
6753 Executive Office of the Governor established in consultation
6754 with the Chief Financial Officer ~~Comptroller~~ and appropriate
6755 state agencies that provide state financial assistance. It
6756 includes state financial assistance provided directly by state
6757 awarding agencies or indirectly by recipients of state awards or
6758 subrecipients. It does not include procurement contracts used to
6759 buy goods or services from vendors. Audits of such procurement
6760 contracts with vendors are outside of the scope of this section.
6761 Also, audits of contracts to operate state-government-owned and
6762 contractor-operated facilities are excluded from the audit
6763 requirements of this section.

6764 (s) "State Projects Compliance Supplement" means a
6765 document issued by the Executive Office of the Governor, in
6766 consultation with the Chief Financial Officer ~~Comptroller~~ and
6767 all state agencies that provide state financial assistance. The
6768 State Projects Compliance Supplement shall identify state
6769 projects, the significant compliance requirements, eligibility
6770 requirements, matching requirements, suggested audit procedures,
6771 and other relevant information determined necessary.

6772 (3) The Executive Office of the Governor shall:

6773 (a) Upon conferring with the Chief Financial Officer
6774 ~~Comptroller~~ and all state awarding agencies, adopt rules
6775 necessary to provide appropriate guidance to state awarding
6776 agencies, recipients and subrecipients, and independent auditors
6777 of state financial assistance relating to the requirements of
6778 this section, including:

6779 1. The types or classes of financial assistance considered



HB 1803

2003

6780 to be state financial assistance which would be subject to the
 6781 requirements of this section. This would include guidance to
 6782 assist in identifying when the state agency or recipient has
 6783 contracted with a vendor rather than with a recipient or
 6784 subrecipient.

6785 2. The criteria for identifying a major state project.

6786 3. The criteria for selecting state projects for audits
 6787 based on inherent risk.

6788 (b) Be responsible for coordinating the initial
 6789 preparation and subsequent revisions of the Catalog of State
 6790 Financial Assistance after consultation with the Chief Financial
 6791 Officer ~~Comptroller~~ and all state awarding agencies.

6792 (c) Be responsible for coordinating the initial
 6793 preparation and subsequent revisions of the State Projects
 6794 Compliance Supplement, after consultation with the Chief
 6795 Financial Officer ~~Comptroller~~ and all state awarding agencies.

6796 (4) The Chief Financial Officer ~~Comptroller~~ shall:

6797 (a) Make enhancements to the state's accounting system to
 6798 provide for the:

6799 1. Recording of state financial assistance and federal
 6800 financial assistance appropriations and expenditures within the
 6801 state awarding agencies' operating funds.

6802 2. Recording of state project number identifiers, as
 6803 provided in the Catalog of State Financial Assistance, for state
 6804 financial assistance.

6805 3. Establishment and recording of an identification code
 6806 for each financial transaction, including state agencies'
 6807 disbursements of state financial assistance and federal
 6808 financial assistance, as to the corresponding type or
 6809 organization that is party to the transaction (e.g., other



HB 1803

2003

6810 governmental agencies, nonprofit organizations, and for-profit
6811 organizations), and disbursements of federal financial
6812 assistance, as to whether the party to the transaction is or is
6813 not a recipient or subrecipient.

6814 (b) Upon conferring with the Executive Office of the
6815 Governor and all state awarding agencies, adopt rules necessary
6816 to provide appropriate guidance to state awarding agencies,
6817 recipients and subrecipients, and independent auditors of state
6818 financial assistance relating to the format for the Schedule of
6819 State Financial Assistance.

6820 (c) Perform any inspections, reviews, investigations, or
6821 audits of state financial assistance considered necessary in
6822 carrying out the Chief Financial Officer's ~~Comptroller's~~ legal
6823 responsibilities for state financial assistance or to comply
6824 with the requirements of this section.

6825 (5) Each state awarding agency shall:

6826 (a) Provide to a recipient information needed by the
6827 recipient to comply with the requirements of this section,
6828 including:

6829 1. The audit and accountability requirements for state
6830 projects as stated in this section and applicable rules of the
6831 Executive Office of the Governor, rules of the Chief Financial
6832 Officer ~~Comptroller~~, and rules of the Auditor General.

6833 2. Information from the Catalog of State Financial
6834 Assistance, including the standard state project number
6835 identifier; official title; legal authorization; and description
6836 of the state project including objectives, restrictions, and
6837 other relevant information determined necessary.

6838 3. Information from the State Projects Compliance
6839 Supplement, including the significant compliance requirements,



HB 1803

2003

6840 eligibility requirements, matching requirements, suggested audit
6841 procedures, and other relevant information determined necessary.

6842 (b) Require the recipient, as a condition of receiving
6843 state financial assistance, to allow the state awarding agency,
6844 the Chief Financial Officer ~~Comptroller~~, and the Auditor General
6845 access to the recipient's records and the recipient's
6846 independent auditor's working papers as necessary for complying
6847 with the requirements of this section.

6848 (6) As a condition of receiving state financial
6849 assistance, each recipient that provides state financial
6850 assistance to a subrecipient shall:

6851 (a) Provide to a subrecipient information needed by the
6852 subrecipient to comply with the requirements of this section,
6853 including:

6854 1. Identification of the state awarding agency.

6855 2. The audit and accountability requirements for state
6856 projects as stated in this section and applicable rules of the
6857 Executive Office of the Governor, rules of the Chief Financial
6858 Officer ~~Comptroller~~, and rules of the Auditor General.

6859 3. Information from the Catalog of State Financial
6860 Assistance, including the standard state project number
6861 identifier; official title; legal authorization; and description
6862 of the state project, including objectives, restrictions, and
6863 other relevant information.

6864 4. Information from the State Projects Compliance
6865 Supplement including the significant compliance requirements,
6866 eligibility requirements, matching requirements, and suggested
6867 audit procedures, and other relevant information determined
6868 necessary.

6869 (d) Require subrecipients, as a condition of receiving



HB 1803

2003

6870 state financial assistance, to permit the independent auditor of
6871 the recipient, the state awarding agency, the Chief Financial
6872 Officer ~~Comptroller~~, and the Auditor General access to the
6873 subrecipient's records and the subrecipient's independent
6874 auditor's working papers as necessary to comply with the
6875 requirements of this section.

6876 (7) Each recipient or subrecipient of state financial
6877 assistance shall comply with the following:

6878 (a) Each nonstate entity that receives state financial
6879 assistance and meets audit threshold requirements, in any fiscal
6880 year of the nonstate entity, as stated in the rules of the
6881 Auditor General, shall have a state single audit conducted for
6882 such fiscal year in accordance with the requirements of this act
6883 and with additional requirements established in rules of the
6884 Executive Office of the Governor, rules of the Chief Financial
6885 Officer ~~Comptroller~~, and rules of the Auditor General. If only
6886 one state project is involved in a nonstate entity's fiscal
6887 year, the nonstate entity may elect to have only a state
6888 project-specific audit of the state project for that fiscal
6889 year.

6890 (c) Regardless of the amount of the state financial
6891 assistance, the provisions of this section do not exempt a
6892 nonstate entity from compliance with provisions of law relating
6893 to maintaining records concerning state financial assistance to
6894 such nonstate entity or allowing access and examination of those
6895 records by the state awarding agency, the Chief Financial
6896 Officer ~~Comptroller~~, or the Auditor General.

6897 (8) The independent auditor when conducting a state single
6898 audit of recipients or subrecipients shall:

6899 (e) Report on the results of any audit conducted pursuant



HB 1803

2003

6900 to this section in accordance with the rules of the Executive
6901 Office of the Governor, rules of the Chief Financial Officer
6902 ~~Comptroller~~, and rules of the Auditor General. Audit reports
6903 shall include summaries of the auditor's results regarding the
6904 nonstate entity's financial statements; Schedule of State
6905 Financial Assistance; internal controls; and compliance with
6906 laws, rules, and guidelines.

6907 (g) Upon notification by the nonstate entity, make
6908 available the working papers relating to the audit conducted
6909 pursuant to the requirements of this section to the state
6910 awarding agency, the Chief Financial Officer ~~Comptroller~~, or the
6911 Auditor General for review or copying.

6912 (9) The independent auditor, when conducting a state
6913 project-specific audit of recipients or subrecipients, shall:

6914 (e) Upon notification by the nonstate entity, make
6915 available the working papers relating to the audit conducted
6916 pursuant to the requirements of this section to the state
6917 awarding agency, the Chief Financial Officer ~~Comptroller~~, or the
6918 Auditor General for review or copying.

6919 (10) The Auditor General shall:

6920 (d) Provide technical advice upon request of the Chief
6921 Financial Officer ~~Comptroller~~, Executive Office of the Governor,
6922 and state agencies relating to financial reporting and audit
6923 responsibilities contained in this section.

6924 (f) Perform ongoing reviews of a sample of financial
6925 reporting packages filed pursuant to the requirements of this
6926 section to determine compliance with the reporting requirements
6927 of this section and applicable rules of the Executive Office of
6928 the Governor, rules of the Chief Financial Officer ~~Comptroller~~,
6929 and rules of the Auditor General.



HB 1803

2003

6930 Section 229. Paragraph (a) of subsection (2) of section
6931 216.0442, Florida Statutes, is amended to read:

6932 216.0442 Truth in bonding; definitions; summary of state
6933 debt; statement of proposed financing; truth-in-bonding
6934 statement.--

6935 (2) When required by statute to support the proposed debt
6936 financing of fixed capital outlay projects or operating capital
6937 outlay requests or to explain the issuance of a debt or
6938 obligation, one or more of the following documents shall be
6939 developed:

6940 (a) A summary of outstanding state debt as furnished by
6941 the Chief Financial Officer ~~Comptroller~~ pursuant to s. 216.102.

6942 Section 230. Section 216.102, Florida Statutes, is amended
6943 to read:

6944 216.102 Filing of financial information; handling by Chief
6945 Financial Officer ~~Comptroller~~; penalty for noncompliance.--

6946 (1) By September 30 of each year, each agency supported by
6947 any form of taxation, licenses, fees, imposts, or exactions, the
6948 judicial branch, and, for financial reporting purposes, each
6949 component unit of the state as determined by the Chief Financial
6950 Officer ~~Comptroller~~ shall prepare, using generally accepted
6951 accounting principles, and file with the Chief Financial Officer
6952 ~~Comptroller~~ the financial and other information necessary for
6953 the preparation of annual financial statements for the State of
6954 Florida as of June 30. In addition, each such agency and the
6955 judicial branch shall prepare financial statements showing the
6956 financial position and results of agency or branch operations as
6957 of June 30 for internal management purposes.

6958 (a) Each state agency and the judicial branch shall record
6959 the receipt and disbursement of funds from federal sources in a



HB 1803

2003

6960 form and format prescribed by the Chief Financial Officer
6961 ~~Comptroller~~. The access to federal funds by the administering
6962 agencies or the judicial branch may not be authorized until:

6963 1. The deposit has been recorded in the Florida Accounting
6964 Information Resource Subsystem using proper, consistent codes
6965 that designate deposits as federal funds.

6966 2. The deposit and appropriate recording required by this
6967 paragraph have been verified by the Office of the Chief
6968 Financial Officer ~~Treasurer~~.

6969 (b) The Chief Financial Officer ~~Comptroller~~ shall publish
6970 a statewide policy detailing the requirements for recording
6971 receipt and disbursement of federal funds into the Florida
6972 Accounting Information Resource Subsystem and provide technical
6973 assistance to the agencies and the judicial branch to implement
6974 the policy.

6975 (2) Financial information must be contained within the
6976 Florida Accounting Information Resource Subsystem. Other
6977 information must be submitted in the form and format prescribed
6978 by the Chief Financial Officer ~~Comptroller~~.

6979 (a) Each component unit shall file financial information
6980 and other information necessary for the preparation of annual
6981 financial statements with the agency or branch designated by the
6982 Chief Financial Officer ~~Comptroller~~ by the date specified by the
6983 Chief Financial Officer ~~Comptroller~~.

6984 (b) The state agency or branch designated by the Chief
6985 Financial Officer ~~Comptroller~~ to receive financial information
6986 and other information from component units shall include the
6987 financial information in the Florida Accounting Information
6988 Resource Subsystem and shall include the component units' other
6989 information in its submission to the Chief Financial Officer



HB 1803

2003

6990 ~~Comptroller.~~

6991 (3) The Chief Financial Officer ~~Comptroller~~ shall:

6992 (a) Prepare and furnish to the Auditor General annual
6993 financial statements for the state on or before December 31 of
6994 each year, using generally accepted accounting principles.

6995 (b) Prepare and publish a comprehensive annual financial
6996 report for the state in accordance with generally accepted
6997 accounting principles on or before February 28 of each year.

6998 (c) Furnish the Governor, the President of the Senate, and
6999 the Speaker of the House of Representatives with a copy of the
7000 comprehensive annual financial report prepared pursuant to
7001 paragraph (b).

7002 (d) Notify each agency and the judicial branch of the data
7003 that is required to be recorded to enhance accountability for
7004 tracking federal financial assistance.

7005 (e) Provide reports, as requested, to executive or
7006 judicial branch entities, the President of the Senate, the
7007 Speaker of the House of Representatives, and the members of the
7008 Florida Congressional Delegation, detailing the federal
7009 financial assistance received and disbursed by state agencies
7010 and the judicial branch.

7011 (f) Consult with and elicit comments from the Executive
7012 Office of the Governor on changes to the Florida Accounting
7013 Information Resource Subsystem which clearly affect the
7014 accounting of federal funds, so as to ensure consistency of
7015 information entered into the Federal Aid Tracking System by
7016 state executive and judicial branch entities. While efforts
7017 shall be made to ensure the compatibility of the Florida
7018 Accounting Information Resource Subsystem and the Federal Aid
7019 Tracking System, any successive systems serving identical or



HB 1803

2003

7020 similar functions shall preserve such compatibility.

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7023 The Chief Financial Officer ~~Comptroller~~ may furnish and publish
 7024 in electronic form the financial statements and the
 7025 comprehensive annual financial report required under paragraphs
 7026 (a), (b), and (c).

7027 (4) If any agency or the judicial branch fails to comply
 7028 with subsection(1) or subsection (2), the Chief Financial
 7029 Officer ~~Comptroller~~ may refuse to honor salary claims for agency
 7030 or branch fiscal and executive staff until the agency or branch
 7031 corrects its deficiency.

7032 (5) The Chief Financial Officer ~~Comptroller~~ may withhold
 7033 any funds payable to a component unit that does not comply with
 7034 subsection (1) or subsection (2) until the component unit
 7035 corrects its deficiency.

7036 (6) The Chief Financial Officer ~~Comptroller~~ may adopt
 7037 rules to administer this section.

7038 Section 231. Subsections (1) and (3) of section 216.141,
 7039 Florida Statutes, are amended to read:

7040 216.141 Budget system procedures; planning and programming
 7041 by state agencies.--

7042 (1) The Executive Office of the Governor, in consultation
 7043 with the appropriations committees of the Senate and House of
 7044 Representatives, and by utilizing the Florida Financial
 7045 Management Information System management data and the Chief
 7046 Financial Officer's ~~Comptroller's~~ chart of accounts, shall
 7047 prescribe a planning and budgeting system, pursuant to s.
 7048 215.94(1), to provide for continuous planning and programming
 7049 and for effective management practices for the efficient



HB 1803

2003

7050 operations of all state agencies and the judicial branch. The
7051 Legislature may contract with the Executive Office of the
7052 Governor to develop the planning and budgeting system and to
7053 provide services to the Legislature for the support and use of
7054 the legislative appropriations system. The contract shall
7055 include the policies and procedures for combining the
7056 legislative appropriations system with the planning and
7057 budgeting information system established pursuant to s.
7058 215.94(1). At a minimum, the contract shall require the use of
7059 common data codes. The combined legislative appropriations and
7060 planning and budgeting information subsystem shall support the
7061 legislative appropriations and legislative oversight functions
7062 without data code conversion or modification.

7063 (3) The Chief Financial Officer ~~Comptroller~~, as chief
7064 fiscal officer, shall use the Florida Accounting Information
7065 Resource Subsystem developed pursuant to s. 215.94(2) for
7066 account purposes in the performance of and accounting for all of
7067 his or her constitutional and statutory duties and
7068 responsibilities. However, state agencies and the judicial
7069 branch continue to be responsible for maintaining accounting
7070 records necessary for effective management of their programs and
7071 functions.

7072 Section 232. Subsection (1) of section 216.177, Florida
7073 Statutes, is amended to read:

7074 216.177 Appropriations acts, statement of intent,
7075 violation, notice, review and objection procedures.--

7076 (1) When an appropriations act is delivered to the
7077 Governor after the Legislature has adjourned sine die, as soon
7078 as practicable, but no later than the 10th day before the end of
7079 the period allowed by law for veto consideration in any year in



HB 1803

2003

7080 which an appropriation is made, the chairs of the legislative
7081 appropriations committees shall jointly transmit:

7082 (a) The official list of General Revenue Fund
7083 appropriations determined in consultation with the Executive
7084 Office of the Governor to be nonrecurring; and

7085 (b) The documents set forth in s. 216.0442(2)(a) and (c),
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7088 to the Executive Office of the Governor, the Chief Financial
7089 Officer ~~Comptroller~~, the Auditor General, the director of the
7090 Office of Program Policy Analysis and Government Accountability,
7091 the Chief Justice of the Supreme Court, and each state agency. A
7092 request for additional explanation and direction regarding the
7093 legislative intent of the General Appropriations Act during the
7094 fiscal year may be made to the chair and vice chair of the
7095 Legislative Budget Commission or the President of the Senate and
7096 the Speaker of the House of Representatives only by and through
7097 the Executive Office of the Governor for state agencies, and by
7098 and through the Chief Justice of the Supreme Court for the
7099 judicial branch, as is deemed necessary. However, the Chief
7100 Financial Officer ~~Comptroller~~ may also request further
7101 clarification of legislative intent pursuant to the Chief
7102 Financial Officer's ~~Comptroller's~~ responsibilities related to
7103 his or her preaudit function of expenditures.

7104 Section 233. Subsections (6), (12), and (14) and paragraph
7105 (b) of subsection (16) of section 216.181, Florida Statutes, are
7106 amended to read:

7107 216.181 Approved budgets for operations and fixed capital
7108 outlay.--

7109 (6)(a) The Executive Office of the Governor or the Chief



HB 1803

2003

7110 Justice of the Supreme Court may require the submission of a
 7111 detailed plan from the agency or entity of the judicial branch
 7112 affected, consistent with the General Appropriations Act,
 7113 special appropriations acts, and the statement of intent before
 7114 transferring and releasing the balance of a lump-sum
 7115 appropriation. The provisions of this paragraph are subject to
 7116 the notice and review procedures set forth in s. 216.177.

7117 (b) The Executive Office of the Governor and the Chief
 7118 Justice of the Supreme Court may amend, without approval of the
 7119 Legislative Budget Commission, state agency and judicial branch
 7120 entity budgets, respectively, to reflect the transferred funds
 7121 based on the approved plans for lump-sum appropriations.
 7122
 7123

7124 The Executive Office of the Governor shall transmit to each
 7125 state agency and the Chief Financial Officer ~~Comptroller~~, and
 7126 the Chief Justice shall transmit to each judicial branch
 7127 component and the Chief Financial Officer ~~Comptroller~~, any
 7128 approved amendments to the approved operating budgets.

7129 (12) There is appropriated nonoperating budget for
 7130 refunds, payments to the United States Treasury, payments of the
 7131 service charge to the General Revenue Fund, and transfers of
 7132 funds specifically required by law. Such authorized budget,
 7133 together with related releases, shall be transmitted by the
 7134 state agency or by the judicial branch to the Chief Financial
 7135 Officer ~~Comptroller~~ for entry in his or her ~~the Comptroller's~~
 7136 records in the manner and format prescribed by the Executive
 7137 Office of the Governor in consultation with the Chief Financial
 7138 Officer ~~Comptroller~~. A copy of such authorized budgets shall be
 7139 furnished to the Executive Office of the Governor or the Chief



HB 1803

2003

7140 Justice, the chairs of the legislative committees responsible
 7141 for developing the general appropriations acts, and the Auditor
 7142 General. The Governor may withhold approval of nonoperating
 7143 investment authority for certain trust funds when deemed in the
 7144 best interest of the state. The Governor for the executive
 7145 branch, and the Chief Justice for the judicial branch, may
 7146 establish nonoperating budgets for transfers, purchase of
 7147 investments, special expenses, distributions, and any other
 7148 nonoperating budget categories they deem necessary and in the
 7149 best interest of the state and consistent with legislative
 7150 intent and policy. The provisions of this subsection are subject
 7151 to the notice, review, and objection procedures set forth in s.
 7152 216.177. For purposes of this section, the term "nonoperating
 7153 budgets" means nonoperating disbursement authority for purchase
 7154 of investments, refunds, payments to the United States Treasury,
 7155 transfers of funds specifically required by law, distributions
 7156 of assets held by the state in a trustee capacity as an agent of
 7157 fiduciary, special expenses, and other nonoperating budget
 7158 categories as determined necessary by the Executive Office of
 7159 the Governor, not otherwise appropriated in the General
 7160 Appropriations Act.

7161 (14) The Executive Office of the Governor and the Chief
 7162 Justice of the Supreme Court shall certify the amounts approved
 7163 for operations and fixed capital outlay, together with any
 7164 relevant supplementary materials or information, to the Chief
 7165 Financial Officer ~~Comptroller~~; and such certification shall be
 7166 the Chief Financial Officer's ~~Comptroller's~~ guide with reference
 7167 to the expenditures of each state agency pursuant to s. 216.192.

7168 (16)

7169 (b) Any agency, or the judicial branch, that has been



HB 1803

2003

7170 authorized by the General Appropriations Act or expressly
7171 authorized by other law to make advances for program startup or
7172 advances for contracted services, in total or periodically,
7173 shall limit such disbursements to other governmental entities
7174 and not-for-profit corporations. The amount which may be
7175 advanced shall not exceed the expected cash needs of the
7176 contractor or recipient within the initial 3 months.
7177 Thereafter, disbursements shall only be made on a reimbursement
7178 basis. Any agreement that provides for advancements may contain
7179 a clause that permits the contractor or recipient to temporarily
7180 invest the proceeds, provided that any interest income shall
7181 either be returned to the agency or be applied against the
7182 agency's obligation to pay the contract amount. This paragraph
7183 does not constitute lawful authority to make any advance payment
7184 not otherwise authorized by laws relating to a particular agency
7185 or general laws relating to the expenditure or disbursement of
7186 public funds. The Chief Financial Officer ~~Comptroller~~ may,
7187 after consultation with the legislative appropriations
7188 committees, advance funds beyond a 3-month requirement if it is
7189 determined to be consistent with the intent of the approved
7190 operating budget.

7191 Section 234. Section 216.183, Florida Statutes, is amended
7192 to read:

7193 216.183 Entities using performance-based program budgets;
7194 chart of accounts.--State agencies and the judicial branch for
7195 which a performance-based program budget has been appropriated
7196 shall utilize the chart of accounts used by the Florida
7197 Accounting Information Resource Subsystem in the manner
7198 described in s. 215.93(3). The chart of accounts for state
7199 agencies and the judicial branch for which a performance-based



HB 1803

2003

7200 program budget has been appropriated shall be developed and
7201 amended, if necessary, in consultation with the Department of
7202 Financial Services ~~Banking and Finance~~, the Executive Office of
7203 the Governor, and the chairs of the Legislative Budget
7204 Commission.

7205 Section 235. Subsections (1) and (4) of section 216.192,
7206 Florida Statutes, are amended to read:

7207 216.192 Release of appropriations; revision of budgets.--

7208 (1) Unless otherwise provided in the General
7209 Appropriations Act, on July 1 of each fiscal year, up to 25
7210 percent of the original approved operating budget of each agency
7211 and of the judicial branch may be released until such time as
7212 annual plans for quarterly releases for all appropriations have
7213 been developed, approved, and furnished to the Chief Financial
7214 Officer ~~Comptroller~~ by the Executive Office of the Governor for
7215 state agencies and by the Chief Justice of the Supreme Court for
7216 the judicial branch. The plans, including appropriate plans of
7217 releases for fixed capital outlay projects that correspond with
7218 each project schedule, shall attempt to maximize the use of
7219 trust funds and shall be transmitted to the Chief Financial
7220 Officer ~~Comptroller~~ by August 1 of each fiscal year. Such
7221 releases shall at no time exceed the total appropriations
7222 available to a state agency or to the judicial branch, or the
7223 approved budget for such agency or the judicial branch if less.
7224 The Chief Financial Officer ~~Comptroller~~ shall enter such
7225 releases in his or her records in accordance with the release
7226 plans prescribed by the Executive Office of the Governor and the
7227 Chief Justice, unless otherwise amended as provided by law. The
7228 Executive Office of the Governor and the Chief Justice shall
7229 transmit a copy of the approved annual releases to the head of



HB 1803

2003

7230 the state agency, the chair and vice chair of the Legislative
7231 Budget Commission, and the Auditor General. The Chief Financial
7232 Officer ~~Comptroller~~ shall authorize all expenditures to be made
7233 from the appropriations on the basis of such releases and in
7234 accordance with the approved budget, and not otherwise.
7235 Expenditures shall be authorized only in accordance with
7236 legislative authorizations. Nothing herein precludes periodic
7237 reexamination and revision by the Executive Office of the
7238 Governor or by the Chief Justice of the annual plans for release
7239 of appropriations and the notifications of the parties of all
7240 such revisions.

7241 (4) The legislative appropriations committees may advise
7242 the Chief Financial Officer ~~Comptroller~~, the Executive Office of
7243 the Governor, or the Chief Justice relative to the release of
7244 any funds under this section.

7245 Section 236. Subsection (1) of section 216.212, Florida
7246 Statutes, is amended to read:

7247 216.212 Budgets for federal funds; restrictions on
7248 expenditure of federal funds.--

7249 (1) The Executive Office of the Governor and, ~~the office~~
7250 ~~of the~~ Chief Financial Officer ~~Comptroller~~, ~~and the office of~~
7251 ~~the Treasurer~~ shall develop and implement procedures for
7252 accelerating the drawdown of, and minimizing the payment of
7253 interest on, federal funds. The Executive Office of the
7254 Governor shall establish a clearinghouse for federal programs
7255 and activities. The clearinghouse shall develop the capacity to
7256 respond to federal grant opportunities and to coordinate the use
7257 of federal funds in the state.

7258 (a) Every state agency, when making a request or preparing
7259 a budget to be submitted to the Federal Government for funds,



HB 1803

2003

7260 equipment, material, or services, shall submit such request or
 7261 budget to the Executive Office of the Governor for review before
 7262 submitting it to the proper federal authority. However, the
 7263 Executive Office of the Governor may specifically authorize any
 7264 agency to submit specific types of grant proposals directly to
 7265 the Federal Government.

7266 (b) Every office or court of the judicial branch, when
 7267 making a request or preparing a budget to be submitted to the
 7268 Federal Government for funds, equipment, material, or services,
 7269 shall submit such request or budget to the Chief Justice of the
 7270 Supreme Court for approval before submitting it to the proper
 7271 federal authority. However, the Chief Justice may specifically
 7272 authorize any court to submit specific types of grant proposals
 7273 directly to the Federal Government.

7274 Section 237. Subsections (8), (9), and (10) of section
 7275 216.221, Florida Statutes, are amended to read:

7276 216.221 Appropriations as maximum appropriations;
 7277 adjustment of budgets to avoid or eliminate deficits.--

7278 (8) The Chief Financial Officer ~~Comptroller~~ also has the
 7279 duty to ensure that revenues being collected will be sufficient
 7280 to meet the appropriations and that no deficit occurs in any
 7281 fund of the state.

7282 (9) If, in the opinion of the Chief Financial Officer
 7283 ~~Comptroller~~, after consultation with the Revenue Estimating
 7284 Conference, a deficit will occur, he or she ~~the Comptroller~~
 7285 shall report his or her opinion to the Governor in writing. In
 7286 the event the Governor does not certify a deficit within 10 days
 7287 after the Chief Financial Officer's ~~Comptroller's~~ report, the
 7288 Chief Financial Officer ~~Comptroller~~ shall report his or her
 7289 findings and opinion to the commission and the Chief Justice of



HB 1803

2003

7290 the Supreme Court.

7291 (10) When advised by the Revenue Estimating Conference,
7292 the Chief Financial Officer ~~Comptroller~~, or any agency
7293 responsible for a trust fund that a deficit will occur with
7294 respect to the appropriations from a specific trust fund in the
7295 current fiscal year, the Governor for the executive branch, or
7296 the Chief Justice for the judicial branch, shall develop a plan
7297 of action to eliminate the deficit. Before implementing the plan
7298 of action, the Governor or the Chief Justice must comply with
7299 the provisions of s. 216.177(2). In developing the plan of
7300 action, the Governor or the Chief Justice shall, to the extent
7301 possible, preserve legislative policy and intent, and, absent
7302 any specific directions to the contrary in the General
7303 Appropriations Act, any reductions in appropriations from the
7304 trust fund for the fiscal year shall be prorated among the
7305 specific appropriations made from the trust fund for the current
7306 fiscal year.

7307 Section 238. Subsection (1) of section 216.222, Florida
7308 Statutes, is amended to read:

7309 216.222 Budget Stabilization Fund; criteria for
7310 withdrawing moneys.--Moneys in the Budget Stabilization Fund may
7311 be transferred to the General Revenue Fund for:

7312 (1)(a) Offsetting a deficit in the General Revenue Fund. A
7313 deficit is deemed to occur when the official estimate of funds
7314 available in the General Revenue Fund for a fiscal year falls
7315 below the total amount appropriated from the General Revenue
7316 Fund for that fiscal year. Such a transfer must be made pursuant
7317 to s. 216.221, or pursuant to an appropriation by law.

7318 (b) Notwithstanding the requirements of s. 216.221, if,
7319 after consultation with the Revenue Estimating Conference, the



HB 1803

2003

7320 Chief Financial Officer ~~Comptroller~~ believes that a deficit will
7321 occur in the General Revenue Fund and if:

7322 1. Fewer than 30 but more than 4 days are left in the
7323 fiscal year, the Legislature is not in session, and neither the
7324 Legislature nor the Legislative Budget Commission is scheduled
7325 to meet before the end of the fiscal year, or

7326 2. Fewer than 5 days are left in the fiscal year and the
7327 Governor and the Chief Justice, the Legislature, or the
7328 Legislative Budget Commission have not implemented measures to
7329 resolve the deficit,

7330

7331 the Chief Financial Officer ~~Comptroller~~ shall certify the
7332 deficit to the Governor, the Chief Justice, the President of the
7333 Senate, and the Speaker of the House of Representatives, and may
7334 thereafter withdraw funds from the Budget Stabilization Fund to
7335 offset the projected deficit in the General Revenue Fund. The
7336 Chief Financial Officer ~~Comptroller~~ shall consult with the
7337 Governor and the chair and vice chair of the Legislative Budget
7338 Commission before any funds may be withdrawn from the Budget
7339 Stabilization Fund. At the beginning of the next fiscal year,
7340 the Chief Financial Officer ~~Comptroller~~ shall promptly determine
7341 the General Revenue Fund balance to be carried forward. The
7342 Chief Financial Officer ~~Comptroller~~ shall immediately repay the
7343 Budget Stabilization Fund for the withdrawn amount, up to the
7344 amount of the balance. If the General Revenue Fund balance
7345 carried forward is not sufficient to fully repay the Budget
7346 Stabilization Fund, the repayment of the remainder of the
7347 withdrawn funds shall be as provided in s. 215.32(2)(c)3.

7348 Section 239. Paragraph (d) of subsection (4) of section
7349 216.235, Florida Statutes, is amended to read:



HB 1803

2003

7350 216.235 Innovation Investment Program.--

7351 (4) There is hereby created the State Innovation
 7352 Committee, which shall have final approval authority as to which
 7353 innovative investment projects submitted under this section
 7354 shall be funded. Such committee shall be comprised of seven
 7355 members. Appointed members shall serve terms of 1 year and may
 7356 be reappointed. The committee shall include:

7357 (d) The Chief Financial Officer ~~Comptroller~~.

7358 Section 240. Section 216.237, Florida Statutes, is amended
 7359 to read:

7360 216.237 Availability of any remaining funds; agency
 7361 maintenance of accounting records.--Any remaining funds from the
 7362 General Revenue Fund and trust fund spending authority not
 7363 awarded to agencies pursuant to s. 216.236 shall be available to
 7364 agencies for innovative projects which generate a cost savings,
 7365 increase revenue, or improve service delivery. Innovative
 7366 projects which generate a cost savings shall receive greater
 7367 consideration when awarding innovation investment funds. Any
 7368 trust fund authority granted under this program shall be
 7369 utilized in a manner consistent with the statutory authority for
 7370 the use of said trust fund. Any savings realized as a result of
 7371 implementing the innovative project shall be used by the agency
 7372 to establish an internal innovations fund. State agencies which
 7373 are awarded funds for innovative projects shall utilize the
 7374 chart of accounts used by the Florida Accounting Information
 7375 Resource Subsystem in the manner described in s. 215.93(3). Such
 7376 chart of accounts shall be developed and amended in consultation
 7377 with the Department of Financial Services ~~Banking and Finance~~
 7378 and the Executive Office of the Governor to separate and account
 7379 for the savings that result from the implementation of the



HB 1803

2003

7380 innovative projects and to keep track of how the innovative
7381 funds are reinvested by the state agency to fund additional
7382 innovative projects, which may include, but not be limited to,
7383 expenditures for training and information technology resources.
7384 Guidelines for the establishment of such internal innovations
7385 fund shall be provided by the Department of Management Services.
7386 Any agency awarded funds under this section shall maintain
7387 detailed accounting records showing all expenses, loan
7388 transfers, savings, or other financial actions concerning the
7389 project. Any savings realized as a result of implementing the
7390 innovative project shall be quantified, validated, and verified
7391 by the agency. A final report of the results of the
7392 implementation of each innovative project shall be submitted by
7393 each participating agency to the Governor's Office of Planning
7394 and Budgeting and the legislative appropriations committees by
7395 June 30 of the fiscal year in which the funds were received and
7396 ensuing fiscal years for the life of the project.

7397 Section 241. Paragraph (b) of subsection (2) of section
7398 216.251, Florida Statutes, is amended to read:

7399 216.251 Salary appropriations; limitations.--

7400 (2)

7401 (b) Salary payments shall be made only to employees
7402 filling established positions included in the agency's or in the
7403 judicial branch's approved budgets and amendments thereto as may
7404 be provided by law; provided, however:

7405 1. Reclassification of established positions may be
7406 accomplished when justified in accordance with the established
7407 procedures for reclassifying positions; or

7408 2. When the Division of Risk Management of the Department
7409 of Financial Services ~~Insurance~~ has determined that an employee



HB 1803

2003

7410 is entitled to receive a temporary partial disability benefit or
 7411 a temporary total disability benefit pursuant to the provisions
 7412 of s. 440.15 and there is medical certification that the
 7413 employee cannot perform the duties of the employee's regular
 7414 position, but the employee can perform some type of work
 7415 beneficial to the agency, the agency may return the employee to
 7416 the payroll, at his or her regular rate of pay, to perform such
 7417 duties as the employee is capable of performing, even if there
 7418 is not an established position in which the employee can be
 7419 placed. Nothing in this subparagraph shall abrogate an
 7420 employee's rights under chapter 440 or chapter 447, nor shall it
 7421 adversely affect the retirement credit of a member of the
 7422 Florida Retirement System in the membership class he or she was
 7423 in at the time of, and during, the member's disability.

7424 Section 242. Section 216.271, Florida Statutes, is amended
 7425 to read:

7426 216.271 Revolving funds.--

7427 (1) No revolving fund may be established or increased in
 7428 amount pursuant to s. 17.58(2) ~~18.101(2)~~, unless approved by the
 7429 Chief Financial Officer ~~Comptroller~~. The purpose and uses of a
 7430 revolving fund may not be changed without the prior approval of
 7431 the Chief Financial Officer ~~Comptroller~~. As used in this
 7432 section, the term "revolving fund" means a cash fund maintained
 7433 within or outside the State Treasury and established from an
 7434 appropriation, to be used by an agency or the judicial branch in
 7435 making authorized expenditures.

7436 (2) When the Chief Financial Officer ~~Comptroller~~ approves
 7437 a revolving or petty cash fund for making refunds or other
 7438 payments, such fund shall be established from an account within
 7439 the appropriate fund to be known as "payments for revolving



HB 1803

2003

7440 funds from funds not otherwise appropriated." Reimbursements
 7441 made from revolving or petty cash funds shall be made in strict
 7442 accordance with the provisions of s. 215.26(2). The Chief
 7443 Financial Officer ~~Comptroller~~ may restrict the types of uses of
 7444 any revolving fund established pursuant to this section.

7445 (3) Vouchers for reimbursement of expenditures from
 7446 revolving funds established under this section shall be
 7447 presented in a routine manner to the Chief Financial Officer
 7448 ~~Comptroller~~ for approval and payment, the proceeds of which
 7449 shall be returned to the revolving or petty cash fund involved.

7450 (4) The revolving or petty cash fund authorized herein
 7451 shall be properly maintained and accounted for by the agency or
 7452 by the judicial branch requesting the fund and, upon the
 7453 expiration of the need therefor, shall be returned in the amount
 7454 originally established to the appropriate fund for credit to the
 7455 payments for revolving funds account therein.

7456 (5) Reimbursement to the revolving fund for uninsured
 7457 losses and theft may be made from the fund in which the
 7458 responsible operating department is budgeted. Such
 7459 reimbursement shall be submitted consistent with procedures
 7460 specified by the Chief Financial Officer ~~Comptroller~~.

7461 Section 243. Section 216.275, Florida Statutes, is amended
 7462 to read:

7463 216.275 Clearing accounts.--No clearing account may be
 7464 established outside the State Treasury pursuant to s. 17.58(2)
 7465 ~~s. 18.101(1)~~ unless approved by the Chief Financial Officer
 7466 ~~Treasurer~~ during the fiscal year. Each agency, or the judicial
 7467 branch, desiring to maintain a clearing account outside the
 7468 State Treasury shall submit a written request to do so to the
 7469 Chief Financial Officer ~~Treasurer~~ in accordance with the format



HB 1803

2003

7470 and manner prescribed by the Chief Financial Officer ~~Treasurer~~.
 7471 The Chief Financial Officer ~~Treasurer~~ shall maintain a listing
 7472 of all clearing accounts approved during the fiscal year.

7473 Section 244. Subsections (2), (3), (6), (8), (9), and (10)
 7474 of section 216.292, Florida Statutes, are amended to read:

7475 216.292 Appropriations nontransferable; exceptions.--

7476 (2) A lump sum appropriated for a performance-based
 7477 program must be distributed by the Governor for state agencies
 7478 or the Chief Justice for the judicial branch into the
 7479 traditional expenditure categories in accordance with s.
 7480 216.181(6)(b). At any time during the year, the agency head or
 7481 Chief Justice may transfer funds between those categories with
 7482 no limit on the amount of the transfer. Authorized revisions of
 7483 the original approved operating budget, together with related
 7484 changes, if any, must be transmitted by the state agency or by
 7485 the judicial branch to the Executive Office of the Governor or
 7486 the Chief Justice, the chair and vice chair of the Legislative
 7487 Budget Commission, the Office of Program Policy Analysis and
 7488 Government Accountability, and the Auditor General. Such
 7489 authorized revisions shall be consistent with the intent of the
 7490 approved operating budget, shall be consistent with legislative
 7491 policy and intent, and shall not conflict with specific spending
 7492 policies specified in the General Appropriations Act. The
 7493 Executive Office of the Governor shall forward a copy of the
 7494 revisions within 7 working days to the Chief Financial Officer
 7495 ~~Comptroller~~ for entry in his or her records in the manner and
 7496 format prescribed by the Executive Office of the Governor in
 7497 consultation with the Chief Financial Officer ~~Comptroller~~. Such
 7498 authorized revisions shall be consistent with the intent of the
 7499 approved operating budget, shall be consistent with legislative



HB 1803

2003

7500 policy and intent, and shall not conflict with specific spending
 7501 policies specified in the General Appropriations Act.

7502 (3) The head of each department or the Chief Justice of
 7503 the Supreme Court, whenever it is deemed necessary by reason of
 7504 changed conditions, may transfer appropriations funded from
 7505 identical funding sources, except appropriations for fixed
 7506 capital outlay, and transfer the amounts included within the
 7507 total original approved budget and releases as furnished
 7508 pursuant to ss. 216.181 and 216.192, as follows:

7509 (a) Between categories of appropriations within a budget
 7510 entity, if no category of appropriation is increased or
 7511 decreased by more than 5 percent of the original approved budget
 7512 or \$150,000, whichever is greater, by all action taken under
 7513 this subsection.

7514 (b) Additionally, between budget entities within identical
 7515 categories of appropriations, if no category of appropriation is
 7516 increased or decreased by more than 5 percent of the original
 7517 approved budget or \$150,000, whichever is greater, by all action
 7518 taken under this subsection.

7519 (c) Such authorized revisions must be consistent with the
 7520 intent of the approved operating budget, must be consistent with
 7521 legislative policy and intent, and must not conflict with
 7522 specific spending policies specified in the General
 7523 Appropriations Act.

7524
 7525 Such authorized revisions, together with related changes, if
 7526 any, in the plan for release of appropriations, shall be
 7527 transmitted by the state agency or by the judicial branch to the
 7528 Chief Financial Officer ~~Comptroller~~ for entry in the Chief
 7529 Financial Officer's ~~Comptroller's~~ records in the manner and



HB 1803

2003

7530 format prescribed by the Executive Office of the Governor in
 7531 consultation with the Chief Financial Officer ~~Comptroller~~. A
 7532 copy of such revision shall be furnished to the Executive Office
 7533 of the Governor or the Chief Justice, the chair and vice chair
 7534 of the Legislative Budget Commission, the Auditor General, and
 7535 the director of the Office of Program Policy Analysis and
 7536 Government Accountability.

7537 (6) Upon request of a department to, and approval by, the
 7538 Chief Financial Officer ~~Comptroller~~, funds appropriated may be
 7539 transferred to accounts established for disbursement purposes
 7540 upon release of such appropriation. Such transfer may only be
 7541 made to the same appropriation category and the same funding
 7542 source from which the funds are transferred.

7543 (8)(a) Should any state agency or the judicial branch
 7544 become more than 90 days delinquent on reimbursements due to the
 7545 Unemployment Compensation Trust Fund, the Department of Labor
 7546 and Employment Security shall certify to the Chief Financial
 7547 Officer ~~Comptroller~~ the amount due; and the Chief Financial
 7548 Officer ~~Comptroller~~ shall transfer the amount due to the
 7549 Unemployment Compensation Trust Fund from any funds of the
 7550 agency available.

7551 (b) Should any state agency or the judicial branch become
 7552 more than 90 days delinquent in paying the Division of Risk
 7553 Management of the Department of Financial Services ~~Insurance~~ for
 7554 insurance coverage, the division ~~Department of Insurance~~ may
 7555 certify to the Chief Financial Officer ~~Comptroller~~ the amount
 7556 due; and the Chief Financial Officer ~~Comptroller~~ shall transfer
 7557 the amount due to the Division of Risk Management from any funds
 7558 of the agency or the judicial branch available.

7559 (9) Moneys appropriated in the General Appropriations Act



HB 1803

2003

7560 for the purpose of paying for services provided by the state
7561 communications system in the Department of Management Services
7562 shall be paid by the user agencies, or the judicial branch,
7563 within 45 days after the billing date. Billed amounts not paid
7564 by the user agencies, or by the judicial branch, shall be
7565 transferred by the Chief Financial Officer ~~Comptroller~~ from the
7566 user agencies to the Communications Working Capital Trust Fund.

7567 (10) The Chief Financial Officer ~~Comptroller~~ shall report
7568 all such transfers and the reasons for such transfers to the
7569 legislative appropriations committees and the Executive Office
7570 of the Governor.

7571 Section 245. Paragraph (a) of subsection (1), paragraph
7572 (a) of subsection (2), and subsection (3) of section 216.301,
7573 Florida Statutes, are amended to read:

7574 216.301 Appropriations; undisbursed balances.--

7575 (1)(a) Any balance of any appropriation, except an
7576 appropriation for fixed capital outlay, which is not disbursed
7577 but which is expended or contracted to be expended shall, at the
7578 end of each fiscal year, be certified by the head of the
7579 affected state agency or the judicial or legislative branches,
7580 on or before August 1 of each year, to the Executive Office of
7581 the Governor, showing in detail the obligees to whom obligated
7582 and the amounts of such obligations. On or before September 1
7583 of each year, the Executive Office of the Governor shall review
7584 and approve or disapprove, consistent with legislative policy
7585 and intent, any or all of the items and amounts certified by the
7586 head of the affected state agency and shall approve all items
7587 and amounts certified by the Chief Justice of the Supreme Court
7588 for the judicial branch and by the legislative branch and shall
7589 furnish the Chief Financial Officer ~~Comptroller~~, the legislative



HB 1803

2003

7590 appropriations committees, and the Auditor General a detailed
7591 listing of the items and amounts approved as legal encumbrances
7592 against the undisbursed balance of such appropriation. The
7593 review shall assure that trust funds have been fully maximized.

7594 Any such encumbered balance remaining undisbursed on December
7595 31 of the same calendar year in which such certification was
7596 made shall revert to the fund from which appropriated and shall
7597 be available for reappropriation by the Legislature. In the
7598 event such certification is not made and an obligation is proven
7599 to be legal, due, and unpaid, then the obligation shall be paid
7600 and charged to the appropriation for the current fiscal year of
7601 the state agency or the legislative or judicial branch affected.

7602 (2)(a) Any balance of any appropriation for fixed capital
7603 outlay not disbursed but expended or contracted or committed to
7604 be expended shall, at the end of each fiscal year, be certified
7605 by the head of the affected state agency or the legislative or
7606 judicial branch, on or before August 1 of each year, to the
7607 Executive Office of the Governor, showing in detail the
7608 commitment or to whom obligated and the amount of such
7609 commitment or obligation. On or before September 1 of each
7610 year, the Executive Office of the Governor shall review and
7611 approve or disapprove, consistent with legislative policy and
7612 intent, any or all of the items and amounts certified by the
7613 head of the affected state agency and shall approve all items
7614 and amounts certified by the Chief Justice of the Supreme Court
7615 and by the legislative branch and shall furnish the Chief
7616 Financial Officer ~~Comptroller~~, the legislative appropriations
7617 committees, and the Auditor General a detailed listing of the
7618 items and amounts approved as legal encumbrances against the
7619 undisbursed balances of such appropriations. In the event such



HB 1803

2003

7620 certification is not made and the balance of the appropriation
 7621 has reverted and the obligation is proven to be legal, due, and
 7622 unpaid, then the same shall be presented to the Legislature for
 7623 its consideration.

7624 (3) Notwithstanding the provisions of subsection (2), the
 7625 unexpended balance of any appropriation for fixed capital outlay
 7626 subject to but not under the terms of a binding contract or a
 7627 general construction contract prior to February 1 of the second
 7628 fiscal year, or the third fiscal year if it is for an
 7629 educational facility as defined in chapter 1013 or a
 7630 construction project of a state university, of the appropriation
 7631 shall revert on February 1 of such year to the fund from which
 7632 appropriated and shall be available for reappropriation. The
 7633 Executive Office of the Governor shall, not later than February
 7634 20 of each year, furnish the Chief Financial Officer
 7635 ~~Comptroller~~, the legislative appropriations committees, and the
 7636 Auditor General a report listing in detail the items and amounts
 7637 reverting under the authority of this subsection, including the
 7638 fund to which reverted and the agency affected.

7639 Section 246. Section 217.07, Florida Statutes, is amended
 7640 to read:

7641 217.07 Transfer of surplus property assets to department.-
 7642 -The Chief Financial Officer ~~State Treasurer~~ is authorized to
 7643 transfer to the department any funds unexpended in the Surplus
 7644 Property Revolving Trust Fund account in the State Treasury.
 7645 This revolving fund shall remain in existence as a separate
 7646 trust fund as long as the surplus property program exists. Upon
 7647 termination of the program any remaining funds shall be disposed
 7648 of as provided by federal law.

7649 Section 247. Section 218.06, Florida Statutes, is amended



HB 1803

2003

7650 to read:

7651 218.06 Transfer of funds by county commissioners with
7652 relation to public works grants.--

7653 (1) Boards of county commissioners of the several counties
7654 of the state, whenever it may be necessary to meet the
7655 requirements of the United States Government with reference to
7656 obtaining grants of federal funds in connection with the program
7657 of the Public Works Administration, may by resolution of such
7658 board, transfer and expend such sums of money as may be
7659 necessary to obtain said grant, from any fund to such other fund
7660 as may be necessary to meet said requirements and carry out the
7661 intent and purposes of the said transfer; provided, however,
7662 that no such transfer may be made by any county of the state
7663 without first having obtained the approval of the Department of
7664 Financial Services ~~Banking and Finance~~ thereto, and in the
7665 counties of the state where there is provision for a budget
7666 commission, without first having also obtained the approval of
7667 said budget commission to said transfer.

7668 (2) The Department of Financial Services ~~Banking and~~
7669 ~~Finance~~ and the budget commissions of the several counties of
7670 the state in which there are provisions for such budget
7671 commissions, may approve such transfers whenever in their
7672 opinion such transfers are necessary and proper.

7673 Section 248. Paragraph (a) of subsection (1) of section
7674 218.23, Florida Statutes, is amended to read:

7675 218.23 Revenue sharing with units of local government.--

7676 (1) To be eligible to participate in revenue sharing
7677 beyond the minimum entitlement in any fiscal year, a unit of
7678 local government is required to have:

7679 (a) Reported its finances for its most recently completed



HB 1803

2003

7680 fiscal year to the Department of Financial Services ~~Banking and~~
 7681 ~~Finance~~, pursuant to s. 218.32.

7682
 7683

7684 Additionally, to receive its share of revenue sharing funds, a
 7685 unit of local government shall certify to the Department of
 7686 Revenue that the requirements of s. 200.065, if applicable, were
 7687 met. The certification shall be made annually within 30 days of
 7688 adoption of an ordinance or resolution establishing a final
 7689 property tax levy or, if no property tax is levied, not later
 7690 than November 1. The portion of revenue sharing funds which,
 7691 pursuant to this part, would otherwise be distributed to a unit
 7692 of local government which has not certified compliance or has
 7693 otherwise failed to meet the requirements of s. 200.065 shall be
 7694 deposited in the General Revenue Fund for the 12 months
 7695 following a determination of noncompliance by the department.

7696 Section 249. Subsection (4) of section 218.31, Florida
 7697 Statutes, is amended to read:

7698 218.31 Definitions.--As used in this part, except where
 7699 the context clearly indicates a different meaning:

7700 (4) "Department" means the Department of Financial
 7701 Services ~~Banking and Finance~~.

7702 Section 250. Subsections (1) and (4) of section 218.321,
 7703 Florida Statutes, are amended to read:

7704 218.321 Annual financial statements; local governmental
 7705 entities.--

7706 (1) Each local governmental entity shall complete its
 7707 financial statements for the previous fiscal year in compliance
 7708 with generally accepted accounting principles and the uniform
 7709 chart of accounts prescribed by the department ~~of Banking and~~



HB 1803

2003

7710 ~~Finance.~~

7711 (4) The failure by any local governmental entity to
 7712 complete its annual financial statements shall, in addition to
 7713 any other penalties provided by law, authorize the department to
 7714 employ personnel or send department personnel to such local
 7715 governmental entity in order to complete such annual financial
 7716 statements. The expenses related to the completion of the annual
 7717 financial statements shall be charged to the local governmental
 7718 entity. Upon failure by the local governmental entity to pay the
 7719 charge within 15 days after billing, the department shall so
 7720 certify to the Chief Financial Officer ~~Comptroller~~, who shall
 7721 forward the amount so certified to the department from any funds
 7722 due to the local governmental entity under any revenue-sharing
 7723 or tax-sharing fund established by the state, except as
 7724 otherwise provided by the State Constitution.

7725 Section 251. Section 218.325, Florida Statutes, is amended
 7726 to read:

7727 218.325 Uniform chart of accounts and financial reporting
 7728 for court and justice system costs and revenues.--

7729 (1)(a) The Uniform Chart of Accounts Development Committee
 7730 is hereby created to develop and implement a uniform chart of
 7731 accounts. The committee shall work with the representatives of
 7732 the designated end-user groups identified in subsection (3) in
 7733 order to determine the specific financial data related to the
 7734 operations of the circuit and county courts and justice-related
 7735 agencies of the executive branch which must be accounted for and
 7736 reported. The committee shall then work with the department ~~of~~
 7737 ~~Banking and Finance~~ to develop the necessary rules required to
 7738 implement the uniform chart of accounts. The committee shall
 7739 include:



HB 1803

2003

7740 1. The Chief Financial Officer ~~Comptroller~~ or his or her
7741 ~~the Comptroller's~~ designee.

7742 2. Three clerks of the circuit court or deputy clerks,
7743 appointed by the president of the Florida Association of Court
7744 Clerks.

7745 3. Three elected county commissioners or county finance
7746 staff, appointed by the Florida Association of Counties.

7747 4. Three elected sheriffs or their designees, appointed by
7748 the president of the Florida Sheriffs Association.

7749 (b) The Chief Financial Officer ~~Comptroller~~ or his or her
7750 ~~the Comptroller's~~ designee shall serve as chairperson of the
7751 committee. The committee shall use the staff of the Department
7752 of Financial Services ~~Banking and Finance~~ for staff support and
7753 may also appoint technical support staff as designated by the
7754 Florida Association of Court Clerks, the Florida Association of
7755 Counties, and the Florida Sheriffs Association as needed for
7756 technical assistance and support. ~~Members of the committee must~~
7757 ~~be appointed within 30 days after June 18, 1995. Within 60 days~~
7758 ~~after the appointment of the membership, the committee shall~~
7759 ~~meet to establish procedures for the conduct of its business.~~

7760 (c) Members of the committee shall serve without
7761 compensation.

7762 (2) The Uniform Chart of Accounts Development Committee
7763 shall make an analysis of the requirements for implementing a
7764 detailed, uniform chart of accounts and financial reporting
7765 system for court and justice-related agency expenditures and
7766 revenues. The Chief Financial Officer ~~Comptroller~~ shall make a
7767 report to the Chief Justice of the Florida Supreme Court, the
7768 Governor, the Speaker of the House of Representatives, and the
7769 President of the Senate on such requirements, including a



HB 1803

2003

7770 timetable for implementation and an assessment of fiscal impact,
 7771 by January 1, 1996. The proposed uniform chart of accounts and
 7772 financial reporting system must provide that all revenues
 7773 received and expenditures incurred by county governments, clerks
 7774 of court, the courts or other judicial entities that are related
 7775 to the operations of the circuit courts and county courts, and
 7776 other components of the justice system can be accounted for in
 7777 sufficient detail to permit reporting for both discrete
 7778 functions and organizational units.

7779 (3) For purposes of this section, the collection of
 7780 representatives of end-user groups, which shall assist the
 7781 Uniform Chart of Accounts Development Committee on the process
 7782 and procedures for implementing new accounting and reporting
 7783 requirements and provide oversight and guidance for implementing
 7784 activities, shall be formed by one representative each from the
 7785 Office of the Governor, the Speaker of the House of
 7786 Representatives, the President of the Senate, the Office of the
 7787 Chief Financial Officer ~~Comptroller~~, the Office of the State
 7788 Courts Administrator, the Florida Prosecuting Attorneys
 7789 Association, the Florida Public Defenders Association, the
 7790 Legislative Committee on Intergovernmental Relations, the
 7791 Information Resource Committee, and The Florida Bar.

7792 Section 252. Paragraph (a) of subsection (1) of section
 7793 220.151, Florida Statutes, is amended to read:

7794 220.151 Apportionment; methods for special industries.--

7795 (1)(a) Except as provided in paragraph (b), the tax base
 7796 of an insurance company for a taxable year or period shall be
 7797 apportioned to this state by multiplying such base by a fraction
 7798 the numerator of which is the direct premiums written for
 7799 insurance upon properties and risks in this state and the



HB 1803

2003

7800 denominator of which is the direct premiums written for
 7801 insurance upon properties and risks everywhere. For purposes of
 7802 this paragraph, the term "direct premiums written" means the
 7803 total amount of direct premiums written, assessments, and
 7804 annuity considerations, as reported for the taxable year or
 7805 period on the annual statement filed by the company with the
 7806 Office ~~commissioner~~ of Insurance Regulation of the Financial
 7807 Services Commission in the form approved by the National
 7808 Convention of Insurance Commissioners or such other form as may
 7809 be prescribed in lieu thereof.

7810 Section 253. Subsection (7) of section 220.187, Florida
 7811 Statutes, is amended to read:

7812 220.187 Credits for contributions to nonprofit
 7813 scholarship-funding organizations.--

7814 (7) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--All eligible
 7815 contributions received by an eligible nonprofit scholarship-
 7816 funding organization shall be deposited in a manner consistent
 7817 with s. 17.58(2) ~~18.10(2)~~.

7818 Section 254. Subsection (3) of section 220.62, Florida
 7819 Statutes, is amended to read:

7820 220.62 Definitions.--For purposes of this part:

7821 (3) The term "international banking facility" means a set
 7822 of asset and liability accounts segregated on the books and
 7823 records of a banking organization that includes only
 7824 international banking facility deposits, borrowings, and
 7825 extensions of credit, as those terms are defined by the
 7826 Financial Services Commission ~~Department of Banking and Finance~~,
 7827 taking into account all transactions in which international
 7828 banking facilities are permitted to engage by regulations of the
 7829 Board of Governors of the Federal Reserve System, as from time



HB 1803

2003

7830 to time amended. When providing such definitions, the Financial
 7831 Services Commission ~~Department of Banking and Finance~~ shall also
 7832 consider the public interest, including the need to maintain a
 7833 sound and competitive banking system, as well as the purpose of
 7834 this act, which is to create an environment conducive to the
 7835 conduct of an international banking business in the state.

7836 Section 255. Subsection (2) of section 220.723, Florida
 7837 Statutes, is amended to read:

7838 220.723 Overpayments; interest.--

7839 (2) Interest shall accrue from the date upon which the
 7840 taxpayer files a written notice advising the department of the
 7841 overpayment. Interest shall be paid until such date as
 7842 determined by the department, which shall be no more than 7 days
 7843 prior to the date of the issuance by the Chief Financial Officer
 7844 ~~Comptroller~~ of the refund warrant.

7845 Section 256. Paragraph (b) of subsection (1) and paragraph
 7846 (b) of subsection (2) of section 238.11, Florida Statutes, are
 7847 amended to read:

7848 238.11 Collection of contributions.--

7849 (1) The collection of contributions shall be as follows:

7850 (b) Each employer shall transmit monthly to the Department
 7851 of Management Services a warrant for the total amount of such
 7852 deductions. Each employer shall also transmit monthly to the
 7853 department a warrant for such employer contribution set aside as
 7854 provided for in paragraph (a) of this subsection. The
 7855 department, after making records of all such warrants, shall
 7856 transmit them to the Department of Financial Services ~~Banking~~
 7857 ~~and Finance~~ for delivery to the Chief Financial Officer,
 7858 ~~Treasurer of the state~~ who shall collect them.

7859 (2) The collection of the state contribution shall be made



HB 1803

2003

7860 as follows:

7861 (b) The Department of Management Services shall certify
7862 one-fourth of the amount so ascertained for each year to the
7863 Chief Financial Officer ~~Comptroller~~ on or before the last day of
7864 July, October, January, and April of each year. The Chief
7865 Financial Officer ~~Comptroller~~ shall, on or before the first day
7866 of August, November, February, and May of each year, ~~draw his or~~
7867 ~~her warrant or warrants on the Treasurer for the respective~~
7868 ~~amounts due the several funds of the retirement system. On the~~
7869 ~~receipt of the warrant or warrants of the Comptroller, the~~
7870 ~~Treasurer shall~~ immediately transfer to the several funds of the
7871 retirement system the amounts due.

7872 Section 257. Section 238.15, Florida Statutes, is amended
7873 to read:

7874 238.15 Exemption of funds from taxation, execution, and
7875 assignment.--The pensions, annuities or any other benefits
7876 accrued or accruing to any person under the provisions of this
7877 chapter and the accumulated contributions and cash securities in
7878 the funds created under this chapter are exempted from any
7879 state, county or municipal tax of the state, and shall not be
7880 subject to execution or attachment or to any legal process
7881 whatsoever, and shall be unassignable, except:

7882 (1) That any teacher who has retired shall have the right
7883 and power to authorize in writing the Department of Management
7884 Services to deduct from his or her monthly retirement allowance
7885 money for the payment of the premiums on group insurance for
7886 hospital, medical and surgical benefits, under a plan or plans
7887 for such benefits approved in writing by the Chief Financial
7888 Officer ~~Insurance Commissioner and Treasurer of the state~~, and
7889 upon receipt of such request the department shall make the



HB 1803

2003

7890 monthly payments as directed; and

7891 (2) As may be otherwise specifically provided for in this
7892 chapter.

7893 Section 258. Section 238.172, Florida Statutes, is amended
7894 to read:

7895 238.172 Proof required.--For any person to obtain the
7896 allowance as set forth in s. 238.171 the ~~said~~ person shall make
7897 such proof of the facts and conditions entitling him or her to
7898 the ~~said~~ allowance as shall reasonably be required by the state
7899 board, and when such proof has been submitted to the
7900 satisfaction of the state board, the Chief Financial Officer
7901 ~~State Treasurer~~ shall pay to such person the monthly allowance
7902 herein provided for ~~on warrants drawn by the Comptroller~~.

7903 Section 259. Section 238.173, Florida Statutes, is amended
7904 to read:

7905 238.173 Monthly allowance to widows or widowers of
7906 pensioners.--When any teacher, drawing pension under s. 238.171,
7907 shall die leaving surviving a widow or widower to whom such
7908 pensioner has been married for a continuous period of at least
7909 10 years immediately prior to his or her death, and from whom no
7910 dissolution of marriage is obtained, such widow or widower, upon
7911 proof of marriage to and continuation of marriage for the
7912 minimum period with, and death of, said pensioner, shall be
7913 granted a pension payable from the date of the death of said
7914 pensioner, and at the same time and rate as other pensions paid
7915 under s. 238.171. The Chief Financial Officer ~~Comptroller~~ is
7916 ~~hereby~~ authorized and directed to draw his or her warrants in
7917 payment of such pensions so long as such widow or widower shall
7918 remain unmarried and continue to be a resident of the state;
7919 provided, however, that nothing herein contained shall be so



HB 1803

2003

7920 construed as to allow such pension to be paid to any widow or
 7921 widower where such widow or widower of a deceased pensioner
 7922 under this section receives a like pension in his or her own
 7923 right as a retired school teacher.

7924 Section 260. Subsection (3) of section 250.22, Florida
 7925 Statutes, is amended to read:

7926 250.22 Retirement.--

7927 (3) Sufficient money to meet the requirements of this
 7928 section is hereby appropriated out of any moneys in the State
 7929 Treasury not otherwise appropriated, and payments under this
 7930 section will be made to those eligible to receive the same on
 7931 the first day of each calendar month from the General Revenue
 7932 Fund by the Chief Financial Officer ~~Comptroller~~ upon prescribed
 7933 pay vouchers certified to by the Adjutant General of the state.

7934 Section 261. Subsections (3), (4), and (5) of section
 7935 250.24, Florida Statutes, are amended to read:

7936 250.24 Pay and expenses; appropriation; procedures.--

7937 (3) Notwithstanding the provision of s. 216.271, moneys
 7938 for pay and allowances of the troops ordered out in active
 7939 service of the state shall be deposited in a separate revolving
 7940 fund, which shall be approved by the Chief Financial Officer
 7941 ~~Comptroller~~ and shall be subject to the provisions of s.
 7942 17.58(2) ~~s. 18.101(2)~~. The Department of Military Affairs shall
 7943 administer the fund. Frequency of payments to such troops shall
 7944 be at the discretion of the Adjutant General. The Department of
 7945 Military Affairs shall present to the Chief Financial Officer
 7946 ~~Comptroller~~ audit documentation of such payments. The
 7947 Department of Military Affairs shall maintain all employee
 7948 records relating to payments made pursuant to this subsection
 7949 and shall furnish to the Chief Financial Officer ~~Comptroller~~ the



HB 1803

2003

7950 information necessary to update the payroll master record of
 7951 each employee.

7952 (4) The fund balance remaining in this separate revolving
 7953 fund after a final accounting of all expenditures for pay and
 7954 allowances of the troops shall be returned for deposit to the
 7955 State Treasury within 45 days after the termination of active
 7956 duty of the troops, except that an operating balance in an
 7957 amount mutually agreed upon by the Chief Financial Officer
 7958 ~~Comptroller~~ and the Department of Military Affairs shall be
 7959 retained in the fund.

7960 (5) Vouchers for expenditures other than such pay and
 7961 allowances shall be presented to the Chief Financial Officer
 7962 ~~Comptroller~~ for approval and payment as prescribed by law.

7963 Section 262. Section 250.25, Florida Statutes, is amended
 7964 to read:

7965 250.25 Governor and Chief Financial Officer ~~Comptroller~~
 7966 authorized to borrow money.--When there is no state
 7967 appropriation available for the pay and expenses of troops
 7968 called out in active service to preserve the peace or in aid of
 7969 civil authorities, and funds are not immediately available for
 7970 this purpose, the Governor and Chief Financial Officer
 7971 ~~Comptroller~~ may borrow money to make such payments, in such sum
 7972 or sums as may from time to time be required, and any such
 7973 loans, so obtained, shall be promptly repaid out of the first
 7974 funds that become available for such use.

7975 Section 263. Section 250.26, Florida Statutes, is amended
 7976 to read:

7977 250.26 Transfer of funds.--Where the available funds are
 7978 not sufficient for the purposes specified in ss. 250.23, 250.24,
 7979 and 250.34, the Governor and Chief Financial Officer ~~Comptroller~~



HB 1803

2003

7980 may transfer from any available fund in the State Treasury, such
 7981 sum as may be necessary to meet such emergency, and the said
 7982 moneys, so transferred, shall be repaid to the fund from which
 7983 transferred when moneys become available for that purpose by
 7984 legislative appropriation or otherwise.

7985 Section 264. Subsection (3) of section 250.34, Florida
 7986 Statutes, is amended to read:

7987 250.34 Injury or death in active service.--

7988 (3) After the expiration of 1 year from the date of injury
 7989 or disability, such individual shall be provided
 7990 hospitalization, medical services and supplies, and compensation
 7991 for wages and compensation for disability based on the average
 7992 weekly wages of such injured individual on pay status in the
 7993 active service of the state or in his or her civilian occupation
 7994 or employment, whichever is greater, in amounts provided under
 7995 chapter 440 [F. S. 1973], as if such individual were covered
 7996 under the Workers' Compensation Law, except that payments made
 7997 during the first year after such injury shall not be duplicated
 7998 after the expiration of that year. The Division of Risk
 7999 Management of the Department of Financial Services ~~Insurance~~ is
 8000 responsible for processing all claims for benefits under this
 8001 subsection.

8002 Section 265. Subsection (7) of section 252.87, Florida
 8003 Statutes, is amended to read:

8004 252.87 Supplemental state reporting requirements.--

8005 (7) The department shall avoid duplicative reporting
 8006 requirements by utilizing the reporting requirements of other
 8007 state agencies that regulate hazardous materials to the extent
 8008 feasible and shall request the information authorized under
 8009 EPCRA. With the advice and consent of the State Emergency



HB 1803

2003

8010 Response Commission for Hazardous Materials, the department may
 8011 require by rule that the maximum daily amount entry on the
 8012 chemical inventory report required under s. 312 of EPCRA provide
 8013 for reporting in estimated actual amounts. The department may
 8014 also require by rule an entry for the Federal Employer
 8015 Identification Number on this report. To the extent feasible,
 8016 the department shall encourage and accept required information
 8017 in a form initiated through electronic data interchange and
 8018 shall describe by rule the format, manner of execution, and
 8019 method of electronic transmission necessary for using such form.
 8020 To the extent feasible, the Department of Financial Services
 8021 ~~Insurance~~, the Department of Agriculture and Consumer Services,
 8022 the Department of Environmental Protection, the Public Service
 8023 Commission, the Department of Revenue, the Department of Labor
 8024 and Employment Security, and other state agencies which regulate
 8025 hazardous materials shall coordinate with the department in
 8026 order to avoid duplicative requirements contained in each
 8027 agency's respective reporting or registration forms. The other
 8028 state agencies that inspect facilities storing hazardous
 8029 materials and suppliers and distributors of covered substances
 8030 shall assist the department in informing the facility owner or
 8031 operator of the requirements of this part. The department shall
 8032 provide the other state agencies with the necessary information
 8033 and materials to inform the owners and operators of the
 8034 requirements of this part to ensure that the budgets of these
 8035 agencies are not adversely affected.

8036 Section 266. Subsection (14) of section 253.025, Florida
 8037 Statutes, is amended to read:

8038 253.025 Acquisition of state lands for purposes other than
 8039 preservation, conservation, and recreation.--



HB 1803

2003

8040 (14) Any agency that acquires land on behalf of the board
8041 of trustees is authorized to request disbursement of payments
8042 for real estate closings in accordance with a written
8043 authorization from an ultimate beneficiary to allow a third
8044 party authorized by law to receive such payment provided the
8045 Chief Financial Officer ~~Comptroller~~ determines that such
8046 disbursement is consistent with good business practices and can
8047 be completed in a manner minimizing costs and risks to the
8048 state.

8049 Section 267. Subsection (1) of section 255.03, Florida
8050 Statutes, is amended to read:

8051 255.03 Proceeds of insurance to be paid into State
8052 Treasury; disbursement of funds.--

8053 (1) The proceeds from the insurance of any state building
8054 or state property covered by insurance which may be destroyed in
8055 whole or in part by fire, or other damage, shall be paid into
8056 the State Treasury and constitute a fund for the rebuilding or
8057 replacing of such property, and the Chief Financial Officer
8058 ~~Comptroller~~ may draw his or her warrant ~~on the State Treasurer~~
8059 for such amounts, not to exceed the proceeds so paid in, as may
8060 be approved by the board or persons having the direct
8061 supervision and control of such buildings or property for the
8062 purpose of rebuilding or replacing the same.

8063 Section 268. Subsections (1) and (2) of section 255.052,
8064 Florida Statutes, are amended to read:

8065 255.052 Substitution of securities for amounts retained on
8066 public contracts.--

8067 (1) Under any contract made or awarded by the state or any
8068 county, city, or political subdivision thereof, or other public
8069 authority, the contractor may, from time to time, withdraw the



HB 1803

2003

8070 whole or any portion of the amount retained for payments to the
 8071 contractor pursuant to the terms of the contract, upon
 8072 depositing with the Chief Financial Officer ~~State Treasurer~~:

8073 (a) United States Treasury bonds, United States Treasury
 8074 notes, United States Treasury certificates of indebtedness, or
 8075 United States Treasury bills;

8076 (b) Bonds or notes of the State of Florida; or

8077 (c) Bonds of any political subdivision in the state; or

8078 (d) Cash delivered to the State Treasury for the Treasury
 8079 Cash Deposit Trust Fund; or

8080 (e) Certificates of deposit from state or national banks
 8081 or state or federal savings and loan associations in the state.
 8082 Certificates of deposit shall possess the eligibility
 8083 characteristics defined in s. 625.52.

8084
 8085 No amount shall be withdrawn in excess of the market value of
 8086 the securities listed in paragraphs (a), (b), and (c) at the
 8087 time of withdrawal or of the par value of such securities,
 8088 whichever is lower.

8089 (2) The Chief Financial Officer ~~Treasurer~~ shall regularly,
 8090 ~~on a regular basis~~, collect all interest or income on the
 8091 obligations so deposited, and shall pay the same, when and as
 8092 collected, to the contractor who deposited the obligations. If
 8093 the deposit is in the form of coupon bonds, the Chief Financial
 8094 Officer ~~Treasurer~~ shall deliver each coupon as it matures to the
 8095 contractor.

8096
 8097 Nothing in this section shall be construed to require the state
 8098 or any county, city, or political subdivision thereof, or other
 8099 public authority, to allow the contractor to withdraw the whole



HB 1803

2003

8100 or any portion of the amount retained for payments to the
8101 contractor except pursuant to the terms of the contract.

8102 Section 269. Subsection (2) of section 255.258, Florida
8103 Statutes, is amended to read:

8104 255.258 Shared savings financing of energy conservation in
8105 state-owned buildings.--

8106 (2) Except as noted in subsection (4), state agency shared
8107 savings contracts shall be developed in accordance with a model
8108 contract to be developed by the department in cooperation with
8109 the Attorney General, the Chief Financial Officer ~~Comptroller~~,
8110 and the Department of Community Affairs. The model contract
8111 shall include the methodology for calculating base line energy
8112 costs, a procedure for revising these costs should the state
8113 institute additional energy conservation features or building
8114 use change, a requirement for a performance bond guaranteeing
8115 that the facility will be restored to the original condition in
8116 the event of default, a provision for early buy-out, a clause
8117 specifying who will be responsible for maintaining the
8118 equipment, and a provision allowing the disposal of equipment at
8119 the end of the contract. No agency shall substantially alter
8120 the provisions described in the model without the permission of
8121 the department.

8122 Section 270. Subsection (8) of section 255.503, Florida
8123 Statutes, is amended to read:

8124 255.503 Powers of the Department of Management Services.--
8125 The Department of Management Services shall have all the
8126 authority necessary to carry out and effectuate the purposes and
8127 provisions of this act, including, but not limited to, the
8128 authority to:

8129 (8) Create and establish funds and accounts for the



HB 1803

2003

8130 purpose of debt service reserves, for the matching of the timing
 8131 and the amount of available funds and debt service charges, for
 8132 sinking funds, for capital depreciation reserves, for operating
 8133 reserves, for capitalized interest and moneys not required for
 8134 immediate disbursement to acquire all or a portion of any
 8135 facility, and for any other reserves, funds, or accounts
 8136 reasonably necessary to carry out the provisions of this act and
 8137 to invest in authorized investments any moneys held in such
 8138 funds and accounts, provided such investments will be made on
 8139 behalf of the Department of Management Services by the State
 8140 Board of Administration or the Chief Financial Officer
 8141 ~~Treasurer~~, as appropriate.

8142 Section 271. Section 255.521, Florida Statutes, is amended
 8143 to read:

8144 255.521 Failure of payment.--Should an agency fail to make
 8145 a timely payment of the pool pledged rentals or charges as
 8146 required by this act, the Chief Financial Officer ~~Comptroller~~
 8147 shall withhold general revenues of the agency in an amount
 8148 sufficient to pay the rentals and charges due and unpaid from
 8149 such agency. The Chief Financial Officer ~~Comptroller~~ shall
 8150 forward such ~~said~~ general revenue amounts to the Department of
 8151 Management Services in payment of such rents.

8152 Section 272. Section 257.22, Florida Statutes, is amended
 8153 to read:

8154 257.22 Division of Library and Information Services;
 8155 allocation of funds.--Any moneys that may be appropriated for
 8156 use by a county, a municipality, a special district, or a
 8157 special tax district for the maintenance of a library or library
 8158 service shall be administered and allocated by the Division of
 8159 Library and Information Services in the manner prescribed by



HB 1803

2003

8160 law. On or before December 1 of each year, the division shall
8161 certify to the Chief Financial Officer ~~Comptroller~~ the amount to
8162 be paid to each county, municipality, special district, or
8163 special tax district, and the Chief Financial Officer
8164 ~~Comptroller~~ shall issue warrants to the respective boards of
8165 county commissioners or chief municipal executive authorities
8166 for the amount so allocated.

8167 Section 273. Subsection (2) of section 258.014, Florida
8168 Statutes, is amended to read:

8169 258.014 Fees for use of state parks.--

8170 (2) Any moneys received in trust by the division by gift,
8171 devise, appropriation, or otherwise shall, subject to the terms
8172 of such trust, be deposited with the Chief Financial Officer
8173 ~~State Treasurer~~ in a fund to be known as the "State Park Trust
8174 Fund," and shall be subject to withdrawal upon application of
8175 such ~~said~~ division for expenditure or investment in accordance
8176 with the terms of the ~~said~~ trust. Unless prohibited by the
8177 terms of the trust by which the ~~said~~ moneys are derived, all of
8178 such moneys may be invested as provided by law.

8179 Section 274. Subsection (6) and paragraph (e) of
8180 subsection (12) of section 259.032, Florida Statutes, are
8181 amended to read:

8182 259.032 Conservation and Recreation Lands Trust Fund;
8183 purpose.--

8184 (6) Moneys in the fund not needed to meet obligations
8185 incurred under this section shall be deposited with the Chief
8186 Financial Officer ~~Treasurer~~ to the credit of the fund and may be
8187 invested in the manner provided by law. Interest received on
8188 such investments shall be credited to the Conservation and
8189 Recreation Lands Trust Fund.



HB 1803

2003

8190 (12)
 8191 (e) Payment in lieu of taxes pursuant to this subsection
 8192 For the purposes of this subsection, "local government" includes
 8193 municipalities, the county school board, mosquito control
 8194 districts, and any other local government entity which levies ad
 8195 valorem taxes, with the exception of a water management
 8196 district.
 8197 shall be made annually to qualifying counties and local
 8198 governments after certification by the Department of Revenue
 8199 that the amounts applied for are reasonably appropriate, based
 8200 on the amount of actual taxes paid on the eligible property, and
 8201 after the Department of Environmental Protection has provided
 8202 supporting documents to the Chief Financial Officer ~~Comptroller~~
 8203 and has requested that payment be made in accordance with the
 8204 requirements of this section.

8205
 8206 For the purposes of this subsection, "local government" includes
 8207 municipalities, the county school board, mosquito control
 8208 districts, and any other local government entity which levies ad
 8209 valorem taxes, with the exception of a water management
 8210 district.

8211 Section 275. Subsection (18) of section 259.041, Florida
 8212 Statutes, is amended to read:

8213 259.041 Acquisition of state-owned lands for preservation,
 8214 conservation, and recreation purposes.--

8215 (18) Any agency authorized to acquire lands on behalf of
 8216 the board of trustees is authorized to request disbursement of
 8217 payments for real estate closings in accordance with a written
 8218 authorization from an ultimate beneficiary to allow a third
 8219 party authorized by law to receive such payment provided the



HB 1803

2003

8220 Chief Financial Officer ~~Comptroller~~ determines that such
 8221 disbursement is consistent with good business practices and can
 8222 be completed in a manner minimizing costs and risks to the
 8223 state.

8224 Section 276. Subsection (2) of section 265.53, Florida
 8225 Statutes, is amended to read:

8226 265.53 Application for indemnity agreement.--

8227 (2) The Department of Financial Services Insurance shall
 8228 determine whether applicants qualify for indemnity coverage
 8229 under ss. 265.51-265.56. Qualification criteria, which shall be
 8230 set by rule, shall include factors such as:

8231 (a) Physical security of an applicant's exhibition
 8232 facilities and of the means of transportation of the eligible
 8233 items from the borrower to the lender.

8234 (b) Experience and qualifications of an applicant's
 8235 director, curator, registrar, or other staff.

8236 (c) Eligibility of an applicant's exhibition facilities
 8237 for commercial insurance coverage of works of art displayed
 8238 there.

8239 (d) Availability of proper equipment to protect works of
 8240 art from damage from extremes of temperature or humidity or
 8241 exposure to glare, dust, or corrosion.

8242

8243

8244 The department may consult with such private insurance and art
 8245 experts as reasonably necessary to carry out the intent of this
 8246 subsection.

8247 Section 277. Subsections (1) and (3) of section 265.55,
 8248 Florida Statutes, are amended to read:

8249 265.55 Claims.--



HB 1803

2003

8250 (1) The Division of Risk Management of the Department of
 8251 Financial Services Insurance may prescribe rules providing for
 8252 prompt adjustment of valid claims for losses which are covered
 8253 by an indemnity agreement made pursuant to the provisions of ss.
 8254 265.51-265.56, including rules providing for the employment of
 8255 consultants and for the arbitration of issues relating to the
 8256 dollar value of damages involving less than total loss or
 8257 destruction of such covered objects.

8258 (3) The authorization for payment delineated in subsection
 8259 (2) shall be forwarded to the Chief Financial Officer
 8260 ~~Comptroller~~. The Chief Financial Officer ~~Comptroller~~ shall take
 8261 appropriate action to execute authorized payment of the claim
 8262 from the Working Capital Fund, as defined in s. 215.32.

8263 Section 278. Paragraph (d) of subsection (3) of section
 8264 267.075, Florida Statutes, is amended to read:

8265 267.075 The Grove Advisory Council; creation; membership;
 8266 purposes.--

8267 (3)

8268 (d) Members of the council shall serve without
 8269 compensation or honorarium but shall be entitled to receive
 8270 reimbursement for per diem and travel expenses as provided in s.
 8271 112.061. All expenses of the council shall be paid from
 8272 appropriations to be made by the Legislature to the Department
 8273 of State. All vouchers shall be approved by the Division of
 8274 Historical Resources before being submitted to the Chief
 8275 Financial Officer ~~Comptroller~~ for payment.

8276 Section 279. Paragraph (c) of subsection (2) of section
 8277 272.18, Florida Statutes, is amended to read:

8278 272.18 Governor's Mansion Commission.--

8279 (2)



HB 1803

2003

8280 (c) Members of the commission shall serve without
8281 compensation or honorarium but shall be entitled to receive
8282 reimbursement for per diem and travel expenses as provided in s.
8283 112.061. All expenses of the commission shall be paid from
8284 appropriations to be made by the Legislature to the Department
8285 of Management Services for that purpose. The commission shall
8286 submit its budgetary requests to the Department of Management
8287 Services for approval and inclusion in the legislative budget
8288 request of the department. All vouchers shall be approved by the
8289 secretary of the Department of Management Services before being
8290 submitted to the Chief Financial Officer ~~Comptroller~~ for
8291 payment.

8292 Section 280. Subsections (9), (11), (17), (18), (19), and
8293 (24), paragraph (f) of subsection (26), and subsections (29),
8294 (30), and (31) of section 280.02, Florida Statutes, are amended
8295 to read:

8296 280.02 Definitions.--As used in this chapter, the term:

8297 (9) "Custodian" means the Chief Financial Officer
8298 ~~Treasurer~~ or any bank, savings association, or trust company
8299 that:

8300 (a) Is organized and existing under the laws of this
8301 state, any other state, or the United States;

8302 (b) Has executed all forms required under this chapter or
8303 any rule adopted hereunder;

8304 (c) Agrees to be subject to the jurisdiction of the courts
8305 of this state, or of courts of the United States which are
8306 located within this state, for the purpose of any litigation
8307 arising out of this chapter; and

8308 (d) Has been approved by the Chief Financial Officer
8309 ~~Treasurer~~ to act as a custodian.



HB 1803

2003

8310 (11) "Effective date of notice of withdrawal or order of
8311 discontinuance" pursuant to s. 280.11(3) means that date which
8312 is set out as such in any notice of withdrawal or order of
8313 discontinuance from the Chief Financial Officer ~~Treasurer~~.

8314 (17) "Operating subsidiary" means the qualified public
8315 depository's 100-percent owned corporation that has ownership of
8316 pledged collateral. The operating subsidiary may have no powers
8317 beyond those that its parent qualified public depository may
8318 itself exercise. The use of an operating subsidiary is at the
8319 discretion of the qualified public depository and must meet the
8320 Chief Financial Officer's ~~Treasurer's~~ requirements.

8321 (18) "Oversight board" means the qualified public
8322 depository oversight board created in s. 280.071 for the purpose
8323 of safeguarding the integrity of the public deposits program and
8324 preventing the realization of loss assessments through
8325 standards, policies, and recommendations for actions to the
8326 Chief Financial Officer ~~Treasurer~~.

8327 (19) "Pledged collateral" means securities or cash held
8328 separately and distinctly by an eligible custodian for the
8329 benefit of the Chief Financial Officer ~~Treasurer~~ to be used as
8330 security for Florida public deposits. This includes maturity and
8331 call proceeds.

8332 (24) "Public depositor" means the official custodian of
8333 funds for a governmental unit who is ~~Treasurer or other Chief~~
8334 ~~Financial Officer or designee~~ responsible for handling public
8335 deposits.

8336 (26) "Qualified public depository" means any bank, savings
8337 bank, or savings association that:

8338 (f) Has been designated by the Chief Financial Officer
8339 ~~Treasurer~~ as a qualified public depository.



HB 1803

2003

8340 ~~(29)~~ ~~"Treasurer" means the Treasurer of the State of~~
 8341 ~~Florida.~~

8342 (29)~~(30)~~ "Chief Financial Officer's Treasurer's custody"
 8343 is a collateral arrangement governed by a contract between a
 8344 designated Chief Financial Officer's Treasurer's custodian and
 8345 the Chief Financial Officer Treasurer. This arrangement requires
 8346 collateral to be in the Chief Financial Officer's Treasurer's
 8347 name in order to perfect the security interest.

8348 ~~(30)~~~~(31)~~ "Triggering events" are events set out in s.
 8349 280.041 which give the Chief Financial Officer Treasurer the
 8350 right to:

8351 (a) Instruct the custodian to transfer securities pledged,
 8352 interest payments, and other proceeds of pledged collateral not
 8353 previously credited to the pledgor.

8354 (b) Demand payment under letters of credit.

8355 Section 281. Subsections (1), (2), (5), (6), (7), and (9)
 8356 of section 280.04, Florida Statutes, are amended to read:

8357 280.04 Collateral for public deposits; general
 8358 provisions.--

8359 (1) The Chief Financial Officer Treasurer shall determine
 8360 the collateral requirements and collateral pledging level for
 8361 each qualified public depository following procedures
 8362 established by rule. These procedures shall include numerical
 8363 parameters for 25-percent, 50-percent, 125-percent, and 200-
 8364 percent pledge levels based on nationally recognized financial
 8365 rating services information and established financial
 8366 performance guidelines.

8367 (2) A qualified public depository may not accept or retain
 8368 any public deposit which is required to be secured unless it has
 8369 deposited with the Chief Financial Officer Treasurer eligible



HB 1803

2003

8370 collateral at least equal to the greater of:

8371 (a) The average daily balance of public deposits that does
 8372 not exceed the lesser of its capital account or 20 percent of
 8373 the pool figure multiplied by the depository's collateral-
 8374 pledging level, plus the greater of:

- 8375 1. One hundred twenty-five percent of the average daily
 8376 balance of public deposits in excess of capital accounts; or
- 8377 2. One hundred twenty-five percent of the average daily
 8378 balance of public deposits in excess of 20 percent of the pool
 8379 figure.

8380 (b) Twenty-five percent of the average monthly balance of
 8381 public deposits.

8382 (c) One hundred twenty-five percent of the average daily
 8383 balance of public deposits if the qualified public depository:

- 8384 1. Has been established for less than 3 years;
- 8385 2. Has experienced material decreases in its capital
 8386 accounts; or
- 8387 3. Has an overall financial condition that is materially
 8388 deteriorating.

8389 (d) Two hundred percent of an established maximum amount
 8390 of public deposits that has been mutually agreed upon by and
 8391 between the Chief Financial Officer ~~Treasurer~~ and the qualified
 8392 public depository.

8393 (e) Minimum required collateral of \$100,000.

8394 (f) An amount as required in special instructions from the
 8395 Chief Financial Officer ~~Treasurer~~ to protect the integrity of
 8396 the public deposits program.

8397 (5) Additional collateral of 20 percent of required
 8398 collateral is necessary if a valuation date other than the close
 8399 of business as described below has been approved for the



HB 1803

2003

8400 qualified public depository and the required collateral is found
8401 to be insufficient based on the Chief Financial Officer's
8402 ~~Treasurer's~~ valuation.

8403 (6) Each qualified public depository shall value its
8404 collateral in the following manner; it must:

8405 (a) Use a nationally recognized source.

8406 (b) Use market price, quality ratings, and pay-down
8407 factors as of the close of business on the last banking day in
8408 the reported month, or as of a date approved by the Chief
8409 Financial Officer ~~Treasurer~~.

8410 (c) Report any material decline in value that occurs
8411 before the date of mailing the monthly report, required in s.
8412 280.16, to the Chief Financial Officer ~~Treasurer~~.

8413 (d) Use 100 percent of the maximum amount available under
8414 Federal Home Loan Bank letters of credit as market value.

8415 (7) A qualified public depository shall pledge, deposit,
8416 or issue additional eligible collateral between filing periods
8417 of the monthly report required in s. 280.16 when notified by the
8418 Chief Financial Officer ~~Treasurer~~ that current market value of
8419 collateral does not meet required collateral. The pledge,
8420 deposit, or issuance of such additional collateral shall be made
8421 within 2 business days after the Chief Financial Officer's
8422 ~~Treasurer's~~ notification.

8423 (9) The Chief Financial Officer ~~Treasurer~~ shall adopt
8424 rules for the establishment of collateral requirements,
8425 collateral pledging levels, required collateral calculations,
8426 and market value and clarifying terms.

8427 Section 282. Section 280.041, Florida Statutes, is amended
8428 to read:

8429 280.041 Collateral arrangements; agreements, provisions,



HB 1803

2003

8430 and triggering events.--

8431 (1) Eligible collateral listed in s. 280.13 may be
8432 pledged, deposited, or issued using the following collateral
8433 arrangements as approved by the Chief Financial Officer
8434 ~~Treasurer~~ for a qualified public depository or operating
8435 subsidiary, if one is used, to meet required collateral:

8436 (a) Regular custody arrangement for collateral pledged to
8437 the Chief Financial Officer ~~Treasurer~~ pursuant to subsection
8438 (2).

8439 (b) Federal Reserve Bank custody arrangement for
8440 collateral pledged to the Chief Financial Officer ~~Treasurer~~
8441 pursuant to subsection(3).

8442 (c) Chief Financial Officer's ~~Treasurer's~~ custody
8443 arrangement for collateral deposited in the Chief Financial
8444 Officer's ~~Treasurer's~~ name pursuant to subsection (4).

8445 (d) Federal Home Loan Bank letter of credit arrangement
8446 for collateral issued with the Chief Financial Officer ~~Treasurer~~
8447 as beneficiary pursuant to subsection (5).

8448 (e) Cash arrangement for collateral held by the Chief
8449 Financial Officer ~~Treasurer~~ or a custodian.

8450 (2) With the approval of the Chief Financial Officer
8451 ~~Treasurer~~, a qualified public depository or operating
8452 subsidiary, as pledgor, may deposit eligible collateral with a
8453 custodian. A qualified public depository shall not act as its
8454 own custodian. Except in the case of using a Federal Reserve
8455 Bank as custodian, the following are necessary for the Chief
8456 Financial Officer's ~~Treasurer's~~ approval:

8457 (a) A completed collateral agreement in a form prescribed
8458 by the Chief Financial Officer ~~Treasurer~~ in which the pledgor
8459 agrees to the following provisions:



HB 1803

2003

8460 1. The pledgor shall own the pledged collateral and
8461 acknowledge that the Chief Financial Officer ~~Treasurer~~ has a
8462 perfected security interest. The pledged collateral shall be
8463 eligible collateral and shall be at least equal to the amount of
8464 required collateral.

8465 2. The pledgor shall grant to the Chief Financial Officer
8466 ~~Treasurer~~ an interest in pledged collateral for the purposes of
8467 this section. The pledgor shall not enter into or execute any
8468 other agreement related to the pledged collateral that would
8469 create an interest in or lien on that collateral in any manner
8470 in favor of any third party without the written consent of the
8471 Chief Financial Officer ~~Treasurer~~.

8472 3. The pledgor shall not grant the custodian any lien that
8473 attaches to the collateral in favor of the custodian that is
8474 superior or equal to the security interest of the Chief
8475 Financial Officer ~~Treasurer~~.

8476 4. The pledgor shall agree that the Chief Financial
8477 Officer ~~Treasurer~~ may, without notice to or consent by the
8478 pledgor, require the custodian to comply with and perform any
8479 and all requests and orders directly from the Chief Financial
8480 Officer ~~Treasurer~~. These include, but are not limited to,
8481 liquidating all collateral and submitting the proceeds directly
8482 to the Chief Financial Officer ~~Treasurer~~ in the name of the
8483 Chief Financial Officer ~~Treasurer~~ only or transferring all
8484 collateral into an account designated solely by the Chief
8485 Financial Officer ~~Treasurer~~.

8486 5. The pledgor shall acknowledge that the Chief Financial
8487 Officer ~~Treasurer~~ may, without notice to or consent by the
8488 pledgor, require the custodian to hold principal payments and
8489 income for the benefit of the Chief Financial Officer ~~Treasurer~~.



HB 1803

2003

8490 6. The pledgor shall initiate collateral transactions on
8491 forms prescribed by the Chief Financial Officer ~~Treasurer~~ in the
8492 following manner:

8493 a. A deposit transaction of eligible collateral may be
8494 made without prior approval from the Chief Financial Officer
8495 ~~Treasurer~~ provided: security types that have restrictions have
8496 been approved in advance of the transaction by the Chief
8497 Financial Officer ~~Treasurer~~ and simultaneous notification is
8498 given to the Chief Financial Officer ~~Treasurer~~; and the
8499 custodian has not received notice from the Chief Financial
8500 Officer ~~Treasurer~~ prohibiting deposits without prior approval.

8501 b. A substitution transaction of eligible collateral may
8502 be made without prior approval from the Chief Financial Officer
8503 ~~Treasurer~~ provided: security types that have restrictions have
8504 been approved in advance of the transaction by the Chief
8505 Financial Officer ~~Treasurer~~; the market value of the securities
8506 to be substituted is at least equal to the amount withdrawn;
8507 simultaneous notification is given to the Chief Financial
8508 Officer ~~Treasurer~~; and the custodian has not received notice
8509 from the Chief Financial Officer ~~Treasurer~~ prohibiting
8510 substitution.

8511 c. A transfer of collateral between accounts at a
8512 custodian requires the Chief Financial Officer's ~~Treasurer's~~
8513 prior approval. The collateral shall be released subject to
8514 redeposit in the new account with a pledge to the Chief
8515 Financial Officer ~~Treasurer~~ intact.

8516 d. A transfer of collateral from a custodian to another
8517 custodian requires the Chief Financial Officer's ~~Treasurer's~~
8518 prior approval and a valid collateral agreement with the new
8519 custodian. The collateral shall be released subject to redeposit



HB 1803

2003

8520 at the new custodian with a pledge to the Chief Financial
8521 Officer Treasurer intact.

8522 e. A withdrawal transaction requires the Chief Financial
8523 Officer's Treasurer's prior approval. The market value of
8524 eligible collateral remaining after the withdrawal shall be at
8525 least equal to the amount of required collateral. A withdrawal
8526 transaction shall be executed for any release of collateral
8527 including maturity or call proceeds.

8528 f. Written notice shall be sent to the Chief Financial
8529 Officer Treasurer to remove from the inventory of pledged
8530 collateral a pay-down security that has paid out with zero
8531 principal remaining.

8532 7. If pledged collateral includes definitive (physical)
8533 securities in registered form which are in the name of the
8534 pledgor or a nominee, the pledgor shall deliver the following
8535 documents when requested by the Chief Financial Officer
8536 Treasurer:

8537 a. A separate certified power of attorney in a form
8538 prescribed by the Chief Financial Officer Treasurer for each
8539 issue of securities.

8540 b. Separate bond assignment forms as required by the bond
8541 agent or trustee.

8542 c. Certified copies of resolutions adopted by the
8543 pledgor's governing body authorizing execution of these
8544 documents.

8545 8. The pledgor shall be responsible for all costs
8546 necessary to the functioning of the collateral agreement or
8547 associated with confirmation of pledged collateral to the Chief
8548 Financial Officer Treasurer and acknowledges that these costs
8549 shall not be a charge against the Chief Financial Officer



HB 1803

2003

8550 ~~Treasurer~~ or his or her interests in the pledged collateral.

8551 9. The pledgor, if notified by the Chief Financial Officer
8552 ~~Treasurer~~, shall not be allowed to use a custodian if that
8553 custodian fails to complete the collateral agreement, releases
8554 pledged collateral without the Chief Financial Officer's
8555 ~~Treasurer's~~ approval, fails to properly complete confirmations
8556 of pledged collateral, fails to honor a request for examination
8557 of definitive pledged collateral and records of book-entry
8558 securities, or fails to provide requested documents on
8559 definitive securities. The period for disallowing the use of a
8560 custodian shall be 1 year.

8561 10. The pledgor shall be subject to the jurisdiction of
8562 the courts of the State of Florida, or of courts of the United
8563 States located within the State of Florida, for the purpose of
8564 any litigation arising out of the act.

8565 11. The pledgor is responsible and liable to the Chief
8566 Financial Officer ~~Treasurer~~ for any action of agents the pledgor
8567 uses to execute collateral transactions or submit reports to the
8568 Chief Financial Officer ~~Treasurer~~.

8569 12. The pledgor shall agree that any information, forms,
8570 or reports electronically transmitted to the Chief Financial
8571 Officer ~~Treasurer~~ shall have the same enforceability as a signed
8572 writing.

8573 13. The pledgor shall submit proof that authorized
8574 individuals executed the collateral agreement on behalf of the
8575 pledgor.

8576 14. The pledgor shall agree by resolution of the board of
8577 directors that collateral agreements entered into for purposes
8578 of this section have been formally accepted and constitute
8579 official records of the pledgor.



HB 1803

2003

8580 15. The pledgor shall be bound by any other provisions
 8581 found necessary for a perfected security interest in collateral
 8582 under the Uniform Commercial Code.

8583 (b) A completed collateral agreement in a form prescribed
 8584 by the Chief Financial Officer ~~Treasurer~~ in which the custodian
 8585 agrees to the following provisions:

8586 1. The custodian shall have no responsibility to ascertain
 8587 whether the pledged securities are at least equal to the amount
 8588 of required collateral nor whether the pledged securities are
 8589 eligible collateral.

8590 2. The custodian shall hold pledged collateral in a
 8591 custody account for the Chief Financial Officer ~~Treasurer~~ for
 8592 purposes of this section. The custodian shall not enter into or
 8593 execute any other agreement related to the collateral that would
 8594 create an interest in or lien on that collateral in any manner
 8595 in favor of any third party without the written consent of the
 8596 Chief Financial Officer ~~Treasurer~~.

8597 3. The custodian shall agree that any lien that attaches
 8598 to the collateral in favor of the custodian shall not be
 8599 superior or equal to the security interest of the Chief
 8600 Financial Officer ~~Treasurer~~.

8601 4. The custodian shall, without notice to or consent by
 8602 the pledgor, comply with and perform any and all requests and
 8603 orders directly from the Chief Financial Officer ~~Treasurer~~.
 8604 These include, but are not limited to, liquidating all
 8605 collateral and submitting the proceeds directly to the Chief
 8606 Financial Officer ~~Treasurer~~ in the name of the Chief Financial
 8607 Officer ~~Treasurer~~ only or transferring all collateral into an
 8608 account designated solely by the Chief Financial Officer
 8609 ~~Treasurer~~.



HB 1803

2003

8610 5. The custodian shall consider principal payments on pay-
8611 down securities and income paid on pledged collateral as the
8612 property of the pledgor and shall pay thereto provided the
8613 custodian has not received written notice from the Chief
8614 Financial Officer ~~Treasurer~~ to hold such principal payments and
8615 income for the benefit of the Chief Financial Officer ~~Treasurer~~.

8616 6. The custodian shall process collateral transactions on
8617 forms prescribed by the Chief Financial Officer ~~Treasurer~~ in the
8618 following manner:

8619 a. A deposit transaction of eligible collateral may be
8620 made without prior approval from the Chief Financial Officer
8621 ~~Treasurer~~ unless the custodian has received notice from the
8622 Chief Financial Officer ~~Treasurer~~ requiring the Chief Financial
8623 Officer's ~~Treasurer's~~ prior approval.

8624 b. A substitution transaction of eligible collateral may
8625 be made without prior approval from the Chief Financial Officer
8626 ~~Treasurer~~ provided the pledgor certifies the market value of the
8627 securities to be substituted is at least equal to the market
8628 value amount of the securities to be withdrawn and the custodian
8629 has not received notice from the Chief Financial Officer
8630 ~~Treasurer~~ prohibiting substitution.

8631 c. A transfer of collateral between accounts at a
8632 custodian requires the Chief Financial Officer's ~~Treasurer's~~
8633 prior approval. The collateral shall be released subject to
8634 redeposit in the new account with a pledge to the Chief
8635 Financial Officer ~~Treasurer~~ intact. Confirmation from the
8636 custodian to the Chief Financial Officer ~~Treasurer~~ must be
8637 received within 5 business days of the redeposit.

8638 d. A transfer of collateral from a custodian to another
8639 custodian requires the Chief Financial Officer's ~~Treasurer's~~



HB 1803

2003

8640 prior approval. The collateral shall be released subject to
8641 redeposit at the new custodian with a pledge to the Chief
8642 Financial Officer ~~Treasurer~~ intact. Confirmation from the new
8643 custodian to the Chief Financial Officer ~~Treasurer~~ must be
8644 received within 5 business days of the redeposit.

8645 e. A withdrawal transaction requires the Chief Financial
8646 Officer's ~~Treasurer's~~ prior approval. A withdrawal transaction
8647 shall be executed for the release of any pledged collateral
8648 including maturity or call proceeds.

8649 7. If pledged collateral includes definitive (physical)
8650 securities in registered form, which are in the name of the
8651 custodian or a nominee, the custodian shall deliver the
8652 following documents when requested by the Chief Financial
8653 Officer ~~Treasurer~~:

8654 a. A separate certified power of attorney in a form
8655 prescribed by the Chief Financial Officer ~~Treasurer~~ for each
8656 issue of securities.

8657 b. Separate bond assignment forms as required by the bond
8658 agent or trustee.

8659 c. Certified copies of resolutions adopted by the
8660 custodian's governing body authorizing execution of these
8661 documents.

8662 8. The custodian shall acknowledge that the pledgor is
8663 responsible for all costs necessary to the functioning of the
8664 collateral agreement or associated with confirmation of
8665 securities pledged to the Chief Financial Officer ~~Treasurer~~ and
8666 that these costs shall not be a charge against the Chief
8667 Financial Officer ~~Treasurer~~ or his or her interests in the
8668 pledged collateral.

8669 9. The custodian shall agree to provide confirmation of



HB 1803

2003

8670 pledged collateral upon request from the Chief Financial Officer
8671 ~~Treasurer~~. This confirmation shall be provided within 15 working
8672 days after the request, in a format prescribed by the Chief
8673 Financial Officer ~~Treasurer~~, and shall require no identification
8674 other than the pledgor name and location, unless the special
8675 identification is provided in the collateral agreement.

8676 10. The custodian shall be subject to the jurisdiction of
8677 the courts of the State of Florida, or of courts of the United
8678 States located within the State of Florida, for the purpose of
8679 any litigation arising out of the act.

8680 11. The custodian shall be responsible and liable to the
8681 Chief Financial Officer ~~Treasurer~~ for any action of agents the
8682 custodian uses to hold and service collateral pledged to the
8683 Chief Financial Officer ~~Treasurer~~.

8684 12. The custodian shall agree that any information, forms,
8685 or reports electronically transmitted to the Chief Financial
8686 Officer ~~Treasurer~~ shall have the same enforceability as a signed
8687 writing.

8688 13. The Chief Financial Officer ~~Treasurer~~ shall have the
8689 right to examine definitive pledged collateral and records of
8690 book-entry securities during the regular business hours of the
8691 custodian without cost to the Chief Financial Officer ~~Treasurer~~.

8692 14. The responsibilities of the custodian for the
8693 safekeeping of the pledged collateral shall be limited to the
8694 diligence and care usually exercised by a banking or trust
8695 institution toward its own property.

8696 15. If there is any change in the Uniform Commercial Code,
8697 as adopted by law in this state, which affects the requirements
8698 for a perfected security interest in collateral, the Chief
8699 Financial Officer ~~Treasurer~~ shall notify the custodian of such



HB 1803

2003

8700 change. The custodian shall have a period of 180 calendar days
 8701 after such notice to withdraw as custodian if the custodian
 8702 cannot provide the required custodial services.

8703 (3) With the approval of the Chief Financial Officer
 8704 ~~Treasurer~~, a pledgor may deposit eligible collateral pursuant to
 8705 an agreement with a Federal Reserve Bank. The Federal Reserve
 8706 Bank agreement may require terms not consistent with subsection
 8707 (2) but may not subject the Chief Financial Officer ~~Treasurer~~ to
 8708 any costs or indemnification requirements.

8709 (4) The Chief Financial Officer ~~Treasurer~~ may require
 8710 deposit or transfer of collateral into a custodial account
 8711 established in the Chief Financial Officer's ~~Treasurer's~~ name at
 8712 a designated custodian. This requirement for Chief Financial
 8713 Officer's ~~Treasurer's~~ custody shall have the following
 8714 characteristics:

8715 (a) One or more triggering events must have occurred.

8716 (b) The custodian used must be a Chief Financial Officer's
 8717 ~~Treasurer's~~ approved custodian that must:

- 8718 1. Meet the definition of custodian.
- 8719 2. Not be an affiliate of the qualified public depository.
- 8720 3. Be bound under a distinct Chief Financial Officer's
 8721 ~~Treasurer's~~ custodial contract.

8722 (c) All deposit transactions require the approval of the
 8723 Chief Financial Officer ~~Treasurer~~.

8724 (d) All collateral must be in book-entry form.

8725 (e) The qualified public depository shall be responsible
 8726 for all costs necessary to the functioning of the contract or
 8727 associated with the confirmation of securities in the name of
 8728 the Chief Financial Officer ~~Treasurer~~ and acknowledges that
 8729 these costs shall not be a charge against the Chief Financial



HB 1803

2003

8730 Officer ~~Treasurer~~ and may be deducted from the collateral or
8731 income earned if unpaid.

8732 (5) With the approval of the Chief Financial Officer
8733 ~~Treasurer~~, a qualified public depository may use Federal Home
8734 Loan Bank letters of credit to meet collateral requirements. A
8735 completed agreement that includes the following provisions is
8736 necessary for the Chief Financial Officer's ~~Treasurer's~~
8737 approval:

8738 (a) The letter of credit shall meet the definition of
8739 eligible collateral.

8740 (b) The qualified public depository shall agree that the
8741 Chief Financial Officer ~~Treasurer~~, as beneficiary, may, without
8742 notice to or consent by the qualified public depository, demand
8743 payment under the letter of credit if any of the triggering
8744 events listed in this section occur.

8745 (c) The qualified public depository shall agree that funds
8746 received by the Chief Financial Officer ~~Treasurer~~ due to the
8747 occurrence of one or more triggering events may be deposited in
8748 the Treasury Cash Deposit Trust Fund for purposes of eligible
8749 collateral.

8750 (d) The qualified public depository shall arrange for the
8751 issue of letters of credit which meet the requirements of s.
8752 280.13 and delivery to the Chief Financial Officer ~~Treasurer~~.
8753 All transactions involving letters of credit require the Chief
8754 Financial Officer's ~~Treasurer's~~ approval.

8755 (e) The qualified public depository shall be responsible
8756 for all costs necessary in the use or confirmation of letters of
8757 credit issued on behalf of the Chief Financial Officer ~~Treasurer~~
8758 and acknowledges that these costs shall not be a charge against
8759 the Chief Financial Officer ~~Treasurer~~.



HB 1803

2003

8760 (f) The qualified public depository shall be subject to
8761 the jurisdiction of the courts of this state, or of courts of
8762 the United States which are located within this state, for the
8763 purpose of any litigation arising out of the act.

8764 (g) The qualified public depository shall agree that any
8765 information, form, or report electronically transmitted to the
8766 Chief Financial Officer ~~Treasurer~~ shall have the same
8767 enforceability as a signed writing.

8768 (h) The qualified public depository shall submit proof
8769 that authorized individuals executed the letters of credit
8770 agreement on its behalf.

8771 (i) The qualified public depository shall agree by
8772 resolution of the board of directors that the letters of credit
8773 agreements entered into for purposes of this section have been
8774 formally accepted and constitute official records of the
8775 qualified public depository.

8776 (6) The Chief Financial Officer ~~Treasurer~~ may demand
8777 payment under a letter of credit or direct a custodian to
8778 deposit or transfer collateral and proceeds of securities not
8779 previously credited upon the occurrence of one or more
8780 triggering events provided that, to the extent not incompatible
8781 with the protection of public deposits, as determined in the
8782 Chief Financial Officer's ~~Treasurer's~~ sole and absolute
8783 discretion, the Chief Financial Officer ~~Treasurer~~ shall provide
8784 a custodian and the qualified public depository with 48 hours'
8785 advance notice before directing such deposit or transfer. These
8786 events include:

8787 (a) The Chief Financial Officer ~~Treasurer~~ determines that
8788 an immediate danger to the public health, safety, or welfare
8789 exists.



HB 1803

2003

8790 (b) The qualified public depository fails to have adequate
8791 procedures and practices for the accurate identification,
8792 classification, reporting, and collateralization of public
8793 deposits.

8794 (c) The custodian fails to provide or allow inspection and
8795 verification of documents, reports, records, or other
8796 information dealing with the pledged collateral or financial
8797 information.

8798 (d) The qualified public depository or its operating
8799 subsidiary fails to provide or allow inspection and verification
8800 of documents, reports, records, or other information dealing
8801 with Florida public deposits, pledged collateral, or financial
8802 information.

8803 (e) The custodian fails to hold income and principal
8804 payments made on securities held as collateral or fails to
8805 deposit or transfer such payments pursuant to the Chief
8806 Financial Officer's ~~Treasurer's~~ instructions.

8807 (f) The qualified public depository defaults or becomes
8808 insolvent.

8809 (g) The qualified public depository fails to pay an
8810 assessment.

8811 (h) The qualified public depository fails to pay an
8812 administrative penalty.

8813 (i) The qualified public depository fails to meet
8814 financial condition standards.

8815 (j) The qualified public depository charges a withdrawal
8816 penalty to public depositors when the qualified public
8817 depository is suspended, disqualified, or withdrawn from the
8818 public deposits program.

8819 (k) The qualified public depository does not provide, as



HB 1803

2003

8820 required, the public depositor with annual confirmation
 8821 information on all open Florida public deposit accounts.

8822 (l) The qualified public depository pledges, deposits, or
 8823 has issued insufficient or unacceptable collateral to meet
 8824 required collateral within the required time.

8825 (m) Collateral, other than a proper substitution, is
 8826 released without the prior approval of the Chief Financial
 8827 Officer Treasurer.

8828 (n) The qualified public depository, custodian, operating
 8829 subsidiary, or agent violates any provision of the act and the
 8830 Chief Financial Officer Treasurer determines that such violation
 8831 may be remedied by a move of collateral.

8832 (o) The qualified public depository, custodian, operating
 8833 subsidiary, or agent fails to timely cooperate in resolving
 8834 problems by the date established in written communication from
 8835 the Chief Financial Officer Treasurer.

8836 (p) The custodian fails to provide sufficient confirmation
 8837 information.

8838 (q) The Federal Home Loan Bank or the qualified public
 8839 depository gives notification that a letter of credit will not
 8840 be extended or renewed and other eligible collateral equal to
 8841 required collateral has not been deposited within 30 days after
 8842 the notice or 30 days before expiration of the letter of credit.

8843 (r) The qualified public depository, if involved in a
 8844 merger, acquisition, consolidation, or other organizational
 8845 change, fails to notify the Chief Financial Officer Treasurer or
 8846 ensure that required collateral is properly maintained by the
 8847 depository holding the Florida public deposits.

8848 (s) Events that would bring about an administrative or
 8849 legal action by the Chief Financial Officer Treasurer.



HB 1803

2003

8850 (7) The Chief Financial Officer ~~Treasurer~~ shall adopt
 8851 rules to identify forms and establish procedures for collateral
 8852 agreements and transactions, furnish confirmation requirements,
 8853 establish procedures for using an operating subsidiary and
 8854 agents, and clarify terms.

8855 Section 283. Section 280.05, Florida Statutes, is amended
 8856 to read:

8857 280.05 Powers and duties of the Chief Financial Officer
 8858 ~~Treasurer~~.--In fulfilling the requirements of this act, the
 8859 Chief Financial Officer ~~Treasurer~~ has the power to take the
 8860 following actions he or she deems necessary to protect the
 8861 integrity of the public deposits program:

8862 (1) Identify representative qualified public depositories
 8863 and furnish notification for the qualified public depository
 8864 oversight board selection pursuant to s. 280.071.

8865 (2) Provide data for the qualified public depository
 8866 oversight board duties pursuant to s. 280.071 regarding:

8867 (a) Establishing standards for qualified public
 8868 depositories and custodians.

8869 (b) Evaluating requests for exceptions to standards and
 8870 alternative participation agreements.

8871 (c) Reviewing and recommending action for qualified public
 8872 depository or custodian violations.

8873 (3) Review, implement, monitor, evaluate, and modify all
 8874 or any part of the standards, policies, or recommendations of
 8875 the qualified public depository oversight board.

8876 (4) Perform financial analysis of any qualified public
 8877 depositories.

8878 (5) Require collateral, or increase the collateral-
 8879 pledging level, of any qualified public depository.



HB 1803

2003

8880 (6) Decline to accept, or reduce the reported value of,
8881 collateral in order to ensure the pledging or depositing of
8882 sufficient marketable collateral and acceptable letters of
8883 credit.

8884 (7) Maintain perpetual inventory of collateral and perform
8885 monthly market valuations and quality ratings.

8886 (8) Monitor and confirm collateral with custodians and
8887 letter of credit issuers.

8888 (9) Move collateral into an account established in the
8889 Chief Financial Officer's ~~Treasurer's~~ name upon the occurrence
8890 of one or more triggering events.

8891 (10) Issue notice to a qualified public depository that
8892 use of a custodian will be disallowed when the custodian has
8893 failed to follow collateral agreement terms.

8894 (11) Furnish written notice to custodians of collateral to
8895 hold interest and principal payments made on securities held as
8896 collateral and to deposit or transfer such payments pursuant to
8897 the Chief Financial Officer's ~~Treasurer's~~ instructions.

8898 (12) Release collateral held in the Chief Financial
8899 Officer's ~~Treasurer's~~ name, subject to sale and transfer of
8900 funds directly from the custodian to public depositors of a
8901 withdrawing depository.

8902 (13) Demand payment under letters of credit for any of the
8903 triggering events listed in s. 280.041 and deposit the funds in:

8904 (a) The Public Deposits Trust Fund for purposes of paying
8905 losses to public depositors.

8906 (b) The Treasury ~~Treasurer's~~ Administrative and Investment
8907 Trust Fund for receiving payment of administrative penalties.

8908 (c) The Treasury Cash Deposit Trust Fund for purposes of
8909 eligible collateral.



HB 1803

2003

8910 (14) Sell securities for the purpose of paying losses to
8911 public depositors not covered by deposit insurance.

8912 (15) Transfer funds directly from the custodian to public
8913 depositors or the receiver in order to facilitate prompt payment
8914 of claims.

8915 (16) Require the filing of the following reports which the
8916 Chief Financial Officer ~~Treasurer~~ shall process as provided:

8917 (a) Qualified public depository monthly reports and
8918 schedules. The Chief Financial Officer ~~Treasurer~~ shall review
8919 the reports of each qualified public depository for material
8920 changes in capital accounts or changes in name, address, or type
8921 of institution; record the average daily balances of public
8922 deposits held; and monitor the collateral-pledging levels and
8923 required collateral.

8924 (b) Quarterly regulatory reports from qualified public
8925 depositories. The Chief Financial Officer ~~Treasurer~~ shall
8926 analyze qualified public depositories ranked in the lowest
8927 category based on established financial condition criteria.

8928 (c) Qualified public depository annual reports and public
8929 depositor annual reports. The Chief Financial Officer ~~Treasurer~~
8930 shall compare public deposit information reported by qualified
8931 public depositories and public depositors. Such comparison
8932 shall be conducted for qualified public depositories which are
8933 ranked in the lowest category based on established financial
8934 condition criteria of record on September 30. Additional
8935 comparison processes may be performed as public deposits program
8936 resources permit.

8937 (d) Any related documents, reports, records, or other
8938 information deemed necessary by the Chief Financial Officer
8939 ~~Treasurer~~ in order to ascertain compliance with this chapter.



HB 1803

2003

8940 (17) Verify the reports of any qualified public depository
8941 relating to public deposits it holds when necessary to protect
8942 the integrity of the public deposits program.

8943 (18) Confirm public deposits, to the extent possible under
8944 current law, when needed.

8945 (19) Require at his or her discretion the filing of any
8946 information or forms required under this chapter to be by
8947 electronic data transmission. Such filings of information or
8948 forms shall have the same enforceability as a signed writing.

8949 (20) Suspend or disqualify or disqualify after suspension
8950 any qualified public depository that has violated any of the
8951 provisions of this chapter or of rules adopted hereunder.

8952 (a) Any qualified public depository that is suspended or
8953 disqualified pursuant to this subsection is subject to the
8954 provisions of s. 280.11(2) governing withdrawal from the public
8955 deposits program and return of pledged collateral. Any
8956 suspension shall not exceed a period of 6 months. Any qualified
8957 public depository which has been disqualified may not reapply
8958 for qualification until after the expiration of 1 year from the
8959 date of the final order of disqualification or the final
8960 disposition of any appeal taken therefrom.

8961 (b) In lieu of suspension or disqualification, impose an
8962 administrative penalty upon the qualified public depository as
8963 provided in s. 280.054.

8964 (c) If the Chief Financial Officer ~~Treasurer~~ has reason to
8965 believe that any qualified public depository or any other
8966 financial institution holding public deposits is or has been
8967 violating any of the provisions of this chapter or of rules
8968 adopted hereunder, he or she may issue to the qualified public
8969 depository or other financial institution an order to cease and



HB 1803

2003

8970 desist from the violation or to correct the condition giving
8971 rise to or resulting from the violation. If any qualified
8972 public depository or other financial institution violates a
8973 cease-and-desist or corrective order, the Chief Financial
8974 Officer ~~Treasurer~~ may impose an administrative penalty upon the
8975 qualified public depository or other financial institution as
8976 provided in s. 280.054 or s. 280.055. In addition to the
8977 administrative penalty, the Chief Financial Officer ~~Treasurer~~
8978 may suspend or disqualify any qualified public depository for
8979 violation of any order issued pursuant to this paragraph.

8980 Section 284. Section 280.051, Florida Statutes, is amended
8981 to read:

8982 280.051 Grounds for suspension or disqualification of a
8983 qualified public depository.--A qualified public depository may
8984 be suspended or disqualified or both if the Chief Financial
8985 Officer ~~Treasurer~~ determines that the qualified public
8986 depository has:

8987 (1) Violated any of the provisions of this chapter or any
8988 rule adopted by the Chief Financial Officer ~~Treasurer~~ pursuant
8989 to this chapter.

8990 (2) Submitted reports containing inaccurate or incomplete
8991 information regarding public deposits or collateral for such
8992 deposits, capital accounts, or the calculation of required
8993 collateral.

8994 (3) Failed to maintain required collateral.

8995 (4) Grossly misstated the market value of the securities
8996 pledged as collateral.

8997 (5) Failed to pay any administrative penalty.

8998 (6) Failed to furnish the Chief Financial Officer
8999 ~~Treasurer~~ with prompt and accurate information, or failed to



HB 1803

2003

9000 allow inspection and verification of any information, dealing
 9001 with public deposits or dealing with the exact status of its
 9002 capital accounts, or any other financial information that the
 9003 Chief Financial Officer ~~Treasurer~~ determines necessary to verify
 9004 compliance with this chapter or any rule adopted pursuant to
 9005 this chapter.

9006 (7) Failed to furnish the Chief Financial Officer
 9007 ~~Treasurer~~, when the Chief Financial Officer ~~Treasurer~~ requested,
 9008 with a power of attorney or bond power or other bond assignment
 9009 form required by the bond agent, bond trustee, or other
 9010 transferor for each issue of registered certificated securities
 9011 pledged.

9012 (8) Failed to furnish any agreement, report, form, or
 9013 other information required to be filed pursuant to s. 280.16, or
 9014 when requested by the Chief Financial Officer ~~Treasurer~~.

9015 (9) Submitted reports signed by an unauthorized
 9016 individual.

9017 (10) Submitted reports without a certified or verified
 9018 signature, or both, if required by law.

9019 (11) Released a security without notice or approval.

9020 (12) Failed to execute or have the custodian execute a
 9021 public depository pledge agreement prior to using a custodian.

9022 (13) Failed to give notification as required by s. 280.10.

9023 Section 285. Section 280.052, Florida Statutes, is amended
 9024 to read:

9025 280.052 Order of suspension or disqualification;
 9026 procedure.--

9027 (1) The suspension or disqualification of a bank or
 9028 savings association as a qualified public depository must be by
 9029 order of the Chief Financial Officer ~~Treasurer~~ and must be



HB 1803

2003

9030 mailed to the qualified public depository by registered or
9031 certified mail.

9032 (2) The Chief Financial Officer ~~Treasurer~~ shall notify, by
9033 first-class mail, all public depositories that have complied with
9034 s. 280.17 of any such disqualification or suspension.

9035 (3) The procedures for suspension or disqualification
9036 shall be as set forth in chapter 120 and in the rules of the
9037 Chief Financial Officer ~~Treasurer~~ adopted pursuant to this
9038 section.

9039 (4) Whenever the Chief Financial Officer ~~Treasurer~~
9040 determines that an immediate danger to the public health,
9041 safety, or welfare exists, the Chief Financial Officer ~~Treasurer~~
9042 may take any appropriate action available to her or him under
9043 the provisions of chapter 120.

9044 Section 286. Paragraphs (a) and (c) of subsection (1) and
9045 paragraph (c) of subsection (2) of section 280.053, Florida
9046 Statutes, are amended to read:

9047 280.053 Period of suspension or disqualification;
9048 obligations during period; reinstatement.--

9049 (1)(a) The Chief Financial Officer ~~Treasurer~~ may suspend a
9050 qualified public depository for any period that is fixed in the
9051 order of suspension, not exceeding 6 months. For the purposes
9052 of this section and ss. 280.051 and 280.052, the effective date
9053 of suspension or disqualification is that date which is set out
9054 as such in any order of suspension or disqualification.

9055 (c) Upon expiration of the suspension period, the bank or
9056 savings association may, by order of the Chief Financial Officer
9057 ~~Treasurer~~, be reinstated as a qualified public depository,
9058 unless the cause of the suspension has not been corrected or the
9059 bank or savings association is otherwise not in compliance with



HB 1803

2003

9060 this chapter or any rule adopted pursuant to this chapter.

9061 (2)

9062 (c) Upon expiration of the disqualification period, the
9063 bank or savings association may reapply for qualification as a
9064 qualified public depository. If a disqualified bank or savings
9065 association is purchased or otherwise acquired by new owners, it
9066 may reapply to the Chief Financial Officer ~~Treasurer~~ to be a
9067 qualified public depository prior to the expiration date of the
9068 disqualification period. Redesignation as a qualified public
9069 depository may occur only after the Chief Financial Officer
9070 ~~Treasurer~~ has determined that all requirements for holding
9071 public deposits under the law have been met.

9072 Section 287. Section 280.054, Florida Statutes, is amended
9073 to read:

9074 280.054 Administrative penalty in lieu of suspension or
9075 disqualification.--

9076 (1) If the Chief Financial Officer ~~Treasurer~~ finds that
9077 one or more grounds exist for the suspension or disqualification
9078 of a qualified public depository, the Chief Financial Officer
9079 ~~Treasurer~~ may, in lieu of suspension or disqualification, impose
9080 an administrative penalty upon the qualified public depository.

9081 (a) With respect to any nonwillful violation, such penalty
9082 may not exceed \$250 for each violation, exclusive of any
9083 restitution found to be due. If a qualified public depository
9084 discovers a nonwillful violation, the qualified public
9085 depository shall correct the violation; and, if restitution is
9086 due, the qualified public depository shall make restitution upon
9087 the order of the Chief Financial Officer ~~Treasurer~~ and shall pay
9088 interest on such amount at the legal rate from the date of the
9089 violation. Each day a violation continues constitutes a



HB 1803

2003

9090 separate violation.

9091 (b) With respect to any knowing and willful violation of a
 9092 lawful order or rule, the Chief Financial Officer ~~Treasurer~~ may
 9093 impose a penalty upon the qualified public depository in an
 9094 amount not exceeding \$1,000 for each violation. If restitution
 9095 is due, the qualified public depository shall make restitution
 9096 upon the order of the Chief Financial Officer ~~Treasurer~~ and
 9097 shall pay interest on such amount at the legal rate. Each day a
 9098 violation continues constitutes a separate violation.

9099 (2) The failure of a qualified public depository to make
 9100 restitution when due as required under this section constitutes
 9101 a willful violation of this chapter. However, if a qualified
 9102 public depository in good faith is uncertain whether any
 9103 restitution is due or as to the amount of restitution due, it
 9104 shall promptly notify the Chief Financial Officer ~~Treasurer~~ of
 9105 the circumstances. The failure to make restitution pending a
 9106 determination of whether restitution is due or the amount of
 9107 restitution due does not constitute a violation of this chapter.

9108 (3) A qualified public depository is subject to an
 9109 administrative penalty in an amount not exceeding the greater of
 9110 \$1,000 or 10 percent of the amount of withdrawal, not exceeding
 9111 \$10,000, if the depository fails to provide required collateral
 9112 using eligible collateral and prescribed collateral agreements
 9113 or withdraws collateral without the Chief Financial Officer's
 9114 ~~Treasurer's~~ approval.

9115 Section 288. Section 280.055, Florida Statutes, is amended
 9116 to read:

9117 280.055 Cease and desist order; corrective order;
 9118 administrative penalty.--

9119 (1) The Chief Financial Officer ~~Treasurer~~ may issue a



HB 1803

2003

9120 cease and desist order and a corrective order upon determining
9121 that:

9122 (a) A qualified public depository has requested and
9123 obtained a release of pledged collateral without approval of the
9124 Chief Financial Officer ~~Treasurer~~;

9125 (b) A bank, savings association, or other financial
9126 institution is holding public deposits without a certificate of
9127 qualification issued by the Chief Financial Officer ~~Treasurer~~;

9128 (c) A qualified public depository pledges, deposits, or
9129 arranges for the issuance of unacceptable collateral;

9130 (d) A custodian has released pledged collateral without
9131 approval of the Chief Financial Officer ~~Treasurer~~;

9132 (e) A qualified public depository or a custodian has not
9133 furnished to the Chief Financial Officer ~~Treasurer~~, when the
9134 Chief Financial Officer ~~Treasurer~~ requested, a power of attorney
9135 or bond power or bond assignment form required by the bond agent
9136 or bond trustee for each issue of registered certificated
9137 securities pledged and registered in the name, or nominee name,
9138 of the qualified public depository or custodian; or

9139 (f) A qualified public depository; a bank, savings
9140 association, or other financial institution; or a custodian has
9141 committed any other violation of this chapter or any rule
9142 adopted pursuant to this chapter that the Chief Financial
9143 Officer ~~Treasurer~~ determines may be remedied by a cease and
9144 desist order or corrective order.

9145 (2) Any qualified public depository or other bank, savings
9146 association, or financial institution or custodian that violates
9147 a cease and desist order or corrective order of the Chief
9148 Financial Officer ~~Treasurer~~ is subject to an administrative
9149 penalty not exceeding \$1,000 for each violation of the order.



HB 1803

2003

9150 Each day the violation of the order continues constitutes a
9151 separate violation.

9152 Section 289. Subsections (1) and (2) of section 280.06,
9153 Florida Statutes, are amended to read:

9154 280.06 Penalty for violation of law, rule, or order to
9155 cease and desist or other lawful order.--

9156 (1) The violation of any provision of this chapter, or any
9157 order or rule of the Chief Financial Officer ~~Treasurer~~, or any
9158 order to cease and desist or other lawful order is a misdemeanor
9159 of the second degree, punishable as provided in s. 775.082 or s.
9160 775.083.

9161 (2) It is a felony of the third degree, punishable as
9162 provided in s. 775.082 or s. 775.083, to knowingly and willfully
9163 give false information on any form made under oath and filed
9164 pursuant to this chapter with the intent to mislead the Chief
9165 Financial Officer ~~Treasurer~~ in the administration or enforcement
9166 of this chapter.

9167 Section 290. Section 280.07, Florida Statutes, is amended
9168 to read:

9169 280.07 Mutual responsibility and contingent liability.--

9170 Any bank or savings association that is designated as a
9171 qualified public depository and that is not insolvent shall
9172 guarantee public depositors against loss caused by the default
9173 or insolvency of other qualified public depositories. Each
9174 qualified public depository shall execute a form prescribed by
9175 the Chief Financial Officer ~~Treasurer~~ for such guarantee which
9176 shall be approved by the board of directors and shall become an
9177 official record of the institution.

9178 Section 291. Subsections (1), (2), (3), and (5), paragraph
9179 (e) of subsection (9), paragraphs (b), (c), (d), and (e) of



HB 1803

2003

9180 subsection (10), paragraphs (a) and (b) of subsection (11), and
9181 subsection (12) of section 280.071, Florida Statutes, are
9182 amended to read:

9183 280.071 Qualified Public Depository Oversight Board.--A
9184 Qualified Public Depository Oversight Board is created comprised
9185 of six members and six alternate members who represent the
9186 interests of all qualified public depositories in safeguarding
9187 the integrity of the public deposits program and preventing the
9188 realization of loss assessments.

9189 (1) On July 31 of each year and as vacancies occur, the
9190 Chief Financial Officer ~~Treasurer~~ shall initiate the selection
9191 of oversight board representation in the following manner:

9192 (a) Categorize eligible qualified public depositories into
9193 three groups according to average asset size. Eligible
9194 qualified public depositories must be in compliance with all
9195 requirements and shall not be suspended, disqualified,
9196 withdrawn, or under an alternative participation agreement in
9197 the public deposits program.

9198 (b) Identify the two qualified public depositories in each
9199 of the three groups that have the greatest shares of contingent
9200 liability based on the average monthly balances of public
9201 deposits reported pursuant to s. 280.16.

9202 (c) Send notification to the six qualified public
9203 depositories that have been identified.

9204 (2) Each of the six representative qualified public
9205 depositories shall select a member and alternate member for the
9206 oversight board and give the Chief Financial Officer ~~Treasurer~~
9207 written information on the selections within 30 calendar days of
9208 the Chief Financial Officer's ~~Treasurer's~~ notice.

9209 (3) If an identified qualified public depository declines



HB 1803

2003

9210 to select a member, does not respond within 30 calendar days, or
 9211 becomes ineligible, the Chief Financial Officer ~~Treasurer~~ shall
 9212 furnish notice to the Florida Bankers Association which shall
 9213 select a member and alternate member to represent that average
 9214 asset category within 30 calendar days.

9215 (5) The oversight board members and alternate members
 9216 shall be subject to the Chief Financial Officer's ~~Treasurer's~~
 9217 approval.

9218 (9) The oversight board shall organize, communicate, and
 9219 conduct meetings as follows:

9220 (e) Take no official action in the absence of a quorum.

9221 1. A quorum shall consist of the majority of voting
 9222 members of the oversight board.

9223 2. Each member shall have one vote.

9224 3. A member shall not vote on issues directly related to
 9225 the qualified public depository he or she represents.

9226 4. The Chief Financial Officer ~~Treasurer~~ or his or her
 9227 representative shall vote as a member of the oversight board in
 9228 the absence of a quorum.

9229 (10) The oversight board has the power and responsibility
 9230 to safeguard the integrity of the public deposits program and
 9231 prevent the realization of loss assessments by:

9232 (b) Recommending approval or rejection to the Chief
 9233 Financial Officer ~~Treasurer~~ for exceptions that do not meet
 9234 established standards. These requests for exceptions may be:

9235 1. Referred by the Chief Financial Officer ~~Treasurer~~; or

9236 2. Submitted directly by the qualified public depository
 9237 seeking exception.

9238 (c) Issuing approvals or rejections for alternative
 9239 participation agreements referred by the Chief Financial Officer



HB 1803

2003

9240 ~~Treasurer.~~

9241 (d) Reviewing program violations and recommending that the
 9242 Chief Financial Officer ~~Treasurer~~ impose penalties and fines or
 9243 issue corrective actions and administrative orders.

9244 (e) Studying public deposit program areas referred by the
 9245 Chief Financial Officer ~~Treasurer~~.

9246 (11) Official actions of the oversight board regarding the
 9247 establishment of standards, exception and alternate
 9248 participation agreement decisions, and recommendations
 9249 concerning violations shall be:

9250 (a) Communicated to the Chief Financial Officer ~~Treasurer~~
 9251 in writing.

9252 (b) Subject to approval of the Chief Financial Officer
 9253 ~~Treasurer~~.

9254 (12) The Chief Financial Officer ~~Treasurer~~ may adopt rules
 9255 to establish procedures and forms for oversight board member and
 9256 alternate member selection and oversight board functions.

9257 Section 292. Section 280.08, Florida Statutes, is amended
 9258 to read:

9259 280.08 Procedure for payment of losses.--When the Chief
 9260 Financial Officer ~~Treasurer~~ determines that a default or
 9261 insolvency has occurred, he or she shall provide notice as
 9262 required in s. 280.085 and implement the following procedures:

9263 (1) The Division of Treasury ~~Treasurer~~, in cooperation
 9264 with the Office of Financial Institutions and Securities
 9265 Regulation of the Financial Services Commission ~~Department of~~
 9266 ~~Banking and Finance~~ or the receiver of the qualified public
 9267 depository in default, shall ascertain the amount of funds of
 9268 each public depositor on deposit at such depository and the
 9269 amount of deposit insurance applicable to such deposits.



HB 1803

2003

9270 (2) The potential loss to public depositors shall be
9271 calculated by compiling claims received from such depositors.
9272 The Chief Financial Officer ~~Treasurer~~ shall validate claims on
9273 public deposit accounts which meet the requirements of s. 280.17
9274 and are confirmed as provided in subsection (1).

9275 (3)(a) The loss to public depositors shall be satisfied,
9276 insofar as possible, first through any applicable deposit
9277 insurance and then through demanding payment under letters of
9278 credit or the sale of collateral pledged or deposited by the
9279 defaulting depository. The Chief Financial Officer ~~Treasurer~~ may
9280 assess qualified public depositories as provided in paragraph
9281 (b) for the total loss if the demand for payment or sale of
9282 collateral cannot be accomplished within 7 business days.

9283 (b) The Chief Financial Officer ~~Treasurer~~ shall provide
9284 coverage of any remaining loss by assessment against the other
9285 qualified public depositories. The Chief Financial Officer
9286 ~~Treasurer~~ shall determine such assessment for each qualified
9287 public depository by multiplying the total amount of any
9288 remaining loss to all public depositors by a percentage which
9289 represents the average monthly balance of public deposits held
9290 by each qualified public depository during the previous 12
9291 months divided by the total average monthly balances of public
9292 deposits held by all qualified public depositories, excluding
9293 the defaulting depository, during the same period. The
9294 assessment calculation shall be computed to six decimal places.

9295 (4) Each qualified public depository shall pay its
9296 assessment to the Chief Financial Officer ~~Treasurer~~ within 7
9297 business days after it receives notice of the assessment. If a
9298 depository fails to pay its assessment when due, the Chief
9299 Financial Officer ~~Treasurer~~ shall satisfy the assessment by



HB 1803

2003

9300 demanding payment under letters of credit or selling collateral
 9301 pledged or deposited by that depository.

9302 (5) The Chief Financial Officer ~~Treasurer~~ shall distribute
 9303 the funds to the public depositors of the qualified public
 9304 depository in default according to their validated claims. The
 9305 Chief Financial Officer ~~Treasurer~~, at his or her discretion, may
 9306 make partial payments to public depositors that have experienced
 9307 a loss of public funds which payments are critical to the
 9308 immediate operations of the public entity. The public depositor
 9309 requesting partial payment of a claim shall provide the Chief
 9310 Financial Officer ~~Treasurer~~ with written documentation
 9311 justifying the need for partial payment.

9312 (6) Public depositors receiving payment under the
 9313 provisions of this section shall assign to the Chief Financial
 9314 Officer ~~Treasurer~~ any interest they may have in funds that may
 9315 subsequently be made available to the qualified public
 9316 depository in default. If the qualified public depository in
 9317 default or its receiver provides the funds to the Chief
 9318 Financial Officer ~~Treasurer~~, the Chief Financial Officer
 9319 ~~Treasurer~~ shall distribute the funds, plus all accrued interest
 9320 which has accumulated from the investment of the funds, if any,
 9321 to the depositories which paid assessments on the same pro rata
 9322 basis as the assessments were paid.

9323 (7) Expenses incurred by the Chief Financial Officer
 9324 ~~Treasurer~~ in connection with a default or insolvency which are
 9325 not normally incurred by the Chief Financial Officer ~~Treasurer~~
 9326 in the administration of this act must be paid out of the amount
 9327 paid under letters of credit or proceeds from the sale of
 9328 collateral.

9329 Section 293. Subsection (1) of section 280.085, Florida



HB 1803

2003

9330 Statutes, is amended to read:

9331 280.085 Notice to claimants.--

9332 (1) Upon determining the default or insolvency of a
 9333 qualified public depository, the Chief Financial Officer
 9334 ~~Treasurer~~ shall notify, by first-class mail, all public
 9335 depositories that have complied with s. 280.17 of such default or
 9336 insolvency. The notice shall direct all public depositories
 9337 having claims or demands against the Public Deposits Trust Fund
 9338 occasioned by the default or insolvency to file their claims
 9339 with the Chief Financial Officer ~~Treasurer~~ within 30 days after
 9340 the date of the notice.

9341 Section 294. Section 280.09, Florida Statutes, is amended
 9342 to read:

9343 280.09 Public Deposits Trust Fund.--

9344 (1) In order to facilitate the administration of this
 9345 chapter, there is created the Public Deposits Trust Fund,
 9346 hereafter in this section designated "the fund." The proceeds
 9347 from the sale of securities or draw on letters of credit held as
 9348 collateral or from any assessment pursuant to s. 280.08 shall be
 9349 deposited into the fund. Any administrative penalty collected
 9350 pursuant to this chapter shall be deposited into the Treasury
 9351 ~~Treasurer's~~ Administrative and Investment Trust Fund.

9352 (2) The Chief Financial Officer ~~Treasurer~~ is authorized to
 9353 pay any losses to public depositories from the fund, and there are
 9354 hereby appropriated from the fund such sums as may be necessary
 9355 from time to time to pay the losses. The term "losses," for
 9356 purposes of this chapter, shall also include losses of interest
 9357 or other accumulations to the public depositor as a result of
 9358 penalties for early withdrawal required by Depository
 9359 Institution Deregulatory Commission Regulations or applicable



HB 1803

2003

9360 successor federal laws or regulations because of suspension or
 9361 disqualification of a qualified public depository by the Chief
 9362 Financial Officer ~~Treasurer~~ pursuant to s. 280.05 or because of
 9363 withdrawal from the public deposits program pursuant to s.
 9364 280.11. In that event, the Chief Financial Officer ~~Treasurer~~ is
 9365 authorized to assess against the suspended, disqualified, or
 9366 withdrawing public depository, in addition to any amount
 9367 authorized by any other provision of this chapter, an
 9368 administrative penalty equal to the amount of the early
 9369 withdrawal penalty and to pay that amount over to the public
 9370 depositor as reimbursement for such loss. Any money in the fund
 9371 estimated not to be needed for immediate cash requirements shall
 9372 be invested pursuant to s. 17.61 ~~18.125~~.

9373 Section 295. Paragraphs (d) and (e) of subsection (1) and
 9374 subsections (2), (3), (4), (5), and (6) of section 280.10,
 9375 Florida Statutes, are amended to read:

9376 280.10 Effect of merger, acquisition, or consolidation;
 9377 change of name or address.--

9378 (1) When a qualified public depository is merged into,
 9379 acquired by, or consolidated with a bank, savings bank, or
 9380 savings association that is not a qualified public depository:

9381 (d) The resulting institution shall, within 90 calendar
 9382 days after the effective date of the merger, acquisition, or
 9383 consolidation, deliver to the Chief Financial Officer ~~Treasurer~~:

9384 1. Documentation in its name as required for participation
 9385 in the public deposits program; or

9386 2. Written notice of intent to withdraw from the program
 9387 as provided in s. 280.11 and a proposed effective date of
 9388 withdrawal which shall be within 180 days after the effective
 9389 date of the acquisition, merger, or consolidation of the former



HB 1803

2003

9390 institution.

9391 (e) If the resulting institution does not meet
9392 qualifications to become a qualified public depository or does
9393 not submit required documentation within 90 calendar days after
9394 the effective date of the merger, acquisition, or consolidation,
9395 the Chief Financial Officer ~~Treasurer~~ shall initiate mandatory
9396 withdrawal actions as provided in s. 280.11 and shall set an
9397 effective date of withdrawal that is within 180 days after the
9398 effective date of the acquisition, merger, or consolidation of
9399 the former institution.

9400 (2) When a qualified public depository disposes of any of
9401 its Florida public deposits or collateral securing such deposits
9402 in a manner not covered by subsection (1), the qualified public
9403 depository originally holding the public deposits shall be
9404 responsible for:

9405 (a) Ensuring the institution receiving such public
9406 deposits becomes a qualified public depository and meets
9407 collateral requirements with the Chief Financial Officer
9408 ~~Treasurer~~ as part of the transaction.

9409 (b) Notifying the Chief Financial Officer ~~Treasurer~~ within
9410 30 calendar days after the final approval by the appropriate
9411 regulator.

9412

9413

9414 A qualified public depository that fails to meet such
9415 responsibilities shall continue to collateralize and report such
9416 public deposits until the receiving institution becomes a
9417 qualified public depository and collateralizes the deposits or
9418 the deposits are returned to the governmental unit.

9419 (3) The qualified public depository shall notify the Chief



HB 1803

2003

9420 Financial Officer ~~Treasurer~~ of any acquisition or merger within
9421 30 calendar days after the final approval of the acquisition or
9422 merger by its appropriate regulator.

9423 (4) Collateral subject to a collateral agreement may not
9424 be released by the Chief Financial Officer ~~Treasurer~~ or the
9425 custodian until the assumed liability is evidenced by the
9426 deposit of collateral pursuant to the collateral agreement of
9427 the successor entity. The reporting requirement and pledge of
9428 collateral will remain in force until the Chief Financial
9429 Officer ~~Treasurer~~ determines that the liability no longer
9430 exists. The surviving or new qualified public depository shall
9431 be responsible and liable for all of the liabilities and
9432 obligations of each qualified public depository merged with or
9433 acquired by it.

9434 (5) Each qualified public depository shall report any
9435 change of name and address to the Chief Financial Officer
9436 ~~Treasurer~~ on a form provided by the Chief Financial Officer
9437 ~~Treasurer~~ regardless of whether the name change is a result of
9438 an acquisition, merger, or consolidation. Notification of such
9439 change must be made within 30 calendar days after the effective
9440 date of the change.

9441 (6) The Chief Financial Officer ~~Treasurer~~ shall adopt
9442 rules establishing procedures for mergers, acquisitions,
9443 consolidations, and changes in name and address, providing
9444 forms, and clarifying terms.

9445 Section 296. Section 280.11, Florida Statutes, is amended
9446 to read:

9447 280.11 Withdrawal from public deposits program; return of
9448 pledged collateral.--

9449 (1) A qualified public depository may withdraw from the



HB 1803

2003

9450 public deposits program by giving written notice to the Chief
 9451 Financial Officer ~~Treasurer~~. The contingent liability, required
 9452 collateral, and reporting requirements of the depository
 9453 withdrawing from the program shall continue for a period of 12
 9454 months after the effective date of the withdrawal, except that
 9455 the filing of reports may no longer be required when the average
 9456 monthly balance of public deposits is equal to zero. Notice of
 9457 withdrawal shall be mailed or delivered in sufficient time to be
 9458 received by the Chief Financial Officer ~~Treasurer~~ at least 30
 9459 days before the effective date of withdrawal. The Chief
 9460 Financial Officer ~~Treasurer~~ shall timely publish the withdrawal
 9461 notice in the Florida Administrative Weekly which shall
 9462 constitute notice to all depositors. The withdrawing depository
 9463 shall not receive or retain public deposits after the effective
 9464 date of the withdrawal until such time as it again becomes a
 9465 qualified public depository. The Chief Financial Officer
 9466 ~~Treasurer~~ shall, upon request, return to the depository that
 9467 portion of the collateral pledged that is in excess of the
 9468 required collateral as reported on the current public depository
 9469 monthly report. Losses of interest or other accumulations, if
 9470 any, because of withdrawal under this section shall be assessed
 9471 and paid as provided in s. 280.09.

9472 (2) A qualified public depository which has been
 9473 disqualified pursuant to s. 280.051 shall not receive or retain
 9474 public deposits after the effective date of the
 9475 disqualification. Notice of and procedures for disqualification
 9476 shall be made in accordance with ss. 280.052 and 280.053. The
 9477 Chief Financial Officer ~~Treasurer~~ shall, upon request, return to
 9478 the depository that portion of the collateral pledged that is in
 9479 excess of the required collateral as reported on the current



HB 1803

2003

9480 public depository monthly report. Losses of interest or other
9481 accumulation, if any, because of disqualification shall be paid
9482 as provided in s. 280.09(2).

9483 (3) A qualified public depository which is required to
9484 withdraw from the public deposits program pursuant to s.
9485 280.05(1)(b) shall not receive or retain public deposits after
9486 the effective date of withdrawal. The contingent liability,
9487 required collateral, and reporting requirements of the
9488 withdrawing depository shall continue until the effective date
9489 of withdrawal. Notice of withdrawal (order of discontinuance)
9490 from the Chief Financial Officer ~~Treasurer~~ shall be mailed to
9491 the qualified public depository by registered or certified mail.
9492 Penalties incurred because of withdrawal from the public
9493 deposits program shall be the responsibility of the withdrawing
9494 depository.

9495 Section 297. Subsection (2), paragraphs (a), (b), (d), and
9496 (f) of subsection (5), and subsections (6), (7), and (8) of
9497 section 280.13, Florida Statutes, are amended to read:

9498 280.13 Eligible collateral.--

9499 (2) In addition to the securities listed in subsection
9500 (1), the Chief Financial Officer ~~Treasurer~~ may, in his or her
9501 discretion, allow the pledge of the following types of
9502 securities. The Chief Financial Officer ~~Treasurer~~ shall, by
9503 rule, define any restrictions, specific criteria, or
9504 circumstances for which these instruments will be acceptable.

9505 (a) Securities of, or other interests in, any open-end
9506 management investment company registered under the Investment
9507 Company Act of 1940, 15 U.S.C. ss. 80a-1 et seq., as amended
9508 from time to time, provided the portfolio of such investment
9509 company is limited to direct obligations of the United States



HB 1803

2003

9510 Government and to repurchase agreements fully collateralized by
9511 such direct obligations of the United States Government and
9512 provided such investment company takes delivery of such
9513 collateral either directly or through an authorized custodian.

9514 (b) Collateralized Mortgage Obligations.

9515 (c) Real Estate Mortgage Investment Conduits.

9516 (5) Letters of credit issued by a Federal Home Loan Bank
9517 are eligible as collateral under this section provided that:

9518 (a) The letter of credit has been delivered to the Chief
9519 Financial Officer ~~Treasurer~~ in the standard format approved by
9520 the Chief Financial Officer ~~Treasurer~~.

9521 (b) The letter of credit meets required conditions of:

9522 1. Being irrevocable.

9523 2. Being clean and unconditional and containing a
9524 statement that it is not subject to any agreement, condition, or
9525 qualification outside of the letter of credit and providing that
9526 a beneficiary need only present the original letter of credit
9527 with any amendments and the demand form to promptly obtain
9528 funds, and that no other document need be presented.

9529 3. Being issued, presentable, and payable at a Federal
9530 Home Loan Bank in United States dollars. Presentation may be
9531 made by the beneficiary submitting the original letter of
9532 credit, including any amendments, and the demand in writing, by
9533 overnight delivery.

9534 4. Containing a statement that identifies and defines the
9535 Chief Financial Officer ~~Treasurer~~ as beneficiary.

9536 5. Containing an issue date and a date of expiration.

9537 6. Containing a term of at least 1 year and an evergreen
9538 clause that provides at least 60 days written notice to the
9539 beneficiary prior to expiration date for nonrenewal.



HB 1803

2003

9540 7. Containing a statement that it is subject to and
9541 governed by the laws of the State of Florida and that, in the
9542 event of any conflict with other laws, the laws of the State of
9543 Florida will control.

9544 8. Containing a statement that the letter of credit is an
9545 obligation of the Federal Home Loan Bank and is in no way
9546 contingent upon reimbursement.

9547 9. Any other provision found necessary under the Uniform
9548 Commercial Code--Letters of Credit.

9549 (d) The Federal Home Loan Bank issuing the letter of
9550 credit agrees to provide confirmation upon request from the
9551 Chief Financial Officer ~~Treasurer~~. Such confirmation shall be
9552 provided within 15 working days after the request, in a format
9553 prescribed by the Chief Financial Officer ~~Treasurer~~, and shall
9554 require no identification other than the qualified public
9555 depository's name and location.

9556 (f) The qualified public depository, if notified by the
9557 Chief Financial Officer ~~Treasurer~~, shall not be allowed to use
9558 letters of credit if the Federal Home Loan Bank fails to pay a
9559 draw request as provided for in the letters of credit or fails
9560 to properly complete a confirmation of such letters of credit.

9561 (6) Cash held by the Chief Financial Officer ~~Treasurer~~ in
9562 the Treasury Cash Deposit Trust Fund or by a custodian is
9563 eligible as collateral under this section. Interest earned on
9564 cash deposits that is in excess of required collateral shall be
9565 paid to the qualified public depository upon request.

9566 (7) The Chief Financial Officer ~~Treasurer~~ may disapprove
9567 any security or letter of credit that does not meet the
9568 requirements of this section or any rule adopted pursuant to
9569 this section or any security for which no current market price



HB 1803

2003

9570 can be obtained from a nationally recognized source deemed
9571 acceptable to the Chief Financial Officer ~~Treasurer~~ or cannot be
9572 converted to cash.

9573 (8) The Chief Financial Officer ~~Treasurer~~ shall adopt
9574 rules defining restrictions and special requirements for
9575 eligible collateral and clarifying terms.

9576 Section 298. Paragraphs (a), (b), (d), and (e) of
9577 subsection (1) and subsection (3) of section 280.16, Florida
9578 Statutes, are amended to read:

9579 280.16 Requirements of qualified public depositories;
9580 confidentiality.--

9581 (1) In addition to any other requirements specified in
9582 this chapter, qualified public depositories shall:

9583 (a) Take the following actions for each public deposit
9584 account:

9585 1. Identify the account as a "Florida public deposit" on
9586 the deposit account record with the name of the public depositor
9587 or provide a unique code for the account for such designation.

9588 2. When the form prescribed by the Chief Financial Officer
9589 ~~Treasurer~~ for acknowledgment of receipt of each public deposit
9590 account is presented to the qualified public depository by the
9591 public depositor opening an account, the qualified public
9592 depository shall execute and return the completed form to the
9593 public depositor.

9594 3. When the acknowledgment of receipt form is presented to
9595 the qualified public depository by the public depositor due to a
9596 change of account name, account number, or qualified public
9597 depository name on an existing public deposit account, the
9598 qualified public depository shall execute and return the
9599 completed form to the public depositor within 45 calendar days



HB 1803

2003

9600 after such presentation.

9601 4. When the acknowledgment of receipt form is presented to
9602 the qualified public depository by the public depositor on an
9603 account existing before July 1, 1998, the qualified public
9604 depository shall execute and return the completed form to the
9605 public depositor within 45 calendar days after such
9606 presentation.

9607 (b) Within 15 days after the end of each calendar month,
9608 or when requested by the Chief Financial Officer ~~Treasurer~~,
9609 submit to the Chief Financial Officer ~~Treasurer~~ a written
9610 report, under oath, indicating the average daily balance of all
9611 public deposits held by it during the reported month, required
9612 collateral, a detailed schedule of all securities pledged as
9613 collateral, selected financial information, and any other
9614 information that the Chief Financial Officer's ~~Treasurer~~
9615 determines necessary to administer this chapter.

9616 (d) Submit to the Chief Financial Officer ~~Treasurer~~
9617 annually, not later than November 30, a report of all public
9618 deposits held for the credit of all public depositors at the
9619 close of business on September 30. Such annual report shall
9620 consist of public deposit information in a report format
9621 prescribed by the Chief Financial Officer ~~Treasurer~~. The manner
9622 of required filing may be as a signed writing or electronic data
9623 transmission, at the discretion of the Treasurer.

9624 (e) Submit to the Chief Financial Officer ~~Treasurer~~ not
9625 later than the date required to be filed with the federal
9626 agency:

9627 1. A copy of the quarterly Consolidated Reports of
9628 Condition and Income, and any amended reports, required by the
9629 Federal Deposit Insurance Act, 12 U.S.C. ss. 1811 et seq., if



HB 1803

2003

9630 such depository is a bank; or

9631 2. A copy of the Thrift Financial Report, and any amended
9632 reports, required to be filed with the Office of Thrift
9633 Supervision if such depository is a savings and loan
9634 association.

9635 (3) Any information contained in a report of a qualified
9636 public depository required under this chapter or any rule
9637 adopted under this chapter, together with any information
9638 required of a financial institution that is not a qualified
9639 public depository, shall, if made confidential by any law of the
9640 United States or of this state, be considered confidential and
9641 exempt from the provisions of s. 119.07(1) and not subject to
9642 dissemination to anyone other than the Chief Financial Officer
9643 ~~Treasurer~~ under the provisions of this chapter; however, it is
9644 the responsibility of each qualified public depository and each
9645 financial institution from which information is required to
9646 inform the Chief Financial Officer ~~Treasurer~~ of information that
9647 is confidential and the law providing for the confidentiality of
9648 that information, and the Chief Financial Officer ~~Treasurer~~ does
9649 not have a duty to inquire into whether information is
9650 confidential.

9651 Section 299. Paragraphs (b) and (c) of subsection (2),
9652 subsections (3), (4), and (6), and paragraph (c) of subsection
9653 (7) of section 280.17, Florida Statutes, are amended to read:

9654 280.17 Requirements for public depositors; notice to
9655 public depositors and governmental units; loss of protection.--
9656 In addition to any other requirement specified in this chapter,
9657 public depositors shall comply with the following:

9658 (2) Beginning July 1, 1998, each public depositor shall
9659 take the following actions for each public deposit account:



HB 1803

2003

9660 (b) Execute a form prescribed by the Chief Financial
9661 Officer ~~Treasurer~~ for identification of each public deposit
9662 account and obtain acknowledgment of receipt on the form from
9663 the qualified public depository at the time of opening the
9664 account. Such public deposit identification and acknowledgment
9665 form shall be replaced with a current form as required in
9666 subsection (3). A public deposit account existing before July
9667 1, 1998, must have a form completed before September 30, 1998.

9668 (c) Maintain the current public deposit identification and
9669 acknowledgment form as a valuable record. Such form is
9670 mandatory for filing a claim with the Chief Financial Officer
9671 ~~Treasurer~~ upon default or insolvency of a qualified public
9672 depository.

9673 (3) Each public depositor shall review the Chief Financial
9674 Officer's ~~Treasurer's~~ published list of qualified public
9675 depositories and ascertain the status of depositories used. A
9676 public depositor shall, for status changes of depositories:

9677 (a) Execute a replacement public deposit identification
9678 and acknowledgment form, as described in subsection (2), for
9679 each public deposit account when there is a merger, acquisition,
9680 name change, or other event which changes the account name,
9681 account number, or name of the qualified public depository.

9682 (b) Move and close public deposit accounts when an
9683 institution is not included in the authorized list of qualified
9684 public depositories or is shown as withdrawing.

9685 (4) Whenever public deposits are in a qualified public
9686 depository that has been declared to be in default or insolvent,
9687 each public depositor shall:

9688 (a) Notify the Chief Financial Officer ~~Treasurer~~
9689 immediately by telecommunication after receiving notice of the



HB 1803

2003

9690 default or insolvency from the receiver of the depository with
9691 subsequent written confirmation and a copy of the notice.

9692 (b) Submit to the Chief Financial Officer ~~Treasurer~~ for
9693 each public deposit, within 30 days after the date of official
9694 notification from the Chief Financial Officer ~~Treasurer~~, the
9695 following:

9696 1. A claim form and agreement, as prescribed by the Chief
9697 Financial Officer ~~Treasurer~~, executed under oath, accompanied by
9698 proof of authority to execute the form on behalf of the public
9699 depositor.

9700 2. A completed public deposit identification and
9701 acknowledgment form, as described in subsection (2).

9702 3. Evidence of the insurance afforded the deposit pursuant
9703 to the Federal Deposit Insurance Act.

9704 (6) Each public depositor shall submit, not later than
9705 November 30, an annual report to the Chief Financial Officer
9706 ~~Treasurer~~ which shall include:

9707 (a) The official name, mailing address, and federal
9708 employer identification number of the public depositor.

9709 (b) Verification that confirmation of public deposit
9710 information as of September 30, as described in subsection (5),
9711 has been completed.

9712 (c) Public deposit information in a report format
9713 prescribed by the Chief Financial Officer ~~Treasurer~~. The manner
9714 of required filing may be as a signed writing or electronic data
9715 transmission, at the discretion of the Chief Financial Officer
9716 ~~Treasurer~~.

9717 (d) Confirmation that a current public deposit
9718 identification and acknowledgment form, as described in
9719 subsection (2), has been completed for each public deposit



HB 1803

2003

9720 account and is in the possession of the public depositor.

9721 (7) Notices relating to the public deposits program shall
9722 be mailed to public depositors and governmental units from a
9723 list developed annually from:

9724 (c) Governmental units established during the year that
9725 filed an annual report as a new governmental unit or otherwise
9726 furnished in writing to the Chief Financial Officer ~~Treasurer~~
9727 its official name, address, and federal employer identification
9728 number.

9729 Section 300. Subsection (2) of section 280.18, Florida
9730 Statutes, is amended to read:

9731 280.18 Protection of public depositors; liability of the
9732 state.--

9733 (2) The liability of the state, the Chief Financial
9734 Officer ~~Treasurer~~, or any state agency, or any employee or agent
9735 of the state, the Chief Financial Officer ~~Treasurer~~, or a state
9736 agency, for any action taken in the performance of their powers
9737 and duties under this chapter shall be limited to that as a
9738 public depositor.

9739 Section 301. Section 280.19, Florida Statutes, is amended
9740 to read:

9741 280.19 Rules.--The Chief Financial Officer ~~Treasurer~~ shall
9742 adopt rules pursuant to ss. 120.536(1) and 120.54 to administer
9743 the provisions of this chapter.

9744 Section 302. Paragraph (a) of subsection (2) of section
9745 282.1095, Florida Statutes, is amended to read:

9746 282.1095 State agency law enforcement radio system.--

9747 (2)(a) The Joint Task Force on State Agency Law
9748 Enforcement Communications shall consist of eight members, as
9749 follows:



HB 1803

2003

9750 1. A representative of the Division of Alcoholic Beverages
 9751 and Tobacco of the Department of Business and Professional
 9752 Regulation who shall be appointed by the secretary of the
 9753 department.

9754 2. A representative of the Division of Florida Highway
 9755 Patrol of the Department of Highway Safety and Motor Vehicles
 9756 who shall be appointed by the executive director of the
 9757 department.

9758 3. A representative of the Department of Law Enforcement
 9759 who shall be appointed by the executive director of the
 9760 department.

9761 4. A representative of the Fish and Wildlife Conservation
 9762 Commission who shall be appointed by the executive director of
 9763 the commission.

9764 5. A representative of the Division of Law Enforcement of
 9765 the Department of Environmental Protection who shall be
 9766 appointed by the secretary of the department.

9767 6. A representative of the Department of Corrections who
 9768 shall be appointed by the secretary of the department.

9769 7. A representative of the Division of State Fire Marshal
 9770 of the Department of Financial Services Insurance ~~Insurance~~ who shall be
 9771 appointed by the State Fire Marshal.

9772 8. A representative of the Department of Transportation
 9773 who shall be appointed by the secretary of the department.

9774 Section 303. Subsections (2) and (3) of section 284.02,
 9775 Florida Statutes, are amended to read:

9776 284.02 Payment of premiums by each agency; handling of
 9777 funds; payment of losses and expenses.--

9778 (2) All premiums paid into the fund and all moneys
 9779 received by the fund from investment or any other source



HB 1803

2003

9780 pursuant to said program shall be held by the Department of
 9781 Financial Services Insurance and used for the purpose of paying
 9782 losses, expenses incurred in adjustment of losses, premiums for
 9783 reinsurance, and operating expenses.

9784 (3) The Department of Financial Services Insurance is
 9785 authorized to employ a director of the fund and necessary
 9786 administrative and clerical personnel, actuaries, consultants,
 9787 and adjusters to maintain, operate, and administer the fund and
 9788 to underwrite all certificates of insurance issued by the fund.

9789 All salaries and expenses of administration and operation shall
 9790 be paid from the fund.

9791 Section 304. Section 284.04, Florida Statutes, is amended
 9792 to read:

9793 284.04 Notice and information required by Department of
 9794 Financial Services Insurance of all newly erected or acquired
 9795 state property subject to insurance.--The Department of
 9796 Management Services and all agencies in charge of state property
 9797 shall notify the Department of Financial Services Insurance of
 9798 all newly erected or acquired property subject to coverage as
 9799 soon as erected or acquired, giving its value, type of
 9800 construction, location, whether inside or outside of corporate
 9801 limits, occupancy, and any other information the Department of
 9802 Financial Services Insurance may require in connection with such
 9803 property. Such department or agency shall also notify the
 9804 Department of Financial Services Insurance immediately of any
 9805 change in value or occupancy of any property covered by the
 9806 fund. Unless the above data is submitted in writing within a
 9807 reasonable time following such erection, acquisition, or change,
 9808 the Department of Financial Services Insurance shall provide
 9809 insurance coverage to the extent shown by the last notification



HB 1803

2003

9810 in writing to the fund or in accordance with the last valuation
 9811 shown by fund records. In case of disagreement between the
 9812 Department of Financial Services Insurance and the agency or
 9813 person in charge of any covered state property as to its true
 9814 value, the amount of the insurance to be carried thereon, the
 9815 proper premium rate or rates, or amount of loss settlement, the
 9816 matter in disagreement shall be determined by the Department of
 9817 Management Services.

9818 Section 305. Section 284.05, Florida Statutes, is amended
 9819 to read:

9820 284.05 Inspection of insured state property.--The
 9821 Department of Financial Services Insurance shall inspect all
 9822 permanent buildings insured by the State Risk Management Trust
 9823 Fund, and whenever conditions are found to exist which, in the
 9824 opinion of the Department of Financial Services Insurance, are
 9825 hazardous from the standpoint of destruction by fire or other
 9826 loss, the Department of Financial Services Insurance may order
 9827 the same repaired or remedied, and the agency, board, or person
 9828 in charge of such property is required to have such dangerous
 9829 conditions immediately repaired or remedied upon written notice
 9830 from the Department of Financial Services Insurance of such
 9831 hazardous conditions. Such amounts as may be necessary to
 9832 comply with such notice or notices shall be paid by the
 9833 Department of Management Services or by the agency, board, or
 9834 person in charge of such property out of any moneys appropriated
 9835 for the maintenance of the respective agency or for the repairs
 9836 or permanent improvement of such properties or from any
 9837 incidental or contingent funds they may have on hand. In the
 9838 event of a disagreement between the Department of Financial
 9839 Services Insurance and the agency, board, or person having



HB 1803

2003

9840 charge of such property as to the necessity of the repairs or
 9841 remedies ordered, the matter in disagreement shall be determined
 9842 by the Department of Management Services.

9843 Section 306. Section 284.06, Florida Statutes, is amended
 9844 to read:

9845 284.06 Annual report to Governor.--The Department of
 9846 Financial Services ~~Insurance~~ shall report annually to the
 9847 Governor the investigations which have been made and the actions
 9848 which have been taken to decrease the fire hazard of the various
 9849 insurable properties of the state, together with its
 9850 recommendations as to further safeguards and improvements.

9851 Section 307. Section 284.08, Florida Statutes, is amended
 9852 to read:

9853 284.08 Reinsurance on excess coverage and approval by
 9854 Department of Management Services.--The Department of Financial
 9855 Services ~~Insurance~~ shall determine what excess coverage is
 9856 necessary and may purchase reinsurance thereon upon approval by
 9857 the Department of Management Services.

9858 Section 308. Section 284.14, Florida Statutes, is amended
 9859 to read:

9860 284.14 State Risk Management Trust Fund; leasehold
 9861 interest.--In the event the state or any department or agency
 9862 thereof has acquired or hereafter acquires a leasehold interest
 9863 in any improved real property and by the terms and provisions of
 9864 said lease it is obligated to insure such premises against loss
 9865 by fire or other hazard to such premises, it shall insure such
 9866 premises in the State Risk Management Trust Fund as required by
 9867 the terms of said lease or as required by the provisions of this
 9868 chapter. No state agency shall enter into or acquire any such
 9869 leasehold interest until the coverages required to be maintained



HB 1803

2003

9870 by the provisions of the lease are approved in writing by the
9871 Department of Financial Services Insurance.

9872 Section 309. Section 284.17, Florida Statutes, is amended
9873 to read:

9874 284.17 Rules.--The Department of Financial Services
9875 ~~Insurance~~ has authority to adopt rules pursuant to ss.
9876 120.536(1) and 120.54 to implement the provisions of this
9877 chapter.

9878 Section 310. Section 284.30, Florida Statutes, is amended
9879 to read:

9880 284.30 State Risk Management Trust Fund; coverages to be
9881 provided.--A state self-insurance fund, designated as the "State
9882 Risk Management Trust Fund," is created to be set up by the
9883 Department of Financial Services Insurance and administered with
9884 a program of risk management, which fund is to provide
9885 insurance, as authorized by s. 284.33, for workers'
9886 compensation, general liability, fleet automotive liability,
9887 federal civil rights actions under 42 U.S.C. s. 1983 or similar
9888 federal statutes, and court-awarded attorney's fees in other
9889 proceedings against the state except for such awards in eminent
9890 domain or for inverse condemnation or for awards by the Public
9891 Employees Relations Commission. A party to a suit in any court,
9892 to be entitled to have his or her attorney's fees paid by the
9893 state or any of its agencies, must serve a copy of the pleading
9894 claiming the fees on the Department of Financial Services
9895 ~~Insurance~~; and thereafter the department shall be entitled to
9896 participate with the agency in the defense of the suit and any
9897 appeal thereof with respect to such fees.

9898 Section 311. Section 284.31, Florida Statutes, is amended
9899 to read:



HB 1803

2003

9900 284.31 Scope and types of coverages; separate accounts.--
 9901 The Insurance Risk Management Trust Fund shall, unless
 9902 specifically excluded by the Department of Financial Services
 9903 ~~Insurance~~, cover all departments of the State of Florida and
 9904 their employees, agents, and volunteers and shall provide
 9905 separate accounts for workers' compensation, general liability,
 9906 fleet automotive liability, federal civil rights actions under
 9907 42 U.S.C. s. 1983 or similar federal statutes, and court-awarded
 9908 attorney's fees in other proceedings against the state except
 9909 for such awards in eminent domain or for inverse condemnation or
 9910 for awards by the Public Employees Relations Commission. Unless
 9911 specifically excluded by the Department of Financial Services
 9912 ~~Insurance~~, the insurance risk management trust fund shall
 9913 provide fleet automotive liability coverage to motor vehicles
 9914 titled to the state, or to any department of the state, when
 9915 such motor vehicles are used by community transportation
 9916 coordinators performing, under contract to the appropriate
 9917 department of the state, services for the transportation
 9918 disadvantaged under part I of chapter 427. Such fleet automotive
 9919 liability coverage shall be primary and shall be subject to the
 9920 provisions of s. 768.28 and parts II and III of chapter 284, and
 9921 applicable rules adopted thereunder, and the terms and
 9922 conditions of the certificate of coverage issued by the
 9923 Department of Financial Services ~~Insurance~~.

9924 Section 312. Section 284.32, Florida Statutes, is amended
 9925 to read:

9926 284.32 Department of Financial Services ~~Insurance~~ to
 9927 implement and consolidate.--The Department of Financial Services
 9928 ~~Insurance~~ is hereby authorized to effect a consolidation and
 9929 combination of all insurance coverages provided herein into one



HB 1803

2003

9930 insurance program in accordance with the provisions of part I of
 9931 chapter 287.

9932 Section 313. Subsection (1) of section 284.33, Florida
 9933 Statutes, is amended to read:

9934 284.33 Purchase of insurance, reinsurance, and services.--

9935 (1) The Department of Financial Services ~~Insurance~~ is
 9936 authorized to provide insurance, specific excess insurance, and
 9937 aggregate excess insurance through the Department of Management
 9938 Services, pursuant to the provisions of part I of chapter 287,
 9939 as necessary to provide insurance coverages authorized by this
 9940 part, consistent with market availability. However, the
 9941 Department of Financial Services ~~Insurance~~ may directly purchase
 9942 annuities by using a structured settlement insurance consulting
 9943 firm selected by the department to assist in the settlement of
 9944 claims being handled by the Division of Risk Management. The
 9945 selection of the structured settlement insurance services
 9946 consultant shall be made by using competitive sealed proposals.
 9947 The consulting firm shall act as an agent of record for the
 9948 department in procuring the best annuity products available to
 9949 facilitate structured settlement of claims, considering price,
 9950 insurer financial strength, and the best interests of the state
 9951 risk management program. Purchase of annuities by the department
 9952 using a structured settlement method is excepted from
 9953 competitive sealed bidding or proposal requirements. The
 9954 Department of Financial Services ~~Insurance~~ is further authorized
 9955 to purchase such risk management services, including, but not
 9956 limited to, risk and claims control; safety management; and
 9957 legal, investigative, and adjustment services, as may be
 9958 required and pay claims. The department may contract with a
 9959 service organization for such services and advance money to such



HB 1803

2003

9960 service organization for deposit in a special checking account
9961 for paying claims made against the state under the provisions of
9962 this part. The special checking account shall be maintained in
9963 this state in a bank or savings association organized under the
9964 laws of this state or of the United States. The department may
9965 replenish such account as often as necessary upon the
9966 presentation by the service organization of documentation for
9967 payments of claims equal to the amount of the requested
9968 reimbursement.

9969 Section 314. Section 284.34, Florida Statutes, is amended
9970 to read:

9971 284.34 Professional medical liability of the university
9972 boards of trustees and nuclear energy liability excluded.--
9973 Unless specifically authorized by the Department of Financial
9974 Services Insurance, no coverages shall be provided by this fund
9975 for professional medical liability insurance for the university
9976 boards of trustees or the physicians, officers, employees, or
9977 agents of any board or for liability related to nuclear energy
9978 which is ordinarily subject to the standard nuclear energy
9979 liability exclusion of conventional liability insurance
9980 policies. This section does not affect the self-insurance
9981 programs of the university boards of trustees established
9982 pursuant to s. 1004.24.

9983 Section 315. Section 284.35, Florida Statutes, is amended
9984 to read:

9985 284.35 Administrative personnel; expenses to be paid from
9986 fund.--The Department of Financial Services Insurance is hereby
9987 authorized, in accordance with current budget and personnel
9988 requirements, to employ necessary administrative and clerical
9989 personnel and actuarial consultants, as necessary to maintain,



HB 1803

2003

9990 operate, and administer the fund. All salaries and expenses of
 9991 administration and operation shall be paid from the fund.

9992 Section 316. Section 284.37, Florida Statutes, is amended
 9993 to read:

9994 284.37 Premium and investment accruals used for fund
 9995 purposes.--All premiums paid into the fund and all moneys from
 9996 investments or any other source pursuant to said program shall
 9997 be held by the Department of Financial Services ~~Insurance~~ and
 9998 used for the purpose of paying losses, premiums for insurance,
 9999 risk and claims management services, and operating expenses.

10000 Section 317. Section 284.385, Florida Statutes, is amended
 10001 to read:

10002 284.385 Reporting and handling of claims.--All departments
 10003 covered by the State Risk Management Trust Fund under this part
 10004 shall immediately report all known or potential claims to the
 10005 Department of Financial Services ~~Insurance~~ for handling, except
 10006 employment complaints which have not been filed with the Florida
 10007 Human Relations Commission, Equal Employment Opportunity
 10008 Commission, or any similar agency. When deemed necessary, the
 10009 Department of Financial Services ~~Insurance~~ shall assign or
 10010 reassign the claim to counsel. The assigned counsel shall
 10011 report regularly to the Department of Financial Services
 10012 ~~Insurance~~ or to the covered department on the status of any such
 10013 claims or litigation as required by the Department of Financial
 10014 Services ~~Insurance~~. No such claim shall be compromised or
 10015 settled for monetary compensation without the prior approval of
 10016 the Department of Financial Services ~~Insurance~~ and prior
 10017 notification to the covered department. All departments shall
 10018 cooperate with the Department of Financial Services ~~Insurance~~ in
 10019 its handling of claims. The Department of Financial Services and



HB 1803

2003

10020 ~~Insurance~~, the Department of Management Services, ~~and the~~
 10021 ~~Department of Banking and Finance~~, with the cooperation of the
 10022 state attorneys and the clerks of the courts, shall develop a
 10023 system to coordinate the exchange of information concerning
 10024 claims for and against the state, its agencies, and its
 10025 subdivisions, to assist in collection of amounts due to them.
 10026 The covered department shall have the responsibility for the
 10027 settlement of any claim for injunctive or affirmative relief
 10028 under 42 U.S.C. s. 1983 or similar federal or state statutes.
 10029 The payment of a settlement or judgment for any claim covered
 10030 and reported under this part shall be made only from the State
 10031 Risk Management Trust Fund.

10032 Section 318. Section 284.39, Florida Statutes, is amended
 10033 to read:

10034 284.39 Adoption ~~Promulgation~~ of rules.--The Department of
 10035 Financial Services may adopt ~~Insurance~~ is authorized to
 10036 ~~promulgate~~ rules and regulations for the proper management and
 10037 maintenance of the fund.

10038 Section 319. Subsections (1) and (2) of section 284.40,
 10039 Florida Statutes, are amended to read:

10040 284.40 Division of Risk Management.--

10041 (1) It shall be the responsibility of the Division of Risk
 10042 Management of the Department of Financial Services ~~Insurance~~ to
 10043 administer this part and the provisions of s. 287.131.

10044 (2) The claim files maintained by the Division of Risk
 10045 Management shall be confidential, shall be only for the usage by
 10046 the Department of Financial Services ~~Insurance~~ in fulfilling its
 10047 duties and responsibilities under this part, and shall be exempt
 10048 from the provisions of s. 119.07(1).

10049 Section 320. Subsection (1) of section 284.41, Florida



HB 1803

2003

10050 Statutes, is amended to read:

10051 284.41 Transfer of personnel and funds to the Division of
10052 Risk Management.--

10053 (1) All personnel and funds otherwise allocated to the
10054 Department of Financial Services Insurance for this purpose are
10055 transferred to the Division of Risk Management.

10056 Section 321. Subsection (1) of section 284.42, Florida
10057 Statutes, is amended to read:

10058 284.42 Reports on state insurance program.--

10059 (1) The Department of Financial Services Insurance, with
10060 the Department of Management Services, shall make an analysis of
10061 the state insurance program annually, which shall include:

10062 (a) Complete underwriting information as to the nature of
10063 the risks accepted for self-insurance and those risks that are
10064 transferred to the insurance market.

10065 (b) The funds allocated to the Florida Casualty Risk
10066 Management Trust Fund and premiums paid for insurance through
10067 the market.

10068 (c) The method of handling legal matters and the cost
10069 allocated.

10070 (d) The method and cost of handling inspection and
10071 engineering of risks.

10072 (e) The cost of risk management service purchased.

10073 (f) The cost of managing the State Insurance Program by
10074 the Department of Financial Services Insurance and the
10075 Department of Management Services.

10076 Section 322. Subsections (4) and (7) of section 284.44,
10077 Florida Statutes, are amended to read:

10078 284.44 Salary indemnification costs of state agencies.--

10079 (4) For the purpose of administering this section, the



HB 1803

2003

10080 Division of Risk Management of the Department of Financial
 10081 Services Insurance shall continue to pay all claims, but shall
 10082 be periodically reimbursed from funds of state agencies for
 10083 initial salary indemnification costs for which they are
 10084 responsible.

10085 (7) If a state agency fails to pay casualty increase
 10086 premiums or salary indemnification reimbursements within 30 days
 10087 after being billed, the Division of Risk Management shall advise
 10088 the Chief Financial Officer ~~Comptroller~~. After verifying the
 10089 accuracy of the billing, the Chief Financial Officer ~~Comptroller~~
 10090 shall transfer the appropriate amount from any available funds
 10091 of the delinquent state agency to the State Risk Management
 10092 Trust Fund.

10093 Section 323. Subsection (1) of section 284.50, Florida
 10094 Statutes, is amended to read:

10095 284.50 Loss prevention program; safety coordinators;
 10096 Interagency Advisory Council on Loss Prevention; employee
 10097 recognition program.--

10098 (1) The head of each department of state government,
 10099 except the Legislature, shall designate a safety coordinator.
 10100 Such safety coordinator must be an employee of the department
 10101 and must hold a position which has responsibilities comparable
 10102 to those of an employee in the Senior Management System. The
 10103 Department of Financial Services Insurance shall provide
 10104 appropriate training to the safety coordinators to permit them
 10105 to effectively perform their duties within their respective
 10106 departments. Each safety coordinator shall, at the direction of
 10107 his or her department head:

10108 (a) Develop and implement the loss prevention program, a
 10109 comprehensive departmental safety program which shall include a



HB 1803

2003

10110 statement of safety policy and responsibility.

10111 (b) Provide for regular and periodic facility and
 10112 equipment inspections.

10113 (c) Investigate job-related employee accidents of his or
 10114 her department.

10115 (d) Establish a program to promote increased safety
 10116 awareness among employees.

10117 Section 324. Subsection (8) and paragraph (c) of
 10118 subsection (15) of section 287.042, Florida Statutes, are
 10119 amended to read:

10120 287.042 Powers, duties, and functions.--The department
 10121 shall have the following powers, duties, and functions:

10122 (8) To provide any commodity and contractual service
 10123 purchasing rules to the Chief Financial Officer ~~Comptroller~~ and
 10124 all agencies through an electronic medium or other means.
 10125 Agencies may not approve any account or request any payment of
 10126 any account for the purchase of any commodity or the procurement
 10127 of any contractual service covered by a purchasing or
 10128 contractual service rule except as authorized therein. The
 10129 department shall furnish copies of rules adopted by the
 10130 department to any county, municipality, or other local public
 10131 agency requesting them.

10132 (15)

10133 (c) Agencies that sign such joint agreements are
 10134 financially obligated for their portion of the agreed-upon
 10135 funds. If any agency becomes more than 90 days delinquent in
 10136 paying such funds, the department shall certify to the Chief
 10137 Financial Officer ~~Comptroller~~ the amount due, and the Chief
 10138 Financial Officer ~~Comptroller~~ shall transfer the amount due to
 10139 the Grants and Donations Trust Fund of the department from any



HB 1803

2003

10140 of the agency's available funds. The Chief Financial Officer
10141 ~~Comptroller~~ shall report all such transfers and the reasons for
10142 such transfers to the Executive Office of the Governor and the
10143 legislative appropriations committees.

10144 Section 325. Paragraph (a) of subsection (5) of section
10145 287.057, Florida Statutes, is amended to read:

10146 287.057 Procurement of commodities or contractual
10147 services.--

10148 (5) When the purchase price of commodities or contractual
10149 services exceeds the threshold amount provided in s. 287.017 for
10150 CATEGORY TWO, no purchase of commodities or contractual services
10151 may be made without receiving competitive sealed bids,
10152 competitive sealed proposals, or competitive sealed replies
10153 unless:

10154 (a) The agency head determines in writing that an
10155 immediate danger to the public health, safety, or welfare or
10156 other substantial loss to the state requires emergency action.
10157 After the agency head makes such a written determination, the
10158 agency may proceed with the procurement of commodities or
10159 contractual services necessitated by the immediate danger,
10160 without receiving competitive sealed bids, competitive sealed
10161 proposals, or competitive sealed replies. However, such
10162 emergency procurement shall be made by obtaining pricing
10163 information from at least two prospective vendors, which must be
10164 retained in the contract file, unless the agency determines in
10165 writing that the time required to obtain pricing information
10166 will increase the immediate danger to the public health, safety,
10167 or welfare or other substantial loss to the state. The agency
10168 shall furnish copies of all written determinations certified
10169 under oath and any other documents relating to the emergency



HB 1803

2003

10170 action to the department. A copy of the statement shall be
 10171 furnished to the Chief Financial Officer ~~Comptroller~~ with the
 10172 voucher authorizing payment. The individual purchase of
 10173 personal clothing, shelter, or supplies which are needed on an
 10174 emergency basis to avoid institutionalization or placement in a
 10175 more restrictive setting is an emergency for the purposes of
 10176 this paragraph, and the filing with the department of such
 10177 statement is not required in such circumstances. In the case of
 10178 the emergency purchase of insurance, the period of coverage of
 10179 such insurance shall not exceed a period of 30 days, and all
 10180 such emergency purchases shall be reported to the department.

10181 Section 326. Subsections (2) and (5) of section 287.058,
 10182 Florida Statutes, are amended to read:

10183 287.058 Contract document.--

10184 (2) The written agreement shall be signed by the agency
 10185 head and the contractor prior to the rendering of any
 10186 contractual service the value of which is in excess of the
 10187 threshold amount provided in s. 287.017 for CATEGORY TWO, except
 10188 in the case of a valid emergency as certified by the agency
 10189 head. The certification of an emergency shall be prepared within
 10190 30 days after the contractor begins rendering the service and
 10191 shall state the particular facts and circumstances which
 10192 precluded the execution of the written agreement prior to the
 10193 rendering of the service. If the agency fails to have the
 10194 contract signed by the agency head and the contractor prior to
 10195 rendering the contractual service, and if an emergency does not
 10196 exist, the agency head shall, no later than 30 days after the
 10197 contractor begins rendering the service, certify the specific
 10198 conditions and circumstances to the department as well as
 10199 describe actions taken to prevent recurrence of such



HB 1803

2003

10200 noncompliance. The agency head may delegate the certification
 10201 only to other senior management agency personnel. A copy of the
 10202 certification shall be furnished to the Chief Financial Officer
 10203 ~~Comptroller~~ with the voucher authorizing payment. The department
 10204 shall report repeated instances of noncompliance by an agency to
 10205 the Auditor General. Nothing in this subsection shall be deemed
 10206 to authorize additional compensation prohibited by s. 215.425.
 10207 The procurement of contractual services shall not be divided so
 10208 as to avoid the provisions of this section.

10209 (5) Unless otherwise provided in the General
 10210 Appropriations Act or the substantive bill implementing the
 10211 General Appropriations Act, the Chief Financial Officer
 10212 ~~Comptroller~~ may waive the requirements of this section for
 10213 services which are included in s. 287.057(5)(f).

10214 Section 327. Subsections (1) and (2) of section 287.063,
 10215 Florida Statutes, are amended to read:

10216 287.063 Deferred-payment commodity contracts; preaudit
 10217 review.--

10218 (1)(a) When any commodity contract requires deferred
 10219 payments and the payment of interest, such contract shall be
 10220 submitted to the Chief Financial Officer ~~Comptroller~~ for the
 10221 purpose of preaudit review and approval prior to acceptance by
 10222 the state.

10223 (b) Contracts executed pursuant to this subsection may
 10224 bear interest at a rate not to exceed an average net interest
 10225 cost rate which shall be computed by adding 150 basis points to
 10226 the 20 "bond buyer" average yield index published immediately
 10227 preceding the first day of the calendar month in which the
 10228 contract is submitted to the Chief Financial Officer ~~Comptroller~~
 10229 for preaudit review and approval.



HB 1803

2003

10230 (2)(a) No funds appropriated shall be used to acquire
 10231 equipment through a lease or deferred-payment purchase
 10232 arrangement unless approved by the Chief Financial Officer
 10233 ~~Comptroller~~ as economically prudent and cost-effective.

10234 (b) The Chief Financial Officer ~~Comptroller~~ shall
 10235 establish, by rule, criteria for approving purchases made under
 10236 deferred-payment contracts which require the payment of
 10237 interest. Criteria shall include, but not be limited to, the
 10238 following provisions:

10239 1. No contract shall be approved in which interest exceeds
 10240 the statutory ceiling contained in this section. However, the
 10241 interest component of any master equipment financing agreement
 10242 entered into for the purpose of consolidated financing of a
 10243 deferred-payment, installment sale, or lease-purchase shall be
 10244 deemed to comply with the interest rate limitation of this
 10245 section so long as the interest component of every interagency
 10246 agreement under such master equipment financing agreement
 10247 complies with the interest rate limitation of this section.

10248 2. No deferred-payment purchase for less than \$30,000
 10249 shall be approved, unless it can be satisfactorily demonstrated
 10250 and documented to the Chief Financial Officer ~~Comptroller~~ that
 10251 failure to make such deferred-payment purchase would adversely
 10252 affect an agency in the performance of its duties. However, the
 10253 Chief Financial Officer ~~Comptroller~~ may approve any deferred-
 10254 payment purchase if the Chief Financial Officer ~~Comptroller~~
 10255 determines that such purchase is economically beneficial to the
 10256 state.

10257 3. No agency shall obligate an annualized amount of
 10258 payments for deferred-payment purchases in excess of current
 10259 operating capital outlay appropriations, unless specifically



HB 1803

2003

10260 authorized by law or unless it can be satisfactorily
 10261 demonstrated and documented to the Chief Financial Officer
 10262 ~~Comptroller~~ that failure to make such deferred-payment purchase
 10263 would adversely affect an agency in the performance of its
 10264 duties.

10265 4. No contract shall be approved which extends payment
 10266 beyond 5 years, unless it can be satisfactorily demonstrated and
 10267 documented to the Chief Financial Officer ~~Comptroller~~ that
 10268 failure to make such deferred-payment purchase would adversely
 10269 affect an agency in the performance of its duties.

10270 (c) The Chief Financial Officer ~~Comptroller~~ shall require
 10271 written justification based on need, usage, size of the
 10272 purchase, and financial benefit to the state for deferred-
 10273 payment purchases made pursuant to this subsection.

10274 Section 328. Section 287.064, Florida Statutes, is amended
 10275 to read:

10276 287.064 Consolidated financing of deferred-payment
 10277 purchases.--

10278 (1) The Division of Bond Finance of the State Board of
 10279 Administration and the Chief Financial Officer ~~Comptroller~~ shall
 10280 plan and coordinate deferred-payment purchases made by or on
 10281 behalf of the state or its agencies or by or on behalf of state
 10282 community colleges participating under this section pursuant to
 10283 s. 1001.64(26). The Division of Bond Finance shall negotiate and
 10284 the Chief Financial Officer ~~Comptroller~~ shall execute agreements
 10285 and contracts to establish master equipment financing agreements
 10286 for consolidated financing of deferred-payment, installment
 10287 sale, or lease purchases with a financial institution or a
 10288 consortium of financial institutions. As used in this act, the
 10289 term "deferred-payment" includes installment sale and lease-



HB 1803

2003

10290 purchase.

10291 (a) The period during which equipment may be acquired
 10292 under any one master equipment financing agreement shall be
 10293 limited to not more than 3 years.

10294 (b) Repayment of the whole or a part of the funds drawn
 10295 pursuant to the master equipment financing agreement may
 10296 continue beyond the period established pursuant to paragraph
 10297 (a).

10298 (c) The interest rate component of any master equipment
 10299 financing agreement shall be deemed to comply with the interest
 10300 rate limitation imposed in s. 287.063 so long as the interest
 10301 rate component of every interagency or community college
 10302 agreement entered into under such master equipment financing
 10303 agreement complies with the interest rate limitation imposed in
 10304 s. 287.063. Such interest rate limitation does not apply when
 10305 the payment obligation under the master equipment financing
 10306 agreement is rated by a nationally recognized rating service in
 10307 any one of the three highest classifications, which rating
 10308 services and classifications are determined pursuant to rules
 10309 adopted by the Chief Financial Officer ~~Comptroller~~.

10310 (2) Unless specifically exempted by the Chief Financial
 10311 Officer ~~Comptroller~~, all deferred-payment purchases, including
 10312 those made by a community college that is participating under
 10313 this section, shall be acquired by funding through master
 10314 equipment financing agreements. The Chief Financial Officer
 10315 ~~Comptroller~~ is authorized to exempt any purchases from
 10316 consolidated financing when, in his or her judgment, alternative
 10317 financing would be cost-effective or otherwise beneficial to the
 10318 state.

10319 (3) The Chief Financial Officer ~~Comptroller~~ may require



HB 1803

2003

10320 agencies to enter into interagency agreements and may require
 10321 participating community colleges to enter into systemwide
 10322 agreements for the purpose of carrying out the provisions of
 10323 this act.

10324 (a) The term of any interagency or systemwide agreement
 10325 shall expire on June 30 of each fiscal year but shall
 10326 automatically be renewed annually subject to appropriations and
 10327 deferred-payment schedules. The period of any interagency or
 10328 systemwide agreement shall not exceed the useful life of the
 10329 equipment for which the agreement was made as determined by the
 10330 Chief Financial Officer ~~Comptroller~~.

10331 (b) The interagency or systemwide agreements may include,
 10332 but are not limited to, equipment costs, terms, and a pro rata
 10333 share of program and issuance expenses.

10334 (4) Each community college may choose to have its
 10335 purchasing agreements involving administrative and instructional
 10336 materials consolidated under this section.

10337 (5) The Chief Financial Officer ~~Comptroller~~ is authorized
 10338 to automatically debit each agency's funds and each community
 10339 college's portion of the Community College Program Fund
 10340 consistently with the deferred-payment schedules.

10341 (6) There is created the Consolidated Payment Trust Fund
 10342 in the Chief Financial Officer's ~~Comptroller's~~ office for the
 10343 purpose of implementing the provisions of this act. All funds
 10344 debited from each agency and each community college may be
 10345 deposited in the trust fund and shall be used to meet the
 10346 financial obligations incurred pursuant to this act. Any income
 10347 from the investment of funds may be used to fund administrative
 10348 costs associated with this program.

10349 (7) The Chief Financial Officer ~~Comptroller~~ may borrow



HB 1803

2003

10350 sufficient amounts from trust funds to pay issuance expenses for
 10351 the purposes of administering this section. Such amounts shall
 10352 be subject to approval of the Executive Office of the Governor
 10353 and subject to the notice, review, and objection procedures of
 10354 s. 216.177. The amounts approved pursuant to this subsection
 10355 are hereby appropriated for transfer to the Consolidated Payment
 10356 Trust Fund and appropriated from the Consolidated Payment Trust
 10357 Fund to pay issuance expenses. Amounts loaned shall be repaid
 10358 as soon as practicable not to exceed the length of time
 10359 obligations are issued to establish the master equipment
 10360 financing agreement.

10361 (8) The State Board of Administration and the Chief
 10362 Financial Officer ~~Comptroller~~, individually, shall adopt rules
 10363 to implement their respective responsibilities under this
 10364 section.

10365 (9) For purposes of this section, deferred-payment
 10366 commodity contracts for replacing the state accounting and cash
 10367 management systems may include equipment, accounting software,
 10368 and implementation and project management services.

10369 Section 329. Paragraph (d) of subsection (4) of section
 10370 287.09451, Florida Statutes, is amended to read:

10371 287.09451 Office of Supplier Diversity; powers, duties,
 10372 and functions.--

10373 (4) The Office of Supplier Diversity shall have the
 10374 following powers, duties, and functions:

10375 (d) To monitor the degree to which agencies procure
 10376 services, commodities, and construction from minority business
 10377 enterprises in conjunction with the Department of Financial
 10378 Services ~~Banking and Finance~~ as specified in s. 17.11.

10379 Section 330. Section 287.115, Florida Statutes, is amended



HB 1803

2003

10380 to read:

10381 287.115 Chief Financial Officer ~~Comptroller~~; annual
 10382 report.--The Chief Financial Officer ~~Comptroller~~ shall submit to
 10383 the office of the Auditor General an annual report on those
 10384 contractual service contracts disallowed by the Chief Financial
 10385 Officer ~~Comptroller~~, which report shall include, but is not
 10386 limited to, the name of the user agency, the name of the firm or
 10387 individual from which the contractual service was to be
 10388 acquired, a description of the contractual service, the
 10389 financial terms of the contract, and the reason for rejection.

10390 Section 331. Section 287.131, Florida Statutes, is amended
 10391 to read:

10392 287.131 Assistance of Department of Financial Services
 10393 ~~Insurance~~.--The Department of Financial Services ~~Insurance~~ shall
 10394 provide the Department of Management Services with technical
 10395 assistance in all matters pertaining to the purchase of
 10396 insurance for all agencies, and shall make surveys of the
 10397 insurance needs of the state and all departments thereof,
 10398 including the benefits, if any, of self-insurance.

10399 Section 332. Section 287.175, Florida Statutes, is amended
 10400 to read:

10401 287.175 Penalties.--A violation of this part or a rule
 10402 adopted hereunder, pursuant to applicable constitutional and
 10403 statutory procedures, constitutes misuse of public position as
 10404 defined in s. 112.313(6), and is punishable as provided in s.
 10405 112.317. The Chief Financial Officer ~~Comptroller~~ shall report
 10406 incidents of suspected misuse to the Commission on Ethics, and
 10407 the commission shall investigate possible violations of this
 10408 part or rules adopted hereunder when reported by the Chief
 10409 Financial Officer ~~Comptroller~~, notwithstanding the provisions of



HB 1803

2003

10410 s. 112.324. Any violation of this part or a rule adopted
 10411 hereunder shall be presumed to have been committed with wrongful
 10412 intent, but such presumption is rebuttable. Nothing in this
 10413 section is intended to deny rights provided to career service
 10414 employees by s. 110.227.

10415 Section 333. Paragraph (f) of subsection (5) of section
 10416 288.1045, Florida Statutes, is amended to read:

10417 288.1045 Qualified defense contractor tax refund program.-
 10418 -

10419 (5) ANNUAL CLAIM FOR REFUND FROM A QUALIFIED DEFENSE
 10420 CONTRACTOR.--

10421 (f) Upon approval of the tax refund pursuant to paragraphs
 10422 (c) and (d), the Chief Financial Officer ~~Comptroller~~ shall issue
 10423 a warrant for the amount included in the written order. In the
 10424 event of any appeal of the written order, the Comptroller may
 10425 not issue a warrant for a refund to the qualified applicant
 10426 until the conclusion of all appeals of the written order.

10427 Section 334. Paragraph (h) of subsection (5) of section
 10428 288.106, Florida Statutes, is amended to read:

10429 288.106 Tax refund program for qualified target industry
 10430 businesses.--

10431 (5) ANNUAL CLAIM FOR REFUND.--

10432 (h) Upon approval of the tax refund under paragraphs (c),
 10433 (d), and (e), the Chief Financial Officer ~~Comptroller~~ shall
 10434 issue a warrant for the amount specified in the written order.
 10435 If the written order is appealed, the Chief Financial Officer
 10436 ~~Comptroller~~ may not issue a warrant for a refund to the
 10437 qualified target industry business until the conclusion of all
 10438 appeals of that order.

10439 Section 335. Subsection (5) of section 288.109, Florida



HB 1803

2003

10440 Statutes, is amended to read:

10441 288.109 One-Stop Permitting System.--

10442 (5) By January 1, 2001, the following state agencies, and
 10443 the programs within such agencies which require the issuance of
 10444 licenses, permits, and approvals to businesses, must also be
 10445 integrated into the One-Stop Permitting System:

10446 (a) The Department of Agriculture and Consumer Services.

10447 (b) The Department of Business and Professional
 10448 Regulation.

10449 (c) The Department of Health.

10450 (d) The Department of Financial Services ~~Insurance~~.

10451 (e) The Office of Insurance Regulation of the Financial
 10452 Services Commission.

10453 ~~(f)~~~~(e)~~ The Department of Labor.

10454 ~~(g)~~~~(f)~~ The Department of Revenue.

10455 ~~(h)~~~~(g)~~ The Department of State.

10456 ~~(i)~~~~(h)~~ The Fish and Wildlife Conservation Commission.

10457 ~~(j)~~~~(i)~~ Other state agencies.

10458 Section 336. Paragraphs (b) and (d) of subsection (1) and
 10459 subsection (2) of section 288.1253, Florida Statutes, are
 10460 amended to read:

10461 288.1253 Travel and entertainment expenses.--

10462 (1) As used in this section:

10463 (b) "Entertainment expenses" means the actual, necessary,
 10464 and reasonable costs of providing hospitality for business
 10465 clients or guests, which costs are defined and prescribed by
 10466 rules adopted by the Office of Tourism, Trade, and Economic
 10467 Development, subject to approval by the Chief Financial Officer
 10468 ~~Comptroller~~.

10469 (d) "Travel expenses" means the actual, necessary, and



HB 1803

2003

10470 reasonable costs of transportation, meals, lodging, and
 10471 incidental expenses normally incurred by a traveler, which costs
 10472 are defined and prescribed by rules adopted by the Office of
 10473 Tourism, Trade, and Economic Development, subject to approval by
 10474 the Chief Financial Officer ~~Comptroller~~.

10475 (2) Notwithstanding the provisions of s. 112.061, the
 10476 Office of Tourism, Trade, and Economic Development shall adopt
 10477 rules by which it may make expenditures by advancement or
 10478 reimbursement, or a combination thereof, to:

10479 (a) The Governor, the Lieutenant Governor, security staff
 10480 of the Governor or Lieutenant Governor, the Commissioner of Film
 10481 and Entertainment, or staff of the Office of Film and
 10482 Entertainment for travel expenses or entertainment expenses
 10483 incurred by such individuals solely and exclusively in
 10484 connection with the performance of the statutory duties of the
 10485 Office of Film and Entertainment.

10486 (b) The Governor, the Lieutenant Governor, security staff
 10487 of the Governor or Lieutenant Governor, the Commissioner of Film
 10488 and Entertainment, or staff of the Office of Film and
 10489 Entertainment for travel expenses or entertainment expenses
 10490 incurred by such individuals on behalf of guests, business
 10491 clients, or authorized persons as defined in s. 112.061(2)(e)
 10492 solely and exclusively in connection with the performance of the
 10493 statutory duties of the Office of Film and Entertainment.

10494 (c) Third-party vendors for the travel or entertainment
 10495 expenses of guests, business clients, or authorized persons as
 10496 defined in s. 112.061(2)(e) incurred solely and exclusively
 10497 while such persons are participating in activities or events
 10498 carried out by the Office of Film and Entertainment in
 10499 connection with that office's statutory duties.



HB 1803

2003

10500
 10501 The rules shall be subject to approval by the Chief Financial
 10502 Officer ~~Comptroller~~ prior to promulgation. The rules shall
 10503 require the submission of paid receipts, or other proof of
 10504 expenditure prescribed by the Chief Financial Officer
 10505 ~~Comptroller~~, with any claim for reimbursement and shall require,
 10506 as a condition for any advancement of funds, an agreement to
 10507 submit paid receipts or other proof of expenditure and to refund
 10508 any unused portion of the advancement within 15 days after the
 10509 expense is incurred or, if the advancement is made in connection
 10510 with travel, within 10 working days after the traveler's return
 10511 to headquarters. However, with respect to an advancement of
 10512 funds made solely for travel expenses, the rules may allow paid
 10513 receipts or other proof of expenditure to be submitted, and any
 10514 unused portion of the advancement to be refunded, within 10
 10515 working days after the traveler's return to headquarters.
 10516 Operational or promotional advancements, as defined in s.
 10517 288.35(4), obtained pursuant to this section shall not be
 10518 commingled with any other state funds.

10519 Section 337. Subsection (9) of section 288.709, Florida
 10520 Statutes, is amended to read:

10521 288.709 Powers of the Florida Black Business Investment
 10522 Board, Inc.--The board shall have all the powers necessary or
 10523 convenient to carry out and effectuate the purposes and
 10524 provisions of ss. 288.707-288.714, including, but not limited
 10525 to, the power to:

10526 (9) Invest any funds held in reserves or sinking funds, or
 10527 any funds not required for immediate disbursement, in such
 10528 investments as may be authorized for trust funds under s.
 10529 215.47; however, such investments will be made on behalf of the



HB 1803

2003

10530 board by the Chief Financial Officer ~~Office of State Treasurer~~
 10531 or by another trustee appointed for that purpose.

10532 Section 338. Paragraph (b) of subsection (4) of section
 10533 288.712, Florida Statutes, is amended to read:

10534 288.712 Florida guarantor funds.--

10535 (4)

10536 (b) If the board of the corporation chooses to establish a
 10537 loan guaranty program, it shall use the Black Business Loan
 10538 Guaranty Trust Fund in the State Treasury, consisting of moneys
 10539 deposited or credited to the Black Business Loan Guaranty Trust
 10540 Fund pursuant to appropriation made by law; any grants, gifts,
 10541 and contributions received pursuant to ss. 288.707-288.714; all
 10542 moneys recovered following defaults; and any other moneys
 10543 obtained by the corporation for this purpose. The Black
 10544 Business Loan Guaranty Trust Fund shall be administered by the
 10545 corporation in trust for the purposes of this section and shall
 10546 at no time be part of general public funds under the following
 10547 procedures:

10548 1. The corporation shall utilize the Black Business Loan
 10549 Guaranty Program Administrative and Loss Reserve Fund in the
 10550 State Treasury, consisting of all premiums charged and collected
 10551 in accordance with this section and any income earned from the
 10552 moneys in the account. All expenses of the corporation in
 10553 carrying out the purposes of this subsection shall be paid from
 10554 the Black Business Loan Guaranty Program Administrative and Loss
 10555 Reserve Fund. Any moneys to the credit of the Black Business
 10556 Loan Guaranty Program Administrative and Loss Reserve Fund in
 10557 excess of the amount necessary to fund the corporation's
 10558 activity shall be held as a loss reserve to pay claims arising
 10559 from defaults on loans underwritten in accordance with this



HB 1803

2003

10560 section.

10561 2. Any claims against the state arising from defaults
10562 shall be payable initially from the Black Business Loan Guaranty
10563 Program Administrative and Loss Reserve Fund and, secondarily,
10564 from the Black Business Loan Guaranty Trust Fund.

10565 3. The corporation as loan guarantor may exercise all
10566 rights and powers of a company authorized by the Office of
10567 Insurance Regulation of the Financial Services Commission
10568 ~~Department of Insurance~~ to guarantee loans but shall not be
10569 subject to any requirements of an insurance company under the
10570 Florida Insurance Code, nor to any rules of the Financial
10571 Services Commission ~~Department of Insurance~~; however, the
10572 corporation shall refer to the insurance code and rules
10573 thereunder when designing and administering such program. The
10574 corporation shall follow sound actuarial principles when
10575 administering this program. The corporation shall establish a
10576 premium for the loan guaranty and such rules as may be necessary
10577 to carry out the purposes of this section.

10578 4. The corporation may guarantee no more than 20 percent
10579 of the principal of a loan to a black business enterprise.

10580 Section 339. Paragraph (a) of subsection (1) of section
10581 288.776, Florida Statutes, is amended to read:

10582 288.776 Board of directors; powers and duties.--

10583 (1)(a) The corporation shall have a board of directors
10584 consisting of 15 members representing all geographic areas of
10585 the state. Minority and gender representation must be considered
10586 when making appointments to the board. The board membership must
10587 include:

10588 1. A representative of the following businesses, all of
10589 which must be registered to do business in this state: a foreign



HB 1803

2003

10590 bank, a state bank, a federal bank, an insurance company
 10591 involved in covering trade financing risks, and a small or
 10592 medium-sized exporter.

10593 2. The following persons or their designee: the President
 10594 of Enterprise Florida, Inc., the Chief Financial Officer
 10595 ~~Comptroller~~, the Secretary of State, a senior official of the
 10596 United States Department of Commerce, and the chair of the
 10597 Florida Black Business Investment Board.

10598 Section 340. Section 292.085, Florida Statutes, is amended
 10599 to read:

10600 292.085 Department of Veterans' Affairs Tobacco Settlement
 10601 Trust Fund.--

10602 (1) The Department of Veterans' Affairs Tobacco Settlement
 10603 Trust Fund is created within that department. Funds to be
 10604 credited to the trust fund shall consist of funds disbursed, by
 10605 nonoperating transfer, from the Department of Financial Services
 10606 ~~Banking and Finance~~ Tobacco Settlement Clearing Trust Fund in
 10607 amounts equal to the annual appropriations made from this trust
 10608 fund.

10609 (2) Notwithstanding the provisions of s. 216.301 and
 10610 pursuant to s. 216.351, any unencumbered balance in the trust
 10611 fund at the end of any fiscal year and any encumbered balance
 10612 remaining undisbursed on December 31 of the same calendar year
 10613 shall revert to the Department of Financial Services ~~Banking and~~
 10614 ~~Finance~~ Tobacco Settlement Clearing Trust Fund.

10615 Section 341. Section 313.02, Florida Statutes, is amended
 10616 to read:

10617 313.02 Bond.--Every harbormaster appointed for any port
 10618 shall give an approved bond in the sum of \$500, payable to the
 10619 Governor of the state, for the faithful performance of the



HB 1803

2003

10620 harbormaster's duty, such bond to be approved by the county
10621 commissioners of the county in which the port is situated, and
10622 by the Department of Financial Services ~~Banking and Finance~~, and
10623 to be filed with the Department of State.

10624 Section 342. Section 314.02, Florida Statutes, is amended
10625 to read:

10626 314.02 Bond.--Each harbormaster so appointed shall enter
10627 into a bond in the penal sum of \$2,000, with two or more
10628 sureties, payable to the Governor of the state and the
10629 Governor's successors in office, conditioned for the faithful
10630 discharge of the duties of the harbormaster's office, by the
10631 harbormaster and his or her deputies, and for the payment of any
10632 damage any person may sustain in consequence of any wrongful act
10633 of such officer or deputy under color of the harbormaster's
10634 office; such bond to be approved by the county commissioners of
10635 the county in which is situated said port and by the Department
10636 of Financial Services ~~Banking and Finance~~, and to be filed with
10637 the Department of State.

10638 Section 343. Paragraph (b) of subsection (5) of section
10639 316.3025, Florida Statutes, is amended to read:

10640 316.3025 Penalties.--

10641 (5)

10642 (b) All penalties imposed and collected under this section
10643 by any state agency having jurisdiction shall be paid to the
10644 Chief Financial Officer ~~Treasurer~~, who shall credit the total
10645 amount collected to the State Transportation Trust Fund for use
10646 in repairing and maintaining the roads of this state.

10647 Section 344. Subsection (6) of section 316.545, Florida
10648 Statutes, is amended to read:

10649 316.545 Weight and load unlawful; special fuel and motor



HB 1803

2003

10650 fuel tax enforcement; inspection; penalty; review.--

10651 (6) Any officer or agent collecting the penalties herein
 10652 imposed shall give to the owner or driver of the vehicle an
 10653 official receipt for all penalties collected. Such officers or
 10654 agents of the state departments shall cooperate with the owners
 10655 or drivers of motor vehicles so as not to delay unduly the
 10656 vehicles. All penalties imposed and collected under this section
 10657 by any state agency having jurisdiction shall be paid to the
 10658 Chief Financial Officer ~~Treasurer~~, who shall credit the total
 10659 amount thereof to the State Transportation Trust Fund, which
 10660 shall be used to repair and maintain the roads of this state and
 10661 to enforce this section.

10662 Section 345. Paragraph (c) of subsection (5) of section
 10663 320.02, Florida Statutes, is amended to read:

10664 320.02 Registration required; application for
 10665 registration; forms.--

10666 (5)

10667 (c) For purposes of providing proof of purchase of
 10668 required insurance coverage under this subsection, the Office of
 10669 Insurance Regulation of the Financial Services Commission
 10670 ~~Department of Insurance~~ shall require that uniform proof-of-
 10671 purchase cards specified by the Department of Highway Safety and
 10672 Motor Vehicles be furnished by insurers writing motor vehicle
 10673 liability insurance in this state. Any person altering or
 10674 counterfeiting such a card or making a false affidavit in order
 10675 to furnish false proof or to knowingly permit another person to
 10676 furnish false proof is guilty of a misdemeanor of the first
 10677 degree, punishable as provided in s. 775.082 or s. 775.083.

10678 Section 346. Subsection (5) of section 320.081, Florida
 10679 Statutes, is amended to read:



HB 1803

2003

10680 320.081 Collection and distribution of annual license tax
 10681 imposed on the following type units.--

10682 (5) The department shall keep records showing the total
 10683 number of stickers issued to each type unit governed by this
 10684 section, the total amount of license taxes collected, and the
 10685 county or city wherein each such unit is located and shall from
 10686 month to month certify to the Chief Financial Officer
 10687 ~~Comptroller~~ the amount derived from license taxes in each county
 10688 and each city within the county. Such amount, less the amount of
 10689 \$1.50 collected on each license, shall be paid to the counties
 10690 and cities within the counties wherein the unit or units are
 10691 located as follows: one-half to the district school board and
 10692 the remainder either to the board of county commissioners, for
 10693 units which are located within the unincorporated areas of the
 10694 county, or to any city within such county, for units which are
 10695 located within its corporate limits. Payment shall be by warrant
 10696 drawn by the Chief Financial Officer ~~Comptroller~~ upon the
 10697 treasury, which amount is hereby appropriated monthly out of the
 10698 License Tax Collection Trust Fund.

10699 Section 347. Paragraphs (b) and (c) of subsection (5) of
 10700 section 320.20, Florida Statutes, are amended to read:

10701 320.20 Disposition of license tax moneys.--The revenue
 10702 derived from the registration of motor vehicles, including any
 10703 delinquent fees and excluding those revenues collected and
 10704 distributed under the provisions of s. 320.081, must be
 10705 distributed monthly, as collected, as follows:

10706 (5)

10707 (b) The Chief Financial Officer ~~State Comptroller~~ each
 10708 month shall deposit in the State Transportation Trust Fund an
 10709 amount, drawn from other funds in the State Treasury which are



HB 1803

2003

10710 not immediately needed or are otherwise in excess of the amount
10711 necessary to meet the requirements of the State Treasury, which
10712 when added to such remaining revenues each month will equal one-
10713 twelfth of the amount of the anticipated annual revenues to be
10714 deposited in the State Transportation Trust Fund under paragraph
10715 (a) as estimated by the most recent revenue estimating
10716 conference held pursuant to s. 216.136(3). The transfers
10717 required hereunder may be suspended by action of the Legislative
10718 Budget Commission in the event of a significant shortfall of
10719 state revenues.

10720 (c) In any month in which the remaining revenues derived
10721 from the registration of motor vehicles exceed one-twelfth of
10722 those anticipated annual remaining revenues as determined by the
10723 revenue estimating conference, the excess shall be credited to
10724 those state funds in the State Treasury from which the amount
10725 was originally drawn, up to the amount which was deposited in
10726 the State Transportation Trust Fund under paragraph (b). A
10727 final adjustment must be made in the last months of a fiscal
10728 year so that the total revenue deposited in the State
10729 Transportation Trust Fund each year equals the amount derived
10730 from the registration of motor vehicles, less the amount
10731 distributed under subsection (1). For the purposes of this
10732 paragraph and paragraph (b), the term "remaining revenues" means
10733 all revenues deposited into the State Transportation Trust Fund
10734 under paragraph (a) and subsections (2) and (3). In order that
10735 interest earnings continue to accrue to the General Revenue
10736 Fund, the Department of Transportation may not invest an amount
10737 equal to the cumulative amount of funds deposited in the State
10738 Transportation Trust Fund under paragraph (b) less funds
10739 credited under this paragraph as computed on a monthly basis.



HB 1803

2003

10740 The amounts to be credited under this and the preceding
 10741 paragraph must be calculated and certified to the Chief
 10742 Financial Officer ~~Comptroller~~ by the Executive Office of the
 10743 Governor.

10744 Section 348. Subsection (1) of section 320.71, Florida
 10745 Statutes, is amended to read:

10746 320.71 Nonresident motor vehicle, mobile home, or
 10747 recreational vehicle dealer's license.--

10748 (1) Any person who is a nonresident of the state, who does
 10749 not have a dealer's contract from the manufacturer or
 10750 manufacturer's distributor of motor vehicles, mobile homes, or
 10751 recreational vehicles authorizing the sale thereof in definite
 10752 Florida territory, and who sells or engages in the business of
 10753 selling said vehicles at retail within the state shall register
 10754 with the Department of Revenue for a sales tax dealer
 10755 registration number and comply with chapter 212, and pay a
 10756 license tax of \$2,000 per annum in each county where such sales
 10757 are made; \$1,250 of said tax shall be transmitted to the
 10758 Department of Financial Services ~~Banking and Finance~~ to be
 10759 deposited in the General Revenue Fund of the state, and \$750
 10760 thereof shall be returned to the county. The license tax shall
 10761 cover the period from January 1 to the following December 31,
 10762 and no such license shall be issued for any fractional part of a
 10763 year.

10764 Section 349. Subsection (2) of section 320.781, Florida
 10765 Statutes, is amended to read:

10766 320.781 Mobile Home and Recreational Vehicle Protection
 10767 Trust Fund.--

10768 (2) Beginning October 1, 1990, the department shall charge
 10769 and collect an additional fee of \$1 for each new mobile home and



HB 1803

2003

10770 new recreational vehicle title transaction for which it charges
 10771 a fee. This additional fee shall be deposited into the trust
 10772 fund. The Department of Highway Safety and Motor Vehicles shall
 10773 charge a fee of \$40 per annual dealer and manufacturer license
 10774 and license renewal, which shall be deposited into the trust
 10775 fund. The sums deposited in the trust fund shall be used
 10776 exclusively for carrying out the purposes of this section.
 10777 These sums may be invested and reinvested by the Chief Financial
 10778 Officer ~~Treasurer~~ under the same limitations as apply to
 10779 investment of other state funds, with all interest from these
 10780 investments deposited to the credit of the trust fund.

10781 Section 350. Subsection (5) of section 322.21, Florida
 10782 Statutes, is amended to read:

10783 322.21 License fees; procedure for handling and collecting
 10784 fees.--

10785 (5) The department shall collect and transmit all fees
 10786 received by it under this section to the Chief Financial Officer
 10787 ~~Treasurer~~ to be placed in the General Revenue Fund of the state,
 10788 and sufficient funds for the necessary expenses of the
 10789 department shall be included in the appropriations act. The
 10790 fees shall be used for the maintenance and operation of the
 10791 department.

10792 Section 351. Paragraph (b) of subsection (1) of section
 10793 324.032, Florida Statutes, is amended to read:

10794 324.032 Manner of proving financial responsibility; for-
 10795 hire passenger transportation vehicles.--

10796 (1) Notwithstanding the provisions of s. 324.031, a person
 10797 who is either the owner or a lessee required to maintain
 10798 insurance under s. 324.021(9)(b) and who operates at least 300
 10799 taxicabs, limousines, jitneys, or any other for-hire passenger



HB 1803

2003

10800 transportation vehicles may prove financial responsibility by
 10801 satisfying the following:

10802 (b) Complying with the provisions of s. 324.171, such
 10803 compliance to be demonstrated by maintaining at its principal
 10804 place of business an audited financial statement, prepared in
 10805 accordance with generally accepted accounting principles, and
 10806 providing to the department a certification issued by a
 10807 certified public accountant that the applicant's net worth is at
 10808 least equal to the requirements of s. 324.171 as determined by
 10809 the Office of Insurance Regulation of the Financial Services
 10810 Commission ~~Department of Insurance~~, including claims liabilities
 10811 in an amount certified as adequate by a Fellow of the Casualty
 10812 Actuarial Society.

10813
 10814
 10815 Upon request by the department, the applicant must provide the
 10816 department at the applicant's principal place of business in
 10817 this state access to the applicant's underlying financial
 10818 information and financial statements that provide the basis of
 10819 the certified public accountant's certification. The applicant
 10820 shall reimburse the requesting department for all reasonable
 10821 costs incurred by it in reviewing the supporting information.
 10822 The maximum amount of self-insurance permissible under this
 10823 subsection is \$300,000 and must be stated on a per-occurrence
 10824 basis, and the applicant shall maintain adequate excess
 10825 insurance issued by an authorized or eligible insurer licensed
 10826 or approved by the Office of Insurance Regulation ~~Department of~~
 10827 ~~Insurance~~. All risks self-insured shall remain with the owner
 10828 or lessee providing it, and the risks are not transferable to
 10829 any other person, unless a policy complying with paragraph (a)



HB 1803

2003

10830 is obtained.

10831 Section 352. Paragraph (b) of subsection (1) of section
10832 324.171, Florida Statutes, is amended to read:

10833 324.171 Self-insurer.--

10834 (1) Any person may qualify as a self-insurer by obtaining
10835 a certificate of self-insurance from the department which may,
10836 in its discretion and upon application of such a person, issue
10837 said certificate of self-insurance when such person has
10838 satisfied the requirements of this section to qualify as a self-
10839 insurer under this section:

10840 (b) A person, including any firm, partnership,
10841 association, corporation, or other person, other than a natural
10842 person, shall:

10843 1. Possess a net unencumbered worth of at least \$40,000
10844 for the first motor vehicle and \$20,000 for each additional
10845 motor vehicle; or

10846 2. Maintain sufficient net worth, as determined annually
10847 by the department, pursuant to rules promulgated by the
10848 department, with the assistance of the Office of Insurance
10849 Regulation of the Financial Services Commission ~~Department of~~
10850 ~~Insurance~~, to be financially responsible for potential losses.
10851 The rules shall take into consideration excess insurance carried
10852 by the applicant. The department's determination shall be based
10853 upon reasonable actuarial principles considering the frequency,
10854 severity, and loss development of claims incurred by casualty
10855 insurers writing coverage on the type of motor vehicles for
10856 which a certificate of self-insurance is desired.

10857 Section 353. Paragraph (d) of subsection (2) of section
10858 326.006, Florida Statutes, is amended to read:

10859 326.006 Powers and duties of division.--



HB 1803

2003

10860 (2) The division has the power to enforce and ensure
10861 compliance with the provisions of this chapter and rules adopted
10862 under this chapter relating to the sale and ownership of yachts
10863 and ships. In performing its duties, the division has the
10864 following powers and duties:

10865 (d) Notwithstanding any remedies available to a yacht or
10866 ship purchaser, if the division has reasonable cause to believe
10867 that a violation of any provision of this chapter or rule
10868 adopted under this chapter has occurred, the division may
10869 institute enforcement proceedings in its own name against any
10870 broker or salesperson or any of his or her assignees or agents,
10871 or against any unlicensed person or any of his or her assignees
10872 or agents, as follows:

10873 1. The division may permit a person whose conduct or
10874 actions are under investigation to waive formal proceedings and
10875 enter into a consent proceeding whereby orders, rules, or
10876 letters of censure or warning, whether formal or informal, may
10877 be entered against the person.

10878 2. The division may issue an order requiring the broker or
10879 salesperson or any of his or her assignees or agents, or
10880 requiring any unlicensed person or any of his or her assignees
10881 or agents, to cease and desist from the unlawful practice and
10882 take such affirmative action as in the judgment of the division
10883 will carry out the purposes of this chapter.

10884 3. The division may bring an action in circuit court on
10885 behalf of a class of yacht or ship purchasers for declaratory
10886 relief, injunctive relief, or restitution.

10887 4. The division may impose a civil penalty against a
10888 broker or salesperson or any of his or her assignees or agents,
10889 or against an unlicensed person or any of his or her assignees



HB 1803

2003

10890 or agents, for any violation of this chapter or a rule adopted
 10891 under this chapter. A penalty may be imposed for each day of
 10892 continuing violation, but in no event may the penalty for any
 10893 offense exceed \$10,000. All amounts collected must be deposited
 10894 with the Chief Financial Officer ~~Treasurer~~ to the credit of the
 10895 Division of Florida Land Sales, Condominiums, and Mobile Homes
 10896 Trust Fund. If a broker, salesperson, or unlicensed person
 10897 working for a broker, fails to pay the civil penalty, the
 10898 division shall thereupon issue an order suspending the broker's
 10899 license until such time as the civil penalty is paid or may
 10900 pursue enforcement of the penalty in a court of competent
 10901 jurisdiction. The order imposing the civil penalty or the order
 10902 of suspension may not become effective until 20 days after the
 10903 date of such order. Any action commenced by the division must be
 10904 brought in the county in which the division has its executive
 10905 offices or in the county where the violation occurred.

10906 Section 354. Subsections (8) and (25) of section 331.303,
 10907 Florida Statutes, are amended to read:

10908 331.303 Definitions.--

10909 (8) "Entertainment expenses" means the actual, necessary,
 10910 and reasonable costs of providing hospitality for business
 10911 clients or guests, which costs are defined and prescribed by
 10912 rules adopted by the authority, subject to approval by the Chief
 10913 Financial Officer ~~Comptroller~~.

10914 (25) "Travel expenses" means the actual, necessary, and
 10915 reasonable costs of transportation, meals, lodging, and
 10916 incidental expenses normally incurred by a traveler, which costs
 10917 are defined and prescribed by rules adopted by the authority,
 10918 subject to approval by the Chief Financial Officer ~~Comptroller~~.

10919 Section 355. Subsection (2) of section 331.309, Florida



HB 1803

2003

10920 Statutes, is amended to read:

10921 331.309 Treasurer; depositories; fiscal agent.--

10922 (2) The board is authorized to select as depositories in
 10923 which the funds of the board and of the authority shall be
 10924 deposited any qualified public depository as defined in s.
 10925 280.02, upon such terms and conditions as to the payment of
 10926 interest by such depository upon the funds so deposited as the
 10927 board may deem just and reasonable. Funds of the authority may
 10928 also be deposited with the Florida Commercial Space Financing
 10929 Corporation created by s. 331.407. The funds of the authority
 10930 may be kept in or removed from the State Treasury upon written
 10931 notification from the chair of the board to the Chief Financial
 10932 Officer ~~State Comptroller~~.

10933 Section 356. Subsection (2) of section 331.3101, Florida
 10934 Statutes, is amended to read:

10935 331.3101 Florida Space Authority; travel and entertainment
 10936 expenses.--

10937 (2) The rules shall be subject to approval by the Chief
 10938 Financial Officer ~~Comptroller~~ prior to promulgation. The rules
 10939 shall require the submission of paid receipts, or other proof
 10940 prescribed by the Chief Financial Officer ~~Comptroller~~, with any
 10941 claim for reimbursement, and shall require, as a condition for
 10942 any advancement, an agreement to submit paid receipts or other
 10943 proof and to refund any unused portion of the advancement within
 10944 15 days after the expense is incurred or, if the advancement is
 10945 made in connection with travel, within 15 days after completion
 10946 of the travel. However, with respect to an advancement made
 10947 solely for travel expenses, the rules may allow paid receipts or
 10948 other proof to be submitted, and any unused portion of the
 10949 advancement to be refunded, within 30 days after completion of



HB 1803

2003

10950 the travel.

10951 Section 357. Section 331.348, Florida Statutes, is amended
 10952 to read:

10953 331.348 Investment of funds.--The board may in its
 10954 discretion invest funds of the authority through the Chief
 10955 Financial Officer ~~Treasurer~~ or in:

10956 (1) Direct obligations of or obligations guaranteed by the
 10957 United States or for the payment of the principal and interest
 10958 of which the faith and credit of the United States is pledged;

10959 (2) Bonds or notes issued by any of the following federal
 10960 agencies: Bank for Cooperatives; federal intermediate credit
 10961 banks; federal home loan bank system; federal land banks; or the
 10962 Federal National Mortgage Association(including debentures or
 10963 participating certificates issued by such association);

10964 (3) Public housing bonds issued by public housing
 10965 authorities and secured by a pledge or annual contributions
 10966 under an annual contribution contract or contracts with the
 10967 United States;

10968 (4) Bonds or other interest-bearing obligations of any
 10969 county, district, city, or town located in the state for which
 10970 the full faith and credit of such political subdivision is
 10971 pledged;

10972 (5) Any investment authorized for insurers by ss. 625.306-
 10973 625.316 and amendments thereto; or

10974 (6) Any investment authorized under s. 17.61 ~~18.10~~ and
 10975 amendments thereto.

10976 Section 358. Subsection (3) of section 331.419, Florida
 10977 Statutes, is amended to read:

10978 331.419 Reports and audits.--

10979 (3) The Office of Financial Institutions and Securities



HB 1803

2003

10980 Regulation of the Financial Services Commission ~~Division of~~
 10981 ~~Banking of the Department of Banking and Finance~~ shall review
 10982 the corporation's activities once every 24 months to determine
 10983 compliance with this part and related laws and rules and to
 10984 evaluate the corporation's operations. The office ~~division~~ shall
 10985 prepare a report based on its review and evaluation with
 10986 recommendation for any corrective action. The president shall
 10987 submit to the office ~~division~~ regular reports on the
 10988 corporation's activities. The content and frequency of such
 10989 reports shall be determined by the office ~~division~~. The office
 10990 ~~division~~ may charge a fee for conducting the review and
 10991 evaluation and preparing the related report, which fee shall not
 10992 be in excess of the examination fee paid by chartered or
 10993 licensed financial institutions.

10994 Section 359. Subsection (1) of section 336.022, Florida
 10995 Statutes, is amended to read:

10996 336.022 County transportation trust fund; controls and
 10997 administrative remedies.--

10998 (1) Each county shall establish and maintain a
 10999 transportation trust fund for all transportation-related
 11000 revenues and expenditures. All funds received by a county for
 11001 transportation shall be deposited into this fund. No
 11002 expenditures other than transportation expenditures authorized
 11003 by law shall be made from such fund. Each county shall use a
 11004 uniform accounts classification system approved by the Chief
 11005 Financial Officer ~~Comptroller~~.

11006 Section 360. Subsection (9) of section 337.25, Florida
 11007 Statutes, is amended to read:

11008 337.25 Acquisition, lease, and disposal of real and
 11009 personal property.--



HB 1803

2003

11010 (9) The department, with the approval of the Chief
 11011 Financial Officer ~~State Comptroller~~, is authorized to disburse
 11012 state funds for real estate closings in a manner consistent with
 11013 good business practices and in a manner minimizing costs and
 11014 risks to the state.

11015 Section 361. Section 339.035, Florida Statutes, is amended
 11016 to read:

11017 339.035 Expenditures.--All expenditures by the department
 11018 shall be made upon vouchers issued and certified by the
 11019 department in such manner as the department may, by rule or
 11020 internal management memorandum as required by chapter 120,
 11021 provide and shall be paid by warrants issued by the Chief
 11022 Financial Officer ~~Comptroller upon the Treasurer~~.

11023 Section 362. Section 339.081, Florida Statutes, is amended
 11024 to read:

11025 339.081 Department trust funds.--The Chief Financial
 11026 Officer ~~Comptroller~~ shall maintain within the State Treasury the
 11027 following trust funds for the department:

11028 (1) The State Transportation Trust Fund, to which shall be
 11029 credited the proceeds of the gas tax as authorized by chapter
 11030 83-3, Laws of Florida, and such other funds which accrue to the
 11031 department which are not required to be maintained in separate
 11032 trust funds.

11033 (2) Such other funds as may be authorized by bond
 11034 resolutions or agreements with any other public bodies or
 11035 agencies.

11036 Section 363. Section 344.17, Florida Statutes, is amended
 11037 to read:

11038 344.17 Depositories and investments.--All moneys received
 11039 by the Chief Financial Officer as treasurer of the State Board



HB 1803

2003

11040 of Administration, a body corporate under s. 9, Art. XII of the
 11041 State Constitution, shall be deposited by the treasurer in a
 11042 solvent bank or banks, to be approved and accepted for such
 11043 purposes by the board. In making such deposits, he or she shall
 11044 follow the method for the deposit of state funds. Each bank
 11045 receiving any portion of such funds shall be required to deposit
 11046 with such treasurer satisfactory bonds or treasury certificates
 11047 of the United States; bonds of the several states; special tax
 11048 school district bonds; bonds of any municipality eligible to
 11049 secure state deposits as provided by law; bonds of any county or
 11050 special road and bridge district of this state entitled to
 11051 participate under the provisions of s. 16, Art. IX of the State
 11052 Constitution of 1885, as adopted by the 1968 revised
 11053 constitution, and of s. 9, Art. XII of that revision; bonds
 11054 issued under the provisions of s. 18, Art. XII of the State
 11055 Constitution of 1885, as adopted by s. 9, Art. XII of the 1968
 11056 revised constitution; or bonds, notes, or certificates issued by
 11057 the Florida State Improvement Commission or its successors, the
 11058 Florida Development Commission and the Division of Bond Finance
 11059 of the State Board of Administration, which contain a pledge of
 11060 the 80-percent surplus 2-cent constitutional gasoline tax
 11061 accruing under s. 16, Art. IX of the State Constitution of 1885,
 11062 as adopted by the 1968 revised constitution, and under s. 9,
 11063 Art. XII of that revision, which shall be equal to the amount
 11064 deposited with such bank. Such security shall be in the
 11065 possession of such treasurer; or the treasurer is authorized to
 11066 accept, in lieu of the actual depositing with him or her of such
 11067 security, trust or safekeeping receipts issued by any Federal
 11068 Reserve Bank, or member bank thereof, or by any bank
 11069 incorporated under the laws of the United States; provided the



HB 1803

2003

11070 member bank or bank incorporated under the laws of the United
11071 States has been previously approved and accepted for such
11072 purposes by the State Board of Administration and the trust or
11073 safekeeping receipts are in substantially the same form as that
11074 which the Chief Financial Officer ~~State Treasurer~~ is authorized
11075 to accept in lieu of securities given to cover deposits of state
11076 funds.

11077 Section 364. Subsections (2) and (9) of section 350.06,
11078 Florida Statutes, are amended to read:

11079 350.06 Place of meeting; expenditures; employment of
11080 personnel; records availability and fees.--

11081 (2) All sums of money authorized to be paid on account of
11082 said commissioners shall be paid out of the State Treasury only
11083 on the order of the Chief Financial Officer ~~Comptroller~~.

11084 (9) The commission shall keep a book in which all fees
11085 collected by it as provided for herein shall be recorded,
11086 together with the amount and purpose for which collected. This
11087 book shall be a public record. The commission shall prepare a
11088 statement of these fees in duplicate each month and remit one
11089 copy of the statement, together with all fees collected by it,
11090 to the Chief Financial Officer ~~Treasurer~~. All moneys collected
11091 pursuant to this section by the commission shall be deposited in
11092 the State Treasury to the credit of the Florida Public Service
11093 Regulatory Trust Fund.

11094 Section 365. Section 354.03, Florida Statutes, is amended
11095 to read:

11096 354.03 Bond.--Before entering into the performance of his
11097 or her duties every such special officer shall enter into a good
11098 and sufficient bond payable to the Governor of Florida, and the
11099 Governor's successors, in the penal sum of \$5,000, with some



HB 1803

2003

11100 surety company authorized to do business in this state as surety
 11101 thereon, conditioned for the faithful performance of his or her
 11102 duties, and to pay any and all damage done by any illegal act
 11103 committed by him or her, to be approved by the Department of
 11104 Financial Services ~~Banking and Finance~~.

11105 Section 366. Subsection (1) of section 365.173, Florida
 11106 Statutes, is amended to read:

11107 365.173 Wireless Emergency Telephone System Fund.--

11108 (1) All revenues derived from the E911 fee levied on
 11109 subscribers under s. 365.172 must be paid into the State
 11110 Treasury on or before the 15th day of each month. Such moneys
 11111 must be accounted for in a special fund to be designated as the
 11112 Wireless Emergency Telephone System Fund, a fund created in the
 11113 State Technology Office and must be invested by the Chief
 11114 Financial Officer ~~State Treasurer~~ pursuant to s. 17.61 ~~s.~~
 11115 ~~18.125~~. All moneys in such fund are to be expended by the State
 11116 Technology Office for the purposes provided in this section and
 11117 s. 365.172. These funds are not subject to s. 215.20.

11118 Section 367. Subsection (8) of section 370.06, Florida
 11119 Statutes, is amended to read:

11120 370.06 Licenses.--

11121 (8) COLLECTION OF LICENSES, FEES.--Unless otherwise
 11122 provided by law, all license taxes or fees provided for in this
 11123 chapter shall be collected by the commission or its duly
 11124 authorized agents or deputies to be deposited by the Chief
 11125 Financial Officer ~~Comptroller~~ in the Marine Resources
 11126 Conservation Trust Fund. The commission may by rule establish a
 11127 reasonable processing fee for any free license or permit
 11128 required under this chapter. The commission is authorized to
 11129 accept payment by credit card for fees, fines, and civil



HB 1803

2003

11130 penalties levied pursuant to this chapter.

11131 Section 368. Subsection (6) of section 370.16, Florida
 11132 Statutes, is amended to read:

11133 370.16 Noncultured shellfish harvesting.--

11134 (6) SEIZURE OF VESSELS AND CARGOES VIOLATING OYSTER AND
 11135 CLAM LAWS, ETC.--Vessels, with their cargoes, violating the
 11136 provisions of the laws relating to oysters and clams may be
 11137 seized by anyone duly and lawfully authorized to make arrests
 11138 under this section or by any sheriff or the sheriff's deputies,
 11139 and taken into custody, and when not arrested by the sheriff or
 11140 the sheriff's deputies, delivered to the sheriff of the county
 11141 in which the seizure is made, and shall be liable to forfeiture,
 11142 on appropriate proceedings being instituted by the Fish and
 11143 Wildlife Conservation Commission, before the courts of that
 11144 county. In such case the cargo shall at once be disposed of by
 11145 the sheriff, for account of whom it may concern. Should the
 11146 master or any of the crew of said vessel be found guilty of
 11147 using dredges or other instruments in fishing oysters on natural
 11148 reefs contrary to law, or fishing on the natural oyster or clam
 11149 reefs out of season, or unlawfully taking oysters or clams
 11150 belonging to a lessee, such vessel shall be declared forfeited
 11151 by the court, and ordered sold and the proceeds of the sale
 11152 shall be deposited with the Chief Financial Officer ~~Treasurer~~ to
 11153 the credit of the General Revenue Fund; any person guilty of
 11154 such violations shall not be permitted to have any license
 11155 provided for in this chapter within a period of 1 year from the
 11156 date of conviction. Pending proceedings such vessel may be
 11157 released upon the owner furnishing bond, with good and solvent
 11158 security in double the value of the vessel, conditioned upon its
 11159 being returned in good condition to the sheriff to abide the



HB 1803

2003

11160 judgment of the court.

11161 Section 369. Paragraph (b) of subsection (5) and
11162 subsection (6) of section 370.19, Florida Statutes, are amended
11163 to read:

11164 370.19 Atlantic States Marine Fisheries Compact;
11165 implementing legislation.--

11166 (5) ACCOUNTS TO BE KEPT BY COMMISSION; EXAMINATION.--

11167 (b) The Department of Financial Services ~~Banking and~~
11168 ~~Finance~~ is hereby authorized and empowered from time to time to
11169 examine the accounts and books of the commission, including its
11170 receipts, disbursements and such other items referring to its
11171 financial standing as such department deems ~~may deem~~ proper and
11172 to report the results of such examination to the governor of
11173 such state.

11174 (6) APPROPRIATION FOR EXPENSES OF COMMISSION.--The sum of
11175 \$600, annually, or so much thereof as may be necessary, is
11176 hereby appropriated out of any moneys in the State Treasury not
11177 otherwise appropriated, for the expenses of the commission
11178 created by the compact authorized by this law. The moneys
11179 hereby appropriated shall be paid out of the State Treasury on
11180 the audit and warrant of the Chief Financial Officer ~~Comptroller~~
11181 upon vouchers certified by the chair of the commission in the
11182 manner prescribed by law.

11183 Section 370. Subsection (5) of section 370.20, Florida
11184 Statutes, is amended to read:

11185 370.20 Gulf States Marine Fisheries Compact; implementing
11186 legislation.--

11187 (5) ACCOUNTS TO BE KEPT BY COMMISSION; EXAMINATION.--The
11188 commission shall keep accurate accounts of all receipts and
11189 disbursements and shall report to the Governor and the



HB 1803

2003

11190 Legislature of the State of Florida on or before the 10th day of
 11191 December in each year, setting forth in detail the transactions
 11192 conducted by it during the 12 months preceding December 1 of
 11193 that year and shall make recommendations for any legislative
 11194 action deemed by it advisable, including amendments to the
 11195 statutes of the State of Florida which may be necessary to carry
 11196 out the intent and purposes of the compact between the signatory
 11197 states.

11198 The Department of Financial Services ~~Banking and Finance~~
 11199 is hereby authorized and empowered from time to time to examine
 11200 the accounts and books of the commission, including its
 11201 receipts, disbursements and such other items referring to its
 11202 financial standing as such department deems ~~may deem~~ proper and
 11203 to report the results of such examination to the governor of
 11204 such state.

11205 Section 371. Subsection (5) of section 373.503, Florida
 11206 Statutes, is amended to read:

11207 373.503 Manner of taxation.--

11208 (5) Each water management district created under this
 11209 chapter which does not receive state shared revenues under part
 11210 II of chapter 218 shall, before January 1 of each year, certify
 11211 compliance or noncompliance with s. 200.065 to the Department of
 11212 Financial Services ~~Banking and Finance~~. Specific grounds for
 11213 noncompliance shall be stated in the certification. In its
 11214 annual report required by s. 218.32(2), the Department of
 11215 Financial Services ~~Banking and Finance~~ shall report to the
 11216 Governor and the Legislature those water management districts
 11217 certifying noncompliance or not reporting.

11218 Section 372. Paragraph (e) of subsection (10) of section
 11219 373.59, Florida Statutes, is amended to read:



HB 1803

2003

11220 373.59 Water Management Lands Trust Fund.--

11221 (10)

11222 (e) Payment in lieu of taxes pursuant to this subsection
 11223 shall be made annually to qualifying counties and local
 11224 governments after certification by the Department of Revenue
 11225 that the amounts applied for are reasonably appropriate, based
 11226 on the amount of actual taxes paid on the eligible property, and
 11227 after the water management districts have provided supporting
 11228 documents to the Chief Financial Officer ~~Comptroller~~ and have
 11229 requested that payment be made in accordance with the
 11230 requirements of this section.

11231 Section 373. Subsection (2) of section 373.6065, Florida
 11232 Statutes, is amended to read:

11233 373.6065 Adoption benefits for water management district
 11234 employees.--

11235 (2) The Chief Financial Officer ~~Comptroller~~ and the
 11236 Department of Management Services shall transfer funds to water
 11237 management districts to pay eligible water management district
 11238 employees for these child adoption monetary benefits in
 11239 accordance with s. 215.32(1)(c)5., as long as funds remain
 11240 available for the program described under s. 110.152.

11241 Section 374. Subsection (2) of section 374.983, Florida
 11242 Statutes, is amended to read:

11243 374.983 Governing body.--

11244 (2) The present board of commissioners of the district
 11245 shall continue to hold office until their respective terms shall
 11246 expire. Thereafter the members of the board shall continue to be
 11247 appointed by the Governor for a term of 4 years and until their
 11248 successors shall be duly appointed. Specifically, commencing on
 11249 January 10, 1997, the Governor shall appoint the commissioners



HB 1803

2003

11250 from Broward, Indian River, Martin, St. Johns, and Volusia
 11251 Counties and on January 10, 1999, the Governor shall appoint the
 11252 commissioners from Brevard, Dade, Duval, Flagler, Palm Beach,
 11253 and St. Lucie Counties. Each new appointee must be confirmed by
 11254 the Senate. Whenever a vacancy occurs among the commissioners,
 11255 the person appointed to fill such vacancy shall hold office for
 11256 the unexpired portion of the term of the commissioner whose
 11257 place he or she is selected to fill. Each commissioner under
 11258 this act before he or she assumes office shall be required to
 11259 give a good and sufficient surety bond in the sum of \$10,000
 11260 payable to the Governor and his or her successors in office,
 11261 conditioned upon the faithful performance of the duties of his
 11262 or her office, such ~~said~~ bond to be approved by and filed with
 11263 the Chief Financial Officer ~~Comptroller~~. Any and all premiums
 11264 upon such ~~said~~ surety bonds shall be paid by the board of
 11265 commissioners of such ~~said~~ district as a necessary expense of
 11266 the district.

11267 Section 375. Subsection (2) of section 374.986, Florida
 11268 Statutes, is amended to read:

11269 374.986 Taxing authority.--

11270 (2) The board may annually assess and levy against the
 11271 taxable property in the district a tax not to exceed one-tenth
 11272 mill on the dollar for each year, and the proceeds from such tax
 11273 shall be used by the district for all expenses of the district
 11274 including the purchase price of right-of-way and other property.
 11275 The board shall, on or before the 31st day of July of each year,
 11276 prepare a tentative annual written budget of the district's
 11277 expected income and expenditures. In addition, the board shall
 11278 compute a proposed millage rate to be levied as taxes for that
 11279 year upon the taxable property in the district for the purposes



HB 1803

2003

11280 of said district. The proposed budget shall be submitted to the
11281 Department of Environmental Protection for its approval. Prior
11282 to adopting a final budget, the district shall comply with the
11283 provisions of s. 200.065, relating to the method of fixing
11284 millage, and shall fix the final millage rate by resolution of
11285 the district and shall also, by resolution, adopt a final budget
11286 pursuant to chapter 200. Copies of such resolutions executed in
11287 the name of the board by its chair, and attested by its
11288 secretary, shall be made and delivered to the county officials
11289 specified in s. 200.065 of each and every county in the
11290 district, to the Department of Revenue, and to the Chief
11291 Financial Officer ~~Comptroller~~. Thereupon, it shall be the duty
11292 of the property assessor of each of said counties to assess, and
11293 the tax collector of each of said counties to collect, a tax at
11294 the rate fixed by said resolution of the board upon all of the
11295 real and personal taxable property in said counties for said
11296 year (and such officers shall perform such duty) and said levy
11297 shall be included in the warrant of the tax assessors of each of
11298 said counties and attached to the assessment roll of taxes for
11299 each of said counties. The tax collectors of each of said
11300 counties shall collect such taxes so levied by the board in the
11301 same manner as other taxes are collected, and shall pay the same
11302 within the time and in the manner prescribed by law, to the
11303 treasurer of the board. It shall be the duty of the Chief
11304 Financial Officer ~~Comptroller~~ to assess and levy on all railroad
11305 lines and railroad property and telegraph lines and telegraph
11306 property in the district a tax at the rate prescribed by
11307 resolution of the board, and to collect the tax thereon in the
11308 same manner as he or she is required by law to assess and
11309 collect taxes for state and county purposes and to remit the



HB 1803

2003

11310 same to the treasurer of the board. All such taxes shall be held
 11311 by the treasurer of the district for the credit of the district
 11312 and paid out by him or her as provided herein. The tax assessor
 11313 and property appraiser of each of said counties shall be
 11314 entitled to payment as provided for by general laws.

11315 Section 376. Subsection (3) of section 376.11, Florida
 11316 Statutes, is amended to read:

11317 376.11 Florida Coastal Protection Trust Fund.--

11318 (3) Moneys in the fund that are not needed currently to
 11319 meet the obligations of the department in the exercise of its
 11320 responsibilities under ss. 376.011-376.21 shall be deposited
 11321 with the Chief Financial Officer ~~Treasurer~~ to the credit of the
 11322 fund and may be invested in such manner as is provided for by
 11323 statute. Interest received on such investment shall be credited
 11324 to the fund, except as otherwise specified herein.

11325 Section 377. Subsection (5) of section 376.123, Florida
 11326 Statutes, is amended to read:

11327 376.123 Claims against the Florida Coastal Protection
 11328 Trust Fund.--

11329 (5) The secretary shall establish the amount to be awarded
 11330 and shall certify the amount of the award and the name of the
 11331 claimant to the Chief Financial Officer ~~State Treasurer~~, who
 11332 shall pay the award from the fund, subject to the provisions of
 11333 subsection (12). If the claimant agrees with the established
 11334 amount of award, the settlement shall be binding upon both
 11335 parties as to all issues and cannot be further attacked,
 11336 collaterally or by separate action, in the future.

11337 Section 378. Subsection (6) of section 376.307, Florida
 11338 Statutes, is amended to read:

11339 376.307 Water Quality Assurance Trust Fund.--



HB 1803

2003

11340 (6) Moneys in the fund which are not needed currently to
11341 meet the obligations of the department in the exercise of its
11342 responsibilities under this section shall be deposited with the
11343 Chief Financial Officer ~~Treasurer~~ to the credit of the fund and
11344 may be invested in such manner as is provided for by statute.
11345 The interest received on such investment shall be credited to
11346 the fund. Any provisions of law to the contrary
11347 notwithstanding, such interest may be freely transferred between
11348 this trust fund and the Inland Protection Trust Fund, in the
11349 discretion of the department.

11350 Section 379. Subsection (8) and paragraph (k) of
11351 subsection (12) of section 376.3071, Florida Statutes, are
11352 amended to read:

11353 376.3071 Inland Protection Trust Fund; creation; purposes;
11354 funding.--

11355 (8) INVESTMENTS; INTEREST.--Moneys in the fund which are
11356 not needed currently to meet the obligations of the department
11357 in the exercise of its responsibilities under this section and
11358 s. 376.3073 shall be deposited with the Chief Financial Officer
11359 ~~Treasurer~~ to the credit of the fund and may be invested in such
11360 manner as is provided for by statute. The interest received on
11361 such investment shall be credited to the fund. Any provisions
11362 of law to the contrary notwithstanding, such interest may be
11363 freely transferred between this trust fund and the Water Quality
11364 Assurance Trust Fund, in the discretion of the department.

11365 (12) REIMBURSEMENT FOR CLEANUP EXPENSES.--Except as
11366 provided in s. 2(3), chapter 95-2, Laws of Florida, this
11367 subsection shall not apply to any site rehabilitation program
11368 task initiated after March 29, 1995. Effective August 1, 1996,
11369 no further site rehabilitation work on sites eligible for state-



HB 1803

2003

11370 funded cleanup from the Inland Protection Trust Fund shall be
11371 eligible for reimbursement pursuant to this subsection. The
11372 person responsible for conducting site rehabilitation may seek
11373 reimbursement for site rehabilitation program task work
11374 conducted after March 28, 1995, in accordance with s. 2(2) and
11375 (3), chapter 95-2, Laws of Florida, regardless of whether the
11376 site rehabilitation program task is completed. A site
11377 rehabilitation program task shall be considered to be initiated
11378 when actual onsite work or engineering design, pursuant to
11379 chapter 62-770, Florida Administrative Code, which is integral
11380 to performing a site rehabilitation program task has begun and
11381 shall not include contract negotiation and execution, site
11382 research, or project planning. All reimbursement applications
11383 pursuant to this subsection must be submitted to the department
11384 by January 3, 1997. The department shall not accept any
11385 applications for reimbursement or pay any claims on applications
11386 for reimbursement received after that date; provided, however if
11387 an application filed on or prior to January 3, 1997, was
11388 returned by the department on the grounds of untimely filing, it
11389 shall be refiled within 30 days after the effective date of this
11390 act in order to be processed.

11391 (k) Audits.--

11392 1. The department is authorized to perform financial and
11393 technical audits in order to certify site restoration costs and
11394 ensure compliance with this chapter. The department shall seek
11395 recovery of any overpayments based on the findings of these
11396 audits. The department must commence any audit within 5 years
11397 after the date of reimbursement, except in cases where the
11398 department alleges specific facts indicating fraud.

11399 2. Upon determination by the department that any portion



HB 1803

2003

11400 of costs which have been reimbursed are disallowed, the
11401 department shall give written notice to the applicant setting
11402 forth with specificity the allegations of fact which justify the
11403 department's proposed action and ordering repayment of
11404 disallowed costs within 60 days of notification of the
11405 applicant.

11406 3. In the event the applicant does not make payment to the
11407 department within 60 days of receipt of such notice, the
11408 department shall seek recovery in a court of competent
11409 jurisdiction to recover reimbursement overpayments made to the
11410 person responsible for conducting site rehabilitation, unless
11411 the department finds the amount involved too small or the
11412 likelihood of recovery too uncertain.

11413 4. In addition to the amount of any overpayment, the
11414 applicant shall be liable to the department for interest of 1
11415 percent per month or the prime rate, whichever is less, on the
11416 amount of overpayment, from the date of overpayment by the
11417 department until the applicant satisfies the department's
11418 request for repayment pursuant to this paragraph. The
11419 calculation of interest shall be tolled during the pendency of
11420 any litigation.

11421 5. Financial and technical audits frequently are conducted
11422 under this section many years after the site rehabilitation
11423 activities were performed and the costs examined in the course
11424 of the audit were incurred by the person responsible for site
11425 rehabilitation. During the intervening span of years, the
11426 department's rule requirements and its related guidance and
11427 other nonrule policy directives may have changed significantly.

11428 The Legislature finds that it may be appropriate for the
11429 department to provide relief to persons subject to such



HB 1803

2003

11430 requirements in financial and technical audits conducted
 11431 pursuant to this section.

11432 a. The department is authorized to grant variances and
 11433 waivers from the documentation requirements of subparagraph
 11434 (e)2. and from the requirements of rules applicable in technical
 11435 and financial audits conducted under this section. Variances
 11436 and waivers shall be granted when the person responsible for
 11437 site rehabilitation demonstrates to the department that
 11438 application of a financial or technical auditing requirement
 11439 would create a substantial hardship or would violate principles
 11440 of fairness. For purposes of this subsection, "substantial
 11441 hardship" means a demonstrated economic, technological, legal,
 11442 or other type of hardship to the person requesting the variance
 11443 or waiver. For purposes of this subsection, "principles of
 11444 fairness" are violated when the application of a requirement
 11445 affects a particular person in a manner significantly different
 11446 from the way it affects other similarly situated persons who are
 11447 affected by the requirement or when the requirement is being
 11448 applied retroactively without due notice to the affected
 11449 parties.

11450 b. A person whose reimbursed costs are subject to a
 11451 financial and technical audit under this section may file a
 11452 written request to the department for grant of a variance or
 11453 waiver. The request shall specify:

11454 (I) The requirement from which a variance or waiver is
 11455 requested.

11456 (II) The type of action requested.

11457 (III) The specific facts which would justify a waiver or
 11458 variance.

11459 (IV) The reason or reasons why the requested variance or



HB 1803

2003

11460 waiver would serve the purposes of this section.

11461 c. Within 90 days after receipt of a written request for
11462 variance or waiver under this subsection, the department shall
11463 grant or deny the request. If the request is not granted or
11464 denied within 90 days of receipt, the request shall be deemed
11465 approved. An order granting or denying the request shall be in
11466 writing and shall contain a statement of the relevant facts and
11467 reasons supporting the department's action. The department's
11468 decision to grant or deny the petition shall be supported by
11469 competent substantial evidence and is subject to ss. 120.569 and
11470 120.57. Once adopted, model rules promulgated by the
11471 Administration Commission under s. 120.542 shall govern the
11472 processing of requests under this provision.

11473 6. The Chief Financial Officer ~~Comptroller~~ may audit the
11474 records of persons who receive or who have received payments
11475 pursuant to this chapter in order to verify site restoration
11476 costs, ensure compliance with this chapter, and verify the
11477 accuracy and completeness of audits performed by the department
11478 pursuant to this paragraph. The Chief Financial Officer
11479 ~~Comptroller~~ may contract with entities or persons to perform
11480 audits pursuant to this subparagraph. The Chief Financial
11481 Officer ~~Comptroller~~ shall commence any audit within 1 year after
11482 the department's completion of an audit conducted pursuant to
11483 this paragraph, except in cases where the department or the
11484 Chief Financial Officer ~~Comptroller~~ alleges specific facts
11485 indicating fraud.

11486 Section 380. Paragraphs (b) and (c) of subsection (5) of
11487 section 376.3072, Florida Statutes, are amended to read:

11488 376.3072 Florida Petroleum Liability and Restoration
11489 Insurance Program.--



HB 1803

2003

11490 (5)

11491 (b) The Office of Insurance Regulation of the Financial
 11492 Services Commission ~~Department of Insurance~~ shall offer
 11493 assistance as requested by the department to implement the
 11494 program.

11495 (c) Any insurance company, reinsurance company, or other
 11496 entity contracted with by the department shall be subject to the
 11497 same rules and regulations of the Office of Insurance Regulation
 11498 ~~Department of Insurance~~ applicable to other insurers,
 11499 reinsurers, and other entities.

11500 Section 381. Subsection (2) of section 376.3075, Florida
 11501 Statutes, is amended to read:

11502 376.3075 Inland Protection Financing Corporation.--

11503 (2) The corporation shall be governed by a board of
 11504 directors consisting of the Governor or the Governor's designee,
 11505 the Chief Financial Officer ~~Comptroller~~ or the Chief Financial
 11506 Officer's ~~Comptroller's~~ designee, ~~the Treasurer or the~~
 11507 ~~Treasurer's designee~~, the chair of the Florida Black Business
 11508 Investment Board, and the secretary of the Department of
 11509 Environmental Protection. The executive director of the State
 11510 Board of Administration shall be the chief executive officer of
 11511 the corporation and shall direct and supervise the
 11512 administrative affairs of the corporation and shall control,
 11513 direct, and supervise the operation of the corporation. The
 11514 corporation shall also have such other officers as may be
 11515 determined by the board of directors.

11516 Section 382. Subsection (10) of section 376.3078, Florida
 11517 Statutes, is amended to read:

11518 376.3078 Drycleaning facility restoration; funds; uses;
 11519 liability; recovery of expenditures.--



HB 1803

2003

11520 (10) INSURANCE REQUIREMENTS.--The owner or operator of an
11521 operating drycleaning facility or wholesale supply facility
11522 shall, by January 1, 1999, have purchased third-party liability
11523 insurance for \$1 million of coverage for each operating
11524 facility. The owner or operator shall maintain such insurance
11525 while operating as a drycleaning facility or wholesale supply
11526 facility and provide proof of such insurance to the department
11527 upon registration renewal each year thereafter. Such requirement
11528 applies only if such insurance becomes available to the owner or
11529 operator at a reasonable rate and covers liability for
11530 contamination subsequent to the effective date of the policy and
11531 prior to the effective date, retroactive to the commencement of
11532 operations at the drycleaning facility or wholesale supply
11533 facility. Such insurance may be offered in group coverage
11534 policies with a minimum coverage of \$1 million for each member
11535 of the group per year. For the purposes of this subsection,
11536 reasonable rate means the rate developed based on exposure to
11537 loss and underwriting and administrative costs as determined by
11538 the Office of Insurance Regulation of the Financial Services
11539 Commission ~~Department of Insurance~~, in consultation with
11540 representatives of the drycleaning industry.

11541 Section 383. Paragraphs (b) and (c) of subsection (4) of
11542 section 376.3079, Florida Statutes, are amended to read:

11543 376.3079 Third-party liability insurance.--

11544 (4)

11545 (b) The Office of Insurance Regulation of the Financial
11546 Services Commission ~~Department of Insurance~~ shall offer
11547 assistance as requested by the department to implement the
11548 program.

11549 (c) Any insurance company, reinsurance company, or other



HB 1803

2003

11550 entity contracted with by the department shall be subject to the
 11551 same rules of the Office of Insurance Regulation ~~Department of~~
 11552 ~~Insurance~~ applicable to other insurers, reinsurers, and other
 11553 entities.

11554 Section 384. Subsection (6) of section 376.40, Florida
 11555 Statutes, is amended to read:

11556 376.40 Petroleum exploration and production; purposes;
 11557 funding.--

11558 (6) INVESTMENTS; INTEREST.--Moneys in the trust fund which
 11559 are not needed currently to meet the obligations of the
 11560 department in the exercise of its responsibilities under this
 11561 section shall be deposited with the Chief Financial Officer
 11562 ~~Treasurer~~ to the credit of the trust fund and may be invested as
 11563 provided by law.

11564 Section 385. Section 377.23, Florida Statutes, is amended
 11565 to read:

11566 377.23 Monthly reports to division.--Every producer of oil
 11567 or gas in the state shall submit to the division, on forms
 11568 prescribed by the division, a monthly report of the actual
 11569 production from each and every oil and gas well operated by him
 11570 or her. Such ~~said~~ producer shall submit a duplicate copy of
 11571 such ~~said~~ report at the same time to the Department of Financial
 11572 Services ~~Banking and Finance~~; and such ~~said~~ reports shall be
 11573 submitted through the medium of the United States mails, and it
 11574 shall be unlawful for the same to be transmitted or received in
 11575 any other way.

11576 Section 386. Paragraph (a) of subsection (1) of section
 11577 377.2425, Florida Statutes, is amended to read:

11578 377.2425 Manner of providing security for geophysical
 11579 exploration, drilling, and production.--



HB 1803

2003

11580 (1) Prior to granting a permit to conduct geophysical
 11581 operations; drilling of exploratory, injection, or production
 11582 wells; producing oil and gas from a wellhead; or transporting
 11583 oil and gas through a field-gathering system, the department
 11584 shall require the applicant or operator to provide surety that
 11585 these operations will be conducted in a safe and environmentally
 11586 compatible manner.

11587 (a) The applicant for a drilling, production, or injection
 11588 well permit or a geophysical permit may provide the following
 11589 types of surety to the department for this purpose:

11590 1. A deposit of cash or other securities made payable to
 11591 the Minerals Trust Fund. Such cash or securities so deposited
 11592 shall be held at interest by the Chief Financial Officer
 11593 ~~Comptroller~~ to satisfy safety and environmental performance
 11594 provisions of this chapter. The interest shall be credited to
 11595 the Minerals Trust Fund. Such cash or other securities shall be
 11596 released by the Chief Financial Officer ~~Comptroller~~ upon request
 11597 of the applicant and certification by the department that all
 11598 safety and environmental performance provisions established by
 11599 the department for permitted activities have been fulfilled.

11600 2. A bond of a surety company authorized to do business in
 11601 the state in an amount as provided by rule.

11602 3. A surety in the form of an irrevocable letter of credit
 11603 in an amount as provided by rule guaranteed by an acceptable
 11604 financial institution.

11605 Section 387. Paragraph (c) of subsection (4) of section
 11606 377.705, Florida Statutes, is amended to read:

11607 377.705 Solar Energy Center; development of solar energy
 11608 standards.--

11609 (4) FLORIDA SOLAR ENERGY CENTER TO SET STANDARDS, REQUIRE



HB 1803

2003

11610 DISCLOSURE, SET TESTING FEES.--

11611 (c) The center shall be entitled to receive a testing fee
 11612 sufficient to cover the costs of such testing. All testing fees
 11613 shall be transmitted by the center to the Chief Financial
 11614 Officer ~~State Treasurer~~ to be deposited in the Solar Energy
 11615 Center Testing Trust Fund, which is hereby created in the State
 11616 Treasury, and disbursed for the payment of expenses incurred in
 11617 testing solar energy systems.

11618 Section 388. Paragraph (a) of subsection (2) of section
 11619 378.035, Florida Statutes, is amended to read:

11620 378.035 Department responsibilities and duties with
 11621 respect to Nonmandatory Land Reclamation Trust Fund.--

11622 (2)(a) The department shall verify that reclamation
 11623 activities or portions thereof have been accomplished in
 11624 accordance with the reclamation contract and shall certify the
 11625 cost of such reclamation activities to the Chief Financial
 11626 Officer ~~Comptroller~~ for reimbursement.

11627 Section 389. Section 378.037, Florida Statutes, is amended
 11628 to read:

11629 378.037 Chief Financial Officer ~~Comptroller~~;
 11630 responsibilities and duties with respect to reimbursement of
 11631 reclamation costs.--

11632 (1) The Chief Financial Officer ~~Comptroller~~ shall
 11633 reimburse approved reclamation costs, less any amount reasonably
 11634 retained to ensure completion of the approved reclamation
 11635 program, subject to the following limitations:

11636 (a) A landowner shall not be entitled to payments in
 11637 excess of the funds available in the Nonmandatory Land
 11638 Reclamation Trust Fund.

11639 (b) Cost reimbursement shall not exceed the least of:



HB 1803

2003

11640 1. The amount actually expended and reasonably necessary
 11641 to effect the reclamation consistent with the standards of the
 11642 approved master reclamation plan;

11643 2. The reclamation contract amount; or

11644 3. The amount allowed based on prereclamation land form,
 11645 to include mined-out areas at \$4,000 per reclaimed acre and clay
 11646 settling areas and other land forms at \$2,500 per reclaimed acre
 11647 adjusted annually by the appropriate inflationary index for
 11648 construction.

11649 (2) The Chief Financial Officer ~~Comptroller~~ shall adopt
 11650 rules to implement the payment provisions of the master
 11651 reclamation plan and this section, including, but not limited
 11652 to, periodic reimbursements and competitive procurement of
 11653 services and commodities to the extent practicable, unless a
 11654 landowner elects to utilize his or her own personnel and
 11655 equipment. The landowner may select a method of reimbursement
 11656 from the alternatives adopted by the Chief Financial Officer
 11657 ~~Comptroller~~.

11658 Section 390. Subsection (3) of section 378.208, Florida
 11659 Statutes, is amended to read:

11660 378.208 Financial responsibility.--

11661 (3) The amount of financial responsibility shall be
 11662 established by the secretary and shall not exceed \$4,000 per
 11663 acre for each reclamation program, adjusted annually by the
 11664 appropriate inflationary index for construction. The Office of
 11665 Insurance Regulation of the Financial Services Commission
 11666 ~~Department of Insurance~~ shall be available to assist the
 11667 secretary in making this determination. In establishing the
 11668 amount of financial responsibility, the secretary shall
 11669 consider:



HB 1803

2003

- 11670 (a) The amount and type of reclamation involved.
- 11671 (b) The probable cost of proper reclamation.
- 11672 (c) Inflation rates.
- 11673 (d) Changes in mining operations.

11674 Section 391. Subsection (2) of section 381.765, Florida
 11675 Statutes, is amended to read:

11676 381.765 Retention of title to and disposal of equipment.--

11677 (2) The department may offer for sale any surplus items
 11678 acquired in operating the brain and spinal cord injury program
 11679 when they are no longer necessary or exchange them for necessary
 11680 items that may be used to greater advantage. When any such
 11681 surplus equipment is sold or exchanged, a receipt for the
 11682 equipment shall be taken from the purchaser showing the
 11683 consideration given for such equipment and forwarded to the
 11684 Chief Financial Officer ~~Treasurer~~, and any funds received by the
 11685 brain and spinal cord injury program pursuant to any such
 11686 transaction shall be deposited in the Brain and Spinal Cord
 11687 Injury Rehabilitation Trust Fund and shall be available for
 11688 expenditure for any purpose consistent with this part.

11689 Section 392. Subsection (3) of section 381.90, Florida
 11690 Statutes, is amended to read:

11691 381.90 Health Information Systems Council; legislative
 11692 intent; creation, appointment, duties.--

11693 (3) The council shall be composed of the following members
 11694 or their senior executive-level designees:

- 11695 (a) The secretary of the Department of Health;
- 11696 (b) The secretary of the Department of Business and
 11697 Professional Regulation;
- 11698 (c) The secretary of the Department of Children and Family
 11699 Services;



HB 1803

2003

- 11700 (d) The Secretary of Health Care Administration;
- 11701 (e) The secretary of the Department of Corrections;
- 11702 (f) The Attorney General;
- 11703 (g) The executive director of the Correctional Medical
- 11704 Authority;
- 11705 (h) Two members representing county health departments,
- 11706 one from a small county and one from a large county, appointed
- 11707 by the Governor;
- 11708 (i) A representative from the Florida Association of
- 11709 Counties;
- 11710 (j) The Chief Financial Officer ~~State Treasurer and~~
- 11711 ~~Insurance Commissioner~~;
- 11712 (k) A representative from the Florida Healthy Kids
- 11713 Corporation;
- 11714 (l) A representative from a school of public health chosen
- 11715 by the Board of Regents;
- 11716 (m) The Commissioner of Education;
- 11717 (n) The secretary of the Department of Elderly Affairs;
- 11718 and
- 11719 (o) The secretary of the Department of Juvenile Justice.

11720
 11721 Representatives of the Federal Government may serve without
 11722 voting rights.

11723 Section 393. Effective July 1, 2003, subsection (3) of
 11724 section 385.207, Florida Statutes, as amended by s. 73, chapter
 11725 2002-402, Laws of Florida, is amended to read:

11726 385.207 Care and assistance of persons with epilepsy;
 11727 establishment of programs in epilepsy control.--

11728 (3) Revenue for statewide implementation of programs for
 11729 epilepsy prevention and education pursuant to this section shall



HB 1803

2003

11730 be derived pursuant to the provisions of s. 318.21(6) and shall
 11731 be deposited in the Epilepsy Services Trust Fund, which is
 11732 hereby established to be administered by the Department of
 11733 Health. All funds deposited into the trust fund shall be
 11734 invested pursuant to the provisions of s. 17.61 ~~18.125~~. Interest
 11735 income accruing to such invested funds shall increase the total
 11736 funds available under this subsection.

11737 Section 394. Subsection (5) of section 388.201, Florida
 11738 Statutes, is amended to read:

11739 388.201 District budgets; hearing.--

11740 (5) County commissioners' mosquito and arthropod control
 11741 budgets shall be made and adopted as prescribed by subsections
 11742 (1) and (2); summary figures shall be incorporated into the
 11743 county budgets as prescribed by the Department of Financial
 11744 Services ~~Banking and Finance~~.

11745 Section 395. Section 388.301, Florida Statutes, is amended
 11746 to read:

11747 388.301 Payment of state funds; supplies and services.--
 11748 State funds shall be payable quarterly, in accordance with the
 11749 rules of the department, upon requisition by the department to
 11750 the Chief Financial Officer ~~Comptroller~~. The department is
 11751 authorized to furnish insecticides, chemicals, materials,
 11752 equipment, vehicles, and personnel in lieu of state funds where
 11753 mass purchasing may save funds for the state, or where it would
 11754 be more practical and economical to use equipment, supplies, and
 11755 services between two or more counties or districts.

11756 Section 396. Subsection (3) of section 391.025, Florida
 11757 Statutes, is amended to read:

11758 391.025 Applicability and scope.--

11759 (3) The Children's Medical Services program shall not be



HB 1803

2003

11760 deemed an insurer and is not subject to the licensing
 11761 requirements of the Florida Insurance Code or the rules adopted
 11762 thereunder ~~of the Department of Insurance~~, when providing
 11763 services to children who receive Medicaid benefits, other
 11764 Medicaid-eligible children with special health care needs, and
 11765 children participating in the Florida Kidcare program.

11766 Section 397. Subsection (2) of section 392.69, Florida
 11767 Statutes, is amended to read:

11768 392.69 Appropriation, sinking, and maintenance trust
 11769 funds; additional powers of the department.--

11770 (2) All moneys required to be paid by the several counties
 11771 and patients for the care and maintenance of patients
 11772 hospitalized by the department for tuberculosis shall be paid to
 11773 the department, and the department shall immediately transmit
 11774 these moneys to the Chief Financial Officer ~~Treasurer~~, who shall
 11775 deposit the moneys in the Operations and Maintenance Trust Fund,
 11776 which shall contain all moneys appropriated by the Legislature
 11777 or received from patients or other third parties and shall be
 11778 expended for the operation and maintenance of the state-operated
 11779 tuberculosis hospital.

11780 Section 398. Subsection (5) of section 393.002, Florida
 11781 Statutes, is amended to read:

11782 393.002 Transfer of Florida Developmental Disabilities
 11783 Council as formerly created in this chapter to private nonprofit
 11784 corporation.--

11785 (5) Pursuant to the applicable provisions of chapter 284,
 11786 the Division of Risk Management of the Department of Financial
 11787 Services ~~Insurance~~ is authorized to insure this nonprofit
 11788 corporation under the same general terms and conditions as the
 11789 Florida Developmental Disabilities Council was insured in the



HB 1803

2003

11790 Department of Children and Family Services by the division prior
 11791 to the transfer of its functions authorized by this section.

11792 Section 399. Subsection (2) of section 393.075, Florida
 11793 Statutes, is amended to read:

11794 393.075 General liability coverage.--

11795 (2) The Division of Risk Management of the Department of
 11796 Financial Services ~~Insurance~~ shall provide coverage through the
 11797 Department of Children and Family Services to any person who
 11798 owns or operates a foster care facility or group home facility
 11799 solely for the Department of Children and Family Services, who
 11800 cares for children placed by developmental services staff of the
 11801 department, and who is licensed pursuant to s. 393.067 to
 11802 provide such supervision and care in his or her place of
 11803 residence. The coverage shall be provided from the general
 11804 liability account of the State Risk Management Trust Fund. The
 11805 coverage is limited to general liability claims arising from the
 11806 provision of supervision and care of children in a foster care
 11807 facility or group home facility pursuant to an agreement with
 11808 the department and pursuant to guidelines established through
 11809 policy, rule, or statute. Coverage shall be subject to the
 11810 limits provided in ss. 284.38 and 284.385, and the exclusions
 11811 set forth therein, together with other exclusions as may be set
 11812 forth in the certificate of coverage issued by the trust fund. A
 11813 person covered under the general liability account pursuant to
 11814 this subsection shall immediately notify the Division of Risk
 11815 Management of the Department of Financial Services ~~Insurance~~ of
 11816 any potential or actual claim.

11817 Section 400. Section 394.482, Florida Statutes, is amended
 11818 to read:

11819 394.482 Payment of financial obligations imposed by



HB 1803

2003

11820 compact.--The compact administrator, subject to the approval of
 11821 the Chief Financial Officer ~~Comptroller~~, may make or arrange for
 11822 any payments necessary to discharge any financial obligations
 11823 imposed upon this state by the compact or by any supplementary
 11824 agreement entered into thereunder.

11825 Section 401. Paragraphs (a) and (c) of subsection (4) of
 11826 section 400.0238, Florida Statutes, are amended to read:

11827 400.0238 Punitive damages; limitation.--

11828 (4) Notwithstanding any other law to the contrary, the
 11829 amount of punitive damages awarded pursuant to this section
 11830 shall be equally divided between the claimant and the Quality of
 11831 Long-Term Care Facility Improvement Trust Fund, in accordance
 11832 with the following provisions:

11833 (a) The clerk of the court shall transmit a copy of the
 11834 jury verdict to the Chief Financial Officer ~~State Treasurer~~ by
 11835 certified mail. In the final judgment, the court shall order the
 11836 percentages of the award, payable as provided herein.

11837 (c) The Department of Financial Services ~~Banking and~~
 11838 ~~Finance~~ shall collect or cause to be collected all payments due
 11839 the state under this section. Such payments are made to the
 11840 Chief Financial Officer ~~Comptroller~~ and deposited in the
 11841 appropriate fund specified in this subsection.

11842 Section 402. Subsection (2) of section 400.063, Florida
 11843 Statutes, is amended to read:

11844 400.063 Resident Protection Trust Fund.--

11845 (2) The agency is authorized to establish for each
 11846 facility, subject to intervention by the agency, a separate bank
 11847 account for the deposit to the credit of the agency of any
 11848 moneys received from the Resident Protection Trust Fund or any
 11849 other moneys received for the maintenance and care of residents



HB 1803

2003

11850 in the facility, and the agency is authorized to disburse moneys
 11851 from such account to pay obligations incurred for the purposes
 11852 of this section. The agency is authorized to requisition moneys
 11853 from the Resident Protection Trust Fund in advance of an actual
 11854 need for cash on the basis of an estimate by the agency of
 11855 moneys to be spent under the authority of this section. Any bank
 11856 account established under this section need not be approved in
 11857 advance of its creation as required by s. 17.58 ~~18.101~~, but
 11858 shall be secured by depository insurance equal to or greater
 11859 than the balance of such account or by the pledge of collateral
 11860 security in conformance with criteria established in s. 17.58
 11861 ~~18.11~~. The agency shall notify the Chief Financial Officer
 11862 ~~Treasurer and the Comptroller~~ of any such account so established
 11863 and shall make a quarterly accounting to the Chief Financial
 11864 Officer ~~Comptroller~~ for all moneys deposited in such account.

11865 Section 403. Paragraph (c) of subsection (4) of section
 11866 400.071, Florida Statutes, is amended to read:

11867 400.071 Application for license.--

11868 (4) Each applicant for licensure must comply with the
 11869 following requirements:

11870 (c) Proof of compliance with the level 2 background
 11871 screening requirements of chapter 435 which has been submitted
 11872 within the previous 5 years in compliance with any other health
 11873 care or assisted living licensure requirements of this state is
 11874 acceptable in fulfillment of paragraph (a). Proof of compliance
 11875 with background screening which has been submitted within the
 11876 previous 5 years to fulfill the requirements of the Financial
 11877 Services Commission and the Office of Insurance Regulation
 11878 ~~Department of Insurance~~ pursuant to chapter 651 as part of an
 11879 application for a certificate of authority to operate a



HB 1803

2003

11880 continuing care retirement community is acceptable in
 11881 fulfillment of the Department of Law Enforcement and Federal
 11882 Bureau of Investigation background check.

11883 Section 404. Paragraph (b) of subsection (1) of section
 11884 400.4174, Florida Statutes, is amended to read:

11885 400.4174 Background screening; exemptions.--

11886 (1)

11887 (b) Proof of compliance with level 2 screening standards
 11888 which has been submitted within the previous 5 years to meet any
 11889 facility or professional licensure requirements of the agency or
 11890 the Department of Health satisfies the requirements of this
 11891 subsection, provided that such proof is accompanied, under
 11892 penalty of perjury, by an affidavit of compliance with the
 11893 provisions of chapter 435. Proof of compliance with the
 11894 background screening requirements of the Financial Services
 11895 Commission and the Office of Insurance Regulation ~~Department of~~
 11896 ~~Insurance~~ for applicants for a certificate of authority to
 11897 operate a continuing care retirement community under chapter
 11898 651, submitted within the last 5 years, satisfies the Department
 11899 of Law Enforcement and Federal Bureau of Investigation portions
 11900 of a level 2 background check.

11901 Section 405. Paragraphs (a) and (c) of subsection (4) of
 11902 section 400.4298, Florida Statutes, are amended to read:

11903 400.4298 Punitive damages; limitation.--

11904 (4) Notwithstanding any other law to the contrary, the
 11905 amount of punitive damages awarded pursuant to this section
 11906 shall be equally divided between the claimant and the Quality of
 11907 Long-Term Care Facility Improvement Trust Fund, in accordance
 11908 with the following provisions:

11909 (a) The clerk of the court shall transmit a copy of the



HB 1803

2003

11910 jury verdict to the Chief Financial Officer ~~State Treasurer~~ by
 11911 certified mail. In the final judgment, the court shall order the
 11912 percentages of the award, payable as provided herein.

11913 (c) The Department of Financial Services ~~Banking and~~
 11914 ~~Finance~~ shall collect or cause to be collected all payments due
 11915 the state under this section. Such payments are made to the
 11916 Chief Financial Officer ~~Comptroller~~ and deposited in the
 11917 appropriate fund specified in this subsection.

11918 Section 406. Paragraph (c) of subsection (4) of section
 11919 400.471, Florida Statutes, is amended to read:

11920 400.471 Application for license; fee; provisional license;
 11921 temporary permit.--

11922 (4) Each applicant for licensure must comply with the
 11923 following requirements:

11924 (c) Proof of compliance with the level 2 background
 11925 screening requirements of chapter 435 which has been submitted
 11926 within the previous 5 years in compliance with any other health
 11927 care or assisted living licensure requirements of this state is
 11928 acceptable in fulfillment of paragraph (a). Proof of compliance
 11929 with background screening which has been submitted within the
 11930 previous 5 years to fulfill the requirements of the Financial
 11931 Services Commission and the Office of Insurance Regulation
 11932 ~~Department of Insurance~~ pursuant to chapter 651 as part of an
 11933 application for a certificate of authority to operate a
 11934 continuing care retirement community is acceptable in
 11935 fulfillment of the Department of Law Enforcement and Federal
 11936 Bureau of Investigation background check.

11937 Section 407. Paragraph (c) of subsection (10) of section
 11938 400.962, Florida Statutes, is amended to read:

11939 400.962 License required; license application.--



HB 1803

2003

11940 (10)
 11941 (c) Proof of compliance with the level 2 background
 11942 screening requirements of chapter 435 which has been submitted
 11943 within the previous 5 years in compliance with any other
 11944 licensure requirements under this chapter satisfies the
 11945 requirements of paragraph (a). Proof of compliance with
 11946 background screening which has been submitted within the
 11947 previous 5 years to fulfill the requirements of the Financial
 11948 Services Commission and the Office of Insurance Regulation
 11949 ~~Department of Insurance~~ under chapter 651 as part of an
 11950 application for a certificate of authority to operate a
 11951 continuing care retirement community satisfies the requirements
 11952 for the Department of Law Enforcement and Federal Bureau of
 11953 Investigation background checks.

11954 Section 408. Paragraph (c) of subsection (2) of section
 11955 401.25, Florida Statutes, is amended to read:

11956 401.25 Licensure as a basic life support or an advanced
 11957 life support service.--

11958 (2) The department shall issue a license for operation to
 11959 any applicant who complies with the following requirements:

11960 (c) The applicant has furnished evidence of adequate
 11961 insurance coverage for claims arising out of injury to or death
 11962 of persons and damage to the property of others resulting from
 11963 any cause for which the owner of such business or service would
 11964 be liable. The applicant must provide insurance in such sums
 11965 and under such terms as required by the department. In lieu of
 11966 such insurance, the applicant may furnish a certificate of self-
 11967 insurance evidencing that the applicant has established an
 11968 adequate self-insurance plan to cover such risks and that the
 11969 plan has been approved by the Office of Insurance Regulation of



HB 1803

2003

11970 the Financial Services Commission ~~Department of Insurance.~~

11971 Section 409. Section 402.04, Florida Statutes, is amended
 11972 to read:

11973 402.04 Award of scholarships and stipends; disbursement of
 11974 funds; administration.--The award of scholarships or stipends
 11975 provided for herein shall be made by the Department of Children
 11976 and Family Services, hereinafter referred to as the department.
 11977 The department shall handle the administration of the
 11978 scholarship or stipend and the Department of Education shall,
 11979 for and on behalf of the department, handle the notes issued for
 11980 the payment of the scholarships or stipends provided for herein
 11981 and the collection of same. The department shall prescribe
 11982 regulations governing the payment of scholarships or stipends to
 11983 the school, college, or university for the benefit of the
 11984 scholarship or stipend holders. All scholarship awards, expenses
 11985 and costs of administration shall be paid from moneys
 11986 appropriated by the Legislature and shall be paid upon vouchers
 11987 approved by the department and properly certified by the Chief
 11988 Financial Officer ~~Comptroller~~.

11989 Section 410. Paragraph (b) of subsection (1) and
 11990 subsection (4) of section 402.17, Florida Statutes, are amended
 11991 to read:

11992 402.17 Claims for care and maintenance; trust property.--
 11993 The Department of Children and Family Services shall protect the
 11994 financial interest of the state with respect to claims which the
 11995 state may have for the care and maintenance of clients of the
 11996 department. The department shall, as trustee, hold in trust and
 11997 administer money of clients and property designated for the
 11998 personal benefit of clients. The department shall act as trustee
 11999 of clients' money and property entrusted to it in accordance



HB 1803

2003

12000 with the usual fiduciary standards applicable generally to
 12001 trustees, and shall act to protect both the short-term and long-
 12002 term interests of the clients for whose benefit it is holding
 12003 such money and property.

12004 (1) CLAIMS FOR CARE AND MAINTENANCE.--

12005 (b) The Department of Children and Family Services may
 12006 charge off accounts if it certifies that the accounts are
 12007 uncollectible after diligent efforts have been made to collect
 12008 them. If the department certifies an account to the Department
 12009 of Financial Services ~~Banking and Finance~~, setting forth the
 12010 circumstances upon which it predicates the uncollectibility, and
 12011 if, pursuant to s. 17.04, the Department of Financial Services
 12012 ~~Banking and Finance~~ concurs, the account shall be charged off.

12013 (4) DISPOSITION OF UNCLAIMED TRUST FUNDS.--Upon the death
 12014 of any client affected by the provisions of this section, any
 12015 unclaimed money held in trust by the department or by the Chief
 12016 Financial Officer ~~Treasurer~~ for him or her shall be applied
 12017 first to the payment of any unpaid claim of the state against
 12018 the client, and any balance remaining unclaimed for a period of
 12019 1 year shall escheat to the state as unclaimed funds held by
 12020 fiduciaries.

12021 Section 411. Paragraph (a) of subsection (8) of section
 12022 402.33, Florida Statutes, is amended to read:

12023 402.33 Department authority to charge fees for services
 12024 provided.--

12025 (8)(a) Unpaid fees for services provided by the department
 12026 to a client constitute a lien on any property owned by the
 12027 client or the client's responsible party which property is not
 12028 exempt by s. 4, Art. X of the State Constitution. If fees are
 12029 not paid within 6 months after they are billed, the department



HB 1803

2003

12030 shall charge interest on the unpaid balance at a rate equal to
 12031 the average rate of interest earned by the State Treasury on
 12032 state funds deposited in commercial banks as reported by the
 12033 Chief Financial Officer ~~Treasurer~~ for the previous year. The
 12034 department is authorized to negotiate and settle any delinquent
 12035 account, and to charge off any delinquent account even though
 12036 the claim of the department may be against the client, a
 12037 responsible party, or a payor of third-party benefits, either
 12038 directly for the department or as a fiduciary for the client or
 12039 responsible party.

12040 Section 412. Paragraph (a) of subsection (8) of section
 12041 403.1835, Florida Statutes, is amended to read:

12042 403.1835 Water pollution control financial assistance.--

12043 (8)(a) If a local governmental agency becomes delinquent
 12044 on its loan, the department shall so certify to the Chief
 12045 Financial Officer ~~Comptroller~~, who shall forward the amount
 12046 delinquent to the department from any unobligated funds due to
 12047 the local governmental agency under any revenue-sharing or tax-
 12048 sharing fund established by the state, except as otherwise
 12049 provided by the State Constitution. Certification of delinquency
 12050 shall not limit the department from pursuing other remedies
 12051 available for default on a loan. The department may impose a
 12052 penalty for delinquent loan payments in an amount not to exceed
 12053 an interest rate of 18 percent per annum on the amount due in
 12054 addition to charging the cost to handle and process the debt.
 12055 Penalty interest shall accrue on any amount due and payable
 12056 beginning on the 30th day following the date upon which payment
 12057 is due.

12058 Section 413. Subsection (2) of section 403.1837, Florida
 12059 Statutes, is amended to read:



HB 1803

2003

12060 403.1837 Florida Water Pollution Control Financing
 12061 Corporation.--

12062 (2) The corporation shall be governed by a board of
 12063 directors consisting of the Governor's Budget Director or the
 12064 budget director's designee, the Chief Financial Officer
 12065 ~~Comptroller~~ or the Chief Financial Officer's Comptroller's
 12066 ~~designee, the Treasurer or the Treasurer's designee,~~ and the
 12067 Secretary of Environmental Protection or the secretary's
 12068 designee, ~~until January 7, 2003, at which time the board shall~~
 12069 ~~include the Chief Financial Officer or the Chief Financial~~
 12070 ~~Officer's designee in place of the Treasurer and Comptroller.~~

12071 The executive director of the State Board of Administration
 12072 shall be the chief executive officer of the corporation; shall
 12073 direct and supervise the administrative affairs of the
 12074 corporation; and shall control, direct, and supervise operation
 12075 of the corporation. The corporation shall have such other
 12076 officers as may be determined by the board of directors.

12077 Section 414. Subsection (20) of section 403.706, Florida
 12078 Statutes, is amended to read:

12079 403.706 Local government solid waste responsibilities.--

12080 (20) In addition to any other penalties provided by law, a
 12081 local government that does not comply with the requirements of
 12082 subsections (2) and(4) shall not be eligible for grants from the
 12083 Solid Waste Management Trust Fund, and the department may notify
 12084 the Chief Financial Officer ~~State Treasurer~~ to withhold payment
 12085 of all or a portion of funds payable to the local government by
 12086 the department from the General Revenue Fund or by the
 12087 department from any other state fund, to the extent not pledged
 12088 to retire bonded indebtedness, unless the local government
 12089 demonstrates that good faith efforts to meet the requirements of



HB 1803

2003

12090 subsections (2) and (4) have been made or that the funds are
 12091 being or will be used to finance the correction of a pollution
 12092 control problem that spans jurisdictional boundaries.

12093 Section 415. Subsection (3) of section 403.724, Florida
 12094 Statutes, is amended to read:

12095 403.724 Financial responsibility.--

12096 (3) The amount of financial responsibility required shall
 12097 be approved by the department upon each issuance, renewal, or
 12098 modification of a hazardous waste facility permit. Such factors
 12099 as inflation rates and changes in operation may be considered
 12100 when approving financial responsibility for the duration of the
 12101 permit. The Office of Insurance Regulation of the Financial
 12102 Services Commission ~~Department of Insurance~~ shall be available
 12103 to assist the department in making this determination. In
 12104 approving or modifying the amount of financial responsibility,
 12105 the department shall consider:

12106 (a) The amount and type of hazardous waste involved;

12107 (b) The probable damage to human health and the
 12108 environment;

12109 (c) The danger and probable damage to private and public
 12110 property near the facility;

12111 (d) The probable time that the hazardous waste and
 12112 facility involved will endanger the public health, safety, and
 12113 welfare or the environment; and

12114 (e) The probable costs of properly closing the facility.

12115 Section 416. Paragraph (a) of subsection (15) of section
 12116 403.8532, Florida Statutes, is amended to read:

12117 403.8532 Drinking water state revolving loan fund; use;
 12118 rules.--

12119 (15)(a) If a local governmental agency defaults under the



HB 1803

2003

12120 terms of its loan agreement, the department shall so certify to
 12121 the Chief Financial Officer ~~Comptroller~~, who shall forward the
 12122 amount delinquent to the department from any unobligated funds
 12123 due to the local governmental agency under any revenue-sharing
 12124 or tax-sharing fund established by the state, except as
 12125 otherwise provided by the State Constitution. Certification of
 12126 delinquency shall not limit the department from pursuing other
 12127 remedies available for default on a loan, including accelerating
 12128 loan repayments, eliminating all or part of the interest rate
 12129 subsidy on the loan, and court appointment of a receiver to
 12130 manage the public water system.

12131 Section 417. Paragraphs (a), (b), (c), and (e) of
 12132 subsection (2) of section 404.111, Florida Statutes, are amended
 12133 to read:

12134 404.111 Surety requirements.--

12135 (2) In lieu of posting a bond as required under subsection
 12136 (1), a licensee may:

12137 (a) Deposit with the Chief Financial Officer ~~Treasurer~~
 12138 securities of the type eligible for deposit by insurers under s.
 12139 625.52, which securities must have at all times a market value
 12140 of not less than the amount of the bond required under
 12141 subsection (1).

12142 (b) Whenever the market value of the securities deposited
 12143 with the Chief Financial Officer ~~Treasurer~~ is less than 95
 12144 percent of the amount required by the department, the licensee
 12145 shall deposit additional securities or otherwise increase the
 12146 deposit to the amount required.

12147 (c) The state is responsible for the safekeeping of all
 12148 securities deposited with the Chief Financial Officer ~~Treasurer~~
 12149 under this section. Such securities are not, on account of being



HB 1803

2003

12150 in this state, subject to taxation but shall be held exclusively
 12151 and solely to guarantee the faithful performance by the licensee
 12152 of its obligations.

12153 (e) Such deposit shall be maintained unimpaired so long as
 12154 the licensee continues in business in this state. Whenever the
 12155 licensee ceases to do business in this state and furnishes the
 12156 department satisfactory proof that it has discharged or
 12157 otherwise adequately provided for all its obligations in this
 12158 state, the Chief Financial Officer ~~Treasurer~~ shall release the
 12159 deposit securities to the parties entitled thereto, on the
 12160 receipt of authorization from the department.

12161 Section 418. Subsection (2) of section 406.58, Florida
 12162 Statutes, is amended to read:

12163 406.58 Fees; authority to accept additional funds; annual
 12164 audit.--

12165 (2) The anatomical board is hereby empowered to receive
 12166 money from public or private sources in addition to the fees
 12167 collected from the institution or association to which the
 12168 bodies are distributed to be used to defray the costs of
 12169 embalming, handling, shipping, storage, cremation, and other
 12170 costs relating to the obtaining and use of such bodies as
 12171 described in this chapter; the anatomical board is empowered to
 12172 pay the reasonable expenses incurred by any person delivering
 12173 the bodies as described in this chapter to the anatomical board
 12174 and is further empowered to enter into contracts and perform
 12175 such other acts as are necessary to the proper performance of
 12176 its duties; a complete record of all fees and other financial
 12177 transactions of said anatomical board shall be kept and audited
 12178 annually by the Department of Financial Services ~~Banking and~~
 12179 ~~Finance~~, and a report of such audit shall be made annually to



HB 1803

2003

12180 the University of Florida.

12181 Section 419. Paragraph (b) of subsection (2) of section
12182 408.040, Florida Statutes, is amended to read:

12183 408.040 Conditions and monitoring.--

12184 (2)

12185 (b) A certificate of need issued to an applicant holding a
12186 provisional certificate of authority under chapter 651 shall
12187 terminate 1 year after the applicant receives a valid
12188 certificate of authority from the Office of Insurance Regulation
12189 of the Financial Services Commission ~~Department of Insurance~~.

12190 Section 420. Subsection (4) of section 408.08, Florida
12191 Statutes, is amended to read:

12192 408.08 Inspections and audits; violations; penalties;
12193 fines; enforcement.--

12194 (4) If a health insurer does not comply with the
12195 requirements of s. 408.061, the agency shall report a health
12196 insurer's failure to comply to the Office of Insurance
12197 Regulation of the Financial Services Commission ~~Department of~~
12198 ~~Insurance~~, which shall take into account the failure by the
12199 health insurer to comply in conjunction with its approval
12200 authority under s. 627.410. The agency shall adopt any rules
12201 necessary to carry out its responsibilities required by this
12202 subsection.

12203 Section 421. Paragraph (a) of subsection (4) and
12204 subsection (9) of section 408.18, Florida Statutes, are amended
12205 to read:

12206 408.18 Health Care Community Antitrust Guidance Act;
12207 antitrust no-action letter; market-information collection and
12208 education.--

12209 (4)(a) Members of the health care community who seek



HB 1803

2003

12210 antitrust guidance may request a review of their proposed
 12211 business activity by the Attorney General's office. In
 12212 conducting its review, the Attorney General's office may seek
 12213 whatever documentation, data, or other material it deems
 12214 necessary from the Agency for Health Care Administration, the
 12215 State Center for Health Statistics, and the Office of Insurance
 12216 Regulation of the Financial Services Commission ~~Department of~~
 12217 ~~Insurance~~.

12218 (9) When the member of the health care community seeking
 12219 the no-action letter is regulated by the Office of Insurance
 12220 Regulation ~~Department of Insurance~~, the office ~~Department of~~
 12221 ~~Insurance~~ shall make available to the Attorney General's office,
 12222 as needed, any information it maintains in its regulatory
 12223 capacity.

12224 Section 422. Subsection (1) of section 408.50, Florida
 12225 Statutes, is amended to read:

12226 408.50 Prospective payment arrangements.--

12227 (1) Hospitals as defined in s. 395.002, and health
 12228 insurers regulated pursuant to parts VI and VII of chapter 627,
 12229 shall establish prospective payment arrangements that provide
 12230 hospitals with financial incentives to contain costs. Each
 12231 hospital shall enter into a rate agreement with each health
 12232 insurer which represents 10 percent or more of the private-pay
 12233 patients of the hospital to establish a prospective payment
 12234 arrangement. Hospitals and health insurers regulated pursuant to
 12235 this section shall report annually the results of each specific
 12236 prospective payment arrangement adopted by each hospital and
 12237 health insurer to the board. The agency shall report a health
 12238 insurer's failure to comply to the Office of Insurance
 12239 Regulation of the Financial Services Commission ~~Department of~~



HB 1803

2003

12240 ~~Insurance~~, which shall take into account the failure by the
 12241 health insurer to comply in conjunction with its approval
 12242 authority under s. 627.410. The agency shall adopt any rules
 12243 necessary to carry out its responsibilities required by this
 12244 section.

12245 Section 423. Subsection (1) of section 408.902, Florida
 12246 Statutes, is amended to read:

12247 408.902 MedAccess program; creation; program title.--

12248 (1) Effective July 1, 1994, there is hereby created the
 12249 MedAccess program to be administered by the Agency for Health
 12250 Care Administration. The MedAccess program shall not be subject
 12251 to the requirements of the Office of Insurance Regulation of the
 12252 Financial Services Commission ~~Department of Insurance~~ or chapter
 12253 627. The secretary of the agency shall appoint an administrator
 12254 of the MedAccess program.

12255 Section 424. Paragraph (b) of subsection (2) and
 12256 subsections (3), (6), and (9) of section 408.909, Florida
 12257 Statutes, are amended to read:

12258 408.909 Health flex plans.--

12259 (2) DEFINITIONS.--As used in this section, the term:

12260 (b) "Office" means the Office of Insurance Regulation of
 12261 the Financial Services Commission ~~"Department" means the~~
 12262 ~~Department of Insurance.~~

12263 (3) PILOT PROGRAM.--The agency and the office ~~department~~
 12264 shall each approve or disapprove health flex plans that provide
 12265 health care coverage for eligible participants who reside in the
 12266 three areas of the state that have the highest number of
 12267 uninsured persons, as identified in the Florida Health Insurance
 12268 Study conducted by the agency and in Indian River County. A
 12269 health flex plan may limit or exclude benefits otherwise



HB 1803

2003

12270 required by law for insurers offering coverage in this state,
 12271 may cap the total amount of claims paid per year per enrollee,
 12272 may limit the number of enrollees, or may take any combination
 12273 of those actions.

12274 (a) The agency shall develop guidelines for the review of
 12275 applications for health flex plans and shall disapprove or
 12276 withdraw approval of plans that do not meet or no longer meet
 12277 minimum standards for quality of care and access to care.

12278 (b) The office ~~department~~ shall develop guidelines for the
 12279 review of health flex plan applications and shall disapprove or
 12280 shall withdraw approval of plans that:

12281 1. Contain any ambiguous, inconsistent, or misleading
 12282 provisions or any exceptions or conditions that deceptively
 12283 affect or limit the benefits purported to be assumed in the
 12284 general coverage provided by the health flex plan;

12285 2. Provide benefits that are unreasonable in relation to
 12286 the premium charged or contain provisions that are unfair or
 12287 inequitable or contrary to the public policy of this state, that
 12288 encourage misrepresentation, or that result in unfair
 12289 discrimination in sales practices; or

12290 3. Cannot demonstrate that the health flex plan is
 12291 financially sound and that the applicant is able to underwrite
 12292 or finance the health care coverage provided.

12293 (c) The agency and the Financial Services Commission
 12294 ~~department~~ may adopt rules as needed to administer this section.

12295 (6) RECORDS.--Each health flex plan shall maintain
 12296 enrollment data and reasonable records of its losses, expenses,
 12297 and claims experience and shall make those records reasonably
 12298 available to enable the office ~~department~~ to monitor and
 12299 determine the financial viability of the health flex plan, as



HB 1803

2003

12300 necessary. Provider networks and total enrollment by area shall
 12301 be reported to the agency biannually to enable the agency to
 12302 monitor access to care.

12303 (9) PROGRAM EVALUATION.--The agency and the office
 12304 ~~department~~ shall evaluate the pilot program and its effect on
 12305 the entities that seek approval as health flex plans, on the
 12306 number of enrollees, and on the scope of the health care
 12307 coverage offered under a health flex plan; shall provide an
 12308 assessment of the health flex plans and their potential
 12309 applicability in other settings; and shall, by January 1, 2004,
 12310 jointly submit a report to the Governor, the President of the
 12311 Senate, and the Speaker of the House of Representatives.

12312 Section 425. Paragraph (f) of subsection (6) and paragraph
 12313 (a) of subsection (15) of section 409.175, Florida Statutes, are
 12314 amended to read:

12315 409.175 Licensure of family foster homes, residential
 12316 child-caring agencies, and child-placing agencies.--

12317 (6)

12318 (f) All residential child-caring agencies must meet
 12319 firesafety standards for such agencies adopted by the Division
 12320 of State Fire Marshal of the Department of Financial Services
 12321 ~~Insurance~~ and must be inspected annually. At the request of the
 12322 department, firesafety inspections shall be conducted by the
 12323 Division of State Fire Marshal or a local fire department
 12324 official who has been certified by the division as having
 12325 completed the training requirements for persons inspecting such
 12326 agencies. Inspection reports shall be furnished to the
 12327 department within 30 days of a request.

12328 (15)(a) The Division of Risk Management of the Department
 12329 of Financial Services ~~Insurance~~ shall provide coverage through



HB 1803

2003

12330 the Department of Children and Family Services to any person who
 12331 owns or operates a family foster home solely for the Department
 12332 of Children and Family Services and who is licensed to provide
 12333 family foster home care in her or his place of residence. The
 12334 coverage shall be provided from the general liability account of
 12335 the State Risk Management Trust Fund, and the coverage shall be
 12336 primary. The coverage is limited to general liability claims
 12337 arising from the provision of family foster home care pursuant
 12338 to an agreement with the department and pursuant to guidelines
 12339 established through policy, rule, or statute. Coverage shall be
 12340 limited as provided in ss. 284.38 and 284.385, and the
 12341 exclusions set forth therein, together with other exclusions as
 12342 may be set forth in the certificate of coverage issued by the
 12343 trust fund, shall apply. A person covered under the general
 12344 liability account pursuant to this subsection shall immediately
 12345 notify the Division of Risk Management of the Department of
 12346 Financial Services Insurance of any potential or actual claim.

12347 Section 426. Subsection (10) of section 409.25656, Florida
 12348 Statutes, is amended to read:

12349 409.25656 Garnishment.--

12350 (10) The department shall provide notice to the Chief
 12351 Financial Officer ~~Comptroller~~, in electronic or other form
 12352 specified by the Chief Financial Officer ~~Comptroller~~, listing
 12353 the obligors for whom warrants are outstanding. Pursuant to
 12354 subsection (1), the Chief Financial Officer ~~Comptroller~~ shall,
 12355 upon notice from the department, withhold all payments to any
 12356 obligor who provides commodities or services to the state,
 12357 leases real property to the state, or constructs a public
 12358 building or public work for the state. The department may levy
 12359 upon the withheld payments in accordance with subsection (3).



HB 1803

2003

12360 Section 215.422 does not apply from the date the notice is filed
 12361 with the Chief Financial Officer ~~Comptroller~~ until the date the
 12362 department notifies the Chief Financial Officer ~~Comptroller~~ of
 12363 its consent to make payment to the person or 60 days after
 12364 receipt of the department's notice in accordance with subsection
 12365 (1), whichever occurs earlier.

12366 Section 427. Subsections (1), (2), (3), and (4) of section
 12367 409.25658, Florida Statutes, are amended to read:

12368 409.25658 Use of unclaimed property for past due support.-
 12369 -

12370 (1) In a joint effort to facilitate the collection and
 12371 payment of past due support, the Department of Revenue, in
 12372 cooperation with the Department of Financial Services ~~Banking~~
 12373 ~~and Finance~~, shall identify persons owing support collected
 12374 through a court who are presumed to have unclaimed property held
 12375 by the Department of Financial Services ~~Banking and Finance~~.

12376 (2) The department shall periodically provide the
 12377 Department of Financial Services ~~Banking and Finance~~ with an
 12378 electronic file of support obligors who owe past due support.
 12379 The Department of Financial Services ~~Banking and Finance~~ shall
 12380 conduct a data match of the file against all apparent owners of
 12381 unclaimed property under chapter 717 and provide the resulting
 12382 match list to the department.

12383 (3) Upon receipt of the data match list, the department
 12384 shall provide to the Department of Financial Services ~~Banking~~
 12385 ~~and Finance~~ the obligor's last known address. The Department of
 12386 Financial Services ~~Banking and Finance~~ shall follow the
 12387 notification procedures under s. 717.118.

12388 (4) Prior to paying an obligor's approved claim, the
 12389 Department of Financial Services ~~Banking and Finance~~ shall



HB 1803

2003

12390 notify the department that such claim has been approved. Upon
 12391 confirmation that the Department of Financial Services ~~Banking~~
 12392 ~~and Finance~~ has approved the claim, the department shall
 12393 immediately send a notice by certified mail to the obligor, with
 12394 a copy to the Department of Financial Services ~~Banking and~~
 12395 ~~Finance~~, advising the obligor of the department's intent to
 12396 intercept the approved claim up to the amount of the past due
 12397 support, and informing the obligor of the obligor's right to
 12398 request a hearing under chapter 120. The Department of Financial
 12399 Services ~~Banking and Finance~~ shall retain custody of the
 12400 property until a final order has been entered and any appeals
 12401 thereon have been concluded. If the obligor fails to request a
 12402 hearing, the department shall enter a final order instructing
 12403 the Department of Financial Services ~~Banking and Finance~~ to
 12404 transfer to the department the property in the amount stated in
 12405 the final order. Upon such transfer, the Department of Financial
 12406 Services ~~Banking and Finance~~ shall be released from further
 12407 liability related to the transferred property.

12408 Section 428. Subsections (4) and (7) of section 409.2673,
 12409 Florida Statutes, are amended to read:

12410 409.2673 Shared county and state health care program for
 12411 low-income persons.--

12412 (4) The levels of financial participation by counties and
 12413 the state for this program shall be determined as follows:

12414 (a) If on July 1, 1988, a county funded inpatient hospital
 12415 services for those who would have been eligible for the program,
 12416 the county shall fund 35 percent of the cost of this program and
 12417 the state shall provide the remaining 65 percent of the funding
 12418 required for this program. A county participating at this level
 12419 shall use that portion of its budget that previously would have



HB 1803

2003

12420 funded these inpatient hospital services and that, under this
12421 program, has been offset by state funding for funding other
12422 health programs.

12423 (b) If a county has not reached its maximum ad valorem
12424 millage rate as authorized by law and certified to the
12425 Department of Revenue and the county does not currently fund
12426 inpatient hospital services for those who would be eligible for
12427 this program, the county:

12428 1. Shall provide 35 percent of the cost for this program
12429 from within the county's existing budget, and the state shall
12430 provide the remaining 65 percent of the funding required for
12431 this program; however, under no circumstances will county
12432 funding which had been used for funding the county health
12433 department under chapter 154 be utilized for funding the
12434 county's portion of this program; or

12435 2. Shall levy an additional ad valorem millage to fund the
12436 county's portion of this program. The state shall provide the
12437 remaining portion of program funding if:

12438 a. A county levies additional ad valorem millage up to the
12439 maximum authorized by law and certified to the Department of
12440 Revenue and still does not have sufficient funds to meet its 35
12441 percent of the funding of this program; and

12442 b. A county has exhausted all revenue sources which can
12443 statutorily be used as possible funding sources for this
12444 program.

12445 (c) A county will be eligible for 100-percent state
12446 funding of this program if:

12447 1. On July 1, 1988, the county did not fund inpatient
12448 hospital services for those who would have been eligible for
12449 this program;



HB 1803

2003

12450 2. The county has reached its maximum ad valorem millage
 12451 as authorized by law and certified to the Department of Revenue;
 12452 and

12453 3. The county has exhausted all revenue sources which can
 12454 statutorily be used as possible funding sources for this
 12455 program.

12456
 12457 Reporting forms specifically designed to capture the information
 12458 necessary to determine the above levels of participation will be
 12459 developed as part of the joint rulemaking required for the
 12460 shared county and state program. For purposes of this program,
 12461 the counties will be required to report necessary information to
 12462 the Department of Financial Services ~~Banking and Finance~~.

12463 (7) A county that participates in the program at any level
 12464 may not reduce its total per capita expenditures being devoted
 12465 to health care if any of these funds were previously utilized
 12466 for the provision of inpatient hospital services to those
 12467 persons made eligible for the shared county and state program.
 12468 It is the intent of the Legislature that, as a result of the
 12469 shared county and state program, local funds which were
 12470 previously used for the provision of inpatient hospital services
 12471 to persons made eligible by the program be used by counties for
 12472 funding other health care programs which, for purposes of this
 12473 section, are health expenditures as reported annually to the
 12474 Department of Financial Services ~~Banking and Finance~~ pursuant to
 12475 s. 218.32, provided that this subsection does not apply to
 12476 reductions in county funding resulting from the expiration of
 12477 special sales taxes levied pursuant to chapter 84-373, Laws of
 12478 Florida.

12479 Section 429. Subsection (3) of section 409.8132, Florida



HB 1803

2003

12480 Statutes, is amended to read:

12481 409.8132 Medikids program component.--

12482 (3) INSURANCE LICENSURE NOT REQUIRED.--The Medikids
 12483 program component shall not be subject to the licensing
 12484 requirements of the Florida Insurance Code or rules adopted
 12485 thereunder ~~of the Department of Insurance.~~

12486 Section 430. Section 409.817, Florida Statutes, is amended
 12487 to read:

12488 409.817 Approval of health benefits coverage; financial
 12489 assistance.--In order for health insurance coverage to qualify
 12490 for premium assistance payments for an eligible child under ss.
 12491 409.810-409.820, the health benefits coverage must:

12492 (1) Be certified by the Office of Insurance Regulation of
 12493 the Financial Services Commission ~~Department of Insurance~~ under
 12494 s. 409.818 as meeting, exceeding, or being actuarially
 12495 equivalent to the benchmark benefit plan;

12496 (2) Be guarantee issued;

12497 (3) Be community rated;

12498 (4) Not impose any preexisting condition exclusion for
 12499 covered benefits; however, group health insurance plans may
 12500 permit the imposition of a preexisting condition exclusion, but
 12501 only insofar as it is permitted under s. 627.6561;

12502 (5) Comply with the applicable limitations on premiums and
 12503 cost-sharing in s. 409.816;

12504 (6) Comply with the quality assurance and access standards
 12505 developed under s. 409.820; and

12506 (7) Establish periodic open enrollment periods, which may
 12507 not occur more frequently than quarterly.

12508 Section 431. Paragraph (c) of subsection (2), paragraphs
 12509 (a) and (f) of subsection (3), and subsections (4) and (6) of



HB 1803

2003

12510 section 409.818, Florida Statutes, are amended to read:
 12511 409.818 Administration.--In order to implement ss.
 12512 409.810-409.820, the following agencies shall have the following
 12513 duties:

12514 (2) The Department of Health shall:

12515 (c) Chair a state-level coordinating council to review and
 12516 make recommendations concerning the implementation and operation
 12517 of the program. The coordinating council shall include
 12518 representatives from the department, the Department of Children
 12519 and Family Services, the agency, the Florida Healthy Kids
 12520 Corporation, the Office of Insurance Regulation of the Financial
 12521 Services Commission ~~Department of Insurance~~, local government,
 12522 health insurers, health maintenance organizations, health care
 12523 providers, families participating in the program, and
 12524 organizations representing low-income families.

12525 (3) The Agency for Health Care Administration, under the
 12526 authority granted in s. 409.914(1), shall:

12527 (a) Calculate the premium assistance payment necessary to
 12528 comply with the premium and cost-sharing limitations specified
 12529 in s. 409.816. The premium assistance payment for each enrollee
 12530 in a health insurance plan participating in the Florida Healthy
 12531 Kids Corporation shall equal the premium approved by the Florida
 12532 Healthy Kids Corporation and the Office of Insurance Regulation
 12533 of the Financial Services Commission ~~Department of Insurance~~
 12534 pursuant to ss. 627.410 and 641.31, less any enrollee's share of
 12535 the premium established within the limitations specified in s.
 12536 409.816. The premium assistance payment for each enrollee in an
 12537 employer-sponsored health insurance plan approved under ss.
 12538 409.810-409.820 shall equal the premium for the plan adjusted
 12539 for any benchmark benefit plan actuarial equivalent benefit



HB 1803

2003

12540 rider approved by the Office of Insurance Regulation ~~Department~~
 12541 ~~of Insurance~~ pursuant to ss. 627.410 and 641.31, less any
 12542 enrollee's share of the premium established within the
 12543 limitations specified in s. 409.816. In calculating the premium
 12544 assistance payment levels for children with family coverage, the
 12545 agency shall set the premium assistance payment levels for each
 12546 child proportionately to the total cost of family coverage.

12547 (f) Approve health benefits coverage for participation in
 12548 the program, following certification by the Office of Insurance
 12549 Regulation ~~Department of Insurance~~ under subsection (4).

12550
 12551 The agency is designated the lead state agency for Title XXI of
 12552 the Social Security Act for purposes of receipt of federal
 12553 funds, for reporting purposes, and for ensuring compliance with
 12554 federal and state regulations and rules.

12555 (4) The Office of Insurance Regulation ~~Department of~~
 12556 ~~Insurance~~ shall certify that health benefits coverage plans that
 12557 seek to provide services under the Florida Kidcare program,
 12558 except those offered through the Florida Healthy Kids
 12559 Corporation or the Children's Medical Services network, meet,
 12560 exceed, or are actuarially equivalent to the benchmark benefit
 12561 plan and that health insurance plans will be offered at an
 12562 approved rate. In determining actuarial equivalence of benefits
 12563 coverage, the Office of Insurance Regulation ~~Department of~~
 12564 ~~Insurance~~ and health insurance plans must comply with the
 12565 requirements of s. 2103 of Title XXI of the Social Security Act.
 12566 The department shall adopt rules necessary for certifying health
 12567 benefits coverage plans.

12568 (6) The agency, the Department of Health, the Department
 12569 of Children and Family Services, the Florida Healthy Kids



HB 1803

2003

12570 Corporation, and the Office of Insurance Regulation ~~Department~~
 12571 ~~of Insurance~~, after consultation with and approval of the
 12572 Speaker of the House of Representatives and the President of the
 12573 Senate, are authorized to make program modifications that are
 12574 necessary to overcome any objections of the United States
 12575 Department of Health and Human Services to obtain approval of
 12576 the state's child health insurance plan under Title XXI of the
 12577 Social Security Act.

12578 Section 432. Subsection (20) of section 409.910, Florida
 12579 Statutes, is amended to read:

12580 409.910 Responsibility for payments on behalf of Medicaid-
 12581 eligible persons when other parties are liable.--

12582 (20) Entities providing health insurance as defined in s.
 12583 624.603, and health maintenance organizations and prepaid health
 12584 clinics as defined in chapter 641, shall provide such records
 12585 and information as are necessary to accomplish the purpose of
 12586 this section, unless such requirement results in an unreasonable
 12587 burden.

12588 (a) The director of the agency and the director of the
 12589 Office of Insurance Regulation of the Financial Services
 12590 Commission ~~Insurance Commissioner~~ shall enter into a cooperative
 12591 agreement for requesting and obtaining information necessary to
 12592 effect the purpose and objective of this section.

12593 1. The agency shall request only that information
 12594 necessary to determine whether health insurance as defined
 12595 pursuant to s. 624.603, or those health services provided
 12596 pursuant to chapter 641, could be, should be, or have been
 12597 claimed and paid with respect to items of medical care and
 12598 services furnished to any person eligible for services under
 12599 this section.



HB 1803

2003

12600 2. All information obtained pursuant to subparagraph 1. is
 12601 confidential and exempt from s. 119.07(1).

12602 3. The cooperative agreement or rules adopted under this
 12603 subsection may include financial arrangements to reimburse the
 12604 reporting entities for reasonable costs or a portion thereof
 12605 incurred in furnishing the requested information. Neither the
 12606 cooperative agreement nor the rules shall require the automation
 12607 of manual processes to provide the requested information.

12608 (b) The agency and the Financial Services Commission
 12609 ~~Department of Insurance~~ jointly shall adopt rules for the
 12610 development and administration of the cooperative agreement. The
 12611 rules shall include the following:

12612 1. A method for identifying those entities subject to
 12613 furnishing information under the cooperative agreement.

12614 2. A method for furnishing requested information.

12615 3. Procedures for requesting exemption from the
 12616 cooperative agreement based on an unreasonable burden to the
 12617 reporting entity.

12618 Section 433. Paragraphs (a) and (h) of subsection (3),
 12619 subsections (5), (15), and (18), and paragraph (a) of subsection
 12620 (36) of section 409.912, Florida Statutes, as amended by
 12621 sections 8 and 9 of chapter 2001-377, Laws of Florida, are
 12622 amended to read:

12623 409.912 Cost-effective purchasing of health care.--The
 12624 agency shall purchase goods and services for Medicaid recipients
 12625 in the most cost-effective manner consistent with the delivery
 12626 of quality medical care. The agency shall maximize the use of
 12627 prepaid per capita and prepaid aggregate fixed-sum basis
 12628 services when appropriate and other alternative service delivery
 12629 and reimbursement methodologies, including competitive bidding



HB 1803

2003

12630 pursuant to s. 287.057, designed to facilitate the cost-
 12631 effective purchase of a case-managed continuum of care. The
 12632 agency shall also require providers to minimize the exposure of
 12633 recipients to the need for acute inpatient, custodial, and other
 12634 institutional care and the inappropriate or unnecessary use of
 12635 high-cost services. The agency may establish prior authorization
 12636 requirements for certain populations of Medicaid beneficiaries,
 12637 certain drug classes, or particular drugs to prevent fraud,
 12638 abuse, overuse, and possible dangerous drug interactions. The
 12639 Pharmaceutical and Therapeutics Committee shall make
 12640 recommendations to the agency on drugs for which prior
 12641 authorization is required. The agency shall inform the
 12642 Pharmaceutical and Therapeutics Committee of its decisions
 12643 regarding drugs subject to prior authorization.

12644 (3) The agency may contract with:

12645 (a) An entity that provides no prepaid health care
 12646 services other than Medicaid services under contract with the
 12647 agency and which is owned and operated by a county, county
 12648 health department, or county-owned and operated hospital to
 12649 provide health care services on a prepaid or fixed-sum basis to
 12650 recipients, which entity may provide such prepaid services
 12651 either directly or through arrangements with other providers.
 12652 Such prepaid health care services entities must be licensed
 12653 under parts I and III by January 1, 1998, and until then are
 12654 exempt from the provisions of part I of chapter 641. An entity
 12655 recognized under this paragraph which demonstrates to the
 12656 satisfaction of the Office of Insurance Regulation of the
 12657 Financial Services Commission ~~Department of Insurance~~ that it is
 12658 backed by the full faith and credit of the county in which it is
 12659 located may be exempted from s. 641.225.



HB 1803

2003

12660 (h) An entity authorized in s. 430.205 to contract with
 12661 the agency and the Department of Elderly Affairs to provide
 12662 health care and social services on a prepaid or fixed-sum basis
 12663 to elderly recipients. Such prepaid health care services
 12664 entities are exempt from the provisions of part I of chapter 641
 12665 for the first 3 years of operation. An entity recognized under
 12666 this paragraph that demonstrates to the satisfaction of the
 12667 Office of Insurance Regulation ~~Department of Insurance~~ that it
 12668 is backed by the full faith and credit of one or more counties
 12669 in which it operates may be exempted from s. 641.225.

12670 (5) The agency may contract on a prepaid or fixed-sum
 12671 basis with any health insurer that:

12672 (a) Pays for health care services provided to enrolled
 12673 Medicaid recipients in exchange for a premium payment paid by
 12674 the agency;

12675 (b) Assumes the underwriting risk; and

12676 (c) Is organized and licensed under applicable provisions
 12677 of the Florida Insurance Code and is currently in good standing
 12678 with the Office of Insurance Regulation ~~Department of Insurance~~.

12679 (15) An entity contracting on a prepaid or fixed-sum basis
 12680 shall, in addition to meeting any applicable statutory surplus
 12681 requirements, also maintain at all times in the form of cash,
 12682 investments that mature in less than 180 days allowable as
 12683 admitted assets by the Office of Insurance Regulation ~~Department~~
 12684 ~~of Insurance~~, and restricted funds or deposits controlled by the
 12685 agency or the Office of Insurance Regulation ~~Department of~~
 12686 ~~Insurance~~, a surplus amount equal to one-and-one-half times the
 12687 entity's monthly Medicaid prepaid revenues. As used in this
 12688 subsection, the term "surplus" means the entity's total assets
 12689 minus total liabilities. If an entity's surplus falls below an



HB 1803

2003

12690 amount equal to one-and-one-half times the entity's monthly
 12691 Medicaid prepaid revenues, the agency shall prohibit the entity
 12692 from engaging in marketing and preenrollment activities, shall
 12693 cease to process new enrollments, and shall not renew the
 12694 entity's contract until the required balance is achieved. The
 12695 requirements of this subsection do not apply:

12696 (a) Where a public entity agrees to fund any deficit
 12697 incurred by the contracting entity; or

12698 (b) Where the entity's performance and obligations are
 12699 guaranteed in writing by a guaranteeing organization which:

12700 1. Has been in operation for at least 5 years and has
 12701 assets in excess of \$50 million; or

12702 2. Submits a written guarantee acceptable to the agency
 12703 which is irrevocable during the term of the contracting entity's
 12704 contract with the agency and, upon termination of the contract,
 12705 until the agency receives proof of satisfaction of all
 12706 outstanding obligations incurred under the contract.

12707 (18) When a merger or acquisition of a Medicaid prepaid
 12708 contractor has been approved by the Office of Insurance
 12709 Regulation ~~Department of Insurance~~ pursuant to s. 628.4615, the
 12710 agency shall approve the assignment or transfer of the
 12711 appropriate Medicaid prepaid contract upon request of the
 12712 surviving entity of the merger or acquisition if the contractor
 12713 and the other entity have been in good standing with the agency
 12714 for the most recent 12-month period, unless the agency
 12715 determines that the assignment or transfer would be detrimental
 12716 to the Medicaid recipients or the Medicaid program. To be in
 12717 good standing, an entity must not have failed accreditation or
 12718 committed any material violation of the requirements of s.
 12719 641.52 and must meet the Medicaid contract requirements. For



HB 1803

2003

12720 purposes of this section, a merger or acquisition means a change
 12721 in controlling interest of an entity, including an asset or
 12722 stock purchase.

12723 (36) The Agency for Health Care Administration is directed
 12724 to issue a request for proposal or intent to negotiate to
 12725 implement on a demonstration basis an outpatient specialty
 12726 services pilot project in a rural and urban county in the state.

12727 As used in this subsection, the term "outpatient specialty
 12728 services" means clinical laboratory, diagnostic imaging, and
 12729 specified home medical services to include durable medical
 12730 equipment, prosthetics and orthotics, and infusion therapy.

12731 (a) The entity that is awarded the contract to provide
 12732 Medicaid managed care outpatient specialty services must, at a
 12733 minimum, meet the following criteria:

12734 1. The entity must be licensed by the Office of Insurance
 12735 Regulation ~~Department of Insurance~~ under part II of chapter 641.

12736 2. The entity must be experienced in providing outpatient
 12737 specialty services.

12738 3. The entity must demonstrate to the satisfaction of the
 12739 agency that it provides high-quality services to its patients.

12740 4. The entity must demonstrate that it has in place a
 12741 complaints and grievance process to assist Medicaid recipients
 12742 enrolled in the pilot managed care program to resolve complaints
 12743 and grievances.

12744 Section 434. Subsections (2) and (3) of section 409.9124,
 12745 Florida Statutes, are amended to read:

12746 409.9124 Managed care reimbursement.--

12747 (2) The agency shall by rule prescribe those items of
 12748 financial information which each managed care plan shall report
 12749 to the agency, in the time periods prescribed by rule. In



HB 1803

2003

12750 prescribing items for reporting and definitions of terms, the
 12751 agency shall consult with the Office of Insurance Regulation of
 12752 the Financial Services Commission ~~Department of Insurance~~
 12753 wherever possible.

12754 (3) The agency shall quarterly examine the financial
 12755 condition of each managed care plan, and its performance in
 12756 serving Medicaid patients, and shall utilize examinations
 12757 performed by the Office of Insurance Regulation ~~Department of~~
 12758 ~~Insurance~~ wherever possible.

12759 Section 435. Subsections (5) and (6) of section 409.915,
 12760 Florida Statutes, are amended to read:

12761 409.915 County contributions to Medicaid.--Although the
 12762 state is responsible for the full portion of the state share of
 12763 the matching funds required for the Medicaid program, in order
 12764 to acquire a certain portion of these funds, the state shall
 12765 charge the counties for certain items of care and service as
 12766 provided in this section.

12767 (5) The Department of Financial Services ~~Banking and~~
 12768 ~~Finance~~ shall withhold from the cigarette tax receipts or any
 12769 other funds to be distributed to the counties the individual
 12770 county share that has not been remitted within 60 days after
 12771 billing.

12772 (6) In any county in which a special taxing district or
 12773 authority is located which will benefit from the medical
 12774 assistance programs covered by this section, the board of county
 12775 commissioners may divide the county's financial responsibility
 12776 for this purpose proportionately, and each such district or
 12777 authority must furnish its share to the board of county
 12778 commissioners in time for the board to comply with the
 12779 provisions of subsection (3). Any appeal of the proration made



HB 1803

2003

12780 by the board of county commissioners must be made to the
 12781 Department of Financial Services ~~Banking and Finance~~, which
 12782 shall then set the proportionate share of each party.

12783 Section 436. Paragraph (c) of subsection (7) of section
 12784 411.01, Florida Statutes, is amended to read:

12785 411.01 Florida Partnership for School Readiness; school
 12786 readiness coalitions.--

12787 (7) PARENTAL CHOICE.--

12788 (c) The Office of the Chief Financial Officer ~~Comptroller~~
 12789 shall establish an electronic transfer system for the
 12790 disbursement of funds in accordance with this subsection. School
 12791 readiness coalitions shall fully implement the electronic funds
 12792 transfer system within 2 years after plan approval unless a
 12793 waiver is obtained from the partnership.

12794 Section 437. Subsection (2) of section 413.32, Florida
 12795 Statutes, is amended to read:

12796 413.32 Retention of title to and disposal of equipment.--

12797 (2) The division is authorized to offer for sale any
 12798 surplus items acquired in the operation of the program when they
 12799 are no longer necessary or to exchange them for necessary items
 12800 which may be used to greater advantage. When any such surplus
 12801 equipment is sold or exchanged a receipt for same shall be taken
 12802 from the purchaser showing the consideration given for such
 12803 equipment and forwarded to the Chief Financial Officer
 12804 ~~treasurer~~, and any funds received by the division pursuant to
 12805 any such transactions shall be deposited in the State Treasury
 12806 in the appropriate federal or state rehabilitation funds and
 12807 shall be available for expenditure for any purpose consistent
 12808 with this part.

12809 Section 438. Section 414.27, Florida Statutes, is amended



HB 1803

2003

12810 to read:

12811 414.27 Temporary cash assistance; payment on death.--

12812 (1) Upon the death of any person receiving temporary cash
 12813 assistance through the Department of Children and Family
 12814 Services, all temporary cash accrued to such person from the
 12815 date of last payment to the date of death shall be paid to the
 12816 person who shall have been designated by her or him on a form
 12817 prescribed by the department and filed with the department
 12818 during the lifetime of the person making such designation. If no
 12819 designation is made, or the person so designated is no longer
 12820 living or cannot be found, then payment shall be made to such
 12821 person as may be designated by the circuit judge of the county
 12822 where the recipient of temporary cash assistance resided.

12823 Designation by the circuit judge may be made on a form provided
 12824 by the department or by letter or memorandum to the Chief
 12825 Financial Officer ~~Comptroller~~. No filing or recording of the
 12826 designation shall be required, and the circuit judge shall
 12827 receive no compensation for such service. If a warrant has not
 12828 been issued and forwarded prior to notice by the department of
 12829 the recipient's death, upon notice thereof, the department shall
 12830 promptly requisition the Chief Financial Officer ~~Comptroller~~ to
 12831 issue a warrant in the amount of the accrued temporary cash
 12832 assistance payable to the person designated to receive it and
 12833 shall attach to the requisition the original designation of the
 12834 deceased recipient, or if none, the designation made by the
 12835 circuit judge, as well as a notice of death. The Chief Financial
 12836 Officer ~~Comptroller~~ shall issue a warrant in the amount payable.

12837 (2) If a warrant has been issued and not cashed by the
 12838 recipient payee prior to her or his death, such warrant shall be
 12839 promptly returned to the department, together with notice of the



HB 1803

2003

12840 death of the recipient. The original warrant shall be endorsed
 12841 on the back by an authorized employee of the department. The
 12842 endorsement must be on a form prescribed by the department and
 12843 approved by the Chief Financial Officer ~~Comptroller~~ which must
 12844 contain the name of the deceased recipient, a statement of the
 12845 recipient's death, and the date thereof and state that it is
 12846 payable to the order of the designated beneficiary, without
 12847 recourse. The form shall be signed by the authorized employee
 12848 or employees of the department, and thereupon such warrant shall
 12849 be payable to the designated beneficiary as fully and completely
 12850 as if made payable to her or him when issued. The department
 12851 shall furnish to the Chief Financial Officer ~~Comptroller~~ each
 12852 month a list of such deceased recipients, the designated
 12853 beneficiaries or persons to whom such warrants are endorsed, and
 12854 a description of such warrants as herein provided. The
 12855 department shall cause all persons receiving temporary cash
 12856 assistance to make the designations as soon as conveniently may
 12857 be, and shall preserve such designations in a safe place for
 12858 use.

12859 Section 439. Subsection (8) of section 414.28, Florida
 12860 Statutes, is amended to read:

12861 414.28 Public assistance payments to constitute debt of
 12862 recipient.--

12863 (8) DISPOSITION OF FUNDS RECOVERED.--All funds collected
 12864 under this section shall be deposited with the Department of
 12865 Financial Services ~~Banking and Finance~~ and a report of such
 12866 deposit made to the department. After payment of costs the sums
 12867 so collected shall be credited to the department and used by it.

12868 Section 440. Section 420.0005, Florida Statutes, is
 12869 amended to read:



HB 1803

2003

12870 420.0005 State Housing Trust Fund; State Housing Fund.--
 12871 There is hereby established in the State Treasury a separate
 12872 trust fund to be named the "State Housing Trust Fund." There
 12873 shall be deposited in the fund all moneys appropriated by the
 12874 Legislature, or moneys received from any other source, for the
 12875 purpose of this chapter, and all proceeds derived from the use
 12876 of such moneys. The fund shall be administered by the Florida
 12877 Housing Finance Corporation on behalf of the department, as
 12878 specified in this chapter. Money deposited to the fund and
 12879 appropriated by the Legislature must, notwithstanding the
 12880 provisions of chapter 216 or s. 420.504(3), be transferred
 12881 quarterly in advance, to the extent available, or, if not so
 12882 available, as soon as received into the State Housing Trust
 12883 Fund, and subject to the provisions of s. 420.5092(6)(a) and (b)
 12884 by the Chief Financial Officer ~~Comptroller~~ to the corporation
 12885 upon certification by the Secretary of Community Affairs that
 12886 the corporation is in compliance with the requirements of s.
 12887 420.0006. The certification made by the secretary shall also
 12888 include the split of funds among programs administered by the
 12889 corporation and the department as specified in chapter 92-317,
 12890 Laws of Florida, as amended. Moneys advanced by the Chief
 12891 Financial Officer ~~Comptroller~~ must be deposited by the
 12892 corporation into a separate fund established with a qualified
 12893 public depository meeting the requirements of chapter 280 to be
 12894 named the "State Housing Fund" and used for the purposes of this
 12895 chapter. Administrative and personnel costs incurred in
 12896 implementing this chapter may be paid from the State Housing
 12897 Fund, but such costs may not exceed 5 percent of the moneys
 12898 deposited into such fund. To the State Housing Fund shall be
 12899 credited all loan repayments, penalties, and other fees and



HB 1803

2003

12900 charges accruing to such fund under this chapter. It is the
 12901 intent of this chapter that all loan repayments, penalties, and
 12902 other fees and charges collected be credited in full to the
 12903 program account from which the loan originated. Moneys in the
 12904 State Housing Fund which are not currently needed for the
 12905 purposes of this chapter shall be invested in such manner as is
 12906 provided for by statute. The interest received on any such
 12907 investment shall be credited to the State Housing Fund.

12908 Section 441. Section 420.0006, Florida Statutes, is
 12909 amended to read:

12910 420.0006 Authority to contract with corporation; contract
 12911 requirements; nonperformance.--The secretary of the department
 12912 shall contract, notwithstanding the provisions of part I of
 12913 chapter 287, with the Florida Housing Finance Corporation on a
 12914 multiyear basis to stimulate, provide, and foster affordable
 12915 housing in the state. The contract must incorporate the
 12916 performance measures required by s. 420.511 and must be
 12917 consistent with the provisions of the corporation's strategic
 12918 plan prepared in accordance with s. 420.511 and compatible with
 12919 s. 216.0166. The contract must provide that, in the event the
 12920 corporation fails to comply with any of the performance measures
 12921 required by s. 420.511, the secretary shall notify the Governor
 12922 and shall refer the nonperformance to the department's inspector
 12923 general for review and determination as to whether such failure
 12924 is due to forces beyond the corporation's control or whether
 12925 such failure is due to inadequate management of the
 12926 corporation's resources. Advances shall continue to be made
 12927 pursuant to s. 420.0005 during the pendency of the review by the
 12928 department's inspector general. If such failure is due to
 12929 outside forces, it shall not be deemed a violation of the



HB 1803

2003

12930 contract. If such failure is due to inadequate management, the
 12931 department's inspector general shall provide recommendations
 12932 regarding solutions. The Governor is authorized to resolve any
 12933 differences of opinion with respect to performance under the
 12934 contract and may request that advances continue in the event of
 12935 a failure under the contract due to inadequate management. The
 12936 Chief Financial Officer ~~Comptroller~~ shall approve the request
 12937 absent a finding by the Chief Financial Officer ~~Comptroller~~ that
 12938 continuing such advances would adversely impact the state;
 12939 however, in any event the Chief Financial Officer ~~Comptroller~~
 12940 shall provide advances sufficient to meet the debt service
 12941 requirements of the corporation and sufficient to fund contracts
 12942 committing funds from the State Housing Trust Fund so long as
 12943 such contracts are in accordance with the laws of this state.
 12944 The department inspector general shall perform for the
 12945 corporation the functions set forth in s. 20.055 and report to
 12946 the secretary of the department. The corporation shall be deemed
 12947 an agency for the purposes of s. 20.055.

12948 Section 442. Subsection (1) of section 420.123, Florida
 12949 Statutes, is amended to read:

12950 420.123 Stockholders; loan requirement.--

12951 (1) Any financial institution may request membership in
 12952 the corporation by making application to the board of directors
 12953 on such form and in such manner as the board of directors may
 12954 require, and membership shall become effective upon acceptance
 12955 of the application in the manner designated by the board. Each
 12956 member stockholder of the corporation shall make loans to the
 12957 corporation as and when called upon by it to do so on such terms
 12958 and other conditions as shall be approved from time to time by
 12959 the board of directors, except that the total amount outstanding



HB 1803

2003

12960 on loans to the corporation made by any member at any one time,
 12961 when added to the amount of the investment in the capital stock
 12962 of the corporation then held by such member, shall not exceed
 12963 the following limit, to be determined as of the time such member
 12964 becomes a member on the basis of the audited balance sheet of
 12965 such member at the close of its fiscal year immediately
 12966 preceding its application for membership or, in the case of an
 12967 insurance company, its last annual statement to the Office of
 12968 Insurance Regulation of the Financial Services Commission
 12969 ~~Department of Insurance~~: 5 percent of the capital and surplus of
 12970 commercial banks and trust companies; 5 percent of the total
 12971 outstanding loans made by savings and loan associations and
 12972 building and loan associations; 5 percent of the capital and
 12973 unassigned surplus of stock insurance companies, except fire
 12974 insurance companies; 5 percent of the unassigned surplus of
 12975 mutual insurance companies, except fire insurance companies; 0.2
 12976 percent of the assets of fire insurance companies; and such
 12977 limits as may be approved by the board of directors of the
 12978 corporation for other financial institutions.

12979 Section 443. Subsection (1) of section 420.131, Florida
 12980 Statutes, is amended to read:

12981 420.131 Articles of incorporation; method of amending.--

12982 (1) The articles of incorporation may be amended by the
 12983 vote of the stockholders of the corporation, and such amendments
 12984 shall require approval by the affirmative vote of two-thirds of
 12985 the votes to which the stockholders shall be entitled. However,
 12986 no amendment of the articles of incorporation which is
 12987 inconsistent with the general purposes expressed herein or which
 12988 eliminates or curtails the right of the Department of Financial
 12989 Services ~~Banking and Finance~~ to examine the corporation or the



HB 1803

2003

12990 obligation of the corporation to make reports as provided in s.
 12991 420.141(2) shall be made.

12992 Section 444. Subsection (2) of section 420.141, Florida
 12993 Statutes, is amended to read:

12994 420.141 Housing Development Corporation of Florida;
 12995 deposits and examination.--

12996 (2) The corporation shall be examined at least once
 12997 annually by the Office of Financial Institutions and Securities
 12998 Regulation of the Financial Services Commission ~~Department of~~
 12999 ~~Banking and Finance~~ and shall make reports of its condition not
 13000 less than annually to the office ~~said department~~, and more
 13001 frequently upon call of the office ~~department~~, which in turn
 13002 shall make copies of such reports available to the Office of
 13003 Insurance Regulation of the Financial Services Commission
 13004 ~~Department of Insurance~~ and the Governor; and the corporation
 13005 shall also furnish such other information as may from time to
 13006 time be required by the Office of Financial Institutions and
 13007 Securities Regulation ~~Department of Banking and Finance~~ and the
 13008 Department of State. The Office of Financial Institutions and
 13009 Securities Regulation ~~Department of Banking and Finance~~ shall
 13010 exercise the same power and authority over the corporation
 13011 organized pursuant to this part as is exercised over financial
 13012 institutions under the provisions of the financial institutions
 13013 codes, when such codes are not in conflict with this chapter.

13014 Section 445. Subsection (6) of section 420.5092, Florida
 13015 Statutes, is amended to read:

13016 420.5092 Florida Affordable Housing Guarantee Program.--

13017 (6)(a) If the primary revenue sources to be used for
 13018 repayment of revenue bonds used to establish the guarantee fund
 13019 are insufficient for such repayment, the annual principal and



HB 1803

2003

13020 interest due on each series of revenue bonds shall be payable
13021 from funds in the annual debt service reserve. The corporation
13022 shall, before June 1 of each year, perform a financial audit to
13023 determine whether at the end of the state fiscal year there will
13024 be on deposit in the guarantee fund an annual debt service
13025 reserve from interest earned pursuant to the investment of the
13026 guarantee fund, fees, charges, and reimbursements received from
13027 issued affordable housing guarantees and other revenue sources
13028 available to the corporation. Based upon the findings in such
13029 guarantee fund financial audit, the corporation shall certify to
13030 the Chief Financial Officer ~~Comptroller~~ the amount of any
13031 projected deficiency in the annual debt service reserve for any
13032 series of outstanding bonds as of the end of the state fiscal
13033 year and the amount necessary to maintain such annual debt
13034 service reserve. Upon receipt of such certification, the Chief
13035 Financial Officer ~~Comptroller~~ shall transfer to the annual debt
13036 service reserve, from the first available taxes distributed to
13037 the State Housing Trust Fund pursuant to s. 201.15(9)(a) and
13038 (10)(a) during the ensuing state fiscal year, the amount
13039 certified as necessary to maintain the annual debt service
13040 reserve.

13041 (b) If the claims payment obligations under affordable
13042 housing guarantees from amounts on deposit in the guarantee fund
13043 would cause the claims paying rating assigned to the guarantee
13044 fund to be less than the third-highest rating classification of
13045 any nationally recognized rating service, which classifications
13046 being consistent with s. 215.84(3) and rules adopted thereto by
13047 the State Board of Administration, the corporation shall certify
13048 to the Chief Financial Officer ~~Comptroller~~ the amount of such
13049 claims payment obligations. Upon receipt of such certification,



HB 1803

2003

13050 the Chief Financial Officer ~~Comptroller~~ shall transfer to the
 13051 guarantee fund, from the first available taxes distributed to
 13052 the State Housing Trust Fund pursuant to s. 201.15(9)(a) and
 13053 (10)(a) during the ensuing state fiscal year, the amount
 13054 certified as necessary to meet such obligations, such transfer
 13055 to be subordinate to any transfer referenced in paragraph (a)
 13056 and not to exceed 50 percent of the amounts distributed to the
 13057 State Housing Trust Fund pursuant to s. 201.15(9)(a) and (10)(a)
 13058 during the preceding state fiscal year.

13059 Section 446. Section 430.42, Florida Statutes, is amended
 13060 to read:

13061 430.42 Department of Elderly Affairs Tobacco Settlement
 13062 Trust Fund.--

13063 (1) The Department of Elderly Affairs Tobacco Settlement
 13064 Trust Fund is created within that department. Funds to be
 13065 credited to the trust fund shall consist of funds disbursed, by
 13066 nonoperating transfer, from the Department of Financial Services
 13067 ~~Banking and Finance~~ Tobacco Settlement Clearing Trust Fund in
 13068 amounts equal to the annual appropriations made from this trust
 13069 fund.

13070 (2) Notwithstanding the provisions of s. 216.301 and
 13071 pursuant to s. 216.351, any unencumbered balance in the trust
 13072 fund at the end of any fiscal year and any encumbered balance
 13073 remaining undisbursed on December 31 of the same calendar year
 13074 shall revert to the Department of Financial Services ~~Banking and~~
 13075 ~~Finance~~ Tobacco Settlement Clearing Trust Fund.

13076 Section 447. Subsection (6) of section 430.703, Florida
 13077 Statutes, is amended to read:

13078 430.703 Definitions.--As used in this act, the term:

13079 (6) "Managed care organization" means an entity that meets



HB 1803

2003

13080 the requirements of the Office of Department of Insurance
 13081 Regulation of the Financial Services Commission for operation as
 13082 a health maintenance organization and meets the qualifications
 13083 for participation as a managed care organization established by
 13084 the agency and the department.

13085 Section 448. Section 440.015, Florida Statutes, is amended
 13086 to read:

13087 440.015 Legislative intent.--It is the intent of the
 13088 Legislature that the Workers' Compensation Law be interpreted so
 13089 as to assure the quick and efficient delivery of disability and
 13090 medical benefits to an injured worker and to facilitate the
 13091 worker's return to gainful reemployment at a reasonable cost to
 13092 the employer. It is the specific intent of the Legislature that
 13093 workers' compensation cases shall be decided on their merits.
 13094 The workers' compensation system in Florida is based on a mutual
 13095 renunciation of common-law rights and defenses by employers and
 13096 employees alike. In addition, it is the intent of the
 13097 Legislature that the facts in a workers' compensation case are
 13098 not to be interpreted liberally in favor of either the rights of
 13099 the injured worker or the rights of the employer. Additionally,
 13100 the Legislature hereby declares that disputes concerning the
 13101 facts in workers' compensation cases are not to be given a broad
 13102 liberal construction in favor of the employee on the one hand or
 13103 of the employer on the other hand, and the laws pertaining to
 13104 workers' compensation are to be construed in accordance with the
 13105 basic principles of statutory construction and not liberally in
 13106 favor of either employee or employer. It is the intent of the
 13107 Legislature to ensure the prompt delivery of benefits to the
 13108 injured worker. Therefore, an efficient and self-executing
 13109 system must be created which is not an economic or



HB 1803

2003

13110 administrative burden. The department, agency, the Office of
 13111 Insurance Regulation, the Department of Education, and the
 13112 Division of Administrative Hearings shall administer the
 13113 Workers' Compensation Law in a manner which facilitates the
 13114 self-execution of the system and the process of ensuring a
 13115 prompt and cost-effective delivery of payments.

13116 Section 449. Subsections (12) and (14) of section 440.02,
 13117 Florida Statutes, are amended, and subsection (43) is added to
 13118 said section, to read:

13119 440.02 Definitions.--When used in this chapter, unless the
 13120 context clearly requires otherwise, the following terms shall
 13121 have the following meanings:

13122 (12) "Department" means the Department of Financial
 13123 Services; the term does not include the Financial Services
 13124 Commission or any office of the commission Insurance.

13125 (14) "Division" means the Division of Workers'
 13126 Compensation of the Department of Financial Services Insurance.

13127 (43) "Office of Insurance Regulation" means the Office of
 13128 Insurance Regulation of the Financial Services Commission.

13129 Section 450. Subsections (6), (10), (11), (12), and (13)
 13130 of section 440.05, Florida Statutes, are amended to read:

13131 440.05 Election of exemption; revocation of election;
 13132 notice; certification.--

13133 (6) A construction industry certificate of election to be
 13134 exempt which is issued in accordance with this section shall be
 13135 valid for 2 years after the effective date stated thereon. Both
 13136 the effective date and the expiration date must be listed on the
 13137 face of the certificate by the department. The construction
 13138 industry certificate must expire at midnight, 2 years from its
 13139 issue date, as noted on the face of the exemption certificate.



HB 1803

2003

13140 Any person who has received from the department ~~division~~ a
13141 construction industry certificate of election to be exempt which
13142 is in effect on December 31, 1998, shall file a new notice of
13143 election to be exempt by the last day in his or her birth month
13144 following December 1, 1998. A construction industry certificate
13145 of election to be exempt may be revoked before its expiration by
13146 the sole proprietor, partner, or officer for whom it was issued
13147 or by the department for the reasons stated in this section. At
13148 least 60 days prior to the expiration date of a construction
13149 industry certificate of exemption issued after December 1, 1998,
13150 the department shall send notice of the expiration date and an
13151 application for renewal to the certificateholder at the address
13152 on the certificate.

13153 (10) Each sole proprietor, partner, or officer of a
13154 corporation who is actively engaged in the construction industry
13155 and who elects an exemption from this chapter shall maintain
13156 business records as specified by the department ~~division~~ by
13157 rule, which rules must include the provision that any
13158 corporation with exempt officers and any partnership actively
13159 engaged in the construction industry with exempt partners must
13160 maintain written statements of those exempted persons
13161 affirmatively acknowledging each such individual's exempt
13162 status.

13163 (11) Any sole proprietor or partner actively engaged in
13164 the construction industry claiming an exemption under this
13165 section shall maintain a copy of his or her federal income tax
13166 records for each of the immediately previous 3 years in which he
13167 or she claims an exemption. Such federal income tax records must
13168 include a complete copy of the following for each year in which
13169 an exemption is claimed:



HB 1803

2003

13170 (a) For sole proprietors, a copy of Federal Income Tax
13171 Form 1040 and its accompanying Schedule C;

13172 (b) For partners, a copy of the partner's Federal Income
13173 Tax Schedule K-1 (Form 1065) and Federal Income Tax Form 1040 and
13174 its accompanying Schedule E.

13175

13176 A sole proprietor or partner shall produce, upon request by the
13177 department ~~division~~, a copy of those documents together with a
13178 statement by the sole proprietor or partner that the tax records
13179 provided are true and accurate copies of what the sole
13180 proprietor or partner has filed with the federal Internal
13181 Revenue Service. The statement must be signed under oath by the
13182 sole proprietor or partner and must be notarized. The department
13183 ~~division~~ shall issue a stop-work order under s. 440.107(5) to
13184 any sole proprietor or partner who fails or refuses to produce a
13185 copy of the tax records and affidavit required under this
13186 paragraph to the department ~~division~~ within 3 business days
13187 after the request is made.

13188 (12) For those sole proprietors or partners that have not
13189 been in business long enough to provide the information required
13190 of an established business, the department ~~division~~ shall
13191 require such sole proprietor or partner to provide copies of the
13192 most recently filed Federal Income Tax Form 1040. The department
13193 ~~division~~ shall establish by rule such other criteria to show
13194 that the sole proprietor or partner intends to engage in a
13195 legitimate enterprise within the construction industry and is
13196 not otherwise attempting to evade the requirements of this
13197 section. The department ~~division~~ shall establish by rule the
13198 form and format of financial information required to be
13199 submitted by such employers.



HB 1803

2003

13200 (13) Any corporate officer claiming an exemption under
13201 this section must be listed on the records of this state's
13202 Secretary of State, Division of Corporations, as a corporate
13203 officer. If the person who claims an exemption as a corporate
13204 officer is not so listed on the records of the Secretary of
13205 State, the individual must provide to the department ~~division~~,
13206 upon request by the department ~~division~~, a notarized affidavit
13207 stating that the individual is a bona fide officer of the
13208 corporation and stating the date his or her appointment or
13209 election as a corporate officer became or will become effective.
13210 The statement must be signed under oath by both the officer and
13211 the president or chief operating officer of the corporation and
13212 must be notarized. The department ~~division~~ shall issue a stop-
13213 work order under s. 440.107(1) to any corporation who employs a
13214 person who claims to be exempt as a corporate officer but who
13215 fails or refuses to produce the documents required under this
13216 subsection to the department ~~division~~ within 3 business days
13217 after the request is made.

13218 Section 451. Subsection (5) of section 440.09, Florida
13219 Statutes, is amended to read:

13220 440.09 Coverage.--

13221 (5) If injury is caused by the knowing refusal of the
13222 employee to use a safety appliance or observe a safety rule
13223 required by statute or lawfully adopted by the department
13224 ~~division~~, and brought prior to the accident to the employee's
13225 knowledge, or if injury is caused by the knowing refusal of the
13226 employee to use a safety appliance provided by the employer, the
13227 compensation as provided in this chapter shall be reduced 25
13228 percent.

13229 Section 452. Paragraph (f) of subsection (1) of section



HB 1803

2003

13230 440.10, Florida Statutes, is amended to read:

13231 440.10 Liability for compensation.--

13232 (1)

13233 (f) If an employer fails to secure compensation as
 13234 required by this chapter, the department may assess against the
 13235 employer a penalty not to exceed \$5,000 for each employee of
 13236 that employer who is classified by the employer as an
 13237 independent contractor but who is found by the department to not
 13238 meet the criteria for an independent contractor that are set
 13239 forth in s. 440.02. The department ~~division~~ shall adopt rules to
 13240 administer the provisions of this paragraph.

13241 Section 453. Section 440.1025, Florida Statutes, is
 13242 amended to read:

13243 440.1025 Consideration of public employer workplace safety
 13244 program in rate-setting; program requirements; rulemaking.--For
 13245 a public employer to be eligible for receipt of specific
 13246 identifiable consideration under s. 627.0915 for a workplace
 13247 safety program in the setting of rates, the public employer must
 13248 have a workplace safety program. At a minimum, the program must
 13249 include a written safety policy and safety rules, and make
 13250 provision for safety inspections, preventative maintenance,
 13251 safety training, first-aid, accident investigation, and
 13252 necessary recordkeeping. For purposes of this section, "public
 13253 employer" means any agency within state, county, or municipal
 13254 government employing individuals for salary, wages, or other
 13255 remuneration. The department ~~division~~ may adopt ~~promulgate~~ rules
 13256 for insurers to utilize in determining public employer
 13257 compliance with the requirements of this section.

13258 Section 454. Section 440.103, Florida Statutes, is amended
 13259 to read:



HB 1803

2003

13260 440.103 Building permits; identification of minimum
 13261 premium policy.--Except as otherwise provided in this chapter,
 13262 every employer shall, as a condition to receiving a building
 13263 permit, show proof that it has secured compensation for its
 13264 employees under this chapter as provided in ss. 440.10 and
 13265 440.38. Such proof of compensation must be evidenced by a
 13266 certificate of coverage issued by the carrier, a valid exemption
 13267 certificate approved by the department or the former Division of
 13268 Workers' Compensation of the Department of Labor and Employment
 13269 Security, or a copy of the employer's authority to self-insure
 13270 and shall be presented each time the employer applies for a
 13271 building permit. As provided in s. 627.413(5), each certificate
 13272 of coverage must show, on its face, whether or not coverage is
 13273 secured under the minimum premium provisions of rules adopted by
 13274 rating organizations licensed pursuant to s. 627.221 ~~by the~~
 13275 ~~department~~. The words "minimum premium policy" or equivalent
 13276 language shall be typed, printed, stamped, or legibly
 13277 handwritten.

13278 Section 455. Paragraph (a) of subsection (3) of section
 13279 440.105, Florida Statutes, is amended to read:

13280 440.105 Prohibited activities; reports; penalties;
 13281 limitations.--

13282 (3) Whoever violates any provision of this subsection
 13283 commits a misdemeanor of the first degree, punishable as
 13284 provided in s. 775.082 or s. 775.083.

13285 (a) It shall be unlawful for any employer to knowingly
 13286 fail to update applications for coverage as required by s.
 13287 440.381(1) and the Financial Services Commission ~~Department of~~
 13288 ~~Insurance~~ rules, or to post notice of coverage pursuant to s.
 13289 440.40.



HB 1803

2003

13290 Section 456. Subsections (1) and (2) of section 440.1051,
 13291 Florida Statutes, are amended to read:

13292 440.1051 Fraud reports; civil immunity; criminal
 13293 penalties.--

13294 (1) The Bureau of Workers' Compensation Insurance Fraud of
 13295 the Division of Insurance Fraud of the department ~~of Insurance~~
 13296 shall establish a toll-free telephone number to receive reports
 13297 of workers' compensation fraud committed by an employee,
 13298 employer, insurance provider, physician, attorney, or other
 13299 person.

13300 (2) Any person who reports workers' compensation fraud to
 13301 the Division of Insurance Fraud under subsection (1) is immune
 13302 from civil liability for doing so, and the person or entity
 13303 alleged to have committed the fraud may not retaliate against
 13304 him or her for providing such report, unless the person making
 13305 the report knows it to be false.

13306 Section 457. Subsections (3) and (4) of section 440.106,
 13307 Florida Statutes, are amended to read:

13308 440.106 Civil remedies; administrative penalties.--

13309 (3) Whenever any group or individual self-insurer,
 13310 carrier, rating bureau, or agent or other representative of any
 13311 carrier or rating bureau is determined to have violated s.
 13312 440.105, the agency responsible for licensure or certification
 13313 ~~department~~ may revoke or suspend the authority or certification
 13314 of the any group or individual self-insurer, carrier, agent, or
 13315 broker.

13316 (4) The department or the Office of Insurance Regulation
 13317 shall report any contractor determined in violation of
 13318 requirements of this chapter to the appropriate state licensing
 13319 board for disciplinary action.



HB 1803

2003

13320 Section 458. Subsections (5), (7), and (12) of section
 13321 440.107, Florida Statutes, are amended to read:

13322 440.107 Department powers to enforce employer compliance
 13323 with coverage requirements.--

13324 (5) Whenever the department determines that an employer
 13325 who is required to secure the payment to his or her employees of
 13326 the compensation provided for by this chapter has failed to do
 13327 so, such failure shall be deemed an immediate serious danger to
 13328 public health, safety, or welfare sufficient to justify service
 13329 by the department of a stop-work order on the employer,
 13330 requiring the cessation of all business operations at the place
 13331 of employment or job site. If the department ~~division~~ makes such
 13332 a determination, the department ~~division~~ shall issue a stop-work
 13333 order within 72 hours. The order shall take effect upon the date
 13334 of service upon the employer, unless the employer provides
 13335 evidence satisfactory to the department of having secured any
 13336 necessary insurance or self-insurance and pays a civil penalty
 13337 to the department, to be deposited by the department into the
 13338 Workers' Compensation Administration Trust Fund, in the amount
 13339 of \$100 per day for each day the employer was not in compliance
 13340 with this chapter.

13341 (7) In addition to any penalty, stop-work order, or
 13342 injunction, the department shall assess against any employer,
 13343 who has failed to secure the payment of compensation as required
 13344 by this chapter, a penalty in the following amount:

13345 (a) An amount equal to at least the amount that the
 13346 employer would have paid or up to twice the amount the employer
 13347 would have paid during periods it illegally failed to secure
 13348 payment of compensation in the preceding 3-year period based on
 13349 the employer's payroll during the preceding 3-year period; or



HB 1803

2003

13350 (b) One thousand dollars, whichever is greater.

13351

13352 Any penalty assessed under this subsection is due within 30 days

13353 after the date on which the employer is notified, except that,

13354 if the department has posted a stop-work order or obtained

13355 injunctive relief against the employer, payment is due, in

13356 addition to those conditions set forth in this section, as a

13357 condition to relief from a stop-work order or an injunction.

13358 Interest shall accrue on amounts not paid when due at the rate

13359 of 1 percent per month. The department ~~division~~ shall adopt

13360 rules to administer this section.

13361 (12) If the department ~~division~~ finds that an employer who

13362 is certified or registered under part I or part II of chapter

13363 489 and who is required to secure payment of the compensation

13364 provided for by this chapter to his or her employees has failed

13365 to do so, the department ~~division~~ shall immediately notify the

13366 Department of Business and Professional Regulation.

13367 Section 459. Subsections (21), (23), and (24) of section

13368 440.134, Florida Statutes, are amended to read:

13369 440.134 Workers' compensation managed care arrangement.--

13370 (21) Upon expiration of the suspension period, the

13371 insurer's authorization shall automatically be reinstated unless

13372 the agency finds that the causes of the suspension have not been

13373 rectified or that the insurer is otherwise not in compliance

13374 with the requirements of this chapter ~~part~~. If not so

13375 automatically reinstated, the authorization shall be deemed to

13376 have expired as of the end of the suspension period.

13377 (23) The agency shall immediately notify the office

13378 ~~department~~ whenever it issues an administrative complaint or an

13379 order or otherwise initiates legal proceedings resulting in, or



HB 1803

2003

13380 which may result in, suspension or revocation of an insurer's
 13381 authorization.

13382 (24) Nothing in this chapter ~~part~~ shall be deemed to
 13383 authorize any entity to transact any insurance business, assume
 13384 risk, or otherwise engage in any other type of insurance unless
 13385 it is authorized as an insurer or a health maintenance
 13386 organization under a certificate of authority issued ~~by the~~
 13387 ~~Department of Insurance~~ under the provisions of the Florida
 13388 Insurance Code.

13389 Section 460. Paragraph (b) of subsection (5) of section
 13390 440.14, Florida Statutes, is amended to read:

13391 440.14 Determination of pay.--

13392 (5)

13393 (b) The employee waives any entitlement to interest,
 13394 penalties, and attorney's fees during the period in which the
 13395 employee has not provided information concerning the loss of
 13396 earnings from concurrent employment. Carriers are not subject to
 13397 penalties ~~by the division~~ under s. 440.20(8)(b) and (c) for
 13398 unpaid compensation related to concurrent employment during the
 13399 period in which the employee has not provided information
 13400 concerning the loss of earnings from concurrent employment.

13401 Section 461. Section 440.17, Florida Statutes, is amended
 13402 to read:

13403 440.17 Guardian for minor or incompetent.--Prior to the
 13404 filing of a claim, the department ~~division~~, and after the filing
 13405 of a claim, a judge of compensation claims, may require the
 13406 appointment by a court of competent jurisdiction, for any person
 13407 who is mentally incompetent or a minor, of a guardian or other
 13408 representative to receive compensation payable to such person
 13409 under this chapter and to exercise the powers granted to or to



HB 1803

2003

13410 perform the duties required of such person under this chapter;
13411 however, the judge of compensation claims, in the judge of
13412 compensation claims' discretion, may designate in the
13413 compensation award a person to whom payment of compensation may
13414 be paid for a minor or incompetent, in which event payment to
13415 such designated person shall discharge all liability for such
13416 compensation.

13417 Section 462. Subsection (2) of section 440.40, Florida
13418 Statutes, is amended to read:

13419 440.40 Compensation notice.--Every employer who has
13420 secured compensation under the provisions of this chapter shall
13421 keep posted in a conspicuous place or places in and about her or
13422 his place or places of business typewritten or printed notices,
13423 in accordance with a form prescribed by the department, the
13424 following:

13425 (2) A notice stating: "Anti-Fraud Reward Program.--Rewards
13426 of up to \$25,000 may be paid to persons providing information to
13427 the Department of Financial Services ~~Insurance~~ leading to the
13428 arrest and conviction of persons committing insurance fraud,
13429 including employers who illegally fail to obtain workers'
13430 compensation coverage. Persons may report suspected fraud to the
13431 department at . . . (Phone No.) A person is not subject
13432 to civil liability for furnishing such information, if such
13433 person acts without malice, fraud, or bad faith."

13434 Section 463. Subsections (8) and (9) of section 440.49,
13435 Florida Statutes, are amended to read:

13436 440.49 Limitation of liability for subsequent injury
13437 through Special Disability Trust Fund.--

13438 (8) PREFERRED WORKER PROGRAM.--The Department of Education
13439 or administrator shall issue identity cards to preferred workers



HB 1803

2003

13440 upon request by qualified employees and the Department of
13441 Financial Services ~~Insurance~~ shall reimburse an employer, from
13442 the Special Disability Trust Fund, for the cost of workers'
13443 compensation premium related to the preferred workers payroll
13444 for up to 3 years of continuous employment upon satisfactory
13445 evidence of placement and issuance of payroll and classification
13446 records and upon the employee's certification of employment. The
13447 Department of Financial Services and the Department of Education
13448 may by rule prescribe definitions, forms, and procedures for the
13449 administration of the preferred worker program. The Department
13450 of Education may by rule prescribe the schedule for submission
13451 of forms for participation in the program.

13452 (9) SPECIAL DISABILITY TRUST FUND.--

13453 (a) There is established in the State Treasury a special
13454 fund to be known as the "Special Disability Trust Fund," which
13455 shall be available only for the purposes stated in this section;
13456 and the assets thereof may not at any time be appropriated or
13457 diverted to any other use or purpose. The Chief Financial
13458 Officer ~~Treasurer~~ shall be the custodian of such fund, and all
13459 moneys and securities in such fund shall be held in trust by
13460 such Chief Financial Officer ~~Treasurer~~ and shall not be the
13461 money or property of the state. The Chief Financial Officer
13462 ~~Treasurer~~ is authorized to disburse moneys from such fund only
13463 when approved by the department or corporation ~~and upon the~~
13464 ~~order of the Comptroller~~. The Chief Financial Officer ~~Treasurer~~
13465 shall deposit any moneys paid into such fund into such
13466 depository banks as the department may designate and is
13467 authorized to invest any portion of the fund which, in the
13468 opinion of the department, is not needed for current
13469 requirements, in the same manner and subject to all the



HB 1803

2003

13470 provisions of the law with respect to the deposits of state
 13471 funds by such Chief Financial Officer ~~Treasurer~~. All interest
 13472 earned by such portion of the fund as may be invested by the
 13473 Chief Financial Officer ~~Treasurer~~ shall be collected by her or
 13474 him and placed to the credit of such fund.

13475 (b)1. The Special Disability Trust Fund shall be
 13476 maintained by annual assessments upon the insurance companies
 13477 writing compensation insurance in the state, the commercial
 13478 self-insurers under ss. 624.462 and 624.4621, the assessable
 13479 mutuals as defined in s. 628.6011 ~~under s. 628.601~~, and the
 13480 self-insurers under this chapter, which assessments shall become
 13481 due and be paid quarterly at the same time and in addition to
 13482 the assessments provided in s. 440.51. The department shall
 13483 estimate annually in advance the amount necessary for the
 13484 administration of this subsection and the maintenance of this
 13485 fund and shall make such assessment in the manner hereinafter
 13486 provided.

13487 2. The annual assessment shall be calculated to produce
 13488 during the ensuing fiscal year an amount which, when combined
 13489 with that part of the balance in the fund on June 30 of the
 13490 current fiscal year which is in excess of \$100,000, is equal to
 13491 the average of:

13492 a. The sum of disbursements from the fund during the
 13493 immediate past 3 calendar years, and

13494 b. Two times the disbursements of the most recent calendar
 13495 year.

13496

13497

13498 Such amount shall be prorated among the insurance companies
 13499 writing compensation insurance in the state and the self-



HB 1803

2003

13500 insurers. Provided however, for those carriers that have
13501 excluded ceded reinsurance premiums from their assessments on or
13502 before January 1, 2000, no assessments on ceded reinsurance
13503 premiums shall be paid by those carriers until such time as the
13504 former Division of Workers' Compensation of the Department of
13505 Labor and Employment Security or the department advises each of
13506 those carriers of the impact that the inclusion of ceded
13507 reinsurance premiums has on their assessment. The department may
13508 not recover any past underpayments of assessments levied against
13509 any carrier that on or before January 1, 2000, excluded ceded
13510 reinsurance premiums from their assessment prior to the point
13511 that the former Division of Workers' Compensation of the
13512 Department of Labor and Employment Security or the department
13513 advises of the appropriate assessment that should have been
13514 paid.

13515 3. The net premiums written by the companies for workers'
13516 compensation in this state and the net premium written
13517 applicable to the self-insurers in this state are the basis for
13518 computing the amount to be assessed as a percentage of net
13519 premiums. Such payments shall be made by each carrier and self-
13520 insurer to the department for the Special Disability Trust Fund
13521 in accordance with such regulations as the department
13522 prescribes.

13523 4. The Chief Financial Officer ~~Treasurer~~ is authorized to
13524 receive and credit to such Special Disability Trust Fund any sum
13525 or sums that may at any time be contributed to the state by the
13526 United States under any Act of Congress, or otherwise, to which
13527 the state may be or become entitled by reason of any payments
13528 made out of such fund.

13529 (c) Notwithstanding the Special Disability Trust Fund



HB 1803

2003

13530 assessment rate calculated pursuant to this section, the rate
 13531 assessed shall not exceed 4.52 percent.

13532 (d) The Special Disability Trust Fund shall be
 13533 supplemented by a \$250 notification fee on each notice of claim
 13534 filed or refiled after July 1, 1997, and a \$500 fee on each
 13535 proof of claim filed in accordance with subsection (7). Revenues
 13536 from the fee shall be deposited into the Special Disability
 13537 Trust Fund and are exempt from the deduction required by s.
 13538 215.20. The fees provided in this paragraph shall not be imposed
 13539 upon any insurer which is in receivership with the department of
 13540 ~~Insurance~~.

13541 (e) The department or administrator shall report annually
 13542 on the status of the Special Disability Trust Fund. The report
 13543 shall update the estimated undiscounted and discounted fund
 13544 liability, as determined by an independent actuary, change in
 13545 the total number of notices of claim on file with the fund in
 13546 addition to the number of newly filed notices of claim, change
 13547 in the number of proofs of claim processed by the fund, the fee
 13548 revenues refunded and revenues applied to pay down the liability
 13549 of the fund, the average time required to reimburse accepted
 13550 claims, and the average administrative costs per claim. The
 13551 department or administrator shall submit its report to the
 13552 Governor, the President of the Senate, and the Speaker of the
 13553 House of Representatives by December 1 of each year.

13554 Section 464. Subsections (1), (2), and (3) of section
 13555 440.50, Florida Statutes, are amended to read:

13556 440.50 Workers' Compensation Administration Trust Fund.--

13557 (1)(a) There is established in the State Treasury a
 13558 special fund to be known as the "Workers' Compensation
 13559 Administration Trust Fund" for the purpose of providing for the



HB 1803

2003

13560 payment of all expenses in respect to the administration of this
13561 chapter, including the vocational rehabilitation of injured
13562 employees as provided in s. 440.49 and the payments due under s.
13563 440.15(1)(f), the funding of the fixed administrative expenses
13564 of the plan, and the funding of the Bureau of Workers'
13565 Compensation Fraud within the Department of Financial Services
13566 ~~Insurance~~. Such fund shall be administered by the department.

13567 (b) The department is authorized to transfer as a loan an
13568 amount not in excess of \$250,000 from such special fund to the
13569 Special Disability Trust Fund established by s. 440.49(9), which
13570 amount shall be repaid to said special fund in annual payments
13571 equal to not less than 10 percent of moneys received for such
13572 Special Disability Trust Fund.

13573 (2) The Chief Financial Officer ~~Treasurer~~ is authorized to
13574 disburse moneys from such fund only when approved by the
13575 department ~~and upon the order of the Comptroller~~.

13576 (3) The Chief Financial Officer ~~Treasurer~~ shall deposit
13577 any moneys paid into such fund into such depository banks as the
13578 department may designate and is authorized to invest any portion
13579 of the fund which, in the opinion of the department, is not
13580 needed for current requirements, in the same manner and subject
13581 to all the provisions of the law with respect to the deposit of
13582 state funds by such Chief Financial Officer ~~Treasurer~~. All
13583 interest earned by such portion of the fund as may be invested
13584 by the Chief Financial Officer ~~Treasurer~~ shall be collected by
13585 him or her and placed to the credit of such fund.

13586 Section 465. Paragraph (a) of subsection (1) and
13587 subsection (3) of section 440.51, Florida Statutes, are amended
13588 to read:

13589 440.51 Expenses of administration.--



HB 1803

2003

13590 (1) The department shall estimate annually in advance the
13591 amounts necessary for the administration of this chapter, in the
13592 following manner.

13593 (a) The department shall, by July 1 of each year, notify
13594 carriers and self-insurers of the assessment rate, which shall
13595 be based on the anticipated expenses of the administration of
13596 this chapter for the next calendar year. Such assessment rate
13597 shall take effect January 1 of the next calendar year and shall
13598 be included in workers' compensation rate filings approved by
13599 the office ~~Department of Insurance~~ which become effective on or
13600 after January 1 of the next calendar year. Assessments shall
13601 become due and be paid quarterly.

13602 (3) If any carrier fails to pay the amounts assessed
13603 against him or her under the provisions of this section within
13604 60 days from the time such notice is served upon him or her, the
13605 office, upon being notified by the department, may suspend or
13606 revoke the authorization to insure compensation in accordance
13607 with the procedure in s. 440.38(3)(a). The department may permit
13608 a carrier to remit any underpayment of assessments for
13609 assessments levied after January 1, 2001.

13610 Section 466. Section 440.515, Florida Statutes, is amended
13611 to read:

13612 440.515 Reports from self-insurers; confidentiality.--The
13613 department ~~of Insurance~~ shall maintain the reports filed in
13614 accordance with s. 440.51(6)(b) as confidential and exempt from
13615 the provisions of s. 119.07(1), and such reports shall be
13616 released only for bona fide research or educational purposes or
13617 after receipt of consent from the employer.

13618 Section 467. Section 440.591, Florida Statutes, is amended
13619 to read:



HB 1803

2003

13620 440.591 Administrative procedure; rulemaking authority.--
 13621 The department, the Financial Services Commission, the agency,
 13622 and the Department of Education may adopt rules pursuant to ss.
 13623 120.536(1) and 120.54 to implement the provisions of this
 13624 chapter conferring duties upon it.

13625 Section 468. Paragraph (a) of subsection (5) of section
 13626 443.131, Florida Statutes, is amended to read:

13627 443.131 Contributions.--

13628 (5) FINANCING BENEFITS PAID TO EMPLOYEES OF THE STATE AND
 13629 POLITICAL SUBDIVISIONS OF THE STATE.--Benefits paid to employees
 13630 of this state or any instrumentality of this state, or to
 13631 employees of any political subdivision of this state or any
 13632 instrumentality thereof, based upon service defined in s.
 13633 443.036(21)(b), shall be financed in accordance with this
 13634 subsection.

13635 (a)1. Unless an election is made as provided in paragraph
 13636 (c), the state or any political subdivision of the state shall
 13637 pay into the Unemployment Compensation Trust Fund an amount
 13638 equivalent to the amount of regular benefits, short-time
 13639 compensation benefits, and extended benefits paid to
 13640 individuals, based on wages paid by the state or the political
 13641 subdivision for service defined in s. 443.036(21)(b).

13642 2. If ~~Should~~ any state agency becomes ~~become~~ more than 120
 13643 days delinquent on reimbursements due to the Unemployment
 13644 Compensation Trust Fund, the division shall certify to the Chief
 13645 Financial Officer ~~Comptroller~~ the amount due and the Chief
 13646 Financial Officer ~~Comptroller~~ shall transfer the amount due to
 13647 the Unemployment Compensation Trust Fund from the funds of such
 13648 agency that may legally be used for such purpose. In the event
 13649 any political subdivision of the state or any instrumentality



HB 1803

2003

13650 thereof becomes more than 120 days delinquent on reimbursements
 13651 due to the Unemployment Compensation Trust Fund, then, upon
 13652 request by the division after a hearing, the Department of
 13653 Revenue or the Department of Financial Services ~~Banking and~~
 13654 ~~Finance~~, as the case may be, shall deduct the amount owed by the
 13655 political subdivision or instrumentality from any funds to be
 13656 distributed by it to the county, city, special district, or
 13657 consolidated form of government for further distribution to the
 13658 trust fund in accordance with this chapter. Should any employer
 13659 for whom the city or county tax collector collects taxes fail to
 13660 make the reimbursements to the Unemployment Compensation Trust
 13661 Fund required by this chapter, the tax collector after a
 13662 hearing, at the request of the division and upon receipt of a
 13663 certificate showing the amount owed by the employer, shall
 13664 deduct the amount so certified from any taxes collected for the
 13665 employer and remit same to the Department of Labor and
 13666 Employment Security for further distribution to the trust fund
 13667 in accordance with this chapter. This subparagraph does not
 13668 apply to those amounts due for benefits paid prior to October 1,
 13669 1979. This subparagraph does not apply to amounts owed by a
 13670 political subdivision for benefits erroneously paid where the
 13671 claimant is required to repay to the division under s.
 13672 443.151(6)(a) or (b) any sum as benefits received.

13673 Section 469. Subsections (2), (3), and (4) of section
 13674 443.191, Florida Statutes, are amended to read:

13675 443.191 Unemployment Compensation Trust Fund;
 13676 establishment and control.--

13677 (2) The Chief Financial Officer ~~Treasurer~~ is the ex
 13678 officio treasurer and custodian of the fund and shall administer
 13679 the fund in accordance with the directions of the division. All



HB 1803

2003

13680 payments from the fund must be approved by the division or by a
 13681 duly authorized agent ~~and must be made by the Treasurer upon~~
 13682 ~~warrants issued by the Comptroller, except as hereinafter~~
 13683 ~~provided.~~ The Chief Financial Officer ~~Treasurer~~ shall maintain
 13684 within the fund three separate accounts:
 13685 (a) A clearing account;
 13686 (b) An Unemployment Compensation Trust Fund account; and
 13687 (c) A benefit account.

13688
 13689
 13690 All moneys payable to the fund, including moneys received from
 13691 the United States as reimbursement for extended benefits paid by
 13692 the division, upon receipt thereof by the division, must be
 13693 forwarded to the Chief Financial Officer ~~Treasurer~~, who shall
 13694 immediately deposit them in the clearing account. Refunds
 13695 payable under s. 443.141 may be paid from the clearing account
 13696 ~~upon warrants issued by the Comptroller.~~ After clearance, all
 13697 other moneys in the clearing account must be immediately
 13698 deposited with the Secretary of the Treasury of the United
 13699 States to the credit of the account of this state in the
 13700 Unemployment Compensation Trust Fund established and maintained
 13701 under s. 904 of the Social Security Act, as amended, any
 13702 provisions of the law in this state relating to the deposit,
 13703 administration, release, or disbursement of moneys in the
 13704 possession or custody of this state to the contrary
 13705 notwithstanding. The benefit account shall consist of all
 13706 moneys requisitioned from this state's account in the
 13707 Unemployment Compensation Trust Fund. Except as otherwise
 13708 provided, moneys in the clearing and benefit accounts may be
 13709 deposited by the Chief Financial Officer ~~Treasurer~~, under the



HB 1803

2003

13710 direction of the division, in any bank or public depository in
 13711 which general funds of the state may be deposited, but no public
 13712 deposit insurance charge or premium may be paid out of the fund.

13713 If any warrant issued against the clearing account or the
 13714 benefit account is not presented for payment within 1 year after
 13715 issuance thereof, the Chief Financial Officer ~~Comptroller~~ must
 13716 cancel the same and credit without restriction the amount of
 13717 such warrant to the account upon which it is drawn. When the
 13718 payee or person entitled to any warrant so canceled requests
 13719 payment thereof, the Chief Financial Officer ~~Comptroller~~, upon
 13720 direction of the division, must issue a new warrant therefor, to
 13721 be paid out of the account against which the canceled warrant
 13722 had been drawn.

13723 (3) Moneys shall be requisitioned from the state's account
 13724 in the Unemployment Compensation Trust Fund solely for the
 13725 payment of benefits and extended benefits and in accordance with
 13726 rules prescribed by the division, except that money credited to
 13727 this state's account pursuant to s. 903 of the Social Security
 13728 Act, as amended, shall be used exclusively as provided in
 13729 subsection (5). The division, through the Chief Financial
 13730 Officer ~~Treasurer~~, shall from time to time requisition from the
 13731 Unemployment Compensation Trust Fund such amounts, not exceeding
 13732 the amounts standing to this state's account therein, as it
 13733 deems necessary for the payment of benefits and extended
 13734 benefits for a reasonable future period. Upon receipt thereof,
 13735 the Chief Financial Officer ~~Treasurer~~ shall deposit such moneys
 13736 in the benefit account in the State Treasury and warrants for
 13737 the payment of benefits and extended benefits shall be drawn ~~by~~
 13738 ~~the Comptroller~~ upon the order of the division against such
 13739 benefit account. All warrants for benefits and extended



HB 1803

2003

13740 benefits shall be payable directly to the ultimate beneficiary.
 13741 Expenditures of such moneys in the benefit account and refunds
 13742 from the clearing account shall not be subject to any provisions
 13743 of law requiring specific appropriations or other formal release
 13744 by state officers of money in their custody. All warrants issued
 13745 for the payment of benefits and refunds shall bear the signature
 13746 of the Chief Financial Officer ~~Comptroller~~ as above set forth.
 13747 Any balance of moneys requisitioned from the Unemployment
 13748 Compensation Trust Fund which remains unclaimed or unpaid in the
 13749 benefit account after the expiration of the period for which
 13750 such sums were requisitioned shall either be deducted from
 13751 estimates for, and may be utilized for the payment of, benefits
 13752 and extended benefits during succeeding periods, or, in the
 13753 discretion of the division, shall be redeposited with the
 13754 Secretary of the Treasury of the United States, to the credit of
 13755 this state's account in the Unemployment Compensation Trust
 13756 Fund, as provided in subsection (2).

13757 (4) The provisions of subsections (1), (2), and (3), to
 13758 the extent that they relate to the Unemployment Compensation
 13759 Trust Fund, shall be operative only so long as such unemployment
 13760 trust fund continues to exist and so long as the Secretary of
 13761 the Treasury of the United States continues to maintain for this
 13762 state a separate book account of all funds deposited therein by
 13763 this state for benefit purposes, together with this state's
 13764 proportionate share of the earnings of such Unemployment
 13765 Compensation Trust Fund, from which no other state is permitted
 13766 to make withdrawals. If and when such Unemployment Compensation
 13767 Trust Fund ceases to exist, or such separate book account is no
 13768 longer maintained, all moneys, properties, or securities therein
 13769 belonging to the Unemployment Compensation Trust Fund of this



HB 1803

2003

13770 state shall be transferred to the treasurer of the Unemployment
 13771 Compensation Trust Fund, who shall hold, invest, transfer, sell,
 13772 deposit, and release such moneys, properties, or securities in a
 13773 manner approved by the division in accordance with the
 13774 provisions of this chapter; however, such moneys shall be
 13775 invested in the following readily marketable classes of
 13776 securities: bonds or other interest-bearing obligations of the
 13777 United States or of the state. Further, such investment shall
 13778 at all times be so made that all the assets of the fund shall
 13779 always be readily convertible into cash when needed for the
 13780 payment of benefits. The treasurer shall dispose of securities
 13781 or other properties belonging to the Unemployment Compensation
 13782 Trust Fund only under the direction of the division.

13783 Section 470. Subsections (1) and (2) of section 443.211,
 13784 Florida Statutes, are amended to read:

13785 443.211 Employment Security Administration Trust Fund;
 13786 appropriation; reimbursement.--

13787 (1) EMPLOYMENT SECURITY ADMINISTRATION TRUST FUND.--There
 13788 is created in the State Treasury a special fund to be known as
 13789 the "Employment Security Administration Trust Fund." All moneys
 13790 that are deposited into this fund remain continuously available
 13791 to the division for expenditure in accordance with the
 13792 provisions of this chapter and do not lapse at any time and may
 13793 not be transferred to any other fund. All moneys in this fund
 13794 which are received from the Federal Government or any agency
 13795 thereof or which are appropriated by this state for the purposes
 13796 described in ss. 443.171 and 443.181, except money received
 13797 under s. 443.191(5)(c), must be expended solely for the purposes
 13798 and in the amounts found necessary by the authorized cooperating
 13799 federal agencies for the proper and efficient administration of



HB 1803

2003

13800 this chapter. The fund shall consist of all moneys appropriated
 13801 by this state; all moneys received from the United States or any
 13802 agency thereof; all moneys received from any other source for
 13803 such purpose; any moneys received from any agency of the United
 13804 States or any other state as compensation for services or
 13805 facilities supplied to such agency; any amounts received
 13806 pursuant to any surety bond or insurance policy or from other
 13807 sources for losses sustained by the Employment Security
 13808 Administration Trust Fund or by reason of damage to equipment or
 13809 supplies purchased from moneys in such fund; and any proceeds
 13810 realized from the sale or disposition of any such equipment or
 13811 supplies which may no longer be necessary for the proper
 13812 administration of this chapter. Notwithstanding any provision of
 13813 this section, all money requisitioned and deposited in this fund
 13814 under s. 443.191(5)(c) remains part of the Unemployment
 13815 Compensation Trust Fund and must be used only in accordance with
 13816 the conditions specified in s. 443.191(5). All moneys in this
 13817 fund must be deposited, administered, and disbursed in the same
 13818 manner and under the same conditions and requirements as is
 13819 provided by law for other special funds in the State Treasury.
 13820 Such moneys must be secured by the depositary in which they are
 13821 held to the same extent and in the same manner as required by
 13822 the general depositary law of the state, and collateral pledged
 13823 must be maintained in a separate custody account. All payments
 13824 from the Employment Security Administration Trust Fund must be
 13825 approved by the division or by a duly authorized agent and must
 13826 be made by the Chief Financial Officer ~~Treasurer upon warrants~~
 13827 ~~issued by the Comptroller~~. Any balances in this fund do not
 13828 lapse at any time and must remain continuously available to the
 13829 division for expenditure consistent with this chapter.



HB 1803

2003

13830 (2) SPECIAL EMPLOYMENT SECURITY ADMINISTRATION TRUST
 13831 FUND.--There is created in the State Treasury a special fund, to
 13832 be known as the "Special Employment Security Administration
 13833 Trust Fund," into which shall be deposited or transferred all
 13834 interest on contributions, penalties, and fines or fees
 13835 collected under this chapter. Interest on contributions,
 13836 penalties, and fines or fees deposited during any calendar
 13837 quarter in the clearing account in the Unemployment Compensation
 13838 Trust Fund shall, as soon as practicable after the close of such
 13839 calendar quarter and upon certification of the division, be
 13840 transferred to the Special Employment Security Administration
 13841 Trust Fund. However, there shall be withheld from any such
 13842 transfer the amount certified by the division to be required
 13843 under this chapter to pay refunds of interest on contributions,
 13844 penalties, and fines or fees collected and erroneously deposited
 13845 into the clearing account in the Unemployment Compensation Trust
 13846 Fund. Such amounts of interest and penalties so certified for
 13847 transfer shall be deemed to have been erroneously deposited in
 13848 the clearing account, and the transfer thereof to the Special
 13849 Employment Security Administration Trust Fund shall be deemed to
 13850 be a refund of such erroneous deposits. All moneys in this fund
 13851 shall be deposited, administered, and disbursed in the same
 13852 manner and under the same conditions and requirements as are
 13853 provided by law for other special funds in the State Treasury.
 13854 These moneys shall not be expended or be available for
 13855 expenditure in any manner which would permit their substitution
 13856 for, or permit a corresponding reduction in, federal funds which
 13857 would, in the absence of these moneys, be available to finance
 13858 expenditures for the administration of the Unemployment
 13859 Compensation Law. But nothing in this section shall prevent



HB 1803

2003

13860 these moneys from being used as a revolving fund to cover
13861 expenditures, necessary and proper under the law, for which
13862 federal funds have been duly requested but not yet received,
13863 subject to the charging of such expenditures against such funds
13864 when received. The moneys in this fund, with the approval of
13865 the Executive Office of the Governor, shall be used by the
13866 Division of Unemployment Compensation and the Agency for
13867 Workforce Innovation for the payment of costs of administration
13868 which are found not to have been properly and validly chargeable
13869 against funds obtained from federal sources. All moneys in the
13870 Special Employment Security Administration Trust Fund shall be
13871 continuously available to the division for expenditure in
13872 accordance with the provisions of this chapter and shall not
13873 lapse at any time. All payments from the Special Employment
13874 Security Administration Trust Fund shall be approved by the
13875 division or by a duly authorized agent thereof and shall be made
13876 by the Chief Financial Officer ~~Treasurer upon warrants issued by~~
13877 ~~the Comptroller~~. The moneys in this fund are hereby specifically
13878 made available to replace, as contemplated by subsection (3),
13879 expenditures from the Employment Security Administration Trust
13880 Fund, established by subsection (1), which have been found by
13881 the Bureau of Employment Security, or other authorized federal
13882 agency or authority, because of any action or contingency, to
13883 have been lost or improperly expended. The Chief Financial
13884 Officer ~~Treasurer~~ shall be liable on her or his official bond
13885 for the faithful performance of her or his duties in connection
13886 with the Special Employment Security Administration Trust Fund.

13887 Section 471. Subsection (4) of section 445.0325, Florida
13888 Statutes, is amended to read:

13889 445.0325 Welfare Transition Trust Fund.--



HB 1803

2003

13890 (4) All funds transferred to and retained in the trust
 13891 fund shall be invested pursuant to s. 17.61 ~~18.125~~. Any interest
 13892 accruing to the trust fund shall be for the benefit of the
 13893 welfare transition program. Notwithstanding s. 216.301 and
 13894 pursuant to s. 216.351, any undisbursed balance remaining in the
 13895 trust fund and interest accruing to the trust fund not
 13896 distributed at the end of the fiscal year shall remain in the
 13897 trust fund and shall increase the total funds available to
 13898 implement the welfare transition program.

13899 Section 472. Section 447.12, Florida Statutes, is amended
 13900 to read:

13901 447.12 Fees for registration.--All fees collected by the
 13902 department under this part shall be paid to the Chief Financial
 13903 Officer ~~Treasurer~~ and credited to the General Revenue Fund.

13904 Section 473. Subsection (1) of section 450.155, Florida
 13905 Statutes, is amended to read:

13906 450.155 Child Labor Law Trust Fund.--

13907 (1) There is created in the State Treasury an account to
 13908 be known as the Child Labor Law Trust Fund. Subject to such
 13909 appropriations as the Legislature may make therefor from time to
 13910 time, disbursements from this account may be made by the
 13911 division, subject to the approval of the department, in order to
 13912 carry out the proper responsibilities of administering the Child
 13913 Labor Law, to protect the working youth of the state, and to
 13914 provide education about the Child Labor Law to employers, public
 13915 school employees, the general public, and working youth. The
 13916 Child Labor Law Trust Fund and the moneys deposited therein
 13917 shall be under the direct supervision and control of the
 13918 department, and such moneys may be disbursed by the Chief
 13919 Financial Officer ~~Treasurer~~ from time to time as determined by



HB 1803

2003

13920 the department.

13921 Section 474. Subsections (1) and (2) of section 468.392,
13922 Florida Statutes, are amended to read:

13923 468.392 Auctioneer Recovery Fund.--There is created the
13924 Auctioneer Recovery Fund as a separate account in the
13925 Professional Regulation Trust Fund. The fund shall be
13926 administered by the Florida Board of Auctioneers.

13927 (1) The Chief Financial Officer ~~Treasurer~~ shall invest the
13928 money not currently needed to meet the obligations of the fund
13929 in the same manner as other public funds may be invested.
13930 Interest that accrues from these investments shall be deposited
13931 to the credit of the Auctioneer Recovery Fund and shall be
13932 available for the same purposes as other moneys deposited in the
13933 Auctioneer Recovery Fund.

13934 (2) All payments and disbursements from the Auctioneer
13935 Recovery Fund shall be made by the Chief Financial Officer
13936 ~~Treasurer~~ upon a voucher signed by the Secretary of Business and
13937 Professional Regulation or the secretary's designee. Amounts
13938 transferred to the Auctioneer Recovery Fund shall not be subject
13939 to any limitation imposed by an appropriation act of the
13940 Legislature.

13941 Section 475. Subsection (3) of section 468.529, Florida
13942 Statutes, is amended to read:

13943 468.529 Licensee's insurance; employment tax; benefit
13944 plans.--

13945 (3) A licensed employee leasing company shall within 30
13946 days of initiation or termination notify its workers'
13947 compensation insurance carrier, the Division of Workers'
13948 Compensation of the Department of Financial Services, and the
13949 Division of Unemployment Compensation of the Department of Labor



HB 1803

2003

13950 and Employment Security of both the initiation or the
13951 termination of the company's relationship with any client
13952 company.

13953 Section 476. Subsection (2) of section 473.3065, Florida
13954 Statutes, is amended to read:

13955 473.3065 Certified Public Accountant Education Minority
13956 Assistance Program; advisory council.--

13957 (2) All moneys used to provide scholarships under the
13958 program shall be funded by a portion of existing license fees,
13959 as set by the board, not to exceed \$10 per license. Such moneys
13960 shall be deposited into the Professional Regulation Trust Fund
13961 in a separate account maintained for that purpose. The
13962 department is authorized to spend up to \$100,000 per year for
13963 the program from this program account, but may not allocate
13964 overhead charges to it. Moneys for scholarships shall be
13965 disbursed annually upon recommendation of the advisory council
13966 and approval by the board, based on the adopted eligibility
13967 criteria and comparative evaluation of all applicants. Funds in
13968 the program account may be invested by the Chief Financial
13969 Officer ~~Treasurer~~ under the same limitations as apply to
13970 investment of other state funds, and all interest earned thereon
13971 shall be credited to the program account.

13972 Section 477. Subsection (7) of section 475.045, Florida
13973 Statutes, is amended to read:

13974 475.045 Florida Real Estate Commission Education and
13975 Research Foundation.--

13976 (7) The Chief Financial Officer ~~Treasurer~~ shall invest \$3
13977 million from the portion of the Professional Regulation Trust
13978 Fund credited to the real estate profession, under the same
13979 limitations as applied to investments of other state funds, and



HB 1803

2003

13980 the income earned thereon shall be available to the foundation
 13981 to fund the activities and projects authorized under this
 13982 section. However, any balance of such interest in excess of \$1
 13983 million shall revert to the portion of the Professional
 13984 Regulation Trust Fund credited to the real estate profession.
 13985 In the event the foundation is abolished, the funds in the trust
 13986 fund shall revert to such portion of the Professional Regulation
 13987 Trust Fund.

13988 Section 478. Subsection (6) of section 475.484, Florida
 13989 Statutes, is amended to read:

13990 475.484 Payment from the fund.--

13991 (6) All payments and disbursements from the Real Estate
 13992 Recovery Fund shall be made by the Chief Financial Officer
 13993 ~~Treasurer~~ upon a voucher signed by the secretary of the
 13994 department. Amounts transferred to the Real Estate Recovery
 13995 Fund shall not be subject to any limitation imposed by an
 13996 appropriation act of the Legislature.

13997 Section 479. Section 475.485, Florida Statutes, is amended
 13998 to read:

13999 475.485 Investment of the fund.--The funds in the Real
 14000 Estate Recovery Fund may be invested by the Chief Financial
 14001 Officer ~~Treasurer~~ under the same limitations as apply to
 14002 investment of other state funds, and the interest earned thereon
 14003 shall be deposited to the credit of the Real Estate Recovery
 14004 Fund and shall be available for the same purposes as other
 14005 moneys deposited in the Real Estate Recovery Fund.

14006 Section 480. Section 489.114, Florida Statutes, is amended
 14007 to read:

14008 489.114 Evidence of workers' compensation coverage.--

14009 Except as provided in s. 489.115(5)(d), any person, business



HB 1803

2003

14010 organization, or qualifying agent engaged in the business of
 14011 contracting in this state and certified or registered under this
 14012 part shall, as a condition precedent to the issuance or renewal
 14013 of a certificate, registration, or certificate of authority of
 14014 the contractor, provide to the Construction Industry Licensing
 14015 Board, as provided by board rule, evidence of workers'
 14016 compensation coverage pursuant to chapter 440. In the event
 14017 that the Division of Workers' Compensation of the Department of
 14018 Financial Services ~~Labor and Employment Security~~ receives notice
 14019 of the cancellation of a policy of workers' compensation
 14020 insurance insuring a person or entity governed by this section,
 14021 the Division of Workers' Compensation shall certify and identify
 14022 all persons or entities by certification or registration license
 14023 number to the department after verification is made by the
 14024 Division of Workers' Compensation that persons or entities
 14025 governed by this section are no longer covered by workers'
 14026 compensation insurance. Such certification and verification by
 14027 the Division of Workers' Compensation may result from records
 14028 furnished to the Division of Workers' Compensation by the
 14029 persons or entities governed by this section or an investigation
 14030 completed by the Division of Workers' Compensation. The
 14031 department shall notify the persons or entities governed by this
 14032 section who have been determined to be in noncompliance with
 14033 chapter 440, and the persons or entities notified shall provide
 14034 certification of compliance with chapter 440 to the department
 14035 and pay an administrative fine in the amount of \$500. The
 14036 failure to maintain workers' compensation coverage as required
 14037 by law shall be grounds for the board to revoke, suspend, or
 14038 deny the issuance or renewal of a certificate, registration, or
 14039 certificate of authority of the contractor under the provisions



HB 1803

2003

14040 of s. 489.129.

14041 Section 481. Section 489.144, Florida Statutes, is amended
 14042 to read:

14043 489.144 Investment of the fund.--The funds in the
 14044 Construction Industries Recovery Fund may be invested by the
 14045 Chief Financial Officer ~~Treasurer~~ under the same limitations as
 14046 apply to the investment of other state funds, and the interest
 14047 earned thereon shall be deposited to the credit of the
 14048 Construction Industries Recovery Fund and shall be available for
 14049 the same purposes as other moneys deposited in the Construction
 14050 Industries Recovery Fund.

14051 Section 482. Subsection (6) of section 489.145, Florida
 14052 Statutes, is amended to read:

14053 489.145 Guaranteed energy performance savings
 14054 contracting.--

14055 (6) PROGRAM ADMINISTRATION AND CONTRACT REVIEW.--The
 14056 Department of Management Services, with the assistance of the
 14057 Office of the Chief Financial Officer ~~Comptroller~~, may, within
 14058 available resources, provide technical assistance to state
 14059 agencies contracting for energy conservation measures and engage
 14060 in other activities considered appropriate by the department for
 14061 promoting and facilitating guaranteed energy performance
 14062 contracting by state agencies. The Office of the Chief Financial
 14063 Officer ~~Comptroller~~, with the assistance of the Department of
 14064 Management Services, may, within available resources, develop
 14065 model contractual and related documents for use by state
 14066 agencies. Prior to entering into a guaranteed energy
 14067 performance savings contract, any contract or lease for third-
 14068 party financing, or any combination of such contracts, a state
 14069 agency shall submit such proposed contract or lease to the



HB 1803

2003

14070 Office of the Chief Financial Officer ~~Comptroller~~ for review and
 14071 approval.

14072 Section 483. Section 489.510, Florida Statutes, is amended
 14073 to read:

14074 489.510 Evidence of workers' compensation coverage.--
 14075 Except as provided in s. 489.515(3)(b), any person, business
 14076 organization, or qualifying agent engaged in the business of
 14077 contracting in this state and certified or registered under this
 14078 part shall, as a condition precedent to the issuance or renewal
 14079 of a certificate or registration of the contractor, provide to
 14080 the Electrical Contractors' Licensing Board, as provided by
 14081 board rule, evidence of workers' compensation coverage pursuant
 14082 to chapter 440. In the event that the Division of Workers'
 14083 Compensation of the Department of Financial Services ~~Labor and~~
 14084 ~~Employment Security~~ receives notice of the cancellation of a
 14085 policy of workers' compensation insurance insuring a person or
 14086 entity governed by this section, the Division of Workers'
 14087 Compensation shall certify and identify all persons or entities
 14088 by certification or registration license number to the
 14089 department after verification is made by the Division of
 14090 Workers' Compensation that persons or entities governed by this
 14091 section are no longer covered by workers' compensation
 14092 insurance. Such certification and verification by the Division
 14093 of Workers' Compensation may result from records furnished to
 14094 the Division of Workers' Compensation by the persons or entities
 14095 governed by this section or an investigation completed by the
 14096 Division of Workers' Compensation. The department shall notify
 14097 the persons or entities governed by this section who have been
 14098 determined to be in noncompliance with chapter 440, and the
 14099 persons or entities notified shall provide certification of



HB 1803

2003

14100 compliance with chapter 440 to the department and pay an
 14101 administrative fine in the amount of \$500. The failure to
 14102 maintain workers' compensation coverage as required by law shall
 14103 be grounds for the board to revoke, suspend, or deny the
 14104 issuance or renewal of a certificate or registration of the
 14105 contractor under the provisions of s. 489.533.

14106 Section 484. Subsection (5) of section 489.533, Florida
 14107 Statutes, is amended to read:

14108 489.533 Disciplinary proceedings.--

14109 (5) When the board imposes administrative fines pursuant
 14110 to subsection (2) resulting from violation of chapter 633 or
 14111 violation of the rules of the State Fire Marshal, 50 percent of
 14112 the fine shall be paid into the Insurance ~~Commissioner's~~
 14113 Regulatory Trust Fund to help defray the costs of investigating
 14114 the violations and obtaining the corrective action. The State
 14115 Fire Marshal may participate at its discretion, but not as a
 14116 party, in any proceedings before the board relating to violation
 14117 of chapter 633 or the rules of the State Fire Marshal, in order
 14118 to make recommendations as to the appropriate penalty in such
 14119 case. However, the State Fire Marshal shall not have standing to
 14120 bring disciplinary proceedings regarding certification.

14121 Section 485. Subsection (8) of section 494.001, Florida
 14122 Statutes, is amended, present subsections (9) through (29) of
 14123 that section are renumbered as (10) through(30), respectively,
 14124 and a new subsection (9) is added to said subsection to read:

14125 494.001 Definitions.--As used in ss. 494.001-494.0077, the
 14126 term:

14127 (8) "Commission" means the Financial Services Commission
 14128 ~~"Department" means the Department of Banking and Finance.~~

14129 (9) "Office" means the Office of Financial Institutions



HB 1803

2003

14130 and Securities Regulation of the commission.

14131 Section 486. Section 494.0011, Florida Statutes, is
 14132 amended to read:

14133 494.0011 Powers and duties of the commission and office
 14134 ~~department~~.--

14135 (1) The office ~~department~~ shall be responsible for the
 14136 administration and enforcement of ss. 494.001-494.0077.

14137 (2) The commission ~~department~~ has authority to adopt rules
 14138 pursuant to ss. 120.536(1) and 120.54 to implement ss. 494.001-
 14139 494.0077. The commission ~~department~~ may adopt rules to allow
 14140 electronic submission of any forms, documents, or fees required
 14141 by this act. The commission ~~department~~ may also adopt rules to
 14142 accept certification of compliance with requirements of this act
 14143 in lieu of requiring submission of documents.

14144 (3) All fees, charges, and fines collected ~~by the~~
 14145 ~~department~~ pursuant to ss. 494.001-494.0077 shall be deposited
 14146 in the State Treasury to the credit of the Regulatory Trust Fund
 14147 under the office ~~department~~.

14148 (4)(a) The office ~~department~~ has the power to issue and to
 14149 serve subpoenas and subpoenas duces tecum to compel the
 14150 attendance of witnesses and the production of all books,
 14151 accounts, records, and other documents and materials relevant to
 14152 an examination or investigation. The office ~~department~~, or its
 14153 duly authorized representative, has the power to administer
 14154 oaths and affirmations to any person.

14155 (b) The office ~~department~~ may, in its discretion, seek
 14156 subpoenas or subpoenas duces tecum from any court of competent
 14157 jurisdiction commanding the appearance of witnesses and the
 14158 production of books, accounts, records, and other documents or
 14159 materials at a time and place named in the subpoenas; and any



HB 1803

2003

14160 authorized representative of the office ~~department~~ may serve any
 14161 subpoena.

14162 (5)(a) In the event of substantial noncompliance with a
 14163 subpoena or subpoena duces tecum issued or caused to be issued
 14164 by the office ~~department~~, the office ~~department~~ may petition the
 14165 circuit court or any other court of competent jurisdiction of
 14166 the county in which the person subpoenaed resides or has its
 14167 principal place of business for an order requiring the
 14168 subpoenaed person to appear and testify and to produce such
 14169 books, accounts, records, and other documents as are specified
 14170 in the subpoena duces tecum. The court may grant injunctive
 14171 relief restraining the person from advertising, promoting,
 14172 soliciting, entering into, offering to enter into, continuing,
 14173 or completing any mortgage loan transaction or mortgage loan
 14174 servicing transaction. The court may grant such other relief,
 14175 including, but not limited to, the restraint, by injunction or
 14176 appointment of a receiver, of any transfer, pledge, assignment,
 14177 or other disposition of the person's assets or any concealment,
 14178 alteration, destruction, or other disposition of books,
 14179 accounts, records, or other documents and materials as the court
 14180 deems appropriate, until the person has fully complied with the
 14181 subpoena duces tecum and the office ~~department~~ has completed its
 14182 investigation or examination. In addition, the court may order
 14183 the refund of any fees collected in a mortgage loan transaction
 14184 whenever books and documents substantiating the transaction are
 14185 not produced or cannot be produced. The office ~~department~~ is
 14186 entitled to the summary procedure provided in s. 51.011, and the
 14187 court shall advance such cause on its calendar. Attorney's fees
 14188 and any other costs incurred by the office ~~department~~ to obtain
 14189 an order granting, in whole or part, a petition for enforcement



HB 1803

2003

14190 of a subpoena or subpoena duces tecum shall be taxed against the
14191 subpoenaed person, and failure to comply with such order is a
14192 contempt of court.

14193 (b) When it appears to the office ~~department~~ that the
14194 compliance with a subpoena or subpoena duces tecum issued or
14195 caused to be issued by the office ~~department~~ pursuant to this
14196 section is essential and otherwise unavailable to an
14197 investigation or examination, the office ~~department~~, in addition
14198 to the other remedies provided for in this section, may apply to
14199 the circuit court or any other court of competent jurisdiction
14200 of the county in which the subpoenaed person resides or has its
14201 principal place of business for a writ of ne exeat. The court
14202 shall thereupon direct the issuance of the writ against the
14203 subpoenaed person requiring sufficient bond conditioned on
14204 compliance with the subpoena or subpoena duces tecum. The court
14205 shall cause to be endorsed on the writ a suitable amount of bond
14206 upon the payment of which the person named in the writ shall be
14207 freed, having a due regard to the nature of the case.

14208 (c) Alternatively, the office ~~department~~ may seek a writ
14209 of attachment from the court having jurisdiction over the person
14210 who has refused to obey a subpoena, who has refused to give
14211 testimony, or who has refused to produce the matters described
14212 in the subpoena duces tecum.

14213 Section 487. Section 494.0012, Florida Statutes, is
14214 amended to read:

14215 494.0012 Investigations; complaints; examinations.--

14216 (1) The office ~~department~~ may conduct an investigation of
14217 any person whenever the office ~~department~~ has reason to believe,
14218 either upon complaint or otherwise, that any violation of ss.
14219 494.001-494.0077 has been committed or is about to be committed.



HB 1803

2003

14220 (2) Any person having reason to believe that a provision
14221 of this act has been violated may file a written complaint with
14222 the office ~~department~~ setting forth details of the alleged
14223 violation.

14224 (3)(a) The office ~~department~~ may, at intermittent periods,
14225 conduct examinations of any licensee or other person under the
14226 provisions of ss. 494.001-494.0077.

14227 (b) The office ~~department~~ shall conduct all examinations
14228 at a convenient location in this state unless the office
14229 ~~department~~ determines that it is more effective or cost-
14230 efficient to perform an examination at the licensee's out-of-
14231 state location. For an examination performed at the licensee's
14232 out-of-state location, the licensee shall pay the travel expense
14233 and per diem subsistence at the rate provided by law for up to
14234 thirty 8-hour days per year for each office ~~department~~ examiner
14235 who participates in such an examination. However, if the
14236 examination involves or reveals fraudulent conduct by the
14237 licensee, the licensee shall pay the travel expense and per diem
14238 subsistence provided by law, without limitation, for each
14239 participating examiner.

14240 Section 488. Section 494.0013, Florida Statutes, is
14241 amended to read:

14242 494.0013 Injunction to restrain violations.--

14243 (1) The office ~~department~~ may bring action through its own
14244 counsel in the name and on behalf of the state against any
14245 person who has violated or is about to violate any provision of
14246 ss. 494.001-494.0077 or any rule of the commission or order of
14247 the office ~~department~~ issued under ss. 494.001-494.0077 to
14248 enjoin the person from continuing in or engaging in any act in
14249 furtherance of the violation.



HB 1803

2003

14250 (2) In any injunctive proceeding, the court may, on due
 14251 showing by the office ~~department~~, issue a subpoena or subpoena
 14252 duces tecum requiring the attendance of any witness and
 14253 requiring the production of any books, accounts, records, or
 14254 other documents and materials that appear necessary to the
 14255 expeditious resolution of the application for injunction.

14256 (3) In addition to all other means provided by law for the
 14257 enforcement of any temporary restraining order, temporary
 14258 injunction, or permanent injunction issued in any such court
 14259 proceeding, the court has the power and jurisdiction, upon
 14260 application of the office ~~department~~, to impound, and to appoint
 14261 a receiver or administrator for, the property, assets, and
 14262 business of the defendant, including, but not limited to, the
 14263 books, records, documents, and papers appertaining thereto. Such
 14264 receiver or administrator, when appointed and qualified, has all
 14265 powers and duties as to custody, collection, administration,
 14266 winding up, and liquidation of the property and business as are
 14267 from time to time conferred upon him or her by the court. In
 14268 any such action, the court may issue an order staying all
 14269 pending suits and enjoining any further suits affecting the
 14270 receiver's or administrator's custody or possession of the
 14271 property, assets, and business, or the court, in its discretion
 14272 and with the consent of the chief judge of the circuit, may
 14273 require that all such suits be assigned to the circuit court
 14274 judge who appoints the receiver or administrator.

14275 Section 489. Section 494.0014, Florida Statutes, is
 14276 amended to read:

14277 494.0014 Cease and desist orders; refund orders.--

14278 (1) The office ~~department~~ has the power to issue and serve
 14279 upon any person an order to cease and desist and to take



HB 1803

2003

14280 corrective action whenever it has reason to believe the person
 14281 is violating, has violated, or is about to violate any provision
 14282 of ss. 494.001-494.0077, any rule or order ~~of the department~~
 14283 issued under ss. 494.001-494.0077, or any written agreement
 14284 between the person and the office ~~department~~. All procedural
 14285 matters relating to issuance and enforcement of such a cease and
 14286 desist order are governed by the Administrative Procedure Act.

14287 (2) The office ~~department~~ has the power to order the
 14288 refund of any fee directly or indirectly assessed and charged on
 14289 a mortgage loan transaction which is unauthorized or exceeds the
 14290 maximum fee specifically authorized in ss. 494.001-494.0077.

14291 (3) The office ~~department~~ may prohibit the association by
 14292 a mortgage broker business, or the employment by a mortgage
 14293 lender or correspondent mortgage lender, of any person who has
 14294 engaged in a pattern of misconduct while an associate of a
 14295 mortgage brokerage business or an employee of a mortgage lender
 14296 or correspondent mortgage lender. For the purpose of this
 14297 subsection, the term "pattern of misconduct" means the
 14298 commission of three or more violations of ss. 494.001-494.0077
 14299 or the provisions of chapter 494 in effect prior to October 1,
 14300 1991, during any 1-year period or any criminal conviction for
 14301 violating ss. 494.001-494.0077 or the provisions of chapter 494
 14302 in effect prior to October 1, 1991.

14303 Section 490. Subsections (2), (3), and (4) of section
 14304 494.0016, Florida Statutes, are amended to read:

14305 494.0016 Books, accounts, and records; maintenance;
 14306 examinations by the office ~~department~~.--

14307 (2) The office ~~department~~ may authorize maintenance of
 14308 records at a location other than a principal place of business.
 14309 The office ~~department~~ may require books, accounts, and records



HB 1803

2003

14310 to be produced and available at a reasonable and convenient
14311 location in this state.

14312 (3) All books, accounts, records, documents, and receipts
14313 for expenses paid by the licensee on behalf of the borrower,
14314 including each closing statement signed by a borrower, shall be
14315 preserved and kept available for examination by the office
14316 ~~department~~ for at least 3 years after the date of original
14317 entry.

14318 (4) The commission ~~department~~ may prescribe by rule the
14319 minimum information to be shown in the books, accounts, records,
14320 and documents of licensees so that such records will enable the
14321 office ~~department~~ to determine the licensee's compliance with
14322 ss. 494.001-494.0077.

14323 Section 491. Subsection (2) of section 494.00165, Florida
14324 Statutes, is amended to read:

14325 494.00165 Prohibited advertising; record requirements.--

14326 (2) Each person required to be licensed under this chapter
14327 shall maintain a record of samples of each of its
14328 advertisements, including commercial scripts of each radio or
14329 television broadcast, for examination by the office ~~department~~
14330 for a period of 2 years after the date of publication or
14331 broadcast.

14332 Section 492. Section 494.0017, Florida Statutes, is
14333 amended to read:

14334 494.0017 Mortgage Brokerage Guaranty Fund.--

14335 (1) The office ~~department~~ shall make transfers from the
14336 Regulatory Trust Fund to the Mortgage Brokerage Guaranty Fund to
14337 pay valid claims arising under former ss. 494.042, 494.043, and
14338 494.044, as provided in former s. 494.00171.

14339 (2) Any money paid to the Mortgage Brokerage Guaranty Fund



HB 1803

2003

14340 in excess of any liability to claimants against the Mortgage
14341 Brokerage Guaranty Fund shall be transferred to the Regulatory
14342 Trust Fund.

14343 (3) The Mortgage Brokerage Guaranty Fund shall be
14344 disbursed as provided in former s. 494.044, upon approval by the
14345 office ~~department~~, to any party to a mortgage financing
14346 transaction who:

14347 (a) Is adjudged by a court of competent jurisdiction of
14348 this state to have suffered monetary damages as a result of any
14349 violation of chapter 494 in effect prior to October 1, 1991,
14350 committed by a licensee or registrant;

14351 (b) Has filed a claim for recovery prior to January 1,
14352 1992; and

14353 (c) Has suffered monetary damages as a result of an act
14354 occurring prior to October 1, 1991.

14355 (4) Notwithstanding s. 215.965, the office ~~department~~ may
14356 disburse funds to a court or court-appointed person for
14357 distribution, if the conditions precedent for recovery exist and
14358 the distribution would be the fairest and most equitable manner
14359 of distributing the funds.

14360 Section 493. Section 494.0021, Florida Statutes, is
14361 amended to read:

14362 494.0021 Public records.--All audited financial statements
14363 submitted pursuant to ss. 494.001-494.0077 are confidential and
14364 exempt from the requirements of s. 119.07(1), except that office
14365 ~~department~~ employees may have access to such information in the
14366 administration and enforcement of ss. 494.001-494.0077 and such
14367 information may be used by office ~~department~~ personnel in the
14368 prosecution of violations under ss. 494.001-494.0077.

14369 Section 494. Subsections (1), (2), (3), (5), and (7) of



HB 1803

2003

14370 section 494.0025, Florida Statutes, are amended to read:

14371 494.0025 Prohibited practices.--It is unlawful for any
 14372 person:

14373 (1) To act as a mortgage lender in this state without a
 14374 current, active license issued by the office ~~department~~ pursuant
 14375 to ss. 494.006-494.0077.

14376 (2) To act as a correspondent mortgage lender in this
 14377 state without a current, active license issued by the office
 14378 ~~department~~ pursuant to ss. 494.006-494.0077.

14379 (3) To act as a mortgage broker in this state without a
 14380 current, active license issued by the office ~~department~~ pursuant
 14381 to ss. 494.003-494.0043.

14382 (5) In any matter within the jurisdiction of the office
 14383 ~~department~~, to knowingly and willfully falsify, conceal, or
 14384 cover up by a trick, scheme, or device a material fact, make any
 14385 false or fraudulent statement or representation, or make or use
 14386 any false writing or document, knowing the same to contain any
 14387 false or fraudulent statement or entry.

14388 (7) Who is required to be licensed under ss. 494.006-
 14389 494.0077, to fail to report to the office ~~department~~ the failure
 14390 to meet the net worth requirements of s. 494.0061, s. 494.0062,
 14391 or s. 494.0065 within 48 hours after the person's knowledge of
 14392 such failure or within 48 hours after the person should have
 14393 known of such failure.

14394 Section 495. Subsection (3) of section 494.0028, Florida
 14395 Statutes, is amended to read:

14396 494.0028 Arbitration.--

14397 (3) All agreements subject to this section shall provide
 14398 the noninstitutional investor or borrower with the option to
 14399 elect arbitration before the American Arbitration Association or



HB 1803

2003

14400 other independent nonindustry arbitration forum. Any other
 14401 nonindustry arbitration forum may apply to the office ~~department~~
 14402 to allow such forum to provide arbitration services. The office
 14403 ~~department~~ shall grant the application if the applicant's fees,
 14404 practices, and procedures do not materially differ from those of
 14405 the American Arbitration Association.

14406 Section 496. Section 494.0029, Florida Statutes, is
 14407 amended to read:

14408 494.0029 Mortgage business schools.--

14409 (1) Each person, school, or institution, except accredited
 14410 colleges, universities, community colleges, and area technical
 14411 centers in this state, which offers or conducts mortgage
 14412 business training as a condition precedent to licensure as a
 14413 mortgage broker or lender or a correspondent mortgage lender
 14414 shall obtain a permit from the office ~~department~~ and abide by
 14415 the regulations imposed upon such person, school, or institution
 14416 by this chapter and rules adopted pursuant to this chapter. The
 14417 commission ~~department~~ shall, by rule, recertify the permits
 14418 annually with initial and renewal permit fees that do not exceed
 14419 \$500 plus the cost of accreditation.

14420 (2) All such schools shall maintain curriculum and
 14421 training materials necessary to determine the school's
 14422 compliance with this chapter and rules adopted pursuant to this
 14423 chapter. Any school that offers or conducts mortgage business
 14424 training shall at all times maintain an operation of training,
 14425 materials, and curriculum which is open to review by the office
 14426 ~~department~~ to determine compliance and competency as a mortgage
 14427 business school.

14428 (3)(a) It is unlawful for any such person, school, or
 14429 institution to offer or conduct mortgage business courses,



HB 1803

2003

14430 regardless of the number of pupils, without first procuring a
14431 permit or to guarantee that the pupils will pass any mortgage
14432 business examination given on behalf of the office ~~department~~ or
14433 to represent that the issuance of a permit is any recommendation
14434 or endorsement of the person, school, or institution to which it
14435 is issued or of any course of instruction given thereunder. Any
14436 person who violates this paragraph commits a misdemeanor of the
14437 second degree, punishable as provided in s. 775.082 or s.
14438 775.083.

14439 (b) The location of classes and the frequency of class
14440 meetings shall be in the discretion of the school offering the
14441 courses, if such courses conform to this chapter and related
14442 rules adopted by the commission ~~department~~.

14443 (c) A mortgage business school may not use advertising of
14444 any nature which is false, inaccurate, misleading, or
14445 exaggerated. Publicity and advertising of a mortgage business
14446 school, or of its representative, shall be based upon relevant
14447 facts and supported by evidence establishing their truth.

14448 (d) A representative of a mortgage business school subject
14449 to the provisions of this chapter may not promise or guarantee
14450 employment or placement of any pupil or prospective pupil, using
14451 information, training, or skill purported to be provided or
14452 otherwise enhanced by a course or school as inducement to enroll
14453 in the school, unless such person offers the pupil or
14454 prospective pupil a bona fide contract of employment.

14455 (e) A school shall advertise only as a school and under
14456 the permitted name of such school as recognized by the office
14457 ~~department~~.

14458 (f) Reference may not be made in any publication or
14459 communication medium as to a pass/fail ratio on mortgage



HB 1803

2003

14460 business examinations by any school permitted by the office
 14461 ~~department~~.

14462 Section 497. Subsections (1) and (3) of section 494.00295,
 14463 Florida Statutes, are amended to read:

14464 494.00295 Professional education.--

14465 (1) Each mortgage broker, mortgage lender, and
 14466 correspondent mortgage lender must certify to the office
 14467 ~~department~~ at the time of renewal that during the 2 years prior
 14468 to an application for license renewal, all mortgage brokers and
 14469 the principal representative, loan originators, and associates
 14470 of a mortgage lender or correspondent mortgage lender have
 14471 successfully completed at least 14 hours of professional
 14472 education programs covering primary and subordinate mortgage
 14473 financing transactions and the provisions of this chapter.
 14474 Licensees shall maintain records documenting compliance with
 14475 this subsection for a period of 4 years.

14476 (3) The commission ~~department~~ shall adopt rules necessary
 14477 to administer this section, including rules governing qualifying
 14478 hours for professional education programs and standards for
 14479 electronically transmitted or distance education courses,
 14480 including course completion requirements.

14481 Section 498. Subsections (1), (2), (4), and (5) of section
 14482 494.0031, Florida Statutes, are amended to read:

14483 494.0031 Licensure as a mortgage brokerage business.--

14484 (1) The office ~~department~~ shall issue a mortgage brokerage
 14485 business license to each person who:

14486 (a) Has submitted a completed application form and a
 14487 nonrefundable application fee of \$425; and

14488 (b) Has a qualified principal broker pursuant to s.
 14489 494.0035.



HB 1803

2003

14490 (2) The commission ~~department~~ may require that each
14491 officer, director, and ultimate equitable owner of a 10-percent
14492 or greater interest in the mortgage brokerage business submit a
14493 complete set of fingerprints taken by an authorized law
14494 enforcement officer.

14495 (4) A mortgage brokerage business or branch office license
14496 may be canceled if it was issued through mistake or inadvertence
14497 of the office ~~department~~. A notice of cancellation must be
14498 issued by the office ~~department~~ within 90 days after the
14499 issuance of the license. A notice of cancellation shall be
14500 effective upon receipt. The notice of cancellation shall provide
14501 the applicant with notification of the right to request a
14502 hearing within 21 days after the applicant's receipt of the
14503 notice of cancellation. A license shall be reinstated if the
14504 applicant can demonstrate that the requirements for obtaining
14505 the license pursuant to this chapter have been satisfied.

14506 (5) If an initial mortgage brokerage business or branch
14507 office license has been issued but the check upon which the
14508 license is based is returned due to insufficient funds, the
14509 license shall be deemed canceled. A license deemed canceled
14510 pursuant to this subsection shall be reinstated if the office
14511 ~~department~~ receives a certified check for the appropriate amount
14512 within 30 days after the date the check was returned due to
14513 insufficient funds.

14514 Section 499. Section 494.0032, Florida Statutes, is
14515 amended to read:

14516 494.0032 Renewal of mortgage brokerage business license or
14517 branch office license.--

14518 (1) The office ~~department~~ shall renew a mortgage brokerage
14519 business license upon receipt of a completed renewal form and



HB 1803

2003

14520 payment of a nonrefundable renewal fee of \$375. Each licensee
14521 shall pay at the time of renewal a nonrefundable renewal fee of
14522 \$225 for the renewal of each branch office license.

14523 (2) The commission ~~department~~ shall adopt rules
14524 establishing a procedure for the biennial renewal of mortgage
14525 brokerage business licenses and branch office licenses. The
14526 commission ~~department~~ may prescribe the form for renewal and may
14527 require an update of all information provided in the licensee's
14528 initial application.

14529 (3) A mortgage brokerage business or branch office license
14530 that is not renewed by the end of the biennium established by
14531 the commission ~~department~~ shall revert from active to inactive
14532 status. An inactive license may be reactivated within 6 months
14533 after becoming inactive by filing a completed reactivation form
14534 with the office ~~department~~, payment of the renewal fee, and
14535 payment of a nonrefundable reactivation fee of \$100. A license
14536 that is not renewed within 6 months after the end of the
14537 biennial period automatically expires.

14538 Section 500. Subsections (2), (3), (6), and (7) of section
14539 494.0033, Florida Statutes, are amended to read:

14540 494.0033 Mortgage broker's license.--

14541 (2) Each initial application for a mortgage broker's
14542 license must be in the form prescribed by rule of the commission
14543 ~~department~~. The commission ~~department~~ may require each applicant
14544 to provide any information reasonably necessary to make a
14545 determination of the applicant's eligibility for licensure. The
14546 office ~~department~~ shall issue an initial license to any natural
14547 person who:

14548 (a) Is at least 18 years of age;

14549 (b) Has passed a written test adopted by the office



HB 1803

2003

14550 ~~department~~ which is designed to determine competency in primary
14551 and subordinate mortgage financing transactions as well as to
14552 test knowledge of ss. 494.001-494.0077 and the rules adopted
14553 pursuant thereto;

14554 (c) Has submitted a completed application and a
14555 nonrefundable application fee of \$200. The commission ~~department~~
14556 may set by rule an additional fee for a retake of the
14557 examination; and

14558 (d) Has filed a complete set of fingerprints, taken by an
14559 authorized law enforcement officer, for submission by the office
14560 ~~department~~ to the Department of Law Enforcement or the Federal
14561 Bureau of Investigation for processing.

14562 (3) Any person applying after July 1, 1992, must have
14563 completed 24 hours of classroom education on primary and
14564 subordinate financing transactions and the laws and rules of ss.
14565 494.001-494.0077 to be eligible for licensure. The commission
14566 ~~department~~ may adopt rules regarding qualifying hours.

14567 (6) A mortgage broker license may be canceled if it was
14568 issued through mistake or inadvertence of the office ~~department~~.
14569 A notice of cancellation must be issued by the office ~~department~~
14570 within 90 days after the issuance of the license. A notice of
14571 cancellation shall be effective upon receipt. The notice of
14572 cancellation shall provide the applicant with notification of
14573 the right to request a hearing within 21 days after the
14574 applicant's receipt of the notice of cancellation. A license
14575 shall be reinstated if the applicant can demonstrate that the
14576 requirements for obtaining the license pursuant to this chapter
14577 have been satisfied.

14578 (7) If an initial mortgage broker license has been issued
14579 but the check upon which the license is based is returned due to



HB 1803

2003

14580 insufficient funds, the license shall be deemed canceled. A
 14581 license deemed canceled pursuant to this subsection shall be
 14582 reinstated if the office ~~department~~ receives a certified check
 14583 for the appropriate amount within 30 days after the date the
 14584 check was returned due to insufficient funds.

14585 Section 501. Section 494.0034, Florida Statutes, is
 14586 amended to read:

14587 494.0034 Renewal of mortgage broker's license.--

14588 (1) The office ~~department~~ shall renew a mortgage broker
 14589 license upon receipt of the completed renewal form,
 14590 certification of compliance with continuing education
 14591 requirements of s. 494.00295, and payment of a nonrefundable
 14592 renewal fee of \$150.

14593 (2) The commission ~~department~~ shall adopt rules
 14594 establishing a procedure for the biennial renewal of mortgage
 14595 broker's licenses. The commission ~~department~~ may prescribe the
 14596 form of the renewal application and may require an update of
 14597 information since the licensee's last renewal.

14598 (3) A license that is not renewed by the end of the
 14599 biennium prescribed by the commission ~~department~~ shall revert
 14600 from active to inactive status. An inactive license may be
 14601 reactivated within 2 years after becoming inactive by filing a
 14602 completed reactivation form with the office ~~department~~, payment
 14603 of the renewal fee, and payment of a nonrefundable reactivation
 14604 fee of \$100. A license that is not renewed within 2 years after
 14605 becoming inactive automatically expires.

14606 Section 502. Section 494.0035, Florida Statutes, is
 14607 amended to read:

14608 494.0035 Principal broker and branch broker requirements.-

14609 -



HB 1803

2003

14610 (1) Each mortgage brokerage business must have a principal
 14611 broker who shall operate the business under such broker's full
 14612 charge, control, and supervision. The principal broker must have
 14613 been a licensed mortgage broker pursuant to s. 494.0033 for at
 14614 least 1 year prior to being designated as a principal broker, or
 14615 shall demonstrate to the satisfaction of the office ~~department~~
 14616 that such principal broker has been actively engaged in a
 14617 mortgage-related business for at least 1 year prior to being
 14618 designated as a principal broker. Each mortgage brokerage
 14619 business shall maintain a form as prescribed by the commission
 14620 ~~department~~ indicating the business's designation of principal
 14621 broker and the individual's acceptance of such responsibility.
 14622 If the form is unavailable, inaccurate, or incomplete, it is
 14623 deemed that the business was operated in the full charge,
 14624 control, and supervision by each officer, director, or ultimate
 14625 equitable owner of a 10-percent or greater interest in the
 14626 mortgage brokerage business, or any other person in a similar
 14627 capacity.

14628 (2) Each branch office of a mortgage brokerage business
 14629 must have a designated branch broker who shall operate the
 14630 business under such broker's full charge, control, and
 14631 supervision. The designated branch broker must be a licensed
 14632 mortgage broker pursuant to s. 494.0033. Each branch office
 14633 shall maintain a form as prescribed by the commission ~~department~~
 14634 logging the branch's designation of a branch broker and the
 14635 individual's acceptance of such responsibility. If the form is
 14636 unavailable, inaccurate, or incomplete, it is deemed that the
 14637 branch was operated in the full charge, control, and supervision
 14638 by each officer, director, or ultimate equitable owner of a 10-
 14639 percent or greater interest in the mortgage brokerage business,



HB 1803

2003

14640 or any other person in a similar capacity.

14641 Section 503. Subsection (2) of section 494.0036, Florida
14642 Statutes, is amended to read:

14643 494.0036 Mortgage brokerage business branch offices.--

14644 (2) The office ~~department~~ shall issue a mortgage brokerage
14645 business branch office license upon receipt of a completed
14646 application in a form as prescribed by commission ~~department~~
14647 rule and payment of an initial nonrefundable branch office
14648 license fee of \$225. Branch office licenses must be renewed in
14649 conjunction with the renewal of the mortgage brokerage business
14650 license. The branch office license shall be issued in the name
14651 of the mortgage brokerage business that maintains the branch
14652 office.

14653 Section 504. Paragraph (c) of subsection (1) of section
14654 494.0038, Florida Statutes, is amended to read:

14655 494.0038 Mortgage broker disclosures.--

14656 (1)

14657 (c) The commission ~~department~~ may prescribe by rule the
14658 form of disclosure of brokerage fees.

14659 Section 505. Subsections (2), (3), (4), and (6) of section
14660 494.004, Florida Statutes, are amended to read:

14661 494.004 Requirements of licensees.--

14662 (2) Each licensee under ss. 494.003-494.0043 shall report,
14663 in a form prescribed by rule of the commission ~~department~~, any
14664 conviction of, or plea of nolo contendere to, regardless of
14665 whether adjudication is withheld, any felony committed by the
14666 licensee or any natural person named in s. 494.0031(3), not
14667 later than 30 days after the date of conviction or the date the
14668 plea of nolo contendere is entered.

14669 (3) Each licensee under ss. 494.003-494.0043 shall report



HB 1803

2003

14670 any action in bankruptcy, voluntary or involuntary, to the
14671 office ~~department~~ not later than 7 business days after the
14672 action is instituted.

14673 (4) Each licensee under ss. 494.003-494.0043 shall report
14674 any change in the form of business organization or any change of
14675 a person named, pursuant to s. 494.0031(3), to the office
14676 ~~department~~ in writing not later than 30 days after the change is
14677 effective.

14678 (6) On or before April 30, 2000, each mortgage brokerage
14679 business shall file an initial report stating the name, social
14680 security number, date of birth, mortgage broker license number,
14681 date of hire and, if applicable, date of termination for each
14682 person who was an associate of the mortgage brokerage business
14683 during the immediate preceding quarter. Thereafter, a mortgage
14684 brokerage business shall file a quarterly report only if a
14685 person became an associate or ceased to be an associate of the
14686 mortgage brokerage business during the immediate preceding
14687 quarter. Such report shall be filed within 30 days after the
14688 last day of each calendar quarter and shall contain the name,
14689 social security number, date of birth, mortgage broker license
14690 number, date of hire and, if applicable, the date of termination
14691 of each person who became or ceased to be an associate of the
14692 mortgage brokerage business during the immediate preceding
14693 quarter. The commission ~~department~~ shall prescribe, by rule, the
14694 procedures for filing reports required by this subsection.

14695 Section 506. Subsection (1) and paragraphs (j), (m), and
14696 (n) of subsection (2) of section 494.0041, Florida Statutes, are
14697 amended to read:

14698 494.0041 Administrative penalties and fines; license
14699 violations.--



HB 1803

2003

14700 (1) Whenever the office ~~department~~ finds a person in
 14701 violation of an act specified in subsection (2), it may enter an
 14702 order imposing one or more of the following penalties against
 14703 the person:

14704 (a) Revocation of a license or registration.

14705 (b) Suspension of a license or registration subject to
 14706 reinstatement upon satisfying all reasonable conditions that the
 14707 office ~~department~~ specifies.

14708 (c) Placement of the licensee, registrant, or applicant on
 14709 probation for a period of time and subject to all reasonable
 14710 conditions that the office ~~department~~ specifies.

14711 (d) Issuance of a reprimand.

14712 (e) Imposition of a fine in an amount not exceeding \$5,000
 14713 for each count or separate offense.

14714 (f) Denial of a license or registration.

14715 (2) Each of the following acts constitutes a ground for
 14716 which the disciplinary actions specified in subsection (1) may
 14717 be taken:

14718 (j) Failure to comply with any ~~department~~ order or rule
 14719 made or issued under ss. 494.001-494.0077.

14720 (m) Failure to maintain, preserve, and keep available for
 14721 examination all books, accounts, or other documents required by
 14722 ss. 494.001-494.0077 and the rules of the commission ~~department~~.

14723 (n) Refusal to permit an investigation or examination of
 14724 books and records, or refusal to comply with an office a
 14725 ~~department~~ subpoena or subpoena duces tecum.

14726 Section 507. Subsections (1), (3), (6), (7), (8), (9), and
 14727 (10) of section 494.0061, Florida Statutes, are amended to read:
 14728 494.0061 Mortgage lender's license requirements.--

14729 (1) The commission or office ~~department~~ may require each



HB 1803

2003

14730 applicant for a mortgage lender license to provide any
 14731 information reasonably necessary to make a determination of the
 14732 applicant's eligibility for licensure. The office ~~department~~
 14733 shall issue an initial mortgage lender license to any person
 14734 that submits:

14735 (a) A completed application form;
 14736 (b) A nonrefundable application fee of \$575;
 14737 (c) Audited financial statements, which documents disclose
 14738 that the applicant has a bona fide and verifiable net worth,
 14739 pursuant to generally accepted accounting principles, of at
 14740 least \$250,000, which must be continuously maintained as a
 14741 condition of licensure;
 14742 (d) A surety bond in the amount of \$10,000, payable to the
 14743 state and conditioned upon compliance with ss. 494.001-494.0077,
 14744 which inures to the office ~~department~~ and which must be
 14745 continuously maintained thereafter in full force;
 14746 (e) Documentation that the applicant is duly incorporated,
 14747 registered, or otherwise formed as a general partnership,
 14748 limited partnership, limited liability company, or other lawful
 14749 entity under the laws of this state or another state of the
 14750 United States; and
 14751 (f) For applications submitted after October 1, 2001,
 14752 proof that the applicant's principal representative has
 14753 completed 24 hours of classroom instruction in primary and
 14754 subordinate financing transactions and in the provisions of this
 14755 chapter and rules adopted under this chapter.

14756 (3) Each initial application for a mortgage lender's
 14757 license must be in a form prescribed by the commission
 14758 ~~department~~. The commission or office ~~department~~ may require each
 14759 applicant to provide any information reasonably necessary to



HB 1803

2003

14760 make a determination of the applicant's eligibility for
14761 licensure. The commission or office ~~department~~ may require that
14762 each officer, director, and ultimate equitable owner of a 10-
14763 percent or greater interest in the applicant submit a complete
14764 set of fingerprints taken by an authorized law enforcement
14765 officer.

14766 (6) A mortgage lender or branch office license may be
14767 canceled if it was issued through mistake or inadvertence of the
14768 office ~~department~~. A notice of cancellation must be issued by
14769 the office ~~department~~ within 90 days after the issuance of the
14770 license. A notice of cancellation shall be effective upon
14771 receipt. The notice of cancellation shall provide the applicant
14772 with notification of the right to request a hearing within 21
14773 days after the applicant's receipt of the notice of
14774 cancellation. A license shall be reinstated if the applicant can
14775 demonstrate that the requirements for obtaining the license
14776 pursuant to this chapter have been satisfied.

14777 (7) If an initial mortgage lender or branch office license
14778 has been issued but the check upon which the license is based is
14779 returned due to insufficient funds, the license shall be deemed
14780 canceled. A license deemed canceled pursuant to this subsection
14781 shall be reinstated if the office ~~department~~ receives a
14782 certified check for the appropriate amount within 30 days after
14783 the date the check was returned due to insufficient funds.

14784 (8) Each lender, regardless of the number of branches it
14785 operates, shall designate a principal representative who
14786 exercises control of the licensee's business and shall maintain
14787 a form prescribed by the commission ~~department~~ designating the
14788 principal representative. If the form is not accurately
14789 maintained, the business is considered to be operated by each



HB 1803

2003

14790 officer, director, or equitable owner of a 10-percent or greater
14791 interest in the business.

14792 (9) After October 1, 2001, an applicant's principal
14793 representative must pass a written test prescribed by the
14794 commission ~~department~~ which covers primary and subordinate
14795 mortgage financing transactions and the provisions of this
14796 chapter and rules adopted under this chapter.

14797 (10) A lender shall notify the office ~~department~~ of the
14798 name and address of any new principal representative and shall
14799 document that the person has completed the educational and
14800 testing requirements of this section upon the designation of a
14801 new principal representative.

14802 Section 508. Subsections (1), (3), (9), (10), (11), (12),
14803 and (13) of section 494.0062, Florida Statutes, are amended to
14804 read:

14805 494.0062 Correspondent mortgage lender's license
14806 requirements.--

14807 (1) The office ~~department~~ shall issue an initial
14808 correspondent mortgage lender license to any person who submits:

14809 (a) A completed application form;

14810 (b) A nonrefundable application fee of \$500;

14811 (c) Audited financial statements, which document that the
14812 application has a bona fide and verifiable net worth pursuant to
14813 generally accepted accounting principles of \$25,000 or more,
14814 which must be continuously maintained as a condition of
14815 licensure;

14816 (d) A surety bond in the amount of \$10,000, payable to the
14817 State of Florida and conditioned upon compliance with ss.

14818 494.001-494.0077, which inures to the office ~~department~~ and

14819 which must be continuously maintained, thereafter, in full



HB 1803

2003

14820 force;

14821 (e) Documentation that the applicant is duly incorporated,
14822 registered, or otherwise formed as a general partnership,
14823 limited partnership, limited liability company, or other lawful
14824 entity under the laws of this state or another state of the
14825 United States; and

14826 (f) For applications filed after October 1, 2001, proof
14827 that the applicant's principal representative has completed 24
14828 hours of classroom instruction in primary and subordinate
14829 financing transactions and in the provisions of this chapter and
14830 rules enacted under this chapter.

14831 (3) Each initial application for a correspondent mortgage
14832 lender's license must be in a form prescribed by the commission
14833 ~~department~~. The commission or office ~~department~~ may require each
14834 applicant to provide any information reasonably necessary to
14835 make a determination of the applicant's eligibility for
14836 licensure. The commission or office ~~department~~ may require that
14837 each officer, director, and ultimate equitable owner of a 10-
14838 percent or greater interest submit a complete set of
14839 fingerprints taken by an authorized law enforcement officer.

14840 (9) A correspondent mortgage lender or branch office
14841 license may be canceled if it was issued through mistake or
14842 inadvertence of the office ~~department~~. A notice of cancellation
14843 must be issued by the office ~~department~~ within 90 days after the
14844 issuance of the license. A notice of cancellation shall be
14845 effective upon receipt. The notice of cancellation shall provide
14846 the applicant with notification of the right to request a
14847 hearing within 21 days after the applicant's receipt of the
14848 notice of cancellation. A license shall be reinstated if the
14849 applicant can demonstrate that the requirements for obtaining



HB 1803

2003

14850 the license pursuant to this chapter have been satisfied.

14851 (10) If an initial correspondent mortgage lender or branch
14852 office license has been issued but the check upon which the
14853 license is based is returned due to insufficient funds, the
14854 license shall be deemed canceled. A license deemed canceled
14855 pursuant to this subsection shall be reinstated if the office
14856 ~~department~~ receives a certified check for the appropriate amount
14857 within 30 days after the date the check was returned due to
14858 insufficient funds.

14859 (11) Each correspondent lender shall designate a principal
14860 representative who exercises control over the business and shall
14861 maintain a form prescribed by the commission ~~department~~
14862 designating the principal representative. If the form is not
14863 accurately maintained, the business is considered to be operated
14864 by each officer, director, or equitable owner of a 10-percent or
14865 greater interest in the business.

14866 (12) After October 1, 2001, an applicant's principal
14867 representative must pass a written test prescribed by the
14868 commission ~~department~~ which covers primary and subordinate
14869 mortgage financing transactions and the provisions of this
14870 chapter and rules adopted under this chapter.

14871 (13) A correspondent lender shall notify the office
14872 ~~department~~ of the name and address of any new principal
14873 representative and shall document that such person has completed
14874 the educational and testing requirements of this section upon
14875 the lender's designation of a new principal representative.

14876 Section 509. Section 494.0064, Florida Statutes, is
14877 amended to read:

14878 494.0064 Renewal of mortgage lender's license; branch
14879 office license renewal.--



HB 1803

2003

14880 (1)(a) The office ~~department~~ shall renew a mortgage lender
 14881 license upon receipt of a completed renewal form and the
 14882 nonrefundable renewal fee of \$575. The office ~~department~~ shall
 14883 renew a correspondent lender license upon receipt of a completed
 14884 renewal form and a nonrefundable renewal fee of \$475. Each
 14885 licensee shall pay at the time of renewal a nonrefundable fee of
 14886 \$325 for the renewal of each branch office license.

14887 (b) A licensee shall also submit, as part of the renewal
 14888 form, certification that during the preceding 2 years the
 14889 licensee's principal representative, loan originators, and
 14890 associates have completed the education requirements of s.
 14891 494.00295.

14892 (2) The commission ~~department~~ shall adopt rules
 14893 establishing a procedure for the biennial renewal of mortgage
 14894 lender's licenses, correspondent lender's licenses, and branch
 14895 office permits. The commission ~~department~~ may prescribe the form
 14896 for renewal and may require an update of all information
 14897 provided in the licensee's initial application.

14898 (3) The license of a mortgage lender, correspondent
 14899 mortgage lender, or branch office that is not renewed by the end
 14900 of the biennium prescribed by the commission ~~department~~
 14901 automatically reverts to inactive status. An inactive license
 14902 may be reactivated within 6 months after becoming inactive by
 14903 filing a completed reactivation form with the office ~~department~~,
 14904 payment of the appropriate renewal fee, and payment of a
 14905 nonrefundable reactivation fee of \$100. A license that is not
 14906 renewed within 6 months after the end of the biennial period
 14907 automatically expires.

14908 (4) The commission ~~department~~ may adopt rules setting
 14909 forth the evidence or documentation of minimum net worth to be



HB 1803

2003

14910 submitted for renewal of a license.

14911 Section 510. Paragraph (a) of subsection (1) and
14912 subsections (2), (3), (5), and (8) of section 494.0065, Florida
14913 Statutes, are amended to read:

14914 494.0065 Saving clause.--

14915 (1)(a) Any person in good standing who holds an active
14916 registration pursuant to former s. 494.039 or license pursuant
14917 to former s. 521.205, or any person who acted solely as a
14918 mortgage servicer on September 30, 1991, is eligible to apply to
14919 the office ~~department~~ for a mortgage lender's license and is
14920 eligible for licensure if the applicant:

14921 1. For at least 12 months during the period of October 1,
14922 1989, through September 30, 1991, has engaged in the business of
14923 either acting as a seller or assignor of mortgage loans or as a
14924 servicer of mortgage loans, or both;

14925 2. Has documented a minimum net worth of \$25,000 in
14926 audited financial statements; and

14927 3. Has applied for licensure pursuant to this section by
14928 January 1, 1992, and paid an application fee of \$100.

14929 (2) A licensee issued a license pursuant to subsection (1)
14930 may renew its mortgage lending license if it documents a minimum
14931 net worth of \$25,000, according to generally accepted accounting
14932 principles, which must be continuously maintained as a condition
14933 to licensure. The office ~~department~~ shall require an audited
14934 financial statement which documents such net worth.

14935 (3) The commission ~~department~~ may prescribe by rule forms
14936 and procedures for application for licensure, and amendment and
14937 withdrawal of application for licensure, or transfer, including
14938 any existing branch offices, in accordance with subsections (4)
14939 and (5), and for renewal of licensure of licensees under this



HB 1803

2003

14940 section.

14941 (5) The commission or office ~~department~~ may require each
14942 applicant for any transfer to provide any information reasonably
14943 necessary to make a determination of the applicant's eligibility
14944 for licensure. The office ~~department~~ shall issue the transfer of
14945 licensure to any person who submits the following documentation
14946 at least 90 days prior to the anticipated transfer:

14947 (a) A completed application form.

14948 (b) A nonrefundable fee set by rule of the commission
14949 ~~department~~ in the amount of \$500.

14950 (c) Audited financial statements that substantiate that
14951 the applicant has a bona fide and verifiable net worth,
14952 according to generally accepted accounting principles, of at
14953 least \$25,000, which must be continuously maintained as a
14954 condition of licensure.

14955 (d) Documentation that the applicant is incorporated,
14956 registered, or otherwise formed as a general partnership,
14957 limited partnership, limited liability company, or other lawful
14958 entity under the laws of this state or another state of the
14959 United States.

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14962 The commission or office ~~department~~ may require that each
14963 officer, director, and ultimate equitable owner of a 10-percent
14964 or greater interest in the applicant submit a complete set of
14965 fingerprints taken by an authorized law enforcement officer.

14966 (8) ~~The department shall require~~ Each person applying for
14967 a transfer of any branch office pursuant to subsection (4) must
14968 ~~of this section to~~ comply with the requirements of s. 494.0066.

14969 Section 511. Subsection (2) of section 494.0066, Florida



HB 1803

2003

14970 Statutes, is amended to read:

14971 494.0066 Branch offices.--

14972 (2) The office ~~department~~ shall issue a branch office
14973 license upon receipt of a completed application form as
14974 prescribed by rule by the commission ~~department~~ and an initial
14975 nonrefundable branch office license fee of \$325. The branch
14976 office application must include the name and license number of
14977 the licensee under ss. 494.006-494.0077, the name of the
14978 licensee's employee in charge of the branch office, and the
14979 address of the branch office. The branch office license shall
14980 be issued in the name of the licensee under ss. 494.006-494.0077
14981 and must be renewed in conjunction with the license renewal.

14982 Section 512. Subsections (4), (5), (6), (8), and (9) of
14983 section 494.0067, Florida Statutes, are amended to read:

14984 494.0067 Requirements of licensees under ss. 494.006-
14985 494.0077.--

14986 (4) The commission or office ~~department~~ may require each
14987 licensee under ss. 494.006-494.0077 to report any change of
14988 address of the principal place of business, change of address of
14989 any branch office, or change of principal officer, director, or
14990 ultimate equitable owner of 10 percent or more of the licensed
14991 corporation to the office ~~department~~ in a form prescribed by
14992 rule of the commission ~~department~~ not later than 30 business
14993 days after the change is effective.

14994 (5) Each licensee under ss. 494.006-494.0077 shall report
14995 in a form prescribed by rule by the commission ~~department~~ any
14996 indictment, information, charge, conviction, plea of nolo
14997 contendere, or plea of guilty to any crime or administrative
14998 violation that involves fraud, dishonest dealing, or any other
14999 act of moral turpitude, in any jurisdiction, by the licensee



HB 1803

2003

15000 under ss. 494.006-494.0077 or any principal officer, director,
 15001 or ultimate equitable owner of 10 percent or more of the
 15002 licensed corporation, not later than 30 business days after the
 15003 indictment, information, charge, conviction, or final
 15004 administrative action.

15005 (6) Each licensee under ss. 494.006-494.0077 shall report
 15006 any action in bankruptcy, voluntary or involuntary, to the
 15007 office ~~department~~, not later than 7 business days after the
 15008 action is instituted.

15009 (8) Each licensee under ss. 494.006-494.0077 shall provide
 15010 an applicant for a mortgage loan a good faith estimate of the
 15011 costs the applicant can reasonably expect to pay in obtaining a
 15012 mortgage loan. The good faith estimate of costs shall be mailed
 15013 or delivered to the applicant within a reasonable time after the
 15014 licensee receives a written loan application from the applicant.
 15015 The estimate of costs may be provided to the applicant by a
 15016 person other than the licensee making the loan. The commission
 15017 ~~department~~ may adopt rules that set forth the disclosure
 15018 requirements of this section.

15019 (9) On or before April 30, 2000, each mortgage lender or
 15020 correspondent mortgage lender shall file an initial report
 15021 stating the full legal name, residential address, social
 15022 security number, date of birth, mortgage broker license number,
 15023 date of hire, and, if applicable, date of termination for each
 15024 person who acted as a loan originator or an associate of the
 15025 mortgage lender or correspondent mortgage lender during the
 15026 immediate preceding quarter. Thereafter, a mortgage lender or
 15027 correspondent mortgage lender shall file a report only if a
 15028 person became or ceased to be a loan originator or an associate
 15029 of the mortgage lender or correspondent mortgage lender during



HB 1803

2003

15030 the immediate preceding quarter. Such report shall be filed
15031 within 30 days after the last day of each calendar quarter and
15032 shall contain the full legal name, residential address, social
15033 security number, date of birth, date of hire and, if applicable,
15034 the mortgage broker license number and date of termination of
15035 each person who became or ceased to be a loan originator or an
15036 associate of the mortgage lender or correspondent mortgage
15037 lender during the immediate preceding quarter. The commission
15038 ~~department~~ shall prescribe, by rule, the procedures for filing
15039 reports required by this subsection.

15040 Section 513. Subsection (6) of section 494.0069, Florida
15041 Statutes, is amended to read:

15042 494.0069 Lock-in agreement.--

15043 (6) The commission ~~department~~ may adopt by rule a form for
15044 required lock-in agreement disclosures.

15045 Section 514. Subsection (1) and paragraphs (j), (m), and
15046 (n) of subsection (2) of section 494.0072, Florida Statutes, are
15047 amended to read:

15048 494.0072 Administrative penalties and fines; license
15049 violations.--

15050 (1) Whenever the office ~~department~~ finds a person in
15051 violation of an act specified in subsection (2), it may enter an
15052 order imposing one or more of the following penalties against
15053 that person:

15054 (a) Revocation of a license or registration.

15055 (b) Suspension of a license or registration, subject to
15056 reinstatement upon satisfying all reasonable conditions that the
15057 office ~~department~~ specifies.

15058 (c) Placement of the licensee or applicant on probation
15059 for a period of time and subject to all reasonable conditions



HB 1803

2003

15060 that the office ~~department~~ specifies.

15061 (d) Issuance of a reprimand.

15062 (e) Imposition of a fine in an amount not exceeding \$5,000
15063 for each count or separate offense.

15064 (f) Denial of a license or registration.

15065 (2)

15066 (j) Failure to comply with any ~~department~~ order or rule
15067 made or issued under the provisions of ss. 494.001-494.0077.

15068 (m) Failure to maintain, preserve, and keep available for
15069 examination all books, accounts, or other documents required by
15070 ss. 494.001-494.0077 or the rules of the commission ~~department~~.

15071 (n) Refusal to permit an investigation or examination of
15072 books and records, or refusal to comply with an office a
15073 ~~department~~ subpoena or subpoena duces tecum.

15074 Section 515. Subsection (2) of section 494.00721, Florida
15075 Statutes, is amended to read:

15076 494.00721 Net worth.--

15077 (2) If a mortgage lender or correspondent mortgage lender
15078 fails to satisfy the net worth requirements, the mortgage lender
15079 or correspondent mortgage lender shall immediately cease taking
15080 any new mortgage loan applications. Thereafter, the mortgage
15081 lender or correspondent mortgage lender shall have up to 60 days
15082 within which to satisfy the net worth requirements. If the
15083 licensee makes the office ~~department~~ aware, prior to an
15084 examination, that the licensee no longer meets the net worth
15085 requirements, the mortgage lender or correspondent mortgage
15086 lender shall have 120 days within which to satisfy the net worth
15087 requirements. A mortgage lender or correspondent mortgage lender
15088 shall not resume acting as a mortgage lender or correspondent
15089 mortgage lender without written authorization from the office



HB 1803

2003

15090 ~~department~~, which authorization shall be granted if the mortgage
 15091 lender or correspondent mortgage lender provides the office
 15092 ~~department~~ with documentation which satisfies the requirements
 15093 of s. 494.0061(1)(c), s. 494.0062(1)(c), or s. 494.0065(2),
 15094 whichever is applicable.

15095 Section 516. Paragraph (b) of subsection (2) of section
 15096 494.0076, Florida Statutes, is amended to read:

15097 494.0076 Servicing audits.--

15098 (2)

15099 (b) The commission may ~~department is authorized to~~ adopt
 15100 rules to ensure that investors are adequately protected under
 15101 this subsection.

15102 Section 517. Subsection (5) of section 494.0079, Florida
 15103 Statutes, is amended, present subsections (6) and (7) of that
 15104 section are renumbered as subsections (7) and (8), respectively,
 15105 and a new subsection (6) is added to that section, to read:

15106 494.0079 Definitions.--As used in this act:

15107 (5) "Commission" means the Financial Services Commission
 15108 "~~Department~~" means the Department of Banking and Finance.

15109 (6) "Office" means the Office of Financial Institutions
 15110 and Securities Regulation of the commission.

15111 Section 518. Section 494.00795, Florida Statutes, is
 15112 amended to read:

15113 494.00795 Powers and duties of the commission and office
 15114 ~~Department of Banking and Finance~~; investigations; examinations;
 15115 injunctions; orders.--

15116 (1)(a) The commission and office are ~~department shall be~~
 15117 responsible for the administration and enforcement of this act.

15118 (b) The commission ~~department~~ may adopt rules pursuant to
 15119 ss. 120.536(1) and 120.54 to implement this act. The commission



HB 1803

2003

15120 ~~department~~ may adopt rules to allow electronic submission of any
15121 forms, documents, or fees required by this act.

15122 (2)(a) The office ~~department~~ may conduct an investigation
15123 of any person whenever the office ~~department~~ has reason to
15124 believe, upon complaint or otherwise, that any violation of the
15125 act has occurred.

15126 (b) Any person having reason to believe that a provision
15127 of this act has been violated may file a written complaint with
15128 the office ~~department~~ setting forth the details of the alleged
15129 violation.

15130 (c) The office ~~department~~ may conduct examinations of any
15131 person to determine compliance with this act.

15132 (3)(a) The office ~~department~~ may bring action, through its
15133 own counsel in the name and on behalf of the state, against any
15134 person who has violated or is about to violate any provision of
15135 this act, or any rule or order ~~of the department~~ issued under
15136 the act, to enjoin the person from continuing in or engaging in
15137 any act in furtherance of the violation.

15138 (b) In any injunctive proceeding, the court may, on due
15139 showing by the office ~~department~~, issue a subpoena or subpoena
15140 duces tecum requiring the attendance of any witness and
15141 requiring the production of any books, accounts, records, or
15142 other documents and materials that appear necessary to the
15143 expeditious resolution of the application for injunction.

15144 (4) The office ~~department~~ may issue and serve upon any
15145 person an order to cease and desist and to take corrective
15146 action whenever the office ~~department~~ has reason to believe the
15147 person is violating, has violated, or is about to violate any
15148 provision of this act, any rule or order ~~of the department~~
15149 issued under this act, or any written agreement between the



HB 1803

2003

15150 person and the office ~~department~~. All procedural matters
 15151 relating to issuance and enforcement of cease and desist orders
 15152 are governed by the Administrative Procedure Act.

15153 (5) Whenever the office ~~department~~ finds a person in
 15154 violation of this act, it may enter an order imposing a fine in
 15155 an amount not exceeding \$5,000 for each count or separate
 15156 offense, provided that the aggregate fine for all violations of
 15157 this act that could have been asserted at the time of the order
 15158 imposing the fine shall not exceed \$500,000.

15159 (6) Any violation of this act shall also be deemed to be a
 15160 violation of chapter 494, chapter 516, chapter 520, chapter 655,
 15161 chapter 657, chapter 658, chapter 660, chapter 663, chapter 665,
 15162 or chapter 667. The commission ~~department~~ may adopt rules to
 15163 enforce this subsection.

15164 Section 519. Section 494.00797, Florida Statutes, is
 15165 amended to read:

15166 494.00797 General rule.--All counties and municipalities
 15167 of this state are prohibited from enacting and enforcing
 15168 ordinances, resolutions, and rules regulating financial or
 15169 lending activities, including ordinances, resolutions, and rules
 15170 disqualifying persons from doing business with a city, county,
 15171 or municipality based upon lending interest rates or imposing
 15172 reporting requirements or any other obligations upon persons
 15173 regarding financial services or lending practices of persons or
 15174 entities, and any subsidiaries or affiliates thereof, who:

15175 (1) Are subject to the jurisdiction of the office
 15176 ~~department~~, including for activities subject to this chapter,
 15177 except entities licensed under s. 537.004;

15178 (2) Are subject to the jurisdiction of the Office of
 15179 Thrift Supervision, the Office of the Comptroller of the



HB 1803

2003

15180 Currency, the National Credit Union Administration, the Federal
 15181 Deposit Insurance Corporation, the Federal Trade Commission, or
 15182 the United States Department of Housing and Urban Development;

15183 (3) Originate, purchase, sell, assign, secure, or service
 15184 property interests or obligations created by financial
 15185 transactions or loans made, executed, or originated by persons
 15186 referred to in subsection (1) or subsection (2) to assist or
 15187 facilitate such transactions;

15188 (4) Are chartered by the United States Congress to engage
 15189 in secondary market mortgage transactions; or

15190 (5) Are created by the Florida Housing Finance
 15191 Corporation.

15192

15193

15194 Proof of noncompliance with this act can be used by a city,
 15195 county, or municipality of this state to disqualify a vendor or
 15196 contractor from doing business with a city, county, or
 15197 municipality of this state.

15198 Section 520. Subsection (16) of section 497.005, Florida
 15199 Statutes, is amended to read:

15200 497.005 Definitions.--As used in this chapter:

15201 (16) "Department" means the Department of Financial
 15202 Services ~~Banking and Finance~~.

15203 Section 521. Subsection (1) of section 497.101, Florida
 15204 Statutes, is amended to read:

15205 497.101 Board of Funeral and Cemetery Services;
 15206 membership; appointment; terms.--

15207 (1) The Board of Funeral and Cemetery Services is created
 15208 within the department ~~of Banking and Finance~~ and shall consist
 15209 of seven members appointed by the Governor, from nominations



HB 1803

2003

15210 made by the Chief Financial Officer ~~Comptroller~~, and confirmed
 15211 by the Senate. The Chief Financial Officer ~~Comptroller~~ shall
 15212 nominate three persons for each vacancy on the board, and the
 15213 Governor shall fill each vacancy on the board by appointing one
 15214 of the three persons nominated by the Chief Financial Officer
 15215 ~~Comptroller~~ to fill that vacancy. If the Governor objects to
 15216 each of the three nominations for a vacancy, she or he shall
 15217 inform the Chief Financial Officer ~~Comptroller~~ in writing. Upon
 15218 notification of an objection by the Governor, the Chief
 15219 Financial Officer ~~Comptroller~~ shall submit three additional
 15220 nominations for that vacancy until the vacancy is filled.

15221 Section 522. Section 497.105, Florida Statutes, is amended
 15222 to read:

15223 497.105 Department ~~of Banking and Finance~~; powers and
 15224 duties.--The department ~~of Banking and Finance~~ shall:

15225 (1) Adopt rules establishing procedures for the renewal of
 15226 licenses, registrations, and certificates of authority.

15227 (2) Appoint the executive director of the Board of Funeral
 15228 and Cemetery Services, subject to the approval of the board.

15229 (3) With the advice of the board, submit a biennial budget
 15230 to the Legislature at a time and in the manner provided by law.

15231 (4) Develop a training program for persons newly appointed
 15232 to membership on the board. The program shall familiarize such
 15233 persons with the substantive and procedural laws and rules which
 15234 relate to the regulation under this chapter and with the
 15235 structure of the department.

15236 (5) Adopt rules pursuant to ss. 120.536(1) and 120.54 to
 15237 implement the provisions of this chapter conferring duties upon
 15238 it.

15239 (6) Establish by rule procedures by which the department



HB 1803

2003

15240 shall use the expert or technical advice of the board, for the
15241 purposes of investigation, inspection, audit, evaluation of
15242 applications, other duties of the department, or any other areas
15243 the department may deem appropriate.

15244 (7) Require all proceedings of the board or panels thereof
15245 within the department and all formal or informal proceedings
15246 conducted by the department, an administrative law judge, or a
15247 hearing officer with respect to licensing, registration,
15248 certification, or discipline to be electronically recorded in a
15249 manner sufficient to ensure the accurate transcription of all
15250 matters so recorded.

15251 (8) Select only those investigators approved by the board.
15252 Such investigators shall report to and work in coordination
15253 with the executive director of the board and are responsible for
15254 all inspections and investigations other than financial
15255 examinations.

15256 Section 523. Section 497.107, Florida Statutes, is amended
15257 to read:

15258 497.107 Headquarters.--The Board of Funeral and Cemetery
15259 Services may be contacted through the headquarters of the
15260 department of ~~Banking and Finance~~ in the City of Tallahassee.

15261 Section 524. Subsection (4) of section 497.109, Florida
15262 Statutes, is amended to read:

15263 497.109 Board of Funeral and Cemetery Services;
15264 membership.--

15265 (4) Unless otherwise provided by law, a board member shall
15266 be compensated \$50 for each day the member attends an official
15267 meeting of the board and for each day the member participates in
15268 any other business involving the board. The board shall adopt
15269 rules defining the phrase "other business involving the board,"



HB 1803

2003

15270 but the phrase may not be defined to include telephone
15271 conference calls. A board member is entitled to reimbursement
15272 for expenses pursuant to s. 112.061, but travel out of state
15273 requires the prior approval of the Chief Financial Officer
15274 ~~Comptroller~~.

15275 Section 525. Section 497.115, Florida Statutes, is amended
15276 to read:

15277 497.115 Board rules; final agency action; challenges.--

15278 (1) The Chief Financial Officer ~~Comptroller~~ shall have
15279 standing to challenge any rule or proposed rule of the board
15280 pursuant to s. 120.56. In addition to challenges for any
15281 invalid exercise of delegated legislative authority, the
15282 administrative law judge, upon such a challenge by the Chief
15283 Financial Officer ~~Comptroller~~, may declare all or part of a rule
15284 or proposed rule invalid if it:

15285 (a) Does not protect the public from any significant and
15286 discernible harm or damages;

15287 (b) Unreasonably restricts competition or the availability
15288 of professional services in the state or in a significant part
15289 of the state; or

15290 (c) Unnecessarily increases the cost of professional
15291 services without a corresponding or equivalent public benefit.

15292
15293 However, there shall not be created a presumption of the
15294 existence of any of the conditions cited in this subsection in
15295 the event that the rule or proposed rule is challenged.

15296 (2) In addition, either the Chief Financial Officer
15297 ~~Comptroller~~ or the board shall be a substantially interested
15298 party for purposes of s. 120.54(7). The board may, as an
15299 adversely affected party, initiate and maintain an action



HB 1803

2003

15300 pursuant to s. 120.68 challenging the final agency action.

15301 Section 526. Section 497.117, Florida Statutes, is amended
 15302 to read:

15303 497.117 Legal and investigative services.--

15304 (1) The Department of Legal Affairs shall provide legal
 15305 services to the board within the Department of Financial
 15306 Services ~~Banking and Finance~~, but the primary responsibility of
 15307 the Department of Legal Affairs shall be to represent the
 15308 interests of the citizens of the state by vigorously counseling
 15309 the board with respect to its obligations under the laws of the
 15310 state. Subject to the prior approval of the Attorney General,
 15311 the board may retain independent legal counsel to provide legal
 15312 advice to the board on a specific matter. Fees and costs of such
 15313 counsel shall be paid from the Regulatory Trust Fund of the
 15314 Department of Financial Services ~~Banking and Finance~~.

15315 (2) The Department of Financial Services ~~Banking and~~
 15316 ~~Finance~~ may employ or utilize the legal services of outside
 15317 counsel and the investigative services of outside personnel.
 15318 However, no attorney employed or utilized by the department
 15319 shall prosecute a matter or provide legal services to the board
 15320 with respect to the same matter.

15321 Section 527. Subsections (1), (4), and (8) of section
 15322 497.131, Florida Statutes, are amended to read:

15323 497.131 Disciplinary proceedings.--

15324 (1) The department shall cause to be investigated any
 15325 complaint which is filed before it if the complaint is in
 15326 writing, signed by the complainant, and legally sufficient. A
 15327 complaint is legally sufficient if it contains ultimate facts
 15328 which show that a violation of this chapter, or of any rule
 15329 promulgated by the department or board has occurred. In order



HB 1803

2003

15330 to determine legal sufficiency, the department may require
 15331 supporting information or documentation. The department may
 15332 investigate or continue to investigate, and the department and
 15333 the board may take appropriate final action on, a complaint even
 15334 though the original complainant withdraws it or otherwise
 15335 indicates her or his desire not to cause the complaint to be
 15336 investigated or prosecuted to completion. The department may
 15337 investigate an anonymous complaint if the complaint is in
 15338 writing and is legally sufficient, if the alleged violation of
 15339 law or rules is substantial, and if the department has reason to
 15340 believe, after preliminary inquiry, that the alleged violations
 15341 in the complaint are true. The department may investigate a
 15342 complaint made by a confidential informant if the complaint is
 15343 legally sufficient, if the alleged violation of law or rule is
 15344 substantial, and if the department has reason to believe, after
 15345 preliminary inquiry, that the allegations of the complainant are
 15346 true. The department may initiate an investigation if it has
 15347 reasonable cause to believe that a person has violated a state
 15348 statute, a rule of the department, or a rule of the board. When
 15349 an investigation of any person is undertaken, the department
 15350 shall promptly furnish to the person or her or his attorney a
 15351 copy of the complaint or document which resulted in the
 15352 initiation of the investigation. The person may submit a
 15353 written response to the information contained in such complaint
 15354 or document within 20 days after service to the person of the
 15355 complaint or document. The person's written response shall be
 15356 considered by the probable cause panel. This right to respond
 15357 shall not prohibit the department from issuing a summary
 15358 emergency order if necessary to protect the public. However, if
 15359 the Chief Financial Officer ~~Comptroller~~ or her or his designee



HB 1803

2003

15360 and the chair of the board or the chair of its probable cause
15361 panel agree in writing that such notification would be
15362 detrimental to the investigation, the department may withhold
15363 notification. The department may conduct an investigation
15364 without notification to any person if the act under
15365 investigation is a criminal offense.

15366 (4) The determination as to whether probable cause exists
15367 shall be made by majority vote of the probable cause panel of
15368 the board. The board shall provide, by rule, that the
15369 determination of probable cause shall be made by a panel of its
15370 members or by the department. The board may provide, by rule,
15371 for multiple probable cause panels composed of at least two
15372 members. The board may provide, by rule, that one or more
15373 members of the panel or panels may be a former board member. The
15374 length of term or repetition of service of any such former board
15375 member on a probable cause panel may vary according to the
15376 direction of the board when authorized by board rule. Any
15377 probable cause panel must include one of the board's former or
15378 present consumer members, if one is available, willing to serve,
15379 and is authorized to do so by the board chair. Any probable
15380 cause panel must include a present board member. Any probable
15381 cause panel must include a former or present professional board
15382 member. However, any former professional board member serving on
15383 the probable cause panel must hold an active valid license for
15384 that profession. All probable cause proceedings conducted
15385 pursuant to the provisions of this section are exempt from the
15386 provisions of s. 286.011 and s. 24(b), Art. I of the State
15387 Constitution. The probable cause panel may make a reasonable
15388 request, and upon such request the department shall provide such
15389 additional investigative information as is necessary to the



HB 1803

2003

15390 determination of probable cause. A request for additional
15391 investigative information shall be made within 15 days from the
15392 date of receipt by the probable cause panel of the investigative
15393 report of the department. The probable cause panel shall make
15394 its determination of probable cause within 30 days after receipt
15395 by it of the final investigative report of the department. The
15396 Chief Financial Officer ~~Comptroller~~ may grant extensions of the
15397 15-day and the 30-day time limits. If the probable cause panel
15398 does not find probable cause within the 30-day time limit, as
15399 may be extended, or if the probable cause panel finds no
15400 probable cause, the department may determine, within 10 days
15401 after the panel fails to determine probable cause or 10 days
15402 after the time limit has elapsed, that probable cause exists. If
15403 the probable cause panel finds that probable cause exists, it
15404 shall direct the department to file a formal complaint against
15405 the licensee. The department shall follow the directions of the
15406 probable cause panel regarding the filing of a formal complaint.
15407 If directed to do so, the department shall file a formal
15408 complaint against the subject of the investigation and prosecute
15409 that complaint pursuant to the provisions of chapter 120.
15410 However, the department may decide not to prosecute the
15411 complaint if it finds that probable cause had been improvidently
15412 found by the panel. In such cases, the department shall refer
15413 the matter to the board. The board may then file a formal
15414 complaint and prosecute the complaint pursuant to the provisions
15415 of chapter 120. The department shall also refer to the board any
15416 investigation or disciplinary proceeding not before the Division
15417 of Administrative Hearings pursuant to chapter 120 or otherwise
15418 completed by the department within 1 year after the filing of a
15419 complaint. A probable cause panel or the board may retain



HB 1803

2003

15420 independent legal counsel, employ investigators, and continue
 15421 the investigation as it deems necessary; all costs thereof shall
 15422 be paid from the department's Regulatory Trust Fund. All
 15423 proceedings of the probable cause panel shall be exempt from the
 15424 provisions of s. 120.525.

15425 (8) Any proceeding for the purpose of summary suspension
 15426 of a license, or for the restriction of a license, of a licensee
 15427 pursuant to s. 120.60(6) shall be conducted by the Chief
 15428 Financial Officer ~~Comptroller~~ or her or his designee, who shall
 15429 issue the final summary order.

15430 Section 528. Paragraph (f) of subsection (3) of section
 15431 497.201, Florida Statutes, is amended to read:

15432 497.201 Cemetery companies; license; application; fee.--

15433 (3) If the board finds that the applicant meets the
 15434 criteria established in subsection (2), the department shall
 15435 notify the applicant that a license will be issued when:

15436 (f) The applicant has recorded, in the public records of
 15437 the county in which the land is located, a notice which contains
 15438 the following language:

15439 NOTICE

15440
 15441 The property described herein shall not be sold, conveyed,
 15442 leased, mortgaged, or encumbered without the prior written
 15443 approval of the Department of Financial Services ~~Banking and~~
 15444 ~~Finance~~, as provided in the Florida Funeral and Cemetery
 15445 Services Act.

15446
 15447 Such notice shall be clearly printed in boldfaced type of not
 15448 less than 10 points and may be included on the face of the deed
 15449 of conveyance to the licensee or may be contained in a separate



HB 1803

2003

15450 recorded instrument which contains a description of the
 15451 property.

15452 Section 529. Paragraph (d) of subsection (3) of section
 15453 497.253, Florida Statutes, is amended to read:

15454 497.253 Minimum acreage; sale or disposition of cemetery
 15455 lands.--

15456 (3)

15457 (d) Any deed, mortgage, or other conveyance by a cemetery
 15458 company or other owner pursuant to subsections (a) and (c) above
 15459 must contain a disclosure in the following or substantially
 15460 similar form:

15461
 15462 NOTICE: The property described herein was formerly used and
 15463 dedicated as a cemetery. Conveyance of this property and its use
 15464 for noncemetery purposes was authorized by the Florida
 15465 Department of Financial Services ~~Banking and Finance~~ by Order
 15466 No. ____, dated ____.

15467 Section 530. Subsection (4) of section 497.313, Florida
 15468 Statutes, is amended to read:

15469 497.313 Other charges.--Other than the fees for the sale
 15470 of burial rights, burial merchandise, and burial services, no
 15471 other fee may be directly or indirectly charged, contracted for,
 15472 or received by a cemetery company as a condition for a customer
 15473 to use any burial right, burial merchandise, or burial service,
 15474 except for:

15475 (4) Charges for credit life and credit disability
 15476 insurance, as requested by the purchaser, the premiums for which
 15477 may not exceed the applicable premiums chargeable in accordance
 15478 with the rates filed with the Office of Insurance Regulation of
 15479 the Financial Services Commission ~~Department of Insurance~~.



HB 1803

2003

15480 Section 531. Section 497.403, Florida Statutes, is amended
 15481 to read:

15482 497.403 Insurance business not authorized.--Nothing in the
 15483 Florida Insurance Code or this chapter shall be deemed to
 15484 authorize any preneed funeral merchandise or service contract
 15485 business or any preneed burial merchandise or service business
 15486 to transact any insurance business, other than that of preneed
 15487 funeral merchandise or service insurance or preneed burial
 15488 merchandise or service insurance, or otherwise to engage in any
 15489 other type of insurance unless it is authorized under a
 15490 certificate of authority issued ~~by the Department of Insurance~~
 15491 under the provisions of the Florida Insurance Code. Any
 15492 insurance business transacted under this section must comply
 15493 with the provisions of s. 626.785.

15494 Section 532. Paragraphs (d) and (m) of subsection (1) of
 15495 section 498.025, Florida Statutes, are amended to read:

15496 498.025 Exemptions.--

15497 (1) Except as provided in s. 498.022, the provisions of
 15498 this chapter do not apply to:

15499 (d) An offer or transfer of securities currently
 15500 registered with the Office of Financial Institutions and
 15501 Securities Regulation of the Financial Services Commission
 15502 ~~Department of Banking and Finance~~ or the United States
 15503 Securities and Exchange Commission, except when s. 498.023(4)
 15504 applies.

15505 (m) The offer or disposition of an interest in subdivided
 15506 lands to an accredited investor, as defined by rule of the
 15507 Financial Services Commission ~~Florida Department of Banking and~~
 15508 ~~Finance~~ in accordance with Securities and Exchange Commission
 15509 Regulation 230.501, 17 C.F.R. s. 230.501.



HB 1803

2003

15510 Section 533. Subsection (5) of section 498.049, Florida
 15511 Statutes, is amended to read:

15512 498.049 Suspension; revocation; civil penalties.--

15513 (5) Each person who materially participates in any offer
 15514 or disposition of any interest in subdivided lands in violation
 15515 of this chapter or relevant rules involving fraud, deception,
 15516 false pretenses, misrepresentation, or false advertising or the
 15517 disposition, concealment, or diversion of any funds or assets of
 15518 any person which adversely affects the interests of a purchaser
 15519 of any interest in subdivided lands, and who directly or
 15520 indirectly controls a subdivider or is a general partner,
 15521 officer, director, agent, or employee of a subdivider shall also
 15522 be liable under this subsection jointly and severally with and
 15523 to the same extent as the subdivider, unless that person did not
 15524 know, and in the exercise of reasonable care could not have
 15525 known, of the existence of the facts creating the alleged
 15526 liability. Among these persons a right of contribution shall
 15527 exist, except that a creditor of a subdivider shall not be
 15528 jointly and severally liable unless the creditor has assumed
 15529 managerial or fiduciary responsibility in a manner related to
 15530 the basis for the liability of the subdivider under this
 15531 subsection. Civil penalties shall be limited to \$10,000 for
 15532 each offense, and all amounts collected shall be deposited with
 15533 the Chief Financial Officer ~~Treasurer~~ to the credit of the
 15534 Division of Florida Land Sales, Condominiums, and Mobile Homes
 15535 Trust Fund. No order requiring the payment of a civil penalty
 15536 shall become effective until 20 days after the date of the
 15537 order, unless otherwise agreed in writing by the person on whom
 15538 the penalty is imposed.

15539 Section 534. Section 499.057, Florida Statutes, is amended



HB 1803

2003

15540 to read:

15541 499.057 Expenses and salaries.--All expenses and salaries
 15542 shall be paid out of the special fund hereby created in the
 15543 office of the Chief Financial Officer ~~Treasurer~~, which fund is
 15544 to be known as the "Florida Drug, Device, and Cosmetic Trust
 15545 Fund."

15546 Section 535. Subsection (4) of section 501.212, Florida
 15547 Statutes, is amended to read:

15548 501.212 Application.--This part does not apply to:

15549 (4) Any person or activity regulated under laws
 15550 administered by the Department of Financial Services or the
 15551 Office of Insurance Regulation of the Financial Services
 15552 Commission or banks and savings and loan associations regulated
 15553 by the Office of Financial Institutions and Securities
 15554 Regulation of the Financial Services Commission ~~Department of~~
 15555 ~~Banking and Finance~~ or banks or savings and loan associations
 15556 regulated by federal agencies.

15557 Section 536. Subsection (3) of section 507.03, Florida
 15558 Statutes, is amended to read:

15559 507.03 Registration.--

15560 (3) Registration fees shall be \$300 per year per mover.
 15561 All amounts collected shall be deposited by the Chief Financial
 15562 Officer ~~Treasurer~~ to the credit of the General Inspection Trust
 15563 Fund of the department for the sole purpose of administration of
 15564 this act.

15565 Section 537. Subsection (7) of section 509.215, Florida
 15566 Statutes, is amended to read:

15567 509.215 Firesafety.--

15568 (7) The National Fire Protection Association publications
 15569 referenced in this section are the ones most recently adopted by



HB 1803

2003

15570 rule of the Division of State Fire Marshal of the Department of
 15571 Financial Services Insurance.

15572 Section 538. Paragraph (a) of subsection (2) of section
 15573 513.055, Florida Statutes, is amended to read:

15574 513.055 Revocation or suspension of permit; fines;
 15575 procedure.--

15576 (2)

15577 (a) In lieu of such suspension or revocation of a permit,
 15578 the department may impose a fine against a permittee for the
 15579 permittee's failure to comply with the provisions described in
 15580 paragraph (1)(a) or may place such licensee on probation. No
 15581 fine so imposed shall exceed \$500 for each offense, and all
 15582 amounts collected in fines shall be deposited with the Chief
 15583 Financial Officer ~~Treasurer~~ to the credit of the County Health
 15584 Department Trust Fund.

15585 Section 539. Subsection (3) of section 516.01, Florida
 15586 Statutes is amended, present subsections (4) through (6) of that
 15587 section are renumbered as (5) through (7), respectively, and a
 15588 new subsection (4) is added to that section to read:

15589 516.01 Definitions.--As used in this chapter, the term:

15590 (3) "Commission" means the Financial Services Commission
 15591 ~~"Department" means the Department of Banking and Finance.~~

15592 (4) "Office" means the Office of Financial Institutions
 15593 and Securities Regulation of the commission.

15594 Section 540. Subsection (1) of section 516.02, Florida
 15595 Statutes, is amended to read:

15596 516.02 Loans; lines of credit; rate of interest; license.-

15597 -

15598 (1) A person must not engage in the business of making
 15599 consumer finance loans unless she or he is authorized to do so



HB 1803

2003

15600 under this chapter or other statutes and unless the person first
15601 obtains a license from the office ~~department~~.

15602 Section 541. Section 516.03, Florida Statutes, is amended
15603 to read:

15604 516.03 Application for license; fees; etc.--

15605 (1) APPLICATION.--Application for a license to make loans
15606 under this chapter shall be in the form prescribed by rule of
15607 the commission ~~department~~, and shall contain the name, residence
15608 and business addresses of the applicant and, if the applicant is
15609 a copartnership or association, of every member thereof and, if
15610 a corporation, of each officer and director thereof, also the
15611 county and municipality with the street and number or
15612 approximate location where the business is to be conducted, and
15613 such further relevant information as the commission or office
15614 ~~department~~ may require. At the time of making such application
15615 the applicant shall pay to the office ~~department~~ a biennial
15616 license fee of \$625. Applications, except for applications to
15617 renew or reactivate a license, must also be accompanied by an
15618 investigation fee of \$200. The commission ~~department~~ may adopt
15619 rules to allow electronic submission of any form, document, or
15620 fee required by this act.

15621 (2) FEES.--Fees herein provided for shall be collected by
15622 the office ~~department~~ and shall be turned into the State
15623 Treasury to the credit of the regulatory trust fund under the
15624 office ~~department~~. The office ~~department~~ shall have full power
15625 to employ such examiners or clerks to assist the office
15626 ~~department~~ as may from time to time be deemed necessary and fix
15627 their compensation. The commission ~~department~~ may adopt rules to
15628 allow electronic submission of any fee required by this section.

15629 Section 542. Subsection (2) of section 516.031, Florida



HB 1803

2003

15630 Statutes, is amended to read:

15631 516.031 Finance charge; maximum rates.--

15632 (2) ANNUAL PERCENTAGE RATE UNDER FEDERAL TRUTH IN LENDING
15633 ACT.--The annual percentage rate of finance charge which may be
15634 contracted for and received under any loan contract made by a
15635 licensee under this chapter may equal, but not exceed, the
15636 annual percentage rate which must be computed and disclosed as
15637 required by the federal Truth in Lending Act and Regulation Z of
15638 the Board of Governors of the Federal Reserve System. The
15639 maximum annual percentage rate of finance charge which may be
15640 contracted for and received is 12 times the maximum monthly
15641 rate, and the maximum monthly rate shall be computed on the
15642 basis of one-twelfth of the annual rate for each full month. The
15643 commission ~~department~~ shall by rule ~~regulation~~ establish the
15644 rate for each day in a fraction of a month when the period for
15645 which the charge is computed is more or less than 1 month.

15646 Section 543. Section 516.05, Florida Statutes, is amended
15647 to read:

15648 516.05 License.--

15649 (1) Upon the filing of an application for a license and
15650 payment of all applicable fees, the office ~~department~~ shall,
15651 unless the application is to renew or reactivate an existing
15652 license, make an investigation of the facts concerning the
15653 applicant's proposed activities. If the office ~~department~~
15654 determines that a license should be granted, it shall issue the
15655 license for a period not to exceed 2 years. Biennial licensure
15656 periods and procedures for renewal of licenses shall be
15657 established by the rule of the commission ~~department~~. If the
15658 office ~~department~~ determines that grounds exist under this
15659 chapter for denial of an application other than an application



HB 1803

2003

15660 to renew a license, it shall deny such application, return to
15661 the applicant the sum paid as a license fee, and retain the
15662 investigation fee.

15663 (2) A license that is not renewed at the end of the
15664 biennium established by the commission ~~department~~ shall
15665 automatically revert to inactive status. An inactive license may
15666 be reactivated upon submission of a completed reactivation
15667 application, payment of the biennial license fee, and payment of
15668 a reactivation fee which shall equal the biennial license fee.
15669 A license expires on the date at which it has been inactive for
15670 6 months.

15671 (3) Only one place of business for the purpose of making
15672 loans under this chapter may be maintained under one license,
15673 but the office ~~department~~ may issue additional licenses to a
15674 licensee upon compliance with all the provisions of this chapter
15675 governing issuance of a single license.

15676 (4) Prior to relocating his or her place of business, a
15677 licensee must file with the office ~~department~~, in the manner
15678 prescribed by commission ~~department~~ rule, notice of the
15679 relocation.

15680 (5) A licensee may conduct the business of making loans
15681 under this chapter within a place of business in which other
15682 business is solicited or engaged in, unless the office
15683 ~~department~~ shall find that the conduct of such other business by
15684 the licensee results in an evasion of this chapter. Upon such
15685 finding, the office ~~department~~ shall order the licensee to
15686 desist from such evasion; provided, however, that no license
15687 shall be granted to or renewed for any person or organization
15688 engaged in the pawnbroker business.

15689 (6) If any person purchases substantially all of the



HB 1803

2003

15690 assets of any existing licensed place of business, the purchaser
15691 shall give immediate notice thereof to the office ~~department~~ and
15692 shall be granted a 90-day temporary license for the place of
15693 business within 10 days after the office's ~~department's~~ receipt
15694 of an application for a permanent license. Issuance of a
15695 temporary license for a place of business nullifies the existing
15696 license for the place of business, and the temporary licensee is
15697 subject to any disciplinary action provided for by this chapter.

15698 (7) Licenses are not transferable or assignable. A
15699 licensee may invalidate any license by delivering it to the
15700 office ~~department~~ with a written notice of the delivery, but
15701 such delivery does not affect any civil or criminal liability or
15702 the authority to enforce this chapter for acts committed in
15703 violation thereof.

15704 (8) The office ~~department~~ may refuse to process an initial
15705 application for a license if the applicant or any person with
15706 power to direct the management or policies of the applicant's
15707 business is the subject of a pending criminal prosecution in any
15708 jurisdiction until conclusion of such criminal prosecution.

15709 (9) A licensee that is the subject of a voluntary or
15710 involuntary bankruptcy filing must report such filing to the
15711 office ~~department~~ within 7 business days after the filing date.

15712 Section 544. Subsections (1), (2), and (3) of section
15713 516.07, Florida Statutes, are amended to read:

15714 516.07 Grounds for denial of license or for disciplinary
15715 action.--

15716 (1) The following acts are violations of this chapter and
15717 constitute grounds for denial of an application for a license to
15718 make consumer finance loans and grounds for any of the
15719 disciplinary actions specified in subsection (2):



HB 1803

2003

15720 (a) A material misstatement of fact in an application for
 15721 a license;

15722 (b) Failure to maintain liquid assets of at least \$25,000
 15723 at all times for the operation of business at a licensed
 15724 location or proposed location;

15725 (c) Failure to demonstrate financial responsibility,
 15726 experience, character, or general fitness, such as to command
 15727 the confidence of the public and to warrant the belief that the
 15728 business operated at the licensed or proposed location is
 15729 lawful, honest, fair, efficient, and within the purposes of this
 15730 chapter;

15731 (d) The violation, either knowingly or without the
 15732 exercise of due care, of any provision of this chapter, any rule
 15733 or order adopted under this chapter, or any written agreement
 15734 entered into with the office ~~department~~;

15735 (e) Any act of fraud, misrepresentation, or deceit,
 15736 regardless of reliance by or damage to a borrower, or any
 15737 illegal activity, where such acts are in connection with a loan
 15738 under this chapter. Such acts include, but are not limited to:

- 15739 1. Willful imposition of illegal or excessive charges; or
- 15740 2. Misrepresentation, circumvention, or concealment of any
 15741 matter required to be stated or furnished to a borrower;

15742 (f) The use of unreasonable collection practices or of
 15743 false, deceptive, or misleading advertising, where such acts are
 15744 in connection with the operation of a business to make consumer
 15745 finance loans;

15746 (g) Any violation of part III of chapter 817 or part II of
 15747 chapter 559 or of any rule adopted under part II of chapter 559;

15748 (h) Failure to maintain, preserve, and keep available for
 15749 examination, all books, accounts, or other documents required by



HB 1803

2003

15750 this chapter, by any rule or order adopted under this chapter,
 15751 or by any agreement entered into with the office ~~department~~;

15752 (i) Refusal to permit inspection of books and records in
 15753 an investigation or examination by the office ~~department~~ or
 15754 refusal to comply with a subpoena issued by the office
 15755 ~~department~~;

15756 (j) Pleading nolo contendere to, or having been convicted
 15757 or found guilty of, a crime involving fraud, dishonest dealing,
 15758 or any act of moral turpitude, regardless of whether
 15759 adjudication is withheld;

15760 (k) Paying money or anything else of value, directly or
 15761 indirectly, to any person as compensation, inducement, or reward
 15762 for referring loan applicants to a licensee;

15763 (l) Allowing any person other than the licensee to use the
 15764 licensee's business name, address, or telephone number in an
 15765 advertisement;

15766 (m) Accepting or advertising that the licensee accepts
 15767 money on deposit or as consideration for the issuance or
 15768 delivery of certificates of deposit, savings certificates, or
 15769 similar instruments, except to the extent permitted under
 15770 chapter 517; or

15771 (n) Failure to pay any fee, charge, or fine imposed or
 15772 assessed pursuant to this chapter or any rule adopted under this
 15773 chapter.

15774 (2) Upon a finding by the office ~~department~~ that any
 15775 person has committed any of the acts set forth in subsection
 15776 (1), the office ~~department~~ may enter an order taking one or more
 15777 of the following actions:

15778 (a) Denying an application for a license;

15779 (b) Revoking or suspending a license previously granted;



HB 1803

2003

15780 (c) Placing a licensee or an applicant for a license on
 15781 probation for a period of time and subject to such conditions as
 15782 the office ~~department~~ may specify;

15783 (d) Placing permanent restrictions or conditions upon
 15784 issuance or maintenance of a license;

15785 (e) Issuing a reprimand; or

15786 (f) Imposing an administrative fine not to exceed \$1,000
 15787 for each such act.

15788 (3) The office ~~department~~ may take any of the actions
 15789 specified in subsection (2) against any partnership,
 15790 corporation, or association, if the office ~~department~~ finds that
 15791 any of the acts set forth in subsection (1) have been committed
 15792 by any member of the partnership, any officer or director of the
 15793 corporation or association, or any person with power to direct
 15794 the management or policies of the partnership, corporation, or
 15795 association.

15796 Section 545. Section 516.11, Florida Statutes, is amended
 15797 to read:

15798 516.11 Investigations and complaints.--

15799 (1) The office ~~department~~ shall, at intermittent periods,
 15800 make such investigations and examinations of any licensee or
 15801 other person as it deems necessary to determine compliance with
 15802 this chapter. For such purposes, the office ~~department~~ may
 15803 examine the books, accounts, records, and other documents or
 15804 matters of any licensee or other person and compel the
 15805 production of all relevant books, records, and other documents
 15806 and materials relative to an examination or investigation.
 15807 Examinations of a licensee may not be made more often than once
 15808 a year unless the office ~~department~~ has reason to believe the
 15809 licensee is not complying with this chapter.



HB 1803

2003

15810 (2) The office ~~department~~ shall conduct all examinations
15811 at a convenient location in this state unless the office
15812 ~~department~~ determines that it is more effective or cost-
15813 efficient to perform an examination at the licensee's out-of-
15814 state location. For an examination performed at the licensee's
15815 out-of-state location, the licensee shall pay the travel expense
15816 and per diem subsistence at the rate provided by law for up to
15817 thirty 8-hour days per year for each examiner who participates
15818 in such an examination. However, if the examination involves or
15819 reveals possible fraudulent conduct of the licensee, the
15820 licensee shall pay the travel expenses and per diem subsistence
15821 provided by law, without limitation, for each participating
15822 examiner.

15823 (3) Any person who has reason to believe that this chapter
15824 has been or will be violated may file a written complaint with
15825 the office ~~department~~.

15826 Section 546. Section 516.12, Florida Statutes, is amended
15827 to read:

15828 516.12 Records to be kept by licensee.--

15829 (1) The licensee shall keep and use in her or his business
15830 such books, accounts, and records in accordance with sound and
15831 accepted accounting practices to enable the office ~~department~~ to
15832 determine whether such licensee is complying with the provisions
15833 of this chapter and with the rules ~~and regulations~~ lawfully made
15834 by the commission ~~department hereunder~~. Every licensee shall
15835 preserve such books, accounts, and records, including cards used
15836 in the card system, if any, for at least 2 years after making
15837 the final entry on any loan recorded therein.

15838 (2) A licensee, operating two or more licensed places of
15839 business in this state, may maintain the books, accounts, and



HB 1803

2003

15840 records of all such offices at any one of such offices, or at
 15841 any other office maintained by such licensee, upon the filing of
 15842 a written request with the office ~~department~~ designating in the
 15843 written request the office at which such records are maintained.
 15844 However, the licensee shall make all books, accounts, and
 15845 records available at a convenient location in this state upon
 15846 request of the office ~~department~~.

15847 Section 547. Section 516.22, Florida Statutes, is amended
 15848 to read:

15849 516.22 Rules; certified copies.--

15850 (1) RULES.--The commission may ~~department has authority to~~
 15851 adopt rules pursuant to ss. 120.536(1) and 120.54 to implement
 15852 the provisions of law conferring duties upon it.

15853 (2) CERTIFIED COPIES OF OFFICIAL DOCUMENTS.--On
 15854 application of any person and payment of the costs thereof, at
 15855 the same rate and fees as allowed clerks of the circuit court by
 15856 statute, the office ~~department~~ shall furnish a certified copy of
 15857 any license, regulation, or order. In any court or proceeding,
 15858 such copy shall be prima facie evidence of the fact of the
 15859 issuance of such license, regulation, or order.

15860 Section 548. Section 516.221, Florida Statutes, is amended
 15861 to read:

15862 516.221 Liability when acting upon ~~department's~~ order,
 15863 declaratory statement, or rule.--No person or licensee hereunder
 15864 shall be deemed to be in violation of this chapter nor shall
 15865 such person or licensee be subject to any civil or criminal
 15866 liability for any act or omission to act in good faith in
 15867 reliance upon a subsisting order, declaratory statement, or rule
 15868 issued by the office or commission ~~department~~, notwithstanding a
 15869 subsequent decision by a court of competent jurisdiction



HB 1803

2003

15870 invalidating the order, declaratory statement, or rule.

15871 Section 549. Section 516.23, Florida Statutes, is amended
 15872 to read:

15873 516.23 Subpoenas; enforcement actions; rules.--

15874 (1) The office ~~department~~ may issue and serve subpoenas to
 15875 compel the attendance of witnesses and the production of
 15876 documents, papers, books, records, and other evidence before it
 15877 in any matter pertaining to this chapter. The office ~~department~~
 15878 may administer oaths and affirmations to any person whose
 15879 testimony is required. If any person refuses to testify,
 15880 produce books, records, and documents, or otherwise refuses to
 15881 obey a subpoena issued under this section, the office ~~department~~
 15882 may enforce the subpoena in the same manner as subpoenas issued
 15883 under the Administrative Procedure Act are enforced. Witnesses
 15884 are entitled to the same fees and mileage as they are entitled
 15885 to by law for attending as witnesses in the circuit court,
 15886 unless such examination or investigation is held at the place of
 15887 business or residence of the witness.

15888 (2) In addition to any other powers conferred upon it to
 15889 enforce or administer this chapter, the office ~~department~~ may:

15890 (a) Bring an action in any court of competent jurisdiction
 15891 to enforce or administer this chapter, any rule or order adopted
 15892 under this chapter, or any written agreement entered into with
 15893 the office ~~department~~. In such action, the office ~~department~~
 15894 may seek any relief at law or equity including a temporary or
 15895 permanent injunction, appointment of a receiver or
 15896 administrator, or an order of restitution.

15897 (b) Issue and serve upon a person an order requiring such
 15898 person to cease and desist and take corrective action whenever
 15899 the office ~~department~~ finds that such person is violating, has



HB 1803

2003

15900 violated, or is about to violate any provision of this chapter,
 15901 any rule or order adopted under this chapter, or any written
 15902 agreement entered into with the office ~~department~~.

15903 (c) Impose and collect an administrative fine against any
 15904 person found to have violated any provision of this chapter, any
 15905 rule or order adopted under this chapter, or any written
 15906 agreement entered into with the office ~~department~~, in an amount
 15907 not to exceed \$1,000 for each violation.

15908 (3) The commission may ~~department has authority to~~ adopt
 15909 rules pursuant to ss. 120.536(1) and 120.54 to implement the
 15910 provisions of this chapter.

15911 Section 550. Section 516.32, Florida Statutes, is amended
 15912 to read:

15913 516.32 Consumer credit counseling.--The office ~~department~~
 15914 shall be responsible for promoting a consumer credit counseling
 15915 service for the purpose of promoting and helping establish
 15916 consumer credit counseling services for individuals in areas
 15917 where a need has been established. The purposes of the consumer
 15918 credit counseling service shall be to:

15919 (1) Assist and educate individual consumers as to money
 15920 management.

15921 (2) Assist individual consumers in consolidating
 15922 obligations when a situation exists in which the individual
 15923 consumer is in need of such assistance.

15924 (3) Work with consumer credit grantors in an effort to
 15925 establish better relations with the individual consumer and with
 15926 state and federal regulatory agencies.

15927 Section 551. Section 516.33, Florida Statutes, is amended
 15928 to read:

15929 516.33 Public disclosures.--All findings of facts and



HB 1803

2003

15930 orders filed with the commission or office ~~department~~ shall be a
 15931 public record.

15932 Section 552. Subsection (1) of section 516.35, Florida
 15933 Statutes, is amended to read:

15934 516.35 Credit insurance must comply with credit insurance
 15935 act.--

15936 (1) Tangible property offered as security may be
 15937 reasonably insured against loss for a reasonable term,
 15938 considering the circumstances of the loan. If such insurance is
 15939 sold at standard rates through a person duly licensed by the
 15940 Office ~~Department~~ of Insurance Regulation of the Financial
 15941 Services Commission and if the policy is payable to the borrower
 15942 or any member of her or his family, it shall not be deemed to be
 15943 a collateral sale, purchase, or agreement even though a
 15944 customary mortgagee clause is attached or the licensee is a
 15945 coassured.

15946 Section 553. Paragraph (b) of subsection (1) of section
 15947 518.115, Florida Statutes, is amended to read:

15948 518.115 Power of fiduciary or custodian to deposit
 15949 securities in a central depository.--

15950 (1)

15951 (b) A bank or a trust company so depositing securities
 15952 with a clearing corporation shall be subject to such rules and
 15953 regulations with respect to the making and maintenance of such
 15954 deposit as, in the case of state-chartered institutions, the
 15955 Financial Services Commission ~~Department of Banking and Finance~~
 15956 and, in the case of national banking associations, the
 15957 Comptroller of the Currency may from time to time issue.

15958 Section 554. Paragraph (b) of subsection (1) of section
 15959 518.116, Florida Statutes, is amended to read:



HB 1803

2003

15960 518.116 Power of certain fiduciaries and custodians to
 15961 deposit United States Government and agency securities with a
 15962 Federal Reserve bank.--

15963 (1)

15964 (b) A bank or trust company so depositing securities with
 15965 a Federal Reserve Bank shall be subject to such rules and
 15966 regulations with respect to the making and maintenance of such
 15967 deposits as, in the case of state-chartered institutions, the
 15968 Financial Services Commission ~~Department of Banking and Finance~~
 15969 and, in the case of national banking associations, the
 15970 Comptroller of the Currency may from time to time issue. The
 15971 records of such bank or trust company shall at all times show
 15972 the ownership of the securities held in such account.

15973 Section 555. Section 518.15, Florida Statutes, is amended
 15974 to read:

15975 518.15 Bonds or motor vehicle tax anticipation
 15976 certificates legal investments and security.--Notwithstanding
 15977 any restrictions on investments contained in any law of this
 15978 state, the state and all public officers, municipal
 15979 corporations, political subdivisions, and public bodies, all
 15980 banks, bankers, trust companies, savings banks, building and
 15981 loan associations, savings and loan associations, investment
 15982 companies, and all persons carrying on an insurance business,
 15983 and all executors, administrators, guardians, trustees, and
 15984 other fiduciaries may legally invest any sinking funds, moneys
 15985 or other funds belonging to them or within their control in
 15986 bonds or motor vehicle anticipation certificates issued under
 15987 authority of s. 18, Art. XII of the State Constitution of 1885
 15988 as adopted by s. 9(d) of Art. XII, 1968 revised constitution,
 15989 and the additional provisions of s. 9(d), and such bonds or



HB 1803

2003

15990 certificates shall be authorized security for all public
 15991 deposits, including, but not restricted to, deposits as
 15992 authorized in s. 17.57 ~~18.10~~, it being the purpose of this act
 15993 to authorize any person, firm or corporation, association,
 15994 political subdivision, body, and officer, public or private, to
 15995 use any funds owned or controlled by them, including, but not
 15996 limited to, sinking, insurance, investment, retirement,
 15997 compensation, pension, and trust funds, and funds held on
 15998 deposit, for the purchase of any such bonds or anticipation
 15999 certificates, up to the amount as authorized by law to be
 16000 invested in any type of security, including United States
 16001 Government Bonds.

16002 Section 556. Section 518.151, Florida Statutes, is amended
 16003 to read:

16004 518.151 Higher education bonds or certificates legal
 16005 investments and security.--Notwithstanding any restrictions on
 16006 investments contained in any law of this state, the state and
 16007 all public officers, municipal corporations, political
 16008 subdivisions, and public bodies, all banks, bankers, trust
 16009 companies, savings banks, building and loan associations,
 16010 savings and loan associations, investment companies, and all
 16011 persons carrying on an insurance business, and all executors,
 16012 administrators, guardians, trustees, and other fiduciaries may
 16013 legally invest any sinking funds, moneys or other funds
 16014 belonging to them or within their control in higher education
 16015 bonds or certificates issued under authority of s. 19, Art. XII
 16016 of the State Constitution of 1885 or of s. 9(a), Art. XII of the
 16017 constitution as revised in 1968, as amended, and such bonds or
 16018 certificates shall be authorized security for all public
 16019 deposits, including, but not restricted to, deposits as



HB 1803

2003

16020 authorized in s. 17.57 ~~18.10~~, it being the purpose of this act
 16021 to authorize any person, firm or corporation, association,
 16022 political subdivision, body, and officer, public or private, to
 16023 use any funds owned or controlled by them, including, but not
 16024 limited to, sinking, insurance, investment, retirement,
 16025 compensation, pension, and trust funds, and funds held on
 16026 deposit, for the purchase of any such bonds or certificates, up
 16027 to the amount as authorized by law to be invested in any type of
 16028 security, including United States Government Bonds.

16029 Section 557. Section 518.152, Florida Statutes, is amended
 16030 to read:

16031 518.152 Puerto Rican bonds or obligations, legal
 16032 investments and securities.--Notwithstanding any restrictions on
 16033 investments contained in any law of this state, all public
 16034 officers and public bodies of the state, counties, municipal
 16035 corporations, and other political subdivisions; all banks,
 16036 bankers, trust companies, savings banks, building and loan
 16037 associations, savings and loan associations, investment
 16038 companies, and other persons carrying on a banking business; all
 16039 insurance companies, insurance associations and other persons
 16040 carrying on an insurance business; all persons holding in trust
 16041 any pension, health and welfare, and vacation funds; all
 16042 administrators, executors, guardians, trustees, and other
 16043 fiduciaries of any public, quasi-public, or private fund or
 16044 estate; and all other persons authorized to invest in bonds or
 16045 other obligations may legally invest any sinking funds, moneys,
 16046 or other funds belonging to them or within their control in
 16047 bonds or other obligations issued by the Commonwealth of Puerto
 16048 Rico, its agencies, authorities, instrumentalities,
 16049 municipalities, or political subdivisions, provided such agency,



HB 1803

2003

16050 authority, instrumentality, municipality, or political
 16051 subdivision has not, within 5 years prior to the making of such
 16052 investment, defaulted for more than 90 days in the payment of
 16053 any part of the principal or interest of its bonded
 16054 indebtedness. Such bonds or obligations shall be authorized
 16055 security for all public deposits, including, but not restricted
 16056 to, deposits as authorized in s. 17.57 ~~18.10~~, it being the
 16057 purpose of this section to authorize any person, firm,
 16058 corporation, association, political subdivision, body, and
 16059 officer, public or private, to use any funds owned or controlled
 16060 by them, including, but not limited to, sinking, insurance,
 16061 investment, retirement, compensation, pension and trust funds,
 16062 and funds held on deposit, for the purchase of any such bonds or
 16063 obligations up to the amount as authorized by law to be invested
 16064 in any type of security, including United States Government
 16065 Bonds. However, nothing contained in this section shall be
 16066 construed as relieving any person from any duty of exercising
 16067 reasonable care in selecting securities.

16068 Section 558. Section 519.101, Florida Statutes, is amended
 16069 to read:

16070 519.101 Florida equity exchange feasibility study;
 16071 structure, operation, and regulation.--

16072 (1) There may be created one or more Florida equity
 16073 exchanges, with one or more offices each, upon a determination
 16074 by the Office of Financial Institutions and Securities
 16075 Regulation of the Financial Services Commission ~~Comptroller~~ that
 16076 each such exchange has a reasonable promise of successful
 16077 operation, will promote economic development, will produce net
 16078 economic benefits in the state, and will not expose the public
 16079 to undue risk of financial loss. This determination shall be



HB 1803

2003

16080 based on the results of a feasibility study concerning the
16081 possible structure, operation, and regulation of each such
16082 exchange, to be carried out under the supervision of the office
16083 ~~Comptroller. The Secretary of Commerce shall provide the~~
16084 ~~Comptroller any needed advice on economic development aspects of~~
16085 ~~the feasibility study.~~ Said feasibility study shall evaluate to
16086 what extent securities laws may limit the transferability of
16087 investments in which any exchange would deal; to what extent
16088 companies financed through securities in which the exchange
16089 would deal would prefer a stable group of investors; to what
16090 extent the particular investment objectives of potential
16091 participants in any exchange might be inconsistent with an
16092 exchange operation; and the possibility that the frequency of
16093 investment opportunities of the type in which an exchange would
16094 deal would be too low to economically operate any exchange. The
16095 determination of the office ~~Comptroller~~ shall constitute a final
16096 order as defined in s. 120.52 and shall be subject to the
16097 provisions of chapter 120. Nothing in this section, however,
16098 shall be construed to require the expenditure of state funds for
16099 the purpose of conducting any such feasibility study. For the
16100 purposes of this section, the term "exchange" shall apply to any
16101 such Florida equity exchange proposed or created under this
16102 section.

16103 (2) The purpose of the exchange shall be to provide a
16104 marketplace for the negotiation, arrangement, exchange, sale,
16105 purchase, brokerage, syndication, and underwriting, and all
16106 activities incidental thereto, of investment opportunities, in
16107 an institutionalized and, to the maximum extent possible, self-
16108 regulated fashion.

16109 (3) Within 30 days following such determination, a



HB 1803

2003

16110 committee shall be appointed to write the constitution and
16111 bylaws of the exchange. The office ~~Comptroller~~ may provide
16112 technical assistance to the committee on the development of the
16113 constitution and bylaws of the exchange. The committee shall
16114 consist of 15 members, 11 members to be appointed by the
16115 Governor, 2 members to be appointed by the Speaker of the House
16116 of Representatives, and 2 members to be appointed by the
16117 President of the Senate. The chair shall be elected by a
16118 majority of the committee. The committee shall transmit such
16119 proposed constitution, bylaws, and other recommendations for the
16120 approval of the office ~~Comptroller~~ no later than 90 days
16121 following the first meeting of the committee. In reviewing the
16122 constitution and the bylaws of the exchange, as well as any
16123 other recommendations made to the office ~~Comptroller~~ by the
16124 committee, the office ~~Comptroller~~ shall consider whether such
16125 constitution, bylaws, and recommendations are reasonably
16126 consistent with the public interest and the efficient
16127 functioning of the exchange. The office ~~Comptroller~~ shall
16128 approve the constitution and bylaws of the exchange if he or she
16129 finds that they specifically describe the types of business that
16130 the exchange will conduct, that such business activities are not
16131 inconsistent with state or federal law, that the form of
16132 business organization of the exchange complies with statutory
16133 requirements, and that the interest of owners or members of the
16134 exchange would be adequately protected. The submission of the
16135 proposed constitution and bylaws to the office ~~Comptroller~~ shall
16136 be deemed an application for a license and shall be subject to
16137 the provisions of s. 120.80(9).

16138 (4) The exchange shall have full authority to function 60
16139 days after its constitution and bylaws are approved by the



HB 1803

2003

16140 office ~~Comptroller~~. The initial Board of Governors of the
16141 exchange shall consist of the members of the committee who shall
16142 serve until the first election pursuant to the constitution and
16143 bylaws. If the constitution and bylaws are disapproved by the
16144 office ~~Comptroller~~, the committee, in consultation with the
16145 office ~~Comptroller~~, shall have 60 days from the date of such
16146 disapproval within which to submit an acceptable constitution
16147 and bylaws.

16148 (5) The constitution and bylaws of the exchange shall
16149 include provision that:

16150 (a) There shall be no less than 9 nor more than 15
16151 governors of the exchange, at least one-third of whom shall not
16152 be members of the exchange.

16153 (b) The principal offices of each exchange and the
16154 principal offices of its members shall be located within this
16155 state for the purpose of conducting the type of business
16156 described in subsection (2). Any exchange may have such other
16157 offices around the state as it deems necessary from time to
16158 time, subject to a determination by the office ~~Comptroller~~ that
16159 such additional offices will be necessary for the efficient
16160 operation of the exchange and will be in the public interest.

16161 (c) All members and applicants for membership on the
16162 exchange shall submit all financial information reasonably
16163 required by the office ~~Comptroller~~.

16164 (d) The exchange shall establish or participate in a
16165 security fund which shall be capitalized or underwritten in such
16166 form and amount as will reasonably protect persons transacting
16167 business through the exchange from any harm or loss occasioned
16168 by the insolvency of any member of the exchange. The formation
16169 of such security fund and the adequacy of the financial security



HB 1803

2003

16170 provided thereby shall be subject to the approval of the Office
 16171 of Financial Institutions and Securities Regulation ~~Department~~
 16172 ~~of Banking and Finance~~ based upon the types and amounts of
 16173 transactions effected through the facilities of the exchange.

16174 (e) Rules shall be adopted prescribing eligibility for
 16175 membership and the voting power, duties, and rights to
 16176 participate in the conduct and management of the affairs of the
 16177 exchange by the members thereof, such rights and duties to
 16178 include, without limitation, the manner and form of conducting
 16179 business, financial stability requirements, dues, membership
 16180 fees, resolution of dispute mechanisms, and all other matters
 16181 necessary or appropriate to conduct any business permitted
 16182 herein; however, such rules shall not impose any limit on the
 16183 number of members of any such exchange. Any amendments to the
 16184 constitution and bylaws shall be subject to the approval of the
 16185 office ~~Comptroller~~.

16186 (f) Elections to the Board of Governors of the exchange
 16187 shall be held once every 2 years, with those persons receiving
 16188 the greatest number of votes cast being elected thereto.

16189 (6) If the exchange contemplated by this section is
 16190 established, the office ~~Comptroller~~ shall furnish the chairs of
 16191 the finance and taxation committees of the Legislature with
 16192 copies of its constitution and bylaws. Upon receipt of the
 16193 constitution and bylaws, the Legislature shall consider what tax
 16194 policy and tax exemptions are needed to facilitate successful
 16195 operation of the exchange.

16196 (7) If the exchange contemplated by this section is
 16197 finally established, the Financial Services Commission
 16198 ~~Comptroller~~ shall forthwith adopt rules providing for the
 16199 reimbursement by the exchange or any member thereof of the



HB 1803

2003

16200 actual costs incurred by the office ~~Comptroller~~ in connection
 16201 with the regulation and supervision of the exchange. As used in
 16202 this section, "actual costs" means all direct and indirect costs
 16203 and expenses incurred by the office ~~Comptroller~~ in connection
 16204 with the exchange including, without limitation, general
 16205 administrative costs, travel expenses, salaries, and other
 16206 benefits given to persons involved in the regulation and
 16207 supervision of the exchange. The office ~~Comptroller~~ shall have
 16208 the power to make any allocations that are deemed reasonable and
 16209 necessary and may require the exchange or any members to pay
 16210 interim assessments related to estimated final assessments.

16211 (8) The Florida securities laws and rules shall apply to
 16212 the exchange and to its members.

16213 (9) The Financial Services Commission ~~Comptroller~~ may
 16214 establish limitations on investments in members of the exchange
 16215 by any person or company, consistent with the public interest
 16216 and the efficient functioning of the exchange.

16217 Section 559. Subsection (3) of section 520.02, Florida
 16218 Statutes, is amended, present subsections (4)-(17) of said
 16219 section are renumbered as subsections(5)-(18), respectively, and
 16220 a new subsection (4) is added to said section, to read:

16221 520.02 Definitions.--In this act, unless the context or
 16222 subject matter otherwise requires:

16223 (3) "Commission" means the Financial Services Commission
 16224 ~~"Department" means the Department of Banking and Finance.~~

16225 (4) "Office" means the Office of Financial Institutions
 16226 and Securities Regulation of the commission.

16227 Section 560. Subsections (2), (3), (4), and (5) of section
 16228 520.03, Florida Statutes, are amended to read:

16229 520.03 Licenses.--



HB 1803

2003

16230 (2) An application for a license under this part must be
16231 submitted to the office ~~department~~ in such form as the
16232 commission ~~department~~ may prescribe by rule. If the office
16233 ~~department~~ determines that an application should be granted, it
16234 shall issue the license for a period not to exceed 2 years. A
16235 nonrefundable application fee of \$175 shall accompany an initial
16236 application for the principal place of business and each
16237 application for a branch location of a retail installment seller
16238 who is required to be licensed under this chapter.

16239 (3) The renewal fee for a motor vehicle retail installment
16240 seller license shall be \$175. The commission ~~department~~ shall
16241 establish by rule biennial licensure periods and procedures for
16242 renewal of licenses. A license that is not renewed by the end
16243 of the biennium established by the commission ~~department~~ shall
16244 revert from active to inactive status. An inactive license may
16245 be reactivated within 6 months after becoming inactive upon
16246 filing a completed reactivation form, payment of the renewal
16247 fee, and payment of a reactivation fee equal to the renewal fee.
16248 A license that is not reactivated within 6 months after
16249 becoming inactive automatically expires.

16250 (4) Each license shall specify the location for which it
16251 is issued and must be conspicuously displayed at that location.
16252 Prior to relocating a principal place of business or any branch
16253 location, the licensee must provide to the office ~~department~~
16254 notice of the relocation in a form prescribed by commission
16255 ~~department~~ rule. A licensee may not transact business as a motor
16256 vehicle retail installment seller except under the name by which
16257 it is licensed. Licenses issued under this part are not
16258 transferable or assignable.

16259 (5) The office ~~department~~ may deny an initial application



HB 1803

2003

16260 for a license under this part if the applicant or any person
16261 with power to direct the management or policies of the applicant
16262 is the subject of a pending criminal prosecution or governmental
16263 enforcement action, in any jurisdiction, until conclusion of
16264 such criminal prosecution or enforcement action.

16265 Section 561. Subsections (4) and (9) of section 520.07,
16266 Florida Statutes, are amended to read:

16267 520.07 Requirements and prohibitions as to retail
16268 installment contracts.--

16269 (4) The amount, if any, included for insurance which may
16270 be purchased by the holder of the retail installment contract
16271 may not exceed the applicable premiums chargeable in accordance
16272 with the rates filed with the Office ~~Department~~ of Insurance
16273 Regulation of the Commission. If dual interest insurance on the
16274 motor vehicle is purchased by the holder, it shall, within 30
16275 days after execution of the retail installment contract, send or
16276 cause to be sent to the buyer a policy or policies or
16277 certificate of insurance, written by an insurance company
16278 authorized to do business in this state, clearly setting forth
16279 the amount of the premium, the kind or kinds of insurance, the
16280 coverages, and all the terms, exceptions, limitations,
16281 restrictions, and conditions of the contract or contracts of
16282 insurance. Nothing in this act shall impair or abrogate the
16283 right of a buyer, as defined herein, to procure insurance from
16284 an agent and company of his or her own selection as provided by
16285 the insurance laws of this state; and nothing contained in this
16286 act shall modify, amend, alter, or repeal any of the insurance
16287 laws of the state, including any such laws enacted by the 1957
16288 Legislature.

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HB 1803

2003

16290 (9) The office ~~department~~ may order a seller to refund any
 16291 amounts assessed and charged on a retail installment contract
 16292 which exceed the maximum charges provided by this act or by
 16293 rules of the commission ~~department~~.

16294 Section 562. Subsection (3) of section 520.31, Florida
 16295 Statutes, is amended, present subsections (4)-(17) of said
 16296 section are renumbered as subsections(5)-(18), respectively, and
 16297 a new subsection (4) is added to said section, to read:

16298 520.31 Definitions.--Unless otherwise clearly indicated by
 16299 the context, the following words when used in this act, for the
 16300 purposes of this act, shall have the meanings respectively
 16301 ascribed to them in this section:

16302 (3) "Commission" means the Financial Services Commission
 16303 ~~"Department" means the Department of Banking and Finance.~~

16304 (4) "Office" means the Office of Financial Institutions
 16305 and Securities Regulation of the commission.

16306 Section 563. Subsections (2), (3), (4), and (5) of section
 16307 520.32, Florida Statutes, are amended to read:

16308 520.32 Licenses.--

16309 (2) An application for a license under this part must be
 16310 submitted to the office ~~department~~ in such form as the
 16311 commission ~~department~~ may prescribe by rule. If the office
 16312 ~~department~~ determines that an application should be granted, it
 16313 shall issue the license for a period not to exceed 2 years. A
 16314 nonrefundable application fee of \$175 shall accompany an initial
 16315 application for the principal place of business and each
 16316 application for a branch location of a retail installment
 16317 seller.

16318 (3) The renewal fee for a retail seller license shall be
 16319 \$175. Biennial licensure periods and procedures for renewal of



HB 1803

2003

16320 licenses may also be established by the commission ~~department~~ by
16321 rule. A license that is not renewed at the end of the biennium
16322 established by the commission ~~department~~ shall revert from
16323 active to inactive status. An inactive license may be
16324 reactivated within 6 months after becoming inactive upon filing
16325 a completed reactivation form, payment of the renewal fee, and
16326 payment of a reactivation fee equal to the renewal fee. A
16327 license that is not reactivated within 6 months after becoming
16328 inactive automatically expires.

16329 (4) Each license must specify the location for which it is
16330 issued and must be conspicuously displayed at that location. If
16331 a licensee's principal place of business or branch location
16332 changes, the licensee shall notify the office ~~department~~ and the
16333 office ~~department~~ shall endorse the change of location without
16334 charge. A licensee may not transact business as a retail
16335 installment seller except under the name by which it is
16336 licensed. A license issued under this part is not transferable
16337 or assignable.

16338 (5) The office ~~department~~ may deny an initial application
16339 for a license under this part if the applicant or any person
16340 with power to direct the management or policies of the applicant
16341 is the subject of a pending criminal prosecution or governmental
16342 enforcement action, in any jurisdiction, until conclusion of
16343 such criminal prosecution or enforcement action.

16344 Section 564. Subsection (8) of section 520.34, Florida
16345 Statutes, is amended to read:

16346 520.34 Retail installment contracts.--

16347 (8) The seller under any retail installment contract
16348 shall, within 30 days after execution of the contract, deliver
16349 or mail or cause to be delivered or mailed to the buyer at his



HB 1803

2003

16350 or her aforesaid address any policy or policies of insurance the
 16351 seller has agreed to purchase in connection therewith, or in
 16352 lieu thereof a certificate or certificates of such insurance.
 16353 The amount, if any, included for insurance shall not exceed the
 16354 applicable premiums chargeable in accordance with the rates
 16355 filed with the Office Department of Insurance Regulation of the
 16356 commission; if any such insurance is canceled, unearned
 16357 insurance premium refunds and any unearned finance charges
 16358 thereon received by the holder shall, at his or her option, be
 16359 credited to the final maturing installments of the contract or
 16360 paid to the buyer, except to the extent applied toward the
 16361 payment for similar insurance protecting the interests of the
 16362 seller and the holder or either of them. The finance charge on
 16363 the original transaction shall be separately computed:

16364 (a) With the premium for the canceled or adjusted
 16365 insurance included in the "amount financed"; and

16366 (b) With the premium for the canceled insurance or the
 16367 amount of the premium adjustment excluded from the "amount
 16368 financed."

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 16371 The difference in the finance charge resulting from these
 16372 computations shall be the portion of the finance charge
 16373 attributable to the canceled or adjusted insurance, and the
 16374 unearned portion thereof shall be determined by the use of the
 16375 rule of 78ths. "Cancellation of insurance" occurs at such time
 16376 as the seller or holder receives from the insurance carrier the
 16377 proper refund of unearned insurance premiums. Nothing in this
 16378 act shall impair or abrogate the right of a buyer to procure
 16379 insurance from an agent and company of his or her own selection,



HB 1803

2003

16380 as provided by the insurance laws of this state; and nothing
16381 contained in this act shall modify, alter, or repeal any of the
16382 insurance laws of this state.

16383 Section 565. Subsections (2), (3), (4), and (5) of section
16384 520.52, Florida Statutes, are amended to read:

16385 520.52 Licensees.--

16386 (2) An application for a license under this part must be
16387 submitted to the office ~~department~~ in such form as the
16388 commission ~~department~~ may prescribe by rule. If the office
16389 ~~department~~ determines that an application should be granted, it
16390 shall issue the license for a period not to exceed 2 years. A
16391 nonrefundable application fee of \$175 shall accompany an initial
16392 application for the principal place of business and each branch
16393 location of a sales finance company.

16394 (3) The renewal fee for a sales finance company license
16395 shall be \$175. Biennial licensure periods and procedures for
16396 renewal of licenses may also be established by the commission
16397 ~~department~~ by rule. A license that is not renewed at the end of
16398 the biennium established by the commission ~~department~~ shall
16399 revert from active to inactive status. An inactive license may
16400 be reactivated within 6 months after becoming inactive upon
16401 filing a completed reactivation form, payment of the renewal
16402 fee, and payment of a reactivation fee equal to the renewal fee.

16403 A license that is not reactivated within 6 months after
16404 becoming inactive automatically expires.

16405 (4) Each license must specify the location for which it is
16406 issued and must be conspicuously displayed at that location. If
16407 a licensee's principal place of business or branch location
16408 changes, the licensee shall notify the office ~~department~~ and the
16409 office ~~department~~ shall endorse the change of location without



HB 1803

2003

16410 charge. A licensee may not transact business as a sales finance
16411 company except under the name by which it is licensed. A
16412 license issued under this part is not transferable or
16413 assignable.

16414 (5) The office ~~department~~ may deny an initial application
16415 for a license under this part if the applicant or any person
16416 with power to direct the management or policies of the applicant
16417 is the subject of a pending criminal prosecution or governmental
16418 enforcement action, in any jurisdiction, until conclusion of
16419 such criminal prosecution or enforcement action.

16420 Section 566. Subsection (6) of section 520.61, Florida
16421 Statutes, is amended, present subsections (7)-(21) of said
16422 section are renumbered as subsections (8)-(22), respectively,
16423 and a new subsection (7) is added to said section, to read:

16424 520.61 Definitions.--As used in this act:

16425 (6) "Commission" means the Financial Services Commission
16426 ~~"Department" means the Department of Banking and Finance.~~

16427 (7) "Office" means the Office of Financial Institutions
16428 and Securities Regulation of the commission.

16429 Section 567. Section 520.63, Florida Statutes, is amended
16430 to read:

16431 520.63 Licensees.--

16432 (1) A person may not engage in or transact any business as
16433 a home improvement finance seller or operate a branch without
16434 first obtaining a license from the office ~~department~~, except
16435 that a banking institution, trust company, savings and loan
16436 association, credit union authorized to do business in this
16437 state, or licensee under ss. 494.006-494.0077 is not required to
16438 obtain a license to engage in home improvement financing.

16439 (2) An application for a license under this part must be



HB 1803

2003

16440 submitted to the office ~~department~~ in such form as the
16441 commission ~~department~~ may prescribe by rule. If the office
16442 ~~department~~ determines that an application should be granted, it
16443 shall issue the license for a period not to exceed 2 years. A
16444 nonrefundable application fee of \$175 shall accompany an initial
16445 application for the principal place of business and each
16446 application for a branch location of a home improvement finance
16447 seller.

16448 (3) The renewal fee for a home improvement finance license
16449 shall be \$175. Biennial licensure periods and procedures for
16450 renewal of licenses may also be established by the commission
16451 ~~department~~ by rule. A license that is not renewed at the end of
16452 the biennium established by the commission ~~department~~ shall
16453 automatically revert from active to inactive status. An
16454 inactive license may be reactivated within 6 months after
16455 becoming inactive upon filing a completed reactivation form,
16456 payment of the renewal fee, and payment of a reactivation fee
16457 equal to the renewal fee. A license that is not reactivated
16458 within 6 months after becoming inactive automatically expires.

16459 (4) Each license must specify the location for which it is
16460 issued and must be conspicuously displayed at that location. If
16461 a home improvement finance seller's principal place of business
16462 or any branch location changes, the licensee shall notify the
16463 office ~~department~~ and the office ~~department~~ shall endorse the
16464 change of location without charge. A licensee may not transact
16465 business as a home improvement finance seller except under the
16466 name by which it is licensed. A license issued under this part
16467 is not transferable or assignable.

16468 (5) The office ~~department~~ may deny an initial application
16469 for a license under this part if the applicant or any person



HB 1803

2003

16470 with power to direct the management or policies of the applicant
 16471 is the subject of a pending criminal prosecution or governmental
 16472 enforcement action, in any jurisdiction, until conclusion of
 16473 such criminal prosecution or enforcement action.

16474 (6) Each seller shall designate and maintain an agent in
 16475 the state for service of process.

16476 Section 568. Subsections (1) and (5) of section 520.73,
 16477 Florida Statutes, are amended to read:

16478 520.73 Home improvement contract; form and content;
 16479 separate disclosures.--

16480 (1) Every home improvement contract shall be evidenced by
 16481 a written agreement and shall be signed by the parties. The
 16482 home improvement contract shall be in the form approved by the
 16483 office ~~department~~ and shall contain:

16484 (a) The name, address, and license number of the home
 16485 improvement finance seller;

16486 (b) The names of the home improvement finance seller's
 16487 employees who solicited or negotiated the home improvement
 16488 contract;

16489 (c) The approximate dates when the work will begin and
 16490 will be completed; and

16491 (d) A description of the work to be done and the materials
 16492 to be used.

16493 (5) The home improvement contract shall contain the
 16494 following notice, in substantially this form, and such other
 16495 notices required by the public interest and specified by the
 16496 commission ~~department~~ by rule, in 10-point boldfaced type
 16497 directly above the space provided for the signature of the
 16498 owner:

16499 Notice To Owner



HB 1803

2003

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- a. Do not sign this home improvement contract in blank.
- b. You are entitled to a copy of the contract at the time you sign. Keep it to protect your legal rights.
- c. This home improvement contract may contain a mortgage or otherwise create a lien on your property that could be foreclosed on if you do not pay. Be sure you understand all provisions of the contract before you sign.

Section 569. Subsection (3) of section 520.76, Florida Statutes, is amended to read:

520.76 Insurance provisions, procurement, rates.--

(3) The amount, if any, included for such insurance shall not exceed the applicable premiums chargeable in accordance with rates filed with the Office Department of Insurance Regulation of the commission. If any such group credit life or other insurance is canceled, the refund for unearned insurance premiums received or receivable by the holder of the home improvement contract or the excess of the amount included in the contract for insurance over the premiums paid or payable by the holder of the contract together with, in either case, the unearned portion of the finance charge or other interest applicable thereto shall be credited to the final maturing installments of the home improvement contract. However, no such credit need be made if the amount would be less than \$1.

Section 570. Subsection (2) of section 520.81, Florida Statutes, is amended to read:

520.81 Completion certificate.--

(2) The form of the certificate shall be prescribed by the commission ~~department~~.

Section 571. Subsection (2) of section 520.83, Florida



HB 1803

2003

16530 Statutes, is amended to read:

16531 520.83 Cancellation of contract on payment in full.--

16532 (2) For all other home improvement contracts, the holder,
 16533 upon payment in full by the owner of the time sales price and
 16534 other amounts lawfully due under the home improvement contract,
 16535 shall furnish the owner with such instruments as the commission
 16536 ~~department~~ may by rule ~~regulation~~ provide.

16537 Section 572. Subsections (10) and (12) of section 520.90,
 16538 Florida Statutes, are amended to read:

16539 520.90 Prohibited acts.--The following acts are
 16540 prohibited:

16541 (10) Willful failure to notify the office ~~department~~ of
 16542 any change of control in ownership, management, business name,
 16543 or location.

16544 (12) Willful failure to comply with any order, demand, or
 16545 requirement lawfully made by the office ~~department~~.

16546 Section 573. Section 520.994, Florida Statutes, is amended
 16547 to read:

16548 520.994 Powers of office ~~department~~.--

16549 (1) The office ~~department~~ may issue and serve subpoenas to
 16550 compel the attendance of witnesses and the production of
 16551 documents, papers, books, records, and other evidence before it
 16552 in any matter pertaining to this chapter. The office ~~department~~
 16553 may administer oaths and affirmations to any person whose
 16554 testimony is required. If any person refuses to testify,
 16555 produce books, records, and documents, or otherwise refuses to
 16556 obey a subpoena issued under this section, the office ~~department~~
 16557 may present its petition to a court of competent jurisdiction in
 16558 or for the county in which such person resides or has its
 16559 principal place of business, whereupon the court shall issue its



HB 1803

2003

16560 rule nisi requiring such person to obey forthwith the subpoena
16561 issued by the office ~~department~~ or show cause for failing to
16562 obey such subpoena. Unless the person shows sufficient cause for
16563 failing to obey the subpoena, the court shall forthwith direct
16564 such person to obey the subpoena, subject to such punishment as
16565 the court may direct, including, but not limited to, the
16566 restraint, by injunction or by appointment of a receiver, of any
16567 transfer, pledge, assignment, or other disposition of such
16568 person's assets or any concealment, alteration, destruction, or
16569 other disposition of subpoenaed books, records, or documents as
16570 the court deems appropriate, until such person has fully
16571 complied with such subpoena and the office ~~department~~ has
16572 completed its investigation or examination. The office
16573 ~~department~~ is entitled to the summary procedure provided in s.
16574 51.011, and the court shall advance the cause on its calendar.
16575 Costs incurred by the office ~~department~~ to obtain an order
16576 granting, in whole or in part, its petition shall be taxed
16577 against the subpoenaed person, and failure to comply with such
16578 order is a contempt of court. Witnesses are entitled to the same
16579 fees and mileage as they are entitled to by law for attending as
16580 witnesses in the circuit court, unless such examination or
16581 investigation is held at the place of business or residence of
16582 the witness.

16583 (2) In addition to any other powers conferred upon it to
16584 enforce or administer this chapter, the office ~~department~~ may
16585 bring an action in any court of competent jurisdiction to
16586 enforce or administer any provision of this chapter, any rule or
16587 order adopted pursuant to this chapter, or any written agreement
16588 entered into with the office ~~department~~. In such action, the
16589 office ~~department~~ may seek temporary or permanent injunction,



HB 1803

2003

16590 appointment of a receiver or administrator, or an order of
 16591 restitution. If in any such action the office ~~department~~
 16592 alleges that five or more persons have been defrauded by acts
 16593 constituting violations of this chapter, it shall state the
 16594 circumstances constituting such fraud with particularity and may
 16595 seek any appropriate remedy at law or in equity, provided the
 16596 remedy does not impair any rights granted by law to any holder
 16597 in due course as defined in s. 673.302.

16598 (3) In addition to any other powers conferred upon it to
 16599 enforce or administer this chapter, the office ~~department~~ may
 16600 issue and serve upon a person a cease and desist order whenever
 16601 the office ~~department~~ finds that such person is violating, has
 16602 violated, or is about to violate any provision of this chapter,
 16603 any rule or order adopted pursuant to this chapter, or any
 16604 written agreement entered into with the office ~~department~~. Any
 16605 such order shall contain a notice of the rights provided by ss.
 16606 120.569 and 120.57.

16607 (4) In addition to any other powers conferred upon it to
 16608 enforce or administer this chapter, the office ~~department~~ may
 16609 impose and collect an administrative fine against any person
 16610 found to have violated any provision of this chapter, any rule
 16611 or order adopted pursuant to this chapter, or any written
 16612 agreement entered into with the office ~~department~~, in an amount
 16613 not to exceed \$1,000 for each violation.

16614 (5) The office ~~department~~ shall administer and enforce
 16615 this chapter. The commission ~~department~~ has authority to adopt
 16616 rules pursuant to ss. 120.536(1) and 120.54 to implement the
 16617 provisions of this chapter. The commission ~~department~~ may adopt
 16618 rules to allow electronic submission of any form, document, or
 16619 fee required by this chapter.



HB 1803

2003

16620 Section 574. Subsections (1), (2), and (4) of section
 16621 520.995, Florida Statutes, are amended to read:

16622 520.995 Grounds for disciplinary action.--

16623 (1) The following acts are violations of this chapter and
 16624 constitute grounds for the disciplinary actions specified in
 16625 subsection (2):

16626 (a) Failure to comply with any provision of this chapter,
 16627 any rule or order adopted pursuant to this chapter, or any
 16628 written agreement entered into with the office ~~department~~;

16629 (b) Fraud, misrepresentation, deceit, or gross negligence
 16630 in any home improvement finance transaction or retail
 16631 installment transaction, regardless of reliance by or damage to
 16632 the buyer or owner;

16633 (c) Fraudulent misrepresentation, circumvention, or
 16634 concealment of any matter required to be stated or furnished to
 16635 a retail buyer or owner pursuant to this chapter, regardless of
 16636 reliance by or damage to the buyer or owner;

16637 (d) Willful imposition of illegal or excessive charges in
 16638 any retail installment transaction or home improvement finance
 16639 transaction;

16640 (e) False, deceptive, or misleading advertising by a
 16641 seller or home improvement finance seller;

16642 (f) Failure to maintain, preserve, and keep available for
 16643 examination, all books, accounts, or other documents required by
 16644 this chapter, by any rule or order adopted pursuant to this
 16645 chapter, or by any agreement entered into with the office
 16646 ~~department~~;

16647 (g) Refusal to permit inspection of books and records in
 16648 an investigation or examination by the office ~~department~~ or
 16649 refusal to comply with a subpoena issued by the office



HB 1803

2003

16650 ~~department;~~

16651 (h) Criminal conduct in the course of a person's business
 16652 as a seller, as a home improvement finance seller, or as a sales
 16653 finance company; or

16654 (i) Failure to timely pay any fee, charge, or fine imposed
 16655 or assessed pursuant to this chapter or any rule adopted under
 16656 this chapter.

16657 (2) Upon a finding by the office ~~department~~ that any
 16658 person has committed any of the acts set forth in subsection
 16659 (1), the office ~~department~~ may enter an order taking one or more
 16660 of the following actions:

16661 (a) Denying an application for a license pursuant to this
 16662 chapter;

16663 (b) Revoking or suspending a license previously granted
 16664 pursuant to this chapter;

16665 (c) Placing a licensee or an applicant for a license on
 16666 probation for a period of time and subject to such conditions as
 16667 the office ~~department~~ may specify;

16668 (d) Placing permanent restrictions or conditions upon
 16669 issuance or maintenance of a license pursuant to this chapter;

16670 (e) Issuing a reprimand; or

16671 (f) Imposing an administrative fine not to exceed \$1,000
 16672 for each such act.

16673 (4) It is sufficient cause for the office ~~department~~ to
 16674 take any of the actions specified in subsection (2) as to any
 16675 partnership, corporation, or association, if the office
 16676 ~~department~~ finds grounds for such action as to any member of the
 16677 partnership, as to any officer or director of the corporation or
 16678 association, or as to any person with power to direct the
 16679 management or policies of the partnership, corporation, or



HB 1803

2003

16680 association.

16681 Section 575. Section 520.997, Florida Statutes, is amended
16682 to read:

16683 520.997 Books, accounts, and records.--

16684 (1) Every licensee shall maintain, at the principal place
16685 of business, such books, accounts, and records of the business
16686 conducted under the license issued for such place of business as
16687 will enable the office ~~department~~ to determine whether the
16688 business of the licensee contemplated by this chapter is being
16689 operated in accordance with the provisions of this chapter. The
16690 licensee shall make all such books, accounts, and records of
16691 business conducted under the license available at a convenient
16692 location in this state upon request of the office ~~department~~.

16693 (2) A licensee, operating two or more licensed places of
16694 business in this state, may maintain the general control records
16695 of all such offices at any one of such offices, or at any other
16696 office maintained by such licensee, upon the filing of a written
16697 request with the office ~~department~~ designating therein the
16698 office at which such control records are maintained.

16699 (3) All books, accounts, and records of licensees,
16700 including any cards used in a card system, shall be preserved
16701 and available for examination by the office ~~department~~ for at
16702 least 2 years after making the final entry therein.

16703 (4) The commission ~~may department~~ ~~is hereby authorized and~~
16704 ~~empowered to~~ prescribe the minimum information to be shown in
16705 the books, accounts, and records of licensees so that such
16706 records will enable the office ~~department~~ to determine
16707 compliance with the provisions of this chapter.

16708 (5) A licensee that is the subject of a voluntary or
16709 involuntary bankruptcy filing must provide notice of such filing



HB 1803

2003

16710 to the office ~~department~~ within 7 days after the filing date.

16711 Section 576. Section 520.998, Florida Statutes, is amended
16712 to read:

16713 520.998 Regulatory Trust Fund.--All fees, charges, and
16714 fines collected by the office ~~department~~ pursuant to this
16715 chapter shall be deposited in the State Treasury to the credit
16716 of the Regulatory Trust Fund under the office ~~department~~.

16717 Section 577. Subsection (7) of section 526.141, Florida
16718 Statutes, is amended to read:

16719 526.141 Self-service gasoline stations; attendants;
16720 regulations.--

16721 (7) The Chief Financial Officer ~~Insurance Commissioner~~,
16722 under her or his powers, duties, and functions as State Fire
16723 Marshal, shall adopt ~~promulgate~~ rules and ~~regulations~~ for the
16724 administration and enforcement of this section, except for
16725 subsection (5) which shall be administered and enforced by the
16726 Department of Agriculture and Consumer Services.

16727 Section 578. Subsection (2) of section 537.003, Florida
16728 Statutes, is amended, present subsections (3)-(15) of said
16729 section are renumbered as subsections(4)-(16), respectively, and
16730 a new subsection (3) is added to said section, to read:

16731 537.003 Definitions.--As used in this act, unless the
16732 context otherwise requires:

16733 (2) "Commission" means the Financial Services Commission
16734 ~~"Department" means the Department of Banking and Finance.~~

16735 (3) "Office" means the Office of Financial Institutions
16736 and Securities Regulation of the commission.

16737 Section 579. Subsections (1) through (5), (9), and (10) of
16738 section 537.004, Florida Statutes, are amended to read:

16739 537.004 License required; license fees.--



HB 1803

2003

16740 (1) A person may not act as a title loan lender or own or
16741 operate a title loan office unless such person has an active
16742 title loan lender license issued by the office ~~department~~ under
16743 this act. A title loan lender may not own or operate more than
16744 one title loan office unless the lender obtains a separate title
16745 loan lender license for each title loan office.

16746 (2) A person applying for licensure as a title loan lender
16747 shall file with the office ~~department~~ an application, the bond
16748 required by s. 537.005(3), a nonrefundable application fee of
16749 \$1,200, a nonrefundable investigation fee of \$200, and a
16750 complete set of fingerprints taken by an authorized law
16751 enforcement officer. The office ~~department~~ shall submit such
16752 fingerprints to the Department of Law Enforcement for state
16753 processing, and the Department of Law Enforcement shall forward
16754 the fingerprints to the Federal Bureau of Investigation for
16755 national processing.

16756 (3) If the office ~~department~~ determines that an
16757 application should be approved, the office ~~department~~ shall
16758 issue a license for a period not to exceed 2 years.

16759 (4) A license shall be renewed biennially by filing a
16760 renewal form and a nonrefundable renewal fee of \$1,200. A
16761 license that is not renewed by the end of the biennial period
16762 shall automatically revert to inactive status. An inactive
16763 license may be reactivated within 6 months after becoming
16764 inactive by filing a reactivation form, payment of the
16765 nonrefundable \$1,200 renewal fee, and payment of a nonrefundable
16766 reactivation fee of \$600. A license that is not reactivated
16767 within 6 months after becoming inactive may not be reactivated
16768 and shall automatically expire. The commission ~~department~~ shall
16769 establish by rule the procedures for renewal and reactivation of



HB 1803

2003

16770 a license and shall adopt a renewal form and a reactivation
 16771 form.

16772 (5) Each license must be conspicuously displayed at the
 16773 title loan office. When a licensee wishes to move a title loan
 16774 office to another location, the licensee shall provide prior
 16775 written notice to the office ~~department~~.

16776
 16777 (9) The commission ~~department~~ may adopt rules to allow for
 16778 electronic filing of applications, fees, and forms required by
 16779 this act.

16780 (10) All moneys collected by the office ~~department~~ under
 16781 this act shall be deposited into the Regulatory Trust Fund of
 16782 the office ~~Department of Banking and Finance~~.

16783 Section 580. Section 537.005, Florida Statutes, is amended
 16784 to read:

16785 537.005 Application for license.--

16786 (1) A verified application for licensure under this act,
 16787 in the form prescribed by commission ~~department~~ rule, shall:

16788 (a) Contain the name and the residence and business
 16789 address of the applicant. If the applicant is other than a
 16790 natural person, the application shall contain the name and the
 16791 residence and business address of each ultimate equitable owner
 16792 of 10 percent or more of such entity and each director, general
 16793 partner, and executive officer of such entity.

16794 (b) State whether any individual identified in paragraph
 16795 (a) has, within the last 10 years, pleaded nolo contendere to,
 16796 or has been convicted or found guilty of, a felony, regardless
 16797 of whether adjudication was withheld.

16798 (c) Identify the county and municipality with the street
 16799 and number or location where the business is to be conducted.



HB 1803

2003

16800 (d) Contain additional information as the commission
16801 ~~department~~ determines by rule to be necessary to ensure
16802 compliance with this act.

16803 (2) Notwithstanding subsection (1), the application need
16804 not state the full name and address of each officer, director,
16805 and shareholder if the applicant is owned directly or
16806 beneficially by a person who as an issuer has a class of
16807 securities registered pursuant to s. 12 of the Securities
16808 Exchange Act of 1934 or, pursuant to s. 13 or s. 15(d) of such
16809 act, is an issuer of securities which is required to file
16810 reports with the Securities and Exchange Commission, if the
16811 person files with the office ~~department~~ any information,
16812 documents, and reports required by such act to be filed with the
16813 Securities and Exchange Commission.

16814 (3) An applicant for licensure shall file with the office
16815 ~~department~~ a bond, in the amount of \$100,000 for each license,
16816 with a surety company qualified to do business in this state.
16817 However, in no event shall the aggregate amount of the bond
16818 required for a single title loan lender exceed \$1 million. In
16819 lieu of the bond, the applicant may establish a certificate of
16820 deposit or an irrevocable letter of credit in a financial
16821 institution, as defined in s. 655.005, in the amount of the
16822 bond. The original bond, certificate of deposit, or letter of
16823 credit shall be filed with the office ~~department~~, and the office
16824 ~~department~~ shall be the beneficiary to that document. The bond,
16825 certificate of deposit, or letter of credit shall be in favor of
16826 the office ~~department~~ for the use and benefit of any consumer
16827 who is injured pursuant to a title loan transaction by the
16828 fraud, misrepresentation, breach of contract, financial failure,
16829 or violation of any provision of this act by the title loan



HB 1803

2003

16830 lender. Such liability may be enforced either by proceeding in
16831 an administrative action or by filing a judicial suit at law in
16832 a court of competent jurisdiction. However, in such court suit,
16833 the bond, certificate of deposit, or letter of credit posted
16834 with the office ~~department~~ shall not be amenable or subject to
16835 any judgment or other legal process issuing out of or from such
16836 court in connection with such lawsuit, but such bond,
16837 certificate of deposit, or letter of credit shall be amenable to
16838 and enforceable only by and through administrative proceedings
16839 before the office ~~department~~. It is the intent of the
16840 Legislature that such bond, certificate of deposit, or letter of
16841 credit shall be applicable and liable only for the payment of
16842 claims duly adjudicated by order of the office ~~department~~. The
16843 bond, certificate of deposit, or letter of credit shall be
16844 payable on a pro rata basis as determined by the office
16845 ~~department~~, but the aggregate amount may not exceed the amount
16846 of the bond, certificate of deposit, or letter of credit.

16847 (4) The office ~~department~~ shall approve an application and
16848 issue a license if the office ~~department~~ determines that the
16849 applicant satisfies the requirements of this act.

16850 Section 581. Paragraphs (a), (f), (h), and (o) of
16851 subsection (1) and subsections (2) and (4) of section 537.006,
16852 Florida Statutes, are amended to read:

16853 537.006 Denial, suspension, or revocation of license.--

16854 (1) The following acts are violations of this act and
16855 constitute grounds for the disciplinary actions specified in
16856 subsection (2):

16857 (a) Failure to comply with any provision of this act, any
16858 rule or order adopted pursuant to this act, or any written
16859 agreement entered into with the office ~~department~~.



HB 1803

2003

16860 (f) Failure to maintain, preserve, and keep available for
16861 examination all books, accounts, or other documents required by
16862 this act, by any rule or order adopted pursuant to this act, or
16863 by any agreement entered into with the office ~~department~~.

16864 (h) Refusal to provide information upon request of the
16865 office ~~department~~, to permit inspection of books and records in
16866 an investigation or examination by the office ~~department~~, or to
16867 comply with a subpoena issued by the office ~~department~~.

16868 (o) Having demonstrated unworthiness, as defined by
16869 commission ~~department~~ rule, to transact the business of a title
16870 loan lender.

16871 (2) Upon a finding by the office ~~department~~ that any
16872 person has committed any of the acts set forth in subsection
16873 (1), the office ~~department~~ may enter an order taking one or more
16874 of the following actions:

16875 (a) Denying an application for licensure under this act.

16876 (b) Revoking or suspending a license previously granted
16877 pursuant to this act.

16878 (c) Placing a licensee or an applicant for a license on
16879 probation for a period of time and subject to such conditions as
16880 the office ~~department~~ specifies.

16881 (d) Issuing a reprimand.

16882 (e) Imposing an administrative fine not to exceed \$5,000
16883 for each separate act or violation.

16884 (4) It is sufficient cause for the office ~~department~~ to
16885 take any of the actions specified in subsection (2), as to any
16886 entity other than a natural person, if the office ~~department~~
16887 finds grounds for such action as to any member of such entity,
16888 as to any executive officer or director of the entity, or as to
16889 any person with power to direct the management or policies of



HB 1803

2003

16890 the entity.

16891 Section 582. Subsection (1) of section 548.066, Florida
 16892 Statutes, is amended to read:

16893 548.066 Ticket refunds.--

16894 (1) Upon the postponement, substitution of either
 16895 participant, or cancellation of the main event or the entire
 16896 program of matches, the promoter shall refund the full purchase
 16897 price of a ticket to each person presenting a ticket for a
 16898 refund within 30 days after the scheduled date of the event.
 16899 Within 10 days after the expiration of the 30-day period, the
 16900 promoter shall pay all unclaimed ticket receipts to the
 16901 commission. The commission shall hold the funds for 1 year and
 16902 make refunds during such time to any person presenting a ticket
 16903 for a refund. Thereafter, the commission shall pay all remaining
 16904 moneys from the ticket sale to the Chief Financial Officer ~~State~~
 16905 ~~Treasurer~~ for deposit into the General Revenue Fund.

16906 Section 583. Section 548.077, Florida Statutes, is amended
 16907 to read:

16908 548.077 Florida State Boxing Commission; collection and
 16909 disposition of moneys.--All fees, fines, forfeitures, and other
 16910 moneys collected under the provisions of this chapter shall be
 16911 paid by the commission to the Chief Financial Officer ~~State~~
 16912 ~~Treasurer~~ who, after the expenses of the commission are paid,
 16913 shall deposit them in the Professional Regulation Trust Fund to
 16914 be used for the administration and operation of the commission
 16915 and to enforce the laws and rules under its jurisdiction. In
 16916 the event the unexpended balance of such moneys collected under
 16917 the provisions of this chapter exceeds \$250,000, any excess of
 16918 that amount shall be deposited in the General Revenue Fund.

16919 Section 584. Subsection (10) of section 550.0251, Florida



HB 1803

2003

16920 Statutes, is amended to read:

16921 550.0251 The powers and duties of the Division of Pari-
 16922 mutuel Wagering of the Department of Business and Professional
 16923 Regulation.--The division shall administer this chapter and
 16924 regulate the pari-mutuel industry under this chapter and the
 16925 rules adopted pursuant thereto, and:

16926 (10) The division may impose an administrative fine for a
 16927 violation under this chapter of not more than \$1,000 for each
 16928 count or separate offense, except as otherwise provided in this
 16929 chapter, and may suspend or revoke a permit, a pari-mutuel
 16930 license, or an occupational license for a violation under this
 16931 chapter. All fines imposed and collected under this subsection
 16932 must be deposited with the Chief Financial Officer ~~Treasurer~~ to
 16933 the credit of the General Revenue Fund.

16934 Section 585. Paragraph (b) of subsection (9) of section
 16935 550.054, Florida Statutes, is amended to read:

16936 550.054 Application for permit to conduct pari-mutuel
 16937 wagering.--

16938 (9)

16939 (b) The division may revoke or suspend any permit or
 16940 license issued under this chapter upon the willful violation by
 16941 the permitholder or licensee of any provision of this chapter or
 16942 of any rule adopted under this chapter. In lieu of suspending or
 16943 revoking a permit or license, the division may impose a civil
 16944 penalty against the permitholder or licensee for a violation of
 16945 this chapter or any rule adopted by the division. The penalty so
 16946 imposed may not exceed \$1,000 for each count or separate
 16947 offense. All penalties imposed and collected must be deposited
 16948 with the Chief Financial Officer ~~Treasurer~~ to the credit of the
 16949 General Revenue Fund.



HB 1803

2003

16950 Section 586. Paragraph (a) of subsection (1) and
16951 subsection (5) of section 550.0951, Florida Statutes, are
16952 amended to read:

16953 550.0951 Payment of daily license fee and taxes;
16954 penalties.--

16955 (1)(a) DAILY LICENSE FEE.--Each person engaged in the
16956 business of conducting race meetings or jai alai games under
16957 this chapter, hereinafter referred to as the "permitholder,"
16958 "licensee," or "permittee," shall pay to the division, for the
16959 use of the division, a daily license fee on each live or
16960 simulcast pari-mutuel event of \$100 for each horserace and \$80
16961 for each dograce and \$40 for each jai alai game conducted at a
16962 racetrack or fronton licensed under this chapter. In addition
16963 to the tax exemption specified in s. 550.09514(1) of \$360,000 or
16964 \$500,000 per greyhound permitholder per state fiscal year, each
16965 greyhound permitholder shall receive in the current state fiscal
16966 year a tax credit equal to the number of live greyhound races
16967 conducted in the previous state fiscal year times the daily
16968 license fee specified for each dograce in this subsection
16969 applicable for the previous state fiscal year. This tax credit
16970 and the exemption in s. 550.09514(1) shall be applicable to any
16971 tax imposed by this chapter or the daily license fees imposed by
16972 this chapter except during any charity or scholarship
16973 performances conducted pursuant to s. 550.0351. Each
16974 permitholder shall pay daily license fees not to exceed \$500 per
16975 day on any simulcast races or games on which such permitholder
16976 accepts wagers regardless of the number of out-of-state events
16977 taken or the number of out-of-state locations from which such
16978 events are taken. This license fee shall be deposited with the
16979 Chief Financial Officer ~~Treasurer~~ to the credit of the Pari-



HB 1803

2003

16980 mutuel Wagering Trust Fund.

16981 (5) PAYMENT AND DISPOSITION OF FEES AND TAXES.--Payment
 16982 for the admission tax, tax on handle, and the breaks tax imposed
 16983 by this section shall be paid to the division. The division
 16984 shall deposit these sums with the Chief Financial Officer
 16985 ~~Treasurer~~, to the credit of the Pari-mutuel Wagering Trust Fund,
 16986 hereby established. The permitholder shall remit to the division
 16987 payment for the daily license fee, the admission tax, the tax on
 16988 handle, and the breaks tax. Such payments shall be remitted by 3
 16989 p.m. Wednesday of each week for taxes imposed and collected for
 16990 the preceding week ending on Sunday. Permitholders shall file a
 16991 report under oath by the 5th day of each calendar month for all
 16992 taxes remitted during the preceding calendar month. Such
 16993 payments shall be accompanied by a report under oath showing the
 16994 total of all admissions, the pari-mutuel wagering activities for
 16995 the preceding calendar month, and such other information as may
 16996 be prescribed by the division.

16997 Section 587. Paragraph (a) of subsection (3) of section
 16998 550.125, Florida Statutes, is amended to read:

16999 550.125 Uniform reporting system; bond requirement.--

17000 (3)(a) Each permitholder to which a license is granted
 17001 under this chapter, at its own cost and expense, must, before
 17002 the license is delivered, give a bond in the penal sum of
 17003 \$50,000 payable to the Governor of the state and her or his
 17004 successors in office, with a surety or sureties to be approved
 17005 by the division and the Chief Financial Officer ~~Treasurer~~,
 17006 conditioned to faithfully make the payments to the Chief
 17007 Financial Officer ~~Treasurer~~ in her or his capacity as treasurer
 17008 of the division; to keep its books and records and make reports
 17009 as provided; and to conduct its racing in conformity with this



HB 1803

2003

17010 chapter. When the greatest amount of tax owed during any month
 17011 in the prior state fiscal year, in which a full schedule of live
 17012 racing was conducted, is less than \$50,000, the division may
 17013 assess a bond in a sum less than \$50,000. The division may
 17014 review the bond for adequacy and require adjustments each fiscal
 17015 year. The division has the authority to adopt rules to
 17016 implement this paragraph and establish guidelines for such
 17017 bonds.

17018 Section 588. Section 550.135, Florida Statutes, is amended
 17019 to read:

17020 550.135 Division of moneys derived under this law.--All
 17021 moneys that are deposited with the Chief Financial Officer
 17022 ~~Treasurer~~ to the credit of the Pari-mutuel Wagering Trust Fund
 17023 shall be distributed as follows:

17024 (1) The daily license fee revenues collected pursuant to
 17025 s. 550.0951(1) shall be used to fund the operating cost of the
 17026 division and to provide a proportionate share of the operation
 17027 of the office of the secretary and the Division of
 17028 Administration of the Department of Business and Professional
 17029 Regulation; however, other collections in the Pari-mutuel
 17030 Wagering Trust Fund may also be used to fund the operation of
 17031 the division in accordance with authorized appropriations.

17032 (2) All unappropriated funds in excess of \$3.5 million in
 17033 the Pari-mutuel Wagering Trust Fund shall be deposited with ~~to~~
 17034 the Chief Financial Officer ~~Treasurer~~ to the credit of the
 17035 General Revenue Fund.

17036 Section 589. Subsection (3) of section 550.1645, Florida
 17037 Statutes, is amended to read:

17038 550.1645 Escheat to state of abandoned interest in or
 17039 contribution to pari-mutuel pools.--



HB 1803

2003

17040 (3) All money or other property that has escheated to and
 17041 become the property of the state as provided herein, and which
 17042 is held by such licensee authorized to conduct pari-mutuel pools
 17043 in this state, shall be paid by such licensee to the Chief
 17044 Financial Officer ~~Treasurer~~ annually within 60 days after the
 17045 close of the race meeting of the licensee. Such moneys so paid
 17046 by the licensee to the Chief Financial Officer ~~Treasurer~~ shall
 17047 be deposited in the State School Fund to be used for the support
 17048 and maintenance of public free schools as required by s. 6, Art.
 17049 IX of the State Constitution.

17050 Section 590. Subsection (14) of section 552.081, Florida
 17051 Statutes, is amended to read:

17052 552.081 Definitions.--As used in this chapter:

17053 (14) "Division" means the Division of State Fire Marshal
 17054 of the Department of Financial Services ~~Insurance~~.

17055 Section 591. Subsection (2) of section 552.161, Florida
 17056 Statutes, is amended to read:

17057 552.161 Administrative fines.--

17058 (2) All such fines, monetary penalties, and costs received
 17059 by the division in connection with this chapter shall be
 17060 deposited in the Insurance ~~Commissioner's~~ Regulatory Trust Fund.

17061 Section 592. Subsection (3) of section 552.21, Florida
 17062 Statutes, is amended to read:

17063 552.21 Confiscation and disposal of explosives.--

17064 (3) Costs incurred in the confiscation and disposal of
 17065 such explosives shall be paid from the Insurance ~~Commissioner's~~
 17066 Regulatory Trust Fund.

17067 Section 593. Section 552.26, Florida Statutes, is amended
 17068 to read:

17069 552.26 Administration of chapter; personnel; fees to be



HB 1803

2003

17070 deposited in Insurance ~~Commissioner's~~ Regulatory Trust Fund.--

17071 (1) The division is authorized to employ such persons as
 17072 it may deem qualified and necessary, and incur such other
 17073 expenses as may be required, in connection with the
 17074 administration of this chapter.

17075 (2) All fees collected for licenses and permits and
 17076 competency examination filing fees required by this chapter
 17077 shall be deposited in the Insurance ~~Commissioner's~~ Regulatory
 17078 Trust Fund and are ~~hereby~~ appropriated for the use of the
 17079 division in the administration of this chapter.

17080 Section 594. Subsection (4) of section 553.72, Florida
 17081 Statutes, is amended to read:

17082 553.72 Intent.--

17083 (4) It is the intent of the Legislature that the Florida
 17084 Fire Prevention Code and the Life Safety Code of this state be
 17085 adopted, modified, updated, interpreted, and maintained by the
 17086 Department of Financial Services ~~Insurance~~ in accordance with
 17087 ss. 120.536(1) and 120.54 and included by reference as sections
 17088 in the Florida Building Code.

17089 Section 595. Paragraph (c) of subsection (1) of section
 17090 553.73, Florida Statutes, is amended to read:

17091 553.73 Florida Building Code.--

17092 (1)

17093 (c) The Florida Fire Prevention Code and the Life Safety
 17094 Code shall be referenced in the Florida Building Code, but shall
 17095 be adopted, modified, revised, or amended, interpreted, and
 17096 maintained by the Department of Financial Services ~~Insurance~~ by
 17097 rule adopted pursuant to ss. 120.536(1) and 120.54. The Florida
 17098 Building Commission may not adopt a fire prevention or
 17099 lifesafety code, and nothing in the Florida Building Code shall



HB 1803

2003

17100 affect the statutory powers, duties, and responsibilities of any
 17101 fire official or the Department of Financial Services Insurance.

17102 Section 596. Subsection (16) of section 553.79, Florida
 17103 Statutes, is amended to read:

17104 553.79 Permits; applications; issuance; inspections.--

17105 (16) Notwithstanding any other provision of law, state
 17106 agencies responsible for the construction, erection, alteration,
 17107 modification, repair, or demolition of public buildings, or the
 17108 regulation of public and private buildings, structures, and
 17109 facilities, shall be subject to enforcement of the Florida
 17110 Building Code by local jurisdictions. This subsection applies in
 17111 addition to the jurisdiction and authority of the Department of
 17112 Financial Services Insurance to inspect state-owned buildings.

17113 This subsection does not apply to the jurisdiction and authority
 17114 of the Department of Agriculture and Consumer Services to
 17115 inspect amusement rides or the Department of Financial Services
 17116 ~~Insurance~~ to inspect state-owned buildings and boilers.

17117 Section 597. Subsection (6) of section 553.88, Florida
 17118 Statutes, is amended to read:

17119 553.88 Adoption of electrical and alarm standards.--For
 17120 the purpose of establishing minimum electrical and alarm
 17121 standards in this state, the current edition of the following
 17122 standards are adopted:

17123 (6) The minimum standards for grounding of portable
 17124 electric equipment, chapter 8C-27 as recommended by the
 17125 ~~Industrial Standards Section~~, Division of Workers' Compensation,
 17126 Department of Financial Services ~~Labor and Employment Security~~.

17127
 17128 The Florida Building Commission shall update and maintain such
 17129 electrical standards consistent with the procedures established



HB 1803

2003

17130 in s. 553.73 and may recommend the National Electrical
17131 Installation Standards.

17132 Section 598. Subsection (6) of section 554.1021, Florida
17133 Statutes, is amended to read:

17134 554.1021 Definitions.--As used in ss. 554.1011-554.115:

17135 (6) "Department" means the Department of Financial
17136 Services Insurance.

17137 Section 599. Subsection (1) of section 554.105, Florida
17138 Statutes, is amended to read:

17139 554.105 Chief inspector.--

17140 (1) The Chief Financial Officer ~~Insurance Commissioner and~~
17141 ~~Treasurer~~ shall appoint a chief inspector, who shall have not
17142 less than 5 years' experience in the construction, installation,
17143 inspection, operation, maintenance, or repair of high pressure,
17144 high temperature water boilers and who shall hold a commission
17145 from the National Board of Boiler and Pressure Vessel Inspectors
17146 or a certificate of competency from the department.

17147 Section 600. Subsection (3) of section 554.111, Florida
17148 Statutes, is amended to read:

17149 554.111 Fees.--

17150 (3) The chief inspector shall deposit all fees received
17151 pursuant to ss. 554.1011-554.115 into the Insurance
17152 ~~Commissioner's~~ Regulatory Trust Fund.

17153 Section 601. Paragraph (b) of subsection (2) and
17154 subsection (3) of section 559.10, Florida Statutes, are amended
17155 to read:

17156 559.10 Definition; "budget planning."--

17157 (2) The term "budget planning" does not include the
17158 following:

17159 (b) Other activities defined by rule of the Financial



HB 1803

2003

17160 Services Commission ~~Department of Banking and Finance~~ as not
17161 within the prohibition of this part, provided such rule is
17162 adopted after a finding that consumers are adequately protected
17163 in the activity and that its prohibition is not required in the
17164 public interest.

17165 (3) The Financial Services Commission ~~Department of~~
17166 ~~Banking and Finance~~ may adopt rules as necessary to implement
17167 and enforce this part.

17168 Section 602. Subsection (5) of section 559.543, Florida
17169 Statutes, is amended, and subsection (6) is added to that
17170 section, to read:

17171 559.543 Definitions.--As used in this part:

17172 (5) "Commission" means the Financial Services Commission
17173 ~~"Department"~~ means the ~~Department of Banking and Finance~~.

17174 (6) "Office" means the Office of Financial Institutions
17175 and Securities Regulation of the commission.

17176 Section 603. Subsections (2), (3), and (4) of section
17177 559.544, Florida Statutes, are amended to read:

17178 559.544 Registration required; exemptions.--

17179 (2) Each commercial collection agency doing business in
17180 this state shall register with the office ~~department~~ and
17181 annually renew such registration, providing the registration
17182 fee, information, and surety bond required by this part.

17183 (3) No registration shall be valid for any commercial
17184 collection agency transacting business at any place other than
17185 that designated in the registration unless the office ~~department~~
17186 is first notified in advance of any change of location. A
17187 registration under this part is not transferable or assignable.

17188 Any commercial collection agency desiring to change its
17189 registered name, location, or agent for service of process at



HB 1803

2003

17190 any time other than renewal of registration shall notify the
17191 office ~~department~~ of such change prior to the change.

17192 (4) The office ~~department~~ shall not accept any
17193 registration for any commercial collection agency as validly
17194 made and filed with the office ~~department~~ under this section
17195 unless the registration information furnished to the office
17196 ~~department~~ by the registrant is complete pursuant to s. 559.545
17197 and facially demonstrates that such registrant is qualified to
17198 engage in business as a commercial collection agency, including
17199 specifically that neither the registrant nor any principal of
17200 the registrant has engaged in any unlawful collection practices,
17201 dishonest dealings, acts of moral turpitude, or other criminal
17202 acts that reflect an inability to engage in the commercial
17203 collection agency business. The office ~~department~~ shall inform
17204 any person whose registration is rejected by the office
17205 ~~department~~ of the fact of and basis for such rejection. A
17206 prospective registrant shall be entitled to be registered when
17207 her or his or its registration information is complete on its
17208 face, the applicable registration fee has been paid, and the
17209 required evidence of current bond is furnished to the office
17210 ~~department~~.

17211 Section 604. Section 559.545, Florida Statutes, is amended
17212 to read:

17213 559.545 Registration of commercial collection agencies;
17214 procedure.--Any person who wishes to register as a commercial
17215 collection agency in compliance with this part shall do so on
17216 forms adopted by the commission and furnished by the office
17217 ~~department~~. Any renewal of registration shall be made between
17218 October 1 and December 31 of each year. In registering or
17219 renewing a registration as required by this part, each



HB 1803

2003

17220 commercial collection agency shall furnish to the office
17221 ~~department~~ a registration fee, information, and surety bond, as
17222 follows:

17223 (1) The registrant shall pay to the office ~~department~~ a
17224 registration fee of \$500. All amounts collected shall be
17225 deposited to the credit of the Regulatory Trust Fund of the
17226 office ~~department~~.

17227 (2) The registrant shall provide the following
17228 information:

17229 (a) The business name or trade name of the commercial
17230 collection agency, the current mailing address of the agency,
17231 and the current business location of each place from which the
17232 agency operates either a main or branch office, with a
17233 designation of which location constitutes its principal place of
17234 business.

17235 (b) The full names, current addresses, current telephone
17236 numbers, and social security numbers, or federal identification
17237 numbers of any corporate owner, of the registrant's owners or
17238 corporate officers and directors, and of the Florida resident
17239 agent of the registering agency.

17240 (c) A statement as to whether the registrant is a domestic
17241 or foreign corporation, together with the state and date of
17242 incorporation, charter number of the corporation, and, if a
17243 foreign corporation, the date the corporation first registered
17244 to do business in this state.

17245 (d) A statement listing each county in this state in which
17246 the registrant is currently doing business or plans to do
17247 business within the next calendar year, indicating each county
17248 in which the registrant holds an occupational license.

17249 (e) A statement listing each county in this state in which



HB 1803

2003

17250 the registrant is operating under a fictitious name or trade
 17251 name other than that of the registrant, indicating the date and
 17252 place of registration of any such fictitious name or trade name.

17253 (f) A statement listing the names of any other
 17254 corporations, entities, or trade names through which any owner
 17255 or director of the registrant was known or did business as a
 17256 commercial or consumer collection agency within the 5 calendar
 17257 years immediately preceding the year in which the agency is
 17258 registering.

17259 (g) A statement clearly identifying and explaining any
 17260 occasion on which any professional license or occupational
 17261 license held by the registrant, any principal of the registrant,
 17262 or any business entity in which any principal of the registrant
 17263 was the owner of 10 percent or more of such business was the
 17264 subject of any suspension, revocation, or other disciplinary
 17265 action.

17266 (h) A statement clearly identifying and explaining any
 17267 occasion of a finding of guilt of any crime involving moral
 17268 turpitude or dishonest conduct on the part of any principal of
 17269 the registrant.

17270 (3) The registrant shall furnish to the office ~~department~~
 17271 evidence, as provided in s. 559.546, of the registrant having a
 17272 current surety bond in the amount of \$50,000, valid for the year
 17273 of registration, paid for and issued for the use and benefit of
 17274 any credit grantor who suffers or sustains any loss or damage by
 17275 reason of any violation of the provisions of this part by the
 17276 registrant, or by any agent or employee of the registrant acting
 17277 within the scope of her or his employment, and issued to ensure
 17278 conformance with the provisions of this part.

17279 Section 605. Section 559.546, Florida Statutes, is amended



HB 1803

2003

17280 to read:

17281 559.546 Bond; evidence of current and valid bond.--

17282 Pursuant to s. 559.545, the registrant shall provide to the
 17283 office ~~department~~ evidence that the registrant has been issued a
 17284 current and valid surety bond as required by this part.

17285 (1) In addition to each registration filed pursuant to s.
 17286 559.545 and any renewal of such registration, each registrant
 17287 shall furnish to the office ~~department~~ the following:

17288 (a) A copy of the surety bond, which bond shall be one
 17289 issued by a surety known by the registrant to be acceptable to
 17290 the office ~~department~~.

17291 (b) A statement from the surety that the annual premium
 17292 for the bond has been paid in full by the registrant.

17293 (c) A statement from the surety that the bond issued by
 17294 the surety meets the requirements of this part.

17295 (2) The liability of the surety under any bond issued
 17296 pursuant to the requirements of this part shall not exceed in
 17297 the aggregate the amount of the bond, regardless of the number
 17298 or amount of any claims filed or which might be asserted against
 17299 the surety on such bond. If multiple claims are filed against
 17300 the surety on any such bond in excess of the amount of the bond,
 17301 the surety may pay the full amount of the bond to the office
 17302 ~~department~~ and shall not be further liable under the bond. The
 17303 office ~~department~~ shall hold such funds for distribution to
 17304 claimants and administratively determine and pay to each
 17305 claimant the pro rata share of each valid claim made against the
 17306 funds within 6 months after the date of the filing of the first
 17307 claim against the surety.

17308 Section 606. Paragraph (a) of subsection (1) and paragraph
 17309 (a) of subsection (2) of section 559.548, Florida Statutes, are



HB 1803

2003

17310 amended to read:

17311 559.548 Penalties.--

17312 (1) Each of the following acts constitutes a felony of the
 17313 third degree, punishable as provided in s. 775.082, s. 775.083,
 17314 or s. 775.084:

17315 (a) Operating or soliciting business as a commercial
 17316 collection agency in this state without first registering with
 17317 the office ~~department~~, unless specifically exempted by this
 17318 part.

17319 (2) Each of the following acts constitutes a misdemeanor
 17320 of the second degree, punishable as provided in s. 775.082 or s.
 17321 775.083:

17322 (a) Relocating a business as a commercial collection
 17323 agency, or operating under any name other than that designated
 17324 in the registration, unless written notification is given to the
 17325 office ~~department~~ and to the surety or sureties on the original
 17326 bond.

17327 Section 607. Subsection (4) of section 559.55, Florida
 17328 Statutes, is amended to read:

17329 559.55 Definitions.--The following terms shall, unless the
 17330 context otherwise indicates, have the following meanings for the
 17331 purpose of this part:

17332 (4) "Office" means the Office of Financial Institutions
 17333 and Securities Regulation of the Financial Services Commission
 17334 ~~"Department" means the Department of Banking and Finance.~~

17335 Section 608. Subsections (2) and (3) of section 559.553,
 17336 Florida Statutes, are amended to read:

17337 559.553 Registration of consumer collection agencies
 17338 required; exemptions.--

17339 (2) Each consumer collection agency doing business in this



HB 1803

2003

17340 state shall register with the office ~~department~~ and renew such
17341 registration annually as set forth in s. 559.555.

17342 (3) A prospective registrant shall be entitled to be
17343 registered when registration information is complete on its face
17344 and the applicable registration fee has been paid; however, the
17345 office ~~department~~ may reject a registration submitted by a
17346 prospective registrant if the registrant or any principal of the
17347 registrant previously has held any professional license or state
17348 registration which was the subject of any suspension or
17349 revocation which has not been explained by the prospective
17350 registrant to the satisfaction of the office ~~department~~ either
17351 in the registration information submitted initially or upon the
17352 subsequent written request of the office ~~department~~. In the
17353 event that an attempted registration is rejected by the office
17354 ~~department~~ the prospective registrant shall be informed of the
17355 basis for rejection.

17356 Section 609. Section 559.555, Florida Statutes, is amended
17357 to read:

17358 559.555 Registration of consumer collection agencies;
17359 procedure.--Any person required to register as a consumer
17360 collection agency shall furnish to the office ~~department~~ the
17361 registration fee and information as follows:

17362 (1) The registrant shall pay to the office ~~department~~ a
17363 registration fee in the amount of \$200. All amounts collected
17364 shall be deposited by the office ~~department~~ to the credit of the
17365 Regulatory Trust Fund of the office ~~department~~.

17366 (2) Each registrant shall provide to the office ~~department~~
17367 the business name or trade name, the current mailing address,
17368 the current business location which constitutes its principal
17369 place of business, and the full name of each individual who is a



HB 1803

2003

17370 principal of the registrant. "Principal of a registrant" means
 17371 the registrant's owners if a partnership or sole proprietorship,
 17372 corporate officers, corporate directors other than directors of
 17373 a not-for-profit corporation organized pursuant to chapter 617
 17374 and Florida resident agent if a corporate registrant. The
 17375 registration information shall include a statement clearly
 17376 identifying and explaining any occasion on which any
 17377 professional license or state registration held by the
 17378 registrant, by any principal of the registrant, or by any
 17379 business entity in which any principal of the registrant was the
 17380 owner of 10 percent or more of such business, was the subject of
 17381 any suspension or revocation.

17382 (3) Renewal of registration shall be made between October
 17383 1 and December 31 of each year. There shall be no proration of
 17384 the fee for any registration.

17385 Section 610. Section 559.563, Florida Statutes, is amended
 17386 to read:

17387 559.563 Void registration.--Any registration made under
 17388 this part based upon false identification or false information,
 17389 or identification not current with respect to name, address, and
 17390 business location, or other fact which is material to such
 17391 registration, shall be void. Any registration made and
 17392 subsequently void under this section shall not be construed as
 17393 creating any defense in any action by the office ~~department~~ to
 17394 impose any sanction for any violation of this part.

17395 Section 611. Section 559.730, Florida Statutes, is amended
 17396 to read:

17397 559.730 Administrative remedies.--

17398 (1) The office ~~department~~ may revoke or suspend the
 17399 registration of any registrant under this part who has engaged



HB 1803

2003

17400 in repeated violations which establish a clear pattern of abuse
17401 of prohibited collection practices under s. 559.72. Final
17402 office ~~department~~ action to revoke or suspend the registration
17403 of any registrant shall be subject to review in accordance with
17404 chapter 120 in the same manner as revocation of a license. The
17405 repeated violations of the law by one employee shall not be
17406 grounds for revocation or suspension of the registration of the
17407 employing consumer collection agency, unless the employee is
17408 also the owner of a majority interest in the collection agency.

17409 (2) The registration of a registrant shall not be revoked
17410 or suspended if the registrant shows by a preponderance of the
17411 evidence that the violations were not intentional and resulted
17412 from bona fide error notwithstanding the maintenance of
17413 procedures reasonably adapted to avoid any such error.

17414 (3) The office ~~department~~ shall consider the number of
17415 complaints against the registrant in relation to the accused
17416 registrant's volume of business when determining whether
17417 suspension or revocation is the more appropriate sanction when
17418 circumstances warrant that one or the other should be imposed
17419 upon a registrant.

17420 (4) The office ~~department~~ shall impose suspension rather
17421 than revocation when circumstances warrant that one or the other
17422 should be imposed upon a registrant and the accused registrant
17423 demonstrates that the registrant has taken affirmative steps
17424 which can be expected to effectively eliminate the repeated
17425 violations and that the registrant's registration has never
17426 previously been suspended.

17427 (5) The office ~~department~~ may impose an administrative
17428 fine up to \$1,000 against the offending registrant as a sanction
17429 for repeated violations of the provisions of s. 559.72 when



HB 1803

2003

17430 violations do not rise to the level of misconduct governed by
 17431 subsection (1). Final office ~~department~~ action to impose an
 17432 administrative fine shall be subject to review in accordance
 17433 with ss. 120.569 and 120.57.

17434 (6) Any administrative fine imposed under this part shall
 17435 be payable to the office ~~department~~. The office ~~department~~
 17436 shall maintain an appropriate record and shall deposit such fine
 17437 into the Regulatory Trust Fund of the office ~~department~~.

17438 (7) An administrative action by the office ~~department~~ to
 17439 impose revocation, suspension, or fine shall be brought within 2
 17440 years after the date of the last violation upon which the action
 17441 is founded.

17442 (8) Nothing in this part shall be construed to preclude
 17443 any person from pursuing remedies available under the Federal
 17444 Fair Debt Collection Practices Act for any violation of such
 17445 act, including specifically against any person who is exempt
 17446 from the registration provisions of this part.

17447 Section 612. Section 559.785, Florida Statutes, is amended
 17448 to read:

17449 559.785 Criminal penalty.--It shall be a misdemeanor of
 17450 the first degree, punishable as provided in s. 775.082 or s.
 17451 775.083, for any person not exempt from registering as provided
 17452 in this part to engage in collecting consumer debts in this
 17453 state without first registering with the office ~~department~~, or
 17454 to register or attempt to register by means of fraud,
 17455 misrepresentation, or concealment.

17456 Section 613. Paragraph (e) of subsection (2) of section
 17457 559.9232, Florida Statutes, is amended to read:

17458 559.9232 Definitions; exclusion of rental-purchase
 17459 agreements from certain regulations.--



HB 1803

2003

17460 (2) A rental-purchase agreement that complies with this
 17461 act shall not be construed to be, nor be governed by, any of the
 17462 following:

17463 (e) A lease or agreement which constitutes a "retail
 17464 installment contract" or "retail installment transaction" as
 17465 those terms are defined in s. 520.31~~(13)~~~~(12)~~ and ~~(14)~~~~(13)~~; or
 17466

17467 Section 614. Subsection (2) of section 559.928, Florida
 17468 Statutes, is amended to read:

17469 559.928 Registration.--

17470 (2) Registration fees shall be \$300 per year per
 17471 registrant. All amounts collected shall be deposited by the
 17472 Chief Financial Officer ~~Treasurer~~ to the credit of the General
 17473 Inspection Trust Fund of the Department of Agriculture and
 17474 Consumer Services pursuant to s. 570.20, for the sole purpose of
 17475 administration of this part.

17476 Section 615. Subsection (1) and paragraph (h) of
 17477 subsection (2) of section 560.102, Florida Statutes, are amended
 17478 to read:

17479 560.102 Purpose; application.--The purposes of the code
 17480 are to:

17481 (1) Provide general regulatory powers to be exercised by
 17482 the Financial Services Commission and the Office of Financial
 17483 Institutions and Securities Regulation ~~Department of Banking and~~
 17484 ~~Finance~~ in relation to the regulation of the money transmitter
 17485 industry. The code applies to all money transmitters transacting
 17486 business in this state and to the enforcement of all laws
 17487 relating to the money transmitter industry.

17488 (2) Provide for and promote, subject to the provisions of
 17489 the code:



HB 1803

2003

17490 (h) Only such rulemaking power to the commission and
 17491 administrative discretion to the office ~~department~~ as is
 17492 necessary, in order that the supervision and regulation of money
 17493 transmitters may be flexible and readily responsive to changes
 17494 in economic conditions, in technology, and in money transmitter
 17495 practices.

17496 Section 616. Subsections (1), (7), (17), and (20) of
 17497 section 560.103, Florida Statutes, are amended, present
 17498 subsections (8)-(20) of that section are renumbered as
 17499 subsections (9)-(21), respectively, and a new subsection (8) is
 17500 added to that section, to read:

17501 560.103 Definitions.--As used in the code, unless the
 17502 context otherwise requires:

17503 (1) "Appropriate regulator" means any state or federal
 17504 agency, including the commission or office ~~department~~, which has
 17505 been granted state or federal statutory authority with regard to
 17506 the money transmission function.

17507 (7) "Commission" means the Financial Services Commission
 17508 ~~"Department" means the Florida Department of Banking and~~
 17509 ~~Finance.~~

17510 (8) "Office" means the Office of Financial Institutions
 17511 and Securities Regulation of the commission.

17512 (18)~~(17)~~ "Registrant" means a person registered by the
 17513 office ~~department~~ pursuant to the code.

17514 (21)~~(20)~~ "Unsafe or unsound practice" means any practice
 17515 or conduct found by the office ~~department~~ to be contrary to
 17516 generally accepted standards applicable to the specific money
 17517 transmitter, or a violation of any prior order of an appropriate
 17518 regulatory agency, which practice, conduct, or violation creates
 17519 the likelihood of material loss, insolvency, or dissipation of



HB 1803

2003

17520 assets of the money transmitter or otherwise materially
 17521 prejudices the interests of its customers. In making this
 17522 determination, the office ~~department~~ must consider the size and
 17523 condition of the money transmitter, the magnitude of the loss,
 17524 the gravity of the violation, and the prior conduct of the
 17525 person or business involved.

17526 Section 617. Section 560.105, Florida Statutes, is amended
 17527 to read:

17528 560.105 Supervisory powers ~~of the department~~; rulemaking.-
 17529 -

17530 (1) Consistent with the purposes of the code, the office
 17531 ~~department~~ shall have:

17532 (a)~~(1)~~ Supervision over all money transmitters and their
 17533 authorized vendors.

17534 (b)~~(2)~~ Access to books and records of persons over whom
 17535 the office ~~department~~ exercises supervision as is necessary for
 17536 the performance of the duties and functions of the office
 17537 ~~department~~ prescribed by the code.

17538 (c)~~(3)~~ Power to issue orders and declaratory statements,
 17539 disseminate information, and otherwise exercise its discretion
 17540 to effectuate the purposes, policies, and provisions of the
 17541 code.

17542 (2) Consistent with the purposes of the code, the
 17543 commission may ~~and to~~ adopt rules pursuant to ss. 120.536(1) and
 17544 120.54 to implement the provisions of the code.

17545 Section 618. Subsection (2) of section 560.106, Florida
 17546 Statutes, is amended to read:

17547 560.106 Construction; standards.--

17548 (2) The purposes and policies stated in s. 560.102
 17549 constitute the standards to be observed by both the commission



HB 1803

2003

17550 and the office ~~department~~ in the exercise of their ~~its~~
17551 discretionary powers under the code, in the adoption of rules,
17552 in the issuance of orders and declaratory statements, in the
17553 examination and supervision of money transmitters and their
17554 authorized vendors, and in all matters of construction and
17555 application of the code required for any determination or action
17556 by the commission or the office ~~department~~.

17557 Section 619. Section 560.107, Florida Statutes, is amended
17558 to read:

17559 560.107 Liability.--No person acting, or who has acted, in
17560 good faith reliance upon a rule, order, or declaratory statement
17561 issued by the commission or the office ~~department~~ shall be
17562 subject to any criminal, civil, or administrative liability for
17563 such action, notwithstanding a subsequent decision by a court of
17564 competent jurisdiction invalidating the rule, order, or
17565 declaratory statement. In the case of an order or a declaratory
17566 statement that is not of general application, no person other
17567 than the person to whom the order or declaratory statement was
17568 issued is entitled to rely upon it, except upon material facts
17569 or circumstances that are substantially the same as those upon
17570 which the order or declaratory statement was based.

17571 Section 620. Section 560.1073, Florida Statutes, is
17572 amended to read:

17573 560.1073 False or misleading statements or supporting
17574 documents; penalty.--Any person who, personally or otherwise,
17575 files with the office ~~department~~, or signs as the duly
17576 authorized representative for filing with the office ~~department~~,
17577 any financial statement or any document in support thereof which
17578 is required by law or rule with intent to deceive and with
17579 knowledge that the statement or document is materially false or



HB 1803

2003

17580 materially misleading commits a felony of the third degree,
 17581 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

17582 Section 621. Section 560.108, Florida Statutes, is amended
 17583 to read:

17584 560.108 Administrative enforcement guidelines.--

17585 (1) In imposing any administrative remedy or penalty
 17586 provided for in the code, the office ~~department~~ shall take into
 17587 account the appropriateness of the penalty with respect to the
 17588 size of the financial resources and good faith of the person
 17589 charged, the gravity of the violation, the history of previous
 17590 violations, and such other matters as justice may require.

17591 (2) All administrative proceedings pursuant to the code
 17592 shall be conducted in accordance with chapter 120. Any service
 17593 required or authorized to be made by the office ~~department~~ under
 17594 the code must be made by certified mail, return receipt
 17595 requested, delivered to the addressee only by personal delivery
 17596 or in accordance with chapter 48. The service provided for in
 17597 this subsection is effective on the date of delivery.

17598 Section 622. Section 560.109, Florida Statutes, is amended
 17599 to read:

17600 560.109 Investigations, subpoenas, hearings, and
 17601 witnesses.--

17602 (1) The office ~~department~~ may make investigations, within
 17603 or outside this state, which it deems necessary in order to
 17604 determine whether a person has violated any provision of the
 17605 code or the rules adopted by the commission ~~department~~ pursuant
 17606 to the code.

17607 (2)(a) In the course of or in connection with an
 17608 investigation by the office ~~department~~ pursuant to the
 17609 provisions of subsection (1) or an investigation or examination



HB 1803

2003

17610 in connection with any application to the office ~~department~~ for
 17611 the organization or establishment of a money transmitter
 17612 business, or in connection with an examination or investigation
 17613 of a money transmitter or its authorized vendor, the office
 17614 ~~department~~, or any of its officers holding no lesser title and
 17615 position than financial examiner or analyst, financial
 17616 investigator, or attorney at law, may:

17617 1. Administer oaths and affirmations.

17618 2. Take or cause to be taken testimony and depositions.

17619 (b) The office ~~department~~, or any of its officers holding
 17620 no lesser title than attorney or area financial manager, may
 17621 issue, revoke, quash, or modify subpoenas and subpoenas duces
 17622 tecum under the seal of the office ~~department~~ or cause any such
 17623 subpoena or subpoena duces tecum to be issued by any county
 17624 court judge or clerk of the circuit court or county court to
 17625 require persons to appear before the office ~~department~~ at a
 17626 reasonable time and place to be therein named and to bring such
 17627 books, records, and documents for inspection as may be therein
 17628 designated. Such subpoenas may be served by a representative of
 17629 the office ~~department~~ or may be served as otherwise provided for
 17630 by law for the service of subpoenas.

17631 (c) In connection with any such investigation or
 17632 examination, the office ~~department~~ may permit a person to file a
 17633 statement in writing, under oath or otherwise as the office
 17634 ~~department~~ determines, as to facts and circumstances specified
 17635 by the office ~~department~~.

17636 (3)(a) In the event of noncompliance with a subpoena
 17637 issued or caused to be issued by the office ~~department~~ pursuant
 17638 to this section, the office ~~department~~ may petition the circuit
 17639 court of the county in which the person subpoenaed resides or



HB 1803

2003

17640 has its principal place of business for an order requiring the
17641 subpoenaed person to appear and testify and to produce such
17642 books, records, and documents as are specified in such subpoena
17643 duces tecum. The office ~~department~~ is entitled to the summary
17644 procedure provided in s. 51.011, and the court shall advance the
17645 cause on its calendar.

17646 (b) A copy of the petition shall be served upon the person
17647 subpoenaed by any person authorized by this section to serve
17648 subpoenas, who shall make and file with the court an affidavit
17649 showing the time, place, and date of service.

17650 (c) At any hearing on any such petition, the person
17651 subpoenaed, or any person whose interests will be substantially
17652 affected by the investigation, examination, or subpoena, may
17653 appear and object to the subpoena and to the granting of the
17654 petition. The court may make any order that justice requires in
17655 order to protect a party or other person and her or his personal
17656 and property rights, including, but not limited to, protection
17657 from annoyance, embarrassment, oppression, or undue burden or
17658 expense.

17659 (d) Failure to comply with an order granting, in whole or
17660 in part, a petition for enforcement of a subpoena is a contempt
17661 of the court.

17662 (4) Witnesses are entitled to the same fees and mileage to
17663 which they would be entitled by law for attending as witnesses
17664 in the circuit court, except that no fees or mileage is allowed
17665 for testimony of a person taken at the person's principal office
17666 or residence.

17667 (5) Reasonable and necessary costs incurred by the office
17668 ~~department~~ and payable to persons involved with investigations
17669 may be assessed against any person on the basis of actual costs



HB 1803

2003

17670 incurred. Assessable expenses include, but are not limited to:
 17671 expenses for interpreters; expenses for communications; expenses
 17672 for legal representation; expenses for economic, legal, or other
 17673 research, analyses, and testimony; and fees and expenses for
 17674 witnesses. The failure to reimburse the office ~~department~~ is a
 17675 ground for denial of the registration application or for
 17676 revocation of any approval thereof. No such costs shall be
 17677 assessed against a person unless the office ~~department~~ has
 17678 determined that the person has operated or is operating in
 17679 violation of the code.

17680 Section 623. Subsection (1) of section 560.111, Florida
 17681 Statutes, is amended to read:

17682 560.111 Prohibited acts and practices.--

17683 (1) It is unlawful for any money transmitter or money
 17684 transmitter-affiliated party to:

17685 (a) Receive or possess itself of any property otherwise
 17686 than in payment of a just demand, and, with intent to deceive or
 17687 defraud, to omit to make or cause to be made a full and true
 17688 entry thereof in its books and accounts, or to concur in
 17689 omitting to make any material entry thereof;

17690 (b) Embezzle, abstract, or misapply any money, property,
 17691 or thing of value of the money transmitter or authorized vendor
 17692 with intent to deceive or defraud such money transmitter or
 17693 authorized vendor;

17694 (c) Make any false entry in any book, report, or statement
 17695 of such money transmitter or authorized vendor with intent to
 17696 deceive or defraud such money transmitter, authorized vendor, or
 17697 another person, or with intent to deceive the office ~~department~~,
 17698 any other state or federal regulatory agency, or any authorized
 17699 representative appointed to examine or investigate the affairs



HB 1803

2003

17700 of such money transmitter or authorized vendor;

17701 (d) Engage in an act that violates 18 U.S.C. s. 1956, 31
 17702 U.S.C. s. 5324, or any other law, rule, or regulation of another
 17703 state or of the United States relating to the business of money
 17704 transmission or usury which may cause the denial or revocation
 17705 of a money transmitter license or registration in such
 17706 jurisdiction;

17707 (e) Deliver or disclose to the office ~~department~~ or any of
 17708 its employees any examination report, report of condition,
 17709 report of income and dividends, audit, account, statement, or
 17710 document known by it to be fraudulent or false as to any
 17711 material matter; or

17712 (f) Place among the assets of such money transmitter or
 17713 authorized vendor any note, obligation, or security that the
 17714 money transmitter or authorized vendor does not own or that to
 17715 the person's knowledge is fraudulent or otherwise worthless, or
 17716 for any such person to represent to the office ~~department~~ that
 17717 any note, obligation, or security carried as an asset of such
 17718 money transmitter or authorized vendor is the property of the
 17719 money transmitter or authorized vendor and is genuine if it is
 17720 known to such person that such representation is false or that
 17721 such note, obligation, or security is fraudulent or otherwise
 17722 worthless.

17723 Section 624. Subsections (1), (3), and (6) of section
 17724 560.112, Florida Statutes, are amended to read:

17725 560.112 Procedures for disciplinary actions.--

17726 (1) The office ~~department~~ may issue and serve upon any
 17727 person a complaint stating charges whenever the office
 17728 ~~department~~ has reason to believe that such person has engaged in
 17729 or is engaging in conduct described in s. 560.114.



HB 1803

2003

17730 (3) If no hearing is requested within the time allowed by
17731 ss. 120.569 and 120.57, or if a hearing is held and the office
17732 ~~department~~ finds that any of the charges are true, the office
17733 ~~department~~ may enter an order directing the money transmitter,
17734 the money transmitter-affiliated party, or the person named
17735 therein to cease and desist from engaging in the conduct
17736 complained of and to take reasonable corrective action. The
17737 office ~~department~~ may also issue an order suspending or barring
17738 any money transmitter-affiliated party from continuing to be
17739 employed by or associated with any money transmitter or
17740 authorized vendor during the period such order is in effect.

17741 (6) Whenever the office ~~department~~ finds that conduct
17742 described in s. 560.114 is likely to cause substantial
17743 dissipation of assets or earnings of the money transmitter or,
17744 insolvency or substantial prejudice to the customers of the
17745 money transmitter or authorized vendor, it may issue an
17746 emergency removal order or an emergency cease and desist order
17747 requiring any person to disassociate itself from participating
17748 in the affairs of the money transmitter or authorized vendor or
17749 to immediately cease and desist from engaging in the conduct
17750 complained of and to take corrective action. The emergency order
17751 is effective immediately upon service of the order upon the
17752 person and remains effective for 90 days. Such person may object
17753 to the issuance of the emergency order pursuant to the
17754 provisions of chapter 120. Such objection must be in writing and
17755 must include a request for a formal hearing, which is to be
17756 promptly instituted and acted upon. If the office ~~department~~
17757 begins nonemergency proceedings under subsection (1), the
17758 emergency order remains effective until the conclusion of the
17759 proceedings under ss. 120.569 and 120.57.



HB 1803

2003

17760 Section 625. Section 560.113, Florida Statutes, is amended
17761 to read:

17762 560.113 Injunctions.--Whenever a violation of the code is
17763 threatened or impending and such violation will cause
17764 substantial injury to any person, the circuit court has
17765 jurisdiction to hear any complaint filed by the office
17766 ~~department~~ and, upon proper showing, to issue an injunction
17767 restraining such violation or granting other such appropriate
17768 relief.

17769 Section 626. Subsections (1) and (2) of section 560.114,
17770 Florida Statutes, are amended to read:

17771 560.114 Disciplinary actions.--

17772 (1) The following actions by a money transmitter or money
17773 transmitter-affiliated party are violations of the code and
17774 constitute grounds for the issuance of a cease and desist order,
17775 the issuance of a removal order, the denial of a registration
17776 application or the suspension or revocation of any registration
17777 previously issued pursuant to the code, or the taking of any
17778 other action within the authority of the office ~~department~~
17779 pursuant to the code:

17780 (a) Failure to comply with any provision of the code, any
17781 rule or order adopted pursuant thereto, or any written agreement
17782 entered into with the office ~~department~~.

17783 (b) Fraud, misrepresentation, deceit, or gross negligence
17784 in any transaction involving money transmission, regardless of
17785 reliance thereon by, or damage to, a money transmitter customer.

17786 (c) Fraudulent misrepresentation, circumvention, or
17787 concealment of any matter required to be stated or furnished to
17788 a money transmitter customer pursuant to the code, regardless of
17789 reliance thereon by, or damage to, such customer.



HB 1803

2003

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- (d) False, deceptive, or misleading advertising.
- (e) Failure to maintain, preserve, and keep available for examination all books, accounts, or other documents required by the code, by any rule or order adopted pursuant to the code, or by any agreement entered into with the office ~~department~~.
- (f) Refusal to permit the examination or inspection of books and records in an investigation or examination by the office ~~department~~, pursuant to the provisions of the code, or to comply with a subpoena issued by the office ~~department~~.
- (g) Failure to pay a judgment recovered in any court in this state by a claimant in an action arising out of a money transmission transaction within 30 days after the judgment becomes final.
- (h) Engaging in an act or practice proscribed by s. 560.111.
- (i) Insolvency or operating in an unsafe and unsound manner.
- (j) Failure by a money transmitter to remove a money transmitter-affiliated party after the office ~~department~~ has issued and served upon the money transmitter a final order setting forth a finding that the money transmitter-affiliated party has violated any provision of the code.
- (k) Making any material misstatement or misrepresentation or committing any fraud in an initial or renewal application for registration.
- (l) Committing any act resulting in an application for registration, or a registration or its equivalent, to practice any profession or occupation being denied, suspended, revoked, or otherwise acted against by a registering authority in any jurisdiction or a finding by an appropriate regulatory body of



HB 1803

2003

17820 engaging in unlicensed activity as a money transmitter within
17821 any jurisdiction.

17822 (m) Committing any act resulting in a registration or its
17823 equivalent, or an application for registration, to practice any
17824 profession or occupation being denied, suspended, or otherwise
17825 acted against by a registering authority in any jurisdiction for
17826 a violation of 18 U.S.C. s. 1956, 31 U.S.C. s. 5324, or any
17827 other law, rule, or regulation of another state or of the United
17828 States relating to the business of money transmission or usury
17829 which may cause the denial or revocation of a money transmitter
17830 license or registration in such jurisdiction.

17831 (n) Having been convicted of or found guilty of, or having
17832 pleaded guilty or nolo contendere to, any felony or crime
17833 punishable by imprisonment of 1 year or more under the law of
17834 any state or of the United States which involves fraud, moral
17835 turpitude, or dishonest dealing, without regard to whether a
17836 judgment of conviction has been entered by the court.

17837 (o) Having been convicted of or found guilty of, or having
17838 pleaded guilty or nolo contendere to, a crime under 18 U.S.C. s.
17839 1956 or 31 U.S.C. s. 5324, without regard to whether a judgment
17840 of conviction has been entered by the court.

17841 (p) Having been convicted of or found guilty of, or having
17842 pleaded guilty or nolo contendere to, misappropriation,
17843 conversion, or unlawful withholding of moneys that belong to
17844 others and were received in the conduct of the business of the
17845 money transmitter.

17846 (q) Failure to inform the office ~~department~~ in writing
17847 within 15 days after pleading guilty or nolo contendere to, or
17848 being convicted or found guilty of, any felony or crime
17849 punishable by imprisonment of 1 year or more under the law of



HB 1803

2003

17850 any state or of the United States, or of any crime involving
 17851 fraud, moral turpitude, or dishonest dealing, without regard to
 17852 whether a judgment of conviction has been entered by the court.

17853 (r) Aiding, assisting, procuring, advising, or abetting
 17854 any person in violating a provision of this code or any order or
 17855 rule of the office or commission ~~department~~.

17856 (s) Failure to timely pay any fee, charge, or fine under
 17857 the code.

17858 (t) Failure to pay any judgment entered by any court
 17859 within 30 days after the judgment becomes final.

17860 (u) Engaging or holding oneself out to be engaged in the
 17861 business of a money transmitter without the proper registration.

17862 (v) Any action that would be grounds for denial of a
 17863 registration or for revocation, suspension, or restriction of a
 17864 registration previously granted under part III of this chapter.

17865 (w) Failure to pay any fee, charge, or fine under the
 17866 code.

17867 (x) Engaging or advertising engagement in the business of
 17868 a money transmitter without a registration, unless the person is
 17869 exempted from the registration requirements of the code.

17870 (2) The office ~~department~~ may issue a cease and desist
 17871 order or removal order, suspend or revoke any previously issued
 17872 registration, or take any other action within the authority of
 17873 the office ~~department~~ against a money transmitter based on any
 17874 fact or condition that exists and that, if it had existed or
 17875 been known to exist at the time the money transmitter applied
 17876 for registration, would have been grounds for denial of
 17877 registration.

17878 Section 627. Section 560.115, Florida Statutes, is amended
 17879 to read:



HB 1803

2003

17880 560.115 Surrender of registration.--Any money transmitter
 17881 registered pursuant to the code may voluntarily surrender its
 17882 registration at any time by giving written notice to the office
 17883 ~~department~~.

17884 Section 628. Section 560.116, Florida Statutes, is amended
 17885 to read:

17886 560.116 Civil immunity.--Any person having reason to
 17887 believe that a provision of the code is being violated, or has
 17888 been violated, or is about to be violated, may file a complaint
 17889 with the office ~~department~~ setting forth the details of the
 17890 alleged violation. An immunity from civil liability is hereby
 17891 granted to any person who furnishes such information, unless the
 17892 information provided is false and the person providing the
 17893 information does so with reckless disregard for the truth.

17894 Section 629. Section 560.117, Florida Statutes, is amended
 17895 to read:

17896 560.117 Administrative fines; enforcement.--

17897 (1) The office ~~department~~ may, by complaint, initiate a
 17898 proceeding pursuant to chapter 120 to impose an administrative
 17899 fine against any person found to have violated any provision of
 17900 the code or a cease and desist order of the office ~~department~~ or
 17901 any written agreement with the office ~~department~~. However, the
 17902 office ~~department~~ shall give notice, in writing, if it suspects
 17903 that the licensee has violated any of the following provisions
 17904 of the code and shall give the licensee 15 days after actual
 17905 notice is served on the person within which to correct the
 17906 violation before bringing disciplinary action under the code:

17907 (a) Failure to timely pay any fee, charge, or fine under
 17908 the code;

17909 (b) Failure to pay any judgment entered by any court



HB 1803

2003

17910 within 30 days after the judgment becomes final;

17911 (c) Failure to notify the office ~~department~~ of a change of
17912 control of a money transmitter as required by s. 560.127; or

17913 (d) Failure to notify the office ~~department~~ of any change
17914 of address or fictitious name as required by s. 560.205.

17915

17916 Except as provided in this section, such fine may not exceed
17917 \$100 a day for each violation. The office ~~department~~ may excuse
17918 any such fine with a showing of good cause by the person being
17919 fined.

17920 (2) If the office ~~department~~ finds that one or more
17921 grounds exist for the suspension, revocation, or refusal to
17922 renew or continue a license or registration issued under this
17923 chapter, the office ~~department~~ may, in addition to or in lieu of
17924 suspension, revocation, or refusal to renew or continue a
17925 license or registration, impose a fine in an amount up to
17926 \$10,000 for each violation of this chapter.

17927 (3) Notwithstanding any other provision of this section,
17928 the office ~~department~~ may impose a fine not to exceed \$1,000 per
17929 day for each day that a person violates the code by engaging in
17930 the business of a money transmitter without being registered.

17931 (4) Any administrative fine levied by the office
17932 ~~department~~ may be enforced by the office ~~department~~ by
17933 appropriate proceedings in the circuit court of the county in
17934 which such person resides or maintains a principal office. In
17935 any administrative or judicial proceeding arising under this
17936 section, a party may elect to correct the violation asserted by
17937 the office ~~department~~ and, upon the party's doing so, any fine
17938 ceases to accrue; however, an election to correct the violation
17939 does not render moot any administrative or judicial proceeding.



HB 1803

2003

17940 Section 630. Section 560.118, Florida Statutes, is amended
17941 to read:

17942 560.118 Examinations, reports, and internal audits;
17943 penalty.--

17944 (1)(a) The office ~~department~~ may conduct an examination of
17945 a money transmitter or authorized vendor by providing not less
17946 than 15 days' advance notice to the money transmitter or
17947 authorized vendor. However, if the office ~~department~~ suspects
17948 that the money transmitter or authorized vendor has violated any
17949 provisions of this code or any criminal laws of this state or of
17950 the United States or is engaging in an unsafe and unsound
17951 practice, the office ~~department~~ may, at any time without advance
17952 notice, conduct an examination of all affairs, activities,
17953 transactions, accounts, business records, and assets of any
17954 money transmitter or any money transmitter-affiliated party for
17955 the protection of the public. For the purpose of examinations,
17956 the office ~~department~~ may administer oaths and examine a money
17957 transmitter or any of its affiliated parties concerning their
17958 operations and business activities and affairs. The office
17959 ~~department~~ may accept an audit or examination from any
17960 appropriate regulatory agency or from an independent third party
17961 with respect to the operations of a money transmitter or an
17962 authorized vendor. The office ~~department~~ may also make a joint
17963 or concurrent examination with any state or federal regulatory
17964 agency. The office ~~department~~ may furnish a copy of all
17965 examinations made of such money transmitter or authorized vendor
17966 to the money transmitter and any appropriate regulatory agency
17967 provided that such agency agrees to abide by the confidentiality
17968 provisions as set forth in chapter 119.

17969 (b) Persons subject to this chapter who are examined shall



HB 1803

2003

17970 make available to the office ~~department~~ or its examiners the
 17971 accounts, records, documents, files, information, assets, and
 17972 matters which are in their immediate possession or control and
 17973 which relate to the subject of the examination. Those accounts,
 17974 records, documents, files, information, assets, and matters not
 17975 in their immediate possession shall be made available to the
 17976 office ~~department~~ or the office's ~~department's~~ examiners within
 17977 10 days after actual notice is served on such persons.

17978 (c) The audit of a money transmitter required under this
 17979 section may be performed by an independent third party that has
 17980 been approved by the office ~~department~~ or by a certified public
 17981 accountant authorized to do business in the United States. The
 17982 examination of a money transmitter or authorized vendor required
 17983 under this section may be performed by an independent third
 17984 party that has been approved by the office ~~department~~ or by a
 17985 certified public accountant authorized to do business in the
 17986 United States. The cost of such an independent examination or
 17987 audit shall be directly borne by the money transmitter or
 17988 authorized vendor.

17989 (2)(a) Annual financial reports that are required to be
 17990 filed under the code or any rules adopted thereunder must be
 17991 audited by an independent third party that has been approved by
 17992 the office ~~department~~ or by a certified public accountant
 17993 authorized to do business in the United States. The money
 17994 transmitter or authorized vendor shall directly bear the cost of
 17995 the audit. This paragraph does not apply to any seller of
 17996 payment instruments who can prove to the satisfaction of the
 17997 office ~~department~~ that it has a combined total of fewer than 50
 17998 employees and authorized vendors or that its annual payment
 17999 instruments issued from its activities as a payment instrument



HB 1803

2003

18000 seller are less than \$200,000.

18001 (b) The commission ~~department~~ may, by rule, require each
18002 money transmitter or authorized vendor to submit quarterly
18003 reports to the office ~~department~~. The commission ~~department~~ may
18004 require that each report contain a declaration by an officer, or
18005 any other responsible person authorized to make such
18006 declaration, that the report is true and correct to the best of
18007 her or his knowledge and belief. Such report must include such
18008 information as the commission ~~department~~ by rule requires for
18009 that type of money transmitter.

18010 (c) The office ~~department~~ may levy an administrative fine
18011 of up to \$100 per day for each day the report is past due,
18012 unless it is excused for good cause. In excusing any such
18013 administrative fine, the office ~~department~~ may consider the
18014 prior payment history of the money transmitter or authorized
18015 vendor.

18016 (3) Any person who willfully violates this section or
18017 fails to comply with any lawful written demand or order of the
18018 office ~~department~~ made under this section commits a felony of
18019 the third degree, punishable as provided in s. 775.082, s.
18020 775.083, or s. 775.084.

18021 Section 631. Section 560.119, Florida Statutes, is amended
18022 to read:

18023 560.119 Deposit of fees and assessments.--The application
18024 fees, registration renewal fees, late payment penalties, civil
18025 penalties, administrative fines, and other fees or penalties
18026 provided for in the code shall, in all cases, be paid directly
18027 to the office ~~department~~, which shall deposit such proceeds into
18028 the Regulatory Trust Fund. Each year, the Legislature shall
18029 appropriate from the trust fund to the office ~~department~~



HB 1803

2003

18030 sufficient moneys to pay the office's ~~department's~~ costs for
18031 administration of the code. The Regulatory Trust Fund is subject
18032 to the service charge imposed pursuant to chapter 215.

18033 Section 632. Paragraph (a) of subsection (1) and
18034 subsections (2) and (3) of section 560.121, Florida Statutes,
18035 are amended to read:

18036 560.121 Records; limited restrictions upon public access.-
18037 -

18038 (1)(a) Orders of courts or of administrative law judges
18039 for the production of confidential records or information shall
18040 provide for inspection in camera by the court or the
18041 administrative law judge and, after the court or administrative
18042 law judge has made a determination that the documents requested
18043 are relevant or would likely lead to the discovery of admissible
18044 evidence, said documents shall be subject to further orders by
18045 the court or the administrative law judge to protect the
18046 confidentiality thereof. Any order directing the release of
18047 information shall be immediately reviewable, and a petition by
18048 the office ~~department~~ for review of such order shall
18049 automatically stay further proceedings in the trial court or the
18050 administrative hearing until the disposition of such petition by
18051 the reviewing court. If any other party files such a petition
18052 for review, it will operate as a stay of such proceedings only
18053 upon order of the reviewing court.

18054 (2) Examination reports, investigatory records,
18055 applications, and related information compiled by the office
18056 ~~department~~, or photographic copies thereof, shall be retained by
18057 the office ~~department~~ for a period of at least 10 years.

18058 (3) A copy of any document on file with the office
18059 ~~department~~ which is certified by the office ~~department~~ as being



HB 1803

2003

18060 a true copy may be introduced in evidence as if it were the
18061 original. The commission ~~department~~ shall establish a schedule
18062 of fees for preparing true copies of documents.

18063 Section 633. Subsections (2), (4), (5), (6), and (7) of
18064 section 560.123, Florida Statutes, are amended to read:

18065 560.123 Florida control of money laundering in the Money
18066 Transmitters' Code; reports of transactions involving currency
18067 or monetary instruments; when required; purpose; definitions;
18068 penalties; corpus delicti.--

18069 (2) It is the purpose of this section to require the
18070 submission to the office ~~department~~ of reports and the
18071 maintenance of certain records of transactions involving
18072 currency or monetary instruments which reports and records deter
18073 the use of money transmitters to conceal proceeds from criminal
18074 activity and are useful in criminal, tax, or regulatory
18075 investigations or proceedings.

18076 (a) Every money transmitter shall keep a record of each
18077 financial transaction occurring in this state known to it to
18078 involve currency or other monetary instrument, as the commission
18079 ~~department~~ prescribes by rule, of a value in excess of \$10,000,
18080 to involve the proceeds of specified unlawful activity, or to be
18081 designed to evade the reporting requirements of this section or
18082 chapter 896 and shall maintain appropriate procedures to ensure
18083 compliance with this section and chapter 896.

18084 (b) Multiple financial transactions shall be treated as a
18085 single transaction if the money transmitter has knowledge that
18086 they are made by or on behalf of any person and result in either
18087 cash in or cash out totaling more than \$10,000 during any day.

18088 (c) Any money transmitter may keep a record of any
18089 financial transaction occurring in this state, regardless of the



HB 1803

2003

18090 value, if it suspects that the transaction involves the proceeds
18091 of specified unlawful activity.

18092 (d) A money transmitter, or officer, employee, or agent
18093 thereof, that files a report in good faith pursuant to this
18094 section is not liable to any person for loss or damage caused in
18095 whole or in part by the making, filing, or governmental use of
18096 the report, or any information contained therein.

18097 (4) In enforcing this section, the commission and office
18098 ~~department~~ shall acknowledge and take into consideration the
18099 requirements of Title 31, United States Code, both to reduce the
18100 burden of fulfilling duplicate requirements and to acknowledge
18101 the economic advantage of having similar reporting and
18102 recordkeeping requirements between state and federal regulatory
18103 authorities.

18104 (5)(a) Each money transmitter must file a report with the
18105 office ~~department~~ of the record required by this section. Each
18106 record filed pursuant to this section must be filed at such time
18107 and contain such information as the commission ~~department~~
18108 requires by rule.

18109 (b) The timely filing of the report required by 31 U.S.C.
18110 s. 5313, with the appropriate federal agency is deemed
18111 compliance with the reporting requirements of this subsection
18112 unless the reports are not regularly and comprehensively
18113 transmitted by the federal agency to the office ~~department~~.

18114 (6) The office ~~department~~ must retain a copy of all
18115 reports received under subsection (5) for a minimum of 5
18116 calendar years after receipt of the report. However, if a report
18117 or information contained in a report is known by the office
18118 ~~department~~ to be the subject of an existing criminal proceeding,
18119 the report must be retained for a minimum of 10 calendar years



HB 1803

2003

18120 from the date of receipt.

18121 (7) In addition to any other powers conferred upon the
18122 office department to enforce and administer the code, the office
18123 ~~department~~ may:

18124 (a) Bring an action in any court of competent jurisdiction
18125 to enforce or administer this section. In such action, the
18126 office department may seek award of any civil penalty authorized
18127 by law and any other appropriate relief at law or equity.

18128 (b) Issue and serve upon a person an order requiring such
18129 person to cease and desist and take corrective action whenever
18130 the office department finds that such person is violating, has
18131 violated, or is about to violate any provision of this section
18132 or chapter 896; any rule or order adopted under this section or
18133 chapter 896; or any written agreement related to this section or
18134 chapter 896 which is entered into with the office department.

18135 (c) Issue and serve upon a person an order suspending or
18136 revoking such person's money transmitter registration whenever
18137 the office department finds that such person is violating, has
18138 violated, or is about to violate any provision of this section
18139 or chapter 896; any rule or order adopted under this section or
18140 chapter 896; or any written agreement related to this section or
18141 chapter 896 which is entered into with the office department.

18142 (d) Issue and serve upon any person an order of removal
18143 whenever the office department finds that such person is
18144 violating, has violated, or is about to violate any provision of
18145 this section or chapter 896; any rule or order adopted under
18146 this section or chapter 896; or any written agreement related to
18147 this section or chapter 896 which is entered into with the
18148 office department.

18149 (e) Impose and collect an administrative fine against any



HB 1803

2003

18150 person found to have violated any provision of this section or
18151 chapter 896; any rule or order adopted under this section or
18152 chapter 896; or any written agreement related to this section or
18153 chapter 896 which is entered into with the office ~~department~~, in
18154 an amount not exceeding \$10,000 a day for each willful violation
18155 or \$500 a day for each negligent violation.

18156 Section 634. Subsections (3) and (4) of section 560.125,
18157 Florida Statutes, are amended to read:

18158 560.125 Money transmitter business by unauthorized
18159 persons; penalties.--

18160 (3) Any person whose substantial interests are affected by
18161 a proceeding brought by the office ~~department~~ pursuant to the
18162 code may, pursuant to s. 560.113, petition any court to enjoin
18163 the person or activity that is the subject of the proceeding
18164 from violating any of the provisions of this section. For the
18165 purpose of this subsection, any money transmitter registered
18166 pursuant to the code, any person residing in this state, and any
18167 person whose principal place of business is in this state are
18168 presumed to be substantially affected. In addition, the
18169 interests of a trade organization or association are deemed
18170 substantially affected if the interests of any of its members
18171 are so affected.

18172 (4) The office ~~department~~ may issue and serve upon any
18173 person who violates any of the provisions of this section a
18174 complaint seeking a cease and desist order in accordance with
18175 the procedures and in the manner prescribed by s. 560.112. The
18176 office ~~department~~ may also impose an administrative fine
18177 pursuant to s. 560.117(3) against any person who violates any of
18178 the provisions of this section.

18179 Section 635. Section 560.126, Florida Statutes, is amended



HB 1803

2003

18180 to read:

18181 560.126 Significant events; notice required.--Unless
18182 exempted by the office ~~department~~, every money transmitter must
18183 provide the office ~~department~~ with a written notice within 15
18184 days after the occurrence or knowledge of, whichever period of
18185 time is greater, any of the following events:

18186 (1) The filing of a petition under the United States
18187 Bankruptcy Code for bankruptcy or reorganization by the money
18188 transmitter.

18189 (2) The commencement of any registration suspension or
18190 revocation proceeding, either administrative or judicial, or the
18191 denial of any original registration request or a registration
18192 renewal, by any state, the District of Columbia, any United
18193 States territory, or any foreign country, in which the money
18194 transmitter operates or plans to operate or has registered to
18195 operate.

18196 (3) A felony indictment relating to the money transmission
18197 business involving the money transmitter or a money transmitter-
18198 affiliated party of the money transmitter.

18199 (4) The felony conviction, guilty plea, or plea of nolo
18200 contendere, if the court adjudicates the nolo contendere pleader
18201 guilty, or the adjudication of guilt of a money transmitter or
18202 money transmitter-affiliated party.

18203 (5) The interruption of any corporate surety bond required
18204 by the code.

18205 (6) Any suspected criminal act, as defined by the
18206 commission ~~department~~ by rule, perpetrated in this state against
18207 a money transmitter or authorized vendor.

18208

18209 However, no liability shall be incurred by any person as a



HB 1803

2003

18210 result of making a good faith effort to fulfill this disclosure
 18211 requirement.

18212 Section 636. Section 560.127, Florida Statutes, is amended
 18213 to read:

18214 560.127 Control of a money transmitter.--

18215 (1) A person has control over a money transmitter if:

18216 (a) The person directly or indirectly or acting through
 18217 one or more other persons owns, controls, or has power to vote
 18218 25 percent or more of any class of voting securities of the
 18219 money transmitter; or

18220 (b) The office ~~department~~ determines, after notice and
 18221 opportunity for hearing, that the person directly or indirectly
 18222 exercises a controlling influence over the activities of the
 18223 money transmitter.

18224 (2) In any case in which a person or a group of persons,
 18225 directly or indirectly or acting by or through one or more
 18226 persons, proposes to purchase or acquire a controlling interest
 18227 in a money transmitter, and thereby to change the control of
 18228 that money transmitter, each person or group of persons shall
 18229 provide written notice to the office ~~department~~.

18230 (a) A money transmitter whose stock is traded on an
 18231 organized stock exchange shall provide the office ~~department~~
 18232 with written notice within 15 days after knowledge of such
 18233 change in control.

18234 (b) A money transmitter whose stock is not publicly traded
 18235 shall provide the office ~~department~~ with not less than 30 days'
 18236 prior written notice of such proposed change in control.

18237 (3) After a review of the written notification, the office
 18238 ~~department~~ may require the money transmitter to provide
 18239 additional information relating to other and former addresses,



HB 1803

2003

18240 and the reputation, character, responsibility, and business
 18241 affiliations, of the proposed new owner or each of the proposed
 18242 new owners of the money transmitter.

18243 (a) The office ~~department~~ may deny the person or group of
 18244 persons proposing to purchase, or who have acquired control of,
 18245 a money transmitter if, after investigation, the office
 18246 ~~department~~ determines that the person or persons are not
 18247 qualified by reputation, character, experience, or financial
 18248 responsibility to control or operate the money transmitter in a
 18249 legal and proper manner and that the interests of the other
 18250 stockholders, if any, or the interests of the public generally
 18251 may be jeopardized by the proposed change in ownership,
 18252 controlling interest, or management.

18253 (b) The office ~~department~~ may disapprove any person who
 18254 has been convicted of, or pled guilty or nolo contendere to, a
 18255 violation of s. 560.123, s. 655.50, chapter 896, or any similar
 18256 state, federal, or foreign law.

18257 Section 637. Subsection (4) of section 560.202, Florida
 18258 Statutes, is amended to read:

18259 560.202 Definitions.--In addition to the definitions
 18260 provided in s. 560.103, for purposes of this part, unless
 18261 otherwise clearly indicated by the context:

18262 (4) "Registrant" means a person registered by the office
 18263 ~~department~~ pursuant to this part.

18264 Section 638. Section 560.205, Florida Statutes, is amended
 18265 to read:

18266 560.205 Qualifications of applicant for registration;
 18267 contents.--

18268 (1) To qualify for registration under this part, an
 18269 applicant must demonstrate to the office ~~department~~ such



HB 1803

2003

18270 character and general fitness as to command the confidence of
18271 the public and warrant the belief that the registered business
18272 will be operated lawfully and fairly. The office ~~department~~ may
18273 investigate each applicant to ascertain whether the
18274 qualifications and requirements prescribed by this part have
18275 been met. The office's ~~department's~~ investigation may include a
18276 criminal background investigation of all controlling
18277 shareholders, principals, officers, directors, members, and
18278 responsible persons of a funds transmitter and a payment
18279 instrument seller and all persons designated by a funds
18280 transmitter or payment instrument seller as an authorized
18281 vendor. Each controlling shareholder, principal, officer,
18282 director, member, and responsible person of a funds transmitter
18283 or payment instrument seller, unless the applicant is a publicly
18284 traded corporation, a subsidiary thereof, or a subsidiary of a
18285 bank or bank holding company, shall file a complete set of
18286 fingerprints taken by an authorized law enforcement officer.
18287 Such fingerprints must be submitted to the Department of Law
18288 Enforcement or the Federal Bureau of Investigation for state and
18289 federal processing. The commission ~~department~~ may waive by rule
18290 the requirement that applicants file a set of fingerprints or
18291 the requirement that such fingerprints be processed by the
18292 Department of Law Enforcement or the Federal Bureau of
18293 Investigation.

18294 (2) Each application for registration must be submitted
18295 under oath to the office ~~department~~ on such forms as the
18296 commission ~~department~~ prescribes by rule and must be accompanied
18297 by a nonrefundable application fee. Such fee may not exceed \$500
18298 for each payment instrument seller or funds transmitter and \$50
18299 for each authorized vendor or location operating within this



HB 1803

2003

18300 state. The application forms shall set forth such information as
 18301 the commission ~~department~~ reasonably requires, including, but
 18302 not limited to:

18303 (a) The name and address of the applicant, including any
 18304 fictitious or trade names used by the applicant in the conduct
 18305 of its business.

18306 (b) The history of the applicant's material litigation,
 18307 criminal convictions, pleas of nolo contendere, and cases of
 18308 adjudication withheld.

18309 (c) A description of the activities conducted by the
 18310 applicant, the applicant's history of operations, and the
 18311 business activities in which the applicant seeks to engage in
 18312 this state.

18313 (d) A list identifying the applicant's proposed authorized
 18314 vendors in this state, including the location or locations in
 18315 this state at which the applicant and its authorized vendors
 18316 propose to conduct registered activities.

18317 (e) A sample authorized vendor contract, if applicable.

18318 (f) A sample form of payment instrument, if applicable.

18319 (g) The name and address of the clearing financial
 18320 institution or financial institutions through which the
 18321 applicant's payment instruments will be drawn or through which
 18322 such payment instruments will be payable.

18323 (h) Documents revealing that the net worth and bonding
 18324 requirements specified in s. 560.209 have been or will be
 18325 fulfilled.

18326 (3) Each application for registration by an applicant that
 18327 is a corporation shall also set forth such information as the
 18328 commission ~~department~~ reasonably requires, including, but not
 18329 limited to:



HB 1803

2003

18330 (a) The date of the applicant's incorporation and state of
 18331 incorporation.

18332 (b) A certificate of good standing from the state or
 18333 country in which the applicant was incorporated.

18334 (c) A description of the corporate structure of the
 18335 applicant, including the identity of any parent or subsidiary of
 18336 the applicant, and the disclosure of whether any parent or
 18337 subsidiary is publicly traded on any stock exchange.

18338 (d) The name, business and residence addresses, and
 18339 employment history for the past 5 years for each executive
 18340 officer, each director, each controlling shareholder, and the
 18341 responsible person who will be in charge of all the applicant's
 18342 business activities in this state.

18343 (e) The history of material litigation and criminal
 18344 convictions, pleas of nolo contendere, and cases of adjudication
 18345 withheld for each executive officer, each director, each
 18346 controlling shareholder, and the responsible person who will be
 18347 in charge of the applicant's registered activities.

18348 (f) Copies of the applicant's audited financial statements
 18349 for the current year and, if available, for the immediately
 18350 preceding 2-year period. In cases where the applicant is a
 18351 wholly owned subsidiary of another corporation, the parent's
 18352 consolidated audited financial statements may be submitted to
 18353 satisfy this requirement. An applicant who is not required to
 18354 file audited financial statements may satisfy this requirement
 18355 by filing unaudited financial statements verified under penalty
 18356 of perjury, as provided by the commission ~~department~~ by rule.

18357 (g) An applicant who is not required to file audited
 18358 financial statements may file copies of the applicant's
 18359 unconsolidated, unaudited financial statements for the current



HB 1803

2003

18360 year and, if available, for the immediately preceding 2-year
18361 period.

18362 (h) If the applicant is a publicly traded company, copies
18363 of all filings made by the applicant with the United States
18364 Securities and Exchange Commission, or with a similar regulator
18365 in a country other than the United States, within the year
18366 preceding the date of filing of the application.

18367 (4) Each application for registration submitted to the
18368 office department by an applicant that is not a corporation
18369 shall also set forth such information as the commission
18370 ~~department~~ reasonably requires, including, but not limited to:

18371 (a) Evidence that the applicant is registered to do
18372 business in this state.

18373 (b) The name, business and residence addresses, personal
18374 financial statement and employment history for the past 5 years
18375 for each individual having a controlling ownership interest in
18376 the applicant, and each responsible person who will be in charge
18377 of the applicant's registered activities.

18378 (c) The history of material litigation and criminal
18379 convictions, pleas of nolo contendere, and cases of adjudication
18380 withheld for each individual having a controlling ownership
18381 interest in the applicant and each responsible person who will
18382 be in charge of the applicant's registered activities.

18383 (d) Copies of the applicant's audited financial statements
18384 for the current year, and, if available, for the preceding 2
18385 years. An applicant who is not required to file audited
18386 financial statements may satisfy this requirement by filing
18387 unaudited financial statements verified under penalty of
18388 perjury, as provided by the commission ~~department~~ by rule.

18389 (5) Each applicant shall designate and maintain an agent



HB 1803

2003

18390 in this state for service of process.

18391 Section 639. Section 560.206, Florida Statutes, is amended
18392 to read:

18393 560.206 Investigation of applicants.--Upon the filing of a
18394 properly completed application, accompanied by the nonrefundable
18395 application fee and other required documents, the office
18396 ~~department~~ shall investigate to ascertain whether the
18397 qualifications and requirements prescribed by this part have
18398 been met. If the office ~~department~~ finds that the applicant
18399 meets such qualifications and requirements, the office
18400 ~~department~~ shall issue the applicant a registration to engage in
18401 the business of selling payment instruments and transmitting
18402 funds in this state. Any registration issued under this part
18403 shall remain effective through April 30 of the second year
18404 following the date of issuance of the registration, not to
18405 exceed 24 months, unless during such period the registration is
18406 surrendered, suspended, or revoked.

18407 Section 640. Subsections (1) and (2) of section 560.207,
18408 Florida Statutes, are amended to read:

18409 560.207 Renewal of registration; registration fee.--

18410 (1) Registration may be renewed for a 24-month period or
18411 the remainder of any such period without proration following the
18412 date of its expiration, upon the filing with the office
18413 ~~department~~ of an application and other statements and documents
18414 as may reasonably be required of registrants by the commission
18415 ~~department~~. However, the registrant must remain qualified for
18416 such registration under the provisions of this part.

18417 (2) All registration renewal applications shall be
18418 accompanied by a renewal fee not to exceed \$1,000. All renewal
18419 applications must be filed on or after January 1 of the year in



HB 1803

2003

18420 which the existing registration expires, but before the
18421 expiration date of April 30. If the renewal application is filed
18422 prior to the expiration date of an existing registration, no
18423 late fee shall be paid in connection with such renewal
18424 application. If the renewal application is filed within 60
18425 calendar days after the expiration date of an existing
18426 registration, then, in addition to the \$1,000 renewal fee, the
18427 renewal application shall be accompanied by a nonrefundable late
18428 fee of \$500. If the registrant has not filed a renewal
18429 application within 60 calendar days after the expiration date of
18430 an existing registration, a new application shall be filed with
18431 the office ~~department~~ pursuant to s. 560.205.

18432 Section 641. Subsections (2) and (3) of section 560.208,
18433 Florida Statutes, are amended to read:

18434 560.208 Conduct of business.--

18435 (2) Within 60 days after the date a registrant either
18436 opens a location within this state or authorizes an authorized
18437 vendor to operate on the registrant's behalf within this state,
18438 the registrant shall notify the office ~~department~~ on a form
18439 prescribed by the commission ~~department~~ by rule. The
18440 notification shall be accompanied by a nonrefundable \$50 fee for
18441 each authorized vendor or location. Each notification shall also
18442 be accompanied by a financial statement demonstrating compliance
18443 with s. 560.209(1), unless compliance has been demonstrated by a
18444 financial statement filed with the registrant's quarterly report
18445 in compliance with s. 560.118(2). The financial statement must
18446 be dated within 90 days of the date of designation of the
18447 authorized vendor or location. This subsection shall not apply
18448 to any authorized vendor or location that has been designated by
18449 the registrant before October 1, 2001.



HB 1803

2003

18450 (3) Within 60 days after the date a registrant closes a
18451 location within this state or withdraws authorization for an
18452 authorized vendor to operate on the registrant's behalf within
18453 this state, the registrant shall notify the office ~~department~~ on
18454 a form prescribed by the commission ~~department~~ by rule.

18455 Section 642. Subsections (2)-(6) of section 560.209,
18456 Florida Statutes, are amended to read:

18457 560.209 Net worth; corporate surety bond; collateral
18458 deposit in lieu of bond.--

18459 (2) Before the office ~~department~~ may issue a registration,
18460 the applicant must provide to the office ~~department~~ a corporate
18461 surety bond, issued by a bonding company or insurance company
18462 authorized to do business in this state.

18463 (a) The corporate surety bond shall be in such amount as
18464 may be determined by commission ~~department~~ rule, but shall not
18465 exceed \$250,000. However, the commission and office ~~department~~
18466 may consider extraordinary circumstances, such as the
18467 registrant's financial condition, the number of locations, and
18468 the existing or anticipated volume of outstanding payment
18469 instruments or funds transmitted, and require an additional
18470 amount above \$250,000, up to \$500,000.

18471 (b) The corporate surety bond shall be in a form
18472 satisfactory to the office ~~department~~ and shall run to the state
18473 for the benefit of any claimants in this state against the
18474 applicant or its authorized vendors to secure the faithful
18475 performance of the obligations of the applicant and its
18476 authorized vendors with respect to the receipt, handling,
18477 transmission, and payment of funds. The aggregate liability of
18478 the corporate surety bond in no event shall exceed the principal
18479 sum of the bond. Such claimants against the applicant or its



HB 1803

2003

18480 authorized vendors may themselves bring suit directly on the
18481 corporate surety bond, or the Department of Legal Affairs may
18482 bring suit thereon on behalf of such claimants, in either one
18483 action or in successive actions.

18484 (c) A corporate surety bond filed with the office
18485 ~~department~~ for purposes of compliance with this section may not
18486 be canceled by either the registrant or the corporate surety
18487 except upon written notice to the office ~~department~~ by
18488 registered or certified mail with return receipt requested. A
18489 cancellation shall not take effect less than 30 days after
18490 receipt by the office ~~department~~ of such written notice.

18491 (d) The corporate surety must, within 10 days after it
18492 pays any claim to any claimant, give written notice to the
18493 office ~~department~~ by registered or certified mail of such
18494 payment with details sufficient to identify the claimant and the
18495 claim or judgment so paid.

18496 (e) Whenever the principal sum of such bond is reduced by
18497 one or more recoveries or payments, the registrant must furnish
18498 a new or additional bond so that the total or aggregate
18499 principal sum of such bond equals the sum required by the
18500 commission ~~department~~. Alternatively, a registrant may furnish
18501 an endorsement executed by the corporate surety reinstating the
18502 bond to the required principal sum thereof.

18503 (3) In lieu of such corporate surety bond, or of any
18504 portion of the principal thereof required by this section, the
18505 applicant may deposit collateral cash, securities, or
18506 alternative security devices approved by the commission
18507 ~~department~~, with any federally insured financial institution.

18508 (a) Acceptable collateral deposit items in lieu of a bond
18509 include cash and interest-bearing stocks and bonds, notes,



HB 1803

2003

18510 debentures, or other obligations of the United States or any
18511 agency or instrumentality thereof, or guaranteed by the United
18512 States, or of this state.

18513 (b) The collateral deposit must be in an aggregate amount,
18514 based upon principal amount or market value, whichever is lower,
18515 of not less than the amount of the required corporate surety
18516 bond or portion thereof.

18517 (c) Collateral deposits made under this subsection shall
18518 be pledged to the office ~~department~~ and held by the insured
18519 financial institution to secure the same obligations as would
18520 the corporate surety bond, but the depositor is entitled to
18521 receive all interest and dividends thereon and may, with the
18522 approval of the office ~~department~~, substitute other securities
18523 or deposits for those deposited. The principal amount of the
18524 deposit shall be released only on written authorization of the
18525 office ~~department~~ or on the order of a court of competent
18526 jurisdiction.

18527 (4) A registrant must at all times have and maintain the
18528 bond or collateral deposit in the amount prescribed by the
18529 commission ~~department~~. If the office ~~department~~ at any time
18530 reasonably determines that the bond or elements of the
18531 collateral deposit are insecure, deficient in amount, or
18532 exhausted in whole or in part, the office ~~department~~ may, by
18533 written order, require the filing of a new or supplemental bond
18534 or the deposit of new or additional collateral deposit items.

18535 (5) The bond and collateral deposit shall remain in place
18536 for 5 years after the registrant ceases registered operations in
18537 this state. The office ~~department~~ may permit the bond or
18538 collateral deposit to be reduced or eliminated prior to that
18539 time to the extent that the amount of the registrant's



HB 1803

2003

18540 outstanding payment instruments or funds transmitted in this
18541 state are reduced. The office ~~department~~ may also permit a
18542 registrant to substitute a letter of credit or such other form
18543 of acceptable security for the bond or collateral deposit at the
18544 time the registrant ceases money transmission operations in this
18545 state.

18546 (6) The office ~~department~~ may waive or reduce a
18547 registrant's net worth or bond or collateral deposit
18548 requirement. Such waiver or modification must be requested by
18549 the applicant or registrant, and may be granted upon a showing
18550 by the applicant or registrant to the satisfaction of the office
18551 ~~department~~ that:

18552 (a) The existing net worth, bond, or collateral deposit
18553 requirement is sufficiently in excess of the registrant's
18554 highest potential level of outstanding payment instruments or
18555 money transmissions in this state;

18556 (b) The direct and indirect cost of meeting the net worth,
18557 bond, or collateral deposit requirement will restrict the
18558 ability of the money transmitter to effectively serve the needs
18559 of its customers and the public; or

18560 (c) The direct and indirect cost of meeting the net worth,
18561 bond, or collateral requirement will not only have a negative
18562 impact on the money transmitter but will severely hinder the
18563 ability of the money transmitter to participate in and promote
18564 the economic progress and welfare of this state or the United
18565 States.

18566 Section 643. Paragraph (i) of subsection (2) and
18567 subsections (3) and (4) of section 560.210, Florida Statutes,
18568 are amended to read:

18569 560.210 Permissible investments.--



HB 1803

2003

18570 (2) Acceptable permissible investments include:

18571 (i) Any other investment approved by the commission
18572 ~~department~~.

18573 (3) Notwithstanding any other provision of this part, the
18574 office ~~department~~, with respect to any particular registrant or
18575 all registrants, may limit the extent to which any class of
18576 permissible investments may be considered a permissible
18577 investment, except for cash and certificates of deposit.

18578 (4) The office ~~department~~ may waive the permissible
18579 investments requirement if the dollar value of a registrant's
18580 outstanding payment instruments and funds transmitted do not
18581 exceed the bond or collateral deposit posted by the registrant
18582 under s. 560.209.

18583 Section 644. Subsection (2) of section 560.211, Florida
18584 Statutes, is amended to read:

18585 560.211 Records.--

18586 (2) The records required to be maintained by the code may
18587 be maintained by the registrant at any location, provided that
18588 the registrant notifies the office ~~department~~ in writing of the
18589 location of the records in its application or otherwise. The
18590 registrant shall make such records available to the office
18591 ~~department~~ for examination and investigation in this state, as
18592 permitted by the code, within 7 days after receipt of a written
18593 request.

18594 Section 645. Subsection (2) of section 560.302, Florida
18595 Statutes, is amended to read:

18596 560.302 Definitions.--In addition to the definitions
18597 provided in s. 560.103, unless otherwise clearly indicated by
18598 the context, for purposes of this part:

18599 (2) "Registrant" means a person authorized by the office



HB 1803

2003

18600 ~~department~~ pursuant to this part.

18601 Section 646. Section 560.305, Florida Statutes, is amended
18602 to read:

18603 560.305 Application.--Each application for registration
18604 shall be in writing and under oath to the office ~~department~~, in
18605 such form as the commission prescribes ~~department may prescribe~~.

18606 The application shall include the following:

18607 (1) The legal name and residence and business addresses of
18608 the applicant if the applicant is a natural person, or, if the
18609 applicant is a partnership, association, or corporation, the
18610 name of every partner, officer, or director thereof.

18611 (2) The location of the principal office of the applicant.

18612 (3) The complete address of any other locations at which
18613 the applicant proposes to engage in such activities since the
18614 provisions of registration apply to each and every operating
18615 location of a registrant.

18616 (4) Such other information as the commission or office
18617 ~~department may~~ reasonably requires ~~require~~ with respect to the
18618 applicant or any money transmitter-affiliated party of the
18619 applicant; however, the commission or office ~~department~~ may not
18620 require more information than is specified in part II.

18621 Section 647. Section 560.306, Florida Statutes, is amended
18622 to read:

18623 560.306 Standards.--

18624 (1) In order to qualify for registration under this part,
18625 an applicant must demonstrate to the office ~~department~~ that he
18626 or she has such character and general fitness as will command
18627 the confidence of the public and warrant the belief that the
18628 registered business will be operated lawfully and fairly. The
18629 office ~~department~~ may investigate each applicant to ascertain



HB 1803

2003

18630 whether the qualifications and requirements prescribed by this
18631 part have been met. The office's ~~department's~~ investigation may
18632 include a criminal background investigation of all controlling
18633 shareholders, principals, officers, directors, members, and
18634 responsible persons of a check casher and a foreign currency
18635 exchanger and all persons designated by a foreign currency
18636 exchanger or check casher as an authorized vendor. Each
18637 controlling shareholder, principal, officer, director, member,
18638 and responsible person of a check casher or foreign currency
18639 exchanger, unless the applicant is a publicly traded
18640 corporation, a subsidiary thereof, or a subsidiary of a bank or
18641 bank holding company, shall file a complete set of fingerprints
18642 taken by an authorized law enforcement officer. Such
18643 fingerprints must be submitted to the Department of Law
18644 Enforcement or the Federal Bureau of Investigation for state and
18645 federal processing. The commission ~~department~~ may waive by rule
18646 the requirement that applicants file a set of fingerprints or
18647 the requirement that such fingerprints be processed by the
18648 Department of Law Enforcement or the Federal Bureau of
18649 Investigation.

18650 (2) The office ~~department~~ may deny registration if it
18651 finds that the applicant, or any money transmitter-affiliated
18652 party of the applicant, has been convicted of a crime involving
18653 moral turpitude in any jurisdiction or of a crime which, if
18654 committed in this state, would constitute a crime involving
18655 moral turpitude under the laws of this state. For the purposes
18656 of this part, a person shall be deemed to have been convicted of
18657 a crime if such person has either pleaded guilty to or been
18658 found guilty of a charge before a court or federal magistrate,
18659 or by the verdict of a jury, irrespective of the pronouncement



HB 1803

2003

18660 of sentence or the suspension thereof. The office ~~department~~ may
18661 take into consideration the fact that such plea of guilty, or
18662 such decision, judgment, or verdict, has been set aside,
18663 reversed, or otherwise abrogated by lawful judicial process or
18664 that the person convicted of the crime received a pardon from
18665 the jurisdiction where the conviction was entered or received a
18666 certificate pursuant to any provision of law which removes the
18667 disability under this part because of such conviction.

18668 (3) The office ~~department~~ may deny an application for
18669 registration if the applicant or money transmitter-affiliated
18670 party of the applicant is the subject of a pending criminal
18671 prosecution or governmental enforcement action, in any
18672 jurisdiction, until the conclusion of such criminal prosecution
18673 or enforcement action.

18674 (4) Each registration application and renewal application
18675 must specify the location at which the applicant proposes to
18676 establish its principal place of business and any other
18677 location, including authorized vendors operating in this state.
18678 The registrant shall notify the office ~~department~~ of any changes
18679 to any such locations. Any registrant may satisfy this
18680 requirement by providing the office ~~department~~ with a list of
18681 such locations, including all authorized vendors operating in
18682 this state, not less than annually. A registrant may not
18683 transact business as a check cashier or a foreign currency
18684 exchanger except pursuant to the name under which it is
18685 registered.

18686 (5) Each applicant shall designate and maintain an agent
18687 in this state for service of process.

18688 Section 648. Subsections (2) and (3) of section 560.307,
18689 Florida Statutes, are amended to read:



HB 1803

2003

18690 560.307 Fees.--

18691 (2) Within 60 days after the date a registrant either
18692 opens a location within this state or authorizes an authorized
18693 vendor to operate on the registrant's behalf within this state,
18694 the registrant shall notify the office ~~department~~ on a form
18695 prescribed by the commission ~~department~~ by rule. The
18696 notification shall be accompanied by a nonrefundable \$50 fee for
18697 each authorized vendor or location. This subsection shall not
18698 apply to any authorized vendor or location that has been
18699 designated by the registrant before October 1, 2001.

18700 (3) Within 60 days after the date a registrant closes a
18701 location within this state or withdraws authorization for an
18702 authorized vendor to operate on the registrant's behalf within
18703 this state, the registrant shall notify the office ~~department~~ on
18704 a form prescribed by the commission ~~department~~ by rule.

18705 Section 649. Subsections (2) and (4) of section 560.308,
18706 Florida Statutes, are amended to read:

18707 560.308 Registration terms; renewal; renewal fees.--

18708 (2) The office ~~department~~ shall renew registration upon
18709 receipt of a completed renewal form and payment of a
18710 nonrefundable renewal fee not to exceed \$500. The completed
18711 renewal form and payment of the renewal fee shall occur on or
18712 after June 1 of the year in which the existing registration
18713 expires.

18714 (4) Registration that is not renewed on or before the
18715 expiration date of the registration period automatically
18716 expires. A renewal application and fee, and a late fee of \$250,
18717 must be filed within 60 calendar days after the expiration of an
18718 existing registration in order for the registration to be
18719 reinstated. If the registrant has not filed a renewal



HB 1803

2003

18720 application within 60 days after the expiration date of an
18721 existing registration, a new application must be filed with the
18722 office ~~department~~ pursuant to s. 560.307.

18723 Section 650. Subsections (3) and (4) of section 560.309,
18724 Florida Statutes, are amended to read:

18725 560.309 Rules.--

18726 (3) The commission ~~department~~ may by rule require every
18727 check casher to display its registration and post a notice
18728 containing its charges for cashing payment instruments.

18729 (4) Exclusive of the direct costs of verification which
18730 shall be established by commission ~~department~~ rule, no check
18731 casher shall:

18732 (a) Charge fees, except as otherwise provided by this
18733 part, in excess of 5 percent of the face amount of the payment
18734 instrument, or 6 percent without the provision of
18735 identification, or \$5, whichever is greater;

18736 (b) Charge fees in excess of 3 percent of the face amount
18737 of the payment instrument, or 4 percent without the provision of
18738 identification, or \$5, whichever is greater, if such payment
18739 instrument is the payment of any kind of state public assistance
18740 or federal social security benefit payable to the bearer of such
18741 payment instrument; or

18742 (c) Charge fees for personal checks or money orders in
18743 excess of 10 percent of the face amount of those payment
18744 instruments, or \$5, whichever is greater.

18745 (d) As used in this subsection, "identification" means,
18746 and is limited to, an unexpired and otherwise valid driver
18747 license, a state identification card issued by any state of the
18748 United States or its territories or the District of Columbia,
18749 and showing a photograph and signature, a United States



HB 1803

2003

18750 Government Resident Alien Identification Card, a United States
18751 passport, or a United States Military identification card.

18752 Section 651. Subsections (2) and (5) of section 560.310,
18753 Florida Statutes, are amended to read:

18754 560.310 Records of check cashers and foreign currency
18755 exchangers.--

18756 (2) The records required to be maintained by the code may
18757 be maintained by the registrant at any location, provided that
18758 the registrant notifies the office ~~department~~, in writing, of
18759 the location of the records in its application or otherwise. The
18760 registrant shall make such records available to the office
18761 ~~department~~ for examination and investigation in this state, as
18762 permitted by the code, within 7 days after receipt of a written
18763 request.

18764 (5) Any person who willfully violates this section or
18765 fails to comply with any lawful written demand or order of the
18766 office ~~department~~ made pursuant to this section commits a felony
18767 of the third degree, punishable as provided in s. 775.082, s.
18768 775.083, or s. 775.084.

18769 Section 652. Subsection (5) of section 560.402, Florida
18770 Statutes, is amended to read:

18771 560.402 Definitions.--In addition to the definitions
18772 provided in ss. 560.103, 560.202, and 560.302 and unless
18773 otherwise clearly indicated by the context, for purposes of this
18774 part:

18775 (5) "Deferred presentment provider" means a person who
18776 engages in a deferred presentment transaction and is registered
18777 under part II or part III of the code and has filed a
18778 declaration of intent with the office ~~department~~.

18779 Section 653. Subsections (1) and (4) of section 560.403,



HB 1803

2003

18780 Florida Statutes, are amended to read:

18781 560.403 Requirements of registration; declaration of
18782 intent.--

18783 (1) No person, unless otherwise exempt from this chapter,
18784 shall engage in a deferred presentment transaction unless the
18785 person is registered under the provisions of part II or part III
18786 and has on file with the office ~~department~~ a declaration of
18787 intent to engage in deferred presentment transactions. The
18788 declaration of intent shall be under oath and on such form as
18789 the commission ~~department~~ prescribes by rule. The declaration
18790 of intent shall be filed together with a nonrefundable filing
18791 fee of \$1,000. Any person who is registered under part II or
18792 part III on the effective date of this act and intends to engage
18793 in deferred presentment transactions shall have 60 days after
18794 the effective date of this act to file a declaration of intent.

18795 (4) The notice of intent of a registrant under this part
18796 who fails to timely renew his or her intent to engage in the
18797 business of deferred presentment transactions or to act as a
18798 deferred presentment provider on or before the expiration date
18799 of the registration period automatically expires. A renewal
18800 declaration of intent and fee, and a late fee of \$500, must be
18801 filed within 60 calendar days after the expiration of an
18802 existing registration in order for the declaration of intent to
18803 be reinstated. If the registrant has not filed a renewal
18804 declaration of intent within 60 days after the expiration date
18805 of an existing registration, a new declaration must be filed
18806 with the office ~~department~~.

18807 Section 654. Section 560.4041, Florida Statutes, is
18808 amended to read:

18809 560.4041 Database for deferred presentment providers;



HB 1803

2003

18810 public-records exemption.--The identifying information contained
 18811 in the database for deferred presentment providers, which is
 18812 authorized under s. 560.404, is confidential and exempt from s.
 18813 119.07(1), and s. 24(a), Art. I of the State Constitution,
 18814 except that the identifying information in the database may be
 18815 accessed by deferred presentment providers to verify whether any
 18816 deferred presentment transactions are outstanding for a
 18817 particular person and by the office ~~Department of Banking and~~
 18818 ~~Finance~~ for the purpose of maintaining the database. This
 18819 section is subject to the Open Government Sunset Review Act of
 18820 1995 in accordance with s. 119.15, and shall stand repealed
 18821 October 2, 2006, unless reviewed and saved from repeal through
 18822 reenactment by the Legislature.

18823 Section 655. Subsections (1), (2), and (3) of section
 18824 560.407, Florida Statutes, are amended to read:

18825 560.407 Records.--

18826 (1) Each registrant under this part must maintain all
 18827 books, accounts, records, and documents necessary to determine
 18828 the registrant's compliance with the provisions of the code.
 18829 Such books, accounts, records, and documents shall be retained
 18830 for a period of at least 3 years unless a longer period is
 18831 expressly required by the commission ~~department~~, the laws of
 18832 this state, or any federal law.

18833 (2) The records required to be maintained by the code or
 18834 any rule adopted pursuant thereto may be maintained by the
 18835 registrant at any location within this state, provided that the
 18836 registrant notifies the office ~~department~~, in writing, of the
 18837 location of the records in its application or otherwise.

18838 (3) A registrant shall make records available to the
 18839 office ~~department~~ for examination and investigation in this



HB 1803

2003

18840 state, as permitted by the code, within 7 days after receipt of
18841 a written request.

18842 Section 656. Subsection (2) of section 560.408, Florida
18843 Statutes, is amended to read:

18844 560.408 Legislative intent; report.--

18845 (2) The director of the office ~~Comptroller~~ shall submit a
18846 report on January 1, 2004, to the President of the Senate and
18847 the Speaker of the House of Representatives ~~on January 1, 2003,~~
18848 ~~and January 1, 2004,~~ containing findings and conclusions
18849 concerning the effectiveness of this act in preventing fraud,
18850 abuse, and other unlawful activity associated with deferred
18851 presentment transactions. The report may contain legislative
18852 recommendations addressing the prevention of fraud, abuse, and
18853 other unlawful activity associated with deferred presentment
18854 transactions. Prior to filing each ~~the~~ report, the ~~Comptroller~~
18855 director of the office shall consult with the Attorney General
18856 for the purpose of including any recommendations or concerns
18857 expressed by the Attorney General.

18858 Section 657. Section 561.051, Florida Statutes, is amended
18859 to read:

18860 561.051 Reporting requirements of director.--The director
18861 of the division shall promptly report and remit to the Chief
18862 Financial Officer ~~Treasurer~~ all taxes and fees collected by him
18863 or her hereunder ~~and shall send copies of the reports to the~~
18864 ~~Comptroller.~~

18865 Section 658. Section 562.44, Florida Statutes, is amended
18866 to read:

18867 562.44 Donation of forfeited beverages or raw materials to
18868 state institutions; sale of forfeited beverages.--Any alcoholic
18869 beverage or raw materials used for the manufacture of alcoholic



HB 1803

2003

18870 beverages that may be seized and forfeited under any of the
 18871 provisions of the Beverage Law may, with the approval and
 18872 consent of the Department of Business and Professional
 18873 Regulation, be donated to any state-operated or charitable
 18874 institution that may have a legitimate use therefor in the
 18875 operation of such institution, or the division may sell such
 18876 beverage so seized and forfeited to any licensed wholesaler in
 18877 the state, upon the condition that all federal and state taxes
 18878 that may be due thereon shall be paid, that such sale shall be
 18879 made only upon submission by said division of a request for bids
 18880 to at least five wholesale dealers in the state, and that such
 18881 sale shall be made to the highest and best bidder therefor.
 18882 However, if no satisfactory bid from a wholesaler is received,
 18883 the division may then reject all bids and sell such beverage so
 18884 seized and forfeited to any retailer, licensed in this state to
 18885 sell such beverage, upon the condition that all federal and
 18886 state taxes that may be due thereon shall have been paid, that
 18887 such sale shall be made only upon submission by said division of
 18888 a request for bids to at least five retail dealers in the state
 18889 and that such sale shall be to the highest and best bidder
 18890 therefor. All moneys received from such sales shall be paid by
 18891 the division to the Chief Financial Officer ~~State Treasurer~~ for
 18892 the account of the beverage fund and shall be subject to
 18893 disbursement in accordance with the law relating thereto.

18894 Section 659. Section 567.08, Florida Statutes, is amended
 18895 to read:

18896 567.08 Refund of unused portion of state license tax.--
 18897 When any county votes by an election to discontinue permitting
 18898 the sale of intoxicating liquors, wines, or beer, prior to the
 18899 date of expiration of any license issued by the state for the



HB 1803

2003

18900 sale of intoxicating liquors, wines, or beer in such county, the
 18901 fee for the unexpired and unused portion of said license shall
 18902 be refunded to the licensee by warrant drawn by the Chief
 18903 Financial Officer, ~~State Comptroller on the State Treasurer~~ who
 18904 shall pay such warrants from any moneys in the State Treasury
 18905 not otherwise appropriated.

18906 Section 660. Subsections (1) and (2) of section 569.205,
 18907 Florida Statutes, are amended to read:

18908 569.205 Department of Business and Professional Regulation
 18909 Tobacco Settlement Trust Fund.--

18910 (1) The Department of Business and Professional Regulation
 18911 Tobacco Settlement Trust Fund is hereby created within that
 18912 department. Funds to be credited to the trust fund shall consist
 18913 of funds disbursed, by nonoperating transfer, from the
 18914 Department of Financial Services ~~Banking and Finance~~ Tobacco
 18915 Settlement Clearing Trust Fund in amounts equal to the annual
 18916 appropriations made from this trust fund.

18917 (2) Notwithstanding the provisions of s. 216.301 and
 18918 pursuant to s. 216.351, any unencumbered balance in the trust
 18919 fund at the end of any fiscal year and any encumbered balance
 18920 remaining undisbursed on December 31 of the same calendar year
 18921 shall revert to the Department of Financial Services ~~Banking and~~
 18922 ~~Finance~~ Tobacco Settlement Clearing Trust Fund.

18923 Section 661. Subsection (1) of section 569.215, Florida
 18924 Statutes, is amended to read:

18925 569.215 Confidential records relating to tobacco
 18926 settlement agreement.--

18927 (1) Proprietary confidential business information received
 18928 by the Governor, the Attorney General, or outside counsel
 18929 representing the State of Florida in negotiations for settlement



HB 1803

2003

18930 payments pursuant to the settlement agreement, as amended, in
 18931 the case of State of Florida et al. v. American Tobacco Company
 18932 et al., No. 95-1466AH, in the Circuit Court of the Fifteenth
 18933 Judicial Circuit, in and for Palm Beach County, or received by
 18934 the Chief Financial Officer ~~Comptroller~~ or the Auditor General
 18935 for any purpose relating to verifying settlement payments made
 18936 pursuant to the settlement agreement is confidential and exempt
 18937 from the provisions of s. 119.07(1) and s. 24(a) of Art. I of
 18938 the State Constitution. Any state or federal agency that is
 18939 authorized to have access to such documents by any provision of
 18940 law shall be granted such access in furtherance of such agency's
 18941 statutory duties, notwithstanding the provisions of this
 18942 section. Proprietary confidential business information received
 18943 under this section shall not retain its confidential and exempt
 18944 status if that information is made public, including publicizing
 18945 such information in a Securities and Exchange Commission filing,
 18946 an annual financial statement, or other document or means. This
 18947 exemption is subject to the Open Government Sunset Review Act of
 18948 1995 in accordance with s. 119.15, and shall stand repealed on
 18949 October 2, 2006, unless reviewed and saved from repeal through
 18950 reenactment by the Legislature.

18951 Section 662. Subsection (2) of section 570.13, Florida
 18952 Statutes, is amended to read:

18953 570.13 Salary of commissioner, officers, and employees;
 18954 expenses.--

18955 (2) The reasonable and necessary travel and other expenses
 18956 of the commissioner, assistant commissioner, counsel, directors,
 18957 and other officers and employees of the department, while
 18958 actually engaged in the performance of their duties, outside of
 18959 the City of Tallahassee, or if any such officer or employee be



HB 1803

2003

18960 in charge of or regularly employed at a branch office of the
 18961 department, the reasonable and necessary travel and other
 18962 expenses outside the place such branch office is located, shall
 18963 be paid from the State Treasury after audit by the Chief
 18964 Financial Officer ~~Comptroller~~ of vouchers approved by the
 18965 department in the amount provided in s. 112.061.

18966 Section 663. Subsection (1) of section 570.195, Florida
 18967 Statutes, is amended to read:

18968 570.195 Tobacco farmers; assistance.--

18969 (1) In order to assist Florida tobacco farmers in reducing
 18970 encumbered debt on stranded investment in equipment, the
 18971 nonrecurring sum of \$2.5 million is appropriated from the
 18972 Department of Financial Services ~~Banking and Finance~~ Tobacco
 18973 Settlement Clearing Trust Fund to the Department of Agriculture
 18974 and Consumer Services for the purchase at fair market value of
 18975 equipment associated with agricultural production of tobacco
 18976 from persons or entities that were using such equipment for
 18977 production of tobacco between April 1 and October 1, 2000, on
 18978 land within this state and sign a letter of intent to cease
 18979 tobacco production upon the development and implementation of an
 18980 alternative crop that would provide the same net revenue and
 18981 proportional costs as tobacco. The department may adopt rules
 18982 that, at a minimum, define and describe the equipment to be
 18983 purchased under this section, prescribe criteria for identifying
 18984 persons and entities who are eligible to have such equipment
 18985 purchased by the department, and prescribe procedures to be
 18986 followed for equipment purchases. From the funds appropriated by
 18987 this section, the department is authorized to expend such sums
 18988 as are reasonable and necessary to administer the program.

18989 Section 664. Section 570.20, Florida Statutes, is amended



HB 1803

2003

18990 to read:

18991 570.20 General Inspection Trust Fund.--All donations and
 18992 all inspection fees and other funds authorized and received from
 18993 whatever source in the enforcement of the inspection laws
 18994 administered by the department shall be paid into the General
 18995 Inspection Trust Fund of Florida, which is created in the office
 18996 of the Chief Financial Officer ~~Treasurer~~. All expenses incurred
 18997 in carrying out the provisions of the inspection laws shall be
 18998 paid from this fund as other funds are paid from the State
 18999 Treasury. A percentage of all revenue deposited in this fund,
 19000 including transfers from any subsidiary accounts, shall be
 19001 deposited in the General Revenue Fund pursuant to chapter 215,
 19002 except that funds collected for marketing orders shall pay at
 19003 the rate of 3 percent.

19004 Section 665. Subsection (6) of section 574.03, Florida
 19005 Statutes, is amended to read:

19006 574.03 Warehouseman; licenses and fees.--

19007 (6) As a prerequisite to the issuance of a license under
 19008 the provisions of this section, each applicant shall furnish
 19009 evidence to the Department of Agriculture and Consumer Services
 19010 that the applicant has in force a standard fire and extended
 19011 coverage insurance policy for the full market value of the
 19012 maximum amount of tobacco contained in his or her sales
 19013 warehouse at any one time during the marketing season for which
 19014 the license is sought. The insurance policy shall be written by
 19015 an insurance company of the warehouseman's choice authorized to
 19016 transact business in this state, and such insurance coverage
 19017 shall be approved in form by the Office ~~Department~~ of Insurance
 19018 Regulation of the Financial Services Commission, and a copy of
 19019 the insurance policy shall be filed with the director of the



HB 1803

2003

19020 Division of Marketing and Development of the Department of
 19021 Agriculture and Consumer Services. The policy shall contain an
 19022 endorsement requiring notification to the director of the
 19023 Division of Marketing and Development of the Department of
 19024 Agriculture and Consumer Services by the insurance company at
 19025 least 10 days prior to cancellation of their intention to cancel
 19026 the policy.

19027
 19028 Section 666. Section 589.06, Florida Statutes, is amended
 19029 to read:

19030 589.06 Warrants for payment of accounts.--Upon the
 19031 presentation to the Chief Financial Officer ~~Comptroller~~ of any
 19032 accounts duly approved by the Division of Forestry, accompanied
 19033 by such itemized vouchers or accounts as shall be required by
 19034 her or him, the Chief Financial Officer ~~Comptroller~~ shall audit
 19035 the same and draw a warrant ~~on the State Treasurer~~ for the
 19036 amount for which the account is audited, payable out of funds to
 19037 the credit of the division.

19038 Section 667. Paragraph (a) of subsection (7) of section
 19039 597.010, Florida Statutes, is amended to read:

19040 597.010 Shellfish regulation; leases.--
 19041 (7) SURCHARGE FOR IMPROVEMENT OR REHABILITATION.--A
 19042 surcharge of \$10 per acre, or any fraction of an acre, per annum
 19043 shall be levied upon each lease, other than a perpetual lease
 19044 granted pursuant to chapter 370 prior to 1985, and deposited
 19045 into the General Inspection Trust Fund. The purpose of the
 19046 surcharge is to provide a mechanism to have financial resources
 19047 immediately available for improvement of lease areas and for
 19048 cleanup and rehabilitation of abandoned or vacated lease sites.
 19049 The department is authorized to adopt rules necessary to carry



HB 1803

2003

19050 out the provisions of this subsection.

19051 (a) Moneys in the fund that are not needed currently for
 19052 cleanup and rehabilitation of abandoned or vacated lease sites
 19053 shall be deposited with the Chief Financial Officer ~~Treasurer~~ to
 19054 the credit of the fund and may be invested in such manner as is
 19055 provided for by statute. Interest received on such investment
 19056 shall be credited to the fund.

19057
 19058 The department shall recover to the use of the fund from the
 19059 person or persons abandoning or vacating the lease, jointly and
 19060 severally, all sums owed or expended from the fund.

19061 Section 668. Subsections (9) and (10) of section 601.10,
 19062 Florida Statutes, are amended to read:

19063 601.10 Powers of the Department of Citrus.--The Department
 19064 of Citrus shall have and shall exercise such general and
 19065 specific powers as are delegated to it by this chapter and other
 19066 statutes of the state, which powers shall include, but shall not
 19067 be confined to, the following:

19068 (9) When, in the opinion of the Department of Citrus, the
 19069 tax revenues collected pursuant to this chapter, whether
 19070 allocated for research, advertising or promotion, reserve funds,
 19071 advertising incentive plans, or other purposes, are not
 19072 immediately needed for the purpose for which such funds are
 19073 provided, the Chief Financial Officer ~~Treasurer~~ is authorized
 19074 and shall, upon the request and approval of the Department of
 19075 Citrus, or its general manager if she or he has been given such
 19076 authority, invest and reinvest the funds designated and for the
 19077 period of time specified in such request. In the investment of
 19078 such funds, the Chief Financial Officer ~~Treasurer~~ shall have the
 19079 powers and be subject to the limitations provided for in s.



HB 1803

2003

19080 17.61 ~~s. 18.125.~~

19081 (10) Subject to the concurrence of the Chief Financial
 19082 Officer ~~Treasurer~~, whenever the department contracts with a
 19083 foreign entity for performance of services or the purchase of
 19084 materials, and such contract requires payment in equivalent
 19085 foreign currency, the department may, for payment of such
 19086 contract obligation, deposit sufficient state funds in a foreign
 19087 bank, or purchase foreign currency at the current market rate,
 19088 up to an amount not in excess of the contract obligation. All
 19089 payments from these funds must have prior audit approval from
 19090 the office of the Chief Financial Officer ~~Comptroller~~.

19091 Section 669. Paragraph (c) of subsection (8) of section
 19092 601.15, Florida Statutes, is amended to read:

19093 601.15 Advertising campaign; methods of conducting; excise
 19094 tax; emergency reserve fund; citrus research.--

19095 (8)

19096 (c) All obligations, expenses, and costs incurred under
 19097 the provisions of this section shall be paid out of the Citrus
 19098 Advertising Fund upon warrant of the Chief Financial Officer
 19099 ~~Comptroller~~ when vouchers thereof, approved by the Department of
 19100 Citrus, are exhibited.

19101 Section 670. Subsection (6) of section 601.28, Florida
 19102 Statutes, is amended to read:

19103 601.28 Inspection fees.--

19104 (6) When any portion of the revenues deposited to the
 19105 Citrus Inspection Trust Fund is not immediately needed for the
 19106 purpose for which such funds are appropriated, the Chief
 19107 Financial Officer ~~Treasurer~~ shall invest and reinvest such
 19108 funds, and the earnings thereon shall be deposited to and made a
 19109 part of the Citrus Inspection Trust Fund.



HB 1803

2003

19110 Section 671. Subsection (2) of section 607.0501, Florida
 19111 Statutes, is amended to read:

19112 607.0501 Registered office and registered agent.--

19113 (2) This section does not apply to corporations which are
 19114 required by law to designate the Chief Financial Officer
 19115 ~~Insurance Commissioner and Treasurer~~ as their attorney for the
 19116 service of process, associations subject to the provisions of
 19117 chapter 665, and banks and trust companies subject to the
 19118 provisions of the financial institutions codes.

19119 Section 672. Section 607.14401, Florida Statutes, is
 19120 amended to read:

19121 607.14401 Deposit with Department of Financial Services
 19122 ~~Banking and Finance~~.--Assets of a dissolved corporation that
 19123 should be transferred to a creditor, claimant, or shareholder of
 19124 the corporation who cannot be found or who is not competent to
 19125 receive them shall be deposited, within 6 months from the date
 19126 fixed for the payment of the final liquidating distribution,
 19127 with the Department of Financial Services ~~Banking and Finance~~,
 19128 where such assets shall be held as abandoned property. When the
 19129 creditor, claimant, or shareholder furnishes satisfactory proof
 19130 of entitlement to the amount or assets deposited, the Department
 19131 of Financial Services ~~Banking and Finance~~ shall pay the
 19132 creditor, claimant, or shareholder or his or her representative
 19133 that amount or those assets.

19134 Section 673. Subsection (2) of section 617.0501, Florida
 19135 Statutes, is amended to read:

19136 617.0501 Registered office and registered agent.--

19137 (2) This section does not apply to corporations which are
 19138 required by law to designate the Chief Financial Officer
 19139 ~~Insurance Commissioner and Treasurer~~ as their attorney for the



HB 1803

2003

19140 service of process.

19141 Section 674. Section 617.1440, Florida Statutes, is
 19142 amended to read:

19143 617.1440 Deposit with Department of Financial Services
 19144 ~~Banking and Finance~~.--Assets of a dissolved corporation that
 19145 should be transferred to a creditor, claimant, member of the
 19146 corporation, or other person who cannot be found or who is not
 19147 competent to receive them shall be deposited, within 6 months
 19148 after the date fixed for the payment of the final liquidating
 19149 distribution, with the Department of Financial Services ~~Banking~~
 19150 ~~and Finance~~, where such assets shall be held as abandoned
 19151 property. When the creditor, claimant, member, or other person
 19152 furnishes satisfactory proof of entitlement to the amount or
 19153 assets deposited, the Department of Banking and Finance shall
 19154 pay him or her or his or her representative that amount or those
 19155 assets.

19156 Section 675. Section 624.01, Florida Statutes, is amended
 19157 to read:

19158 624.01 Short title.--Chapters 624-632, 634, 635, 636, 641,
 19159 642, 648, and 651 constitute the "Florida Insurance Code."

19160 Section 676. Subsection (2) of section 624.07, Florida
 19161 Statutes, is amended to read:

19162 624.07 "Domicile" defined.--Except as provided in s.
 19163 631.011, the "domicile" of an insurer means:

19164 (2) As to other alien insurers authorized to transact
 19165 insurance in one or more states, the state designated by the
 19166 insurer in writing filed with the office ~~department~~ at the time
 19167 of admission to this state or within 6 months after the
 19168 effective date of this code, whichever date is the later, and
 19169 may be any of the following states:



HB 1803

2003

19170 (a) That in which the insurer was first authorized to
19171 transact insurance if the insurer is still so authorized.

19172 (b) That in which is located the insurer's principal place
19173 of business in the United States.

19174 (c) That in which is held the larger deposit of trusteed
19175 assets of the insurer for the protection of its policyholders
19176 and creditors in the United States.

19177

19178

19179 If the insurer makes no such designation, its domicile shall be
19180 deemed to be that state in which is located its principal place
19181 of business in the United States.

19182 Section 677. Subsection (1) of section 624.09, Florida
19183 Statutes, is amended to read:

19184 624.09 "Authorized," "unauthorized" insurer defined.--

19185 (1) An "authorized" insurer is one duly authorized by a
19186 subsisting certificate of authority issued by the office
19187 ~~department~~ to transact insurance in this state.

19188 Section 678. Subsection (2) of section 624.11, Florida
19189 Statutes, is amended to read:

19190 624.11 Compliance required.--

19191 (2) Any risk retention group organized and existing under
19192 the provisions of the Product Liability Risk Retention Act of
19193 1981 (Pub. L. No. 97-45), which has been licensed as an
19194 insurance company and authorized to engage in the business of
19195 insurance may transact insurance in this state and shall be
19196 subject to the provisions of ss. 624.15, 624.316, 624.418,
19197 624.421, 624.4211, 624.422, 624.509, 626.112, 626.611, 626.621,
19198 626.7315, 626.741, 626.932, 626.938, 626.9541, 627.351, and
19199 627.915; part I of chapter 631; and all other applicable



HB 1803

2003

19200 provisions of the laws of this state. Any such group formed in
 19201 another jurisdiction shall furnish to the office ~~department~~,
 19202 upon request, a copy of any financial report submitted by the
 19203 group in the licensing jurisdiction.

19204 Section 679. Section 624.124, Florida Statutes, is amended
 19205 to read:

19206 624.124 Motor vehicle services; exemption from code.--Any
 19207 person may, in exchange for fees, dues, charges, or other
 19208 consideration, provide any of the following services related to
 19209 the ownership, operation, use, or maintenance of a motor vehicle
 19210 without being deemed an insurer and without being subject to the
 19211 provisions of this code:

19212 (1) Towing service.

19213 (2) Procuring from an insurer group coverage for bail and
 19214 arrest bonds or for accidental death and dismemberment.

19215 (3) Emergency service.

19216 (4) Procuring prepaid legal services, or providing
 19217 reimbursement for legal services, except that this shall not be
 19218 deemed to be an exemption from chapter 642.

19219 (5) Offering assistance in locating or recovering stolen
 19220 or missing motor vehicles.

19221 (6) Paying emergency living and transportation expenses of
 19222 the owner of a motor vehicle when the motor vehicle is damaged.

19223
 19224 For purposes of this section, "motor vehicle" has the same
 19225 meaning specified by s. 634.011~~(6)~~(7).

19226 Section 680. Subsection (3) of section 624.129, Florida
 19227 Statutes, is amended to read:

19228 624.129 Certain location and recovery services; exemption
 19229 from code.--



HB 1803

2003

19230 (3) The written agreement or enrollment form used by the
 19231 provider of such services for subscribers in this state shall
 19232 contain a conspicuous legend to the effect that the services are
 19233 not regulated by either the department or the office as
 19234 insurance.

19235 Section 681. Section 624.19, Florida Statutes, is amended
 19236 to read:

19237 624.19 Existing forms and filings.--Every form of
 19238 insurance document and every rate or other filing lawfully in
 19239 use immediately prior to October 1, 1959, may continue to be so
 19240 used or be effective until the commission or office ~~department~~
 19241 otherwise prescribes pursuant to this code.

19242 Section 682. Section 624.302, Florida Statutes, is amended
 19243 to read:

19244 624.302 Offices.--The department shall establish and
 19245 maintain offices at the State Capitol in Tallahassee, and in
 19246 such other places throughout the state as it designates ~~may from~~
 19247 ~~time to time designate~~. The Office of Insurance Regulation shall
 19248 establish and maintain offices in Tallahassee and in such other
 19249 places throughout the state as it designates.

19250 Section 683. Section 624.307, Florida Statutes, is amended
 19251 to read:

19252 624.307 General powers; duties.--

19253 (1) The department and office shall enforce the provisions
 19254 of this code and shall execute the duties imposed upon them ~~it~~
 19255 by this code, within the respective jurisdiction of each, as
 19256 provided by law.

19257 (2) The department shall have the powers and authority
 19258 expressly conferred upon it by, or reasonably implied from, the
 19259 provisions of this code. The office shall have the powers and



HB 1803

2003

19260 authority expressly conferred upon it by, or reasonably implied
19261 from, the provisions of this code.

19262 (3) The department or office may conduct such
19263 investigations of insurance matters, in addition to
19264 investigations expressly authorized, as it may deem proper to
19265 determine whether any person has violated any provision of this
19266 code within its respective regulatory jurisdiction or to secure
19267 information useful in the lawful administration of any such
19268 provision. The cost of such investigations shall be borne by
19269 the state.

19270 (4) The department and office may each collect, propose,
19271 publish, and disseminate information relating to the subject
19272 matter of any duties imposed upon it by law.

19273 (5) The department and office shall each have such
19274 additional powers and duties as may be provided by other laws of
19275 this state.

19276 (6) The department and office may each employ actuaries
19277 who shall be at-will employees and who shall serve at the
19278 pleasure of the Chief Financial Officer, in the case of
19279 department employees, or at the pleasure of the director of the
19280 office, in the case of office employees ~~Insurance Commissioner.~~
19281 Actuaries employed pursuant to this paragraph shall be members
19282 of the Society of Actuaries or the Casualty Actuarial Society
19283 and shall be exempt from the Career Service System established
19284 under chapter 110. The salaries of the actuaries employed
19285 pursuant to this paragraph ~~by the department~~ shall be set in
19286 accordance with s. 216.251(2)(a)5. and shall be set at levels
19287 which are commensurate with salary levels paid to actuaries by
19288 the insurance industry.

19289 (7) The office ~~department~~ shall, within existing



HB 1803

2003

19290 resources, develop and implement an outreach program for the
 19291 purpose of encouraging the entry of additional insurers into the
 19292 Florida market.

19293 Section 684. Subsection (1) of section 624.308, Florida
 19294 Statutes, is amended to read:

19295 624.308 Rules.--

19296 (1) The department and the commission may each ~~has~~
 19297 ~~authority to~~ adopt rules pursuant to ss. 120.536(1) and 120.54
 19298 to implement provisions of law conferring duties upon the
 19299 department or the commission, respectively ~~it~~.

19300 Section 685. Section 624.310, Florida Statutes, is amended
 19301 to read:

19302 624.310 Enforcement; cease and desist orders; removal of
 19303 certain persons; fines.--

19304 (1) DEFINITIONS.--For the purposes of this section, the
 19305 term:

19306 (a) "Affiliated party" means any person who directs or
 19307 participates in the conduct of the affairs of a licensee and who
 19308 is:

19309 1. A director, officer, employee, trustee, committee
 19310 member, or controlling stockholder of a licensee or a subsidiary
 19311 or service corporation of the licensee, other than a controlling
 19312 stockholder which is a holding company, or an agent of a
 19313 licensee or a subsidiary or service corporation of the licensee;

19314 2. A person who has filed or is required to file a
 19315 statement or any other information required to be filed under s.
 19316 628.461 or s. 628.4615;

19317 3. A stockholder, other than a stockholder that is a
 19318 holding company of the licensee, who participates in the conduct
 19319 of the affairs of the licensee; or



HB 1803

2003

19320 4. An independent contractor who:

19321 a. Renders a written opinion required by the laws of this
 19322 state under her or his professional credentials on behalf of the
 19323 licensee, which opinion is reasonably relied on by the
 19324 department or office in the performance of its duties; or

19325 b. Affirmatively and knowingly conceals facts, through a
 19326 written misrepresentation to the department or office, with
 19327 knowledge that such misrepresentation:

19328 (I) Constitutes a violation of the insurance code or a
 19329 lawful rule or order of the department, commission, or office;
 19330 and

19331 (II) Directly and materially endangers the ability of the
 19332 licensee to meet its obligations to policyholders.

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19335 For the purposes of this subparagraph, any representation of
 19336 fact made by an independent contractor on behalf of a licensee,
 19337 affirmatively communicated as a representation of the licensee
 19338 to the independent contractor, shall not be considered a
 19339 misrepresentation by the independent contractor ~~to the~~
 19340 ~~department.~~

19341 (b) "Licensee" means a person issued a license or
 19342 certificate of authority or approval under this code or a person
 19343 registered under a provision of this code.

19344 (2) ENFORCEMENT GENERALLY.--

19345 (a) The powers granted by this section to the office apply
 19346 only with respect to licensees of the office and their
 19347 affiliated parties and to unlicensed persons subject to the
 19348 regulatory jurisdiction of the office, and the powers granted by
 19349 this section to the department apply only with respect to



HB 1803

2003

19350 licensees of the department and their affiliated parties and to
 19351 unlicensed persons subject to regulatory jurisdiction of the
 19352 department.

19353 (b) The department and office each may institute such
 19354 suits or other legal proceedings as may be required to enforce
 19355 any provision of this code within the respective regulatory
 19356 jurisdiction of each. If it appears that any person has
 19357 violated any provision of this code for which criminal
 19358 prosecution is provided, the department or office shall provide
 19359 the appropriate state attorney or other prosecuting agency
 19360 having jurisdiction with respect to such prosecution with the
 19361 relevant information in its possession.

19362 (3) CEASE AND DESIST ORDERS.--

19363 (a) The department or office may issue and serve a
 19364 complaint stating charges upon any licensee or upon any
 19365 affiliated party, whenever the department or office has
 19366 reasonable cause to believe that the person or individual named
 19367 therein is engaging in or has engaged in conduct that is:

19368 1. An act that demonstrates a lack of fitness or
 19369 trustworthiness to engage in the business of insurance, is
 19370 hazardous to the insurance buying public, or constitutes
 19371 business operations that are a detriment to policyholders,
 19372 stockholders, investors, creditors, or the public;

19373 2. A violation of any provision of the Florida Insurance
 19374 Code;

19375 3. A violation of any rule of the department or
 19376 commission;

19377 4. A violation of any order of the department or office;
 19378 or

19379 5. A breach of any written agreement with the department



HB 1803

2003

19380 or office.

19381 (b) The complaint shall contain a statement of facts and
19382 notice of opportunity for a hearing pursuant to ss. 120.569 and
19383 120.57.

19384 (c) If no hearing is requested within the time allowed by
19385 ss. 120.569 and 120.57, or if a hearing is held and the
19386 department or office finds that any of the charges are proven,
19387 the department or office may enter an order directing the
19388 licensee or the affiliated party named in the complaint to cease
19389 and desist from engaging in the conduct complained of and take
19390 corrective action to remedy the effects of past improper conduct
19391 and assure future compliance.

19392 (d) If the licensee or affiliated party named in the order
19393 fails to respond to the complaint within the time allotted by
19394 ss. 120.569 and 120.57, the failure constitutes a default and
19395 justifies the entry of a cease and desist order.

19396 (e) A contested or default cease and desist order is
19397 effective when reduced to writing and served upon the licensee
19398 or affiliated party named therein. An uncontested cease and
19399 desist order is effective as agreed.

19400 (f) Whenever the department or office finds that conduct
19401 described in paragraph (a) is likely to cause insolvency,
19402 substantial dissipation or misvaluation of assets or earnings of
19403 the licensee, substantial inability to pay claims on a timely
19404 basis, or substantial prejudice to prospective or existing
19405 insureds, policyholders, subscribers, or the public, it may
19406 issue an emergency cease and desist order requiring the licensee
19407 or any affiliated party to immediately cease and desist from
19408 engaging in the conduct complained of and to take corrective and
19409 remedial action. The emergency order is effective immediately



HB 1803

2003

19410 upon service of a copy of the order upon the licensee or
 19411 affiliated party named therein and remains effective for 90
 19412 days. If the department or office begins nonemergency cease and
 19413 desist proceedings under this subsection, the emergency order
 19414 remains effective until the conclusion of the proceedings under
 19415 ss. 120.569 and 120.57. Any emergency order entered under this
 19416 subsection is exempt from s. 119.07(1) and is confidential until
 19417 it is made permanent unless the department or office finds that
 19418 the confidentiality will result in substantial risk of financial
 19419 loss to the public. All emergency cease and desist orders that
 19420 are not made permanent are available for public inspection 1
 19421 year from the date the emergency cease and desist order expires;
 19422 however, portions of an emergency cease and desist order remain
 19423 confidential and exempt from the provisions of s. 119.07(1) if
 19424 disclosure would:

- 19425 1. Jeopardize the integrity of another active
- 19426 investigation;
- 19427 2. Impair the safety and financial soundness of the
- 19428 licensee or affiliated party;
- 19429 3. Reveal personal financial information;
- 19430 4. Reveal the identity of a confidential source;
- 19431 5. Defame or cause unwarranted damage to the good name or
- 19432 reputation of an individual or jeopardize the safety of an
- 19433 individual; or
- 19434 6. Reveal investigative techniques or procedures.

19435 (4) REMOVAL OF AFFILIATED PARTIES ~~BY THE DEPARTMENT~~.--

19436 (a) The department or office may issue and serve a
 19437 complaint stating charges upon any affiliated party and upon the
 19438 licensee involved, whenever the department or office has reason
 19439 to believe that an affiliated party is engaging in or has



HB 1803

2003

19440 engaged in conduct that constitutes:

19441 1. An act that demonstrates a lack of fitness or
19442 trustworthiness to engage in the business of insurance through
19443 engaging in illegal activity or mismanagement of business
19444 activities;

19445 2. A willful violation of any law relating to the business
19446 of insurance; however, if the violation constitutes a
19447 misdemeanor, no complaint shall be served as provided in this
19448 section until the affiliated party is notified in writing of the
19449 matter of the violation and has been afforded a reasonable
19450 period of time, as set forth in the notice, to correct the
19451 violation and has failed to do so;

19452 3. A violation of any other law involving fraud or moral
19453 turpitude that constitutes a felony;

19454 4. A willful violation of any rule of the department or
19455 commission;

19456 5. A willful violation of any order of the department or
19457 office;

19458 6. A material misrepresentation of fact, made knowingly
19459 and willfully or made with reckless disregard for the truth of
19460 the matter; or

19461 7. An act of commission or omission or a practice which is
19462 a breach of trust or a breach of fiduciary duty.

19463 (b) The complaint shall contain a statement of facts and
19464 notice of opportunity for a hearing pursuant to ss. 120.569 and
19465 120.57.

19466 (c) If no hearing is requested within the time allotted by
19467 ss. 120.569 and 120.57, or if a hearing is held and the
19468 department or office finds that any of the charges in the
19469 complaint are proven true and that:



HB 1803

2003

19470 1. The licensee has suffered or will likely suffer loss or
 19471 other damage;

19472 2. The interests of the policyholders, creditors, or
 19473 public are, or could be, seriously prejudiced by reason of the
 19474 violation or act or breach of fiduciary duty;

19475 3. The affiliated party has received financial gain by
 19476 reason of the violation, act, or breach of fiduciary duty; or

19477 4. The violation, act, or breach of fiduciary duty is one
 19478 involving personal dishonesty on the part of the affiliated
 19479 party or the conduct jeopardizes or could reasonably be
 19480 anticipated to jeopardize the financial soundness of the
 19481 licensee,

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19484 The department or office may enter an order removing the
 19485 affiliated party or restricting or prohibiting participation by
 19486 the person in the affairs of that particular licensee or of any
 19487 other licensee.

19488 (d) If the affiliated party fails to respond to the
 19489 complaint within the time allotted by ss. 120.569 and 120.57,
 19490 the failure constitutes a default and justifies the entry of an
 19491 order of removal, suspension, or restriction.

19492 (e) A contested or default order of removal, restriction,
 19493 or prohibition is effective when reduced to writing and served
 19494 on the licensee and the affiliated party. An uncontested order
 19495 of removal, restriction, or prohibition is effective as agreed.

19496 (f)1. The chief executive officer, or the person holding
 19497 the equivalent office, of a licensee shall promptly notify the
 19498 department or office that issued the license if she or he has
 19499 actual knowledge that any affiliated party is charged with a



HB 1803

2003

19500 felony in a state or federal court.

19501 2. Whenever any affiliated party is charged with a felony
19502 in a state or federal court or with the equivalent of a felony
19503 in the courts of any foreign country with which the United
19504 States maintains diplomatic relations, and the charge alleges
19505 violation of any law involving fraud, theft, or moral turpitude,
19506 the department or office may enter an emergency order suspending
19507 the affiliated party or restricting or prohibiting participation
19508 by the affiliated party in the affairs of the particular
19509 licensee or of any other licensee upon service of the order upon
19510 the licensee and the affiliated party charged. The order shall
19511 contain notice of opportunity for a hearing pursuant to ss.
19512 120.569 and 120.57, where the affiliated party may request a
19513 postsuspension hearing to show that continued service to or
19514 participation in the affairs of the licensee does not pose a
19515 threat to the interests of the licensee's policyholders or
19516 creditors and does not threaten to impair public confidence in
19517 the licensee. In accordance with applicable ~~departmental~~ rules,
19518 the department or office shall notify the affiliated party
19519 whether the order suspending or prohibiting the person from
19520 participation in the affairs of a licensee will be rescinded or
19521 otherwise modified. The emergency order remains in effect,
19522 unless otherwise modified by the department or office, until the
19523 criminal charge is disposed of. The acquittal of the person
19524 charged, or the final, unappealed dismissal of all charges
19525 against the person, dissolves the emergency order, but does not
19526 prohibit the department or office from instituting proceedings
19527 under paragraph (a). If the person charged is convicted or
19528 pleads guilty or nolo contendere, whether or not an adjudication
19529 of guilt is entered by the court, the emergency order shall



HB 1803

2003

19530 become final.

19531 (g) Any affiliated party removed from office pursuant to
19532 this section is not eligible for reelection or appointment to
19533 the position or to any other official position in any licensee
19534 in this state except upon the written consent of the department
19535 or office. Any affiliated party who is removed, restricted, or
19536 prohibited from participation in the affairs of a licensee
19537 pursuant to this section may petition the department or office
19538 for modification or termination of the removal, restriction, or
19539 prohibition.

19540 (h) Resignation or termination of an affiliated party does
19541 not affect the department's or office's jurisdiction to proceed
19542 under this subsection.

19543 (5) ADMINISTRATIVE FINES; ENFORCEMENT.--

19544 (a) The department or office may, in a proceeding
19545 initiated pursuant to chapter 120, impose an administrative fine
19546 against any person found in the proceeding to have violated any
19547 provision of this code, a cease and desist order of the
19548 department or office, or any written agreement with the
19549 department or office. No proceeding shall be initiated and no
19550 fine shall accrue until after the person has been notified in
19551 writing of the nature of the violation and has been afforded a
19552 reasonable period of time, as set forth in the notice, to
19553 correct the violation and has failed to do so.

19554 (b) A fine imposed under this subsection may not exceed
19555 the amounts specified in s. 624.4211, per violation.

19556 (c) The department or office may, in addition to the
19557 imposition of an administrative fine under this subsection, also
19558 suspend or revoke the license or certificate of authority of the
19559 licensee fined under this subsection.



HB 1803

2003

19560 (d) Any administrative fine levied by the department or
19561 office under this subsection may be enforced by the department
19562 or office by appropriate proceedings in the circuit court of the
19563 county in which the person resides or in which the principal
19564 office of a licensee is located, or, in the case of a foreign
19565 insurer or person not residing in this state, in Leon County.
19566 In any administrative or judicial proceeding arising under this
19567 section, a party may elect to correct the violation asserted by
19568 the department or office, and, upon doing so, any fine shall
19569 cease to accrue; however, the election to correct the violation
19570 does not render any administrative or judicial proceeding moot.
19571 All fines collected under this section shall be paid to the
19572 Insurance ~~Commissioner's~~ Regulatory Trust Fund.

19573 (e) In imposing any administrative penalty or remedy
19574 provided for under this section, the department or office shall
19575 take into account the appropriateness of the penalty with
19576 respect to the size of the financial resources and the good
19577 faith of the person charged, the gravity of the violation, the
19578 history of previous violations, and other matters as justice may
19579 require.

19580 (f) The imposition of an administrative fine under this
19581 subsection may be in addition to any other penalty or
19582 administrative fine authorized under this code.

19583 (6) ADMINISTRATIVE PROCEDURES.--All administrative
19584 proceedings under subsections (3), (4), and (5) shall be
19585 conducted in accordance with chapter 120. Any service required
19586 or authorized to be made by the department or office under this
19587 code shall be made by certified mail, return receipt requested,
19588 delivered to the addressee only; by personal delivery; or in
19589 accordance with chapter 48. The service provided for herein



HB 1803

2003

19590 shall be effective from the date of delivery.

19591 (7) OTHER LAWS NOT SUPERSEDED.--The provisions of this
 19592 section are in addition to other provisions of this code, and
 19593 shall not be construed to curtail, impede, replace, or delete
 19594 any other similar provision or power of the department or office
 19595 under the insurance code as defined in s. 624.01 or any power of
 19596 the department or office which may exist under the common law of
 19597 this state. The procedures set forth in s. 626.9581 do not
 19598 apply to regulatory action taken pursuant to the provisions of
 19599 this section.

19600 Section 686. Section 624.3102, Florida Statutes, is
 19601 amended to read:

19602 624.3102 Immunity from civil liability for providing
 19603 department, commission, or office with information about
 19604 condition of insurer.--A person, other than a person filing a
 19605 required report or other required information, who provides the
 19606 department, commission, or office with information about the
 19607 financial condition of an insurer is immune from civil liability
 19608 arising out of the provision of the information unless the
 19609 person acted with knowledge that the information was false or
 19610 with reckless disregard for the truth or falsity of the
 19611 information.

19612 Section 687. Section 624.311, Florida Statutes, is amended
 19613 to read:

19614 624.311 Records; reproductions; destruction.--

19615 (1) Except as provided in this section, the department,
 19616 commission, and office shall each preserve in permanent form
 19617 records of its proceedings, hearings, investigations, and
 19618 examinations and shall file such records in its office.

19619 (2) The records of insurance claim negotiations of any



HB 1803

2003

19620 state agency or political subdivision are confidential and
19621 exempt from s. 119.07(1) until termination of all litigation and
19622 settlement of all claims arising out of the same incident.

19623 (3) The department, commission, and office may each
19624 photograph, microphotograph, or reproduce on film, whereby each
19625 page will be reproduced in exact conformity with the original,
19626 all financial records, financial statements of domestic
19627 insurers, reports of business transacted in this state by
19628 foreign insurers and alien insurers, reports of examination of
19629 domestic insurers, and such other records and documents on file
19630 in its office as it may in its discretion select.

19631 (4) To facilitate the efficient use of floor space and
19632 filing equipment in its offices, the department, commission, and
19633 office may each destroy the following records and documents
19634 pursuant to chapter 257:

19635 (a) General closed correspondence files over 3 years old;

19636 (b) Agent, adjuster, and similar license files, including
19637 license files of the Division of State Fire Marshal, over 2
19638 years old; except that the department or office shall preserve
19639 by reproduction or otherwise a copy of the original records upon
19640 the basis of which each such licensee qualified for her or his
19641 initial license, except a competency examination, and of any
19642 disciplinary proceeding affecting the licensee;

19643 (c) All agent, adjuster, and similar license files and
19644 records, including original license qualification records and
19645 records of disciplinary proceedings 5 years after a licensee has
19646 ceased to be qualified for a license;

19647 (d) Insurer certificate of authority files over 2 years
19648 old, except that the office ~~department~~ shall preserve by
19649 reproduction or otherwise a copy of the initial certificate of



HB 1803

2003

19650 authority of each insurer;

19651 (e) All documents and records which have been photographed
 19652 or otherwise reproduced as provided in subsection (3), if such
 19653 reproductions have been filed and an audit of the department or
 19654 office has been completed for the period embracing the dates of
 19655 such documents and records; and

19656 (f) All other records, documents, and files not expressly
 19657 provided for in paragraphs (a)-(e).

19658 Section 688. Subsections (2) and (3) of section 624.312,
 19659 Florida Statutes, are amended to read:

19660 624.312 Reproductions and certified copies of records as
 19661 evidence.--

19662 (2) Upon the request of any person and payment of the
 19663 applicable fee, the department, commission, or office shall give
 19664 a certified copy of any record in its office which is then
 19665 subject to public inspection.

19666 (3) Copies of original records or documents in its office
 19667 certified by the department, commission, or office shall be
 19668 received in evidence in all courts as if they were originals.

19669 Section 689. Section 624.313, Florida Statutes, is amended
 19670 to read:

19671 624.313 Publications.--

19672 (1) As early as reasonably possible, the office ~~department~~
 19673 shall annually have printed and made available a statistical
 19674 report which must include all of the following information on
 19675 either a calendar year or fiscal year basis:

19676 (a) A summary of all information reported to the office
 19677 ~~department~~ under s. 627.915(1).

19678 (b) The total amount of premiums written and earned by
 19679 line of insurance.



HB 1803

2003

19680 (c) The total amount of losses paid and losses incurred by
 19681 line of insurance.

19682 (d) The ratio of premiums written to losses paid by line
 19683 of insurance.

19684 (e) The ratio of premiums earned to losses incurred by
 19685 line of insurance.

19686 (f) The market share of the 10 largest insurers or insurer
 19687 groups by line of insurance and of each insurer or insurer group
 19688 that has a market share of at least 1 percent of a line of
 19689 insurance in this state.

19690 (g) The profitability of each major line of insurance.

19691 (h) An analysis of the impact of the insurance industry on
 19692 the economy of the state.

19693 (i) A complaint ratio by line of insurance for the
 19694 insurers referred to in paragraph (f), based upon information
 19695 provided to the office by the department. The office department
 19696 shall determine the most appropriate ratio or ratios for
 19697 quantifying complaints.

19698 (j) An analysis of such lines or kinds of insurance for
 19699 which the office department determines that an availability
 19700 problem exists in this state.

19701 (k) A summary of the findings of market examinations
 19702 performed by the office department under s. 624.3161 during the
 19703 preceding year.

19704 (l) Such other information as the office department deems
 19705 relevant.

19706 (2)(a) The department may prepare and have printed and
 19707 published in pamphlet or book form the following:

19708 1.(a) As needed, questions and answers for the use of
 19709 persons applying for an examination for licensing as agents or



HB 1803

2003

19710 solicitors for property, casualty, surety, health, and
 19711 miscellaneous insurers.

19712 ~~2.(b)~~ As needed, questions and answers for the use of
 19713 persons applying for an examination for licensing as agents for
 19714 life and health insurers.

19715 ~~(b)(e)~~ The office may prepare and have printed and
 19716 published in pamphlet or book form, as needed, questions and
 19717 answers for the use of persons applying for an examination for
 19718 licensing as adjusters.

19719 (3) The department or office shall sell the publications
 19720 mentioned in subsections (1) and (2) to purchasers at a price
 19721 fixed by the department or office ~~it~~ at not less than the cost
 19722 of printing and binding such publications, plus packaging and
 19723 postage costs for mailing; except that the department or office
 19724 may deliver copies of such publications free of cost to state
 19725 agencies and officers; insurance supervisory authorities of
 19726 other states and jurisdictions; institutions of higher learning
 19727 located in Florida; the Library of Congress; insurance officers
 19728 of Naval, Military, and Air Force bases located in Florida; and
 19729 to persons serving as advisers to the department or office in
 19730 preparation of the publications.

19731 (4) The department or office may contract with outside
 19732 vendors, in accordance with chapter 287, to compile data in an
 19733 electronic data processing format that is compatible with the
 19734 systems of the department or office.

19735 Section 690. Section 624.314, is amended to read:

19736 624.314 Publications; Insurance ~~Commissioner's~~ Regulatory
 19737 Trust Fund.--The department and office shall each deposit all
 19738 moneys received from the sale of publications under s. 624.313
 19739 in the Insurance ~~Commissioner's~~ Regulatory Trust Fund for the



HB 1803

2003

19740 purpose of paying costs for the preparation, printing, and
19741 delivery ~~to the department~~ of the publications mentioned in s.
19742 624.313(2), packaging and mailing costs, and banking,
19743 accounting, and incidental expenses connected with the sale and
19744 delivery of such publications ~~by the department~~. All moneys so
19745 deposited and all funds hereafter transferred to the Insurance
19746 ~~Commissioner's~~ Regulatory Trust Fund are appropriated for the
19747 uses and purposes above mentioned.

19748 Section 691. Section 624.315, Florida Statutes, is amended
19749 to read:

19750 624.315 Department; annual report.--

19751 (1) As early as reasonably possible, the office, with such
19752 assistance from the department as requested, shall annually
19753 prepare a report to the Speaker and Minority Leader of the House
19754 of Representatives, the President and Minority Leader of the
19755 Senate, the chairs of the legislative committees with
19756 jurisdiction over matters of insurance, and the Governor
19757 showing, with respect to the preceding calendar year:

19758 (a) Names of the authorized insurers transacting insurance
19759 in this state, with abstracts of their financial statements
19760 including assets, liabilities, and net worth.

19761 (b) Names of insurers whose business was closed during the
19762 year, the cause thereof, and amounts of assets and liabilities
19763 as ascertainable.

19764 (c) Names of insurers against which delinquency or similar
19765 proceedings were instituted, and a concise statement of the
19766 circumstances and results of each such proceeding.

19767 (d) The receipts and estimated expenses of the office
19768 ~~department~~ for the year.

19769 (e) Such other pertinent information and matters as the



HB 1803

2003

19770 office ~~department~~ deems to be in the public interest.

19771 (f) Annually after each regular session of the
 19772 Legislature, a compilation of the laws of this state relating to
 19773 insurance. Any such publication may be printed, revised, or
 19774 reprinted upon the basis of the original low bid.

19775 (g) An analysis and summary report of the state of the
 19776 insurance industry in this state evaluated as of the end of the
 19777 most recent calendar year.

19778 (2) The office ~~department~~ shall maintain the following
 19779 information and make such information available upon request:

19780 (a) Calendar year profitability, including investment
 19781 income from policyholders' unearned premium and loss reserves
 19782 (Florida and countrywide).

19783 (b) Aggregate Florida loss reserves.

19784 (c) Premiums written (Florida and countrywide).

19785 (d) Premiums earned (Florida and countrywide).

19786 (e) Incurred losses (Florida and countrywide).

19787 (f) Paid losses (Florida and countrywide).

19788 (g) Allocated Florida loss adjustment expenses.

19789 (h) Renewal ratio (countrywide).

19790 (i) Variation of premiums charged by the industry as
 19791 compared to rates promulgated by the Insurance Services Office
 19792 (Florida and countrywide).

19793 (j) An analysis of policy size limits (Florida and
 19794 countrywide).

19795 (k) Insureds' selection of claims-made versus occurrence
 19796 coverage (Florida and countrywide).

19797 (l) A subreport on the involuntary market in Florida
 19798 encompassing such joint underwriting plans and assigned risk
 19799 plans operating in the state.



HB 1803

2003

19800 (m) A subreport providing information relevant to emerging
 19801 markets and alternate marketing mechanisms, such as self-insured
 19802 trusts, risk retention groups, purchasing groups, and the
 19803 excess-surplus lines market.

19804 (n) Trends; emerging trends as exemplified by the
 19805 percentage change in frequency and severity of both paid and
 19806 incurred claims, and pure premium(Florida and countrywide).

19807 (o) Fast track loss ratios as defined and assimilated by
 19808 the Insurance Services Office (Florida and countrywide).

19809 (3) The office ~~department~~ may contract with outside
 19810 vendors, in accordance with chapter 287, to compile data in an
 19811 electronic data processing format that is compatible with the
 19812 systems of the office ~~department~~.

19813 Section 692. Section 624.3161, Florida Statutes, is
 19814 amended to read:

19815 624.3161 Market conduct examinations.--

19816 (1) As often as it deems necessary, the office ~~department~~
 19817 shall examine each licensed rating organization, each advisory
 19818 organization, each group, association, carrier, as defined in s.
 19819 440.02, or other organization of insurers which engages in joint
 19820 underwriting or joint reinsurance, and each authorized insurer
 19821 transacting in this state any class of insurance to which the
 19822 provisions of chapter 627 are applicable. The examination shall
 19823 be for the purpose of ascertaining compliance by the person
 19824 examined with the applicable provisions of chapters 440, 624,
 19825 626, 627, and 635.

19826 (2) In lieu of any such examination, the office ~~department~~
 19827 may accept the report of a similar examination made by the
 19828 insurance supervisory official of another state.

19829 (3) The examination may be conducted by an independent



HB 1803

2003

19830 professional examiner under contract to the office ~~department~~,
 19831 in which case payment shall be made directly to the contracted
 19832 examiner by the insurer examined in accordance with the rates
 19833 and terms agreed to by the office ~~department~~ and the examiner.

19834 (4) The reasonable cost of the examination shall be paid
 19835 by the person examined, and such person shall be subject, as
 19836 though an insurer, to the provisions of s. 624.320.

19837 (5) Such examinations shall also be subject to the
 19838 applicable provisions of chapter 440 and ss. 624.318, 624.319,
 19839 624.321, and 624.322.

19840 Section 693. Section 624.318, Florida Statutes, is amended
 19841 to read:

19842 624.318 Conduct of examination or investigation; access to
 19843 records; correction of accounts; appraisals.--

19844 (1) The examination or investigation may be conducted by
 19845 the accredited examiners or investigators of the department or
 19846 office at the offices wherever located of the person being
 19847 examined or investigated and at such other places as may be
 19848 required for determination of matters under examination or
 19849 investigation. In the case of alien insurers, the examination
 19850 may be so conducted in the insurer's offices and places in the
 19851 United States, except as otherwise required by the department or
 19852 office.

19853 (2) Every person being examined or investigated, and its
 19854 officers, attorneys, employees, agents, and representatives,
 19855 shall make freely available to the department or office or its
 19856 examiners or investigators the accounts, records, documents,
 19857 files, information, assets, and matters in their possession or
 19858 control relating to the subject of the examination or
 19859 investigation. An agent who provides other products or services



HB 1803

2003

19860 or maintains customer information not related to insurance must
 19861 maintain records relating to insurance products and transactions
 19862 separately if necessary to give the department or office access
 19863 to such records. If records relating to the insurance
 19864 transactions are maintained by an agent on premises owned or
 19865 operated by a third party, the agent and the third party must
 19866 provide access to the records by the department or office.

19867 (3) If the department or office finds any accounts or
 19868 records to be inadequate, or inadequately kept or posted, it may
 19869 employ experts to reconstruct, rewrite, post, or balance them at
 19870 the expense of the person being examined if such person has
 19871 failed to maintain, complete, or correct such records or
 19872 accounting after the department or office has given her or him
 19873 notice and a reasonable opportunity to do so.

19874 (4) If the office ~~department~~ deems it necessary to value
 19875 any asset involved in such an examination of an insurer, it may
 19876 make written request of the insurer to designate one or more
 19877 competent appraisers acceptable to the office ~~department~~, who
 19878 shall promptly make an appraisal of the asset and furnish a copy
 19879 thereof to the office ~~department~~. If the insurer fails to
 19880 designate such an appraiser or appraisers within 20 days after
 19881 the request of the office ~~department~~, the office ~~department~~ may
 19882 designate the appraiser or appraisers. The reasonable expense
 19883 of any such appraisal shall be a part of the expense of
 19884 examination, to be borne by the insurer.

19885 (5) Neither the department, the office, nor any examiner
 19886 shall remove any record, account, document, file, or other
 19887 property of the person being examined from the offices of such
 19888 person except with the written consent of such person given in
 19889 advance of such removal or pursuant to an order of court duly



HB 1803

2003

19890 obtained.

19891 (6) Any individual who willfully obstructs the department,
19892 the office, or the ~~or its~~ examiner in the examinations or
19893 investigations authorized by this part is guilty of a
19894 misdemeanor and upon conviction shall be punished as provided in
19895 s. 624.15.

19896 Section 694. Section 624.319, Florida Statutes, is amended
19897 to read:

19898 624.319 Examination and investigation reports.--

19899 (1) The department or office or its examiner shall make a
19900 full and true written report of each examination. The
19901 examination report shall contain only information obtained from
19902 examination of the records, accounts, files, and documents of or
19903 relative to the insurer examined or from testimony of
19904 individuals under oath, together with relevant conclusions and
19905 recommendations of the examiner based thereon. The department
19906 or office shall furnish a copy of the examination report to the
19907 insurer examined not less than 30 days prior to filing the
19908 examination report in its office. If such insurer so requests
19909 in writing within such 30-day period, the department or office
19910 shall grant a hearing with respect to the examination report and
19911 shall not so file the examination report until after the hearing
19912 and after such modifications have been made therein as the
19913 department or office deems proper.

19914 (2) The examination report when so filed shall be
19915 admissible in evidence in any action or proceeding brought by
19916 the department or office against the person examined, or against
19917 its officers, employees, or agents. In all other proceedings,
19918 the admissibility of the examination report is governed by the
19919 evidence code. The department or office or its examiners may at



HB 1803

2003

19920 any time testify and offer other proper evidence as to
19921 information secured or matters discovered during the course of
19922 an examination, whether or not a written report of the
19923 examination has been either made, furnished, or filed in the
19924 department or office.

19925 (3)(a) Examination reports, until filed, are confidential
19926 and exempt from the provisions of s. 119.07(1). Investigation
19927 reports are confidential and exempt from the provisions of s.
19928 119.07(1) until the investigation is completed or ceases to be
19929 active. For purposes of this subsection, an investigation is
19930 active while it is being conducted by the department or office
19931 with a reasonable, good faith belief that it could lead to the
19932 filing of administrative, civil, or criminal proceedings. An
19933 investigation does not cease to be active if the department or
19934 office is proceeding with reasonable dispatch and has a good
19935 faith belief that action could be initiated by the department or
19936 office or other administrative or law enforcement agency. After
19937 an investigation is completed or ceases to be active, portions
19938 of the investigation report relating to the investigation remain
19939 confidential and exempt from the provisions of s. 119.07(1) if
19940 disclosure would:

- 19941 1. Jeopardize the integrity of another active
19942 investigation;
- 19943 2. Impair the safety and financial soundness of the
19944 licensee or affiliated party;
- 19945 3. Reveal personal financial information;
- 19946 4. Reveal the identity of a confidential source;
- 19947 5. Defame or cause unwarranted damage to the good name or
19948 reputation of an individual or jeopardize the safety of an
19949 individual; or



HB 1803

2003

19950 6. Reveal investigative techniques or procedures.
19951 (b) Workpapers and other information held by the
19952 department or office, and workpapers and other information
19953 received from another governmental entity or the National
19954 Association of Insurance Commissioners, for the department's or
19955 office's use in the performance of its examination or
19956 investigation duties pursuant to this section and ss. 624.316,
19957 624.3161, 624.317, and 624.318 are confidential and exempt from
19958 the provisions of s. 119.07(1) and s. 24(a), Art. I of the State
19959 Constitution. This exemption applies to workpapers and other
19960 information held by the department or office before, on, or
19961 after the effective date of this exemption. Such confidential
19962 and exempt information may be disclosed to another governmental
19963 entity, if disclosure is necessary for the receiving entity to
19964 perform its duties and responsibilities, and may be disclosed to
19965 the National Association of Insurance Commissioners. The
19966 receiving governmental entity or the association must maintain
19967 the confidential and exempt status of the information. The
19968 information made confidential and exempt by this paragraph may
19969 be used in a criminal, civil, or administrative proceeding so
19970 long as the confidential and exempt status of such information
19971 is maintained. This paragraph is subject to the Open Government
19972 Sunset Review Act of 1995 in accordance with s. 119.15 and shall
19973 stand repealed on October 2, 2007, unless reviewed and saved
19974 from repeal through reenactment by the Legislature.

19975 (c) Lists of insurers or regulated companies are
19976 confidential and exempt from the provisions of s. 119.07(1) if:
19977 1. The financial solvency, condition, or soundness of such
19978 insurers or regulated companies is being monitored by the office
19979 ~~department~~;



HB 1803

2003

19980 2. The list is prepared to internally coordinate
 19981 regulation by the office ~~department~~ of the financial solvency,
 19982 condition, or soundness of the insurers or regulated companies;
 19983 and

19984 3. The office determines ~~Insurance Commissioner and~~
 19985 ~~Treasurer determine~~ that public inspection of such list could
 19986 impair the financial solvency, condition, or soundness of such
 19987 insurers or regulated companies.

19988 (4) After the examination report has been filed pursuant
 19989 to subsection(1), the department or office may publish the
 19990 results of any such examination in one or more newspapers
 19991 published in this state whenever it deems it to be in the public
 19992 interest.

19993 (5) After the examination report of an insurer has been
 19994 filed pursuant to subsection (1), an affidavit shall be filed
 19995 with the office ~~department~~, not more than 30 days after the
 19996 report has been filed, on a form furnished by the office
 19997 ~~department~~ and signed by the officer of the company in charge of
 19998 the insurer's business in this state, stating that she or he has
 19999 read the report and that the recommendations made in the report
 20000 will be considered within a reasonable time.

20001 Section 695. Subsections (1), (2), (3), and (5) of section
 20002 624.320, Florida Statutes, are amended to read:

20003 624.320 Examination expenses.--

20004 (1) Each insurer so examined shall pay to the office
 20005 ~~department~~ the expenses of the examination at the rates adopted
 20006 by the office ~~department~~. Such expenses shall include actual
 20007 travel expenses, reasonable living expense allowance,
 20008 compensation of the examiner or other person making the
 20009 examination, and necessary attendant administrative costs of the



HB 1803

2003

20010 office department directly related to the examination. Such
20011 travel expense and living expense allowance shall be limited to
20012 those expenses necessarily incurred on account of the
20013 examination and shall be paid by the examined insurer together
20014 with compensation upon presentation by the office department to
20015 such insurer of a detailed account of such charges and expenses
20016 after a detailed statement has been filed by the examiner and
20017 approved by the office department.

20018 (2) All moneys collected from insurers for examinations
20019 shall be deposited into the Insurance Commissioner's Regulatory
20020 Trust Fund, and the office may department is authorized to make
20021 deposits from time to time into such fund from moneys
20022 appropriated for the operation of the office department.

20023 (3) Notwithstanding the provisions of s. 112.061, the
20024 office may department is authorized to pay to the examiner or
20025 person making the examination out of such trust fund the actual
20026 travel expenses, reasonable living expense allowance, and
20027 compensation in accordance with the statement filed with the
20028 office department by the examiner or other person, as provided
20029 in subsection (1) upon approval by the office department.

20030 (5) The office may department is authorized to pay to
20031 regular insurance examiners, not residents of Leon County,
20032 Florida, per diem for periods not exceeding 30 days for each
20033 such examiner while at the Office of Insurance Regulation ~~the~~
20034 ~~department~~ in Tallahassee, Florida, for the purpose of auditing
20035 insurers' annual statements. Such expenses shall be paid out of
20036 moneys budgeted for such purpose, as for regular employees at
20037 rates provided in s. 112.061.

20038 Section 696. Subsections (1) and (2) of section 624.321,
20039 Florida Statutes, are amended to read:



HB 1803

2003

20040 624.321 Witnesses and evidence.--

20041 (1) As to any examination, investigation, or hearing being
 20042 conducted under this code, a person designated by the department
 20043 or office, respectively ~~the Insurance Commissioner and Treasurer~~
 20044 ~~or her or his designee:~~

20045 (a) May administer oaths, examine and cross-examine
 20046 witnesses, receive oral and documentary evidence; and

20047 (b) Shall have the power to subpoena witnesses, compel
 20048 their attendance and testimony, and require by subpoena the
 20049 production of books, papers, records, files, correspondence,
 20050 documents, or other evidence which is relevant to the inquiry.

20051 (2) If any person refuses to comply with any such subpoena
 20052 or to testify as to any matter concerning which she or he may be
 20053 lawfully interrogated, the Circuit Court of Leon County or of
 20054 the county wherein such examination, investigation, or hearing
 20055 is being conducted, or of the county wherein such person
 20056 resides, may, on the application of the department or office,
 20057 issue an order requiring such person to comply with the subpoena
 20058 and to testify.

20059 Section 697. Section 624.322, Florida Statutes, is amended
 20060 to read:

20061 624.322 Testimony compelled; immunity from prosecution.--

20062 (1) If any natural person asks to be excused from
 20063 attending or testifying or from producing any books, papers,
 20064 records, contracts, documents, or other evidence in connection
 20065 with any examination, hearing, or investigation being conducted
 20066 by the department, commission, or office or its examiner, on the
 20067 ground that the testimony or evidence required of her or him may
 20068 tend to incriminate the person or subject her or him to a
 20069 penalty or forfeiture, and shall notwithstanding be directed to



HB 1803

2003

20070 give such testimony or produce such evidence, the person must,
 20071 if so directed by the department, commission, or office and the
 20072 Department of Legal Affairs, nonetheless comply with such
 20073 direction; but she or he shall not thereafter be prosecuted or
 20074 subjected to any penalty or forfeiture for or on account of any
 20075 transaction, matter, or thing concerning which she or he may
 20076 have so testified or produced evidence; and no testimony so
 20077 given or evidence produced shall be received against the person
 20078 upon any criminal action, investigation, or proceeding.
 20079 However, no such person so testifying shall be exempt from
 20080 prosecution or punishment for any perjury committed by her or
 20081 him in such testimony, and the testimony or evidence so given or
 20082 produced shall be admissible against her or him upon any
 20083 criminal action, investigation, or proceeding concerning such
 20084 perjury. No license or permit conferred or to be conferred to
 20085 such person shall be refused, suspended, or revoked based upon
 20086 the use of such testimony.

20087 (2) Any such individual may execute, acknowledge, and file
 20088 with the department, commission, or office, as appropriate, ~~in~~
 20089 ~~the office of the Department of Insurance~~ a statement expressly
 20090 waiving such immunity or privilege in respect to any
 20091 transaction, matter, or thing specified in such statement; and
 20092 thereupon the testimony of such individual or such evidence in
 20093 relation to such transaction, matter, or thing may be received
 20094 or produced before any judge or justice, court, tribunal, grand
 20095 jury, or otherwise; and, if so received or produced, such
 20096 individual shall not be entitled to any immunity or privileges
 20097 on account of any testimony she or he may so give or evidence so
 20098 produced.

20099 Section 698. Section 624.324, Florida Statutes, is amended



HB 1803

2003

20100 to read:

20101 624.324 Hearings.--The department, commission, and office
 20102 may each hold hearings for any purpose within the scope of this
 20103 code deemed to be necessary.

20104 Section 699. Section 624.33, Florida Statutes, is amended
 20105 to read:

20106 624.33 Jurisdiction regarding health or life coverage.--

20107 (1) Notwithstanding any other provision of law, and except
 20108 as provided in this section, any person or other entity which in
 20109 this state provides life insurance coverage; annuities; or
 20110 coverage for medical, surgical, chiropractic, physical therapy,
 20111 speech-language pathology, audiology, professional mental
 20112 health, dental, hospital, or optometric expenses, or any other
 20113 health insurance coverage, whether such coverage is by direct
 20114 payment, reimbursement, or otherwise, shall, upon request, file
 20115 with the office ~~Department of Insurance~~ a copy of Internal
 20116 Revenue Service form 5500 and attached schedules as filed with
 20117 the Internal Revenue Service and the United States Department of
 20118 Labor, and an annual summary, as required by the Employee
 20119 Retirement Income Security Act of 1974, 29 U.S.C. ss. 1001 et
 20120 seq., as amended.

20121 (2) Any person or entity providing any of the coverages or
 20122 benefits referred to in subsection (1) which does not meet the
 20123 filing requirements referred to in subsection (1), or which
 20124 otherwise fails to demonstrate to the office ~~department~~ that,
 20125 while providing such services, it is exempt from state law,
 20126 shall submit to an examination by the office ~~department~~ to
 20127 determine the organization and solvency of the person or entity
 20128 and to determine whether or not such entity is in compliance
 20129 with the applicable provisions of chapters 624-651.



HB 1803

2003

20130 (3) A governmental trust which is established or
 20131 maintained entirely by the state, counties, municipalities, or
 20132 special taxing districts or any agency or instrumentality
 20133 thereof or any combination thereof exclusively for the benefit
 20134 of their employees is exempt from the terms of this section.

20135 (4) Any licensed agent, administrator, service company, or
 20136 other person which, in connection with coverage offered by an
 20137 entity subject to examination by the office ~~department~~ in
 20138 accordance with subsection(2), is engaged in this state in the
 20139 solicitation, negotiation, or effectuation of any such coverage
 20140 or the inspection of risks or the setting of rates, the
 20141 investigation or adjustment of losses, the collection of
 20142 premiums, or any other function connected with any such coverage
 20143 is subject to the jurisdiction of the department or office and
 20144 to such examination as the department or office deems necessary
 20145 of the accounts, records, documents, and transactions pertaining
 20146 to or affecting such coverage to the same extent as the person
 20147 or entity affording such coverage.

20148 (5) This section does not apply to an insurer, health
 20149 maintenance organization, professional service plan corporation,
 20150 or person providing continuing care, which person or entity
 20151 possesses a valid certificate of authority issued by the office
 20152 ~~department~~, except to the extent that such person or entity
 20153 provides the coverages described in subsection (1) to its
 20154 employees other than under a policy or contract which is
 20155 otherwise subject to regulation under the Florida Insurance
 20156 Code.

20157 Section 700. Subsections (2) and (3) of section 624.34,
 20158 Florida Statutes, are amended to read:

20159 624.34 Authority of Department of Law Enforcement to



HB 1803

2003

20160 accept fingerprints of, and exchange criminal history records
 20161 with respect to, certain persons.--

20162 (2) The Department of Law Enforcement may accept
 20163 fingerprints of individuals who apply for a license as an agent,
 20164 customer representative, adjuster, service representative, or
 20165 managing general agent or the fingerprints of the majority
 20166 owner, sole proprietor, partners, officers, and directors of a
 20167 corporation or other legal entity that applies for licensure
 20168 with the department or office under the provisions of the
 20169 Florida Insurance Code.

20170 (3) The Department of Law Enforcement may, to the extent
 20171 provided for by federal law, exchange state, multistate, and
 20172 federal criminal history records with the department or office
 20173 for the purpose of the issuance, suspension, or revocation of a
 20174 certificate of authority or license to operate in this state.

20175 Section 701. Subsections (1) and (2) of section 624.401,
 20176 Florida Statutes, are amended to read:

20177 624.401 Certificate of authority required.--

20178 (1) No person shall act as an insurer, and no insurer or
 20179 its agents, attorneys, subscribers, or representatives shall
 20180 directly or indirectly transact insurance, in this state except
 20181 as authorized by a subsisting certificate of authority issued to
 20182 the insurer by the office ~~department~~, except as to such
 20183 transactions as are expressly otherwise provided for in this
 20184 code.

20185 (2) No insurer shall from offices or by personnel or
 20186 facilities located in this state solicit insurance applications
 20187 or otherwise transact insurance in another state or country
 20188 unless it holds a subsisting certificate of authority issued to
 20189 it by the office ~~department~~ authorizing it to transact the same



HB 1803

2003

20190 kind or kinds of insurance in this state.

20191 Section 702. Subsection (8) of section 624.4031, Florida
20192 Statutes, is amended to read:

20193 624.4031 Church benefit plans and church benefit board.--

20194 (8) The Florida Insurance Code does not apply to a church
20195 benefits board that has operated more than 5 years in its state
20196 of domicile and has more than \$2 million in reserves. This
20197 exemption extends to the programs, plans, benefits, activities,
20198 or affiliates of the church benefits board. A church benefits
20199 board may qualify for this exemption if an authorized
20200 representative of the church benefits board submits to the
20201 office ~~department~~ an affidavit stating that the church benefits
20202 board meets or exceeds the requirements of this section. If the
20203 office ~~department~~ believes the information provided on the
20204 affidavit is inaccurate, the office ~~department~~ has the burden of
20205 proving that the church benefits board fails to meet the
20206 requirements of this section.

20207 Section 703. Section 624.4085, Florida Statutes, is
20208 amended to read:

20209 624.4085 Risk-based capital requirements for insurers.--

20210 (1) As used in this section, the term:

20211 (a) "Adjusted risk-based capital report" means a risk-
20212 based capital report that has been adjusted by the office
20213 ~~department~~ in accordance with this section.

20214 (b) "Authorized control level risk-based capital" means
20215 the number determined under the risk-based capital formula in
20216 the risk-based capital instructions.

20217 (c) "Company action level risk-based capital" means the
20218 product of 2.0 and an insurer's authorized control level risk-
20219 based capital.



HB 1803

2003

20220 (d) "Corrective order" means an order issued by the office
 20221 ~~department~~ specifying corrective actions that the office
 20222 ~~department~~ has determined are required.

20223 ~~(e) "Department" means the Department of Insurance.~~

20224 (e)~~(f)~~ "Domestic insurer" means any insurer domiciled in
 20225 this state.

20226 (f)~~(g)~~ "Foreign insurer" means any insurer that is
 20227 authorized or eligible to do business in this state but that is
 20228 not domiciled in this state.

20229 (g)~~(h)~~ "Life and health insurer" means any insurer
 20230 authorized or eligible under the Florida Insurance Code to
 20231 underwrite life or health insurance. The term includes a
 20232 property and casualty insurer that writes accident and health
 20233 insurance only.

20234 (h)~~(i)~~ "Mandatory control level risk-based capital" means
 20235 the product of 0.70 and the authorized control level risk-based
 20236 capital.

20237 (i)~~(j)~~ "Negative trend" means, with respect to a life and
 20238 health insurer, a negative trend over a period of time, as
 20239 determined in accordance with the trend test calculation
 20240 included in the risk-based capital instructions.

20241 (j)~~(k)~~ "Property and casualty insurer" means any insurer
 20242 licensed under the Florida Insurance Code, but does not include
 20243 a single-line mortgage guaranty insurer, financial guaranty
 20244 insurer, or title insurer or a life and health insurer.

20245 (k)~~(l)~~ "Regulatory action level risk-based capital" means
 20246 the product of 1.5 and an insurer's authorized control level
 20247 risk-based capital.

20248 (l)~~(m)~~ "Revised risk-based capital plan" means the
 20249 revision of the risk-based capital plan which is prepared by an



HB 1803

2003

20250 insurer after the office ~~department~~ rejects the original plan.

20251 (m)~~(n)~~ "Risk-based capital instructions" means the
 20252 instructions for preparing a risk-based capital report as
 20253 adopted by the National Association of Insurance Commissioners.

20254 (n)~~(o)~~ "Risk-based capital level" means an insurer's
 20255 company action level risk-based capital, regulatory action level
 20256 risk-based capital, authorized control level risk-based capital,
 20257 or mandatory control level risk-based capital.

20258 (o)~~(p)~~ "Risk-based capital plan" means a comprehensive
 20259 financial plan specified in paragraph (4)(b).

20260 (p)~~(q)~~ "Risk-based capital report" means the report
 20261 required in subsection (2).

20262 (q)~~(r)~~ "Total adjusted capital" means the sum of:

- 20263 1. An insurer's statutory capital and surplus; and
- 20264 2. Any other item required by the risk-based capital
- 20265 instructions.

20266 (2)(a) Each domestic insurer that is subject to this
 20267 section shall, on or before March 1 of each year, prepare and
 20268 file with the National Association of Insurance Commissioners a
 20269 report of its risk-based capital levels as of the end of the
 20270 calendar year just ended, in a form and containing the
 20271 information required in the risk-based capital instructions. In
 20272 addition, each domestic insurer shall file a printed copy of its
 20273 risk-based capital report:

20274 1. With the office ~~department~~ on or before March 1 of each
 20275 year.

20276 2. With the insurance department in any other state in
 20277 which the insurer is authorized to do business, if that
 20278 department has notified the insurer of its request in writing,
 20279 in which case the insurer shall file its risk-based capital



HB 1803

2003

20280 report not later than the later of:

20281 a. Fifteen days after the receipt of notice to file its
20282 risk-based capital report with that state; or

20283 b. March 1.

20284 (b) The comparison of an insurer's total adjusted capital
20285 to any of its risk-based capital levels is a regulatory tool
20286 that may indicate the need for possible corrective action with
20287 respect to the insurer, and may not be used as a means to rank
20288 insurers generally. Therefore, except as otherwise required
20289 under this section, the making, publishing, disseminating,
20290 circulating, or placing before the public, or causing, directly
20291 or indirectly, to be made, published, disseminated, circulated,
20292 or placed before the public, in a newspaper, magazine, or other
20293 publication, or in the form of a notice, circular, pamphlet,
20294 letter, or poster, or over any radio or television station, or
20295 in any other way, an advertisement, announcement, or statement
20296 containing an assertion, representation, or statement with
20297 regard to the risk-based capital levels of any insurer, or of
20298 any component derived in the calculation, by any insurer, agent,
20299 broker, or other person engaged in any manner in the insurance
20300 business would be misleading and is therefore prohibited;
20301 however, if any materially false statement with respect to the
20302 comparison regarding an insurer's total adjusted capital to its
20303 risk-based capital levels (or any of them) or an inappropriate
20304 comparison of any other amount to the insurer's risk-based
20305 capital levels is published in any written publication and the
20306 insurer is able to demonstrate to the office ~~commissioner~~ with
20307 substantial proof the falsity or inappropriateness of the
20308 statement, the insurer may publish in a written publication an
20309 announcement the sole purpose of which is to rebut the



HB 1803

2003

20310 materially false statement.

20311 (c) The office ~~department~~ shall use the risk-based capital
 20312 instructions, risk-based capital reports, adjusted risk-based
 20313 capital reports, risk-based capital plans, and revised risk-
 20314 based capital plans solely for monitoring the solvency of
 20315 insurers and assessing the need for corrective action with
 20316 respect to insurers. The office ~~department~~ may not use that
 20317 information for ratemaking, as evidence in any rate proceeding,
 20318 or for calculating or deriving any elements of an appropriate
 20319 premium level or rate of return for any line of insurance which
 20320 an insurer or an affiliate of such insurer is authorized to
 20321 write.

20322 (d) A life and health insurer's risk-based capital is
 20323 determined in accordance with the formula set forth in the risk-
 20324 based capital instructions. The formula takes into account and
 20325 may adjust for the covariance between:

- 20326 1. The risk with respect to the insurer's assets;
- 20327 2. The risk of adverse insurance experience with respect
 20328 to the insurer's liabilities and obligations;
- 20329 3. The interest rate risk with respect to the insurer's
 20330 business; and
- 20331 4. Any other business or other relevant risk set out in
 20332 the risk-based capital instructions,

20333
 20334
 20335 determined in each case by applying the factors in the manner
 20336 set forth in the risk-based capital instructions.

20337 (e) A property and casualty insurer's risk-based capital
 20338 is determined in accordance with the formula set forth in the
 20339 risk-based capital instructions. The formula takes into account



HB 1803

2003

20340 and may adjust for the covariance between:

- 20341 1. The asset risk;
- 20342 2. The credit risk;
- 20343 3. The underwriting risk; and
- 20344 4. Any other business or other relevant risk set out in
- 20345 the risk-based capital instructions,

20346
 20347
 20348 determined in each case by applying the factors in the manner
 20349 set forth in the risk-based capital instructions.

20350 (f) The Legislature finds that an excess of capital over
 20351 the amount produced by the risk-based capital requirements and
 20352 the formulas, schedules, and instructions specified in this
 20353 section is a desirable goal with respect to the business of
 20354 insurance. Accordingly, insurers should seek to maintain capital
 20355 above the risk-based capital levels required by this section.
 20356 Additional capital is used and useful in the insurance business
 20357 and helps to secure an insurer against various risks inherent
 20358 in, or affecting, the business of insurance and not accounted
 20359 for or only partially measured by the risk-based capital
 20360 requirements contained in this section.

20361 (g) If a domestic insurer files a risk-based capital
 20362 report that the office ~~department~~ finds is inaccurate, the
 20363 office ~~department~~ shall adjust the risk-based capital report to
 20364 correct the inaccuracy and shall notify the insurer of the
 20365 adjustment. The notice must state the reason for the adjustment.

20366 A risk-based capital report that is so adjusted is referred to
 20367 as the adjusted risk-based capital report. The adjusted risk-
 20368 based capital report must also be filed by the insurer with the
 20369 National Association of Insurance Commissioners.



HB 1803

2003

- 20370 (3)(a) A company action level event includes:
- 20371 1. The filing of a risk-based capital report by an insurer
- 20372 which indicates that:
- 20373 a. The insurer's total adjusted capital is greater than or
- 20374 equal to its regulatory action level risk-based capital but less
- 20375 than its company action level risk-based capital; or
- 20376 b. If a life and health insurer, the insurer has total
- 20377 adjusted capital that is greater than or equal to its company
- 20378 action level risk-based capital, but is less than the product of
- 20379 its authorized control level risk-based capital and 2.5, and has
- 20380 a negative trend;
- 20381 2. The notification by the office ~~department~~ to the
- 20382 insurer of an adjusted risk-based capital report that indicates
- 20383 an event in subparagraph 1., unless the insurer challenges the
- 20384 adjusted risk-based capital report under subsection (7); or
- 20385 3. If, under subsection (7), an insurer challenges an
- 20386 adjusted risk-based capital report that indicates an event in
- 20387 subparagraph 1., the notification by the office ~~department~~ to
- 20388 the insurer that the office ~~department~~ has, after a hearing,
- 20389 rejected the insurer's challenge.
- 20390 (b) If a company action level event occurs, the insurer
- 20391 shall prepare and submit to the office ~~department~~ a risk-based
- 20392 capital plan, which must:
- 20393 1. Identify the conditions that contribute to the company
- 20394 action level event;
- 20395 2. Contain proposals of corrective actions that the
- 20396 insurer intends to take and that are reasonably expected to
- 20397 result in the elimination of the company action level event;
- 20398 3. Provide projections of the insurer's financial results
- 20399 in the current year and at least the 4 succeeding years, both in



HB 1803

2003

20400 the absence of proposed corrective actions and giving effect to
 20401 the proposed corrective actions, including projections of
 20402 statutory operating income, net income, capital, and surplus.
 20403 The projections for both new and renewal business may include
 20404 separate projections for each major line of business and, if
 20405 separate projections are provided, must separately identify each
 20406 significant income, expense, and benefit component;

20407 4. Identify the key assumptions affecting the insurer's
 20408 projections and the sensitivity of the projections to the
 20409 assumptions; and

20410 5. Identify the quality of, and problems associated with,
 20411 the insurer's business, including, but not limited to, its
 20412 assets, anticipated business growth and associated surplus
 20413 strain, extraordinary exposure to risk, mix of business, and any
 20414 use of reinsurance.

20415 (c) The risk-based capital plan must be submitted:

- 20416 1. Within 45 days after the company action level event; or
- 20417 2. If the insurer challenges an adjusted risk-based
 20418 capital report under subsection (7), within 45 days after
 20419 notification to the insurer that the office ~~department~~ has,
 20420 after a hearing, rejected the insurer's challenge.

20421 (d) Within 60 days after the submission by an insurer of a
 20422 risk-based capital plan to the office ~~department~~, the office
 20423 ~~department~~ shall notify the insurer whether the risk-based
 20424 capital plan must be implemented or is, in the judgment of the
 20425 office ~~department~~, unsatisfactory. If the office ~~department~~
 20426 determines that the risk-based capital plan is unsatisfactory,
 20427 the notification to the insurer must set forth the reasons for
 20428 the determination and may set forth proposed revisions. Upon
 20429 notification from the office ~~department~~, the insurer shall



HB 1803

2003

20430 prepare a revised risk-based capital plan, which may incorporate
 20431 by reference any revisions proposed by the office ~~department~~,
 20432 and shall submit the revised risk-based capital plan to the
 20433 office ~~department~~:

20434 1. Within 45 days after the notification from the office
 20435 ~~department~~; or

20436 2. If the insurer challenges the notification from the
 20437 office ~~department~~ under subsection (7), within 45 days after a
 20438 notification to the insurer that the office ~~department~~ has,
 20439 after a hearing, rejected the insurer's challenge.

20440 (e) If the office ~~department~~ notifies an insurer that the
 20441 insurer's risk-based capital plan or revised risk-based capital
 20442 plan is unsatisfactory, the office ~~department~~ may, at its
 20443 discretion and subject to the insurer's right to a hearing under
 20444 subsection (7), specify in the notification that the
 20445 notification is a regulatory action level event.

20446 (f) Each domestic insurer that files a risk-based capital
 20447 plan or a revised risk-based capital plan with the office
 20448 ~~department~~ shall file a copy of the risk-based capital plan or
 20449 the revised risk-based capital plan with the insurance
 20450 department in any other state in which the insurer is authorized
 20451 to do business if:

20452 1. That state has a risk-based capital law that is
 20453 substantially similar to paragraph (8)(a); and

20454 2. The insurance department of that state has notified the
 20455 insurer of its request for the filing in writing, in which case
 20456 the insurer shall file a copy of the risk-based capital plan or
 20457 the revised risk-based capital plan in that state no later than
 20458 the later of:

20459 a. Fifteen days after the receipt of notice to file a copy



HB 1803

2003

20460 of its risk-based capital plan or revised risk-based capital
20461 plan with the state; or

20462 b. The date on which the risk-based capital plan or the
20463 revised risk-based capital plan is filed under paragraph (c) or
20464 paragraph (d).

20465 (4)(a) A regulatory action level event includes:

20466 1. The filing of a risk-based capital report by the
20467 insurer which indicates that the insurer's total adjusted
20468 capital is greater than or equal to its authorized control level
20469 risk-based capital but is less than its regulatory action level
20470 risk-based capital;

20471 2. The notification by the office ~~department~~ to the
20472 insurer of an adjusted risk-based capital report that indicates
20473 the event described in subparagraph 1., unless the insurer
20474 challenges the adjusted risk-based capital report under
20475 subsection (7);

20476 3. If, under subsection (7), the insurer challenges an
20477 adjusted risk-based capital report that indicates the event
20478 described in subparagraph 1., the notification by the office
20479 ~~department~~ to the insurer that the office ~~department~~ has, after
20480 a hearing, rejected the insurer's challenge;

20481 4. The failure of the insurer to file a risk-based capital
20482 report by the filing date, unless the insurer provides an
20483 explanation for such failure which is satisfactory to the office
20484 ~~department~~ and cures the failure within 10 days after the filing
20485 date;

20486 5. The failure of the insurer to submit a risk-based
20487 capital plan to the office ~~department~~ within the time period set
20488 forth in paragraph (3)(c);

20489 6. Notification by the office ~~department~~ to the insurer



HB 1803

2003

20490 that:

20491 a. The risk-based capital plan or the revised risk-based
20492 capital plan submitted by the insurer is, in the judgment of the
20493 office ~~department~~, unsatisfactory; and

20494 b. This notification constitutes a regulatory action level
20495 event with respect to the insurer, unless the insurer challenges
20496 the determination under subsection (7);

20497 7. If, under subsection (7), the insurer challenges a
20498 determination by the office ~~department~~ under subparagraph 6.,
20499 the notification by the office ~~department~~ to the insurer that
20500 the office ~~department~~ has, after a hearing, rejected the
20501 challenge;

20502 8. Notification by the office ~~department~~ to the insurer
20503 that the insurer has failed to adhere to its risk-based capital
20504 plan or revised risk-based capital plan, but only if this
20505 failure has a substantial adverse effect on the ability of the
20506 insurer to eliminate the company action level event in
20507 accordance with its risk-based capital plan or revised risk-
20508 based capital plan and the office ~~department~~ has so stated in
20509 the notification, unless the insurer challenges the
20510 determination under subsection (7); or

20511 9. If, under subsection (7), the insurer challenges a
20512 determination by the office ~~department~~ under subparagraph 8.,
20513 the notification by the office ~~department~~ to the insurer that
20514 the office ~~department~~ has, after a hearing, rejected the
20515 challenge.

20516 (b) If a regulatory action level event occurs, the office
20517 ~~department~~ shall:

20518 1. Require the insurer to prepare and submit a risk-based
20519 capital plan or, if applicable, a revised risk-based capital



HB 1803

2003

20520 plan;

20521 2. Perform an examination pursuant to s. 624.316 or an
 20522 analysis, as the office ~~department~~ considers necessary, of the
 20523 assets, liabilities, and operations of the insurer, including a
 20524 review of the risk-based capital plan or the revised risk-based
 20525 capital plan; and

20526 3. After the examination or analysis, issue a corrective
 20527 order specifying such corrective actions as the office
 20528 ~~department~~ determines are required.

20529 (c) In determining corrective actions, the office
 20530 ~~department~~ shall consider any factor relevant to the insurer
 20531 based upon the office's ~~department's~~ examination or analysis of
 20532 the assets, liabilities, and operations of the insurer,
 20533 including, but not limited to, the results of any sensitivity
 20534 tests undertaken as provided in the risk-based capital
 20535 instructions. The risk-based capital plan or the revised risk-
 20536 based capital plan must be submitted:

20537 1. Within 45 days after the occurrence of the regulatory
 20538 action level event;

20539 2. If the insurer challenges an adjusted risk-based
 20540 capital report under subsection (7), within 45 days after the
 20541 notification to the insurer that the office ~~department~~ has,
 20542 after a hearing, rejected the insurer's challenge; or

20543 3. If the insurer challenges a revised risk-based capital
 20544 plan under subsection (7), within 45 days after the notification
 20545 to the insurer that the office ~~department~~ has, after a hearing,
 20546 rejected the insurer's challenge.

20547 (d) The office ~~department~~ may retain actuaries, investment
 20548 experts, and other consultants to review an insurer's risk-based
 20549 capital plan or revised risk-based capital plan, examine or



HB 1803

2003

20550 analyze the assets, liabilities, and operations of an insurer,
20551 and formulate the corrective order with respect to the insurer.
20552 The fees, costs, and expenses relating to consultants must be
20553 borne by the affected insurer or by any other party as directed
20554 by the office ~~department~~.

20555 (5)(a) An authorized control level event includes:

20556 1. The filing of a risk-based capital report by the
20557 insurer which indicates that the insurer's total adjusted
20558 capital is greater than or equal to its mandatory control level
20559 risk-based capital but is less than its authorized control level
20560 risk-based capital;

20561 2. The notification by the office ~~department~~ to the
20562 insurer of an adjusted risk-based capital report that indicates
20563 the event in subparagraph 1., unless the insurer challenges the
20564 adjusted risk-based capital report under subsection (7);

20565 3. If, under subsection (7), the insurer challenges an
20566 adjusted risk-based capital report that indicates the event in
20567 subparagraph 1., notification by the office ~~department~~ to the
20568 insurer that the office ~~department~~ has, after a hearing,
20569 rejected the insurer's challenge;

20570 4. The failure of the insurer to respond, in a manner
20571 satisfactory to the office ~~department~~, to a corrective order,
20572 unless the insurer challenges the corrective order under
20573 subsection (7); or

20574 5. If the insurer challenges a corrective order under
20575 subsection (7) and the office ~~department~~ has, after a hearing,
20576 rejected the challenge or modified the corrective order, the
20577 failure of the insurer to respond, in a manner satisfactory to
20578 the office ~~department~~, to the corrective order after rejection
20579 or modification by the office ~~department~~.



HB 1803

2003

20580 (b) If an authorized control level event occurs, the
20581 office ~~department~~ shall:

20582 1. Take any action required under subsection (4) regarding
20583 the insurer with respect to which a regulatory action level
20584 event has occurred; or

20585 2. If the office ~~department~~ considers it to be in the best
20586 interests of the policyholders and creditors of the insurer and
20587 of the public, take any action as necessary to cause the insurer
20588 to be placed under regulatory control under chapter 631. An
20589 authorized control level event is sufficient ground for the
20590 department to be appointed as receiver as provided in chapter
20591 631.

20592 (6)(a) A mandatory control level event includes:

20593 1. The filing of a risk-based capital report that
20594 indicates that the insurer's total adjusted capital is less than
20595 its mandatory control level risk-based capital;

20596 2. Notification by the office ~~department~~ to the insurer of
20597 an adjusted risk-based capital report that indicates the event
20598 in subparagraph 1., unless the insurer challenges the adjusted
20599 risk-based capital report under subsection (7); or

20600 3. If, under subsection (7), the insurer challenges an
20601 adjusted risk-based capital report that indicates the event in
20602 subparagraph 1., notification by the office ~~department~~ to the
20603 insurer that the office ~~department~~ has, after a hearing,
20604 rejected the insurer's challenge.

20605 (b) If a mandatory control level event occurs:

20606 1. With respect to a life and health insurer, the office
20607 ~~department~~ shall, after due consideration of s. 624.408, take
20608 any action necessary to place the insurer under regulatory
20609 control, including any remedy available under chapter 631. A



HB 1803

2003

20610 mandatory control level event is sufficient ground for the
 20611 department to be appointed as receiver as provided in chapter
 20612 631. The office ~~department~~ may forego taking action for up to
 20613 90 days after the mandatory control level event if the office
 20614 ~~department~~ finds there is a reasonable expectation that the
 20615 mandatory control level event may be eliminated within the 90-
 20616 day period.

20617 2. With respect to a property and casualty insurer, the
 20618 office ~~department~~ shall, after due consideration of s. 624.408,
 20619 take any action necessary to place the insurer under regulatory
 20620 control, including any remedy available under chapter 631, or,
 20621 in the case of an insurer that is not writing new business, may
 20622 allow the insurer to continue to operate under the supervision
 20623 of the office ~~department~~. In either case, the mandatory control
 20624 level event is sufficient ground for the department to be
 20625 appointed as receiver as provided in chapter 631. The office
 20626 ~~department~~ may forego taking action for up to 90 days after the
 20627 mandatory control level event if the office ~~department~~ finds
 20628 there is a reasonable expectation that the mandatory control
 20629 level event will be eliminated within the 90-day period.

20630 (7)(a) An insurer has a right to a hearing before the
 20631 office ~~department~~ upon:

20632 1. Notification to an insurer by the office ~~department~~ of
 20633 an adjusted risk-based capital report;

20634 2. Notification to an insurer by the office ~~department~~
 20635 that the insurer's risk-based capital plan or revised risk-based
 20636 capital plan is unsatisfactory, and that the notification
 20637 constitutes a regulatory action level event with respect to such
 20638 insurer;

20639 3. Notification to any insurer by the office ~~department~~



HB 1803

2003

20640 that the insurer has failed to adhere to its risk-based capital
20641 plan or revised risk-based capital plan and that the failure has
20642 a substantial adverse effect on the ability of the insurer to
20643 eliminate the company action level event in accordance with its
20644 risk-based capital plan or its revised risk-based capital plan;
20645 or

20646 4. Notification to an insurer by the office ~~department~~ of
20647 a corrective order with respect to the insurer.

20648 (b) At such hearing the insurer may challenge any
20649 determination or action by the office ~~department~~. The insurer
20650 shall notify the office ~~department~~ of its request for a hearing
20651 within 5 days after receipt of the notification by the office
20652 ~~department~~ under this subsection. Upon receipt of the request
20653 for a hearing, the office ~~department~~ shall set a date for the
20654 hearing, which date must be no fewer than 10 nor more than 30
20655 days after the date the office ~~department~~ receives the insurer's
20656 request. The hearing must be conducted as provided in s.
20657 624.324, with the right to appellate review under s. 120.68.

20658 (8)(a) Any foreign insurer shall, upon the written request
20659 of the office ~~department~~, submit to the office ~~department~~ a
20660 risk-based capital report, as of the end of the calendar year
20661 just ended, no later than the later of:

20662 1. The date a risk-based capital report is required to be
20663 filed by a domestic insurer under this section; or

20664 2. Fifteen days after the request is received by the
20665 foreign insurer.

20666 (b) Any foreign insurer shall, upon the written request of
20667 the office ~~department~~, promptly submit to the office ~~department~~
20668 a copy of any risk-based capital plan that is filed with the
20669 insurance department of another state.



HB 1803

2003

20670 (c) The office ~~department~~ may require a foreign insurer to
 20671 file a risk-based capital plan if:

20672 1. A company action level event, regulatory action level
 20673 event, or authorized control level event occurs with respect to
 20674 any foreign insurer as determined under the risk-based capital
 20675 law of the state of domicile of the insurer, or, if there is no
 20676 risk-based capital law in that state, under this section.

20677 2. The insurance department of the state of domicile of
 20678 the foreign insurer fails to require the foreign insurer to file
 20679 a risk-based capital plan in the manner specified under the
 20680 risk-based capital law of that state, or, if there is no risk-
 20681 based capital law in that state, under subsection (3).

20682
 20683
 20684 The failure of the foreign insurer to file a risk-based capital
 20685 plan with the office ~~department~~ when required under this
 20686 paragraph is a ground for the office ~~department~~ to take any
 20687 action under s. 624.418 which it determines is necessary.

20688 (d) If a mandatory control level event occurs with respect
 20689 to any foreign insurer and a domiciliary receiver has not been
 20690 appointed with respect to the foreign insurer under the
 20691 rehabilitation and liquidation law of the state of domicile of
 20692 the foreign insurer, the office ~~department~~ may apply to the
 20693 Circuit Court of Leon County and such event constitutes grounds
 20694 for the department to be appointed as receiver as provided in
 20695 chapter 631 with respect to the liquidation of property of
 20696 foreign insurers found in this state. The occurrence of a
 20697 mandatory control level event is a ground for such application.

20698 (9) There shall be no liability on the part of, and no
 20699 cause of action shall arise against, the commission,



HB 1803

2003

20700 ~~commissioner, the department, or office, or their~~ its employees
 20701 or agents, for any action taken by them in the performance of
 20702 their powers and duties under this section.

20703 (10) The office ~~department~~ shall transmit any notice that
 20704 may result in regulatory action by registered mail, certified
 20705 mail, or any other method of transmission. Notice is effective
 20706 when the insurer receives it.

20707 ~~(11) For the purposes of the risk-based capital reports~~
 20708 ~~required to be filed by life and health insurers with respect to~~
 20709 ~~their 1997 annual statement data and the risk-based capital~~
 20710 ~~reports required to be filed by property and casualty insurers~~
 20711 ~~with respect to their 1997 annual statement data, the following~~
 20712 ~~requirements apply in lieu of the provisions of subsections (3),~~
 20713 ~~(4), (5), and (6):~~

20714 ~~(a) If a company action level event occurs with respect to~~
 20715 ~~a domestic insurer, the department may not take any regulatory~~
 20716 ~~action.~~

20717 ~~(b) If a regulatory action level event occurs under~~
 20718 ~~subparagraph(4)(a)1., 2., or 3., the department shall take the~~
 20719 ~~actions required under subsection (3).~~

20720 ~~(c) If a regulatory action level event occurs under~~
 20721 ~~subparagraph(4)(a)4., 5., 6., 7., 8., or 9., or an authorized~~
 20722 ~~control level event occurs, the department shall take the~~
 20723 ~~actions required under subsection (4).~~

20724 ~~(d) If a mandatory control level event occurs with respect~~
 20725 ~~to an insurer, the department shall take the actions required~~
 20726 ~~under subsection(5).~~

20727 (11)~~(12)~~ This section is supplemental to the other laws of
 20728 this state and does not preclude or limit any power or duty of
 20729 the department or office under those laws or under the rules



HB 1803

2003

20730 adopted under those laws.

20731 (12)~~(13)~~ This section does not apply to a domestic
 20732 property and casualty insurer that meets all of the following
 20733 conditions:

- 20734 (a) Writes direct business only in this state;
- 20735 (b) Writes direct annual premiums of \$2 million or less;
- 20736 and
- 20737 (c) Assumes no reinsurance in excess of 5 percent of
 20738 direct premiums written.

20739 (13)~~(14)~~ The commission ~~department~~ may adopt rules to
 20740 administer this section, including, but not limited to, those
 20741 regarding risk-based capital reports, adjusted risk-based
 20742 capital reports, risk-based capital plans, corrective orders and
 20743 procedures to be followed in the event of a triggering of a
 20744 company action level event, a regulatory action level event, an
 20745 authorized control level event, or a mandatory control level
 20746 event.

20747 Section 704. Subsections (1) and (2) of section 624.40851,
 20748 Florida Statutes, are amended to read:

20749 624.40851 Confidentiality of risk-based capital
 20750 information.--

20751 (1) The initial risk-based capital report and any adjusted
 20752 risk-based capital report; any risk-based capital plan and any
 20753 revised risk-based capital plan; and working papers and reports
 20754 of examination or analysis of an insurer performed pursuant to a
 20755 plan or corrective order, or regulatory action level event, with
 20756 respect to any domestic insurer or foreign insurer, held by the
 20757 office ~~Department of Insurance~~, and transcripts of hearings made
 20758 as required by this section, are confidential and exempt from s.
 20759 119.07(1) and s. 24(a), Art. I of the State Constitution.



HB 1803

2003

20760 (2) Hearings conducted pursuant to s. 624.4085 relating to
 20761 the office's ~~department's~~ actions regarding any insurer's risk-
 20762 based capital plan, revised risk-based capital plan, risk-based
 20763 capital report, or adjusted risk-based capital report, are
 20764 exempt from s. 286.011 and s. 24(b), Art. I of the State
 20765 Constitution, except as otherwise provided in this section. Such
 20766 hearings shall be recorded by a court reporter. The office
 20767 ~~Department of Insurance~~ shall open such hearings or provide a
 20768 copy of the transcript of such hearings or information otherwise
 20769 made confidential and exempt pursuant to this section to a
 20770 department, agency, or instrumentality of this or another state
 20771 or of the United States if the office ~~department~~ determines the
 20772 disclosure is necessary or proper for the enforcement of the
 20773 laws of the United States or of this or another state.

20774 Section 705. Section 624.4094, Florida Statutes, is
 20775 amended to read:

20776 624.4094 Bail bond premiums.--

20777 (1) The Legislature finds that a significant portion of
 20778 bail bond premiums is retained by the licensed bail bond agents
 20779 or licensed managing general agents. For purposes of reporting
 20780 in financial statements required to be filed with the office
 20781 ~~department~~ pursuant to s. 624.424, direct written premiums for
 20782 bail bonds by a domestic insurer in this state shall be reported
 20783 net of any amounts retained by licensed bail bond agents or
 20784 licensed managing general agents. However, in no case shall the
 20785 direct written premiums for bail bonds be less than 6.5 percent
 20786 of the total consideration received by the agent for all bail
 20787 bonds written by the agent. This subsection also applies to any
 20788 determination of compliance with s. 624.4095.

20789 (2) Premiums assumed by a domestic insurer shall be



HB 1803

2003

20790 reported consistent with subsections (1) and (4) for purposes of
 20791 filing financial statements with the office ~~department~~.

20792 (3) Each domestic bail bond insurer shall keep complete
 20793 and accurate records of the total consideration paid for all
 20794 bail bonds written by such insurer.

20795 (4) Each domestic bail bond insurer shall disclose the
 20796 following information in the notes to the financial statement in
 20797 the insurer's annual statement filed with the office ~~department~~.

20798 (a) The gross bail bond premiums written in each state by
 20799 agents for the company.

20800 (b) The amount of premium taxes incurred by the company in
 20801 each state.

20802 (c) Total consideration withheld by agents and not
 20803 reported as an expense by the insurer in financial statements
 20804 filed with the office ~~department~~.

20805 (d) The amount of bail bond premium included on the surety
 20806 line of the annual statement filed with the office ~~department~~.

20807 (5) This section does not affect the reporting or payment
 20808 of insurance premium taxes under ss. 624.509, 624.5091, and
 20809 624.5092, and the insurance premium tax and related excise taxes
 20810 shall continue to be calculated using gross bail bond premiums.

20811 Section 706. Subsection (1) of section 624.4095, Florida
 20812 Statutes, is amended to read:

20813 624.4095 Premiums written; restrictions.--

20814 (1) Whenever an insurer's ratio of actual or projected
 20815 annual written premiums as adjusted in accordance with
 20816 subsection (4) to current or projected surplus as to
 20817 policyholders as adjusted in accordance with subsection (6) ~~(5)~~
 20818 exceeds 10 to 1 for gross written premiums or exceeds 4 to 1 for
 20819 net written premiums, the office ~~department~~ shall suspend the



HB 1803

2003

20820 insurer's certificate of authority or establish by order maximum
 20821 gross or net annual premiums to be written by the insurer
 20822 consistent with maintaining the ratios specified herein unless
 20823 the insurer demonstrates to the office's ~~department's~~
 20824 satisfaction that exceeding the ratios of this section does not
 20825 endanger the financial condition of the insurer or endanger the
 20826 interests of the insurer's policyholders.

20827 Section 707. Section 624.410, Florida Statutes, is amended
 20828 to read:

20829 624.410 Permissible insuring combinations without
 20830 additional capital funds.--A property insurer may include such
 20831 amount and kind of insurance against legal liability for injury,
 20832 damage, or loss to the person or property of others, and for
 20833 medical, hospital, and surgical expense related to such injury,
 20834 as the office ~~department~~ deems to be reasonably incidental to
 20835 insurance of real property against fire and other perils under
 20836 policies covering residential properties involving not more than
 20837 four families, with or without incidental office, professional,
 20838 private school or studio occupancy by an insured, whether or not
 20839 the premium or rate charged for certain perils so covered is
 20840 specified in the policy. Any provision of s. 624.609 to the
 20841 contrary notwithstanding, no insurer authorized as to property
 20842 insurance only shall, pursuant to this subsection, retain risk
 20843 as to any one subject of insurance as to hazards other than
 20844 property insurance hazards, in an amount exceeding 5 percent of
 20845 its surplus as to policyholders.

20846 Section 708. Section 624.411, Florida Statutes, is amended
 20847 to read:

20848 624.411 Deposit requirement; domestic insurers and foreign
 20849 insurers.--



HB 1803

2003

20850 (1) As to domestic insurers, the office ~~department~~ shall
 20851 not issue or permit to exist a certificate of authority unless
 20852 such insurer has deposited and maintains deposited in trust for
 20853 the protection of the insurer's policyholders or its
 20854 policyholders and creditors with the department securities
 20855 eligible for such deposit under s. 625.52, having at all times a
 20856 value of not less than as follows:

20857 (a) To transact casualty insurance, \$250,000.

20858 (b) To transact all other kinds of insurance, \$100,000 per
 20859 kind of insurance.

20860 (c) A domestic insurer authorized to transact more than
 20861 one kind of insurance shall not be required to deposit more than
 20862 \$300,000 under this subsection.

20863 (2) As to foreign insurers, the office ~~department~~, upon
 20864 issuing or permitting to exist a certificate of authority, may
 20865 require for good cause a deposit and maintenance of the deposit
 20866 in trust for the protection of the insured's policyholders or
 20867 its policyholders and creditors with the department securities
 20868 eligible for such deposit under s. 625.52, having at all times a
 20869 value of not less than as follows:

20870 (a) To transact casualty insurance, \$150,000.

20871 (b) To transact all other kinds of insurance, \$100,000 per
 20872 kind of insurance.

20873 (c) A foreign insurer authorized to transact more than one
 20874 kind of insurance in this state shall not be required to deposit
 20875 more than \$200,000 under this subsection.

20876 (d) A foreign insurer with surplus as to policyholders of
 20877 more than \$10 million according to its latest annual statement
 20878 shall not be required to make a deposit under this subsection.

20879 (3) Whenever the office ~~department~~ determines that the



HB 1803

2003

20880 financial condition of an insurer has deteriorated or that the
 20881 policyholders' best interests are not being preserved by the
 20882 activities of an insurer, the office ~~department~~ may require such
 20883 insurer to deposit and maintain deposited in trust with the
 20884 department for the protection of the insurer's policyholders or
 20885 its policyholders and creditors, for such time as the office
 20886 ~~department~~ deems necessary, securities eligible for such deposit
 20887 under s. 625.52, having a market value of not less than the
 20888 amount which the office ~~department~~ determines is necessary,
 20889 which amount shall be not less than \$100,000, or more than 25
 20890 percent of the insurer's obligations in this state, as
 20891 determined from the latest annual financial statement of the
 20892 insured. The deposit required under this subsection shall not
 20893 exceed \$2 million and is in addition to any other deposits
 20894 required of an insurer pursuant to subsections (1) and (2) or
 20895 any other provisions of the Florida Insurance Code.

20896 (4) All such deposits in this state are subject to the
 20897 applicable provisions of part III of chapter 625.

20898 Section 709. Subsection (1) of section 624.412, Florida
 20899 Statutes, is amended to read:

20900 624.412 Deposit of alien insurers.--

20901 (1) An alien insurer shall not have authority to transact
 20902 insurance in this state unless it has and maintains within the
 20903 United States as trust deposits with public officials having
 20904 supervision over insurers, or with trustees, public
 20905 depositories, or trust institutions approved by the office
 20906 ~~department~~, assets available for discharge of its United States
 20907 insurance obligations, which assets shall be in amount not less
 20908 than the outstanding reserves and other liabilities of the
 20909 insurer arising out of its insurance transactions in the United



HB 1803

2003

20910 States together with the amount of surplus as to policyholders
 20911 required by s. 624.408 of a domestic stock insurer transacting
 20912 like kinds of insurance.

20913 Section 710. Section 624.4135, Florida Statutes, is
 20914 amended to read:

20915 624.4135 Redomestication.--The commission ~~department~~ shall
 20916 adopt rules establishing procedures and forms for a foreign
 20917 insurer to apply for a certificate of authority as a domestic
 20918 insurer.

20919 Section 711. Section 624.414, Florida Statutes, is amended
 20920 to read:

20921 624.414 Issuance or refusal of authority.--The fee for
 20922 filing application for a certificate of authority shall not be
 20923 subject to refund. The office ~~department~~ shall issue to the
 20924 applicant insurer a proper certificate of authority if it finds
 20925 that the insurer has met the requirements of this code,
 20926 exclusive of the requirements relative to the filing and
 20927 approval of an insurer's policy forms, riders, endorsements,
 20928 applications, and rates. If it does not so find, the office
 20929 ~~department~~ shall issue its order refusing the certificate. The
 20930 certificate, if issued, shall specify the kind or kinds and line
 20931 or lines of insurance the insurer is authorized to transact in
 20932 this state. The issuance of a certificate of authority does not
 20933 signify that an insurer has met the requirements of this code
 20934 relative to the filing and approval of an insurer's policy
 20935 forms, riders, endorsements, applications, and rates which may
 20936 be required prior to an insurer actually writing any premiums.

20937 Section 712. Section 624.415, Florida Statutes, is amended
 20938 to read:

20939 624.415 Ownership of certificate of authority; return.--



HB 1803

2003

20940 Although issued to the insurer, the certificate of authority is
 20941 at all times the property of this state. Upon any expiration,
 20942 suspension, or termination thereof, the insurer shall promptly
 20943 deliver the certificate of authority to the office ~~department~~.

20944 Section 713. Subsections (2), (3), and (4) of section
 20945 624.416, Florida Statutes, are amended to read:

20946 624.416 Continuance, expiration, reinstatement, and
 20947 amendment of certificate of authority.--

20948 (2) If not so continued by the insurer, its certificate of
 20949 authority shall expire at midnight on the May 31 next following
 20950 such failure of the insurer so to continue it in force. The
 20951 office ~~department~~ shall promptly notify the insurer of the
 20952 occurrence of any failure resulting in impending expiration of
 20953 its certificate of authority.

20954 (3) The office ~~department~~ may, in its discretion,
 20955 reinstate a certificate of authority which the insurer has
 20956 inadvertently permitted to expire, after the insurer has fully
 20957 cured all its failures which resulted in the expiration, and
 20958 upon payment by the insurer of the fee for reinstatement, in the
 20959 amount provided in s. 624.501(1)(b). Otherwise, the insurer
 20960 shall be granted another certificate of authority only after
 20961 filing application therefor and meeting all other requirements
 20962 as for an original certificate of authority in this state.

20963 (4) The office ~~department~~ may amend a certificate of
 20964 authority at any time to accord with changes in the insurer's
 20965 charter or insuring powers.

20966 Section 714. Section 624.418, Florida Statutes, is amended
 20967 to read:

20968 624.418 Suspension, revocation of certificate of authority
 20969 for violations and special grounds.--



HB 1803

2003

20970 (1) The office ~~department~~ shall suspend or revoke an
 20971 insurer's certificate of authority if it finds that the insurer:

20972 (a) Is in unsound financial condition.

20973 (b) Is using such methods and practices in the conduct of
 20974 its business as to render its further transaction of insurance
 20975 in this state hazardous or injurious to its policyholders or to
 20976 the public.

20977 (c) Has failed to pay any final judgment rendered against
 20978 it in this state within 60 days after the judgment became final.

20979 (d) No longer meets the requirements for the authority
 20980 originally granted.

20981 (2) The office ~~department~~ may, in its discretion, suspend
 20982 or revoke the certificate of authority of an insurer if it finds
 20983 that the insurer:

20984 (a) Has violated any lawful order or rule of the office or
 20985 commission ~~department~~ or any provision of this code.

20986 (b) Has refused to be examined or to produce its accounts,
 20987 records, and files for examination, or if any of its officers
 20988 have refused to give information with respect to its affairs or
 20989 to perform any other legal obligation as to such examination,
 20990 when required by the office ~~department~~.

20991 (c) Has for any line, class, or combination thereof, with
 20992 such frequency as to indicate its general business practice in
 20993 this state, without just cause refused to pay proper claims
 20994 arising under its policies, whether any such claim is in favor
 20995 of an insured or is in favor of a third person with respect to
 20996 the liability of an insured to such third person, or without
 20997 just cause compels such insureds or claimants to accept less
 20998 than the amount due them or to employ attorneys or to bring suit
 20999 against the insurer or such an insured to secure full payment or



HB 1803

2003

21000 settlement of such claims.

21001 (d) Is affiliated with and under the same general
 21002 management or interlocking directorate or ownership as another
 21003 insurer which transacts direct insurance in this state without
 21004 having a certificate of authority therefor, except as permitted
 21005 as to surplus lines insurers under part VIII of chapter 626.

21006 (e) Has been convicted of, or entered a plea of guilty or
 21007 nolo contendere to, a felony relating to the transaction of
 21008 insurance, in this state or in any other state, without regard
 21009 to whether adjudication was withheld.

21010 (f) Has a ratio of net premiums written to surplus as to
 21011 policyholders that exceeds 4 to 1, and the office ~~department~~ has
 21012 reason to believe that the financial condition of the insurer
 21013 endangers the interests of the policyholders. The ratio of net
 21014 premiums written to surplus as to policyholders shall be on an
 21015 annualized actual or projected basis. The ratio shall be based
 21016 on the insurer's current calendar year activities and experience
 21017 to date or the insurer's previous calendar year activities and
 21018 experience, or both, and shall be calculated to represent a 12-
 21019 month period. However, the provisions of this paragraph do not
 21020 apply to any insurance or insurer exempted from s. 624.4095.

21021 (g) Is under suspension or revocation in another state.

21022 (3) The insolvency or impairment of an insurer constitutes
 21023 an immediate serious danger to the public health, safety, or
 21024 welfare; and the office ~~department~~ may, at its discretion,
 21025 without prior notice and the opportunity for hearing immediately
 21026 suspend the certificate of authority of an insurer upon a
 21027 determination that:

21028 (a) The insurer is impaired or insolvent; or

21029 (b) Receivership, conservatorship, rehabilitation, or



HB 1803

2003

21030 other delinquency proceedings have been initiated against the
21031 insurer by the public insurance supervisory official of any
21032 state.

21033 Section 715. Section 624.420, Florida Statutes, is amended
21034 to read:

21035 624.420 Order, notice of suspension or revocation of
21036 certificate of authority; effect; publication.--

21037 (1) Suspension or revocation of an insurer's certificate
21038 of authority shall be by the order of the office ~~department~~. The
21039 office ~~department~~ shall promptly also give notice of such
21040 suspension or revocation to the insurer's agents in this state
21041 of record ~~in the office of the department~~. The insurer shall
21042 not solicit or write any new coverages in this state during the
21043 period of any such suspension and may renew coverages only upon
21044 a finding by the office ~~department~~ that the insurer is capable
21045 of servicing the renewal coverage. The insurer shall not
21046 solicit or write any new or renewal coverages after any such
21047 revocation.

21048 (2) In its discretion, the office ~~department~~ may cause
21049 notice of any such suspension or revocation to be published in
21050 one or more newspapers of general circulation published in this
21051 state.

21052 Section 716. Subsections (2), (3), (4), and (5) of section
21053 624.421, Florida Statutes, are amended to read:

21054 624.421 Duration of suspension; insurer's obligations
21055 during suspension period; reinstatement.--

21056 (2) During the period of suspension, the insurer shall
21057 file with the office ~~department~~ all documents and information
21058 and pay all license fees and taxes as required under this code
21059 as if the certificate had continued in full force.



HB 1803

2003

21060 (3) If the suspension of the certificate of authority is
21061 for a fixed period of time and the certificate of authority has
21062 not been otherwise terminated, upon expiration of the suspension
21063 period the insurer's certificate of authority shall be
21064 reinstated unless the office ~~department~~ finds that the insurer
21065 is not in compliance with the requirements of this code. The
21066 office ~~department~~ shall promptly notify the insurer of such
21067 reinstatement, and the insurer shall not consider its
21068 certificate of authority reinstated until so notified by the
21069 office ~~department~~. If not reinstated, the certificate of
21070 authority shall be deemed to have expired as of the end of the
21071 suspension period or upon failure of the insurer to continue the
21072 certificate during the suspension period in accordance with
21073 subsection (2), whichever event first occurs.

21074 (4) If the suspension of the certificate of authority was
21075 until the occurrence of a specific event or events and the
21076 certificate of authority has not been otherwise terminated, upon
21077 the presentation of evidence satisfactory to the office
21078 ~~department~~ that the specific event or events have occurred, the
21079 insurer's certificate of authority shall be reinstated unless
21080 the office ~~department~~ finds that the insurer is otherwise not in
21081 compliance with the requirements of this code. The office
21082 ~~department~~ shall promptly notify the insurer of such
21083 reinstatement, and the insurer shall not consider its
21084 certificate of authority reinstated until so notified by the
21085 office ~~department~~. If satisfactory evidence as to the
21086 occurrence of the specific event or events has not been
21087 presented to the office ~~department~~ within 2 years of the date of
21088 such suspension, the certificate of authority shall be deemed to
21089 have expired as of 2 years from the date of suspension or upon



HB 1803

2003

21090 failure of the insurer to continue the certificate during the
21091 suspension period in accordance with subsection (2), whichever
21092 first occurs.

21093 (5) Upon reinstatement of the insurer's certificate of
21094 authority, the authority of its agents in this state to
21095 represent the insurer shall likewise reinstate. The office
21096 ~~department~~ shall promptly notify the insurer of such
21097 reinstatement.

21098 Section 717. Subsections (1), (3), and (4) of section
21099 624.4211, Florida Statutes, are amended to read:

21100 624.4211 Administrative fine in lieu of suspension or
21101 revocation.--

21102 (1) If the office ~~department~~ finds that one or more
21103 grounds exist for the discretionary revocation or suspension of
21104 a certificate of authority issued under this chapter, the office
21105 ~~department~~ may, in lieu of such revocation or suspension, impose
21106 a fine upon the insurer.

21107 (3) With respect to any knowing and willful violation of a
21108 lawful order or rule of the office or commission ~~department~~ or a
21109 provision of this code, the office ~~department~~ may impose a fine
21110 upon the insurer in an amount not to exceed \$20,000 for each
21111 such violation. In no event shall such fine exceed an aggregate
21112 amount of \$100,000 for all knowing and willful violations
21113 arising out of the same action. In addition to such fines, such
21114 insurer shall make restitution when due in accordance with the
21115 provisions of subsection (2).

21116 (4) The failure of an insurer to make restitution when due
21117 as required under this section constitutes a willful violation
21118 of this code. However, if an insurer in good faith is uncertain
21119 as to whether any restitution is due or as to the amount of such



HB 1803

2003

21120 restitution, it shall promptly notify the office ~~department~~ of
 21121 the circumstances; and the failure to make restitution pending a
 21122 determination thereof shall not constitute a violation of this
 21123 code.

21124 Section 718. Section 624.422, Florida Statutes, is amended
 21125 to read:

21126 624.422 Service of process; appointment of Chief Financial
 21127 Officer ~~Insurance Commissioner and Treasurer~~ as process agent.--

21128 (1) Each licensed insurer, whether domestic, foreign, or
 21129 alien, shall be deemed to have appointed the Chief Financial
 21130 Officer ~~Insurance Commissioner and Treasurer~~ and her or his
 21131 successors in office as its attorney to receive service of all
 21132 legal process issued against it in any civil action or
 21133 proceeding in this state; and process so served shall be valid
 21134 and binding upon the insurer.

21135 (2) Prior to its authorization to transact insurance in
 21136 this state, each insurer shall file with the department
 21137 designation of the name and address of the person to whom
 21138 process against it served upon the Chief Financial Officer
 21139 ~~Insurance Commissioner and Treasurer~~ is to be forwarded. The
 21140 insurer may change the designation at any time by a new filing.

21141 (3) Service of process upon the Chief Financial Officer
 21142 ~~Insurance Commissioner and Treasurer~~ as the insurer's attorney
 21143 pursuant to such an appointment shall be the sole method of
 21144 service of process upon an authorized domestic, foreign, or
 21145 alien insurer in this state.

21146 Section 719. Section 624.423, Florida Statutes, is amended
 21147 to read:

21148 624.423 Serving process.--

21149 (1) Service of process upon the Chief Financial Officer



HB 1803

2003

21150 ~~Insurance Commissioner and Treasurer~~ as process agent of the
 21151 insurer (under s. 624.422) shall be made by serving copies in
 21152 triplicate of the process upon the Chief Financial Officer
 21153 ~~Insurance Commissioner and Treasurer~~ or upon her or his
 21154 assistant, deputy, or other person in charge of her or his
 21155 office. Upon receiving such service, the Chief Financial
 21156 Officer ~~Insurance Commissioner and Treasurer~~ shall file one copy
 21157 in her or his office, return one copy with her or his admission
 21158 of service, and promptly forward one copy of the process by
 21159 registered or certified mail to the person last designated by
 21160 the insurer to receive the same, as provided under s.
 21161 624.422(2).

21162 (2) Where process is served upon the Chief Financial
 21163 Officer ~~Insurance Commissioner and Treasurer~~ as an insurer's
 21164 process agent, the insurer shall not be required to answer or
 21165 plead except within 20 days after the date upon which the Chief
 21166 Financial Officer ~~Insurance Commissioner and Treasurer~~ mailed a
 21167 copy of the process served upon her or him as required by
 21168 subsection (1).

21169 (3) Process served upon the Chief Financial Officer
 21170 ~~Insurance Commissioner and Treasurer~~ and copy thereof forwarded
 21171 as in this section provided shall for all purposes constitute
 21172 valid and binding service thereof upon the insurer.

21173 Section 720. Section 624.4241, Florida Statutes, is
 21174 amended to read:

21175 624.4241 NAIC filing requirements.--

21176 (1) Each domestic, foreign, and alien insurer who is
 21177 authorized to transact insurance in this state shall file one
 21178 extra copy of its annual statement convention blank, along with
 21179 such additional filings as prescribed by the commission



HB 1803

2003

21180 ~~department~~ for the preceding year. Such extra copy shall be for
 21181 the explicit purpose of allowing the office ~~department~~ to
 21182 forward it to the National Association of Insurance
 21183 Commissioners.

21184 (2) Coincident with the filing of the documents required
 21185 in subsection(1), each insurer shall pay to the office
 21186 ~~department~~ a reasonable fee to cover the costs associated with
 21187 the filing and analysis of the documents by the National
 21188 Association of Insurance Commissioners and the office
 21189 ~~department~~.

21190 (3) The provisions of this section shall not apply to any
 21191 foreign, domestic, or alien insurer which has filed such
 21192 documents directly with the National Association of Insurance
 21193 Commissioners if the National Association of Insurance
 21194 Commissioners has certified receipt of the required documents to
 21195 the office ~~department~~.

21196 Section 721. Subsections (2) and (3) of section 624.4243,
 21197 Florida Statutes, are amended to read:

21198 624.4243 Reporting of premium growth.--

21199 (2) Until an insurer has held a certificate of authority
 21200 in this state for 24 months, the insurer shall, instead of
 21201 making the calculations required under subsection (1), report to
 21202 the office ~~department~~ no later than the last day of each month
 21203 the insurer's direct and assumed written premiums from the
 21204 United States and its territories for the previous month.

21205 (3) If the amount of the premium growth calculated by an
 21206 insurer under this section exceeds 33 percent, the insurer
 21207 shall, within 30 days after the end of the 12-month period
 21208 ending on the last day of the previous month, file with the
 21209 office ~~department~~ a statement of the premium growth calculations



HB 1803

2003

21210 under this section. The commission ~~department~~ shall adopt rules
 21211 specifying the form for the report. In response to a report
 21212 under this section, the office ~~department~~ may require the
 21213 insurer to submit an explanation of the insurer's pattern of
 21214 premium growth.

21215 Section 722. Section 624.4245, Florida Statutes, is
 21216 amended to read:

21217 624.4245 Change in controlling interest of foreign or
 21218 alien insurer; report required.--In the event of a change in the
 21219 controlling capital stock or a change of 50 percent or more of
 21220 the assets of a foreign or alien insurer, such insurer shall
 21221 report such change in writing to the office ~~department~~ within 30
 21222 days of the effective date thereof. The report shall contain
 21223 the name and address of the new owner or owners of the
 21224 controlling stock or assets, the nature and value of the new
 21225 assets, and such other relevant information as the commission or
 21226 office ~~department~~ may reasonably require. For the purposes of
 21227 this section, the term "controlling capital stock" means a
 21228 sufficient number of shares of the issued and outstanding
 21229 capital stock of such insurer or person so as to give the owner
 21230 thereof power to exercise a controlling influence over the
 21231 management or policies of such insurer or person.

21232 Section 723. Subsections (1), (2), (3), (7), and (8) of
 21233 section 624.430, Florida Statutes, are amended to read:

21234 624.430 Withdrawal of insurer or discontinuance of writing
 21235 certain kinds or lines of insurance.--

21236 (1) Any insurer desiring to surrender its certificate of
 21237 authority, withdraw from this state, or discontinue the writing
 21238 of any one or multiple kinds or lines of insurance in this state
 21239 shall give 90 days' notice in writing to the office ~~department~~



HB 1803

2003

21240 setting forth its reasons for such action. Any insurer who does
 21241 not write any premiums in a kind or line of insurance within a
 21242 calendar year shall have that kind or line of insurance removed
 21243 from its certificate of authority; however, such line of
 21244 insurance shall be restored to the insurer's certificate upon
 21245 the insurer demonstrating that it has available the expertise
 21246 necessary and meets the other requirements of this code to write
 21247 that line of insurance.

21248 (2) If the office ~~department~~ determines, based upon its
 21249 review of the notice and other required information, that the
 21250 plan of an insurer withdrawing from this state makes adequate
 21251 provision for the satisfaction of the insurer's obligations and
 21252 is not hazardous to policyholders or the public, the office
 21253 ~~department~~ shall approve the surrender of the insurer's
 21254 certificate of authority. The office ~~department~~ shall, within 45
 21255 days from receipt of a complete notice and all required or
 21256 requested additional information, approve, disapprove, or
 21257 approve with conditions the plan submitted by the insurer.
 21258 Failure to timely take action with respect to the notice shall
 21259 be deemed an approval of the surrender of the certificate of
 21260 authority.

21261 (3) Upon office ~~department~~ approval of the surrender of
 21262 the certificate of authority of a domestic property and casualty
 21263 insurer that is a corporation, the insurer may initiate the
 21264 dissolution of the corporation in accordance with the applicable
 21265 provisions of chapter 607.

21266 (7) This section does not apply to insurers who have
 21267 discontinued writing in accordance with an order issued by the
 21268 office ~~department~~.

21269 (8) The commission ~~department~~ may adopt rules to



HB 1803

2003

21270 administer this section.

21271 Section 724. Subsections (5) and (6) of section 624.4361,
21272 Florida Statutes, are amended to read:

21273 624.4361 Definitions.--As used in ss. 624.436-624.446:

21274 (5) "Statutory accounting principles" means generally
21275 accepted accounting principles, except as modified by part I of
21276 chapter 625 and by rules adopted by the commission ~~department~~
21277 which recognize the difference between an arrangement and an
21278 insurer.

21279 (6) "Surplus notes" means funds borrowed by a multiple-
21280 employer welfare arrangement which result in a written
21281 instrument which includes all of the following:

21282 (a) The effective date, amount, interest, and parties
21283 involved are clearly set forth.

21284 (b) The principal sum and any interest accrued thereon are
21285 subject to and subordinate to all other liabilities of the
21286 multiple-employer welfare arrangement.

21287 (c) The instrument states that the parties agree that the
21288 multiple-employer welfare arrangement shall satisfy the office
21289 ~~department~~ that all claims of participants and general creditors
21290 of the organization have been paid or otherwise discharged prior
21291 to any payment of interest or repayment of principal.

21292 (d) The instrument is executed by both parties and a
21293 certified copy of the instrument is filed with the office
21294 ~~department~~.

21295 (e) The parties agree not to modify, terminate, or cancel
21296 the surplus note without the prior approval of the office
21297 ~~department~~.

21298 Section 725. Subsections (2) and (4) of section 624.437,
21299 Florida Statutes, are amended to read:



HB 1803

2003

21300 624.437 "Multiple-employer welfare arrangement" defined;
 21301 certificate of authority required; penalty.--

21302 (2) No person shall operate, maintain, or, after October
 21303 1, 1983, establish a multiple-employer welfare arrangement
 21304 unless such arrangement has a valid certificate of authority
 21305 issued by the office ~~department~~.

21306 (4)(a) Any person failing to hold a subsisting certificate
 21307 of authority from the office ~~department~~ while operating or
 21308 maintaining a multiple-employer welfare arrangement shall be
 21309 subject to a fine of not less than \$5,000 or more than \$100,000
 21310 for each violation.

21311 (b) Any person who operates or maintains a multiple-
 21312 employer welfare arrangement without a subsisting certificate of
 21313 authority from the office ~~department~~ shall be subject to the
 21314 cease and desist penalty powers of the office ~~department~~ as set
 21315 forth in ss. 626.9571, 626.9581, 626.9591, and 626.9601.

21316 (c)1. Any person who operates or maintains a multiple-
 21317 employer welfare arrangement without a subsisting certificate of
 21318 authority as required under this section commits a felony of the
 21319 third degree, punishable as provided in s. 775.082 or s.
 21320 775.083.

21321 2. Except as provided in subparagraph 1., any person who
 21322 violates the provisions of ss. 624.437-624.446 commits a
 21323 misdemeanor of the first degree, punishable as provided in s.
 21324 775.082 or s. 775.083.

21325 (d) In addition to the penalties and other enforcement
 21326 provisions of the Florida Insurance Code, the office ~~department~~
 21327 is vested with the power to seek both temporary and permanent
 21328 injunctive relief when:

21329 1. A multiple-employer welfare arrangement is being



HB 1803

2003

21330 operated by any person or entity without a subsisting
21331 certificate of authority.

21332 2. Any person, entity, or multiple-employer welfare
21333 arrangement has engaged in any activity prohibited by the
21334 Florida Insurance Code or by any rule adopted pursuant thereto.

21335 3. Any multiple-employer welfare arrangement, person, or
21336 entity is renewing, issuing, or delivering a policy, contract,
21337 certificate, summary plan description, or other evidence of the
21338 benefits and coverages provided to employees or employee family
21339 members without a subsisting certificate of authority.

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21342 The office's ~~department's~~ authority to seek injunctive relief
21343 shall not be conditioned on having conducted any proceeding
21344 pursuant to chapter 120. The authority vested in the office
21345 ~~department~~ by virtue of the operation of this section shall not
21346 act to reduce any other enforcement remedy or power to seek
21347 injunctive relief that may otherwise be available to the office
21348 ~~department~~.

21349 Section 726. Subsections (5) and (6) of section 624.438,
21350 Florida Statutes, are amended to read:

21351 624.438 General eligibility.--

21352 (5) The office ~~department~~ shall not grant or continue a
21353 certificate of authority for any arrangement if the office
21354 ~~department~~ determines any trustee, manager, or administrator to
21355 be incompetent, untrustworthy, or so lacking in insurance
21356 expertise as to make the operations of the arrangement hazardous
21357 to potential and existing insureds; that any trustee, manager,
21358 or administrator has been found guilty of, or has pled guilty or
21359 no contest to a felony, a crime involving moral turpitude, or a



HB 1803

2003

21360 crime punishable by imprisonment of 1 year or more under the law
21361 of any state, territory, or country, whether or not a judgment
21362 or conviction has been entered; that any trustee, manager, or
21363 administrator has had any type of insurance license revoked in
21364 this or any other state; or that the business operations of the
21365 arrangement are or have been marked, to the detriment of the
21366 employers participating in the arrangement, of persons receiving
21367 benefits from the arrangement, or of creditors or the public, by
21368 the improper manipulation of assets, accounts, or specific
21369 excess insurance or by bad faith.

21370 (6) To qualify for and retain approval to transact
21371 business, an arrangement shall make all contracts with
21372 administrators or service companies available for inspection by
21373 the office ~~department~~ initially, and annually thereafter upon
21374 reasonable notice.

21375 Section 727. Section 624.439, Florida Statutes, is amended
21376 to read:

21377 624.439 Filing of application.--The sponsoring association
21378 shall file with the office ~~department~~ an application for a
21379 certificate of authority upon a form to be adopted by the
21380 commission and furnished by the office ~~department~~, signed under
21381 oath by officers of the trust, which shall include or have
21382 attached the following:

21383 (1) A copy of the articles of incorporation, constitution,
21384 and bylaws of the association, if any.

21385 (2) A list of the names, addresses, and official
21386 capacities within the arrangement of the individuals who are to
21387 be responsible for the management of and the conduct of the
21388 affairs of the arrangement, including all trustees, officers,
21389 and directors. Such individuals shall fully disclose to the



HB 1803

2003

21390 office ~~department~~ the extent and nature of any contracts or
 21391 arrangements between themselves and the arrangement, including
 21392 any possible conflicts of interest.

21393 (3) A copy of the articles of incorporation, bylaws, or
 21394 trust agreement which governs the operation of the arrangement.

21395 (4) A copy of the policy, contract, certificate, summary
 21396 plan description, or other evidence of the benefits and
 21397 coverages provided to covered employees, which shall be in
 21398 accordance with s. 627.651(4), and which shall include a table
 21399 of the rates charged, or proposed to be charged, for each form
 21400 of such contract. A qualified actuary shall certify that:

21401 (a) The rates are not inadequate.

21402 (b) The rates are appropriate for the class of risks for
 21403 which they have been computed.

21404 (c) An adequate description of the rating methodology has
 21405 been filed with the office ~~department~~ and such methodology
 21406 follows consistent and equitable actuarial principles.

21407 (5) A copy of the fidelity bond in an amount equal to not
 21408 less than 10 percent of the funds handled annually and issued in
 21409 the name of the arrangement covering its trustees, directors,
 21410 officers, employees, administrator, or other individuals
 21411 managing or handling the funds or assets of the arrangement. In
 21412 no case may such bond be less than \$50,000 or more than
 21413 \$500,000, except that the office ~~department~~, after due notice to
 21414 all interested parties and opportunity for hearing, and after
 21415 consideration of the record, may prescribe an amount in excess
 21416 of \$500,000, subject to the 10-percent limitation of the
 21417 preceding sentence.

21418 (6)(a) A copy of the arrangement's excess insurance
 21419 agreement, which shall provide that the net retention level for



HB 1803

2003

21420 any one risk shall not exceed \$50,000, and which shall otherwise
21421 be in accordance with sound actuarial principles.

21422 (b) The office ~~department~~ may waive or modify the maximum
21423 net retention requirement if:

21424 1. The excess insurance is not available for a reasonable
21425 cost; or

21426 2. The arrangement:

21427 a. Has 150 percent of the statutory reserve requirement as
21428 specified in s. 624.441;

21429 b. Has a fund balance in excess of that required by
21430 statute; and

21431 c. Has a ratio of current assets to current liabilities of
21432 at least 2.0 to 1.0.

21433 (7)(a) A feasibility study, done by an independent
21434 qualified actuary and an independent certified public
21435 accountant, determined by the office ~~department~~ to
21436 satisfactorily address market potential, market penetration,
21437 market competition, operating expenses, gross revenues, net
21438 income, total assets and liabilities, cash flow, and such other
21439 items as the office or commission ~~department~~ may reasonably
21440 requires ~~require~~. The study shall be for the greater of 3 years
21441 or until the arrangement has been projected to be profitable for
21442 12 consecutive months. The study must show that the arrangement
21443 would not, at any month-end of the projection period, have less
21444 than the minimum statutory deposit as required by s. 624.441 or
21445 have a fund balance less than the amount required by s.
21446 624.4392.

21447 (b) The feasibility study shall reflect and support that
21448 initial gross premiums for the first year of operation will be
21449 at least \$100,000.



HB 1803

2003

21450 (8) Evidence satisfactory to the office ~~department~~ showing
 21451 that the arrangement will be operated in accordance with sound
 21452 actuarial principles. The office ~~department~~ shall not approve
 21453 the arrangement unless the office ~~department~~ determines that the
 21454 plan is designed to provide sufficient revenues to pay current
 21455 and future liabilities, as determined in accordance with sound
 21456 actuarial principles.

21457 (9) Confirmation of insolvency protection as required by
 21458 s. 624.441.

21459 (10) A copy of each contract between the arrangement and
 21460 any administrator or service company which may be made available
 21461 for review rather than filed or attached.

21462 (11) Such additional information as the office or
 21463 commission ~~department~~ may reasonably requires ~~require~~.

21464 Section 728. Subsections (1) and (3) of section 624.4392,
 21465 Florida Statutes, are amended to read:

21466 624.4392 Fund balance.--

21467 (1) Each multiple-employer welfare arrangement licensed on
 21468 or after October 1, 1991, shall have a fund balance equal to
 21469 \$200,000 before a certificate of authority may be issued by the
 21470 office ~~department~~. After it has received a certificate of
 21471 authority, the arrangement must maintain a fund balance equal to
 21472 \$100,000 or 10 percent of total liabilities, whichever is
 21473 greater.

21474 (3) The office ~~department~~ shall order the arrangement to
 21475 assess participating employers at any time the fund balance does
 21476 not meet the requirements of this section.

21477 Section 729. Section 624.44, Florida Statutes, is amended
 21478 to read:

21479 624.44 Examination by the office ~~department~~.--



HB 1803

2003

21480 (1)(a) The office ~~department~~ shall examine the affairs,
21481 transactions, accounts, business records, and assets of any
21482 multiple-employer welfare arrangement as often as it deems
21483 necessary for the protection of the people of the state, but not
21484 less frequently than once every 3 years. For the purpose of
21485 examinations, the office ~~department~~ may administer oaths and
21486 examine the trustees, directors, officers, and agents of an
21487 arrangement concerning its business and affairs.

21488 (b) The expenses of examination of each arrangement by the
21489 office ~~are department~~ shall be subject to the same terms and
21490 conditions as apply to insurers under part II.

21491 (c) The office ~~department~~ may contract, at reasonable fees
21492 for work performed, with qualified, impartial, outside sources
21493 to perform audits or examinations or portions thereof to
21494 determine continued compliance with the requirements of ss.
21495 624.436-624.446. Any contracted assistance shall be under direct
21496 supervision of the office ~~department~~. The results of any
21497 contracted assistance shall be subject to review, approval,
21498 disapproval, or modification by the office ~~department~~.

21499 (2) If the office ~~department~~ preliminarily finds that an
21500 arrangement is insolvent, the office ~~department~~ shall notify the
21501 arrangement of such insolvency. Upon being so notified, the
21502 arrangement shall within 15 days file with the office ~~department~~
21503 all information that proves that the arrangement is not
21504 insolvent.

21505 (3) If the arrangement fails within the 15-day period
21506 provided in subsection (2) to supply information showing to the
21507 satisfaction of the office ~~department~~ that the arrangement is
21508 not insolvent, the office ~~department~~ may:

21509 (a)1. Suspend any new enrollment;



HB 1803

2003

21510 2. Suspend or revoke the arrangement's certificate of
21511 authority; or

21512 3. Place the arrangement in administrative supervision
21513 under s. 624.80; or

21514 (b) For the purposes of dissolution, liquidation, or
21515 rehabilitation, place the arrangement under the supervision of
21516 the department pursuant to chapter 631.

21517 Section 730. Subsections (2) and (3) of section 624.441,
21518 Florida Statutes, are amended to read:

21519 624.441 Insolvency protection.--

21520 (2) All income from deposits shall belong to the
21521 depositing arrangement and shall be paid to it as it becomes
21522 available. An arrangement that has made a securities deposit
21523 may withdraw that deposit, or any part thereof, after making a
21524 substitute deposit of cash, securities, or any combination of
21525 these or other measures of equal amount and value, upon approval
21526 by the office and department. No judgment creditor or other
21527 claimant of a multiple-employer welfare association shall have
21528 the right to levy upon any of the assets or securities held in
21529 this state as a deposit under this section.

21530 (3) Deposits of securities or cash pursuant to this
21531 section shall be administered by the office and department in
21532 accordance with part III of chapter 625.

21533 Section 731. Section 624.4411, Florida Statutes, is
21534 amended to read:

21535 624.4411 Administrative, provider, and management
21536 contracts.--

21537 (1) The office ~~department~~ may require a multiple-employer
21538 welfare arrangement to submit any contract for administrative
21539 services, contract with a provider other than an individual



HB 1803

2003

21540 physician, contract for management services, or contract with an
 21541 affiliated person to the office ~~department~~, if the office
 21542 ~~department~~ has reason to believe that the arrangement has
 21543 entered into a contract which requires it to pay a fee which is
 21544 unreasonably high in relation to the services provided.

21545 Multiple-employer welfare arrangements are prohibited from
 21546 paying a fee to a sponsoring association unless such fee is
 21547 directly related to services provided by the association for the
 21548 arrangement.

21549 (2) After review of a contract, the office ~~department~~ may
 21550 order the arrangement to cancel the contract in accordance with
 21551 the terms of the contract and applicable law if the office
 21552 ~~department~~ determines that the fees to be paid by the
 21553 arrangement under the contract are so unreasonably high in
 21554 relation to the services provided that the contract is
 21555 detrimental to the policyholders or certificateholders of the
 21556 arrangement.

21557 (3) All contracts for administrative services, management
 21558 services, and provider services other than individual physician
 21559 contracts, and all contracts with affiliated entities, entered
 21560 into or renewed by an arrangement on or after October 1, 1991,
 21561 shall contain a provision that the contract shall be canceled
 21562 upon issuance of an order by the office ~~department~~ pursuant to
 21563 this section.

21564 Section 732. Section 624.4412, Florida Statutes, is
 21565 amended to read:

21566 624.4412 Policy forms.--

21567 (1) No policy or contract form, application form,
 21568 certificate, rider, endorsement, summary plan description, or
 21569 other evidence of coverage shall be issued by an arrangement



HB 1803

2003

21570 unless the form and all changes thereto have been filed with the
 21571 office department ~~at its offices in Tallahassee~~ by or on behalf
 21572 of the arrangement which proposes to use such form and have been
 21573 approved by the office department. Filing of all forms shall be
 21574 in accordance with the provisions of s. 627.410(2).

21575 (2) The office department shall disapprove any form filed
 21576 under this section, or withdraw any previous approval thereof,
 21577 only if the form:

21578 (a) Is in any respect in violation of, or does not comply
 21579 with, this code;

21580 (b) Contains or incorporates by reference, where such
 21581 incorporation is otherwise permissible, any inconsistent,
 21582 ambiguous, or misleading clauses, or exceptions and conditions
 21583 which deceptively affect the risk purported to be assumed in the
 21584 general coverage of the contract;

21585 (c) Has any title, heading, or other indication of its
 21586 provisions which is misleading;

21587 (d) Is printed or otherwise reproduced in such manner as
 21588 to render any material provision of the form substantially
 21589 illegible; or

21590 (e) Contains provisions which are unfair or inequitable,
 21591 or contrary to the public policy of this state or which
 21592 encourage misrepresentation.

21593 Section 733. Section 624.442, Florida Statutes, is amended
 21594 to read:

21595 624.442 Annual reports; actuarial certification; quarterly
 21596 reports; penalties.--

21597 (1) Every arrangement shall, annually within 3 months
 21598 after the end of the fiscal year or within such extension of
 21599 time therefor as the office department for good cause may grant,



HB 1803

2003

21600 file a report with the office ~~department~~, on forms prescribed by
 21601 the commission ~~department~~, verified by the oath of a member of
 21602 the board of trustees and by an administrative executive
 21603 appointed by the board, showing its condition on the last day of
 21604 the preceding fiscal year. The report shall contain an audited
 21605 financial statement of the arrangement prepared in accordance
 21606 with statutory accounting principles, including its balance
 21607 sheet and a statement of operations for the preceding year
 21608 certified by an independent certified public accountant. The
 21609 report shall also include an analysis of the adequacy of
 21610 reserves and contributions or premiums charged, based on a
 21611 review of past and projected claims and expenses.

21612 (2) In addition to information called for and furnished in
 21613 connection with the annual report, if reasonable grounds exist,
 21614 the office ~~department~~ may request information which summarizes
 21615 paid and incurred expenses, and contributions or premiums
 21616 received, and may request evidence satisfactory to the office
 21617 ~~department~~ that the arrangement is actuarially sound. Such
 21618 information and evidence shall be furnished to the office
 21619 ~~department~~ by the arrangement as soon as reasonably possible
 21620 after requested by the office ~~department~~, but not later than 30
 21621 days after such request, unless the office ~~department~~, for good
 21622 cause, grants an extension.

21623 (3) Annually, in conjunction with the annual report
 21624 required by subsection (1), each arrangement shall submit an
 21625 actuarial certification prepared by an independent actuary
 21626 certifying that:

21627 (a) The arrangement is actuarially sound. The
 21628 certification shall consider the rates, benefits, and expenses
 21629 of, and any other funds available for the payment of the



HB 1803

2003

21630 obligations of, the arrangement.

21631 (b) The rates being charged and to be charged for
 21632 contracts are actuarially adequate through the end of the period
 21633 for which rates have been guaranteed.

21634 (c) Incurred but not reported claims and claims reported
 21635 but not fully paid have been adequately provided for.

21636 (d) Such other information relating to the performance of
 21637 the arrangement as the commission or office ~~department~~ requires.

21638 (4) Each arrangement shall file quarterly, within 45 days
 21639 after the end of each of its four quarterly reporting periods,
 21640 an unaudited financial statement of the arrangement on forms
 21641 prescribed by the commission ~~department~~, verified according to
 21642 the best of their information, knowledge, and belief by the oath
 21643 of a member of the board of trustees and by an administrative
 21644 executive appointed by the board showing its condition on the
 21645 last day of the preceding quarter.

21646 (5) Any arrangement that fails to file an annual financial
 21647 report, actuarial report, or quarterly financial report in the
 21648 form and within the time required by this section shall forfeit
 21649 to the office ~~department~~ an amount set by order of the office
 21650 ~~department~~ which does not exceed \$1,000 for each of the first 10
 21651 days of noncompliance and does not exceed \$2,000 for each
 21652 subsequent day of noncompliance. Upon notice by the office
 21653 ~~department~~ that the arrangement is not in compliance with this
 21654 section, the arrangement's authority to enroll new enrollees or
 21655 to do business in this state ceases until the office ~~department~~
 21656 determines the arrangement to be in compliance. The office
 21657 ~~department~~ may not collect more than \$100,000 under this
 21658 paragraph with respect to any particular report.

21659 (6) All moneys collected by the office ~~department~~ under



HB 1803

2003

21660 this section shall be deposited to the credit of the Insurance
 21661 ~~Commissioner's~~ Regulatory Trust Fund.

21662 (7) Each authorized arrangement must retain an independent
 21663 certified public accountant, referred to in this subsection as
 21664 "CPA," who agrees by written contract with the arrangement to
 21665 comply with ss. 624.436-624.445. The contract must state that:

21666 (a) The CPA will provide to the arrangement audited
 21667 financial statements consistent with ss. 624.436-624.445.

21668 (b) Any determination by the CPA that the arrangement does
 21669 not meet the minimum surplus requirements set forth in ss.
 21670 624.436-624.445 will be stated by the CPA, in writing, in the
 21671 audited financial statement.

21672 (c) The completed workpapers and any written
 21673 communications between the CPA and the arrangement will be made
 21674 available for review on a visual inspection-only basis by the
 21675 office department ~~at the location offices~~ of the arrangement,
 21676 the office department, or any other reasonable place agreeable
 21677 to both the office department and the arrangement.

21678 (d) The CPA will retain for review the workpapers and
 21679 written communications with the arrangement for not less than 6
 21680 years.

21681 Section 734. Section 624.443, Florida Statutes, is amended
 21682 to read:

21683 624.443 Place of business; maintenance of records.--Each
 21684 arrangement shall have and maintain its principal place of
 21685 business in this state and shall therein make available to the
 21686 office department complete records of its assets, transactions,
 21687 and affairs in accordance with such methods and systems as are
 21688 customary for, or suitable to, the kind or kinds of business
 21689 transacted.



HB 1803

2003

21690 Section 735. Section 624.4431, Florida Statutes, is
21691 amended to read:

21692 624.4431 Administration; rules.--The administration of ss.
21693 624.436-624.446 is vested in the commission and office
21694 ~~department~~. The commission may ~~department has authority to~~ adopt
21695 rules pursuant to ss. 120.536(1) and 120.54 to implement the
21696 provisions of ss. 624.436-624.446.

21697 Section 736. Section 624.444, Florida Statutes, is amended
21698 to read:

21699 624.444 Suspension, revocation of approval.--

21700 (1) The office ~~department~~ shall deny, suspend, or revoke
21701 an arrangement's certificate of authority if it finds that the
21702 arrangement:

21703 (a) Is insolvent;

21704 (b) Is using such methods and practices in the conduct of
21705 its business as to render its further transaction of business in
21706 this state hazardous or injurious to its participating
21707 employers, covered employees and dependents, or to the public;

21708 (c) Has failed to pay any final judgment rendered against
21709 it in this state within 60 days after the judgment became final;

21710 (d) Is in violation of any provision of this chapter,
21711 including any requirements for the granting of a certificate of
21712 authority;

21713 (e) Is no longer actuarially sound or the arrangement does
21714 not have the minimum surplus required by this chapter; or

21715 (f) The existing contract rates are inadequate.

21716 (2) The office ~~department~~ may, in its discretion, deny,
21717 suspend, or revoke the certificate of authority of any
21718 arrangement if it finds that the arrangement:

21719 (a) Has violated any lawful order or rule of the office or



HB 1803

2003

21720 commission department or any applicable provision of the Florida
 21721 Insurance Code; or

21722 (b) Has refused to be examined or to produce its accounts,
 21723 records, and files for examination, or if any of its officers
 21724 have refused to give information with respect to its affairs or
 21725 to perform any other legal obligation as to such examination,
 21726 when required by the office department.

21727 (3) Whenever the financial condition of the arrangement is
 21728 such that, if not modified or corrected, its continued operation
 21729 would result in impairment or insolvency, the department may
 21730 order the arrangement to file with the office department and
 21731 implement a corrective action plan designed to do one or more of
 21732 the following:

21733 (a) Reduce the total amount of present potential liability
 21734 for benefits by reinsurance or other means.

21735 (b) Reduce the volume of new business being accepted.

21736 (c) Reduce the expenses of the arrangement by specified
 21737 methods.

21738 (d) Suspend or limit the writing of new business for a
 21739 specified period of time.

21740 (e) Require an increase in the arrangement's net worth.

21741

21742

21743 If the arrangement fails to submit a plan within 30 days after
 21744 the office's department's order, or if the plan submitted is
 21745 insufficient to correct the arrangement's financial condition,
 21746 the office department may order the arrangement to implement one
 21747 or more of the corrective actions specified in this subsection.

21748 (4) In any order to suspend the authority of an
 21749 arrangement to enroll new subscribers, the office department



HB 1803

2003

21750 shall specify the period during which the suspension is to be in
 21751 effect and the conditions, if any, which must be met by the
 21752 arrangement prior to reinstatement of its authority to enroll
 21753 new subscribers. The order of suspension is subject to
 21754 rescission or modification by further order of the office
 21755 ~~department~~ prior to the expiration of the suspension period. An
 21756 arrangement's authority to enroll new subscribers shall not be
 21757 reinstated unless it requests reinstatement, and shall not be
 21758 reinstated if the office ~~department~~ finds that the circumstances
 21759 that gave rise to the suspension still exist.

21760 Section 737. Subsection (2) of section 624.445, Florida
 21761 Statutes, is amended to read:

21762 624.445 Order, notice, duration, effect of suspension or
 21763 revocation; administrative fine.--

21764 (2) If the office ~~department~~ finds that one or more
 21765 grounds exist for the discretionary revocation or suspension of
 21766 an arrangement's certificate of authority under ss. 624.436-
 21767 624.446, the office ~~department~~ may, in lieu of or in addition to
 21768 such revocation or suspension, impose a fine upon such
 21769 arrangement, in accordance with s. 624.4211.

21770 Section 738. Section 624.4435, Florida Statutes, is
 21771 transferred, renumbered as section 624.448, Florida Statutes,
 21772 and amended to read:

21773 624.448 ~~624.4435~~ Assets of insurers; reporting
 21774 requirements.--

21775 (1) As used in this section, the term:

21776 (a) "Material acquisition of assets" or "material
 21777 disposition of assets" means one or more transactions occurring
 21778 during any 30-day period which are nonrecurring and not in the
 21779 ordinary course of business and involve more than 5 percent of



HB 1803

2003

21780 the reporting insurer's total admitted assets as reported in its
 21781 most recent statutory statement filed with the insurance
 21782 department of the insurer's state of domicile.

21783 (b) "Material nonrenewal, cancellation, or revision of a
 21784 ceded reinsurance agreement" is one that affects:

21785 1. With respect to property and casualty business,
 21786 including accident and health business written by a property and
 21787 casualty insurer:

21788 a. More than 50 percent of the insurer's total ceded
 21789 written premium; or

21790 b. More than 50 percent of the insurer's total ceded
 21791 indemnity and loss adjustment reserves.

21792 2. With respect to life, annuity, and accident and health
 21793 business, more than 50 percent of the total reserve credit taken
 21794 for business ceded, on an annualized basis, as indicated in the
 21795 insurer's most recent annual statement.

21796 3. With respect to property and casualty business or life,
 21797 annuity, and accident and health business, a material revision
 21798 includes:

21799 a. The replacement of an authorized reinsurer representing
 21800 more than 10 percent of a total cession by one or more
 21801 unauthorized reinsurers; or

21802 b. The reduction or waiver, with respect to one or more
 21803 unauthorized insurers, of previously established collateral
 21804 requirements representing more than 10 percent of a total
 21805 cession.

21806 (2) Each domestic insurer shall file a report with the
 21807 office ~~Department of Insurance~~ disclosing a material acquisition
 21808 of assets, a material disposition of assets, or a material
 21809 nonrenewal, cancellation, or revision of a ceded reinsurance



HB 1803

2003

21810 agreement, unless the material acquisition or disposition of
 21811 assets or the material nonrenewal, cancellation, or revision of
 21812 a ceded reinsurance agreement has been submitted to the office
 21813 ~~department~~ for review, approval, or informational purposes under
 21814 another section of the Florida Insurance Code or a rule adopted
 21815 thereunder. A copy of the report and each exhibit or other
 21816 attachment must be filed by the insurer with the National
 21817 Association of Insurance Commissioners. The report required in
 21818 this section is due within 15 days after the end of the calendar
 21819 month in which the transaction occurs.

21820 (3) An immaterial acquisition or disposition of assets
 21821 need not be reported under this section.

21822 (4)(a) Acquisitions of assets which are subject to this
 21823 section include each purchase, lease, exchange, merger,
 21824 consolidation, succession, or other acquisition of assets. Asset
 21825 acquisitions for the construction or development of real
 21826 property by or for the reporting insurer and the acquisition of
 21827 construction materials for this purpose are not subject to this
 21828 section.

21829 (b) Dispositions of assets which are subject to this
 21830 section include each sale, lease, exchange, merger,
 21831 consolidation, mortgage, hypothecation, assignment for the
 21832 benefit of a creditor or otherwise, abandonment, destruction, or
 21833 other disposition of assets.

21834 (5)(a) The following information must be disclosed in any
 21835 report of a material acquisition or disposition of assets:

- 21836 1. The date of the transaction;
- 21837 2. The manner of acquisition or disposition;
- 21838 3. The description of the assets involved;
- 21839 4. The nature and amount of the consideration given or



HB 1803

2003

21840 received;

21841 5. The purpose of, or reason for, the transaction;

21842 6. The manner by which the amount of consideration was
21843 determined;

21844 7. The gain or loss recognized or realized as a result of
21845 the transaction; and

21846 8. The name of the person from whom the assets were
21847 acquired or to whom they were disposed.

21848 (b) Insurers must report material acquisitions or
21849 dispositions on a nonconsolidated basis unless the insurer is
21850 part of a consolidated group of insurers which uses a pooling
21851 arrangement or a 100-percent reinsurance agreement that affects
21852 the solvency and integrity of the insurer's reserves and the
21853 insurer has ceded substantially all of its direct and assumed
21854 business to the pool. An insurer is deemed to have ceded
21855 substantially all of its direct and assumed business to a pool
21856 if the insurer has less than \$1 million in total direct and
21857 assumed written premiums during a calendar year which are not
21858 subject to a pooling arrangement and if the net income of the
21859 business which is not subject to the pooling arrangement
21860 represents less than 5 percent of the insurer's capital and
21861 surplus.

21862 (6) The nonrenewal, cancellation, or revision of a ceded
21863 reinsurance agreement need not be reported if the renewal or the
21864 revision is not material or if:

21865 (a) With respect to property and casualty business,
21866 including accident and health business written by a property and
21867 casualty insurer, the insurer's total ceded written premium
21868 represents, on an annualized basis, less than 10 percent of its
21869 total written premium for direct and assumed business; or



HB 1803

2003

21870 (b) With respect to life, annuity, and accident and health
 21871 business, the total reserve credit taken for business ceded
 21872 represents, on an annualized basis, less than 10 percent of the
 21873 statutory reserve requirement before the cession.

21874 (7)(a) The following information must be disclosed in any
 21875 report of a material nonrenewal, cancellation, or revision of a
 21876 ceded reinsurance agreement:

21877 1. The effective date of the nonrenewal, cancellation, or
 21878 revision;

21879 2. The description of the transaction and the
 21880 identification of the initiator of the transaction;

21881 3. The purpose of, or reason for, the transaction; and

21882 4. If applicable, the identity of each replacement
 21883 reinsurer.

21884 (b) Insurers shall report the material nonrenewal,
 21885 cancellation, or revision of a ceded reinsurance agreement on a
 21886 nonconsolidated basis unless the insurer is part of a
 21887 consolidated group of insurers which uses a pooling arrangement
 21888 or a 100-percent reinsurance agreement that affects the solvency
 21889 and integrity of the insurer's reserves and the insurer has
 21890 ceded substantially all of its direct and assumed business to
 21891 the pool. An insurer is deemed to have ceded substantially all
 21892 of its direct and assumed business to a pool if the insurer has
 21893 less than \$1 million in total direct and assumed written
 21894 premiums during a calendar year which are not subject to a
 21895 pooling arrangement and if the net income of the business not
 21896 subject to the pooling arrangement represents less than 5
 21897 percent of the insurer's capital and surplus.

21898 Section 739. Subsection (1) of section 624.45, Florida
 21899 Statutes, is amended to read:



HB 1803

2003

21900 624.45 Participation of financial institutions in
 21901 reinsurance and in insurance exchanges.--Subject to applicable
 21902 laws relating to financial institutions and to any other
 21903 applicable provision of the Florida Insurance Code, any
 21904 financial institution or aggregation of such institutions may:

21905 (1) Own or control, directly or indirectly, any insurer
 21906 which is authorized or approved by the office ~~department~~, which
 21907 insurer transacts only reinsurance in this state and which
 21908 actively engages in reinsuring risks located in this state.

21909
 21910 Nothing in this section shall be deemed to prohibit a financial
 21911 institution from engaging in any presently authorized insurance
 21912 activity.

21913 Section 740. Subsections (1), (2), (3), (4), (5), and (6)
 21914 of section 624.4621, Florida Statutes, are amended to read:

21915 624.4621 Group self-insurance funds.--

21916 (1) The commission ~~department~~ shall adopt rules that allow
 21917 two or more employers to enter into agreements to pool their
 21918 liabilities under chapter 440 for the purpose of qualifying as a
 21919 group self-insurer's fund, which shall be classified as a self-
 21920 insurer, and each employer member of such approved group shall
 21921 be known as a group self-insurer's fund member and shall be
 21922 classified as a self-insurer as defined in chapter 440. The
 21923 agreement entered into under this section may provide that the
 21924 pool will be liable for 80 percent, and the employer member will
 21925 be liable for 20 percent, of the medical benefits due any
 21926 employee for an injury compensable under this chapter up to the
 21927 amount of \$5,000. One hundred percent of the medical benefits
 21928 above \$5,000 due to an employee for one injury shall be paid by
 21929 the pool. The agreement may also provide that each employer



HB 1803

2003

21930 member will be responsible for up to the first \$500 of medical
 21931 benefits due each of its employees for each injury. The claim
 21932 shall be paid by the pool, regardless of its size, which shall
 21933 be reimbursed by the employer for any amounts required to be
 21934 paid by the employer under the agreement.

21935 (2) The commission ~~department~~ shall adopt rules:

21936 (a) Requiring monetary reserves to be maintained by such
 21937 self-insurers to insure their financial solvency; and

21938 (b) Governing their organization and operation to assure
 21939 compliance with such requirements.

21940 (3) The commission ~~department~~ shall adopt rules
 21941 implementing the reserve requirements in accordance with
 21942 accepted actuarial techniques.

21943 (4) Any self-insurer established under this section,
 21944 except for self-insurers that are state or local governmental
 21945 entities, is required to carry reinsurance in accordance with
 21946 rules adopted by the commission ~~department~~.

21947 (5) A dividend or premium refund of any self-insurer
 21948 established under this section, otherwise earned, may not be
 21949 made contingent upon continued membership in the fund, renewal
 21950 of any policy, or the payment of renewal premiums for membership
 21951 in the fund or on any policy issued by such self-insurer. Before
 21952 making any dividend or premium refund, the group self-insurer
 21953 shall submit to the office ~~department~~ the following information:

21954 (a) An audited certified financial statement.

21955 (b) An annual report of financial condition.

21956 (c) A loss reserve review by a qualified actuary.

21957
 21958
 21959 The required information listed in paragraphs (a)-(c) shall be



HB 1803

2003

21960 submitted annually, no later than 7 months after the end of the
 21961 group self-insurer's fund year. A request for such dividend or
 21962 premium refund may not be made before the required information
 21963 is filed. The request for such dividend or premium refund must
 21964 include a resolution of the board of trustees of the group self-
 21965 insurer requesting approval of a specific amount to be
 21966 distributed. A dividend, premium refund, or premium discount or
 21967 credit must not discriminate on the basis of continued coverage
 21968 or continued membership in the group self-insurer. The office
 21969 ~~department~~ shall review the request and shall issue a decision
 21970 within 60 days after the filing. Failure to issue a decision
 21971 within 60 days constitutes an approval of the request. Any
 21972 dividend or premium refund approved by the office ~~department~~ for
 21973 distribution which cannot be paid to the applicable member or
 21974 policyholder or former member or policyholder of the group self-
 21975 insurer because the former member or policyholder cannot be
 21976 reasonably located shall become the property of the group self-
 21977 insurer.

21978 (6) The office ~~department~~ may impose civil penalties not
 21979 to exceed \$100 per occurrence for violations of the provisions
 21980 of this chapter or rules adopted pursuant hereto.

21981 Section 741. Section 624.4622, Florida Statutes, is
 21982 amended to read:

21983 624.4622 Local government self-insurance funds.--

21984 (1) Any two or more local governmental entities may enter
 21985 into interlocal agreements for the purpose of securing the
 21986 payment of benefits under chapter 440, provided the local
 21987 government self-insurance fund that is created must:

21988 (a) Have annual normal premiums in excess of \$5 million;

21989 (b) Maintain a continuing program of excess insurance



HB 1803

2003

21990 coverage and reserve evaluation to protect the financial
 21991 stability of the fund in an amount and manner determined by a
 21992 qualified and independent actuary;

21993 (c) Submit annually an audited fiscal year-end financial
 21994 statement by an independent certified public accountant within 6
 21995 months after the end of the fiscal year to the office
 21996 ~~department~~; and

21997 (d) Have a governing body which is comprised entirely of
 21998 local elected officials.

21999 (2) A local government self-insurance fund that meets the
 22000 requirements of this section is not subject to s. 624.4621 and
 22001 is not required to file any report with the office ~~department~~
 22002 under s. 440.38(2)(b) which is uniquely required of group self-
 22003 insurer funds qualified under s. 624.4621. If any of the
 22004 requirements of this section are not met, the local government
 22005 self-insurance fund is subject to the requirements of s.
 22006 624.4621.

22007 Section 742. Section 624.464, Florida Statutes, is amended
 22008 to read:

22009 624.464 Certificate of authority required; penalties.--

22010 (1) No person shall establish a commercial self-insurance
 22011 fund unless such fund is issued a certificate of authority by
 22012 the office ~~department~~ pursuant to s. 624.466.

22013 (2)(a) Any person failing to hold a subsisting certificate
 22014 of authority from the office ~~department~~ while operating or
 22015 maintaining a commercial self-insurance fund shall be subject to
 22016 a fine of not less than \$5,000 or more than \$10,000 for each
 22017 violation.

22018 (b) Any person who operates or maintains a commercial
 22019 self-insurance fund without a subsisting certificate of



HB 1803

2003

22020 authority from the office ~~department~~ shall be subject to the
22021 cease and desist penalty powers of the office ~~department~~ as set
22022 forth in ss. 626.9571, 626.9581, 626.9591, and 626.9601.

22023 (c) In addition to the penalties and other enforcement
22024 provisions of the Florida Insurance Code, the office ~~department~~
22025 is vested with the power to seek both temporary and permanent
22026 injunctive relief when:

22027 1. A commercial self-insurance fund is being operated by
22028 any person or entity without a subsisting certificate of
22029 authority.

22030 2. Any person, entity, or commercial self-insurance fund
22031 has engaged in any activity prohibited by the Florida Insurance
22032 Code made applicable by ss. 624.460-624.488 or by any rule
22033 adopted pursuant thereto.

22034 3. Any commercial self-insurance fund, person, or entity
22035 is renewing, issuing, or delivering a policy, contract,
22036 certificate, summary plan description, or other evidence of the
22037 benefits and coverages provided to members without a subsisting
22038 certificate of authority.

22039

22040

22041 The office's ~~department's~~ authority to seek injunctive relief
22042 shall not be conditioned on having conducted any proceeding
22043 pursuant to chapter 120. The authority vested in the office
22044 ~~department~~ by virtue of the operation of this section shall not
22045 act to reduce any other enforcement remedy or power to seek
22046 injunctive relief that may otherwise be available to the office
22047 ~~department~~.

22048 Section 743. Section 624.466, Florida Statutes, is amended
22049 to read:



HB 1803

2003

22050 624.466 Application requirements for certificate of
 22051 authority.--All applications for a certificate of authority for
 22052 a commercial self-insurance fund shall be on a form adopted by
 22053 the commission and furnished by the office ~~department~~ and shall
 22054 include or have attached the following:

22055 (1) The name of the fund and the location of the fund's
 22056 principal office, which shall be maintained within this state.

22057 (2) The kinds of insurance initially proposed to be
 22058 transacted and a copy of each policy, endorsement, and
 22059 application form it initially proposes to issue or use.

22060 (3) A copy of the constitution, bylaws, or trust agreement
 22061 which governs the operation of the fund. The constitution,
 22062 bylaws, or trust agreement shall contain a provision prohibiting
 22063 any distribution of surplus funds or profit except to members of
 22064 the fund, as approved by the office ~~department~~ pursuant to s.
 22065 624.473.

22066 (4) The names and addresses of the trustees of the fund.
 22067 The office ~~department~~ shall not grant or continue approval as to
 22068 any fund if the office ~~department~~ determines any trustee to be
 22069 incompetent or untrustworthy; that any trustee has been found
 22070 guilty of, or has pled guilty or no contest to, a felony, a
 22071 crime involving moral turpitude, or a crime punishable by
 22072 imprisonment of 1 year or more under the law of any state,
 22073 territory, or country, whether or not a judgment or conviction
 22074 has been entered; or that any trustee has had any type of
 22075 insurance license revoked in this or any other state.

22076 (5) A copy of a properly executed indemnity agreement
 22077 binding each fund member to individual, several, and
 22078 proportionate liability as set forth in ss. 624.472 and 624.474.

22079 (6) A plan of risk management which has established



HB 1803

2003

22080 measures and procedures to minimize both the frequency and
 22081 severity of losses.

22082 (7) Proof of competent and trustworthy persons to
 22083 administer or service the fund in the areas of claims adjusting,
 22084 underwriting, risk management, and loss control.

22085 (8) Membership applications and the name and address of
 22086 each member applying for coverage and a current financial
 22087 statement on each member applying for coverage showing the
 22088 aggregate net worth of all members to be not less than \$500,000,
 22089 a combined ratio of current assets to current liabilities of
 22090 more than 1 to 1, and a combined working capital of an amount
 22091 establishing financial strength and liquidity of the businesses
 22092 to promptly provide for payment of the normal property or
 22093 casualty claims proposed to be self-insured.

22094 (9)(a) An initial deposit of cash or securities of the
 22095 type eligible for deposit by insurers under s. 625.52 in the
 22096 amount of \$100,000.

22097 1. All income from deposits shall belong to the fund and
 22098 shall be transmitted to the fund as it becomes available.

22099 2. No judgment creditor or other claimant of the fund
 22100 shall have the right to levy upon any of the assets or
 22101 securities held as a deposit under this section.

22102 (b) In lieu of the deposit of cash or securities, a fund
 22103 may file with the office ~~department~~ a surety bond in like
 22104 amount. The bond shall be one issued by an authorized surety
 22105 insurer, shall be for the same purpose as the deposit in lieu of
 22106 which it is filed, and shall be subject to the office's
 22107 ~~department's~~ approval.

22108 1. No bond shall be approved unless it covers liabilities
 22109 arising from all policies and contracts issued and entered into



HB 1803

2003

22110 during the time the bond is in effect and unless the office
 22111 ~~department~~ is satisfied that the bond provides the same degree
 22112 of security as would be provided by a deposit of securities.

22113 2. No bond shall be canceled or subject to cancellation
 22114 unless at least 60 days' advance notice thereof in writing is
 22115 filed with the office ~~department~~.

22116 (c) Deposits of securities or cash pursuant to this
 22117 section shall be administered by the office and department in
 22118 accordance with part III of chapter 625.

22119 (10)(a) Copies of acceptable excess insurance policies
 22120 written by an insurer or insurers authorized or approved to
 22121 transact insurance in this state, which excess insurance
 22122 provides specific and aggregate limits and retention levels
 22123 satisfactory to the office ~~department~~ in accordance with sound
 22124 actuarial principles. The office ~~department~~ may waive this
 22125 requirement if the fund demonstrates to the satisfaction of the
 22126 office ~~department~~ that its operation is and will be actuarially
 22127 sound without obtaining excess insurance.

22128 (b) At least 10 days prior to the proposed effective date
 22129 of the issuance of any policy, the trustees shall submit proof
 22130 that the members have paid into a common claims fund in a
 22131 designated depository cash premiums in an amount of not less
 22132 than \$50,000 or 10 percent of the estimated annual premium of
 22133 the members at the inception, whichever is greater.

22134 (11) A copy of a fidelity bond or insurance policy from an
 22135 authorized insurer providing coverage in an amount equal to not
 22136 less than 10 percent of the funds handled annually and issued in
 22137 the name of the fund covering its trustees, employees,
 22138 administrator, or other individuals managing or handling the
 22139 funds or assets of the fund. In no case may such bond or policy



HB 1803

2003

22140 be less than \$1,000 or more than \$500,000, except that the
 22141 office department may for good cause prescribe an amount in
 22142 excess of \$500,000, subject to the 10-percent limitation of the
 22143 preceding sentence.

22144 (12)(a) A plan of operation designed to provide sufficient
 22145 revenues to pay current and future liabilities, as determined in
 22146 accordance with sound actuarial principles.

22147 (b) A statement prepared by an actuary who is a member of
 22148 the American Academy of Actuaries or the Casualty Actuarial
 22149 Society establishing that the fund has prepared a plan of
 22150 operation which is based on sound actuarial principles. The
 22151 office department shall not approve the fund unless the office
 22152 ~~department~~ determines that the plan established by the fund is
 22153 designed to provide sufficient revenues to pay current and
 22154 future liabilities, as determined in accordance with sound
 22155 actuarial principles.

22156 (13) Such additional information as the commission or
 22157 office department may reasonably requires ~~require~~.

22158 Section 744. Subsections (1), (4), (6), (8), (9), (10),
 22159 and (12) of section 624.468, Florida Statutes, are amended to
 22160 read:

22161 624.468 Continuing requirements for certificate of
 22162 authority.--After issuance of its initial certificate of
 22163 authority a commercial self-insurance fund shall thereafter meet
 22164 the following requirements as a condition of maintaining its
 22165 certificate of authority:

22166 (1) Maintenance of competent and trustworthy persons to
 22167 service the program, as further specified in s. 624.466(7).
 22168 Written notice shall be provided to the office department before
 22169 changing the fund's method of fulfilling its servicing



HB 1803

2003

22170 requirements.

22171 (4) Maintenance of excess insurance in accordance with
22172 sound actuarial principles, unless waived by the office
22173 ~~department~~, as further specified in s. 624.466(10).

22174 (6) Maintenance of appropriate funded loss reserves
22175 determined in accordance with sound actuarial principles
22176 satisfactory to the office ~~department~~.

22177 (8) Each fund shall have and maintain its principal place
22178 of business in this state and shall therein make available to
22179 the office ~~department~~ upon reasonable notice complete records of
22180 its assets, transactions, and affairs in accordance with such
22181 methods and systems as are customary for, or suitable to, the
22182 kind or kinds of business transacted.

22183 (9) A fund shall file such reports with the office
22184 ~~department~~ as are required by s. 624.470.

22185 (10) A fund shall report to the office ~~department~~ within
22186 15 days of a determination that the actual premiums written or
22187 liability assumed or any other factor which substantially
22188 contributes to the financial condition of the plan deviates by
22189 more than 25 percent from the projections used in the most
22190 recent annual report, as required by s. 624.470 or, if the first
22191 annual report has not yet been filed, projections used in the
22192 initial plan of operation.

22193 (12) A fund shall maintain records which will confirm that
22194 membership in the fund is in accordance with the constitution or
22195 bylaws of the association as required by s. 624.462(3). The
22196 office ~~department~~ may request from the fund, not more than
22197 annually, a certification which confirms that all members of the
22198 fund are members of the association and are in compliance with
22199 the constitution or bylaws of the association and may require



HB 1803

2003

22200 that the fund submit a plan, acceptable to the office
 22201 ~~department~~, to eliminate membership that does not comply with s.
 22202 624.462(3).

22203 Section 745. Paragraph (b) of subsection (1) and
 22204 subsection (2) of section 624.470, Florida Statutes, are amended
 22205 to read:

22206 624.470 Annual reports.--

22207 (1)

22208 (b) For financial statements filed on or after January 1,
 22209 1998, future investment income may only be reported as an
 22210 admitted asset by an Assessable Mutual or Self-Insurance Fund
 22211 which reported future investment income in financial statements
 22212 filed with the Department of Insurance prior to January 1, 1998.

22213 (2) Every fund shall, annually within 6 months of the end
 22214 of the fiscal year, file a report with the office ~~department~~
 22215 verified by the oath of a member of the board of trustees or by
 22216 an administrative executive appointed by the board, containing
 22217 the following information:

22218 (a) A financial statement of the fund, including its
 22219 balance sheet and a statement of operations for the preceding
 22220 year certified by an independent certified public accountant.

22221 (b) A report prepared by an actuary who is a member of the
 22222 American Academy of Actuaries as to the actuarial soundness of
 22223 the fund. The report shall consist of, but shall not be limited
 22224 to, the following:

22225 1. Adequacy of premiums or contributions in paying claims
 22226 and changes, if any, needed in the contribution rates to achieve
 22227 or preserve a level of funding deemed adequate, which shall
 22228 include a valuation of present assets, based on statement value,
 22229 and prospective assets and liabilities of the plan and the



HB 1803

2003

22230 extent of any unfunded accrued liabilities.

22231 2. A plan to amortize any unfunded liabilities and a
22232 description of actions taken to reduce unfunded liabilities.

22233 3. A description and explanation of actuarial assumptions.

22234 4. A schedule illustrating the amortization of any
22235 unfunded liabilities.

22236 5. A comparative review illustrating the level of funds
22237 available to the commercial self-insurance fund from rates,
22238 investment income, and other sources realized over the period
22239 covered by the report, indicating the assumptions used.

22240 6. A projection of the following year's plan of operation,
22241 including additional number of members, gross premiums to be
22242 written, and projected liabilities.

22243 7. A statement by the actuary that the report is complete
22244 and accurate and that in her or his opinion the techniques and
22245 assumptions used are reasonable and meet the requirements of
22246 this subsection.

22247 8. Other factors or statements as may be reasonably
22248 required by the office or commission ~~department~~ in order to
22249 determine the actuarial soundness of the plan.

22250 (c) Any changes in the constitution, bylaws, or trust
22251 agreement of the fund.

22252 Section 746. Section 624.473, Florida Statutes, is amended
22253 to read:

22254 624.473 Dividends.--A commercial self-insurance fund shall
22255 obtain the approval of the office ~~department~~ prior to paying any
22256 dividend or refund to its members. No such dividend or refund
22257 may be approved until 12 months after the last day of the fiscal
22258 year for which the dividend or refund is payable, or such later
22259 time as the office ~~department~~ may require in accordance with



HB 1803

2003

22260 sound actuarial principles.

22261 Section 747. Section 624.4741, Florida Statutes, is
 22262 amended to read:

22263 624.4741 Venue in assessment actions.--In any action
 22264 brought by a self-insurance fund to collect assessments levied
 22265 under this chapter, venue lies where the fund maintains its
 22266 principal place of business or, if the department, the office,
 22267 or the Florida Group Self-Insurers Guaranty Association is a
 22268 party to such action, in the Circuit Court of Leon County.

22269 Section 748. Section 624.480, Florida Statutes, is amended
 22270 to read:

22271 624.480 Filing, approval, and disapproval of forms.--

22272 (1) A basic insurance policy or application form for which
 22273 written application is required and is to be a part of the
 22274 policy or contract or printed rider or endorsement form may not
 22275 be issued by a self-insurance fund unless the form has been
 22276 filed with and approved by the office ~~department~~.

22277 (2) Every such filing shall be made not less than 30 days
 22278 in advance of any such use or delivery. At the expiration of
 22279 such 30 days, the form so filed shall be deemed approved unless
 22280 prior thereto it has been affirmatively approved or disapproved
 22281 by order of the office ~~department~~. The office ~~department~~ may
 22282 extend by not more than an additional 15 days the period within
 22283 which it may so affirmatively approve or disapprove any such
 22284 form, by giving notice of such extension before expiration of
 22285 the initial 30-day period. At the expiration of any such period
 22286 as so extended, and in the absence of such prior affirmative
 22287 approval or disapproval, any such form must be deemed approved.

22288 (3) The office ~~department~~ shall disapprove any form or
 22289 withdraw any previous approval thereof only, if the form:



HB 1803

2003

22290 (a) Is in any respect in violation of, or does not comply
 22291 with, this code.

22292 (b) Contains or incorporates by reference, when such
 22293 incorporation is otherwise permissible, any inconsistent,
 22294 ambiguous, or misleading clauses, or any exceptions and
 22295 conditions which deceptively affect the risk purported to be
 22296 assumed in the general coverage of the contract.

22297 (c) Has any title, heading, or other indication of its
 22298 provisions which is misleading.

22299 (d) Is printed or otherwise reproduced in such manner as
 22300 to render any material provision of such form substantially
 22301 illegible.

22302 Section 749. Subsections (1), (5), (6), (7), and (8) of
 22303 section 624.482, Florida Statutes, are amended to read:

22304 624.482 Making and use of rates.--

22305 (1) With respect to all classes of insurance which a self-
 22306 insurance fund underwrites, the rates must not be excessive,
 22307 inadequate, or unfairly discriminatory. In determining what
 22308 rates, including credits and surcharges, are excessive,
 22309 inadequate, or unfairly discriminatory, the office ~~department~~
 22310 shall apply the same standards applicable to other insurers
 22311 regulated by the office ~~department~~.

22312 (5) If the office ~~department~~ determines that the continued
 22313 use of a rate for a coverage endangers the solvency of the fund,
 22314 it may issue an order requiring the rate to be increased or
 22315 requiring the fund to limit or cease writing the coverage.

22316 (6) A fund shall have the burden of proving that a rate
 22317 filed is adequate if, during the first 5 years of issuing
 22318 policies, the fund files a rate that is below the rate for loss
 22319 and loss adjustment expenses for the same type and



HB 1803

2003

22320 classification of insurance that has been filed by the Insurance
 22321 Services Office and approved by the office ~~department~~.

22322 (7) Nothing herein shall be construed to prohibit the
 22323 office ~~department~~ from examining a fund pursuant to s. 624.3161.

22324 (8) A self-insurance fund shall file its rates, including
 22325 credits and surcharge schedules, with the office ~~department~~ for
 22326 approval pursuant to the standards of this section and the
 22327 procedures of s. 624.480(2).

22328 Section 750. Section 624.484, Florida Statutes, is amended
 22329 to read:

22330 624.484 Registration of agent.--A self-insurance fund
 22331 shall register with and designate the Chief Financial Officer
 22332 ~~Insurance Commissioner~~ as its agent solely for the purpose of
 22333 receiving service of legal documents or process.

22334 Section 751. Section 624.486, Florida Statutes, is amended
 22335 to read:

22336 624.486 Examination.--Self-insurance funds licensed under
 22337 ss. 624.460-624.488 are subject to periodic examination by the
 22338 office ~~department~~ in the same manner and subject to the same
 22339 terms and conditions applicable to insurers under part II of
 22340 this chapter.

22341 Section 752. Section 624.487, Florida Statutes, is amended
 22342 to read:

22343 624.487 Enforcement of specified insurance provisions;
 22344 adoption of rules.--The office ~~department~~ may enforce, with
 22345 respect to group self-insurance funds established or operated
 22346 under s. 624.4621, the provisions of s. 624.316, s. 624.424, s.
 22347 625.091, or s. 625.305 as they relate to workers' compensation
 22348 insurers, and the commission may adopt rules to implement the
 22349 enforcement authority granted by this section.



HB 1803

2003

22350 Section 753. Section 624.501, Florida Statutes, is amended
 22351 to read:

22352 624.501 Filing, license, appointment, and miscellaneous
 22353 fees.--The department, commission, or office, as appropriate,
 22354 shall collect in advance, and persons so served shall pay to it
 22355 in advance, fees, licenses, and miscellaneous charges as
 22356 follows:

22357 (1) Certificate of authority of insurer.

22358 (a) Filing application for original certificate of
 22359 authority or modification thereof as a result of a merger,
 22360 acquisition, or change of controlling interest due to a sale or
 22361 exchange of stock, including all documents required to be filed
 22362 therewith, filing fee....\$1,500.00

22363 (b) Reinstatement fee....\$50.00

22364 (2) Charter documents of insurer.

22365 (a) Filing articles of incorporation or other charter
 22366 documents, other than at time of application for original
 22367 certificate of authority, filing fee....\$10.00

22368 (b) Filing amendment to articles of incorporation or
 22369 charter, other than at time of application for original
 22370 certificate of authority, filing fee....\$5.00

22371 (c) Filing bylaws, when required, or amendments thereof,
 22372 filing fee....\$5.00

22373 (3) Annual license tax of insurer, each domestic insurer,
 22374 foreign insurer, and alien insurer (except that, as to fraternal
 22375 benefit societies insuring less than 200 members in this state
 22376 and the members of which as a prerequisite to membership possess
 22377 a physical handicap or disability, such license tax shall be
 22378 \$25)....\$1,000.00

22379 (4) Statements of insurer, filing (except when filed as



HB 1803

2003

22380 part of application for original certificate of authority),
 22381 filing fees:
 22382 (a) Annual statement....\$250.00
 22383 (b) Quarterly statement....\$250.00
 22384 (5) All insurance representatives, application for
 22385 license, each filing, filing fee....\$50.00
 22386 (6) Insurance representatives, property, marine, casualty,
 22387 and surety insurance.
 22388 (a) Agent's original appointment and biennial renewal or
 22389 continuation thereof, each insurer:
 22390 Appointment fee....\$42.00
 22391 State tax....12.00
 22392 County tax....6.00
 22393 Total....\$60.00
 22394 (b) Solicitor's or customer representative's original
 22395 appointment and biennial renewal or continuation thereof:
 22396 Appointment fee....\$42.00
 22397 State tax....12.00
 22398 County tax....6.00
 22399 Total....\$60.00
 22400 (c) Nonresident agent's original appointment and biennial
 22401 renewal or continuation thereof, appointment fee, each
 22402 insurer....\$60.00
 22403 (d) Service representatives; managing general agents.
 22404 Original appointment and biennial renewal or continuation
 22405 thereof, each insurer or managing general agent, whichever is
 22406 applicable....\$60.00
 22407 (7) Life insurance agents.
 22408 (a) Agent's original appointment and biennial renewal or
 22409 continuation thereof, each insurer:



HB 1803

2003

22410 Appointment fee....\$42.00

22411 State tax....12.00

22412 County tax....6.00

22413 Total....\$60.00

22414 (b) Nonresident agent's original appointment and biennial
 22415 renewal or continuation thereof, appointment fee, each
 22416 insurer....\$60.00

22417 (8) Health insurance agents.

22418 (a) Agent's original appointment and biennial renewal or
 22419 continuation thereof, each insurer:

22420 Appointment fee....\$42.00

22421 State tax....12.00

22422 County tax....6.00

22423 Total....\$60.00

22424 (b) Nonresident agent's original appointment and biennial
 22425 renewal or continuation thereof, appointment fee, each
 22426 insurer....\$60.00

22427 (9) All limited appointments as agent, as provided for in
 22428 s. 626.321. Agent's original appointment and biennial renewal
 22429 or continuation thereof, each insurer:

22430 Appointment fee....\$42.00

22431 State tax....12.00

22432 County tax....6.00

22433 Total....\$60.00

22434 (10) Fraternal benefit society agents. Original
 22435 appointment and biennial renewal or continuation thereof, each
 22436 insurer:

22437 Appointment fee....\$42.00

22438 State tax....12.00

22439 County tax....6.00



HB 1803

2003

22440 Total....\$60.00

22441 (11) Surplus lines agent. Agent's appointment and

22442 biennial renewal or continuation thereof, appointment

22443 fee....\$150.00

22444 (12) Adjusters:

22445 (a) Adjuster's original appointment and biennial renewal

22446 or continuation thereof, appointment fee....\$60.00

22447 (b) Nonresident adjuster's original appointment and

22448 biennial renewal or continuation thereof, appointment

22449 fee....\$60.00

22450 (c) Emergency adjuster's license, appointment

22451 fee....\$10.00

22452 (d) Fee to cover actual cost of credit report, when such

22453 report must be secured by the office ~~department~~.

22454 (13) Examination--Fee to cover actual cost of examination.

22455 (14) Temporary license and appointment as agent or

22456 adjuster, where expressly provided for, rate of fee for each

22457 month of the period for which the license and appointment is

22458 issued....\$5.00

22459 (15) Issuance, reissuance, reinstatement, modification

22460 resulting in a modified license being issued, duplicate copy of

22461 any insurance representative license, or an appointment being

22462 reinstated....\$5.00

22463 (16) Additional appointment continuation fees as

22464 prescribed in chapter 626....\$5.00

22465 (17) Filing application for permit to form insurer as

22466 referred to in chapter 628, filing fee....\$25.00

22467 (18) Annual license fee of rating organization, each

22468 domestic or foreign organization....\$25.00

22469 (19) Miscellaneous services:



HB 1803

2003

22470 (a) For copies of documents or records on file with the
 22471 department, commission, or office per page....\$.50

22472 (b) For each certificate of the department, commission, or
 22473 office under its seal, authenticating any document or other
 22474 instrument(other than a license or certificate of
 22475 authority)....\$5.00

22476 (c) For preparing lists of agents, solicitors, adjusters,
 22477 and other insurance representatives, and for other miscellaneous
 22478 services, such reasonable charge as may be fixed by the office
 22479 or department.

22480 (d) For processing requests for approval of continuing
 22481 education courses, processing fee....\$100.00

22482 (e) Insurer's registration fee for agent exchanging
 22483 business more than 24 times in calendar year under s. 626.752,
 22484 s. 626.793, or s. 626.837, registration fee per agent per
 22485 year....\$30.00

22486 (20) Insurance agency or adjusting firm, 3-year
 22487 license....\$60.00

22488 (21) Limited surety agent or professional bail bond agent,
 22489 as defined in s. 648.25, each agent and each insurer
 22490 represented. Original appointment and biennial renewal or
 22491 continuation thereof, each agent or insurer, whichever is
 22492 applicable:

22493 Appointment fee....\$44.00

22494 State tax....24.00

22495 County tax....12.00

22496 Total....\$80.00

22497 (22) Certain military installations, as authorized under
 22498 s. 626.322: original appointment and biennial renewal or
 22499 continuation thereof, each insurer....\$20.00



HB 1803

2003

22500 (23) Filing application for original certificate of
 22501 authority for third-party administrator or original certificate
 22502 of approval for a service company, including all documents
 22503 required to be filed therewith, filing fee....\$100.00

22504 (24) Fingerprinting processing fee--Fee to cover
 22505 fingerprint processing.

22506 (25) Sales representatives, miscellaneous lines. Original
 22507 appointment and biennial renewal or continuation thereof,
 22508 appointment fee....\$60.00

22509 (26) Reinsurance intermediary:

22510 (a) Application filing and license fee....\$50.00

22511 (b) Original appointment and biennial renewal or
 22512 continuation thereof, appointment fee....\$60.00

22513 (27) Title insurance agents:

22514 (a) Agent's original appointment or biennial renewal or
 22515 continuation thereof, each insurer:

22516 Appointment fee....\$42.00

22517 State tax....12.00

22518 County tax....6.00

22519 Total....\$60.00

22520 (b) Agency original appointment or biennial renewal or
 22521 continuation thereof, each insurer:

22522 Appointment fee....\$42.00

22523 State tax....12.00

22524 County tax....6.00

22525 Total....\$60.00

22526 (c) Filing for title insurance agent's license:

22527 Application for filing, each filing, filing fee....\$10.00

22528 (d) Additional appointment continuation fee as prescribed
 22529 by s. 626.843....\$5.00



HB 1803

2003

22530 (e) Title insurer and title insurance agency
 22531 administrative surcharge:

22532 1. On or before January 30 of each calendar year, each
 22533 title insurer shall pay to the office ~~department~~ for each
 22534 licensed title insurance agency appointed by the title insurer
 22535 and for each retail office of the insurer on January 1 of that
 22536 calendar year an administrative surcharge of \$200.00.

22537 2. On or before January 30 of each calendar year, each
 22538 licensed title insurance agency shall remit to the department an
 22539 administrative surcharge of \$200.00.

22540
 22541 The administrative surcharge may be used solely to defray the
 22542 costs to the department and office in their ~~its~~ examination or
 22543 audit of title insurance agencies and retail offices of title
 22544 insurers and to gather title insurance data for statistical
 22545 purposes to be furnished to and used by the office in its
 22546 regulation of title insurance.

22547 Section 754. Subsection (1) of section 624.5015, Florida
 22548 Statutes, is amended to read:

22549 624.5015 Advance collection of fees and taxes; title
 22550 insurers not to pay without reimbursement.--

22551 (1) The department or the office ~~of Insurance~~ shall
 22552 collect in advance from the applicant or licensee fees and taxes
 22553 as provided in s. 624.501.

22554 Section 755. Section 624.502, Florida Statutes, is amended
 22555 to read:

22556 624.502 Service of process fee.--In all instances as
 22557 provided in any section of the insurance code and s. 48.151(3)
 22558 in which service of process is authorized to be made upon the
 22559 Chief Financial Officer or the director of the office ~~Insurance~~



HB 1803

2003

22560 ~~Commissioner and Treasurer~~, the plaintiff shall pay to the
 22561 department or office a fee of \$15 for such service of process,
 22562 which fee shall be deposited into the Insurance ~~Commissioner's~~
 22563 Regulatory Trust Fund.

22564 Section 756. Subsections (1) and (3) of section 624.506,
 22565 Florida Statutes, are amended to read:

22566 624.506 County tax; deposit and remittance.--

22567 (1) The department ~~Insurance Commissioner and Treasurer~~
 22568 shall deposit in the Agents and Solicitors County Tax Trust Fund
 22569 all moneys accepted as county tax under this part. She or he
 22570 shall keep a separate account for all moneys so collected for
 22571 each county and, after deducting therefrom the service charges
 22572 provided for in s. 215.20, shall remit the balance to the
 22573 counties.

22574 (3) The Chief Financial Officer ~~Comptroller~~ shall
 22575 annually, as of January 1 following the date of collection, and
 22576 thereafter at such other times as she or he ~~the Insurance~~
 22577 ~~Commissioner and Treasurer~~ may elect, draw her or his warrants
 22578 on the State Treasury payable to the respective counties
 22579 entitled to receive the same for the full net amount of such
 22580 taxes to each county.

22581 Section 757. Paragraph (b) of subsection (5) of section
 22582 624.509, Florida Statutes, is amended to read:

22583 624.509 Premium tax; rate and computation.--

22584 (5) There shall be allowed a credit against the net tax
 22585 imposed by this section equal to 15 percent of the amount paid
 22586 by the insurer in salaries to employees located or based within
 22587 this state and who are covered by the provisions of chapter 443.
 22588 For purposes of this subsection:



HB 1803

2003

22589 (b) The term "employees" does not include independent
 22590 contractors or any person whose duties require that the person
 22591 hold a valid license under the Florida Insurance Code, except
 22592 persons defined in s. 626.015(1), (15)~~(16)~~, and (17)~~(18)~~.

22593 Section 758. Subsection (5) of section 624.5091, Florida
 22594 Statutes, is amended to read:

22595 624.5091 Retaliatory provision, insurers.--

22596 (5) The excess amount of all fees, licenses, and taxes
 22597 collected by the Department of Revenue under this section over
 22598 the amount of similar fees, licenses, and taxes provided for in
 22599 this part, together with all fines, penalties, or other monetary
 22600 obligations collected under this section and ss. 626.711 and
 22601 626.743 exclusive of such fees, licenses, and taxes, shall be
 22602 deposited by the Department of Revenue to the credit of the
 22603 Insurance ~~Commissioner's~~ Regulatory Trust Fund; provided that
 22604 such excess amount shall not exceed \$125,000 for 1992, and for
 22605 any subsequent year shall not exceed \$125,000 adjusted annually
 22606 by the lesser of 20 percent or the growth in the total of such
 22607 excess amount. The remainder of such excess amount shall be
 22608 deposited into the General Revenue Fund.

22609 Section 759. Subsection (1) of section 624.5092, Florida
 22610 Statutes, is amended to read:

22611 624.5092 Administration of taxes; payments.--

22612 (1) The Department of Revenue shall administer, audit, and
 22613 enforce the assessment and collection of those taxes to which
 22614 this section is applicable. The office and department may
 22615 ~~Department of Insurance is authorized to~~ share information with
 22616 the Department of Revenue as necessary to verify premium tax or
 22617 other tax liability arising under such taxes and credits which
 22618 may apply thereto.



HB 1803

2003

22619 Section 760. Section 624.516, Florida Statutes, is amended
 22620 to read:

22621 624.516 State Fire Marshal regulatory assessment and
 22622 surcharge; deposit and use of funds.--

22623 (1) The regulatory assessment imposed under s. 624.515(1)
 22624 and the surcharge imposed under s. 624.515(2) shall be deposited
 22625 by the Department of Revenue, when received and audited, into
 22626 the Insurance ~~Commissioner's~~ Regulatory Trust Fund.

22627 (2) The moneys received and deposited in the funds, as
 22628 provided in subsection (1), are appropriated for use by the
 22629 Chief Financial Officer ~~State Treasurer~~ as ex officio State Fire
 22630 Marshal, hereinafter referred to as "State Fire Marshal," to
 22631 defray the expenses of the State Fire Marshal in the discharge
 22632 of her or his administrative and regulatory powers and duties as
 22633 prescribed by law, including the maintaining of offices and
 22634 necessary supplies therefor, essential equipment and other
 22635 materials, salaries and expenses of required personnel, and all
 22636 other legitimate expenses relating to the discharge of the
 22637 administrative and regulatory powers and duties imposed in and
 22638 charged to her or him under such laws.

22639 (3) If, at the end of any fiscal year, a balance of funds
 22640 remains in the Insurance ~~Commissioner's~~ Regulatory Trust Fund,
 22641 such balance shall not revert to the general fund of the state,
 22642 but shall be retained in the Insurance ~~Commissioner's~~ Regulatory
 22643 Trust Fund to be used for the purposes for which the moneys are
 22644 appropriated as set forth in subsection (2).

22645 Section 761. Section 624.517, Florida Statutes, is amended
 22646 to read:

22647 624.517 State Fire Marshal regulatory assessment;
 22648 reduction of assessment.--



HB 1803

2003

22649 (1) The office ~~Department of Insurance~~ shall ascertain on
 22650 or before December 1 of each year whether the amounts estimated
 22651 to be received from the regulatory assessment imposed under s.
 22652 624.515 for that calendar year, payable on or before the
 22653 following March 1, as herein prescribed, shall result in an
 22654 accumulation of funds in excess of the just requirements for
 22655 which the assessment is imposed as set forth in s. 624.516; and
 22656 if it determines that the imposition of the full amount of the
 22657 assessment would result in such excess, it may reduce the
 22658 percentage amount of the assessment for that calendar year to
 22659 such percentage as may be necessary to meet the just
 22660 requirements for which the assessment is imposed.

22661 (2) When a determination is made so reducing the amount of
 22662 the assessment, the department shall make and issue its order
 22663 setting forth such determination and fixing the amount of
 22664 assessment for that calendar year, payable on or before March 1
 22665 of the following year, and shall mail a copy of such order to
 22666 each insurer who, according to the records of the office
 22667 ~~department~~, is subject to the assessment.

22668 Section 762. Section 624.519, Florida Statutes, is amended
 22669 to read:

22670 624.519 Nonpayment of premium tax or fire marshal
 22671 assessment; penalty.--If any insurer fails to pay to the
 22672 Department of Revenue on or before March 1 in each and every
 22673 year any premium taxes required of it under s. 624.509 or s.
 22674 624.510, or any state fire marshal regulatory assessment
 22675 required of it under s. 624.515 or s. 624.517, the office
 22676 ~~Department of Insurance~~ may revoke its certificate of authority.

22677 Section 763. Subsection (1) of section 624.521, Florida
 22678 Statutes, is amended to read:



HB 1803

2003

22679 624.521 Deposit of certain tax receipts; refund of
 22680 improper payments.--

22681 (1) The Department of Financial Services ~~Insurance~~ shall
 22682 promptly deposit in the State Treasury to the credit of the
 22683 Insurance ~~Commissioner's~~ Regulatory Trust Fund all "state tax"
 22684 portions of agents' and solicitors' licenses collected under s.
 22685 624.501 necessary to fund the Division of Insurance Fraud. The
 22686 balance of the tax shall be credited to the General Fund. All
 22687 moneys received by the Department of Financial Services or the
 22688 office ~~Insurance~~ not in accordance with the provisions of this
 22689 code or not in the exact amount as specified by the applicable
 22690 provisions of this code shall be returned to the remitter. The
 22691 records of the department or office shall show the date and
 22692 reason for such return.

22693 Section 764. Section 624.523, Florida Statutes, is amended
 22694 to read:

22695 624.523 Insurance ~~Commissioner's~~ Regulatory Trust Fund.--

22696 (1) There is created in the State Treasury a trust fund
 22697 designated "Insurance ~~Commissioner's~~ Regulatory Trust Fund" to
 22698 which shall be credited all payments received on account of the
 22699 following items:

22700 (a) All fines, monetary penalties, and costs imposed upon
 22701 persons by the department or the office as authorized by law for
 22702 violation of the laws of this state.

22703 (b) Any sums received for copies of the stenographic
 22704 record of hearings, as authorized by law.

22705 (c) All sums received under s. 624.404(5).

22706 (d) All sums received under s. 624.5091, as provided in
 22707 subsection (5) thereof.

22708 (e) All payments received on account of items provided for



HB 1803

2003

- 22709 under respective provisions of s. 624.501, as follows:
- 22710 1. Subsection (1) (certificate of authority of insurer).
 - 22711 2. Subsection (2) (charter documents of insurer).
 - 22712 3. Subsection (3) (annual license tax of insurer).
 - 22713 4. Subsection (4) (annual statement of insurer).
 - 22714 5. Subsection (5) (application fee for insurance
 - 22715 representatives).
 - 22716 6. The "appointment fee" portion of any appointment
 - 22717 provided for under paragraphs (6)(a) and (b) (insurance
 - 22718 representatives, property, marine, casualty and surety
 - 22719 insurance, and agents).
 - 22720 7. Paragraph (6)(c) (nonresident agents).
 - 22721 8. Paragraph (6)(d) (service representatives).
 - 22722 9. The "appointment fee" portion of any appointment
 - 22723 provided for under paragraph (7)(a) (life insurance agents,
 - 22724 original appointment, and renewal or continuation of
 - 22725 appointment).
 - 22726 10. Paragraph (7)(b) (nonresident agent license).
 - 22727 11. The "appointment fee" portion of any appointment
 - 22728 provided for under paragraph (8)(a) (health insurance agents,
 - 22729 agent's appointment, and renewal or continuation fee).
 - 22730 12. Paragraph (8)(b) (nonresident agent appointment).
 - 22731 13. The "appointment fee" portion of any appointment
 - 22732 provided for under subsections (9) and (10) (limited licenses
 - 22733 and fraternal benefit society agents).
 - 22734 14. Subsection (11) (vending machines).
 - 22735 15. Subsection (12) (surplus lines agent).
 - 22736 16. Subsection (13) (adjusters' appointment).
 - 22737 17. Subsection (14) (examination fee).
 - 22738 18. Subsection (15) (temporary license and appointment as



HB 1803

2003

22739 agent or adjuster).

22740 19. Subsection (16) (reissuance, reinstatement, etc.).

22741 20. Subsection (17) (additional license continuation

22742 fees).

22743 21. Subsection (18) (filing application for permit to form

22744 insurer).

22745 22. Subsection (19) (license fee of rating organization).

22746 23. Subsection (20) (miscellaneous services).

22747 24. Subsection (21) (insurance agencies).

22748 (f) All payments received on account of actuarial and

22749 other services in the valuation or computation of the reserves

22750 of life insurers pursuant to s. 625.121(2).

22751 (g) All sums received under ss. 626.711 and 626.743.

22752 (h) Sums received under s. 626.932, as provided in

22753 subsection (5) thereof.

22754 (i) Sums received under s. 626.938, as provided in

22755 subsection (7) thereof.

22756 (j) All sums received under s. 627.828.

22757 (k) All sums received from motor vehicle service agreement

22758 companies under s. 634.221.

22759 (l) All sums received under s. 648.27 (bail bond agent,

22760 limited surety agent, continuation fee), the "appointment fee"

22761 portion of any license or permit provided for under s. 648.31,

22762 and the application fees provided for under s. 648.34(3) ~~ss.~~

22763 ~~648.34(3) and 648.37(3)~~.

22764 (m) All sums received under s. 651.015.

22765 (n) All sums received by the Chief Financial Officer or

22766 the director of the office ~~Insurance Commissioner and Treasurer~~

22767 as fees for her or his services as service-of-process agent.

22768 (o) All state tax portions of agents' licenses collected



HB 1803

2003

22769 under s. 624.501.

22770 (2) The moneys so received and deposited in this
 22771 regulatory trust fund are hereby appropriated for use by the
 22772 department and the office to defray the expenses of the
 22773 department and the office in the discharge of their ~~its~~
 22774 administrative and regulatory powers and duties as prescribed by
 22775 law.

22776 Section 765. Section 624.6012, Florida Statutes, is
 22777 amended to read:

22778 624.6012 "Lines of insurance" defined.--Kinds of insurance
 22779 shall be classified into "lines of insurance." The commission
 22780 ~~department~~ shall adopt by rule the lines of insurance to be
 22781 utilized. Such lines of insurance shall be consistent with the
 22782 reporting requirements of the National Association of Insurance
 22783 Commissioners.

22784 Section 766. Paragraph (q) of subsection (1) of section
 22785 624.605, Florida Statutes, is amended to read:

22786 624.605 "Casualty insurance" defined.--

22787 (1) "Casualty insurance" includes:

22788 (q) Miscellaneous.--When first approved by the office
 22789 ~~department~~ as not being contrary to law or public policy nor
 22790 covered by any other kind of insurance as defined in the code,
 22791 insurance against liability for any other kind of loss or damage
 22792 to person or property, properly a subject of insurance and not
 22793 within any other kind of insurance as defined in this code.

22794 Section 767. Subsection (3) of section 624.607, Florida
 22795 Statutes, is amended to read:

22796 624.607 "Marine insurance," "wet marine and transportation
 22797 insurance," and "inland marine insurance" defined.--

22798 (3) For the purposes of this code, "inland marine



HB 1803

2003

22799 insurance" is as established by general custom of the insurance
 22800 business and promulgated by rule of the commission ~~department~~.

22801 Section 768. Subsection (6) of section 624.609, Florida
 22802 Statutes, is amended to read:

22803 624.609 Limit of risk.--

22804 (6) "Surplus to policyholders" for the purposes of this
 22805 section, in addition to the insurer's capital and surplus, shall
 22806 be deemed to include any voluntary reserves which are not
 22807 required pursuant to law and shall be determined from the last
 22808 sworn statement of the insurer on file with the office
 22809 ~~department~~, or by the last report of examination of the insurer,
 22810 whichever is the more recent at time of assumption of risk.

22811 Section 769. Subsections (1), (3), (4), (5), (7), (11),
 22812 (12), and (14) of section 624.610, Florida Statutes, are amended
 22813 to read:

22814 624.610 Reinsurance.--

22815 (1) The purpose of this section is to protect the
 22816 interests of insureds, claimants, ceding insurers, assuming
 22817 insurers, and the public. It is the intent of the Legislature
 22818 to ensure adequate regulation of insurers and reinsurers and
 22819 adequate protection for those to whom they owe obligations. In
 22820 furtherance of that state interest, the Legislature requires
 22821 that upon the insolvency of a non-United States insurer or
 22822 reinsurer which provides security to fund its United States
 22823 obligations in accordance with this section, such security shall
 22824 be maintained in the United States and claims shall be filed
 22825 with and valued by the state insurance regulator ~~Commissioner~~
 22826 with regulatory oversight, and the assets shall be distributed
 22827 in accordance with the insurance laws of the state in which the
 22828 trust is domiciled that are applicable to the liquidation of



HB 1803

2003

22829 domestic United States insurance companies. The Legislature
 22830 declares that the matters contained in this section are
 22831 fundamental to the business of insurance in accordance with 15
 22832 U.S.C. ss. 1011-1012.

22833 (3)(a) Credit must be allowed when the reinsurance is
 22834 ceded to an assuming insurer that is authorized to transact
 22835 insurance or reinsurance in this state.

22836 (b)1. Credit must be allowed when the reinsurance is ceded
 22837 to an assuming insurer that is accredited as a reinsurer in this
 22838 state. An accredited reinsurer is one that:

22839 a. Files with the office ~~department~~ evidence of its
 22840 submission to this state's jurisdiction;

22841 b. Submits to this state's authority to examine its books
 22842 and records;

22843 c. Is licensed or authorized to transact insurance or
 22844 reinsurance in at least one state or, in the case of a United
 22845 States branch of an alien assuming insurer, is entered through,
 22846 licensed, or authorized to transact insurance or reinsurance in
 22847 at least one state;

22848 d. Files annually with the office ~~department~~ a copy of its
 22849 annual statement filed with the insurance department of its
 22850 state of domicile any quarterly statements if required by its
 22851 state of domicile or such quarterly statements if specifically
 22852 requested by the office ~~department~~, and a copy of its most
 22853 recent audited financial statement; and

22854 (I) Maintains a surplus as regards policyholders in an
 22855 amount not less than \$20 million and whose accreditation has not
 22856 been denied by the office ~~department~~ within 90 days after its
 22857 submission; or

22858 (II) Maintains a surplus as regards policyholders in an



HB 1803

2003

22859 amount not less than \$20 million and whose accreditation has
22860 been approved by the office ~~department~~.

22861 2. The office ~~department~~ may deny or revoke an assuming
22862 insurer's accreditation if the assuming insurer does not submit
22863 the required documentation pursuant to subparagraph 1., if the
22864 assuming insurer fails to meet all of the standards required of
22865 an accredited reinsurer, or if the assuming insurer's
22866 accreditation would be hazardous to the policyholders of this
22867 state. In determining whether to deny or revoke accreditation,
22868 the office ~~department~~ may consider the qualifications of the
22869 assuming insurer with respect to all the following subjects:

22870 a. Its financial stability;

22871 b. The lawfulness and quality of its investments;

22872 c. The competency, character, and integrity of its
22873 management;

22874 d. The competency, character, and integrity of persons who
22875 own or have a controlling interest in the assuming insurer; and

22876 e. Whether claims under its contracts are promptly and
22877 fairly adjusted and are promptly and fairly paid in accordance
22878 with the law and the terms of the contracts.

22879 3. Credit must not be allowed a ceding insurer if the
22880 assuming insurer's accreditation has been revoked by the office
22881 ~~department~~ after notice and the opportunity for a hearing.

22882 4. The actual costs and expenses incurred by the office
22883 ~~department~~ to review a reinsurer's request for accreditation and
22884 subsequent reviews must be charged to and collected from the
22885 requesting reinsurer. If the reinsurer fails to pay the actual
22886 costs and expenses promptly when due, the office ~~department~~ may
22887 refuse to accredit the reinsurer or may revoke the reinsurer's
22888 accreditation.



HB 1803

2003

22889 (c)1. Credit must be allowed when the reinsurance is ceded
 22890 to an assuming insurer that maintains a trust fund in a
 22891 qualified United States financial institution, as defined in
 22892 paragraph (5)(b), for the payment of the valid claims of its
 22893 United States ceding insurers and their assigns and successors
 22894 in interest. To enable the office ~~department~~ to determine the
 22895 sufficiency of the trust fund, the assuming insurer shall report
 22896 annually to the office ~~department~~ information substantially the
 22897 same as that required to be reported on the NAIC Annual
 22898 Statement form by authorized insurers. The assuming insurer
 22899 shall submit to examination of its books and records by the
 22900 office ~~department~~ and bear the expense of examination.

22901 2.a. Credit for reinsurance must not be granted under this
 22902 subsection unless the form of the trust and any amendments to
 22903 the trust have been approved by:

22904 (I) The insurance regulator ~~commissioner~~ of the state in
 22905 which the trust is domiciled; or

22906 (II) The insurance regulator ~~commissioner~~ of another state
 22907 who, pursuant to the terms of the trust instrument, has accepted
 22908 principal regulatory oversight of the trust.

22909 b. The form of the trust and any trust amendments must be
 22910 filed with the insurance regulator ~~commissioner~~ of every state
 22911 in which the ceding insurer beneficiaries of the trust are
 22912 domiciled. The trust instrument must provide that contested
 22913 claims are valid and enforceable upon the final order of any
 22914 court of competent jurisdiction in the United States. The trust
 22915 must vest legal title to its assets in its trustees for the
 22916 benefit of the assuming insurer's United States ceding insurers
 22917 and their assigns and successors in interest. The trust and the
 22918 assuming insurer are subject to examination as determined by the



HB 1803

2003

22919 insurance regulator ~~commissioner~~.

22920 c. The trust remains in effect for as long as the assuming
 22921 insurer has outstanding obligations due under the reinsurance
 22922 agreements subject to the trust. No later than February 28 of
 22923 each year, the trustee of the trust shall report to the
 22924 insurance regulator ~~commissioner~~ in writing the balance of the
 22925 trust and list the trust's investments at the preceding year
 22926 end, and shall certify that the trust will not expire prior to
 22927 the following December 31.

22928 3. The following requirements apply to the following
 22929 categories of assuming insurer:

22930 a. The trust fund for a single assuming insurer consists
 22931 of funds in trust in an amount not less than the assuming
 22932 insurer's liabilities attributable to reinsurance ceded by
 22933 United States ceding insurers, and, in addition, the assuming
 22934 insurer shall maintain a trusteed surplus of not less than \$20
 22935 million. The funds in the trust and trusteed surplus consist of
 22936 assets of a quality substantially similar to that required in
 22937 part II of chapter 625.

22938 b.(I) In the case of a group including incorporated and
 22939 individual unincorporated underwriters:

22940 (A) For reinsurance ceded under reinsurance agreements
 22941 with an inception, amendment, or renewal date on or after August
 22942 1, 1995, the trust consists of a trusteed account in an amount
 22943 not less than the group's several liabilities attributable to
 22944 business ceded by United States domiciled ceding insurers to any
 22945 member of the group;

22946 (B) For reinsurance ceded under reinsurance agreements
 22947 with an inception date on or before July 31, 1995, and not
 22948 amended or renewed after that date, notwithstanding the other



HB 1803

2003

22949 provisions of this section, the trust consists of a trusteeed
 22950 account in an amount not less than the group's several insurance
 22951 and reinsurance liabilities attributable to business written in
 22952 the United States; and

22953 (C) In addition to these trusts, the group shall maintain
 22954 in trust a trusteeed surplus of which \$100 million must be held
 22955 jointly for the benefit of the United States domiciled ceding
 22956 insurers of any member of the group for all years of account.

22957 (II) The incorporated members of the group must not be
 22958 engaged in any business other than underwriting of a member of
 22959 the group, and are subject to the same level of regulation and
 22960 solvency control by the group's domiciliary regulator as the
 22961 unincorporated members.

22962 (III) Within 90 days after its financial statements are
 22963 due to be filed with the group's domiciliary regulator, the
 22964 group shall provide to the insurance regulator ~~commissioner~~ an
 22965 annual certification by the group's domiciliary regulator of the
 22966 solvency of each underwriter member or, if a certification is
 22967 unavailable, financial statements, prepared by independent
 22968 public accountants, of each underwriter member of the group.

22969 (d) Credit must be allowed when the reinsurance is ceded
 22970 to an assuming insurer not meeting the requirements of paragraph
 22971 (a), paragraph (b), or paragraph (c), but only as to the
 22972 insurance of risks located in jurisdictions in which the
 22973 reinsurance is required to be purchased by a particular entity
 22974 by applicable law or regulation of that jurisdiction.

22975 (e) If the assuming insurer is not authorized or
 22976 accredited to transact insurance or reinsurance in this state
 22977 pursuant to paragraph (a) or paragraph(b), the credit permitted
 22978 by paragraph (c) must not be allowed unless the assuming insurer



HB 1803

2003

22979 agrees in the reinsurance agreements:

22980 1.a. That in the event of the failure of the assuming
 22981 insurer to perform its obligations under the terms of the
 22982 reinsurance agreement, the assuming insurer, at the request of
 22983 the ceding insurer, shall submit to the jurisdiction of any
 22984 court of competent jurisdiction in any state of the United
 22985 States, will comply with all requirements necessary to give the
 22986 court jurisdiction, and will abide by the final decision of the
 22987 court or of any appellate court in the event of an appeal; and

22988 b. To designate the Chief Financial Officer ~~commissioner~~,
 22989 pursuant to s. 48.151, or a designated attorney as its true and
 22990 lawful attorney upon whom may be served any lawful process in
 22991 any action, suit, or proceeding instituted by or on behalf of
 22992 the ceding company.

22993 2. This paragraph is not intended to conflict with or
 22994 override the obligation of the parties to a reinsurance
 22995 agreement to arbitrate their disputes, if this obligation is
 22996 created in the agreement.

22997 (f) If the assuming insurer does not meet the requirements
 22998 of paragraph(a) or paragraph (b), the credit permitted by
 22999 paragraph (c) is not allowed unless the assuming insurer agrees
 23000 in the trust agreements, in substance, to the following
 23001 conditions:

23002 1. Notwithstanding any other provisions in the trust
 23003 instrument, if the trust fund is inadequate because it contains
 23004 an amount less than the amount required by paragraph (c), or if
 23005 the grantor of the trust has been declared insolvent or placed
 23006 into receivership, rehabilitation, liquidation, or similar
 23007 proceedings under the laws of its state or country of domicile,
 23008 the trustee shall comply with an order of the insurance



HB 1803

2003

23009 regulator ~~commissioner~~ with regulatory oversight over the trust
 23010 or with an order of a United States court of competent
 23011 jurisdiction directing the trustee to transfer to the insurance
 23012 regulator ~~commissioner~~ with regulatory oversight all of the
 23013 assets of the trust fund.

23014 2. The assets must be distributed by and claims must be
 23015 filed with and valued by the insurance regulator ~~commissioner~~
 23016 with regulatory oversight in accordance with the laws of the
 23017 state in which the trust is domiciled which are applicable to
 23018 the liquidation of domestic insurance companies.

23019 3. If the insurance regulator ~~commissioner~~ with regulatory
 23020 oversight determines that the assets of the trust fund or any
 23021 part thereof are not necessary to satisfy the claims of the
 23022 United States ceding insurers of the grantor of the trust, the
 23023 assets or part thereof must be returned by the insurance
 23024 regulator ~~commissioner~~ with regulatory oversight to the trustee
 23025 for distribution in accordance with the trust agreement.

23026 4. The grantor shall waive any right otherwise available
 23027 to it under United States law which is inconsistent with this
 23028 provision.

23029 (4) An asset allowed or a deduction from liability taken
 23030 for the reinsurance ceded by an insurer to an assuming insurer
 23031 not meeting the requirements of subsections (2) and (3) is
 23032 allowed in an amount not exceeding the liabilities carried by
 23033 the ceding insurer. The deduction must be in the amount of funds
 23034 held by or on behalf of the ceding insurer, including funds held
 23035 in trust for the ceding insurer, under a reinsurance contract
 23036 with the assuming insurer as security for the payment of
 23037 obligations thereunder, if the security is held in the United
 23038 States subject to withdrawal solely by, and under the exclusive



HB 1803

2003

23039 control of, the ceding insurer, or, in the case of a trust, held
 23040 in a qualified United States financial institution, as defined
 23041 in paragraph (5)(b). This security may be in the form of:

23042 (a) Cash in United States dollars;

23043 (b) Securities listed by the Securities Valuation Office
 23044 of the National Association of Insurance Commissioners and
 23045 qualifying as admitted assets pursuant to part II of chapter
 23046 625;

23047 (c) Clean, irrevocable, unconditional letters of credit,
 23048 issued or confirmed by a qualified United States financial
 23049 institution, as defined in paragraph (5)(a), effective no later
 23050 than December 31 of the year for which the filing is made, and
 23051 in the possession of, or in trust for, the ceding company on or
 23052 before the filing date of its annual statement; or

23053 (d) Any other form of security acceptable to the office
 23054 ~~department~~.

23055 (5)(a) For purposes of paragraph (4)(c) regarding letters
 23056 of credit, a "qualified United States financial institution"
 23057 means an institution that:

23058 1. Is organized or, in the case of a United States office
 23059 of a foreign banking organization, is licensed under the laws of
 23060 the United States or any state thereof;

23061 2. Is regulated, supervised, and examined by United States
 23062 or state authorities having regulatory authority over banks and
 23063 trust companies; and

23064 3. Has been determined by either the office ~~department~~ or
 23065 the Securities Valuation Office of the National Association of
 23066 Insurance Commissioners to meet such standards of financial
 23067 condition and standing as are considered necessary and
 23068 appropriate to regulate the quality of financial institutions



HB 1803

2003

23069 whose letters of credit will be acceptable to the office
 23070 ~~department~~.

23071 (b) For purposes of those provisions of this law which
 23072 specify institutions that are eligible to act as a fiduciary of
 23073 a trust, a "qualified United States financial institution" means
 23074 an institution that is a member of the Federal Reserve System or
 23075 that has been determined by the office ~~department~~ to meet the
 23076 following criteria:

23077 1. Is organized or, in the case of a United States branch
 23078 or agency office of a foreign banking organization, is licensed
 23079 under the laws of the United States or any state thereof and has
 23080 been granted authority to operate with fiduciary powers; and

23081 2. Is regulated, supervised, and examined by federal or
 23082 state authorities having regulatory authority over banks and
 23083 trust companies.

23084 (7) After notice and an opportunity for a hearing, the
 23085 office ~~department~~ may disallow any credit that it finds would be
 23086 contrary to the proper interests of the policyholders or
 23087 stockholders of a ceding domestic insurer.

23088 (11)(a) Any domestic or commercially domiciled insurer
 23089 ceding directly written risks of loss under this section shall,
 23090 within 30 days after receipt of a cover note or similar
 23091 confirmation of coverage, or, without exception, no later than 6
 23092 months after the effective date of the reinsurance treaty, file
 23093 with the office ~~department~~ one copy of a summary statement
 23094 containing the following information about each treaty:

- 23095 1. The contract period;
- 23096 2. The nature of the reinsured's business;
- 23097 3. An indication as to whether the treaty is proportional,
- 23098 nonproportional, coinsurance, modified coinsurance, or



HB 1803

2003

23099 indemnity, as applicable;

23100 4. The ceding company's loss retention per risk;

23101 5. The reinsured limits;

23102 6. Any special contract restrictions;

23103 7. A schedule of reinsurers assuming the risks of loss;

23104 8. An indication as to whether payments to the assuming

23105 insurer are based on written premiums or earned premiums;

23106 9. Identification of any intermediary or broker used in

23107 obtaining the reinsurance and the commission paid to such

23108 intermediary or broker if known; and

23109 10. Ceding commissions and allowances.

23110 (b) The summary statement must be signed and attested to

23111 by either the chief executive officer or the chief financial

23112 officer of the reporting insurer. In addition to the summary

23113 statement, the office ~~Insurance Commissioner~~ may require the

23114 filing of any supporting information relating to the ceding of

23115 such risks as it ~~she or he~~ deems necessary. If the summary

23116 statement prepared by the ceding insurer discloses that the net

23117 effect of a reinsurance treaty or treaties (or series of

23118 treaties with one or more affiliated reinsurers entered into for

23119 the purpose of avoiding the following threshold amount) at any

23120 time results in an increase of more than 25 percent to the

23121 insurer's surplus as to policyholders, then the insurer shall

23122 certify in writing to the office ~~department~~ that the relevant

23123 reinsurance treaty or treaties comply with the accounting

23124 requirements contained in any rule adopted by the commission

23125 ~~department~~ under subsection (14). If such certificate is filed

23126 after the summary statement of such reinsurance treaty or

23127 treaties, the insurer shall refile the summary statement with

23128 the certificate. In any event, the certificate must state that a



HB 1803

2003

23129 copy of the certificate was sent to the reinsurer under the
 23130 reinsurance treaty.

23131 (c) This subsection applies to cessions of directly
 23132 written risk or loss. This subsection does not apply to
 23133 contracts of facultative reinsurance or to any ceding insurer
 23134 with surplus as to policyholders that exceeds \$100 million as of
 23135 the immediately preceding December 31. Additionally, any ceding
 23136 insurer otherwise subject to this section with less than
 23137 \$500,000 in direct premiums written in this state during the
 23138 preceding calendar year or with less than 1,000 policyholders at
 23139 the end of the preceding calendar year is exempt from the
 23140 requirements of this subsection. However, any ceding insurer
 23141 otherwise subject to this section with more than \$250,000 in
 23142 direct premiums written in this state during the preceding
 23143 calendar quarter is not exempt from the requirements of this
 23144 subsection.

23145 (d) An authorized insurer not otherwise exempt from the
 23146 provisions of this subsection shall provide the information
 23147 required by this subsection with underlying and supporting
 23148 documentation upon written request of the office ~~department~~.

23149 (e) The office ~~department~~ may, upon a showing of good
 23150 cause, waive the requirements of this subsection.

23151 (12) If the office ~~department~~ finds that a reinsurance
 23152 agreement creates a substantial risk of insolvency to either
 23153 insurer entering into the reinsurance agreement, the office
 23154 ~~department~~ may by order require a cancellation of the
 23155 reinsurance agreement.

23156 (14) The commission ~~department~~ may adopt rules
 23157 implementing the provisions of this section. Rules are
 23158 authorized to protect the interests of insureds, claimants,



HB 1803

2003

23159 ceding insurers, assuming insurers, and the public. These rules
 23160 shall be in substantial compliance with:

23161 (a) The National Association of Insurance Commissioners
 23162 model regulations relating to credit for reinsurance;

23163 (b) ~~Version 2001 of~~ The National Association of Insurance
 23164 Commissioners Accounting Practices and Procedures Manual as of
 23165 March 2002 and subsequent amendments thereto if the methodology
 23166 remains substantially consistent; and

23167 (c) The National Association of Insurance Commissioners
 23168 model regulation for Credit for Reinsurance and Life and Health
 23169 Reinsurance Agreements.

23170
 23171

23172 The commission department ~~department~~ may further adopt rules to provide
 23173 for transition from existing requirements for the approval of
 23174 reinsurers to the accreditation of reinsurers pursuant to this
 23175 section.

23176 Section 770. Subsections (2) and (3) of section 624.80,
 23177 Florida Statutes, are amended to read:

23178 624.80 Definitions.--As used in this part:

23179 (2) "Unsound condition" means that the office department
 23180 has determined that one or more of the following conditions
 23181 exist with respect to an insurer:

23182 (a) The insurer's required surplus, capital, or capital
 23183 stock is impaired to an extent prohibited by law;

23184 (b) The insurer continues to write new business when it
 23185 has not maintained the required surplus or capital;

23186 (c) The insurer attempts to dissolve or liquidate without
 23187 first having made provisions, satisfactory to the office
 23188 ~~department~~, for liabilities arising from insurance policies



HB 1803

2003

23189 issued by the insurer; or

23190 (d) The insurer meets one or more of the grounds in s.
 23191 631.051 for the appointment of the department as receiver.

23192 (3) "Exceeded its powers" means the following conditions:

23193 (a) The insurer has refused to permit examination by the
 23194 office ~~department~~ of its books, papers, accounts, records, or
 23195 business practices;

23196 (b) An insurer organized in this state has unlawfully
 23197 removed from this state books, papers, accounts, or records
 23198 necessary for an examination of the insurer by the office
 23199 ~~department~~;

23200 (c) The insurer has failed to promptly comply with the
 23201 applicable financial reporting statutes and office ~~departmental~~
 23202 requests relating thereto;

23203 (d) The insurer has neglected or refused to observe an
 23204 order of the office ~~department~~ to correct a deficiency in its
 23205 capital or surplus; or

23206 (e) The insurer has unlawfully or in violation of an
 23207 office ~~a department~~ order:

- 23208 1. Totally reinsured its entire outstanding business; or
- 23209 2. Merged or consolidated substantially its entire
 23210 property or business with another insurer.

23211 Section 771. Section 624.81, Florida Statutes, is amended
 23212 to read:

23213 624.81 Notice to comply with written requirements of
 23214 office ~~department~~; noncompliance.--

23215 (1) If the office ~~department~~ determines that the
 23216 conditions set forth in subsection (2) exist, the office
 23217 ~~department~~ shall issue an order placing the insurer in
 23218 administrative supervision, setting forth the reasons giving



HB 1803

2003

23219 rise to the determination, and specifying that the office
23220 ~~department~~ is applying and effectuating the provisions of this
23221 part. An order issued by the office ~~department~~ pursuant to this
23222 subsection entitles the insurer to request a proceeding under
23223 ss. 120.569 and 120.57, and such a request shall stay the action
23224 pending such proceeding.

23225 (2) An insurer shall be subject to administrative
23226 supervision by the office ~~department~~ if upon examination or at
23227 any other time the office ~~department~~ determines that:

23228 (a) The insurer is in unsound condition;

23229 (b) The insurer's methods or practices render the
23230 continuance of its business hazardous to the public or to its
23231 insureds; or

23232 (c) The insurer has exceeded its powers granted under its
23233 certificate of authority and applicable law.

23234 (3) Within 15 days of receipt of notice of the office's
23235 ~~department's~~ determination to proceed under this part, an
23236 insurer shall submit to the office ~~department~~ a plan to correct
23237 the conditions set forth in the notice. For good cause shown,
23238 the office ~~department~~ may extend the 15-day time period for
23239 submission of the plan. If the office ~~department~~ and the insurer
23240 agree on a corrective plan, a written agreement shall be entered
23241 into to carry out the plan.

23242 (4) If an insurer fails to timely submit a plan, the
23243 office ~~department~~ may specify the requirements of a plan to
23244 address the conditions giving rise to imposition of
23245 administrative supervision under this part. In addition,
23246 failure of the insurer to timely submit a plan is a violation of
23247 the provisions of this code punishable in accordance with s.
23248 624.418.



HB 1803

2003

23249 (5) The plan shall address, but shall not be limited to,
23250 each of the activities of the insurer's business which are set
23251 forth in s. 624.83.

23252 (6) If the office ~~department~~ and the insurer are unable to
23253 agree on the provisions of the plan, the office ~~department~~ may
23254 require the insurer to take such corrective action as may be
23255 reasonably necessary to remove the causes and conditions giving
23256 rise to the need for administrative supervision.

23257 (7) The insurer shall have 60 days, or a longer period of
23258 time as designated by the office ~~department~~ but not to exceed
23259 120 days, after the date of the written agreement or the receipt
23260 of the office's ~~department's~~ plan within which to comply with
23261 the requirements of the office ~~department~~. At the conclusion of
23262 the initial period of supervision, the office ~~department~~ may
23263 extend the supervision in increments of 60 days or longer, not
23264 to exceed 120 days, if conditions justifying supervision exist.
23265 Each extension of supervision shall provide the insurer with a
23266 point of entry pursuant to chapter 120.

23267 (8) The initiation or pendency of administrative
23268 proceedings arising from actions taken under this section shall
23269 not preclude the office ~~department~~ from initiating judicial
23270 proceedings to place an insurer in conservation, rehabilitation,
23271 or liquidation or initiating other delinquency proceedings
23272 however designated under the laws of this state.

23273 (9) If it is determined that the conditions giving rise to
23274 administrative supervision have been remedied so that the
23275 continuance of its business is no longer hazardous to the public
23276 or to its insureds, the office ~~department~~ shall release the
23277 insurer from supervision.

23278 (10) The commission ~~department~~ may adopt rules to define



HB 1803

2003

23279 standards of hazardous financial condition and corrective action
 23280 substantially similar to that indicated in the National
 23281 Association of Insurance Commissioners' 1997 "Model Regulation
 23282 to Define Standards and Commissioner's Authority for Companies
 23283 Deemed to be in Hazardous Financial Condition," which are
 23284 necessary to implement the provisions of this part.

23285 Section 772. Subsections (1), (2), (3), and (4) of section
 23286 624.82, Florida Statutes, are amended to read:

23287 624.82 Confidentiality of certain proceedings and
 23288 records.--

23289 (1) Orders, notices, correspondence, reports, records, and
 23290 other information in the possession of the office ~~department~~
 23291 relating to the supervision of any insurer are confidential and
 23292 exempt from the provisions of s. 119.07(1), except as otherwise
 23293 provided in this section. Proceedings and hearings relating to
 23294 the office's ~~department's~~ supervision of any insurer are exempt
 23295 from the provisions of s. 286.011, except as otherwise provided
 23296 in this section.

23297 (2) The personnel of the department and the office shall
 23298 have access to proceedings, hearings, notices, correspondence,
 23299 reports, records, or other information as permitted by the
 23300 office ~~department~~.

23301 (3) The office ~~department~~ may open the proceedings or
 23302 hearings or disclose the contents of the notices,
 23303 correspondence, reports, records, or other information to a
 23304 department, agency, or instrumentality of this or another state
 23305 or the United States if it determines that the disclosure is
 23306 necessary or proper for the enforcement of the laws of the
 23307 United States or of this or another state of the United States.

23308 (4) The office ~~department~~ may open the proceedings or



HB 1803

2003

23309 | hearings or make public the notices, correspondence, reports,
 23310 | records, or other information if the office ~~department~~ finds
 23311 | that it is in the best interest of the public, the insurer in
 23312 | supervision, or its insureds.

23313 | Section 773. Section 624.83, Florida Statutes, is amended
 23314 | to read:

23315 | 624.83 Prohibited acts during period of supervision.--The
 23316 | office ~~department~~ may provide that the insurer may not conduct
 23317 | the following activities during the period of supervision,
 23318 | without prior approval by the office ~~department~~:

23319 | (1) Dispose of, convey, or encumber any of its assets or
 23320 | its business in force;

23321 | (2) Withdraw any of its bank accounts;

23322 | (3) Lend any of its funds;

23323 | (4) Invest any of its funds;

23324 | (5) Transfer any of its property;

23325 | (6) Incur any debt, obligation, or liability;

23326 | (7) Merge or consolidate with another company;

23327 | (8) Enter into any new reinsurance contract or treaty;

23328 | (9) Terminate, surrender, forfeit, convert, or lapse any
 23329 | insurance policy, certificate, or contract of insurance, except
 23330 | for nonpayment of premiums due;

23331 | (10) Release, pay, or refund premium deposits, accrued
 23332 | cash or loan values, unearned premiums, or other reserves on any
 23333 | insurance policy or certificate; or

23334 | (11) Make any material change in management.

23335 | Section 774. Section 624.84, Florida Statutes, is amended
 23336 | to read:

23337 | 624.84 Review.--During the period of supervision, the
 23338 | insurer may contest an action taken or proposed to be taken by



HB 1803

2003

23339 the supervisor, specifying the manner wherein the action
 23340 complained of would not result in improving the condition of the
 23341 insurer. Such request shall not stay the action specified
 23342 pending reconsideration of the action by the office ~~department~~.
 23343 Denial of the insurer's request upon reconsideration entitles
 23344 the insurer to request a proceeding under ss. 120.569 and
 23345 120.57.

23346 Section 775. Section 624.85, Florida Statutes, is amended
 23347 to read:

23348 624.85 Administrative election of proceedings.--If the
 23349 office ~~department~~ determines to act under authority of this
 23350 part, the sequence of its acts and proceedings shall be as set
 23351 forth herein. However, it is a purpose and substance of this
 23352 part to allow the office ~~department~~ administrative discretion in
 23353 the event of insurer delinquencies and, in furtherance of that
 23354 purpose, the office ~~department~~ is hereby authorized, in respect
 23355 to insurer delinquencies or suspected delinquencies, to proceed
 23356 and administer either under the provisions of this part or under
 23357 any other applicable law, or under the provisions of this part
 23358 in conjunction with other applicable law, and it is so provided.
 23359 Nothing contained in this part or in any other provision of law
 23360 shall preclude the office ~~department~~ from initiating judicial
 23361 proceedings to place an insurer in conservation, rehabilitation,
 23362 or liquidation proceedings or other delinquency proceedings
 23363 however designated under the laws of this state, regardless of
 23364 whether the office ~~department~~ has previously initiated
 23365 administrative supervision proceedings under this part against
 23366 the insurer. The entry of an order of seizure, rehabilitation,
 23367 or liquidation pursuant to chapter 631 shall terminate all
 23368 proceedings pending pursuant to this part.



HB 1803

2003

23369 Section 776. Section 624.86, Florida Statutes, is amended
 23370 to read:

23371 624.86 Other laws; conflicts; meetings between the office
 23372 ~~department~~ and the supervisor.--During the period of
 23373 administrative supervision, the office ~~department~~ may meet with
 23374 a supervisor appointed under this part and with the attorney or
 23375 other representative of the supervisor and such meetings are
 23376 exempt from the provisions of s. 286.011.

23377 Section 777. Section 624.87, Florida Statutes, is amended
 23378 to read:

23379 624.87 Administrative supervision; expenses.--

23380 (1) During the period of supervision the office ~~department~~
 23381 by contract or otherwise may appoint a deputy supervisor to
 23382 supervise the insurer.

23383 (2) Each insurer which is subject to administrative
 23384 supervision by the office ~~department~~ shall pay to the office
 23385 ~~department~~ the expenses of its administrative supervision at the
 23386 rates adopted by the office ~~department~~. Expenses shall include
 23387 actual travel expenses, a reasonable living expense allowance,
 23388 compensation of the deputy supervisor or other person employed
 23389 or appointed by the office ~~department~~ for purposes of the
 23390 supervision, and necessary attendant administrative costs of the
 23391 office ~~department~~ directly related to the supervision. The
 23392 travel expense and living expense allowance shall be limited to
 23393 those expenses necessarily incurred on account of the
 23394 administrative supervision and shall be paid by the insurer
 23395 together with compensation upon presentation by the office
 23396 ~~department~~ to the insurer of a detailed account of the charges
 23397 and expenses after a detailed statement has been filed by the
 23398 deputy supervisor or other person employed or appointed by the



HB 1803

2003

23399 ~~office department~~ and approved by the office department.

23400 (3) All moneys collected from insurers for the expenses of
23401 administrative supervision shall be deposited into the Insurance
23402 ~~Commissioner's~~ Regulatory Trust Fund, and the office department
23403 is authorized to make deposits from time to time into this fund
23404 from moneys appropriated for the operation of the office
23405 ~~department~~.

23406 (4) Notwithstanding the provisions of s. 112.061, the
23407 office department is authorized to pay to the deputy supervisor
23408 or person employed or appointed by the office department for
23409 purposes of the supervision out of such trust fund the actual
23410 travel expenses, reasonable living expense allowance, and
23411 compensation in accordance with the statement filed with the
23412 office department by the deputy supervisor or other person, as
23413 provided in subsection (2), upon approval by the office
23414 ~~department~~.

23415 (5) The office department may in whole or in part defer
23416 payment of expenses due from the insurer pursuant to this
23417 section upon a showing that payment would adversely impact on
23418 the financial condition of the insurer and jeopardize its
23419 rehabilitation. The payment shall be made by the insurer when
23420 the condition is removed and the payment would no longer
23421 jeopardize the insurer's financial condition.

23422 Section 778. Paragraph (d) of subsection (2), paragraphs
23423 (a) and (c) of subsection (5), and subsections (10), (13), and
23424 (16) of section 625.012, Florida Statutes, are amended to read:

23425 625.012 "Assets" defined.--In any determination of the
23426 financial condition of an insurer, there shall be allowed as
23427 "assets" only such assets as are owned by the insurer and which
23428 consist of:



HB 1803

2003

23429 (2) Investments, securities, properties, and loans
23430 acquired or held in accordance with this code, and in connection
23431 therewith the following items:

23432 (d) Interest due or accrued on deposits in solvent banks,
23433 savings and loan associations, and trust companies, and interest
23434 due or accrued on other assets, if such interest is in the
23435 judgment of the office ~~department~~ a collectible asset.

23436 (5)(a) Premiums in the course of collection, other than
23437 for life insurance, not more than 3 months past due, less
23438 commissions payable thereon. The foregoing limitation shall not
23439 apply to premiums payable directly or indirectly by the United
23440 States Government or by any of its instrumentalities. All
23441 premiums, excluding commissions payable thereon, due from a
23442 controlling or controlled person shall not be allowed as an
23443 asset to the extent that:

23444 1. The premiums collected by the controlling or controlled
23445 person and not remitted to the insurer are not held in a trust
23446 account with a bank or other depository approved by the office
23447 ~~department~~. Such funds shall be held as trust funds and may not
23448 be commingled with any other funds of the controlling or
23449 controlled person. Disbursements from the trust account may be
23450 made only to the insurer, the insured, or, for the purpose of
23451 returning premiums, an entity who is entitled to returned
23452 premiums on behalf of the insured. A written copy of the trust
23453 agreement must be filed with and approved by the office
23454 ~~department~~ prior to its becoming effective. However, the
23455 investment income derived from the trust may be allocated as the
23456 parties deem proper. A controlling or controlled person shall
23457 deposit premiums collected into the trust account within 15
23458 working days after collection;



HB 1803

2003

23459 2. The controlling or controlled person has not provided
23460 to the insurer and the insurer has not maintained in its
23461 possession an unexpired, clean irrevocable letter of credit,
23462 payable to the insurer, issued for a term of not less than 1
23463 year and in conformity with the requirements set forth in this
23464 subparagraph, the amount of which equals or exceeds the
23465 liability of the controlling or controlled person to the
23466 insurer, at all times during the period which the letter of
23467 credit is in effect, for premiums collected by the controlling
23468 or controlled person. The requirements are that such letter of
23469 credit be issued under arrangements satisfactory to the office
23470 ~~department~~ and that the letter be issued by a banking
23471 institution which is a member of the Federal Reserve System and
23472 which has a financial standing satisfactory to the office
23473 ~~department~~;

23474 3. The controlling or controlled person has not provided
23475 to the insurer and the insurer maintained in its possession
23476 evidence that the controlling or controlled person has purchased
23477 and has currently in effect a financial guaranty bond, payable
23478 to the insurer, issued for a term of not less than 1 year and
23479 which is in conformity with the requirements set forth in this
23480 subparagraph, the amount of which equals or exceeds the
23481 liability of the controlling or controlled person to the
23482 insurer, at all times during which the financial guaranty bond
23483 is in effect, for the premiums collected by the controlling or
23484 controlled person. The requirements are that such a financial
23485 guaranty bond shall be issued under an arrangement satisfactory
23486 to the office ~~department~~ and that the financial guaranty bond be
23487 issued by an insurer authorized to transact such business in
23488 Florida and which has a financial standing satisfactory to the



HB 1803

2003

23489 office ~~department~~ and which is neither controlled nor
 23490 controlling in relation to either the insurer or the person for
 23491 whom the bond is purchased; or

23492 4. A financial evaluation indicates that the controlling
 23493 or controlled person is unlikely to have the ability to pay such
 23494 premiums as they become due. The financial evaluation shall be
 23495 based on a review of the books and records of the controlling or
 23496 controlled person.

23497 (c) The office ~~department~~ shall disapprove any trust
 23498 agreement filed pursuant to paragraph (a) which does not assure
 23499 the safety of the premiums collected.

23500 (10) Deposits or equities recoverable from underwriting
 23501 associations, syndicates, and reinsurance funds, or from any
 23502 suspended banking institution, to the extent deemed by the
 23503 office ~~department~~ available for the payment of losses and claims
 23504 and at values to be determined by it.

23505 (13) Loans or advances by an insurer to its parent or
 23506 principal owner if approved by the office ~~department~~.

23507 (16) Other assets, not inconsistent with the provisions of
 23508 this section, deemed by the office ~~department~~ to be available
 23509 for the payment of losses and claims, at values to be determined
 23510 by it.

23511 Section 779. Paragraph (d) of subsection (2) of section
 23512 625.041, Florida Statutes, is amended to read:

23513 625.041 Liabilities, in general.--In any determination of
 23514 the financial condition of an insurer, liabilities to be charged
 23515 against its assets shall include:

23516 (2) With reference to life and health insurance and
 23517 annuity contracts:

23518 (d) Any additional reserves that may be required by the



HB 1803

2003

23519 office ~~department~~ consistent with practice formulated or
 23520 approved by the National Association of Insurance Commissioners
 23521 or its successor organization, on account of such insurance,
 23522 including contract and premium deficiency reserves.

23523 Section 780. Subsection (2) of section 625.051, Florida
 23524 Statutes, is amended to read:

23525 625.051 Unearned premium reserve.--

23526 (2) The office ~~department~~ may require that such reserves
 23527 be equal to the unearned portions of the gross premiums in force
 23528 after deducting applicable reinsurance in solvent insurers as
 23529 computed on each respective risk from the date of issue of the
 23530 policy. If the office ~~department~~ does not so require, the
 23531 portions of the gross premium in force, less applicable
 23532 reinsurance in solvent insurers, to be held as an unearned
 23533 premium reserve, shall be computed according to the following
 23534 table:

	Term for which policy	Reserve for unearned
	was written	premium
23537	1 year or less....	1/2
23538	2 years....1st year--	3/4
23539		2nd year-- 1/4
23540	3 years....1st year--	5/6
23541		2nd year-- 1/2
23542		3rd year-- 1/6
23543		
23544		
23545		
23546		
23547		
23548		



HB 1803

2003

23549 4 years....1st year-- 7/8
 23550 2nd year-- 5/8
 23551 3rd year-- 3/8
 23552 4th year-- 1/8
 23553
 23554 5 years....1st year-- 9/10
 23555 2nd year-- 7/10
 23556 3rd year-- 1/2
 23557 4th year-- 3/10
 23558 5th year-- 1/10
 23559
 23560 Over 5 years....pro rata
 23561

23562 Section 781. Section 625.061, Florida Statutes, is amended
 23563 to read:

23564 625.061 Unearned premium reserve for marine and
 23565 transportation insurance.--As to marine and transportation
 23566 insurance, the entire amount of premiums on trip risks not
 23567 terminated shall be deemed unearned; and the office ~~department~~
 23568 may require the insurer to carry a reserve equal to 100 percent
 23569 of premiums on trip risks written during the month ended as of
 23570 the date of statement.

23571 Section 782. Section 625.071, Florida Statutes, is amended
 23572 to read:

23573 625.071 Special reserve for bail and judicial bonds.--In
 23574 lieu of the unearned premium reserve required on surety bonds
 23575 under s. 625.051, the office ~~department~~ may require any surety
 23576 insurer or limited surety insurer to set up and maintain a
 23577 reserve on all bail bonds or other single-premium bonds without
 23578 definite expiration date, furnished in judicial proceedings,



HB 1803

2003

23579 equal to the lesser of 35 percent of the bail premiums in force
 23580 or \$7 per \$1,000 of bail liability. Such reserve shall be
 23581 reported as a liability in financial statements required to be
 23582 filed with the office ~~department~~. Each insurer shall file a
 23583 supplementary schedule showing bail premiums in force and bail
 23584 liability and the associated special reserve for bail and
 23585 judicial bonds with financial statements required by s. 624.424.
 23586 Bail premiums in force do not include amounts retained by
 23587 licensed bail bond agents or licensed managing general agents,
 23588 but may not be less than 6.5 percent of the total consideration
 23589 received for all bail bonds in force.

23590 Section 783. Section 625.081, Florida Statutes, is amended
 23591 to read:

23592 625.081 Reserve for health insurance.--For all health
 23593 insurance policies, the insurer shall maintain an active life
 23594 reserve which places a sound value on the insurer's liabilities
 23595 under such policies; is not less than the reserve according to
 23596 appropriate standards set forth in rules issued by the
 23597 commission ~~department~~; and, in no event, is less in the
 23598 aggregate than the pro rata gross unearned premiums for such
 23599 policies.

23600 Section 784. Paragraph (d) of subsection (4) of section
 23601 625.091, Florida Statutes, is amended to read:

23602 625.091 Losses and loss adjustment expense reserves;
 23603 liability insurance and workers' compensation insurance.--The
 23604 reserve liabilities recorded in the insurer's annual statement
 23605 and financial statements for unpaid losses and loss adjustment
 23606 expenses shall be the estimated value of its claims when
 23607 ultimately settled and shall be computed as follows:

23608 (4)



HB 1803

2003

23609 (d)1. Beginning in calendar year 1998, each insurer shall
 23610 separately identify anticipated recoveries from the Special
 23611 Disability Trust Fund on the annual statement required to be
 23612 filed pursuant to s. 624.424.

23613 2. For all financial statements filed with the office
 23614 ~~department beginning in calendar year 1998~~, each insurer shall
 23615 disclose in the notes to the financial statements of any
 23616 financial statement required to be filed pursuant to s. 624.424
 23617 any credit in loss reserves taken for anticipated recoveries
 23618 from the Special Disability Trust Fund. That disclosure shall
 23619 include:

23620 a. The amount of credit taken by the insurer in the
 23621 determination of its loss reserves for the prior calendar year
 23622 and the current reporting period on a year-to-date basis.

23623 b. The amount of payments received by the insurer from the
 23624 Special Disability Trust Fund during the prior calendar year and
 23625 the year-to-date recoveries for the current year.

23626 c. The amount the insurer was assessed by the Special
 23627 Disability Trust Fund during the prior calendar year and during
 23628 the current calendar year.

23629 Section 785. Section 625.101, Florida Statutes, is amended
 23630 to read:

23631 625.101 Increase of inadequate loss reserves.--If loss
 23632 experience shows that an insurer's loss reserves, however
 23633 computed or estimated, are inadequate, the office ~~department~~
 23634 shall require the insurer to maintain loss reserves in such
 23635 additional amount as is needed to make them adequate. This
 23636 section does not apply as to life insurance.

23637 Section 786. Subsection (2) of section 625.131, Florida
 23638 Statutes, is amended to read:



HB 1803

2003

23639 625.131 Credit life and disability policies, special
23640 reserve bases.--

23641 (2) As to single-premium credit life insurance policies,
23642 the insurer shall establish and maintain reserves which are not
23643 less than the value, at the valuation date, of the risk for the
23644 unexpired portion of the period for which the premium has been
23645 paid as computed on the basis of the commissioners' 1980
23646 Standard Ordinary Mortality Table and 3.5 percent interest. At
23647 the discretion of the office ~~department~~, the insurer may make a
23648 reasonable assumption as to the ages at which net premiums are
23649 to be determined. In lieu of the foregoing basis, reserves
23650 based upon unearned gross premiums may be used at the option of
23651 the insurer.

23652 Section 787. Section 625.141, Florida Statutes, is amended
23653 to read:

23654 625.141 Valuation of bonds.--

23655 (1) All bonds or other evidences of debt having a fixed
23656 term and rate of interest held by an insurer may, if amply
23657 secured and not in default as to principal or interest, be
23658 valued as follows:

23659 (a) If purchased at par, at the par value.

23660 (b) If purchased above or below par, on the basis of the
23661 purchase price adjusted so as to bring the value to par at
23662 maturity and so as to yield in the meantime the effective rate
23663 of interest at which the purchase was made, or in lieu of such
23664 method, according to such accepted method of valuation as is
23665 approved by the commission ~~department~~.

23666 (c) Purchase price shall in no case be taken at a higher
23667 figure than the actual market value at the time of purchase,
23668 plus actual brokerage, transfer, postage, or express charges



HB 1803

2003

23669 paid in the acquisition of such securities.

23670 (2) The office ~~department~~ shall have full discretion in
23671 determining the method of calculating values according to the
23672 rules set forth in this section, but no such method or valuation
23673 shall be inconsistent with the method formulated or approved by
23674 the National Association of Insurance Commissioners or its
23675 successor organization and set forth in the latest edition of
23676 its publication "Valuation of Securities"; provided that such
23677 valuation methodology is substantially similar to the
23678 methodology used by the National Association of Insurance
23679 Commissioners in its July 1, 2002, ~~2001~~ edition of such
23680 publication. Amortization of bond premium or discount must be
23681 calculated using the scientific (constant yield) interest method
23682 taking into consideration specified interest and principal
23683 provisions over the life of the bond. Bonds containing call
23684 provisions shall be amortized to the call or maturity value or
23685 date that produces the lowest asset value.

23686 Section 788. Subsections (1), (2), (3), and (5) of section
23687 625.161, Florida Statutes, are amended to read:

23688 625.161 Valuation of property.--

23689 (1) Real property owned by an insurer which is reported in
23690 financial statements filed with the office ~~department~~ shall be
23691 valued at the lower of depreciated cost or fair market value.

23692 (2) Real property acquired pursuant to a mortgage loan or
23693 contract for sale, in the absence of a recent appraisal deemed
23694 by the office ~~department~~ to be reliable, shall not be valued at
23695 an amount greater than the unpaid principal and accrued interest
23696 of the defaulted loan or contract at the date of such
23697 acquisition, together with any taxes and expenses paid or
23698 incurred in connection with such acquisition, and the cost of



HB 1803

2003

23699 improvements thereafter made by the insurer and any amounts
23700 thereafter paid by the insurer on assessments levied for
23701 improvements in connection with the property.

23702 (3) Other real property held by an insurer shall not be
23703 valued at an amount in excess of fair value as determined by
23704 recent appraisal. If the valuation of real property is based on
23705 an appraisal more than 5 years old, the office ~~department~~ may,
23706 at its discretion, call for and require a new appraisal in order
23707 to determine fair market value.

23708 (5) In carrying out its responsibilities under this
23709 section, in the event that the office ~~department~~ and the insurer
23710 do not agree on the value of real or personal property of such
23711 insurer, the office ~~department~~ may retain the services of a
23712 qualified real or personal property appraiser. In the event it
23713 is subsequently determined that the insurer has overvalued
23714 assets, the office ~~department~~ shall be reimbursed for the costs
23715 of the services of any such appraiser incurred with respect to
23716 its responsibilities under this section regarding an insurer by
23717 said insurer and any reimbursement shall be deposited in the
23718 Insurance ~~Commissioner's~~ Regulatory Trust Fund.

23719 Section 789. Section 625.172, Florida Statutes, is amended
23720 to read:

23721 625.172 Replacing certain assets; reporting certain
23722 liabilities.--

23723 (1) The office ~~department~~, upon determining that an
23724 insurer's asset has not been evaluated according to applicable
23725 law or that it does not qualify as an asset, shall require the
23726 insurer to properly reevaluate the asset or replace the asset
23727 with an asset suitable to the office ~~department~~.

23728 (2) The office ~~department~~, upon determining that an



HB 1803

2003

23729 insurer has failed to report certain liabilities that should
 23730 have been reported, shall require that the insurer report such
 23731 liabilities to the office ~~department~~ within 90 days.

23732 (3) If it is determined that the proper valuation of an
 23733 asset or the establishment of certain liabilities would place
 23734 the insurer in financial impairment or insolvency, the office
 23735 ~~department~~ may, at its discretion, immediately suspend the
 23736 certificate of authority of an insurer or take other action it
 23737 deems appropriate to protect the interests of policyholders or
 23738 the general public.

23739 Section 790. Section 625.181, Florida Statutes, is amended
 23740 to read:

23741 625.181 Assets received as capital or surplus
 23742 contributions.--Assets received by an insurer as a capital or
 23743 surplus contribution shall, for purposes of this code, be deemed
 23744 to be purchased by the insurer at a cost equal to, in the
 23745 discretion of the office ~~department~~, their market value, their
 23746 appraised value, or prices determined by the office ~~department~~
 23747 as representing their fair market value. Assets so acquired
 23748 shall be valued in accordance with the appropriate sections of
 23749 this code as if the insurer had purchased such assets directly.

23750 Section 791. Subsection (2) of section 625.303, Florida
 23751 Statutes, is amended to read:

23752 625.303 General qualifications.--

23753 (2) No security or investment shall be eligible for
 23754 purchase at a price above its market value unless it is approved
 23755 by the office ~~department~~ and is made in accordance with
 23756 valuation procedures of the National Association of Insurance
 23757 Commissioners which have been adopted by the commission
 23758 ~~department~~.



HB 1803

2003

23759 Section 792. Subsections (3), (7), (8), (9), (10), and
 23760 (11) of section 625.305, Florida Statutes, are amended to read:
 23761 625.305 Diversification.--

23762 (3) The cost of investments made by insurers in a mortgage
 23763 loan authorized by s. 625.327 shall not exceed the lesser of 5
 23764 percent of the insurer's admitted assets or 10 percent of the
 23765 insurer's capital and surplus. An insurer shall not invest in
 23766 additional mortgage loans without the consent of the office
 23767 ~~department~~ if the admitted value of all mortgage loans held by
 23768 the insurer exceeds:

23769 (a) With respect to life and health insurers, 40 percent
 23770 of the admitted assets of the insurer.

23771 (b) With respect to property and casualty insurers, 10
 23772 percent of the admitted assets of the insurer.

23773

23774

23775 ~~An insurer that, as of October 1, 1991, has mortgage investments~~
 23776 ~~that exceed the aggregate limitation specified in this~~
 23777 ~~subsection shall submit to the department no later than January~~
 23778 ~~31, 1992, a plan to bring the amount of mortgage investments~~
 23779 ~~into compliance with such limitations by January 1, 2001.~~

23780 ~~(7) Subsections (4), (5), and (6) apply to any investment~~
 23781 ~~made after September 30, 1991. If an insurer's investments in~~
 23782 ~~medium to lower quality obligations equal or exceed the maximum~~
 23783 ~~amounts permitted by subsection (4) as of October 1, 1991, the~~
 23784 ~~insurer may not acquire any additional medium to lower quality~~
 23785 ~~obligations. An insurer that was not in compliance with~~
 23786 ~~subsection (4) as of October 1, 1991, may hold until maturity or~~
 23787 ~~until January 1, 1996, whichever is sooner, only those medium to~~
 23788 ~~lower quality obligations it owned on that date if such~~



HB 1803

2003

23789 ~~obligations were obtained in compliance with the law in effect~~
 23790 ~~at the time the investments were made. If the insurer sells,~~
 23791 ~~transfers, or otherwise disposes of such securities prior to~~
 23792 ~~maturity, the insurer may not acquire any medium to lower~~
 23793 ~~quality obligations as substitutions or replacements, except~~
 23794 ~~replacement investments acquired for the purpose of supporting~~
 23795 ~~an unexpired life insurance or annuity product liability on the~~
 23796 ~~condition that the insurer filed with the department a schedule~~
 23797 ~~of such liabilities supported by the medium to lower quality~~
 23798 ~~investments. An insurer that was not in compliance with~~
 23799 ~~subsection (4) on December 31, 1991, shall file with its annual~~
 23800 ~~statement a separate schedule of the medium to lower quality~~
 23801 ~~obligations it owned on December 31, 1991. Until it is in~~
 23802 ~~compliance with subsection (4), the insurer shall file with each~~
 23803 ~~succeeding annual and quarterly statement a separate schedule of~~
 23804 ~~the medium to lower quality obligations it owns as of the~~
 23805 ~~reporting date of the filed statement.~~

23806 ~~(7)(8)~~ Any investments in excess of those permitted by
 23807 subsection (4) are not allowed as an asset of the insurer.

23808 ~~(8)(9)~~ The office ~~department~~ may limit the extent of an
 23809 insurer's deposits with any financial institution which does not
 23810 meet its regulatory capital requirement if the office ~~department~~
 23811 determines that the financial solvency of the insurer is
 23812 threatened by a deposit in excess of such limit.

23813 ~~(9)(10)~~ The provisions of this section supersede any
 23814 inconsistent provision of s. 106 of the Secondary Mortgage
 23815 Market Enhancement Act of 1984 (15 U.S.C. s. 77r).

23816 ~~(10)(11)~~ Every domestic life insurance company that issues
 23817 variable annuity contracts may invest and reinvest amounts
 23818 received in connection with such variable contracts in common



HB 1803

2003

23819 | stocks, subject to the following limitations:

23820 | (a) All common stock investments must be in stock that is
 23821 | listed or admitted to trading on a securities exchange located
 23822 | in the United States, or which is publicly held and has been
 23823 | traded in the "over the counter market" for not less than 1 year
 23824 | preceding the date of purchase and for which stock market
 23825 | quotations have been readily available for that 1 year period.

23826 | (b) A domestic life insurance company that issues variable
 23827 | annuity contracts may not invest more than 5 percent of all of
 23828 | the amounts received in connection with such contracts in the
 23829 | securities of one corporation or insurer.

23830 | (c) A domestic life insurance company that issues variable
 23831 | annuity contracts may not, as a result of investing any funds
 23832 | received in connection with such contracts, beneficially own or
 23833 | hold, together with the investments permitted under paragraph
 23834 | (2)(a), more than 15 percent of the outstanding securities of
 23835 | any corporation or issuer. Any foreign life insurance company
 23836 | that issues variable annuity contracts in this state and which
 23837 | invests the funds received in connection with such contracts in
 23838 | accordance with the laws of its state of domicile, is in
 23839 | compliance with this section.

23840 | (d) A domestic life insurance company may not invest in
 23841 | the common stock of any corporation if such investment creates a
 23842 | conflict of interest between officers and directors of the
 23843 | investing company and those of the corporation whose stock is
 23844 | purchased.

23845 | Section 793. Section 625.322, Florida Statutes, is amended
 23846 | to read:

23847 | 625.322 Collateral loans.--An insurer may invest in loans
 23848 | with a maturity not in excess of 12 years from the date thereof



HB 1803

2003

23849 | which are secured by the pledge of assets permitted by part I of
 23850 | this chapter. Loans made pursuant to this section shall not be
 23851 | admitted as an asset when it is considered probable that any
 23852 | portion of the amounts due under the contractual terms of the
 23853 | loan will not be collected. Collateral loans reported in
 23854 | financial statements filed with the office ~~department~~ shall not
 23855 | exceed the value of the collateral held by the company.

23856 | Section 794. Section 625.324, Florida Statutes, is amended
 23857 | to read:

23858 | 625.324 Corporate stocks.--An insurer may invest in
 23859 | stocks, common or preferred, of any corporation created or
 23860 | existing under the laws of the United States or of any state or
 23861 | Canada or any province thereof. An insurer may invest in
 23862 | stocks, common or preferred, of any corporation created or
 23863 | existing under the laws of any foreign country other than Canada
 23864 | if such stocks are listed and traded on a national securities
 23865 | exchange in the United States or, in the alternative, if such
 23866 | investment in stocks of any corporation created or existing
 23867 | under the laws of any foreign country are first approved by the
 23868 | office ~~department~~. Nothing in this section shall apply to
 23869 | qualifying investments made by an insurer in a foreign country
 23870 | under authority of s. 625.326.

23871 | Section 795. Section 625.326, Florida Statutes, is amended
 23872 | to read:

23873 | 625.326 Foreign investments.--An insurer authorized to
 23874 | transact insurance in a foreign country may have funds invested
 23875 | in such securities as may be required for such authority and for
 23876 | the transaction of such business. Canadian securities eligible
 23877 | for investment under other provisions of this part are not
 23878 | subject to this section. Subject to the approval of the office



HB 1803

2003

23879 ~~department:~~

23880 (1) An insurer may invest in eurodollar certificates of
 23881 deposit issued by foreign branches of United States commercial
 23882 banks.

23883 (2) In addition to Canadian securities eligible for
 23884 investment and to investments in countries in which an insurer
 23885 transacts insurance, an insurer may invest in bonds, notes, or
 23886 stocks of any foreign country or corporation if such security
 23887 meets the general requirements of s. 625.303 and does not
 23888 exceed, in total, 5 percent of admitted assets.

23889 Section 796. Subsection (1) of section 625.330, Florida
 23890 Statutes, is amended to read:

23891 625.330 Special investments by title insurer.--

23892 (1) In addition to other investments eligible under this
 23893 part, a title insurer may invest and have invested an amount not
 23894 exceeding the greater of \$300,000 or 50 percent of that part of
 23895 its surplus as to policyholders which exceeds the minimum
 23896 surplus required by s. 624.408 in its abstract plant and
 23897 equipment, in loans secured by mortgages on abstract plants and
 23898 equipment, and, with the consent of the office ~~department~~, in
 23899 stocks of abstract companies. If the insurer transacts kinds of
 23900 insurance in addition to title insurance, for the purposes of
 23901 this section its paid-in capital stock shall be prorated between
 23902 title insurance and such other insurances upon the basis of the
 23903 reserves maintained by the insurer for the various kinds of
 23904 insurance; but the capital so assigned to title insurance shall
 23905 in no event be less than \$100,000.

23906 Section 797. Subsection (1) of section 625.331, Florida
 23907 Statutes, is amended to read:

23908 625.331 Special consent investments.--



HB 1803

2003

23909 (1) After satisfying the requirements of this part, any
 23910 funds of an insurer in excess of its reserves and policyholders'
 23911 surplus required to be maintained may be invested:

23912 (a) Without limitation in any investments otherwise
 23913 authorized by this part; or

23914 (b) In such other investments not specifically authorized
 23915 by this part as long as such investments do not exceed the
 23916 lesser of 5 percent of the insurer's total admitted assets or 25
 23917 percent of the amount by which the insurer's policyholders'
 23918 surplus exceeds the minimum required to be maintained.

23919
 23920

23921 The limitations in paragraph (b) may be exceeded if consented
 23922 to in writing by the office ~~department~~.

23923 Section 798. Paragraphs (a) and (b) of subsection (1) of
 23924 section 625.332, Florida Statutes, are amended to read:

23925 625.332 Prohibited investments and investment
 23926 underwriting.--

23927 (1) In addition to investments excluded pursuant to other
 23928 provisions of this code, an insurer shall not directly or
 23929 indirectly invest in or lend its funds upon the security of:

23930 (a) Issued shares of its own capital stock, except for the
 23931 purpose of mutualization under s. 628.431, or in connection with
 23932 a plan approved by the office ~~department~~ for purchase of such
 23933 shares by the insurer's officers, employees, or agents. No such
 23934 stock shall, however, constitute an asset of the insurer in any
 23935 determination of its financial condition.

23936 (b) Except with the consent of the office ~~department~~,
 23937 securities issued by any corporation or enterprise the
 23938 controlling interest of which is, or will after such acquisition



HB 1803

2003

23939 by the insurer be, held directly or indirectly by the insurer or
 23940 any combination of the insurer and the insurer's directors,
 23941 officers, parent corporation, subsidiaries, or controlling
 23942 stockholders. Investments in subsidiaries under s. 625.325 shall
 23943 not be subject to this provision.

23944 Section 799. Paragraph (e) of subsection (1) and
 23945 subsection (3) of section 625.333, Florida Statutes, are amended
 23946 to read:

23947 625.333 Real estate, in general.--An insurer shall not
 23948 directly or indirectly acquire or hold real estate except as
 23949 authorized in this section.

23950 (1) An insurer may acquire and hold:

23951 (e) Additional real property and equipment incident to
 23952 real property, if necessary or convenient for the enhancement of
 23953 the marketability or sale value of real property previously
 23954 acquired or held by it under paragraphs (b)-(d), but subject to
 23955 the prior written approval of the office ~~department~~.

23956 (3) The amount in real property acquired and held by an
 23957 insurer shall not exceed 15 percent of the insurer's admitted
 23958 assets, but the office ~~department~~ may grant permission to the
 23959 insurer to invest in real property in such increased amount as
 23960 it may deem proper.

23961 Section 800. Section 625.338, Florida Statutes, is amended
 23962 to read:

23963 625.338 Time limit for disposal of ineligible property and
 23964 securities; effect of failure to dispose.--

23965 (1) Any property or securities lawfully acquired by an
 23966 insurer which it could not otherwise have invested in or loaned
 23967 its funds upon at the time of such acquisition shall be disposed
 23968 of within 3 years from the date of acquisition, unless within



HB 1803

2003

23969 such period the security has attained to the standard of
 23970 eligibility except that any security or property acquired under
 23971 any agreement of bulk reinsurance, merger, or consolidation may
 23972 be retained for a longer period if so provided in the plan for
 23973 such reinsurance, merger, or consolidation as approved by the
 23974 office ~~department~~ under chapter 628. Upon application by the
 23975 insurer and proof that forced sale of any such property or
 23976 security would materially injure the interests of the insurer,
 23977 the office ~~department~~ may extend the disposal period for an
 23978 additional reasonable time.

23979 (2) Any property or securities lawfully acquired and held
 23980 by an insurer after expiration of the period for disposal
 23981 thereof or any extension of such period granted by the office
 23982 ~~department~~ shall not be allowed as an asset of the insurer.

23983 Section 801. Paragraph (d) of subsection (3) and
 23984 subsection (4) of section 625.52, Florida Statutes, are amended
 23985 to read:

23986 625.52 Securities eligible for deposit.--

23987 (3) To be eligible for deposit under paragraph (1)(h), any
 23988 certificate of deposit must have the following characteristics:

23989 (d) The issuing bank, savings bank, or savings association
 23990 must agree to the terms and conditions of the department ~~State~~
 23991 ~~Treasurer~~ regarding the rights to the certificate of deposit and
 23992 must have executed a written certificate of deposit agreement
 23993 with the department ~~State Treasurer~~. The terms and conditions
 23994 of such agreement shall include, but need not be limited to:

23995 1. Exclusive authorized signature authority for the Chief
 23996 Financial Officer ~~State Treasurer~~.

23997 2. Agreement to pay, without protest, the proceeds of its
 23998 certificate of deposit to the department within 30 business days



HB 1803

2003

23999 after presentation.

24000 3. Prohibition against levies, setoffs, survivorship, or
 24001 other conditions that might hinder the department's ability to
 24002 recover the full face value of a certificate of deposit.

24003 4. Instructions regarding interest payments, renewals,
 24004 taxpayer identification, and early withdrawal penalties.

24005 5. Agreement to be subject to the jurisdiction of the
 24006 courts of this state, or those of the United States which are
 24007 located in this state, for the purposes of any litigation
 24008 arising out of this section.

24009 6. Such other conditions as the department requires.

24010 (4) The office or department may refuse to accept certain
 24011 securities or refuse to accept the reported market value of
 24012 certain securities offered pursuant to this section in order to
 24013 ensure that sufficient cash and securities are on hand to meet
 24014 the purposes of the deposit. In making a refusal under this
 24015 subsection, the guidelines for use of the office or department
 24016 may include, but need not be limited to, whether the market
 24017 value of the securities cannot be readily ascertained and the
 24018 lack of liquidity of the securities. Securities refused under
 24019 this subsection are not acceptable as deposits.

24020 Section 802. Subsection (2) of section 625.53, Florida
 24021 Statutes, is amended to read:

24022 625.53 Depository.--

24023 (2) The department shall hold all such deposits in
 24024 safekeeping in the vaults located in the offices of the
 24025 department ~~Treasurer~~.

24026 Section 803. Subsections (5) of section 625.55, Florida
 24027 Statutes, is amended to read:

24028 625.55 Custodial arrangements.--



HB 1803

2003

24029 (5) The department or office may at any time, in its
24030 discretion, terminate any such custodial arrangement and require
24031 the deposit represented thereby to be made with it directly as
24032 otherwise provided for under this code.

24033 Section 804. Subsection (1) of section 625.56, Florida
24034 Statutes, is amended to read:

24035 625.56 Registration, conveyance of assets or securities.--

24036 (1) The insurer shall duly register in the name of the
24037 Chief Financial Officer ~~department~~ all securities being
24038 deposited with the department under this code which are not
24039 negotiable by delivery.

24040 Section 805. Section 625.57, Florida Statutes, is amended
24041 to read:

24042 625.57 Appraisal.--The office or department may, in its
24043 discretion, prior to acceptance for deposit of any particular
24044 asset or security, or at any time thereafter while so deposited,
24045 have the same appraised or valued by competent appraisers. The
24046 reasonable costs of any such appraisal or valuation shall be
24047 borne by the insurer.

24048 Section 806. Section 625.58, Florida Statutes, is amended
24049 to read:

24050 625.58 Excess and deficit deposits.--

24051 (1) If securities or assets deposited by an insurer under
24052 this part are subject to material fluctuations in market value,
24053 the office or department may, in its discretion, require the
24054 insurer to deposit and maintain on deposit additional securities
24055 or assets in an amount as may be reasonably necessary to assure
24056 that the deposit will at all times have a market value of not
24057 less than the amount specified under or pursuant to the law by
24058 which the deposit is required.



HB 1803

2003

24059 (2) The insurer is responsible at all times for having
24060 deposited with, or pledged to, if custodial arrangements are
24061 used, the department eligible securities which have a market
24062 value of not less than the amount specified pursuant to the law
24063 by which the deposit is required. If for any reason the market
24064 value of assets and securities of an insurer held on deposit in
24065 this state under this code falls below the amount required, the
24066 insurer shall promptly deposit other or additional assets or
24067 securities eligible for deposit sufficient to cure such
24068 deficiency. If the insurer has failed to cure the deficiency
24069 within 30 days after receipt of notice thereof by registered or
24070 certified mail from the office ~~department~~, the office ~~department~~
24071 shall revoke the insurer's certificate of authority or may take
24072 such other administrative action as provided by law.

24073 (3) An insurer may at its option deposit assets or
24074 securities in an amount exceeding its deposit required or
24075 otherwise permitted under this code by not more than 3 times the
24076 amount of the required or permitted deposit for the purpose of
24077 satisfying the office ~~department~~ that the insurer's obligations
24078 in this state will be met. During the solvency of the insurer,
24079 the amount of any excess or a portion thereof shall be released
24080 to the insurer if the office ~~department~~ is satisfied that the
24081 insurer's obligations in this state will be met. During the
24082 insolvency of the insurer, the amount of any excess deposit
24083 shall be released only as provided in s. 625.62.

24084 Section 807. Paragraph (c) of subsection (2) of section
24085 625.62, Florida Statutes, is amended to read:

24086 625.62 Duration and release of deposit.--

24087 (2) Any such deposit, whether in the form of a certificate
24088 of deposit or otherwise, shall be released and returned:



HB 1803

2003

24089 (c) To the insurer, during solvency, upon its written
 24090 request, when such insurer has met all requirements and the
 24091 office department is satisfied, or, for deposits made under s.
 24092 625.51(2) or (3), the department is satisfied, that the deposit
 24093 is no longer necessary.

24094 Section 808. Section 625.63, Florida Statutes, is amended
 24095 to read:

24096 625.63 Proofs for release of deposit.--

24097 (1) Before authorizing the release of any deposit or
 24098 excess portion thereof to the insurer, as provided in s. 625.62,
 24099 the office or department shall require the insurer to file with
 24100 the office or department a written statement in such form and
 24101 with such verification as the office or department deems
 24102 advisable setting forth the facts upon which it bases its
 24103 entitlement to such release.

24104 (2) If release of the deposit is claimed by the insurer
 24105 upon the ground that its liabilities in this state, as to which
 24106 the deposit was originally made and is held, have been assumed
 24107 by another insurer authorized to transact insurance in this
 24108 state, the insurer shall file with the office department a duly
 24109 attested copy of the contract or agreement of such reinsurance.

24110 (3) Upon being satisfied by such statement and such other
 24111 information and evidence as the office or department may
 24112 reasonably require, and by such examination, if any, of the
 24113 affairs of the insurer as it deems advisable to make, that the
 24114 insurer is entitled to the release of its deposits or excess
 24115 portions thereof as provided in s. 625.62, the office or
 24116 department shall release, or authorize the custodian bank or
 24117 trust company in the case of deposits made under s. 625.55 to
 24118 release, the deposit or excess portion thereof to the insurer or



HB 1803

2003

24119 | its authorized representative. The office and department shall
24120 | have no liability as to any such release so made or authorized
24121 | by it in good faith.

24122 | (4) The department may release a deposit upon sending
24123 | notification by certified mail to the public official having
24124 | supervision over insurers in another state, province, or country
24125 | that has filed a notification of reliance on a deposit made
24126 | pursuant to s. 625.51(2) unless the release is denied in writing
24127 | to the department by another state, province, or country within
24128 | 90 days. The department has no liability as to any such release
24129 | so made or authorized by it in good faith.

24130 | (5) Upon the failure of the office or department to
24131 | release any deposit whether in the form of a certificate of
24132 | deposit or otherwise or any excess portion thereof, requested as
24133 | provided in s. 625.62 upon compliance by the insurer with the
24134 | requirements of this section or within 90 days after receipt of
24135 | the insurer's written request, whichever is later, the office or
24136 | department shall, upon petition by the insurer, post or cause to
24137 | be posted a notice of pendency of the insurer's request, at the
24138 | place customarily used for the posting of public notices, at the
24139 | courthouse of each county, and shall make a copy of such notice
24140 | available to the established news agencies having offices at
24141 | Tallahassee, Florida. The commission or department may by rule
24142 | prescribe the general form of such notice, shall specify the
24143 | insurer's name, or may list such names when more than one
24144 | request is pending at the same time. Such notice shall state
24145 | therein that such insurer or insurers have petitioned for the
24146 | release and return of deposits pursuant to and in compliance
24147 | with s. 625.62 and this section; that the office or department
24148 | has no information upon which to base a finding that the insurer



HB 1803

2003

24149 or insurers named in the notice are not lawfully entitled to
 24150 obtain the release and return of such deposits; and that, unless
 24151 such information is presented to it within 90 days from the date
 24152 specified in the notice, such deposits must be returned to the
 24153 insurer or insurers. In the event that no such information is
 24154 presented to the office or department within such 90-day period,
 24155 it shall thereupon release and return the deposit or deposits as
 24156 requested by the insurer or insurers whose request was not
 24157 challenged. In the event that such information is presented to
 24158 the office or department within that period, it shall refuse to
 24159 release or return the deposit of the insurer or insurers
 24160 concerned and shall hold a hearing with respect thereto upon the
 24161 request of such insurer or insurers.

24162 Section 809. Section 625.75, Florida Statutes, is amended
 24163 to read:

24164 625.75 Certain persons and directors and officers of
 24165 domestic stock insurer to file statements.--Every person who is
 24166 directly or indirectly the beneficial owner of more than 10
 24167 percent of any class of any equity security of a domestic stock
 24168 insurer, or who is a director or an officer of a domestic stock
 24169 insurer, shall file with ~~in~~ the office ~~of the department~~ within
 24170 10 days after becoming such beneficial owner, director, or
 24171 officer a statement, in such form as the commission ~~department~~
 24172 may by rule prescribe, of the amount of all equity securities of
 24173 such insurer of which he or she is the beneficial owner; within
 24174 10 days after the close of each calendar month thereafter, if
 24175 there has been a change in such ownership during such month, he
 24176 or she shall file with ~~in~~ the office ~~of the department~~ a
 24177 statement, in such form as the commission ~~department~~ may by rule
 24178 prescribe, indicating his or her ownership of such equity



HB 1803

2003

24179 securities at the close of the calendar month and such changes
 24180 in his or her ownership of such equity securities as have
 24181 occurred during such calendar month.

24182 Section 810. Section 625.765, Florida Statutes, is amended
 24183 to read:

24184 625.765 Exemptions from ss. 625.75 and 625.76.--The
 24185 commission ~~department~~ may adopt by rule exemptions from ss.
 24186 625.75 and 625.76 for transactions that are not subject to s.
 24187 628.461 and that are the result of proceedings in probate,
 24188 incompetency, or bankruptcy; sales of securities by odd-lot
 24189 securities dealers; small transactions by gift which do not
 24190 exceed \$3,000 over any 6-month period; transactions that are
 24191 effected in connection with the distribution of a substantial
 24192 block of securities; acquisitions of shares of stock and stock
 24193 options under a stock bonus plan, stock option plan, or similar
 24194 plan; securities acquired by redeeming other securities by an
 24195 insurer; consolidations or mergers of insurers that hold over 85
 24196 percent of the companies being merged or consolidated;
 24197 acquisitions or dispositions of an equity security involved in
 24198 the deposit of the security under, or the withdrawal of the
 24199 security from, a voting trust or deposit agreement; and
 24200 conversions of an insurer's equity securities into another
 24201 equity security of the same insurer. The commission ~~department~~
 24202 may limit by rule the scope of exemptions and provide conditions
 24203 for exemptions as necessary to maintain the purpose and intent
 24204 of ss. 625.75 and 625.76 and prevent the circumvention of ss.
 24205 625.75 and 625.76.

24206 Section 811. Section 625.78, Florida Statutes, is amended
 24207 to read:

24208 625.78 Certain sale and purchase exempted; investment



HB 1803

2003

24209 account.--The provisions of s. 625.76 do not apply to any
 24210 purchase and sale, or sale and purchase, and the provisions of
 24211 s. 625.77 do not apply to any sale, of an equity security of a
 24212 domestic stock insurer not then or theretofore held by a person
 24213 required to report under s. 625.75 in an investment account,
 24214 which transaction is by a dealer in the ordinary course of
 24215 business and incident to the establishment or maintenance by him
 24216 or her of a primary or secondary market, other than on an
 24217 exchange as defined in the Securities Exchange Act of 1934, for
 24218 such security. The commission ~~department~~ may, by such rules as
 24219 it deems necessary or appropriate in the public interest, define
 24220 and prescribe terms and conditions with respect to securities
 24221 held in an investment account and transactions made in the
 24222 ordinary course of business and incident to the establishment or
 24223 maintenance of a primary or secondary market.

24224 Section 812. Section 625.79, Florida Statutes, is amended
 24225 to read:

24226 625.79 Certain foreign or domestic arbitrage transactions
 24227 exempted.--The provisions of ss. 625.75-625.77 do not apply to
 24228 foreign or domestic arbitrage transactions unless made in
 24229 contravention of rules that ~~which~~ the commission has adopted
 24230 ~~department may adopt~~.

24231 Section 813. Section 625.80, Florida Statutes, is amended
 24232 to read:

24233 625.80 "Equity security" defined.--The term "equity
 24234 security" when used in this part means:

- 24235 (1) Any stock or similar security;
- 24236 (2) Any security convertible, with or without
 24237 consideration, into such a security, or carrying any warrant or
 24238 right to subscribe to or purchase such a security;



HB 1803

2003

24239 (3) Any such warrant or right; or

24240 (4) Any other security which the commission ~~department~~
 24241 deems to be of similar nature and considers necessary or
 24242 appropriate, by such rules as it may prescribe in the public
 24243 interest or for the protection of investors, to treat as an
 24244 equity security.

24245 Section 814. Section 625.82, Florida Statutes, is amended
 24246 to read:

24247 625.82 Rules.--The commission may adopt ~~department shall~~
 24248 ~~have the power to make~~ such rules as are ~~may be~~ necessary for
 24249 the execution of the functions vested in it by ss. 625.75-625.81
 24250 and may for such purpose classify domestic stock insurers,
 24251 securities, and other persons or matters within its
 24252 jurisdiction. No provision of ss. 625.75-625.77 imposing any
 24253 liability shall apply to any act done or omitted in good faith
 24254 in conformity with any rule of the commission ~~department~~,
 24255 notwithstanding that such rule may, after such act or omission,
 24256 be amended or rescinded or determined by judicial or other
 24257 authority to be invalid for any reason.

24258 Section 815. Section 625.83, Florida Statutes, is amended
 24259 to read:

24260 625.83 Failure to file reporting forms.--Any insurer who
 24261 knowingly fails to file information, documents, or reports
 24262 required to be filed under s. 625.75 or any rule thereunder
 24263 shall forfeit to the state the sum of \$100 for each day such
 24264 failure to file continues. Such forfeiture shall be payable to
 24265 the office ~~Treasurer~~ to be deposited in the Insurance
 24266 ~~Commissioner's~~ Regulatory Trust Fund and shall be recoverable in
 24267 a civil suit in the name of the state. A time for filing may be
 24268 extended for a reasonable period by the office ~~department~~.



HB 1803

2003

24269 Section 816. Subsection (2) of section 627.031, Florida
24270 Statutes, is amended to read:

24271 627.031 Purposes of this part; interpretation.--

24272 (2) It is the purpose of this part to protect
24273 policyholders and the public against the adverse effects of
24274 excessive, inadequate, or unfairly discriminatory insurance
24275 rates, and to authorize the office ~~department~~ to regulate such
24276 rates. If at any time the office ~~department~~ has reason to
24277 believe any such rate is excessive, inadequate, or unfairly
24278 discriminatory under the law, it is directed to take the
24279 necessary action to cause such rate to comply with the laws of
24280 this state.

24281 Section 817. Section 627.0612, Florida Statutes, is
24282 amended to read:

24283 627.0612 Administrative proceedings in rating
24284 determinations.--In any proceeding to determine whether rates,
24285 rating plans, or other matters governed by this part comply with
24286 the law, the appellate court shall set aside a final order of
24287 the office ~~department~~ if the office ~~department~~ has violated s.
24288 120.57(1)(k) by substituting its findings of fact for findings
24289 of an administrative law judge which were supported by competent
24290 substantial evidence.

24291 Section 818. Section 627.0613, Florida Statutes, is
24292 amended to read:

24293 627.0613 Consumer advocate.--The Chief Financial Officer
24294 ~~Insurance Commissioner~~ must appoint a consumer advocate who must
24295 represent the general public of the state before the department
24296 and the office. The consumer advocate must report directly to
24297 the Chief Financial Officer ~~Insurance Commissioner~~, but is not
24298 otherwise under the authority of the department or of any



HB 1803

2003

24299 employee of the department. The consumer advocate has such
 24300 powers as are necessary to carry out the duties of the office of
 24301 consumer advocate, including, but not limited to, the powers to:

24302 (1) Recommend to the department or office, by petition,
 24303 the commencement of any proceeding or action; appear in any
 24304 proceeding or action before the department or office; or appear
 24305 in any proceeding before the Division of Administrative Hearings
 24306 relating to subject matter under the jurisdiction of the
 24307 department or office.

24308 (2) Have access to and use of all files, records, and data
 24309 of the department or office.

24310 (3) Examine rate and form filings submitted to the office
 24311 ~~department~~, hire consultants as necessary to aid in the review
 24312 process, and recommend to the department or office any position
 24313 deemed by the consumer advocate to be in the public interest.

24314 (4) Prepare an annual budget for presentation to the
 24315 Legislature by the department, which budget must be adequate to
 24316 carry out the duties of the office of consumer advocate.

24317 Section 819. Subsections (2), (3), and (6) of section
 24318 627.062, Florida Statutes, are amended to read:

24319 627.062 Rate standards.--

24320 (2) As to all such classes of insurance:

24321 (a) Insurers or rating organizations shall establish and
 24322 use rates, rating schedules, or rating manuals to allow the
 24323 insurer a reasonable rate of return on such classes of insurance
 24324 written in this state. A copy of rates, rating schedules,
 24325 rating manuals, premium credits or discount schedules, and
 24326 surcharge schedules, and changes thereto, shall be filed with
 24327 the office ~~department~~ under one of the following procedures:

24328 1. If the filing is made at least 90 days before the



HB 1803

2003

24329 proposed effective date and the filing is not implemented during
 24330 the office's ~~department's~~ review of the filing and any
 24331 proceeding and judicial review, then such filing shall be
 24332 considered a "file and use" filing. In such case, the office
 24333 ~~department~~ shall finalize its review by issuance of a notice of
 24334 intent to approve or a notice of intent to disapprove within 90
 24335 days after receipt of the filing. The notice of intent to
 24336 approve and the notice of intent to disapprove constitute agency
 24337 action for purposes of the Administrative Procedure Act.
 24338 Requests for supporting information, requests for mathematical
 24339 or mechanical corrections, or notification to the insurer by the
 24340 office ~~department~~ of its preliminary findings shall not toll the
 24341 90-day period during any such proceedings and subsequent
 24342 judicial review. The rate shall be deemed approved if the office
 24343 ~~department~~ does not issue a notice of intent to approve or a
 24344 notice of intent to disapprove within 90 days after receipt of
 24345 the filing.

24346 2. If the filing is not made in accordance with the
 24347 provisions of subparagraph 1., such filing shall be made as soon
 24348 as practicable, but no later than 30 days after the effective
 24349 date, and shall be considered a "use and file" filing. An
 24350 insurer making a "use and file" filing is potentially subject to
 24351 an order by the office ~~department~~ to return to policyholders
 24352 portions of rates found to be excessive, as provided in
 24353 paragraph (h).

24354 (b) Upon receiving a rate filing, the office ~~department~~
 24355 shall review the rate filing to determine if a rate is
 24356 excessive, inadequate, or unfairly discriminatory. In making
 24357 that determination, the office ~~department~~ shall, in accordance
 24358 with generally accepted and reasonable actuarial techniques,



HB 1803

2003

24359 consider the following factors:

24360 1. Past and prospective loss experience within and without
24361 this state.

24362 2. Past and prospective expenses.

24363 3. The degree of competition among insurers for the risk
24364 insured.

24365 4. Investment income reasonably expected by the insurer,
24366 consistent with the insurer's investment practices, from
24367 investable premiums anticipated in the filing, plus any other
24368 expected income from currently invested assets representing the
24369 amount expected on unearned premium reserves and loss reserves.

24370 The commission ~~department~~ may adopt ~~promulgate~~ rules utilizing
24371 reasonable techniques of actuarial science and economics to
24372 specify the manner in which insurers shall calculate investment
24373 income attributable to such classes of insurance written in this
24374 state and the manner in which such investment income shall be
24375 used in the calculation of insurance rates. Such manner shall
24376 contemplate allowances for an underwriting profit factor and
24377 full consideration of investment income which produce a
24378 reasonable rate of return; however, investment income from
24379 invested surplus shall not be considered. ~~The profit and~~
24380 ~~contingency factor as specified in the filing shall be utilized~~
24381 ~~in computing excess profits in conjunction with s. 627.0625.~~

24382 5. The reasonableness of the judgment reflected in the
24383 filing.

24384 6. Dividends, savings, or unabsorbed premium deposits
24385 allowed or returned to Florida policyholders, members, or
24386 subscribers.

24387 7. The adequacy of loss reserves.

24388 8. The cost of reinsurance.



HB 1803

2003

24389 9. Trend factors, including trends in actual losses per
24390 insured unit for the insurer making the filing.

24391 10. Conflagration and catastrophe hazards, if applicable.

24392 11. A reasonable margin for underwriting profit and
24393 contingencies.

24394 12. The cost of medical services, if applicable.

24395 13. Other relevant factors which impact upon the frequency
24396 or severity of claims or upon expenses.

24397 (c) In the case of fire insurance rates, consideration
24398 shall be given to the availability of water supplies and the
24399 experience of the fire insurance business during a period of not
24400 less than the most recent 5-year period for which such
24401 experience is available.

24402 (d) If conflagration or catastrophe hazards are given
24403 consideration by an insurer in its rates or rating plan,
24404 including surcharges and discounts, the insurer shall establish
24405 a reserve for that portion of the premium allocated to such
24406 hazard and shall maintain the premium in a catastrophe reserve.

24407 Any removal of such premiums from the reserve for purposes
24408 other than paying claims associated with a catastrophe or
24409 purchasing reinsurance for catastrophes shall be subject to
24410 approval of the office ~~department~~. Any ceding commission
24411 received by an insurer purchasing reinsurance for catastrophes
24412 shall be placed in the catastrophe reserve.

24413 (e) After consideration of the rate factors provided in
24414 paragraphs (b), (c), and (d), a rate may be found by the office
24415 ~~department~~ to be excessive, inadequate, or unfairly
24416 discriminatory based upon the following standards:

24417 1. Rates shall be deemed excessive if they are likely to
24418 produce a profit from Florida business that is unreasonably high



HB 1803

2003

24419 in relation to the risk involved in the class of business or if
 24420 expenses are unreasonably high in relation to services rendered.

24421 2. Rates shall be deemed excessive if, among other things,
 24422 the rate structure established by a stock insurance company
 24423 provides for replenishment of surpluses from premiums, when the
 24424 replenishment is attributable to investment losses.

24425 3. Rates shall be deemed inadequate if they are clearly
 24426 insufficient, together with the investment income attributable
 24427 to them, to sustain projected losses and expenses in the class
 24428 of business to which they apply.

24429 4. A rating plan, including discounts, credits, or
 24430 surcharges, shall be deemed unfairly discriminatory if it fails
 24431 to clearly and equitably reflect consideration of the
 24432 policyholder's participation in a risk management program
 24433 adopted pursuant to s. 627.0625.

24434 5. A rate shall be deemed inadequate as to the premium
 24435 charged to a risk or group of risks if discounts or credits are
 24436 allowed which exceed a reasonable reflection of expense savings
 24437 and reasonably expected loss experience from the risk or group
 24438 of risks.

24439 6. A rate shall be deemed unfairly discriminatory as to a
 24440 risk or group of risks if the application of premium discounts,
 24441 credits, or surcharges among such risks does not bear a
 24442 reasonable relationship to the expected loss and expense
 24443 experience among the various risks.

24444 (f) In reviewing a rate filing, the office ~~department~~ may
 24445 require the insurer to provide at the insurer's expense all
 24446 information necessary to evaluate the condition of the company
 24447 and the reasonableness of the filing according to the criteria
 24448 enumerated in this section.



HB 1803

2003

24449 (g) The office ~~department~~ may at any time review a rate,
24450 rating schedule, rating manual, or rate change; the pertinent
24451 records of the insurer; and market conditions. If the office
24452 ~~department~~ finds on a preliminary basis that a rate may be
24453 excessive, inadequate, or unfairly discriminatory, the office
24454 ~~department~~ shall initiate proceedings to disapprove the rate and
24455 shall so notify the insurer. However, the office ~~department~~ may
24456 not disapprove as excessive any rate for which it has given
24457 final approval or which has been deemed approved for a period of
24458 1 year after the effective date of the filing unless the office
24459 ~~department~~ finds that a material misrepresentation or material
24460 error was made by the insurer or was contained in the filing.
24461 Upon being so notified, the insurer or rating organization
24462 shall, within 60 days, file with the office ~~department~~ all
24463 information which, in the belief of the insurer or organization,
24464 proves the reasonableness, adequacy, and fairness of the rate or
24465 rate change. The office ~~department~~ shall issue a notice of
24466 intent to approve or a notice of intent to disapprove pursuant
24467 to the procedures of paragraph (a) within 90 days after receipt
24468 of the insurer's initial response. In such instances and in any
24469 administrative proceeding relating to the legality of the rate,
24470 the insurer or rating organization shall carry the burden of
24471 proof by a preponderance of the evidence to show that the rate
24472 is not excessive, inadequate, or unfairly discriminatory. After
24473 the office ~~department~~ notifies an insurer that a rate may be
24474 excessive, inadequate, or unfairly discriminatory, unless the
24475 office ~~department~~ withdraws the notification, the insurer shall
24476 not alter the rate except to conform with the office's
24477 ~~department's~~ notice until the earlier of 120 days after the date
24478 the notification was provided or 180 days after the date of the



HB 1803

2003

24479 implementation of the rate. The office ~~department~~ may, subject
24480 to chapter 120, disapprove without the 60-day notification any
24481 rate increase filed by an insurer within the prohibited time
24482 period or during the time that the legality of the increased
24483 rate is being contested.

24484 (h) In the event the office ~~department~~ finds that a rate
24485 or rate change is excessive, inadequate, or unfairly
24486 discriminatory, the office ~~department~~ shall issue an order of
24487 disapproval specifying that a new rate or rate schedule which
24488 responds to the findings of the office ~~department~~ be filed by
24489 the insurer. The office ~~department~~ shall further order, for any
24490 "use and file" filing made in accordance with subparagraph
24491 (a)2., that premiums charged each policyholder constituting the
24492 portion of the rate above that which was actuarially justified
24493 be returned to such policyholder in the form of a credit or
24494 refund. If the office ~~department~~ finds that an insurer's rate or
24495 rate change is inadequate, the new rate or rate schedule filed
24496 with the office ~~department~~ in response to such a finding shall
24497 be applicable only to new or renewal business of the insurer
24498 written on or after the effective date of the responsive filing.

24499 (i) Except as otherwise specifically provided in this
24500 chapter, the office ~~department~~ shall not prohibit any insurer,
24501 including any residual market plan or joint underwriting
24502 association, from paying acquisition costs based on the full
24503 amount of premium, as defined in s. 627.403, applicable to any
24504 policy, or prohibit any such insurer from including the full
24505 amount of acquisition costs in a rate filing.

24506

24507

24508 The provisions of this subsection shall not apply to workers'



HB 1803

2003

24509 compensation and employer's liability insurance and to motor
24510 vehicle insurance.

24511 (3)(a) For individual risks that are not rated in
24512 accordance with the insurer's rates, rating schedules, rating
24513 manuals, and underwriting rules filed with the office ~~department~~
24514 and which have been submitted to the insurer for individual
24515 rating, the insurer must maintain documentation on each risk
24516 subject to individual risk rating. The documentation must
24517 identify the named insured and specify the characteristics and
24518 classification of the risk supporting the reason for the risk
24519 being individually risk rated, including any modifications to
24520 existing approved forms to be used on the risk. The insurer
24521 must maintain these records for a period of at least 5 years
24522 after the effective date of the policy.

24523 (b) Individual risk rates and modifications to existing
24524 approved forms are not subject to this part or part II, except
24525 for paragraph (a) and ss. 627.402, 627.403, 627.4035, 627.404,
24526 627.405, 627.406, 627.407, 627.4085, 627.409, 627.4132,
24527 627.4133, 627.415, 627.416, 627.417, 627.419, 627.425, 627.426,
24528 627.4265, 627.427, and 627.428, but are subject to all other
24529 applicable provisions of this code and rules adopted thereunder.

24530 (c) This subsection does not apply to private passenger
24531 motor vehicle insurance.

24532 (6)(a) After any action with respect to a rate filing that
24533 constitutes agency action for purposes of the Administrative
24534 Procedure Act, an insurer may, in lieu of demanding a hearing
24535 under s. 120.57, require arbitration of the rate filing.
24536 Arbitration shall be conducted by a board of arbitrators
24537 consisting of an arbitrator selected by the office ~~department~~,
24538 an arbitrator selected by the insurer, and an arbitrator



HB 1803

2003

24539 selected jointly by the other two arbitrators. Each arbitrator
 24540 must be certified by the American Arbitration Association. A
 24541 decision is valid only upon the affirmative vote of at least two
 24542 of the arbitrators. No arbitrator may be an employee of any
 24543 insurance regulator or regulatory body or of any insurer,
 24544 regardless of whether or not the employing insurer does business
 24545 in this state. The office ~~department~~ and the insurer must treat
 24546 the decision of the arbitrators as the final approval of a rate
 24547 filing. Costs of arbitration shall be paid by the insurer.

24548 (b) Arbitration under this subsection shall be conducted
 24549 pursuant to the procedures specified in ss. 682.06-682.10.
 24550 Either party may apply to the circuit court to vacate or modify
 24551 the decision pursuant to s. 682.13 or s. 682.14. The commission
 24552 ~~department~~ shall adopt rules for arbitration under this
 24553 subsection, which rules may not be inconsistent with the
 24554 arbitration rules of the American Arbitration Association as of
 24555 January 1, 1996.

24556 (c) Upon initiation of the arbitration process, the
 24557 insurer waives all rights to challenge the action of the office
 24558 ~~department~~ under the Administrative Procedure Act or any other
 24559 provision of law; however, such rights are restored to the
 24560 insurer if the arbitrators fail to render a decision within 90
 24561 days after initiation of the arbitration process.

24562 Section 820. Subsection (3) of section 627.0625, Florida
 24563 Statutes, is amended to read:

24564 627.0625 Commercial property and casualty risk management
 24565 plans.--

24566 (3) Each insurer or insurer group offering commercial
 24567 casualty insurance or commercial property insurance covering
 24568 risks located in this state shall develop and make available to



HB 1803

2003

24569 insureds guidelines for risk management plans. The risk
 24570 management program shall include the following:

24571 (a) Safety measures, including, as applicable, the
 24572 following areas:

- 24573 1. Pollution and environmental hazards;
- 24574 2. Disease hazards;
- 24575 3. Accidental occurrences;
- 24576 4. Fire hazards and fire prevention and detection;
- 24577 5. Liability for acts from the course of business;
- 24578 6. Slip and fall hazards;
- 24579 7. Product injury; and
- 24580 8. Hazards unique to a particular class or category of
 24581 insureds.

24582 (b) Training to insureds in safety management techniques.

24583 (c) Safety management counseling services.

24584

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24586 There shall be no civil cause of action against any insurer or
 24587 its agents or employees for acts or omissions in any way
 24588 connected with the requirements of this subsection. This shall
 24589 not limit the authority for the office ~~department~~ to enforce the
 24590 provisions of this subsection.

24591 Section 821. Subsection (1), paragraph (b) of subsection
 24592 (2), paragraph (a) of subsection (3), and subsections (6), (7),
 24593 and (9) of section 627.0645, Florida Statutes, are amended to
 24594 read:

24595 627.0645 Annual filings.--

24596 (1) Each rating organization filing rates for, and each
 24597 insurer writing, any line of property or casualty insurance to
 24598 which this part applies, except:



HB 1803

2003

24599 (a) Workers' compensation and employer's liability
24600 insurance; or

24601 (b) Commercial property and casualty insurance as defined
24602 in s. 627.0625(1) other than commercial multiple line and
24603 commercial motor vehicle,
24604
24605

24606 shall make an annual base rate filing for each such line with
24607 the office department no later than 12 months after its previous
24608 base rate filing, demonstrating that its rates are not
24609 inadequate.

24610 (2)

24611 (b) The office department, after receiving a request to be
24612 exempted from the provisions of this section, may, for good
24613 cause due to insignificant numbers of policies in force or
24614 insignificant premium volume, exempt a company, by line of
24615 coverage, from filing rates or rate certification as required by
24616 this section.

24617 (3) The filing requirements of this section shall be
24618 satisfied by one of the following methods:

24619 (a) A rate filing prepared by an actuary which contains
24620 documentation demonstrating that the proposed rates are not
24621 excessive, inadequate, or unfairly discriminatory pursuant to
24622 the applicable rating laws and pursuant to rules of the
24623 commission department.

24624 (6) If at the time a filing is required under this section
24625 an insurer is in the process of completing a rate review, the
24626 insurer may apply to the office department for an extension of
24627 up to an additional 30 days in which to make the filing. The
24628 request for extension must be received by the office department



HB 1803

2003

24629 no later than the date the filing is due.

24630 (7) Nothing in this section limits the office's
 24631 ~~department's~~ authority to review rates at any time or to find
 24632 that a rate or rate change is excessive, inadequate, or unfairly
 24633 discriminatory pursuant to s. 627.062.

24634 (9) If an insurer fails to meet the filing requirements of
 24635 this section and does not submit the filing within 60 days after
 24636 the date the filing is due, the office ~~department~~ may, in
 24637 addition to any other penalty authorized by law, order the
 24638 insurer to discontinue the issuance of policies for the line of
 24639 insurance for which the required filing was not made until such
 24640 time as the office ~~department~~ determines that the required
 24641 filing is properly submitted.

24642 Section 822. Subsection (1) of section 627.06501, Florida
 24643 Statutes, is amended to read:

24644 627.06501 Insurance discounts for certain persons
 24645 completing driver improvement course.--

24646 (1) Any rate, rating schedule, or rating manual for the
 24647 liability, personal injury protection, and collision coverages
 24648 of a motor vehicle insurance policy filed with the office
 24649 ~~department~~ may provide for an appropriate reduction in premium
 24650 charges as to such coverages when the principal operator on the
 24651 covered vehicle has successfully completed a driver improvement
 24652 course approved and certified by the Department of Highway
 24653 Safety and Motor Vehicles which is effective in reducing crash
 24654 or violation rates, or both, as determined pursuant to s.
 24655 318.1451(5). Any discount, not to exceed 10 percent, used by an
 24656 insurer is presumed to be appropriate unless credible data
 24657 demonstrates otherwise.

24658 Section 823. Subsections (1) and (2), paragraph (b) of



HB 1803

2003

24659 subsection (5), subsections (9), (10), and (11), and paragraph
24660 (b) of subsection (13) of section 627.0651, Florida Statutes,
24661 are amended to read:

24662 627.0651 Making and use of rates for motor vehicle
24663 insurance.--

24664 (1) Insurers shall establish and use rates, rating
24665 schedules, or rating manuals to allow the insurer a reasonable
24666 rate of return on motor vehicle insurance written in this state.

24667 A copy of rates, rating schedules, and rating manuals, and
24668 changes therein, shall be filed with the office ~~department~~ under
24669 one of the following procedures:

24670 (a) If the filing is made at least 60 days before the
24671 proposed effective date and the filing is not implemented during
24672 the office's ~~department's~~ review of the filing and any
24673 proceeding and judicial review, such filing shall be considered
24674 a "file and use" filing. In such case, the office ~~department~~
24675 shall initiate proceedings to disapprove the rate and so notify
24676 the insurer or shall finalize its review within 60 days after
24677 receipt of the filing. Notification to the insurer by the
24678 office ~~department~~ of its preliminary findings shall toll the 60-
24679 day period during any such proceedings and subsequent judicial
24680 review. The rate shall be deemed approved if the office
24681 ~~department~~ does not issue notice to the insurer of its
24682 preliminary findings within 60 days after the filing.

24683 (b) If the filing is not made in accordance with the
24684 provisions of paragraph (a), such filing shall be made as soon
24685 as practicable, but no later than 30 days after the effective
24686 date, and shall be considered a "use and file" filing. An
24687 insurer making a "use and file" filing is potentially subject to
24688 an order by the office ~~department~~ to return to policyholders



HB 1803

2003

24689 portions of rates found to be excessive, as provided in
24690 subsection (11).

24691 (2) Upon receiving notice of a rate filing or rate change,
24692 the office ~~department~~ shall review the rate or rate change to
24693 determine if the rate is excessive, inadequate, or unfairly
24694 discriminatory. In making that determination, the office
24695 ~~department~~ shall in accordance with generally accepted and
24696 reasonable actuarial techniques consider the following factors:

24697 (a) Past and prospective loss experience within and
24698 outside this state.

24699 (b) The past and prospective expenses.

24700 (c) The degree of competition among insurers for the risk
24701 insured.

24702 (d) Investment income reasonably expected by the insurer,
24703 consistent with the insurer's investment practices, from
24704 investable premiums anticipated in the filing, plus any other
24705 expected income from currently invested assets representing the
24706 amount expected on unearned premium reserves and loss reserves.

24707 Such investment income shall not include income from invested
24708 surplus. The commission ~~department~~ may adopt ~~promulgate~~ rules
24709 utilizing reasonable techniques of actuarial science and
24710 economics to specify the manner in which insurers shall
24711 calculate investment income attributable to motor vehicle
24712 insurance policies written in this state and the manner in which
24713 such investment income is used in the calculation of insurance
24714 rates. Such manner shall contemplate the use of a positive
24715 underwriting profit allowance in the rates that will be
24716 compatible with a reasonable rate of return plus provisions for
24717 contingencies. The total of the profit and contingency factor as
24718 specified in the filing shall be utilized in computing excess



HB 1803

2003

24719 profits in conjunction with s. 627.066. In adopting ~~promulgating~~
24720 such rules, the commission ~~department~~ shall in all instances
24721 adhere to and implement the provisions of this paragraph.

24722 (e) The reasonableness of the judgment reflected in the
24723 filing.

24724 (f) Dividends, savings, or unabsorbed premium deposits
24725 allowed or returned to Florida policyholders, members, or
24726 subscribers.

24727 (g) The cost of repairs to motor vehicles.

24728 (h) The cost of medical services, if applicable.

24729 (i) The adequacy of loss reserves.

24730 (j) The cost of reinsurance.

24731 (k) Trend factors, including trends in actual losses per
24732 insured unit for the insurer making the filing.

24733 (l) Other relevant factors which impact upon the frequency
24734 or severity of claims or upon expenses.

24735 (5)

24736 (b) The office has ~~Insurance Commissioner shall have~~ the
24737 responsibility to ensure that rates for private passenger
24738 vehicle insurance are adequate. To that end, the commission
24739 ~~department~~ shall adopt ~~promulgate~~ rules and ~~regulations~~
24740 establishing standards defining inadequate rates on private
24741 passenger vehicle insurance as defined in s. 627.041(8). In the
24742 event that the office ~~department~~ finds that a rate or rate
24743 change is inadequate, the office ~~department~~ shall order that a
24744 new rate or rate schedule be thereafter filed by the insurer and
24745 shall further provide information as to the manner in which
24746 noncompliance of the standards may be corrected. When a
24747 violation of this provision occurs, the office ~~department~~ shall
24748 impose an administrative fine pursuant to s. 624.4211.



HB 1803

2003

24749 (9) In reviewing the rate or rate change filed, the office
24750 ~~department~~ may require the insurer to provide at the insurer's
24751 expense all information necessary to evaluate the condition of
24752 the company and the reasonableness of the filing according to
24753 the criteria enumerated herein.

24754 (10) The office ~~department~~ may, at any time, review a rate
24755 or rate change, the pertinent records of the insurer, and market
24756 conditions; and, if the office ~~department~~ finds on a preliminary
24757 basis that the rate or rate change may be excessive, inadequate,
24758 or unfairly discriminatory, the office ~~department~~ shall so
24759 notify the insurer. However, the office ~~department~~ may not
24760 disapprove as excessive any rate for which it has given final
24761 approval or which has been deemed approved for a period of 1
24762 year after the effective date of the filing unless the office
24763 ~~department~~ finds that a material misrepresentation or material
24764 error was made by the insurer or was contained in the filing.
24765 Upon being so notified, the insurer or rating organization
24766 shall, within 60 days, file with the office ~~department~~ all
24767 information which, in the belief of the insurer or organization,
24768 proves the reasonableness, adequacy, and fairness of the rate or
24769 rate change. In such instances and in any administrative
24770 proceeding relating to the legality of the rate, the insurer or
24771 rating organization shall carry the burden of proof by a
24772 preponderance of the evidence to show that the rate is not
24773 excessive, inadequate, or unfairly discriminatory. After the
24774 office ~~department~~ notifies an insurer that a rate may be
24775 excessive, inadequate, or unfairly discriminatory, unless the
24776 office ~~department~~ withdraws the notification, the insurer shall
24777 not increase the rate until the earlier of 120 days after the
24778 date the notification was provided or 180 days after the date of



HB 1803

2003

24779 the implementation of the rate. The office ~~department~~ may,
24780 subject to chapter 120, disapprove without the 60-day
24781 notification any rate increase filed by an insurer within the
24782 prohibited time period or during the time that the legality of
24783 the increased rate is being contested.

24784 (11) In the event the office ~~department~~ finds that a rate
24785 or rate change is excessive, inadequate, or unfairly
24786 discriminatory, the office ~~department~~ shall issue an order of
24787 disapproval specifying that a new rate or rate schedule which
24788 responds to the findings of the office ~~department~~ be filed by
24789 the insurer. The office ~~department~~ shall further order for any
24790 "use and file" filing made in accordance with paragraph (1)(b),
24791 that premiums charged each policyholder constituting the portion
24792 of the rate above that which was actuarially justified be
24793 returned to such policyholder in the form of a credit or refund.
24794 If the office ~~department~~ finds that an insurer's rate or rate
24795 change is inadequate, the new rate or rate schedule filed with
24796 the office ~~department~~ in response to such a finding shall be
24797 applicable only to new or renewal business of the insurer
24798 written on or after the effective date of the responsive filing.

24799 (13)

24800 (b) The submission of rates, rating schedules, and rating
24801 manuals to the office ~~department~~ by a licensed rating
24802 organization of which an insurer is a member or subscriber will
24803 be sufficient compliance with this subsection for any insurer
24804 maintaining membership or subscribership in such organization,
24805 to the extent that the insurer uses the rates, rating schedules,
24806 and rating manuals of such organization. All such information
24807 shall be available for public inspection, upon receipt by the
24808 office ~~department~~, during usual business hours.



HB 1803

2003

24809 Section 824. Subsection (1) of section 627.0652, Florida
24810 Statutes, is amended to read:

24811 627.0652 Insurance discounts for certain persons
24812 completing safety course.--

24813 (1) Any rates, rating schedules, or rating manuals for the
24814 liability, personal injury protection, and collision coverages
24815 of a motor vehicle insurance policy filed with the office
24816 ~~department~~ shall provide for an appropriate reduction in premium
24817 charges as to such coverages when the principal operator on the
24818 covered vehicle is an insured 55 years of age or older who has
24819 successfully completed a motor vehicle accident prevention
24820 course approved by the Department of Highway Safety and Motor
24821 Vehicles. Any discount used by an insurer is presumed to be
24822 appropriate unless credible data demonstrates otherwise.

24823 Section 825. Section 627.0653, Florida Statutes, is
24824 amended to read:

24825 627.0653 Insurance discounts for specified motor vehicle
24826 equipment.--

24827 (1) Any rates, rating schedules, or rating manuals for the
24828 liability, personal injury protection, and collision coverages
24829 of a motor vehicle insurance policy filed with the office
24830 ~~department~~ shall provide a premium discount if the insured
24831 vehicle is equipped with factory-installed, four-wheel antilock
24832 brakes.

24833 (2) Each insurer writing motor vehicle comprehensive
24834 coverage in this state shall include in its rating manual
24835 discount provisions for comprehensive coverage which
24836 specifically relate to an antitheft device or vehicle recovery
24837 system utilized in the insured vehicle which are factory
24838 installed or approved by the office ~~department~~. The commission



HB 1803

2003

24839 ~~department~~ shall adopt, by rule, procedures under which
24840 manufacturers, distributors, or sellers may apply to the office
24841 ~~department~~ for approval of non-factory-installed devices under
24842 this subsection. The rules must include, at a minimum, the test
24843 results that must accompany the application and the standards
24844 for approval.

24845 (3) Any rates, rating schedules, or rating manuals for
24846 personal injury protection coverage and medical payments
24847 coverage, if offered, of a motor vehicle insurance policy filed
24848 with the office ~~department~~ shall provide a premium discount if
24849 the insured vehicle is equipped with one or more air bags which
24850 are factory installed.

24851 (4) The removal of a discount or credit does not
24852 constitute the imposition of, or request for, additional premium
24853 or a surcharge if the basis for the discount or credit no longer
24854 exists or is substantially eliminated.

24855 (5) Each insurer writing motor vehicle comprehensive
24856 coverage in this state may provide a premium discount for this
24857 coverage if the insured vehicle has the complete manufacturer's
24858 vehicle identification number permanently etched on the
24859 windshield and all windows of the vehicle. The etching must be
24860 by a tool or process that does not destroy the integrity of the
24861 glass or visibility for the operator of the motor vehicle. The
24862 identification numbers and letters must be at least 1/4 inch
24863 in height. A sticker may identify the presence of this
24864 identification system. The commission ~~department~~ may, by rule,
24865 set forth appropriate guidelines to implement this subsection.

24866 Section 826. Section 627.06535, Florida Statutes, is
24867 amended to read:

24868 627.06535 Electric vehicles; restrictions on imposing



HB 1803

2003

24869 surcharges.--An insurer may not impose a surcharge on the
24870 premium for motor vehicle insurance written on an electric
24871 vehicle, as defined in s. 320.01, if the surcharge is based on a
24872 factor such as new technology, passenger payload, weight-to-
24873 horsepower ratio, or types of materials, including composite
24874 materials or aluminum, used to manufacture the vehicle, unless
24875 the office ~~Department of Insurance~~ determines from actuarial
24876 data submitted to it that the surcharge is justified.

24877 Section 827. Subsections (2), (7), (10), (11), and (13) of
24878 section 627.066, Florida Statutes, are amended to read:

24879 627.066 Excessive profits for motor vehicle insurance
24880 prohibited.--

24881 (2) Each Florida private passenger automobile insurer
24882 group shall file with the office ~~department~~, prior to July 1 of
24883 each year on forms prescribed by the commission ~~department~~, the
24884 following data for Florida private passenger automobile
24885 business. The data filed for the group shall be a consolidation
24886 of the data of the individual insurers of the group. The data
24887 shall include both voluntary and joint underwriting association
24888 business, as follows:

24889 (a) Calendar-year total limits earned premium.

24890 (b) Accident-year incurred losses and loss adjustment
24891 expenses.

24892 (c) The administrative and selling expenses incurred in
24893 this state or allocated to this state for the calendar year.

24894 (d) Policyholder dividends incurred during the applicable
24895 calendar year.

24896 (7) If the insurer group has realized an excessive profit,
24897 the office ~~department~~ shall order a return of the excessive
24898 amounts after affording the insurer group an opportunity for



HB 1803

2003

24899 hearing and otherwise complying with the requirements of chapter
 24900 120. Such excessive amounts shall be refunded in all instances
 24901 unless the insurer group affirmatively demonstrates to the
 24902 office department that the refund of the excessive amounts will
 24903 render a member of the insurer group financially impaired or
 24904 will render it insolvent under the provisions of the Florida
 24905 Insurance Code.

24906 (10)(a) Cash refunds to policyholders may be rounded to
 24907 the nearest dollar.

24908 (b) Data in required reports to the office department may
 24909 be rounded to the nearest dollar.

24910 (c) Rounding, if elected by the insurer group, shall be
 24911 applied consistently.

24912 (11)(a) Refunds shall be completed in one of the following
 24913 ways:

24914 1. If the insurer group elects to make a cash refund, the
 24915 refund shall be completed within 60 days of entry of a final
 24916 order indicating that excessive profits have been realized.

24917 2. If the insurer group elects to make refunds in the form
 24918 of a credit to renewal policies, such credits shall be applied
 24919 to policy renewal premium notices which are forwarded to
 24920 insureds more than 60 calendar days after entry of a final order
 24921 indicating that excessive profits have been realized. If an
 24922 insurer group has made this election but an insured thereafter
 24923 cancels his or her policy or otherwise allows the policy to
 24924 terminate, the insurer group shall make a cash refund not later
 24925 than 60 days after termination of such coverage.

24926 (b) Upon completion of the renewal credits or refund
 24927 payments, the insurer group shall immediately certify to the
 24928 office department that the refunds have been made.



HB 1803

2003

24929 ~~(13) Since it appears to the Legislature that private~~
 24930 ~~passenger automobile insurer groups have realized excessive~~
 24931 ~~profits during all or part of the years 1977, 1978, and 1979 and~~
 24932 ~~that such profits were realized in part due to statutory changes~~
 24933 ~~for which rates were not adequately adjusted, it is the desire~~
 24934 ~~and intent of the Legislature that the provisions of this~~
 24935 ~~section, as amended by chapter 80-236, Laws of Florida, shall~~
 24936 ~~apply retroactively to excessive profits realized during the~~
 24937 ~~years 1977, 1978, and 1979. In the event that such retroactive~~
 24938 ~~application is judicially determined to be unconstitutional, it~~
 24939 ~~is the intent of the Legislature that the act be given~~
 24940 ~~prospective application as stated hereinafter. Prior to July 1,~~
 24941 ~~1982, the data required by this section shall be submitted to~~
 24942 ~~the department for the years 1979, 1980, and 1981. Excessive~~
 24943 ~~profits shall be calculated in accordance with the provisions of~~
 24944 ~~this section. However, only the excessive profits realized by~~
 24945 ~~the insurer group in 1981 shall be refunded to policyholders,~~
 24946 ~~and such refunds shall be made in accordance with this section.~~
 24947 ~~Prior to July 1, 1983, the data required by this section shall~~
 24948 ~~be submitted to the department for the years 1980, 1981, and~~
 24949 ~~1982. Excessive profits shall be calculated in accordance with~~
 24950 ~~this section; however, refunds shall only be made for excessive~~
 24951 ~~profits realized in the years 1981 and 1982. Thereafter,~~
 24952 ~~excessive profits shall be calculated and refunded on the basis~~
 24953 ~~of 3 years as set forth in this section.~~

24954 Section 828. Subsection (4) of section 627.072, Florida
 24955 Statutes, is amended to read:

24956 627.072 Making and use of rates.--

24957 (4)(a) In the case of workers' compensation and employer's
 24958 liability insurance, the office ~~department~~ shall consider



HB 1803

2003

24959 utilizing the following methodology in rate determinations:
24960 Premiums, expenses, and expected claim costs would be discounted
24961 to a common point of time, such as the initial point of a policy
24962 year, in the determination of rates; the cash-flow pattern of
24963 premiums, expenses, and claim costs would be determined
24964 initially by using data from 8 to 10 of the largest insurers
24965 writing workers' compensation insurance in the state; such
24966 insurers may be selected for their statistical ability to report
24967 the data on an accident-year basis and in accordance with
24968 subparagraphs (b)1., 2., and 3., for at least 2 1/2 years; such
24969 a cash-flow pattern would be modified when necessary in
24970 accordance with the data and whenever a radical change in the
24971 payout pattern is expected in the policy year under
24972 consideration.

24973 (b) If the methodology set forth in paragraph (a) is
24974 utilized, to facilitate the determination of such a cash-flow
24975 pattern methodology:

24976 1. Each insurer shall include in its statistical reporting
24977 to the rating bureau and the office ~~department~~ the accident year
24978 by calendar quarter data for paid-claim costs;

24979 2. Each insurer shall submit financial reports to the
24980 rating bureau and the office ~~department~~ which shall include
24981 total incurred claim amounts and paid-claim amounts by policy
24982 year and by injury types as of December 31 of each calendar
24983 year; and

24984 3. Each insurer shall submit to the rating bureau and the
24985 office ~~department~~ paid-premium data on an individual risk basis
24986 in which risks are to be subdivided by premium size as follows:
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HB 1803

2003

24989	Number of Risks in		
24990		Premium Range	Standard Premium Size
24991			
24992	. . . (to be filled in by carrier)	. . .	\$300--999
24993	. . . (to be filled in by carrier)	. . .	1,000--4,999
24994	. . . (to be filled in by carrier)	. . .	5,000--49,999
24995	. . . (to be filled in by carrier)	. . .	50,000--99,999
24996	. . . (to be filled in by carrier)	. . .	100,000 or more

24997 Total:

24998 Section 829. Section 627.091, Florida Statutes, is amended
 24999 to read:

25000 627.091 Rate filings; workers' compensation and employer's
 25001 liability insurances.--

25002 (1) As to workers' compensation and employer's liability
 25003 insurances, every insurer shall file with the office ~~department~~
 25004 every manual of classifications, rules, and rates, every rating
 25005 plan, and every modification of any of the foregoing which it
 25006 proposes to use. Every insurer is authorized to include
 25007 deductible provisions in its manual of classifications, rules,
 25008 and rates. Such deductibles shall in all cases be in a form and
 25009 manner which is consistent with the underlying purpose of
 25010 chapter 440.

25011 (2) Every such filing shall state the proposed effective
 25012 date thereof, and shall indicate the character and extent of the
 25013 coverage contemplated. When a filing is not accompanied by the
 25014 information upon which the insurer supports the filing and the
 25015 office ~~department~~ does not have sufficient information to
 25016 determine whether the filing meets the applicable requirements
 25017 of this part, it shall within 15 days after the date of filing
 25018 require the insurer to furnish the information upon which it



HB 1803

2003

25019 supports the filing. The information furnished in support of a
 25020 filing may include:

25021 (a) The experience or judgment of the insurer or rating
 25022 organization making the filing;

25023 (b) Its interpretation of any statistical data it relies
 25024 upon;

25025 (c) The experience of other insurers or rating
 25026 organizations; or

25027 (d) Any other factors which the insurer or rating
 25028 organization deems relevant.

25029 (3) A filing and any supporting information shall be open
 25030 to public inspection as provided in s. 119.07(1).

25031 (4) An insurer may satisfy its obligation to make such
 25032 filings by becoming a member of, or a subscriber to, a licensed
 25033 rating organization which makes such filings and by authorizing
 25034 the office ~~department~~ to accept such filings in its behalf; but
 25035 nothing contained in this chapter shall be construed as
 25036 requiring any insurer to become a member or a subscriber to any
 25037 rating organization.

25038 (5) Pursuant to the provisions of s. 624.3161, the office
 25039 ~~department~~ may examine the underlying statistical data used in
 25040 such filings.

25041 (6) Whenever the committee of a recognized rating
 25042 organization with responsibility for workers' compensation and
 25043 employer's liability insurance rates in this state meets to
 25044 discuss the necessity for, or a request for, Florida rate
 25045 increases or decreases, the determination of Florida rates, the
 25046 rates to be requested, and any other matters pertaining
 25047 specifically and directly to such Florida rates, such meetings
 25048 shall be held in this state and shall be subject to s. 286.011.



HB 1803

2003

25049 The committee of such a rating organization shall provide at
25050 least 3 weeks' prior notice of such meetings to the office
25051 ~~department~~ and shall provide at least 14 days' prior notice of
25052 such meetings to the public by publication in the Florida
25053 Administrative Weekly.

25054 Section 830. Section 627.0915, Florida Statutes, is
25055 amended to read:

25056 627.0915 Rate filings; workers' compensation, drug-free
25057 workplace, and safe employers.--The office ~~Department of~~
25058 ~~Insurance~~ shall approve rating plans for workers' compensation
25059 insurance that give specific identifiable consideration in the
25060 setting of rates to employers that either implement a drug-free
25061 workplace program pursuant to rules adopted by the commission
25062 ~~Department of Insurance~~ or implement a safety program pursuant
25063 to provisions of the rating plan or implement both a drug-free
25064 workplace program and a safety program. The plans must be
25065 actuarially sound and must state the savings anticipated to
25066 result from such drug-testing and safety programs.

25067 Section 831. Section 627.0916, Florida Statutes, is
25068 amended to read:

25069 627.0916 Agricultural horse farms.--Notwithstanding any
25070 other provision of this chapter to the contrary, any rates,
25071 rating schedules, or rating manuals for workers' compensation
25072 and employer's liability insurance filed with the office
25073 ~~Department of Insurance~~ shall provide for the rates of an
25074 agricultural horse farm engaged in breeding or training to be
25075 separated into the following three rate classifications and the
25076 premium paid shall be applied proportionately according to
25077 payroll: breeding activity involving stallions; breeding
25078 activity not involving stallions, including but not limited to



HB 1803

2003

25079 boarding and foaling; and training.

25080 Section 832. Section 627.092, Florida Statutes, is amended
25081 to read:

25082 627.092 Workers' Compensation Administrator.--There is
25083 created within the office ~~Division of Insurer Services of the~~
25084 ~~Department of Insurance~~ the position of Workers' Compensation
25085 Administrator to monitor carrier practices in the field of
25086 workers' compensation.

25087 Section 833. Section 627.096, Florida Statutes, is amended
25088 to read:

25089 627.096 Workers' Compensation Rating Bureau.--

25090 (1) There is created within the office ~~department~~ a
25091 Workers' Compensation Rating Bureau, which shall make an
25092 investigation and study of all insurers authorized to issue
25093 workers' compensation and employer's liability coverage in this
25094 state. Such bureau shall study the data, statistics, schedules,
25095 or other information as it may deem necessary to assist and
25096 advise the office ~~department~~ in its review of filings made by or
25097 on behalf of workers' compensation and employer's liability
25098 insurers. The commission may adopt ~~department shall have the~~
25099 ~~authority to promulgate~~ rules requiring all workers'
25100 compensation and employer's liability insurers to submit to the
25101 rating bureau any data, statistics, schedules, and other
25102 information deemed necessary to the rating bureau's study and
25103 advisement.

25104 (2) The acquisition by the Department of Management
25105 Services of data processing software, hardware, and services
25106 necessary to carry out the provisions of this act for the
25107 department or office ~~Treasurer's Management Information Center~~
25108 ~~of the Department of Insurance~~ shall be exempt from the



HB 1803

2003

25109 provisions of part I of chapter 287.

25110 Section 834. Section 627.101, Florida Statutes, is amended
25111 to read:

25112 627.101 When filing becomes effective; workers'
25113 compensation and employer's liability insurances.--

25114 (1) The office ~~department~~ shall review filings as to
25115 workers' compensation and employer's liability insurances as
25116 soon as reasonably possible after they have been made in order
25117 to determine whether they meet the applicable requirements of
25118 this part. If the office ~~department~~ determines that part of a
25119 rate filing does not meet the applicable requirements of this
25120 part, it may reject so much of the filing as does not meet these
25121 requirements, and approve the remainder of the filing.

25122 (2) The office ~~department~~ shall specifically approve the
25123 filing before it becomes effective, unless the office ~~department~~
25124 has concluded it to be in the public interest to hold a public
25125 hearing to determine whether the filing meets the requirements
25126 of this chapter and has given notice of such hearing to the
25127 insurer or rating organization that made the filing, and in
25128 which case the effectiveness of the filing shall be subject to
25129 the further order of the office ~~department~~ made as provided in
25130 s. 627.111. If the office ~~department~~ specifically disapproves
25131 the filing, the provisions of subsection (4) shall apply.

25132 (3) An insurer or rating organization may, at the time it
25133 makes a filing with the office ~~department~~, request a public
25134 hearing thereon. In such event, the office ~~department~~ shall give
25135 notice of the hearing.

25136 (4) If the office ~~department~~ disapproves a filing, it
25137 shall promptly give notice of such disapproval to the insurer or
25138 rating organization that made the filing, stating the respects



HB 1803

2003

25139 in which it finds that the filing does not meet the requirements
25140 of this chapter. If the office ~~department~~ approves a filing, it
25141 shall give prompt notice thereof to the insurer or rating
25142 organization that made the filing, and in which case the filing
25143 shall become effective upon such approval or upon such
25144 subsequent date as may be satisfactory to the office ~~department~~
25145 and the insurer or rating organization that made the filing.

25146 Section 835. Section 627.111, Florida Statutes, is amended
25147 to read:

25148 627.111 Effective date of filing.--

25149 (1) If, pursuant to s. 627.101(2), the office ~~department~~
25150 determines to hold a public hearing as to a filing, or it holds
25151 such a public hearing pursuant to request therefor under s.
25152 627.101(3), it shall give written notice thereof to the rating
25153 organization or insurer that made the filing and shall hold such
25154 hearing within 30 days, and not less than 10 days prior to the
25155 date of the hearing, it shall give written notice of the hearing
25156 to the insurer or rating organization that made the filing. The
25157 office ~~department~~ may also, in its discretion, give advance
25158 public notice of such hearing by publication of notice in one or
25159 more daily newspapers of general circulation in this state.

25160 (2) If the order of the office ~~department~~ disapproves the
25161 filing, the filing shall not become effective during the
25162 effectiveness of such order. If the order of the office
25163 ~~department~~ approves the filing, the filing shall become
25164 effective upon the date of the order or upon such subsequent
25165 date as may be satisfactory to the insurer or rating
25166 organization that made the filing.

25167 Section 836. Section 627.141, Florida Statutes, is amended
25168 to read:



HB 1803

2003

25169 627.141 Subsequent disapproval of filing; workers'
25170 compensation and employer's liability insurances.--If at any
25171 time after a filing has been approved by it or has otherwise
25172 become effective the office ~~department~~ finds that the filing no
25173 longer meets the requirements of this chapter, it shall issue an
25174 order specifying in what respects it finds that such filing
25175 fails to meet such requirements and stating when, within a
25176 reasonable period thereafter, such filing shall be deemed no
25177 longer effective. The order shall not affect any insurance
25178 contract or policy made or issued prior to the expiration of the
25179 period set forth in the order.

25180 Section 837. Subsection (1) of section 627.151, Florida
25181 Statutes, is amended to read:

25182 627.151 Basis of approval or disapproval of workers'
25183 compensation or employer's liability insurance filing; scope of
25184 disapproval power.--

25185 (1) In determining at any time whether to approve or
25186 disapprove a filing as to workers' compensation or employer's
25187 liability insurance, or to permit the filing otherwise to become
25188 effective, the office ~~department~~ shall give consideration only
25189 to the applicable standards and factors referred to in ss.
25190 627.062 and 627.072.

25191 Section 838. Subsection (1) of section 627.171, Florida
25192 Statutes, is amended to read:

25193 627.171 Excess rates.--

25194 (1) With written consent of the insured signed prior to
25195 the policy inception date and filed with the insurer, the
25196 insurer may use a rate in excess of the otherwise applicable
25197 filed rate on any specific risk. The signed consent form must
25198 include the filed rate as well as the excess rate for the risk



HB 1803

2003

25199 insured and a copy of the form must be maintained by the insurer
 25200 for 3 years and be available for review by the office
 25201 ~~department~~.

25202 Section 839. Paragraph (f) of subsection (2) of section
 25203 627.192, Florida Statutes, is amended to read:

25204 627.192 Workers' compensation insurance; employee leasing
 25205 arrangements.--

25206 (2) For purposes of the Florida Insurance Code:

25207 (f) "Premium subject to dispute" means that the insured
 25208 has provided a written notice of dispute to the insurer or
 25209 service carrier, has initiated any applicable proceeding for
 25210 resolving such disputes as prescribed by law or rating
 25211 organization procedures approved by the office ~~department~~, or
 25212 has initiated litigation regarding the premium dispute. The
 25213 insured must have detailed the specific areas of dispute and
 25214 provided an estimate of the premium the insured believes to be
 25215 correct. The insured must have paid any undisputed portion of
 25216 the bill.

25217 Section 840. Section 627.211, Florida Statutes, is amended
 25218 to read:

25219 627.211 Deviations; workers' compensation and employer's
 25220 liability insurances.--

25221 (1) Every member or subscriber to a rating organization
 25222 shall, as to workers' compensation or employer's liability
 25223 insurance, adhere to the filings made on its behalf by such
 25224 organization; except that any such insurer may make written
 25225 application to the office ~~department~~ for permission to file a
 25226 uniform percentage decrease or increase to be applied to the
 25227 premiums produced by the rating system so filed for a kind of
 25228 insurance, for a class of insurance which is found by the office



HB 1803

2003

25229 ~~department~~ to be a proper rating unit for the application of
 25230 such uniform percentage decrease or increase, or for a
 25231 subdivision of workers' compensation or employer's liability
 25232 insurance:

25233 (a) Comprised of a group of manual classifications which
 25234 is treated as a separate unit for ratemaking purposes; or

25235 (b) For which separate expense provisions are included in
 25236 the filings of the rating organization.

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25239 Such application shall specify the basis for the modification
 25240 and shall be accompanied by the data upon which the applicant
 25241 relies. A copy of the application and data shall be sent
 25242 simultaneously to the rating organization.

25243 (2) Every member or subscriber to a rating organization
 25244 may, as to workers' compensation and employer's liability
 25245 insurance, file a plan or plans to use deviations that vary
 25246 according to factors present in each insured's individual risk.

25247 The insurer that files for the deviations provided in this
 25248 subsection shall file the qualifications for the plans,
 25249 schedules of rating factors, and the maximum deviation factors
 25250 which shall be subject to the approval of the office ~~department~~
 25251 pursuant to s. 627.091. The actual deviation which shall be used
 25252 for each insured that qualifies under this subsection may not
 25253 exceed the maximum filed deviation under that plan and shall be
 25254 based on the merits of each insured's individual risk as
 25255 determined by using schedules of rating factors which shall be
 25256 applied uniformly. Insurers shall maintain statistical data in
 25257 accordance with the schedule of rating factors. Such data shall
 25258 be available to support the continued use of such varying



HB 1803

2003

25259 deviations.

25260 (3) In considering an application for the deviation, the

25261 office ~~department~~ shall give consideration to the applicable

25262 principles for ratemaking as set forth in ss. 627.062 and

25263 627.072, the financial condition of the insurer, and the impact

25264 of the deviation on the current market conditions including the

25265 composition of the market, the stability of rates, and the level

25266 of competition in the market. In evaluating the financial

25267 condition of the insurer, the office ~~department~~ may consider:

25268 (1) the insurer's audited financial statements and whether the

25269 statements provide unqualified opinions or contain significant

25270 qualifications or "subject to" provisions; (2) any independent

25271 or other actuarial certification of loss reserves; (3) whether

25272 workers' compensation and employer's liability reserves are

25273 above the midpoint or best estimate of the actuary's reserve

25274 range estimate; (4) the adequacy of the proposed rate; (5)

25275 historical experience demonstrating the profitability of the

25276 insurer; (6) the existence of excess or other reinsurance that

25277 contains a sufficiently low attachment point and maximums that

25278 provide adequate protection to the insurer; and (7) other

25279 factors considered relevant to the financial condition of the

25280 insurer by the office ~~department~~. The office ~~department~~ shall

25281 approve the deviation if it finds it to be justified, it would

25282 not endanger the financial condition of the insurer, it would

25283 not adversely affect the current market conditions including the

25284 composition of the market, the stability of rates, and the level

25285 of competition in the market, and that the deviation would not

25286 constitute predatory pricing. It shall disapprove the deviation

25287 if it finds that the resulting premiums would be excessive,

25288 inadequate, or unfairly discriminatory, would endanger the



HB 1803

2003

25289 financial condition of the insurer, or would adversely affect
25290 current market conditions including the composition of the
25291 marketplace, the stability of rates, and the level of
25292 competition in the market, or would result in predatory pricing.

25293 The insurer may not use a deviation unless the deviation is
25294 specifically approved by the office ~~department~~.

25295 (4) Each deviation permitted to be filed shall be
25296 effective for a period of 1 year unless terminated, extended, or
25297 modified with the approval of the office ~~department~~. If at any
25298 time after a deviation has been approved the office ~~department~~
25299 finds that the deviation no longer meets the requirements of
25300 this code, it shall notify the insurer in what respects it finds
25301 that the deviation fails to meet such requirements and specify
25302 when, within a reasonable period thereafter, the deviation shall
25303 be deemed no longer effective. The notice shall not affect any
25304 insurance contract or policy made or issued prior to the
25305 expiration of the period set forth in the notice.

25306 (5) For purposes of this section, the office ~~department~~,
25307 when considering the experience of any insurer, shall consider
25308 the experience of any predecessor insurer when the business and
25309 the liabilities of the predecessor insurer were assumed by the
25310 insurer pursuant to an order of the office ~~department~~ which
25311 approves the assumption of the business and the liabilities.

25312 Section 841. Section 627.212, Florida Statutes, is amended
25313 to read:

25314 627.212 Workplace safety program surcharge.--The office
25315 ~~department~~ shall approve a rating plan for workers' compensation
25316 coverage insurance that provides for carriers voluntarily to
25317 impose a surcharge of no more than 10 percent on the premium of
25318 a policyholder or fund member if that policyholder or fund



HB 1803

2003

25319 member has been identified by the department ~~of Labor and~~
 25320 ~~Employment Security~~ as having been required to implement a
 25321 safety program and having failed to establish or maintain,
 25322 either in whole or in part, a safety program. The department
 25323 ~~division~~ shall adopt rules prescribing the criteria for the
 25324 employee safety programs.

25325 Section 842. Paragraph (a) of subsection (1), subsection
 25326 (9), paragraph (b) of subsection (11), and paragraph (b) of
 25327 subsection (12) of section 627.215, Florida Statutes, are
 25328 amended to read:

25329 627.215 Excessive profits for workers' compensation,
 25330 employer's liability, commercial property, and commercial
 25331 casualty insurance prohibited.--

25332 (1)(a) Each insurer group writing workers' compensation
 25333 and employer's liability insurance as defined in s.
 25334 624.605(1)(c), commercial property insurance as defined in s.
 25335 627.0625, commercial umbrella liability insurance as defined in
 25336 s. 627.0625, or commercial casualty insurance as defined in s.
 25337 627.0625 shall file with the office ~~department~~ prior to July 1
 25338 of each year, on a form prescribed by the commission ~~department~~,
 25339 the following data for the component types of such insurance as
 25340 provided in the form:

- 25341 1. Calendar-year earned premium.
- 25342 2. Accident-year incurred losses and loss adjustment
 25343 expenses.
- 25344 3. The administrative and selling expenses incurred in
 25345 this state or allocated to this state for the calendar year.
- 25346 4. Policyholder dividends applicable to the calendar year.

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HB 1803

2003

25349 Nothing herein is intended to prohibit an insurer from filing
25350 on a calendar-year basis.

25351 (9) If the insurer group has realized an excessive profit,
25352 the office ~~department~~ shall order a return of the excessive
25353 amounts after affording the insurer group an opportunity for
25354 hearing and otherwise complying with the requirements of chapter
25355 120. Such excessive amounts shall be refunded in all instances
25356 unless the insurer group affirmatively demonstrates to the
25357 office ~~department~~ that the refund of the excessive amounts will
25358 render a member of the insurer group financially impaired or
25359 will render it insolvent under the provisions of the Florida
25360 Insurance Code.

25361 (11)

25362 (b) Data in required reports to the office ~~department~~ may
25363 be rounded to the nearest dollar.

25364 (12)

25365 (b) Upon completion of the renewal credits or refund
25366 payments, the insurer group shall immediately certify to the
25367 office ~~department~~ that the refunds have been made.

25368 Section 843. Section 627.221, Florida Statutes, is amended
25369 to read:

25370 627.221 Rating organizations; licensing; fee.--

25371 (1) A person, whether located within or outside this
25372 state, may make application to the office ~~department~~ for a
25373 license as a rating organization. As to property or inland
25374 marine insurance, the application shall be for such kinds of
25375 insurance or subdivisions thereof or classes of risk or a part
25376 or combination thereof as are specified in the application. As
25377 to casualty and surety insurances, the application shall be for
25378 such kinds of insurance or subdivisions thereof as are specified



HB 1803

2003

25379 in the application. The applicant shall file with its
 25380 application:

25381 (a) A copy of its constitution, its articles of agreement
 25382 or association or its certificate of incorporation, and of its
 25383 bylaws, rules, and regulations governing the conduct of its
 25384 business;

25385 (b) A list of its members and subscribers;

25386 (c) The name and address of a resident of this state upon
 25387 whom notices or orders of the office ~~department~~ or process
 25388 affecting such rating organization may be served; and

25389 (d) A statement of its qualifications as a rating
 25390 organization.

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25393 If the office ~~department~~ finds that the applicant is competent,
 25394 trustworthy, and otherwise qualified to act as a rating
 25395 organization and that its constitution, articles of agreement or
 25396 association or certificate of incorporation, and its bylaws,
 25397 rules, and regulations governing the conduct of its business
 25398 conform to the requirements of law, it shall issue a license
 25399 specifying (in the case of a casualty or surety rating
 25400 organization) the kinds of insurance or subdivisions thereof, or
 25401 (in the case of a property insurance rating organization) the
 25402 kinds of insurance or subdivisions thereof or classes of risk or
 25403 a part or combination thereof, for which the applicant is
 25404 authorized to act as a rating organization.

25405 (2) Licenses issued pursuant to this section shall expire
 25406 on the September 30 next following date of issuance and shall be
 25407 subject to annual renewal.

25408 (3) The fee for the license shall be in the amount



HB 1803

2003

25409 specified therefor in s. 624.501. This fee, when collected,
 25410 shall be deposited to the credit of the Insurance ~~Commissioner's~~
 25411 Regulatory Trust Fund.

25412 Section 844. Section 627.231, Florida Statutes, is amended
 25413 to read:

25414 627.231 Subscribers to rating organizations.--

25415 (1) Subject to rules and regulations which have been
 25416 approved by the office ~~department~~ as reasonable, each rating
 25417 organization shall permit any insurer, not a member, to
 25418 subscribe to its rating services. As to property and marine
 25419 rating organizations, an insurer shall be so permitted to
 25420 subscribe to rating services for any kind of insurance,
 25421 subdivision thereof, or class of risk or a part or combination
 25422 thereof for which the rating organization is authorized so to
 25423 act. As to casualty and surety rating organizations, an insurer
 25424 shall be so permitted to subscribe to rating services for any
 25425 kind of insurance or subdivision thereof for which the rating
 25426 organization is authorized so to act. The rating organization
 25427 shall give notice to subscribers of proposed changes in such
 25428 rules and regulations.

25429 (2) The reasonableness of any rule or regulation in its
 25430 application to subscribers, or the refusal of any rating
 25431 organization to admit an insurer as a subscriber, shall, at the
 25432 request of any subscriber or any such insurer, be reviewed by
 25433 the office ~~department~~. If the office ~~department~~ finds that such
 25434 rule or regulation is unreasonable in its application to
 25435 subscribers, it shall order that such rule or regulation shall
 25436 not be applicable to subscribers. If the rating organization
 25437 fails to grant or reject an insurer's application for
 25438 subscribership within 30 days after it was made, the insurer may



HB 1803

2003

25439 request a review by the office ~~department~~ as if the application
 25440 had been rejected. If the office ~~department~~ finds that the
 25441 insurer has been refused admittance to the rating organization
 25442 as a subscriber without justification, it shall order the rating
 25443 organization to admit the insurer as a subscriber. If it finds
 25444 that the action of the rating organization was justified, it
 25445 shall make an order affirming its action.

25446 (3) Each rating organization shall furnish its rating
 25447 services without discrimination to its members and subscribers.

25448 Section 845. Section 627.241, Florida Statutes, is amended
 25449 to read:

25450 627.241 Notice of changes.--Every rating organization
 25451 shall notify the office ~~department~~ promptly of every change in:

25452 (1) Its constitution, its articles of agreement or
 25453 association, or its certificate of incorporation, and its
 25454 bylaws, rules and regulations governing the conduct of its
 25455 business;

25456 (2) Its list of members and subscribers; and

25457 (3) The name and address of the resident of this state
 25458 designated by it upon whom notices or orders of the office
 25459 ~~department~~ or process affecting such rating organization may be
 25460 served.

25461 Section 846. Section 627.281, Florida Statutes, is amended
 25462 to read:

25463 627.281 Appeal from rating organization; workers'
 25464 compensation and employer's liability insurance filings.--

25465 (1) Any member or subscriber to a rating organization may
 25466 appeal to the office ~~department~~ from the action or decision of
 25467 such rating organization in approving or rejecting any proposed
 25468 change in or addition to the workers' compensation or employer's



HB 1803

2003

25469 liability insurance filings of such rating organization, and the
 25470 office department shall issue an order approving the decision of
 25471 such rating organization or directing it to give further
 25472 consideration to such proposal. If such appeal is from the
 25473 action or decision of the rating organization in rejecting a
 25474 proposed addition to its filings, the office department may, in
 25475 the event it finds that such action or decision was
 25476 unreasonable, issue an order directing the rating organization
 25477 to make an addition to its filings, on behalf of its members and
 25478 subscribers, in a manner consistent with its findings, within a
 25479 reasonable time after the issuance of such order.

25480 (2) If such appeal is based upon the failure of the rating
 25481 organization to make a filing on behalf of such member or
 25482 subscriber which is based on a system of expense provisions
 25483 which differs, in accordance with the right granted in s.
 25484 627.072(2), from the system of expense provisions included in a
 25485 filing made by the rating organization, the office department
 25486 shall, if it grants the appeal, order the rating organization to
 25487 make the requested filing for use by the appellant. In deciding
 25488 such appeal, the office department shall apply the applicable
 25489 standards set forth in ss. 627.062 and 627.072.

25490 Section 847. Subsection (2) of section 627.291, Florida
 25491 Statutes, is amended to read:

25492 627.291 Information to be furnished insureds; appeal by
 25493 insureds; workers' compensation and employer's liability
 25494 insurances.--

25495 (2) As to workers' compensation and employer's liability
 25496 insurances, every rating organization and every insurer which
 25497 makes its own rates shall provide within this state reasonable
 25498 means whereby any person aggrieved by the application of its



HB 1803

2003

25499 rating system may be heard, in person or by his or her
25500 authorized representative, on his or her written request to
25501 review the manner in which such rating system has been applied
25502 in connection with the insurance afforded him or her. If the
25503 rating organization or insurer fails to grant or rejects such
25504 request within 30 days after it is made, the applicant may
25505 proceed in the same manner as if his or her application had been
25506 rejected. Any party affected by the action of such rating
25507 organization or insurer on such request may, within 30 days
25508 after written notice of such action, appeal to the office
25509 ~~department~~, which may affirm or reverse such action.

25510 Section 848. Section 627.301, Florida Statutes, is amended
25511 to read:

25512 627.301 Advisory organizations.--

25513 (1) No advisory organization shall conduct its operations
25514 in this state unless and until it has filed with the office
25515 ~~department~~:

25516 (a) A copy of its constitution, articles of incorporation,
25517 articles of agreement or of association, and bylaws or rules and
25518 regulations governing its activities, all duly certified by the
25519 custodian of the originals thereof;

25520 (b) A list of its members and subscribers; and

25521 (c) The name and address of a resident of this state upon
25522 whom notices or orders of the office ~~department~~ or process may
25523 be served.

25524 (2) Every such advisory organization shall notify the
25525 office ~~department~~ promptly of every change in:

25526 (a) Its constitution;

25527 (b) Its articles of incorporation, agreement, or
25528 association;



HB 1803

2003

25529 (c) Its bylaws, rules and regulations governing the
25530 conduct of its business;

25531 (d) The list of members and subscribers; and

25532 (e) The name and address of the resident of this state
25533 designated by it upon whom notices or orders of the office
25534 ~~department~~ or process affecting such organization may be served.

25535 (3) No such advisory organization shall engage in any
25536 unfair or unreasonable practice with respect to such activities.

25537 Section 849. Subsection (6) of section 627.314, Florida
25538 Statutes, is amended to read:

25539 627.314 Concerted action by two or more insurers.--

25540 (6) Notwithstanding any other provisions of this part,
25541 insurers shall not participate directly or indirectly in the
25542 deliberations or decisions of rating organizations on private
25543 passenger automobile insurance. However, such rating
25544 organizations shall, upon request of individual insurers, be
25545 required to furnish at reasonable cost the rate indications
25546 resulting from the loss and expense statistics gathered by them.
25547 Individual insurers may modify the indications to reflect their
25548 individual experience in determining their own rates. Such rates
25549 shall be filed with the office ~~department~~ for public inspection
25550 whenever requested and shall be available for public
25551 announcement only by the press, office ~~department~~, or insurer.

25552 Section 850. Section 627.318, Florida Statutes, is amended
25553 to read:

25554 627.318 Records.--Every insurer, rating organization, and
25555 advisory organization and every group, association, or other
25556 organization of insurers which engages in joint underwriting or
25557 joint reinsurance shall maintain reasonable records, of the type
25558 and kind reasonably adapted to its method of operation, of its



HB 1803

2003

25559 experience or the experience of its members and of the data,
 25560 statistics, or information collected or used by it in connection
 25561 with the rates, rating plans, rating systems, underwriting
 25562 rules, policy or bond forms, surveys, or inspections made or
 25563 used by it, so that such records will be available at all
 25564 reasonable times to enable the office ~~department~~ to determine
 25565 whether such organization, insurer, group, or association, and,
 25566 in the case of an insurer or rating organization, every rate,
 25567 rating plan, and rating system made or used by it, complies with
 25568 the provisions of this part applicable to it. The maintenance
 25569 of such records in the office of a licensed rating organization
 25570 of which an insurer is a member or subscriber will be sufficient
 25571 compliance with this section for any such insurer maintaining
 25572 membership or subscribership in such organization, to the extent
 25573 that the insurer uses the rates, rating plans, rating systems,
 25574 or underwriting rules of such organization. Such records shall
 25575 be maintained in an office within this state or shall be made
 25576 available for examination or inspection within this state by the
 25577 department at any time upon reasonable notice.

25578 Section 851. Section 627.331, Florida Statutes, is amended
 25579 to read:

25580 627.331 Recording and reporting of loss, expense, and
 25581 claims experience; rating information.--

25582 (1) The commission ~~department~~ may promulgate rules and
 25583 statistical plans which shall thereafter be used by each insurer
 25584 in the recording and reporting of its loss, expense, and claims
 25585 experience, in order that the experience of all insurers may be
 25586 made available at least annually in such form and detail as may
 25587 be necessary to aid the office ~~department~~ in determining whether
 25588 the insurer's activities comply with the applicable standards of



HB 1803

2003

25589 this code.

25590 (2) In promulgating such rules and plans, the commission
25591 ~~department~~ shall give due consideration to the rating systems in
25592 use in this state and, in order that such rules and plans may be
25593 as uniform as is practicable among the several states, to the
25594 rules and to the form of the plans used for such rating systems
25595 in other states. No insurer shall be required to record or
25596 report its loss experience on a classification basis that is
25597 inconsistent with the rating system used by it, except for motor
25598 vehicle insurance as otherwise provided by law.

25599 (3) The office ~~department~~ may designate one or more rating
25600 organizations or other agencies to assist it in gathering such
25601 experience and making compilations thereof; and such
25602 compilations shall be made available, subject to reasonable
25603 rules adopted ~~promulgated~~ by the commission ~~department~~, to
25604 insurers and rating organizations.

25605 Section 852. Subsections (3) and (4) of section 627.3512,
25606 Florida Statutes, are amended to read:

25607 627.3512 Recoupment of residual market deficit
25608 assessments.--

25609 (3) The insurer or insurer group shall file with the
25610 office ~~department~~ a statement setting forth the amount of the
25611 assessment factor and an explanation of how the factor will be
25612 applied, at least 15 days prior to the factor being applied to
25613 any policies. The statement shall include documentation of the
25614 assessment paid by the insurer or insurer group and the
25615 arithmetic calculations supporting the assessment factor. The
25616 office ~~department~~ shall complete its review within 15 days after
25617 receipt of the filing and shall limit its review to verification
25618 of the arithmetic calculations. The insurer or insurer group



HB 1803

2003

25619 may use the assessment factor at any time after the expiration
 25620 of the 15-day period unless the office ~~department~~ has notified
 25621 the insurer or insurer group in writing that the arithmetic
 25622 calculations are incorrect.

25623 (4) The commission ~~department~~ may adopt rules to implement
 25624 this section.

25625 Section 853. Section 627.3517, Florida Statutes, is
 25626 amended to read:

25627 627.3517 Consumer choice.--No provision of s. 627.351, s.
 25628 627.3511, or s. 627.3515 shall be construed to impair the right
 25629 of any insurance risk apportionment plan policyholder, upon
 25630 receipt of any keepout or take-out offer, to retain his or her
 25631 current agent, so long as that agent is duly licensed and
 25632 appointed by the insurance risk apportionment plan or otherwise
 25633 authorized to place business with the insurance risk
 25634 apportionment plan. This right shall not be canceled, suspended,
 25635 impeded, abridged, or otherwise compromised by any rule, plan of
 25636 operation, or depopulation plan, whether through keepout, take-
 25637 out, midterm assumption, or any other means, of any insurance
 25638 risk apportionment plan or depopulation plan, including, but not
 25639 limited to, those described in s. 627.351, s. 627.3511, or s.
 25640 627.3515. The commission ~~department~~ shall adopt any rules
 25641 necessary to cause any insurance risk apportionment plan or
 25642 market assistance plan under such sections to demonstrate that
 25643 the operations of the plan do not interfere with, promote, or
 25644 allow interference with the rights created under this section.
 25645 If the policyholder's current agent is unable or unwilling to be
 25646 appointed with the insurer making the take-out or keepout offer,
 25647 the policyholder shall not be disqualified from participation in
 25648 the appropriate insurance risk apportionment plan because of an



HB 1803

2003

25649 offer of coverage in the voluntary market. An offer of full
25650 property insurance coverage by the insurer currently insuring
25651 either the ex-wind or wind-only coverage on the policy to which
25652 the offer applies shall not be considered a take-out or keepout
25653 offer. Any rule, plan of operation, or plan of depopulation,
25654 through keepout, take-out, midterm assumption, or any other
25655 means, of any property insurance risk apportionment plan under
25656 s. 627.351(2) or (6) is subject to ss. 627.351(2)(b) and (6)(c)
25657 and 627.3511(4).

25658 Section 854. Section 627.361, Florida Statutes, is amended
25659 to read:

25660 627.361 False or misleading information.--No person shall
25661 willfully withhold information from or knowingly give false or
25662 misleading information to the office department, any statistical
25663 agency designated by the office department, any rating
25664 organization, or any insurer, which will affect the rates or
25665 premiums chargeable under this part.

25666 Section 855. Section 627.371, Florida Statutes, is amended
25667 to read:

25668 627.371 Hearings.--

25669 (1) Any person aggrieved by any rate charged, rating plan,
25670 rating system, or underwriting rule followed or adopted by an
25671 insurer, and any person aggrieved by any rating plan, rating
25672 system, or underwriting rule followed or adopted by a rating
25673 organization, may herself or himself or by her or his authorized
25674 representative make written request of the insurer or rating
25675 organization to review the manner in which the rate, plan,
25676 system, or rule has been applied with respect to insurance
25677 afforded her or him. If the request is not granted within 30
25678 days after it is made, the requester may treat it as rejected.



HB 1803

2003

25679 Any person aggrieved by the refusal of an insurer or rating
25680 organization to grant the review requested, or by the failure or
25681 refusal to grant all or part of the relief requested, may file a
25682 written complaint with the office ~~department~~, specifying the
25683 grounds relied upon. If the office ~~department~~ has already
25684 disposed of the issue as raised by a similar complaint or
25685 believes that probable cause for the complaint does not exist or
25686 that the complaint is not made in good faith, it shall so notify
25687 the complainant. Otherwise, and if it also finds that the
25688 complaint charges a violation of this chapter and that the
25689 complainant would be aggrieved if the violation is proven, it
25690 shall proceed as provided in subsection (2).

25691 (2) If after examination of an insurer, rating
25692 organization, advisory organization, or group, association, or
25693 other organization of insurers which engages in joint
25694 underwriting or joint reinsurance, upon the basis of other
25695 information, or upon sufficient complaint as provided in
25696 subsection (1), the office ~~department~~ has good cause to believe
25697 that such insurer, organization, group, or association, or any
25698 rate, rating plan, or rating system made or used by any such
25699 insurer or rating organization, does not comply with the
25700 requirements and standards of this part applicable to it, it
25701 shall, unless it has good cause to believe such noncompliance is
25702 willful, give notice in writing to such insurer, organization,
25703 group, or association stating therein in what manner and to what
25704 extent noncompliance is alleged to exist and specifying therein
25705 a reasonable time, not less than 10 days thereafter, in which
25706 the noncompliance may be corrected, including any premium
25707 adjustment.

25708 (3) If the office ~~department~~ has good cause to believe



HB 1803

2003

25709 that such noncompliance is willful or if, within the period
 25710 prescribed by the office ~~department~~ in the notice required by
 25711 subsection (2), the insurer, organization, group, or association
 25712 does not make such changes as may be necessary to correct the
 25713 noncompliance specified by the office ~~department~~ or establish to
 25714 the satisfaction of the office ~~department~~ that such specified
 25715 noncompliance does not exist, then the office ~~department~~ is
 25716 required to proceed to further determine the matter. If no
 25717 notice has been given as provided in subsection (2), the notice
 25718 shall state in what manner and to what extent noncompliance is
 25719 alleged to exist. The proceedings shall not consider any subject
 25720 not specified in the notice required by subsections (2) and (3).

25721 Section 856. Section 627.381, Florida Statutes, is amended
 25722 to read:

25723 627.381 Penalty for violation.--

25724 (1) The office ~~department~~ may, if it finds that any person
 25725 or organization has violated any provision of this part, impose
 25726 an administrative fine pursuant to s. 624.4211.

25727 (2) The office ~~department~~ may suspend the license or
 25728 authority of any rating organization or insurer which fails to
 25729 comply with an order of the office ~~department~~ within the time
 25730 limited by such order, or any extension thereof which the office
 25731 ~~department~~ may grant. The office ~~department~~ shall not suspend
 25732 the license or authority of any rating organization or insurer
 25733 for failure to comply with an order until the time prescribed
 25734 for an appeal therefrom has expired or, if an appeal has been
 25735 taken, until such order has been affirmed. The office ~~department~~
 25736 may determine when a suspension of license or authority shall
 25737 become effective and it shall remain in effect for the period
 25738 fixed by it, unless it modifies or rescinds such suspension, or



HB 1803

2003

25739 until the order upon which such suspension is based is modified,
 25740 rescinded, or reversed.

25741 Section 857. Paragraph (i) of subsection (2) of section
 25742 627.4035, Florida Statutes, is amended to read:

25743 627.4035 Cash payment of premiums; claims.--

25744 (2) Subsection (1) is not applicable to:

25745 (i) Such other methods of paying for life insurance as may
 25746 be permitted by the commission ~~department~~ pursuant to rule or
 25747 regulation.

25748 Section 858. Section 627.410, Florida Statutes, is amended
 25749 to read:

25750 627.410 Filing, approval of forms.--

25751 (1) No basic insurance policy or annuity contract form, or
 25752 application form where written application is required and is to
 25753 be made a part of the policy or contract, or group certificates
 25754 issued under a master contract delivered in this state, or
 25755 printed rider or endorsement form or form of renewal
 25756 certificate, shall be delivered or issued for delivery in this
 25757 state, unless the form has been filed with the office ~~department~~
 25758 ~~at its offices in Tallahassee~~ by or in behalf of the insurer
 25759 which proposes to use such form and has been approved by the
 25760 office ~~department~~. This provision does not apply to surety bonds
 25761 or to policies, riders, endorsements, or forms of unique
 25762 character which are designed for and used with relation to
 25763 insurance upon a particular subject (other than as to health
 25764 insurance), or which relate to the manner of distribution of
 25765 benefits or to the reservation of rights and benefits under life
 25766 or health insurance policies and are used at the request of the
 25767 individual policyholder, contract holder, or certificateholder.

25768 As to group insurance policies effectuated and delivered



HB 1803

2003

25769 outside this state but covering persons resident in this state,
25770 the group certificates to be delivered or issued for delivery in
25771 this state shall be filed with the office ~~department~~ for
25772 information purposes only.

25773 (2) Every such filing must be made not less than 30 days
25774 in advance of any such use or delivery. At the expiration of
25775 such 30 days, the form so filed will be deemed approved unless
25776 prior thereto it has been affirmatively approved or disapproved
25777 by order of the office ~~department~~. The approval of any such form
25778 by the office ~~department~~ constitutes a waiver of any unexpired
25779 portion of such waiting period. The office ~~department~~ may
25780 extend by not more than an additional 15 days the period within
25781 which it may so affirmatively approve or disapprove any such
25782 form, by giving notice of such extension before expiration of
25783 the initial 30-day period. At the expiration of any such period
25784 as so extended, and in the absence of such prior affirmative
25785 approval or disapproval, any such form shall be deemed approved.

25786 (3) The office ~~department~~ may, for cause, withdraw a
25787 previous approval. No insurer shall issue or use any form
25788 disapproved by the office ~~department~~, or as to which the office
25789 ~~department~~ has withdrawn approval, after the effective date of
25790 the order of the office ~~department~~.

25791 (4) The office ~~department~~ may, by order, exempt from the
25792 requirements of this section for so long as it deems proper any
25793 insurance document or form or type thereof as specified in such
25794 order, to which, in its opinion, this section may not
25795 practicably be applied, or the filing and approval of which are,
25796 in its opinion, not desirable or necessary for the protection of
25797 the public.

25798 (5) This section also applies to any such form used by



HB 1803

2003

25799 domestic insurers for delivery in a jurisdiction outside this
 25800 state if the insurance supervisory official of such jurisdiction
 25801 informs the office ~~department~~ that such form is not subject to
 25802 approval or disapproval by such official, and upon the order of
 25803 the office ~~department~~ requiring the form to be submitted to it
 25804 for the purpose. The applicable same standards apply to such
 25805 forms as apply to forms for domestic use.

25806 (6)(a) An insurer shall not deliver or issue for delivery
 25807 or renew in this state any health insurance policy form until it
 25808 has filed with the office ~~department~~ a copy of every applicable
 25809 rating manual, rating schedule, change in rating manual, and
 25810 change in rating schedule; if rating manuals and rating
 25811 schedules are not applicable, the insurer must file with the
 25812 office ~~department~~ applicable premium rates and any change in
 25813 applicable premium rates. This paragraph does not apply to group
 25814 health insurance policies, effectuated and delivered in this
 25815 state, insuring groups of 51 or more persons, except for
 25816 Medicare supplement insurance, long-term care insurance, and any
 25817 coverage under which the increase in claim costs over the
 25818 lifetime of the contract due to advancing age or duration is
 25819 prefunded in the premium.

25820 (b) The commission ~~department~~ may establish by rule, for
 25821 each type of health insurance form, procedures to be used in
 25822 ascertaining the reasonableness of benefits in relation to
 25823 premium rates and may, by rule, exempt from any requirement of
 25824 paragraph (a) any health insurance policy form or type thereof
 25825 (as specified in such rule) to which form or type such
 25826 requirements may not be practically applied or to which form or
 25827 type the application of such requirements is not desirable or
 25828 necessary for the protection of the public. With respect to any



HB 1803

2003

25829 health insurance policy form or type thereof which is exempted
 25830 by rule from any requirement of paragraph (a), premium rates
 25831 filed pursuant to ss. 627.640 and 627.662 shall be for
 25832 informational purposes.

25833 (c) Every filing made pursuant to this subsection shall be
 25834 made within the same time period provided in, and shall be
 25835 deemed to be approved under the same conditions as those
 25836 provided in, subsection (2).

25837 (d) Every filing made pursuant to this subsection, except
 25838 disability income policies and accidental death policies, shall
 25839 be prohibited from applying the following rating practices:

- 25840 1. Select and ultimate premium schedules.
- 25841 2. Premium class definitions which classify insured based
 25842 on year of issue or duration since issue.
- 25843 3. Attained age premium structures on policy forms under
 25844 which more than 50 percent of the policies are issued to persons
 25845 age 65 or over.

25846 (e) Except as provided in subparagraph 1., an insurer
 25847 shall continue to make available for purchase any individual
 25848 policy form issued on or after October 1, 1993. A policy form
 25849 shall not be considered to be available for purchase unless the
 25850 insurer has actively offered it for sale in the previous 12
 25851 months.

- 25852 1. An insurer may discontinue the availability of a policy
 25853 form if the insurer provides to the office ~~department~~ in writing
 25854 its decision at least 30 days prior to discontinuing the
 25855 availability of the form of the policy or certificate. After
 25856 receipt of the notice by the office ~~department~~, the insurer
 25857 shall no longer offer for sale the policy form or certificate
 25858 form in this state.



HB 1803

2003

25859 2. An insurer that discontinues the availability of a
25860 policy form pursuant to subparagraph 1. shall not file for
25861 approval a new policy form providing similar benefits as the
25862 discontinued form for a period of 5 years after the insurer
25863 provides notice to the office ~~department~~ of the discontinuance.
25864 The period of discontinuance may be reduced if the office
25865 ~~department~~ determines that a shorter period is appropriate.

25866 3. The experience of all policy forms providing similar
25867 benefits shall be combined for all rating purposes.

25868 (7)(a) Each insurer subject to the requirements of
25869 subsection (6) shall make an annual filing with the office
25870 ~~department~~ no later than 12 months after its previous filing,
25871 demonstrating the reasonableness of benefits in relation to
25872 premium rates. The office ~~department~~, after receiving a request
25873 to be exempted from the provisions of this section, may, for
25874 good cause due to insignificant numbers of policies in force or
25875 insignificant premium volume, exempt a company, by line of
25876 coverage, from filing rates or rate certification as required by
25877 this section.

25878 (b) The filing required by this subsection shall be
25879 satisfied by one of the following methods:

25880 1. A rate filing prepared by an actuary which contains
25881 documentation demonstrating the reasonableness of benefits in
25882 relation to premiums charged in accordance with the applicable
25883 rating laws and rules promulgated by the commission ~~department~~.

25884 2. If no rate change is proposed, a filing which consists
25885 of a certification by an actuary that benefits are reasonable in
25886 relation to premiums currently charged in accordance with
25887 applicable laws and rules promulgated by the commission
25888 ~~department~~.



HB 1803

2003

25889 (c) As used in this section, "actuary" means an individual
 25890 who is a member of the Society of Actuaries or the American
 25891 Academy of Actuaries. If an insurer does not employ or
 25892 otherwise retain the services of an actuary, the insurer's
 25893 certification shall be prepared by insurer personnel or
 25894 consultants with a minimum of 5 years' experience in insurance
 25895 ratemaking. The chief executive officer of the insurer shall
 25896 review and sign the certification indicating his or her
 25897 agreement with its conclusions.

25898 (d) If at the time a filing is required under this section
 25899 an insurer is in the process of completing a rate review, the
 25900 insurer may apply to the office ~~department~~ for an extension of
 25901 up to an additional 30 days in which to make the filing. The
 25902 request for extension must be received by the office ~~department~~
 25903 ~~in its offices in Tallahassee~~ no later than the date the filing
 25904 is due.

25905 (e) If an insurer fails to meet the filing requirements of
 25906 this subsection and does not submit the filing within 60 days
 25907 following the date the filing is due, the office ~~department~~ may,
 25908 in addition to any other penalty authorized by law, order the
 25909 insurer to discontinue the issuance of policies for which the
 25910 required filing was not made, until such time as the office
 25911 ~~department~~ determines that the required filing is properly
 25912 submitted.

25913 (8)(a) For the purposes of subsections (6) and (7),
 25914 benefits of an individual accident and health insurance policy
 25915 form, including Medicare supplement policies as defined in s.
 25916 627.672, when authorized by rules adopted by the commission
 25917 ~~department~~, and excluding long-term care insurance policies as
 25918 defined in s. 627.9404, and other policy forms under which more



HB 1803

2003

25919 | than 50 percent of the policies are issued to individuals age 65
 25920 | and over, are deemed to be reasonable in relation to premium
 25921 | rates if the rates are filed pursuant to a loss ratio guarantee
 25922 | and both the initial rates and the durational and lifetime loss
 25923 | ratios have been approved by the office ~~department~~, and such
 25924 | benefits shall continue to be deemed reasonable for renewal
 25925 | rates while the insurer complies with such guarantee, provided
 25926 | the currently expected lifetime loss ratio is not more than 5
 25927 | percent less than the filed lifetime loss ratio as certified to
 25928 | by an actuary. The office ~~department~~ shall have the right to
 25929 | bring an administrative action should it deem that the lifetime
 25930 | loss ratio will not be met. For Medicare supplement filings,
 25931 | the office ~~department~~ may withdraw a previously approved filing
 25932 | which was made pursuant to a loss ratio guarantee if it
 25933 | determines that the filing is not in compliance with ss.
 25934 | 627.671-627.675 or the currently expected lifetime loss ratio is
 25935 | less than the filed lifetime loss ratio as certified by an
 25936 | actuary in the initial guaranteed loss ratio filing. If this
 25937 | section conflicts with ss. 627.671-627.675, ss. 627.671-627.675
 25938 | shall control.

25939 | (b) The renewal premium rates shall be deemed to be
 25940 | approved upon filing with the office ~~department~~ if the filing is
 25941 | accompanied by the most current approved loss ratio guarantee.
 25942 | The loss ratio guarantee shall be in writing, shall be signed by
 25943 | an officer of the insurer, and shall contain at least:

25944 | 1. A recitation of the anticipated lifetime and durational
 25945 | target loss ratios contained in the actuarial memorandum filed
 25946 | with the policy form when it was originally approved. The
 25947 | durational target loss ratios shall be calculated for 1-year
 25948 | experience periods. If statutory changes have rendered any



HB 1803

2003

25949 portion of such actuarial memorandum obsolete, the loss ratio
25950 guarantee shall also include an amendment to the actuarial
25951 memorandum reflecting current law and containing new lifetime
25952 and durational loss ratio targets.

25953 2. A guarantee that the applicable loss ratios for the
25954 experience period in which the new rates will take effect, and
25955 for each experience period thereafter until new rates are filed,
25956 will meet the loss ratios referred to in subparagraph 1.

25957 3. A guarantee that the applicable loss ratio results for
25958 the experience period will be independently audited at the
25959 insurer's expense. The audit shall be performed in the second
25960 calendar quarter of the year following the end of the experience
25961 period, and the audited results shall be reported to the office
25962 ~~department~~ no later than the end of such quarter. The
25963 commission ~~department~~ shall establish by rule the minimum
25964 information reasonably necessary to be included in the report.
25965 The audit shall be done in accordance with accepted accounting
25966 and actuarial principles.

25967 4. A guarantee that affected policyholders in this state
25968 shall be issued a proportional refund, based on the premium
25969 earned, of the amount necessary to bring the applicable
25970 experience period loss ratio up to the durational target loss
25971 ratio referred to in subparagraph 1. The refund shall be made
25972 to all policyholders in this state who are insured under the
25973 applicable policy form as of the last day of the experience
25974 period, except that no refund need be made to a policyholder in
25975 an amount less than \$10. Refunds less than \$10 shall be
25976 aggregated and paid pro rata to the policyholders receiving
25977 refunds. The refund shall include interest at the then-current
25978 variable loan interest rate for life insurance policies



HB 1803

2003

25979 established by the National Association of Insurance
 25980 Commissioners, from the end of the experience period until the
 25981 date of payment. Payments shall be made during the third
 25982 calendar quarter of the year following the experience period for
 25983 which a refund is determined to be due. However, no refunds
 25984 shall be made until 60 days after the filing of the audit report
 25985 in order that the office ~~department~~ has adequate time to review
 25986 the report.

25987 5. A guarantee that if the applicable loss ratio exceeds
 25988 the durational target loss ratio for that experience period by
 25989 more than 20 percent, provided there are at least 2,000
 25990 policyholders on the form nationwide or, if not, then
 25991 accumulated each calendar year until 2,000 policyholder years is
 25992 reached, the insurer, if directed by the office ~~department~~,
 25993 shall withdraw the policy form for the purposes of issuing new
 25994 policies.

25995 (c) As used in this subsection:

25996 1. "Loss ratio" means the ratio of incurred claims to
 25997 earned premium.

25998 2. "Applicable loss ratio" means the loss ratio
 25999 attributable solely to this state if there are 2,000 or more
 26000 policyholders in the state. If there are 500 or more
 26001 policyholders in this state but less than 2,000, it is the
 26002 linear interpolation of the nationwide loss ratio and the loss
 26003 ratio for this state. If there are less than 500 policyholders
 26004 in this state, it is the nationwide loss ratio.

26005 3. "Experience period" means the period, ordinarily a
 26006 calendar year, for which a loss ratio guarantee is calculated.

26007 Section 859. Section 627.4101, Florida Statutes, is
 26008 amended to read:



HB 1803

2003

26009 627.4101 Credit insurance enrollment forms.--~~Effective~~
 26010 ~~October 1, 2002,~~ All credit insurance enrollment forms must be
 26011 approved by the office ~~Department of Insurance~~ pursuant to the
 26012 provisions of s. 627.410 or s. 627.682.

26013 Section 860. Section 627.4105, Florida Statutes, is
 26014 amended to read:

26015 627.4105 Life and health insurance; reduced premiums upon
 26016 rigorous physical examination.--Upon request, the office
 26017 ~~department~~ may approve special life and health insurance policy
 26018 forms providing for reduced premiums for each applicant passing
 26019 a rigorous physical examination.

26020 Section 861. Section 627.411, Florida Statutes, is amended
 26021 to read:

26022 627.411 Grounds for disapproval.--

26023 (1) The office ~~department~~ shall disapprove any form filed
 26024 under s. 627.410, or withdraw any previous approval thereof,
 26025 only if the form:

26026 (a) Is in any respect in violation of, or does not comply
 26027 with, this code.

26028 (b) Contains or incorporates by reference, where such
 26029 incorporation is otherwise permissible, any inconsistent,
 26030 ambiguous, or misleading clauses, or exceptions and conditions
 26031 which deceptively affect the risk purported to be assumed in the
 26032 general coverage of the contract.

26033 (c) Has any title, heading, or other indication of its
 26034 provisions which is misleading.

26035 (d) Is printed or otherwise reproduced in such manner as
 26036 to render any material provision of the form substantially
 26037 illegible.

26038 (e) Is for health insurance, and provides benefits which



HB 1803

2003

26039 are unreasonable in relation to the premium charged, contains
 26040 provisions which are unfair or inequitable or contrary to the
 26041 public policy of this state or which encourage
 26042 misrepresentation, or which apply rating practices which result
 26043 in premium escalations that are not viable for the policyholder
 26044 market or result in unfair discrimination in sales practices.

26045 (f) Excludes coverage for human immunodeficiency virus
 26046 infection or acquired immune deficiency syndrome or contains
 26047 limitations in the benefits payable, or in the terms or
 26048 conditions of such contract, for human immunodeficiency virus
 26049 infection or acquired immune deficiency syndrome which are
 26050 different than those which apply to any other sickness or
 26051 medical condition.

26052 (2) In determining whether the benefits are reasonable in
 26053 relation to the premium charged, the office ~~department~~, in
 26054 accordance with reasonable actuarial techniques, shall consider:

26055 (a) Past loss experience and prospective loss experience
 26056 within and without this state.

26057 (b) Allocation of expenses.

26058 (c) Risk and contingency margins, along with justification
 26059 of such margins.

26060 (d) Acquisition costs.

26061 Section 862. Section 627.412, Florida Statutes, is amended
 26062 to read:

26063 627.412 Standard provisions, in general.--

26064 (1) Insurance contracts shall contain such standard or
 26065 uniform provisions as are required by the applicable provisions
 26066 of this code pertaining to contracts of particular kinds of
 26067 insurance. The office ~~department~~ may waive the required use of
 26068 a particular provision in a particular insurance policy form if:



HB 1803

2003

26069 (a) It finds such provision unnecessary for the protection
 26070 of the insured and inconsistent with the purposes of the policy;
 26071 and

26072 (b) The policy is otherwise approved by it.

26073 (2) No policy shall contain any provision inconsistent
 26074 with or contradictory to any standard or uniform provision used
 26075 or required to be used, but the office ~~department~~ may approve
 26076 any substitute provision which is, in its opinion, not less
 26077 favorable in any particular to the insured or beneficiary than
 26078 the provisions otherwise required.

26079 (3) In lieu of the provisions required by this code for
 26080 contracts for particular kinds of insurance, substantially
 26081 similar provisions required by the law of the domicile of a
 26082 foreign or alien insurer may be used when approved by the office
 26083 ~~department~~.

26084 Section 863. Paragraph (g) of subsection (1) and
 26085 subsections (4) and (5) of section 627.413, Florida Statutes,
 26086 are amended to read:

26087 627.413 Contents of policies, in general; identification.-

26088 -

26089 (1) Every policy shall specify:

26090 (g) The form numbers and edition dates or numeric code
 26091 indicating edition dates, when such code has been supplied to
 26092 the office ~~department~~, of all endorsements attached to a policy.

26093 This requirement applies to life insurance policies and health
 26094 insurance policies only at the time of original issue.

26095 (4) All policies and annuity contracts issued by insurers,
 26096 and the forms thereof filed with the office ~~department~~, shall
 26097 have printed thereon an appropriate designating letter or
 26098 figure, or combination of letters or figures or terms



HB 1803

2003

26099 identifying the respective forms of policies or contracts.
26100 Whenever any change is made in any such form, the designating
26101 letters, figures, or terms thereon shall be correspondingly
26102 changed.

26103 (5) Any policy that is a minimum premium policy issued by
26104 an insurer pursuant to the minimum premium provisions of rules
26105 adopted by rating organizations licensed by the office
26106 ~~Department of Insurance~~, shall have typed, printed, stamped, or
26107 legibly handwritten on the certificate the words "minimum
26108 premium policy" or equivalent language. The office ~~department~~
26109 may impose an administrative fine pursuant to s. 624.4211 if the
26110 office ~~department~~ finds any violation of this subsection.

26111 Section 864. Subsections (1), (2), and (3) and paragraph
26112 (f) of subsection (5) of section 627.4145, Florida Statutes, are
26113 amended to read:

26114 627.4145 Readable language in insurance policies.--

26115 (1) Every policy shall be readable as required by this
26116 section. For the purposes of this section, the term "policy"
26117 means a policy form or endorsement. A policy is deemed readable
26118 if:

26119 (a) The text achieves a minimum score of 45 on the Flesch
26120 reading ease test as computed in subsection (5) or an equivalent
26121 score on any other test comparable in result and approved by the
26122 office ~~department~~;

26123 (b) It uses layout and spacing which separate the
26124 paragraphs from each other and from the border of the paper;

26125 (c) It has section titles that are captioned in boldfaced
26126 type or that otherwise stand out significantly from the text;

26127 (d) It avoids the use of unnecessarily long, complicated,
26128 or obscure words, sentences, paragraphs, or constructions;



HB 1803

2003

26129 (e) The style, arrangement, and overall appearance of the
26130 policy give no undue prominence to any portion of the text of
26131 the policy or to any endorsements or riders; and

26132 (f) It contains a table of contents or an index of the
26133 principal sections of the policy, if the policy has more than
26134 3,000 words or more than three pages.

26135 (2) The office ~~department~~ may authorize a lower score than
26136 the Flesch reading ease test score required in subsection (1)
26137 whenever it finds that a lower score will provide a more
26138 accurate reflection of the readability of a policy form, is
26139 warranted by the nature of a particular policy form or type or
26140 class of policy forms, or is the result of language which is
26141 used to conform to the requirements of any law.

26142 (3) A filing subject to this section shall be accompanied
26143 by a certification signed by an officer of the insurer stating
26144 that the policy meets the requirements of subsection (1). Such
26145 certification shall state that the policy meets the minimum
26146 reading ease test score on the test used or that the score is
26147 lower than the minimum required but should be approved in
26148 accordance with subsection (2). The office ~~department~~ may
26149 require the submission of further information to verify any
26150 certification.

26151 (5) A Flesch reading ease test score shall be measured by
26152 the following method:

26153 (f) The term "text" as used in this subsection includes
26154 all printed matter except:

26155 1. The name and address of the insurer; the name, number,
26156 or title of the policy; the table of contents or index; captions
26157 and subcaptions; specification pages; schedules; or tables;

26158 2. Policy language required by any collectively bargained



HB 1803

2003

26159 agreement;

26160 3. Any medical terminology;

26161 4. Words which are defined in the policy; and

26162 5. Any policy language required by law, if the insurer
 26163 identifies the language or terminology excepted by this
 26164 paragraph and certifies to the office ~~department~~, in writing,
 26165 that the language or terminology is entitled to be excepted
 26166 under this paragraph.

26167 Section 865. Subsection (2) of section 627.417, Florida
 26168 Statutes, is amended to read:

26169 627.417 Underwriters' and combination policies.--

26170 (2) Two or more authorized insurers may, with the approval
 26171 of the office ~~department~~, issue a combination policy which shall
 26172 contain provisions substantially as follows:

26173 (a) That the insurers executing the policy shall be
 26174 severally liable for the full amount of any loss or damage,
 26175 according to the terms of the policy, or for specified
 26176 percentages or amounts thereof, aggregating the full amount of
 26177 insurance under the policy; and

26178 (b) That service of process, or of any notice or proof of
 26179 loss required by such policy, upon any of the insurers executing
 26180 the policy, shall constitute service upon all such insurers.

26181 Section 866. Subsection (2) of section 627.418, Florida
 26182 Statutes, is amended to read:

26183 627.418 Validity of noncomplying contracts.--

26184 (2) Any insurance contract delivered or issued for
 26185 delivery in this state covering a subject or subjects of
 26186 insurance resident, located, or to be performed in this state,
 26187 which subjects, pursuant to the provisions of this code, the
 26188 insurer may not lawfully insure under such a contract, shall be



HB 1803

2003

26189 cancelable at any time by the insurer, any provision of the
26190 contract to the contrary notwithstanding; and the insurer shall
26191 promptly cancel the contract in accordance with the request of
26192 the office ~~department~~ therefor. No such illegality or
26193 cancellation shall be deemed to relieve the insurer of any
26194 liability incurred by it under the contract while in force, or
26195 to prohibit the insurer from retaining the pro rata earned
26196 premium thereon. This provision does not relieve the insurer
26197 from any penalty otherwise incurred by the insurer under this
26198 code on account of any such violation.

26199 Section 867. Subsection (7) of section 627.4234, Florida
26200 Statutes, is amended to read:

26201 627.4234 Health insurance cost containment provisions
26202 required.--A health insurance policy or health care services
26203 plan which provides medical, hospital, or surgical expense
26204 coverage delivered or issued for delivery in this state must
26205 contain one or more of the following procedures or provisions to
26206 contain health insurance costs or cost increases:

26207 (7) Any lawful measure or combination of measures for
26208 which the insurer provides to the office ~~department~~ information
26209 demonstrating that the measure or combination of measures is
26210 reasonably expected to have an effect toward containing health
26211 insurance costs or cost increases.

26212 Section 868. Section 627.4238, Florida Statutes, is
26213 amended to read:

26214 627.4238 Health insurer examinations.--The office
26215 ~~department~~ may examine each authorized health insurer which
26216 transacts health insurance in this state. The purpose of the
26217 examination is to ascertain compliance by the insurer with the
26218 applicable provisions of this chapter. In lieu of the



HB 1803

2003

26219 examination, the office ~~department~~ may accept the report of a
26220 similar examination made by the insurance supervisory official
26221 of this state or another state. The reasonable cost of the
26222 examination shall be paid by the person examined, and such
26223 person is subject to the provisions of s. 624.320. Any
26224 examination is also subject to the applicable provisions of ss.
26225 624.318, 624.319, 624.321, and 624.322. An examination under
26226 this section may not exceed 10 working days in length, may not
26227 be conducted more often than annually, and may not be conducted
26228 during the same calendar year as a market conduct examination
26229 conducted by the office ~~department~~, except in a case in which
26230 the office ~~department~~ has prima facie evidence of a violation of
26231 this chapter or of chapter 626, which violation is of a nature
26232 so as to provide an immediate danger to the insurance-consuming
26233 public.

26234 Section 869. Subsection (2) of section 627.427, Florida
26235 Statutes, is amended to read:

26236 627.427 Payment of judgment by insurer; penalty for
26237 failure.--

26238 (2) If the judgment or decree is not satisfied as required
26239 under subsection (1), and proof of such failure to satisfy is
26240 made by filing with the office ~~department~~ a certified transcript
26241 of the docket of the judgment or decree together with a
26242 certificate by the clerk of the court wherein the judgment or
26243 decree was entered that the judgment or decree remains
26244 unsatisfied, in whole or in part, after the time aforesaid, the
26245 office ~~department~~ shall forthwith revoke the insurer's
26246 certificate of authority. The office ~~department~~ shall not issue
26247 to such insurer any new certificate of authority until the
26248 judgment or decree is wholly paid and satisfied and proof



HB 1803

2003

26249 thereof filed with the office ~~department~~ under the official
 26250 certificate of the clerk of the court wherein the judgment was
 26251 recovered, showing that the same is satisfied of record, and
 26252 until the expenses and fees incurred in the case are also paid
 26253 by the insurer.

26254 Section 870. Paragraph (b) of subsection (4) of section
 26255 627.429, Florida Statutes, is amended to read:

26256 627.429 Medical tests for HIV infection and AIDS for
 26257 insurance purposes.--

26258 (4) USE OF MEDICAL TESTS FOR UNDERWRITING.--

26259 (b) Prior to testing, the insurer shall disclose its
 26260 intent to test the person for the HIV infection or for a
 26261 specific sickness or medical condition derived therefrom and
 26262 shall obtain the person's written informed consent to administer
 26263 the test. The written informed consent required by this
 26264 paragraph shall include a fair explanation of the test,
 26265 including its purpose, potential uses, and limitations, and the
 26266 meaning of its results and the right to confidential treatment
 26267 of information. Use of a form approved by the office ~~department~~
 26268 raises a conclusive presumption of informed consent.

26269 Section 871. Subsection (1) of section 627.452, Florida
 26270 Statutes, is amended to read:

26271 627.452 Standard provisions required.--

26272 (1) No policy of life insurance, except as stated in
 26273 subsection (3), shall be delivered or issued for delivery in
 26274 this state unless it contains in substance each of the
 26275 provisions as required by ss. 627.453-627.462 inclusive and ss.
 26276 627.475 and 627.476, or provisions which in the opinion of the
 26277 office ~~department~~ are more favorable to the policyholder.

26278 Section 872. Subsection (1) of section 627.458, Florida



HB 1803

2003

26279 Statutes, is amended to read:

26280 627.458 Policy loan.--

26281 (1) There shall be a provision that after the policy has a
 26282 cash surrender value and while no premium is in default, the
 26283 insurer will advance, on proper assignment or pledge of the
 26284 policy and on the sole security thereof, at a rate of interest
 26285 not exceeding 10 percent per year, for policies issued prior to
 26286 October 1, 1981, payable in advance, an amount equal to or, at
 26287 the option of the party entitled thereto, less than the loan
 26288 value of the policy. The loan value of the policy shall be at
 26289 least equal to the cash surrender value at the end of the then-
 26290 current policy year, except that the insurer may deduct, either
 26291 from such loan value or from the proceeds of the loan, any
 26292 existing indebtedness not already deducted in determining such
 26293 cash surrender value, including any interest then accrued but
 26294 not due, any unpaid balance of the premium for the current
 26295 policy year, and interest on the loan to the end of the current
 26296 policy year. However, as a condition for approval of a policy
 26297 loan interest rate in excess of 6 percent per year, the office
 26298 ~~department~~ shall require the insurer to furnish such assurances
 26299 as the office ~~department~~ deems necessary that the interest rate
 26300 on such loans will bear a reasonable relationship to other
 26301 interest rates and that the holders of such policies will
 26302 benefit through higher dividends or lower premiums, or both.

26303 Section 873. Section 627.462, Florida Statutes, is amended
 26304 to read:

26305 627.462 Table of installments.--If a policy provides for
 26306 payment of its proceeds in installments, a table showing the
 26307 amount and period of such installments shall be included in the
 26308 policy; except that certain tables may be omitted from the



HB 1803

2003

26309 | policy if in the judgment of the office ~~department~~ it is not
 26310 | practical to include them.

26311 | Section 874. Subsection (1) of section 627.464, Florida
 26312 | Statutes, is amended to read:

26313 | 627.464 Annuity contracts, pure endowment contracts;
 26314 | standard provisions.--

26315 | (1) No fixed-dollar annuity, variable annuity, or pure
 26316 | endowment contract, other than a reversionary annuity,
 26317 | survivorship annuity, or group annuity, shall be delivered or
 26318 | issued for delivery in this state unless it contains in
 26319 | substance each of the provisions set forth in ss. 627.465-
 26320 | 627.470, inclusive, or provisions which in the opinion of the
 26321 | office ~~department~~ are more favorable to the policyholder. Any
 26322 | of such provisions not applicable to single-premium annuities or
 26323 | single-premium pure endowment contracts shall not to that extent
 26324 | be incorporated therein.

26325 | Section 875. Subsections (2) and (8), paragraphs (h) and
 26326 | (k) of subsection (9), and subsections (10) and (14) of section
 26327 | 627.476, Florida Statutes, are amended to read:

26328 | 627.476 Standard Nonforfeiture Law for Life Insurance.--

26329 | (2) NONFORFEITURE PROVISIONS.--In the case of policies
 26330 | issued on or after the operative date of this section as defined
 26331 | in subsection (14), no policy of life insurance, except as set
 26332 | forth in subsection (13), shall be delivered or issued for
 26333 | delivery in this state unless it contains in substance the
 26334 | following provisions, or corresponding provisions which in the
 26335 | opinion of the office ~~department~~ are at least as favorable to
 26336 | the defaulting or surrendering policyholder as are the minimum
 26337 | requirements hereinafter specified and are essentially in
 26338 | compliance with subsection (12):



HB 1803

2003

26339 (a) That in the event of default in any premium payment,
26340 after premiums have been paid for at least 1 full year in the
26341 case of ordinary insurance or 3 full years in the case of
26342 industrial insurance, the insurer will grant, upon proper
26343 request not later than 60 days after the due date of the premium
26344 in default, a paid-up nonforfeiture benefit on a plan stipulated
26345 in the policy, effective as of such due date, of such amount as
26346 may be hereinafter specified. In lieu of such stipulated paid-
26347 up nonforfeiture benefit, the company may substitute, upon
26348 proper request not later than 60 days after the due date of the
26349 premium in default, an actuarially equivalent alternative paid-
26350 up nonforfeiture benefit which provides a greater amount or
26351 longer period of death benefits or, if applicable, a greater
26352 amount or earlier payment of endowment benefits. With respect
26353 to all policy forms filed on or after October 1, 1990, the
26354 policy forms shall include, but not be limited to, a reduced
26355 paid-up nonforfeiture benefit. For the purposes of this
26356 subsection, the term "reduced paid-up nonforfeiture benefit"
26357 means a benefit whereby the policy may be continued at the
26358 option of the insured as reduced paid-up life insurance, the
26359 amount of which shall be as much as the surrender value of the
26360 policy will provide on the date of default, calculated using the
26361 surrender value of the policy as a net single premium on the due
26362 date of the first unpaid premium at the then-current age of the
26363 insured.

26364 (b) That upon surrender of the policy within 60 days after
26365 the due date of any premium payment in default after premiums
26366 have been paid for at least 3 full years in the case of ordinary
26367 insurance or 5 full years in the case of industrial insurance,
26368 the insurer will pay, in lieu of any paid-up nonforfeiture



HB 1803

2003

26369 benefit, a cash surrender value of such amount as may be
26370 hereinafter specified.

26371 (c) That a specified paid-up nonforfeiture benefit shall
26372 become effective as specified in the policy unless the person
26373 entitled to make such election elects another available option
26374 not later than 60 days after the due date of the premium in
26375 default.

26376 (d) That if the policy becomes paid up by completion of
26377 all premium payments, or if it is continued under any paid-up
26378 nonforfeiture benefit which became effective on or after the
26379 third policy anniversary in the case of ordinary insurance or
26380 the fifth policy anniversary in the case of industrial
26381 insurance, the insurer will pay, upon surrender of the policy
26382 within 30 days after any policy anniversary, a cash surrender
26383 value of such amount as may be hereinafter specified.

26384 (e) In the case of a policy which causes on a basis
26385 guaranteed in the policy unscheduled changes in benefits or
26386 premiums, or which provides an option for changes in benefits or
26387 premiums other than a change to a new policy, a statement of the
26388 mortality table, interest rate, and method used in calculating
26389 cash surrender values and the paid-up nonforfeiture benefits
26390 available under the policy. In the case of any other policy, a
26391 statement of the mortality table and interest rate used in
26392 calculating the cash surrender values and the paid-up
26393 nonforfeiture benefits available under the policy, together with
26394 a table showing the cash surrender value, if any, and paid-up
26395 nonforfeiture benefit, if any, available under the policy on
26396 each policy anniversary, either during the first 20 policy years
26397 or during the term of the policy, whichever is shorter, such
26398 values and benefits to be calculated upon the assumption that



HB 1803

2003

26399 | there are no dividends or paid-up additions credited to the
 26400 | policy and that there is no indebtedness to the insurer on the
 26401 | policy.

26402 | (f) A statement that the cash surrender values and the
 26403 | paid-up nonforfeiture benefits available under the policy are
 26404 | not less than the minimum values and benefits required by or
 26405 | pursuant to the insurance law of this state; an explanation of
 26406 | the manner in which the cash surrender values and the paid-up
 26407 | nonforfeiture benefits are altered by the existence of any paid-
 26408 | up additions credited to the policy or any indebtedness to the
 26409 | insurer on the policy; if a detailed statement of the method of
 26410 | computation of the values and benefits shown in the policy is
 26411 | not stated therein, a statement that such method of computation
 26412 | has been filed with the insurance supervisory official of the
 26413 | state in which the policy is delivered; and a statement of the
 26414 | method to be used in calculating the cash surrender value and
 26415 | paid-up nonforfeiture benefit available under the policy on any
 26416 | policy anniversary beyond the last anniversary for which such
 26417 | values and benefits are consecutively shown in the policy.

26418 | (8) MORTALITY TABLES; INTEREST.--This subsection shall not
 26419 | apply to policies issued on or after the operative date of
 26420 | subsection (9), as defined therein. All adjusted premiums and
 26421 | present values referred to in this section shall for all
 26422 | policies of ordinary insurance be calculated on the basis of the
 26423 | Commissioners' 1958 Standard Ordinary Mortality Table, except
 26424 | that, for any category of such policies issued on female risks,
 26425 | adjusted premiums and present values may be calculated according
 26426 | to an age not more than 6 years younger than the actual age of
 26427 | the insured. Such calculations for all policies of industrial
 26428 | insurance shall be made on the basis of the following tables:



HB 1803

2003

26429 (a) For policies issued on and after the operative date of
 26430 this section but before January 1, 1968, the 1941 Standard
 26431 Industrial Mortality Table, unless the Commissioners' 1961
 26432 Standard Industrial Mortality Table is applicable according to
 26433 subsection (14);

26434 (b) For policies issued on and after January 1, 1968, the
 26435 Commissioners' 1961 Standard Industrial Mortality Table.
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26437 All calculations shall be made on the basis of the rate of
 26438 interest specified in the policy for calculating cash surrender
 26439 values and paid-up nonforfeiture benefits; however, such rate of
 26440 interest shall not exceed 3.5 percent per year, except that a
 26441 rate of interest not exceeding 4 percent per year may be used
 26442 for policies issued on or after July 1, 1973, and prior to
 26443 October 1, 1979, and a rate of interest not exceeding 4.5
 26444 percent per year may be used for policies issued on or after
 26445 October 1, 1979, and a rate of interest not exceeding 5.5
 26446 percent per year may be used for policies issued on or after
 26447 October 1, 1980. In calculating the present value of any paid-
 26448 up term insurance with accompanying pure endowment, if any,
 26449 offered as a nonforfeiture benefit, the rates of mortality
 26450 assumed may be not more than those shown in the Commissioners'
 26451 1958 Extended Term Insurance Table, for ordinary policies. In
 26452 the case of industrial policies:

26453 (c) For policies issued on and after the operative date of
 26454 this section but before January 1, 1968, not more than 130
 26455 percent of the rates of mortality according to the 1941 Standard
 26456 Industrial Mortality Table, unless the Commissioners' 1961
 26457 Industrial Extended Term Insurance Table is applicable according
 26458 to subsection (14), in which case not more than those of the



HB 1803

2003

26459 latter table;

26460 (d) For policies issued on and after January 1, 1968, not
 26461 more than those of the Commissioners' 1961 Industrial Extended
 26462 Term Insurance Table.

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26465 For insurance issued on a substandard basis, the calculation of
 26466 any such adjusted premiums and present values may be based on
 26467 such other table of mortality as may be specified by the insurer
 26468 and approved by the office ~~department~~.

26469 (9) CALCULATION OF ADJUSTED PREMIUMS AND PRESENT VALUES
 26470 FOR POLICIES ISSUED AFTER OPERATIVE DATE OF THIS SUBSECTION.--

26471 (h) All adjusted premiums and present values referred to
 26472 in this section shall for all policies of ordinary insurance be
 26473 calculated on the basis of the Commissioners' 1980 Standard
 26474 Ordinary Mortality Table or, at the election of the insurer for
 26475 any one or more specified plans of life insurance, the
 26476 Commissioners' 1980 Standard Ordinary Mortality Table with Ten-
 26477 Year Select Mortality Factors; shall for all policies of
 26478 industrial insurance be calculated on the basis of the
 26479 Commissioners' 1961 Standard Industrial Mortality Table; and
 26480 shall for all policies issued in a particular calendar year be
 26481 calculated on the basis of a rate of interest not exceeding the
 26482 nonforfeiture interest rate as defined in this subsection for
 26483 policies issued in that calendar year. However:

26484 1. At the option of the insurer, calculations for all
 26485 policies issued in a particular calendar year may be made on the
 26486 basis of a rate of interest not exceeding the nonforfeiture
 26487 interest rate, as defined in this subsection, for policies
 26488 issued in the immediately preceding calendar year.



HB 1803

2003

26489 2. Under any paid-up nonforfeiture benefit, including any
 26490 paid-up dividend additions, any cash surrender value available,
 26491 whether or not required by subsection (2), shall be calculated
 26492 on the basis of the mortality table and rate of interest used in
 26493 determining the amount of such paid-up nonforfeiture benefit and
 26494 paid-up dividend additions, if any.

26495 3. An insurer may calculate the amount of any guaranteed
 26496 paid-up nonforfeiture benefit, including any paid-up additions
 26497 under the policy, on the basis of an interest rate no lower than
 26498 that specified in the policy for calculating cash surrender
 26499 values.

26500 4. In calculating the present value of any paid-up term
 26501 insurance with accompanying pure endowment, if any, offered as a
 26502 nonforfeiture benefit, the rates of mortality assumed may be not
 26503 more than those shown in the Commissioners' 1980 Extended Term
 26504 Insurance Table for policies of ordinary insurance and not more
 26505 than the Commissioners' 1961 Industrial Extended Term Insurance
 26506 Table for policies of industrial insurance.

26507 5. In lieu of the mortality tables specified in this
 26508 section, at the option of the insurance company and subject to
 26509 rules adopted by the commission ~~department~~, the insurance
 26510 company may substitute:

26511 a. The 1958 CSO or CET Smoker and Nonsmoker Mortality
 26512 Tables, whichever is applicable, for policies issued on or after
 26513 the operative date of this subsection and before January 1,
 26514 1989;

26515 b. The 1980 CSO or CET Smoker and Nonsmoker Mortality
 26516 Tables, whichever is applicable, for policies issued on or after
 26517 the operative date of this subsection;

26518 c. A mortality table that is a blend of the sex-distinct



HB 1803

2003

26519 1980 CSO or CET mortality table standard, whichever is
26520 applicable, or a mortality table that is a blend of the sex-
26521 distinct 1980 CSO or CET smoker and nonsmoker mortality table
26522 standards, whichever is applicable, for policies that are
26523 subject to the United States Supreme Court decision in Arizona
26524 Governing Committee v. Norris to prevent unfair discrimination
26525 in employment situations.

26526 6. For insurance issued on a substandard basis, the
26527 calculation of any such adjusted premiums and present values may
26528 be based on appropriate modifications of the aforementioned
26529 tables.

26530 (k) After October 1, 1981, any insurer may file with the
26531 office ~~department~~ a written notice of its election to comply
26532 with the provisions of this subsection after a specified date
26533 before January 1, 1989, which shall be the operative date of
26534 this subsection for that insurer. If an insurer makes no such
26535 election, the operative date of this subsection for the insurer
26536 shall be January 1, 1989.

26537 (10) INDETERMINATE PREMIUMS OR MINIMUM VALUES.--In the
26538 case of any plan of life insurance which provides for future
26539 premium determination, the amounts of which are to be determined
26540 by the insurer based on then estimates of future experience, or
26541 in the case of any plan of life insurance which is of such a
26542 nature that minimum values cannot be determined by the methods
26543 described in subsections (2)-(9):

26544 (a) The office ~~department~~ must be satisfied that the
26545 benefits provided under the plan are substantially as favorable
26546 to policyholders and insureds as the minimum benefits otherwise
26547 required by subsections (2)-(9);

26548 (b) The office ~~department~~ must be satisfied that the



HB 1803

2003

26549 benefits and the pattern of premiums of that plan are not such
26550 as to mislead prospective policyholders or insureds; and

26551 (c) The cash surrender values and paid-up nonforfeiture
26552 benefits provided by such plan must not be less than the minimum
26553 values and benefits required for the plan computed by a method
26554 consistent with the principles of this Standard Nonforfeiture
26555 Law for Life Insurance, as determined by rules promulgated by
26556 the commission ~~department~~.

26557 (14) OPERATIVE DATE.--After the effective date of this
26558 code, any insurer may file with the office ~~department~~ a written
26559 notice or notices of its election to comply with the provisions
26560 of this section on and after a specified date or dates before
26561 January 1, 1966, as to either or both of its policies of
26562 ordinary and industrial insurance, in which case such specified
26563 date or dates shall be the operative date of this section with
26564 respect to such policies. The operative date of this section
26565 for policies of both ordinary and industrial insurance shall be
26566 the earlier of January 1, 1966, and any prior operative date or
26567 dates resulting from such previously filed written notices.
26568 With respect to policies of industrial insurance issued on and
26569 after the operative date of this section for such policies but
26570 before January 1, 1968, any insurer may file with the office
26571 ~~department~~ written notice of its election to have the
26572 Commissioners' 1961 Standard Industrial Mortality Table and the
26573 Commissioners' 1961 Industrial Extended Term Insurance Table
26574 applicable with respect to subsection (8) for policies issued on
26575 and after the date specified in such election.

26576 Section 876. Subsections (2) and (3) of section 627.479,
26577 Florida Statutes, are amended to read:

26578 627.479 Prohibited policy plans.--



HB 1803

2003

26579 (2) No insurer shall issue policies containing annual
 26580 endowments or other specialty-type policies such as founder's
 26581 policies or coupon-bearing policies. The commission ~~department~~
 26582 shall, by rule, define such prohibited policies.

26583 (3) The office ~~department~~ shall revoke the certificate of
 26584 authority of any insurer which violates this section.

26585 Section 877. Section 627.480, Florida Statutes, is amended
 26586 to read:

26587 627.480 Cash payments of single-premium life policies.--
 26588 Premiums for single-premium life insurance policies shall be
 26589 paid in cash. This section is not applicable to the use of
 26590 dividends to purchase paid-up additional insurance or to such
 26591 other usual and customary methods of paying for life insurance
 26592 as may be permitted by rule of the commission ~~department~~.

26593 Section 878. Paragraph (a) of subsection (2) and
 26594 subsections (4), (6), and (11) of section 627.481, Florida
 26595 Statutes, are amended to read:

26596 627.481 Requirements for certain annuity agreements.--

26597 (2)(a) Every such domestic corporation or such domestic or
 26598 foreign trust shall have and maintain admitted assets at least
 26599 equal to the sum of the reserves on its outstanding annuity
 26600 agreements, and a surplus of 10 percent of such reserves,
 26601 calculated using:

26602 1.a. The present value of future guaranteed benefits for
 26603 individual annuities that have either commenced paying benefits
 26604 or have fixed a future date of the first benefit payment.

26605 b. The commissioner's annuity reserve method, as set forth
 26606 in s. 625.121(7)(c), for individual deferred annuities that have
 26607 not fixed a date for the first benefit payment.

26608 2. The mortality tables used to value individual



HB 1803

2003

26609 annuities, as defined in s. 625.121(5).

26610 a. For annuities issued prior to July 1, 1998:

26611 (I) The mortality tables described in s. 625.121(5)(h),
 26612 for individual annuities;

26613 (II) At the option of the corporation or trust, the 1983
 26614 Individual Annuity Mortality Table; or

26615 (III) At the option of the corporation or trust, the 2000
 26616 Individual Annuity Mortality Table for annuities issued between
 26617 January 1, 1998, and June 30, 1998, inclusive.

26618 b. For annuities issued on or after July 1, 1998:

26619 (I) The mortality tables set forth in s. 625.121(5)(i)3.;

26620 (II) Any other mortality tables required to be used by
 26621 insurers in accordance with s. 625.121; or

26622 (III) At the option of the corporation or trust, any other
 26623 mortality tables authorized to be used by insurers in accordance
 26624 with s. 625.121.

26625 3. An interest rate not greater than the maximum interest
 26626 rate permitted for the valuation of individual annuities issued
 26627 during the same calendar year as the charitable gift annuity for
 26628 individual annuities as set forth in s. 625.121(6)(b)-(f).

26629 a. The maximum statutory valuation interest rates for
 26630 single-premium immediate annuities for 1992 may be used for
 26631 annuities issued in 1992 or any prior year. The maximum
 26632 statutory valuation interest rates for single-premium immediate
 26633 annuities issued in 1992 through 2001 are as follows:

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Year of Issue	Single Premium Immediate
	Annuity Interest Rate

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HB 1803

2003

1992	7.75 percent
1993	7.00 percent
1994	6.50 percent
1995	7.25 percent
1996	6.75 percent
1997	6.75 percent
1998	6.25 percent
1999	6.25 percent
2000	7.00 percent
2001	6.75 percent

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b. For 2002 and subsequent years, until an interest rate for a specified year can be determined in accordance with s. 625.121(6), the prior year's rate shall be used unless the office ~~department~~ requires use of a lower rate.

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(4) Any corporation or trust that engages in the business of issuing these annuity agreements shall notify the office ~~department~~ in writing by the later of 90 days after the effective date of this act or the date on which it enters into the first of these annuity agreements. The notice must:

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(a) Be signed by two or more officers or directors of the organization;

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(b) Identify the organization; and

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(c) Certify that the organization meets the requirements of this section.

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(6) If the office ~~department~~ finds that any such corporation or trust has failed to comply with the requirements of this section, it may order such corporation or trust to cease making any new annuity agreements until such requirements have

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HB 1803

2003

26656 been satisfied. The office ~~department~~ may, in its discretion,
 26657 require annual statements by such corporation or trust and may
 26658 accept in lieu thereof a sworn statement by two or more of the
 26659 principal officers thereof, in such form as will satisfy the
 26660 office ~~department~~ that the requirements of this section are
 26661 being complied with.

26662 (11) The commission ~~department~~ shall adopt rules and forms
 26663 for the filing of annual statements and agreements pertaining to
 26664 donor annuity organizations.

26665 Section 879. Subsection (2) of section 627.482, Florida
 26666 Statutes, is amended to read:

26667 627.482 Interest payable on cash surrender of policy.--

26668 (2) An insurer shall be exempt from the requirements of
 26669 this section if, upon petition by the insurer to the office
 26670 ~~department~~, it is determined by the office ~~department~~ that
 26671 payment of such interest threatens the solvency of the insurer.

26672 Section 880. Subsection (2) of section 627.502, Florida
 26673 Statutes, is amended to read:

26674 627.502 "Industrial life insurance" defined; reporting.--

26675 (2) Every life insurer transacting industrial life
 26676 insurance shall report to the office ~~department~~ all annual
 26677 statement data regarding the exhibit of life insurance,
 26678 including relevant information for industrial life insurance.

26679 Section 881. Subsection (1) of section 627.503, Florida
 26680 Statutes, is amended to read:

26681 627.503 Required provisions.--

26682 (1) No policy of industrial life insurance shall be
 26683 delivered or issued for delivery in this state unless it
 26684 contains in substance each of the provisions as required in s.
 26685 627.476 and ss. 627.504-627.521, or provisions which in the



HB 1803

2003

26686 opinion of the office ~~department~~ are more favorable to the
26687 policyholder.

26688 Section 882. Subsection (2) of section 627.510, Florida
26689 Statutes, is amended to read:

26690 627.510 Settlement on proof of death.--

26691 (2) Insurers transacting industrial life insurance
26692 business in the state who require a claim form to be filed by a
26693 claimant for settlement of a policy shall allow the claimant to
26694 file the claim using the uniform life insurance claim form
26695 developed by the commission ~~department~~. The commission
26696 ~~department~~ shall establish by rule a uniform life insurance
26697 claim form to be used by claimants for settlement of any
26698 industrial life insurance policy issued by an insurer
26699 transacting life insurance business in this state.

26700 Section 883. Subsections (4) and (5) of section 627.5515,
26701 Florida Statutes, are amended to read:

26702 627.5515 Out-of-state groups.--

26703 (4) Prior to solicitation in this state, a copy of the
26704 master policy and a copy of the form of the certificate
26705 evidencing coverage that will be issued to residents of this
26706 state shall be filed with the office ~~department~~ for
26707 informational purposes.

26708 (5) Prior to solicitation in this state, an officer of the
26709 insurer shall truthfully certify to the office ~~department~~ that
26710 the policy and certificates evidencing coverage have been
26711 reviewed and approved by the state in which the group policy is
26712 issued.

26713 Section 884. Subsection (2) of section 627.5565, Florida
26714 Statutes, is amended to read:

26715 627.5565 Additional groups.--



HB 1803

2003

26716 (2) An insurer shall inform the office ~~department~~ of the
 26717 effectuation of any coverage under this section within 30 days
 26718 after effectuation of coverage. The insurer is responsible for
 26719 establishing that the criteria of subsection (1) have been
 26720 satisfied.

26721 Section 885. Section 627.558, Florida Statutes, is amended
 26722 to read:

26723 627.558 Provisions required in group contracts.--No policy
 26724 of group life insurance shall be delivered in this state unless
 26725 it contains in substance the provisions set forth in ss.
 26726 627.559-627.568 or provisions which in the opinion of the office
 26727 ~~department~~ are more favorable to the persons insured, or at
 26728 least as favorable to the persons insured and more favorable to
 26729 the policyholder; except that:

26730 (1) Sections 627.564-627.568 inclusive do not apply to
 26731 policies issued to a creditor to insure debtors of such
 26732 creditor;

26733 (2) The standard provisions required for individual life
 26734 insurance policies do not apply to group life insurance
 26735 policies; and

26736 (3) If the group life insurance policy is on a plan of
 26737 insurance other than the term plan, it shall contain a
 26738 nonforfeiture provision or provisions which in the opinion of
 26739 the office ~~department~~ is or are equitable to the insured persons
 26740 and to the policyholder, but nothing in this section shall be
 26741 construed to require that group life insurance policies contain
 26742 the same nonforfeiture provisions as are required for individual
 26743 life insurance policies.

26744 Section 886. Paragraph (g) of subsection (1) and
 26745 subsection (2) of section 627.602, Florida Statutes, are amended



HB 1803

2003

26746 to read:

26747 627.602 Scope, format of policy.--

26748 (1) Each health insurance policy delivered or issued for
26749 delivery to any person in this state must comply with all
26750 applicable provisions of this code and all of the following
26751 requirements:

26752 (g) The policy may not contain any provision purporting to
26753 make any portion of the charter, rules, constitution, or bylaws
26754 of the insurer a part of the policy unless the portion is set
26755 forth in full in the policy, except in the case of the
26756 incorporation of, or reference to, a statement of rates,
26757 statement of classification of risks, or short-rate table filed
26758 with the office ~~department~~.

26759 (2) The office ~~department~~ may require any health insurance
26760 policy or certificate containing a provision commonly known as a
26761 "deductible provision" to have printed or stamped on such policy
26762 or certificate: "This policy or certificate contains a
26763 deductible provision."; or appropriate words of similar import
26764 approved by the office ~~department~~. The statement shall appear on
26765 the first page of the policy or certificate in at least 18-point
26766 type and may be printed or stamped either as an overprint or by
26767 means of a rubber stamp impression.

26768 Section 887. Section 627.604, Florida Statutes, is amended
26769 to read:

26770 627.604 Nonresident insured.--If any health insurance
26771 policy is issued by an insurer domiciled in this state for
26772 delivery to a person residing in another state, and if the
26773 official having responsibility for the administration of the
26774 insurance laws of such other state has advised the office
26775 ~~department~~ that any such policy is not subject to approval or



HB 1803

2003

26776 disapproval by such official, the commission ~~department~~ may by
 26777 rule require that such policy meet the standards set forth in
 26778 this part.

26779 Section 888. Section 627.605, Florida Statutes, is amended
 26780 to read:

26781 627.605 Required provisions; captions, omissions,
 26782 substitutions.--

26783 (1) Except as provided in subsection (2), each such policy
 26784 delivered or issued for delivery to any person in this state
 26785 shall contain the provisions specified in ss. 627.606-627.617,
 26786 inclusive, in the words in which the same appear; except that
 26787 the insurer may, at its option, substitute for one or more of
 26788 such provisions corresponding provisions of different wording
 26789 approved by the office ~~department~~ which are in each instance not
 26790 less favorable in any respect to the insured or the beneficiary.

26791 Each such provision shall be preceded individually by the
 26792 applicable caption shown or, at the option of the insurer, by
 26793 such appropriate individual or group captions or subcaptions as
 26794 the office ~~department~~ may approve.

26795 (2) If any such provision is in whole or in part
 26796 inapplicable to or inconsistent with the coverage provided by a
 26797 particular form of policy, the insurer, with the approval of the
 26798 office ~~department~~, shall omit from such policy any inapplicable
 26799 provision or part of a provision and shall modify any
 26800 inconsistent provision or part of a provision in such manner as
 26801 to make the provision as contained in the policy consistent with
 26802 the coverage provided by the policy.

26803 Section 889. Subsection (14) of section 627.6131, Florida
 26804 Statutes, is amended to read:

26805 627.6131 Payment of claims.--



HB 1803

2003

26806 (14) A permissible error ratio of 5 percent is established
26807 for insurer's claims payment violations of paragraphs (4)(a),
26808 (b), (c), and (e) and (5)(a),(b), (c), and (e). If the error
26809 ratio of a particular insurer does not exceed the permissible
26810 error ratio of 5 percent for an audit period, no fine shall be
26811 assessed for the noted claims violations for the audit period.
26812 The error ratio shall be determined by dividing the number of
26813 claims with violations found on a statistically valid sample of
26814 claims for the audit period by the total number of claims in the
26815 sample. If the error ratio exceeds the permissible error ratio
26816 of 5 percent, a fine may be assessed according to s. 624.4211
26817 for those claims payment violations which exceed the error
26818 ratio. Notwithstanding the provisions of this section, the
26819 office ~~department~~ may fine a health insurer for claims payment
26820 violations of paragraphs (4)(e) and (5)(e) which create an
26821 uncontestable obligation to pay the claim. The office
26822 ~~department~~ shall not fine insurers for violations which the
26823 office ~~department~~ determines were due to circumstances beyond
26824 the insurer's control.

26825 Section 890. Section 627.618, Florida Statutes, is amended
26826 to read:

26827 627.618 Optional policy provisions.--Except as provided in
26828 s. 627.605(2), no health insurance policy delivered or issued
26829 for delivery to any person in this state shall contain any
26830 provision respecting the matters set forth in ss. 627.619-
26831 627.629, inclusive, unless such provision is in the words in
26832 which the same appears in the applicable section, except that
26833 the insurer may, at its option, use in lieu of any such
26834 provision a corresponding provision of different wording
26835 approved by the office ~~department~~ which is not less favorable in



HB 1803

2003

26836 any respect to the insured or the beneficiary. Any such
 26837 provision contained in the policy shall be preceded individually
 26838 by the appropriate caption or, at the option of the insurer, by
 26839 such appropriate individual or group captions or subcaptions as
 26840 the office ~~department~~ may approve.

26841 Section 891. Subsection (2) of section 627.622, Florida
 26842 Statutes, is amended to read:

26843 627.622 Insurance with other insurers.--

26844 (2) If the foregoing policy provision is included in a
 26845 policy which also contains the policy provision set out in s.
 26846 627.623, there shall be added to the caption of the foregoing
 26847 provision the phrase: "--Expense-incurred Benefits." The
 26848 insurer may, at its option, include in this provision a
 26849 definition of "other valid coverage," approved as to form by the
 26850 office ~~department~~, which definition shall be limited to coverage
 26851 provided by organizations subject to regulation by the insurance
 26852 law of any jurisdiction. In the absence of such definition,
 26853 such term does not include group insurance, automobile medical
 26854 payments insurance, or coverage provided by health care services
 26855 plans or by union welfare plans or employer or employee benefit
 26856 organizations. Any benefit provided for an insured pursuant to
 26857 any compulsory benefit statute shall in all cases be deemed to
 26858 be "other valid coverage" of which the insurer has had notice.
 26859 In applying the foregoing policy provision, no third-party
 26860 liability coverage shall be included as "other valid coverage."

26861 Section 892. Subsection (2) of section 627.623, Florida
 26862 Statutes, is amended to read:

26863 627.623 Insurance with other insurers; other benefits.--

26864 (2) If the foregoing policy provision is included in a
 26865 policy which also contains the policy provision set out in s.



HB 1803

2003

26866 627.622, there shall be added to the caption of the foregoing
26867 provision the phrase: "--Other Benefits." The insurer may, at
26868 its option, include in this provision a definition of "other
26869 valid coverage," approved as to form by the office ~~department~~,
26870 which definition shall be limited to coverage provided by
26871 organizations subject to regulation by the insurance law of any
26872 jurisdiction. In the absence of such definition, such term does
26873 not include group insurance, or benefits provided by union
26874 welfare plans or by employer or employee benefit organizations.
26875 Any benefit provided for an insured pursuant to any compulsory
26876 benefit statute shall in all cases be deemed to be "other valid
26877 coverage" of which the insurer has had notice. In applying the
26878 foregoing policy provision, no third-party liability coverage
26879 shall be included as "other valid coverage."

26880 Section 893. Subsection (2) of section 627.624, Florida
26881 Statutes, is amended to read:

26882 627.624 Relation of earnings to insurance.--

26883 (2) The foregoing policy provision may be inserted only in
26884 a policy which the insured has the right to continue in force
26885 subject to its terms by the timely payment of premiums until at
26886 least age 50 or, in the case of a policy issued after age 44,
26887 for at least 5 years from its date of issue. The insurer may, at
26888 its option, include in this provision a definition of "valid
26889 loss-of-time coverage," approved as to form by the office
26890 ~~department~~, which definition shall be limited to coverage
26891 provided by governmental agencies or by organizations subject to
26892 regulation by insurance law, or any combination of such
26893 coverages. In the absence of such definition, such term does
26894 not include any coverage provided for such insured pursuant to
26895 any compulsory benefit statute or benefits provided by union



HB 1803

2003

26896 | welfare plans or by employer or employee benefit organizations.

26897 | Section 894. Subsection (2) of section 627.635, Florida
 26898 | Statutes, is amended to read:

26899 | 627.635 Excess insurance.--

26900 | (2) Any excess insurance policy, or any policy containing
 26901 | any excess insurance provision, shall have imprinted or stamped
 26902 | conspicuously upon the face thereof the designation "excess
 26903 | insurance" or appropriate words of similar import approved by
 26904 | the office ~~department~~.

26905 | Section 895. Section 627.640, Florida Statutes, is amended
 26906 | to read:

26907 | 627.640 Filing of classifications and rates.--An insurer
 26908 | shall not deliver or issue for delivery in this state any health
 26909 | insurance policy until it has filed with the office ~~department~~ a
 26910 | copy of any applicable classification of risks and premium
 26911 | rates.

26912 | Section 896. Paragraph (b) of subsection (3) of section
 26913 | 627.6425, Florida Statutes, is amended to read:

26914 | 627.6425 Renewability of individual coverage.--

26915 | (3)

26916 | (b)1. Subject to subparagraph (a)3., in any case in which
 26917 | an insurer elects to discontinue offering all health insurance
 26918 | coverage in the individual market in this state, health
 26919 | insurance coverage may be discontinued by the insurer only if:

26920 | a. The insurer provides notice to the office ~~department~~
 26921 | and to each individual of such discontinuation at least 180 days
 26922 | prior to the date of the nonrenewal of such coverage; and

26923 | b. All health insurance issued or delivered for issuance
 26924 | in the state in the individual market is discontinued and
 26925 | coverage under such health insurance coverage in such market is



HB 1803

2003

26926 not renewed.

26927 2. In the case of a discontinuation under subparagraph 1.
26928 in the individual market, the insurer may not provide for the
26929 issuance of any individual health insurance coverage in this
26930 state during the 5-year period beginning on the date of the
26931 discontinuation of the last health insurance coverage not so
26932 renewed.

26933 Section 897. Section 627.643, Florida Statutes, is amended
26934 to read:

26935 627.643 Uniform minimum standards.--

26936 (1) The commission ~~department~~ shall adopt rules which
26937 establish minimum standards for the general content of forms of
26938 individual and family health insurance policies. The rules must
26939 include terms of renewability, initial and subsequent conditions
26940 of eligibility, termination of insurance, probationary periods,
26941 exclusions, limitations, and reductions. The minimum standards
26942 are in addition to, and must comply with, the individual health
26943 insurance policy provisions provided in part II and in this
26944 part.

26945 (2) The commission ~~department~~ shall adopt rules which
26946 establish minimum standards of benefits and identification for
26947 each of the following categories of coverage in individual and
26948 family accident and health insurance policy forms, other than
26949 conversion policy forms:

- 26950 (a) Basic hospital expense insurance.
- 26951 (b) Basic medical expense insurance.
- 26952 (c) Basic surgical expense insurance.
- 26953 (d) Hospital confinement indemnity insurance.
- 26954 (e) Major medical expense insurance.
- 26955 (f) Disability income protection insurance.



HB 1803

2003

- 26956 (g) Accident-only insurance.
- 26957 (h) Limited benefit insurance.
- 26958 (i) Supplemental insurance.
- 26959 (j) Home health care coverage.
- 26960 (k) Nonconventional coverage.

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26962

26963 This subsection does not preclude the issuance of a policy
 26964 which combines two or more of the categories of coverage
 26965 enumerated in paragraphs (a)-(e). This subsection does not
 26966 preclude the issuance of a policy that does not meet the
 26967 prescribed minimum standards for categories of coverage in
 26968 paragraphs (a)-(g) if the office ~~department~~ determines that the
 26969 policy is either experimental in nature or is demonstrated to be
 26970 a type of coverage that fulfills a reasonable need of the person
 26971 or persons to be insured. Any policy not meeting the minimum
 26972 standards that is approved by the office ~~department~~ must be
 26973 identified as to category only as prescribed by the office
 26974 ~~department~~.

26975 (3) The office ~~department~~ may, within the time provided by
 26976 law for the disapproval of an individual or family form of
 26977 accident or health insurance, disapprove any form if it finds
 26978 that the form does not comply with applicable law or it finds
 26979 that the form is unjust, unfair, or inequitable to the
 26980 policyholder, any insured, or any beneficiary. In acting upon
 26981 any submission, the office ~~department~~ shall consider whether the
 26982 benefits afforded under the submitted policy or benefit form
 26983 fulfill a reasonable need of a policyholder.

26984 Section 898. Subsection (1) of section 627.647, Florida
 26985 Statutes, is amended to read:



HB 1803

2003

26986 627.647 Standard health claim form.--

26987 (1) The commission ~~department~~ shall prescribe a standard
 26988 health claim form to be used by all hospitals and a standard
 26989 health claim form to be used by all physicians, dentists, and
 26990 pharmacists. Such forms shall be in a format that allows for
 26991 the use of generally accepted coding systems by providers in
 26992 order to facilitate the processing of claims. Such forms shall
 26993 provide for the disclosure by the claimant of the name, policy
 26994 number, and address of every insurance policy which may cover
 26995 the claimant with respect to the submitted claim except those
 26996 policies specified in s. 627.4235(5). The required information
 26997 on diagnosis, dental procedures, medical procedures, services,
 26998 date of service, supplies, and fees may also be met by an
 26999 attachment to the appropriate physician claim form. However, for
 27000 the purpose of filing Medicaid claims, such attachments shall be
 27001 prohibited. Such standard health claim forms shall be accepted
 27002 by all insurers and all agencies, departments, and divisions of
 27003 the state.

27004 Section 899. Paragraph (c) of subsection (14) of section
 27005 627.6472, Florida Statutes, is amended to read:

27006 627.6472 Exclusive provider organizations.--

27007 (14)

27008 (c) The failure of the insurer to pay the assessment
 27009 within the time specified in s. 641.58 constitutes grounds for
 27010 suspension or revocation of the insurer's certificate of
 27011 authority by the office ~~Department of Insurance~~.

27012 Section 900. Paragraphs (a) and (b) of subsection (5),
 27013 subsection (6), paragraphs (b), (c), (e), and (g) of subsection
 27014 (7), and subsection (9) of section 627.6475, Florida Statutes,
 27015 are amended to read:



HB 1803

2003

27016 627.6475 Individual reinsurance pool.--

27017 (5) ISSUER'S ELECTION TO BECOME A RISK-ASSUMING CARRIER.--

27018 (a) Each health insurance issuer that offers individual
 27019 health insurance must elect to become a risk-assuming carrier or
 27020 a reinsuring carrier for purposes of this section. Each such
 27021 issuer must make an initial election, binding through December
 27022 31, 1999. The issuer's initial election must be made no later
 27023 than October 31, 1997. By October 31, 1997, all issuers must
 27024 file a final election, which is binding for 2 years, from
 27025 January 1, 1998, through December 31, 1999, after which an
 27026 election shall be binding for a period of 5 years. The office
 27027 ~~department~~ may permit an issuer to modify its election at any
 27028 time for good cause shown, after a hearing.

27029 (b) The office ~~department~~ shall establish an application
 27030 process for issuers seeking to change their status under this
 27031 subsection.

27032 (6) ELECTION PROCESS TO BECOME A RISK-ASSUMING CARRIER.--

27033 (a)1. A health insurance issuer that offers individual
 27034 health insurance may become a risk-assuming carrier by filing
 27035 with the office ~~department~~ a designation of election under this
 27036 subsection in a format and manner prescribed by the commission
 27037 ~~department~~. The office ~~department~~ shall approve the election of
 27038 a health insurance issuer to become a risk-assuming carrier if
 27039 the office ~~department~~ finds that the issuer is capable of
 27040 assuming that status pursuant to the criteria set forth in
 27041 paragraph (b).

27042 2. The office ~~department~~ must approve or disapprove any
 27043 designation as a risk-assuming carrier within 60 days after a
 27044 filing.

27045 (b) In determining whether to approve an application by an



HB 1803

2003

27046 issuer to become a risk-assuming carrier, the office ~~department~~
27047 shall consider:

27048 1. The issuer's financial ability to support the
27049 assumption of the risk of individuals.

27050 2. The issuer's history of rating and underwriting
27051 individuals.

27052 3. The issuer's commitment to market fairly to all
27053 individuals in the state or its service area, as applicable.

27054 4. The issuer's ability to assume and manage the risk of
27055 enrolling individuals without the protection of the reinsurance
27056 program provided in subsection (7).

27057 (c) The office ~~department~~ shall provide public notice of
27058 an issuer's designation of election under this subsection to
27059 become a risk-assuming carrier and shall provide at least a 21-
27060 day period for public comment prior to making a decision on the
27061 election. The office ~~department~~ shall hold a hearing on the
27062 election at the request of the issuer.

27063 (d) The office ~~department~~ may rescind the approval granted
27064 to a risk-assuming carrier under this subsection if the office
27065 ~~department~~ finds that the carrier no longer meets the criteria
27066 of paragraph (b).

27067 (7) INDIVIDUAL HEALTH REINSURANCE PROGRAM.--

27068 (b) A reinsuring carrier may reinsure with the program
27069 coverage of an eligible individual, subject to each of the
27070 following provisions:

27071 1. A reinsuring carrier may reinsure an eligible
27072 individual within 60 days after commencement of the coverage of
27073 the eligible individual.

27074 2. The program may not reimburse a participating carrier
27075 with respect to the claims of a reinsured eligible individual



HB 1803

2003

27076 until the carrier has paid incurred claims of at least \$5,000 in
 27077 a calendar year for benefits covered by the program. In
 27078 addition, the reinsuring carrier is responsible for 10 percent
 27079 of the next \$50,000 and 5 percent of the next \$100,000 of
 27080 incurred claims during a calendar year, and the program shall
 27081 reinsure the remainder.

27082 3. The board shall annually adjust the initial level of
 27083 claims and the maximum limit to be retained by the carrier to
 27084 reflect increases in costs and utilization within the standard
 27085 market for health benefit plans within the state. The adjustment
 27086 may not be less than the annual change in the medical component
 27087 of the "Commerce Price Index for All Urban Consumers" of the
 27088 Bureau of Labor Statistics of the United States Department of
 27089 Labor, unless the board proposes and the office ~~department~~
 27090 approves a lower adjustment factor.

27091 4. A reinsuring carrier may terminate reinsurance for all
 27092 reinsured eligible individuals on any plan anniversary.

27093 5. The premium rate charged for reinsurance by the program
 27094 to a health maintenance organization that is approved by the
 27095 Secretary of Health and Human Services as a federally qualified
 27096 health maintenance organization pursuant to 42 U.S.C. s.
 27097 300e(c)(2)(A) and that, as such, is subject to requirements that
 27098 limit the amount of risk that may be ceded to the program, which
 27099 requirements are more restrictive than subparagraph 2., shall be
 27100 reduced by an amount equal to that portion of the risk, if any,
 27101 which exceeds the amount set forth in subparagraph 2., which may
 27102 not be ceded to the program.

27103 6. The board may consider adjustments to the premium rates
 27104 charged for reinsurance by the program or carriers that use
 27105 effective cost-containment measures, including high-cost case



HB 1803

2003

27106 management, as defined by the board.

27107 7. A reinsuring carrier shall apply its case-management
27108 and claims-handling techniques, including, but not limited to,
27109 utilization review, individual case management, preferred
27110 provider provisions, other managed-care provisions, or methods
27111 of operation consistently with both reinsured business and
27112 nonreinsured business.

27113 (c)1. The board, as part of the plan of operation, shall
27114 establish a methodology for determining premium rates to be
27115 charged by the program for reinsuring eligible individuals
27116 pursuant to this section. The methodology must include a system
27117 for classifying individuals which reflects the types of case
27118 characteristics commonly used by carriers in this state. The
27119 methodology must provide for the development of basic
27120 reinsurance premium rates, which shall be multiplied by the
27121 factors set for them in this paragraph to determine the premium
27122 rates for the program. The basic reinsurance premium rates shall
27123 be established by the board, subject to the approval of the
27124 office department, and shall be set at levels that reasonably
27125 approximate gross premiums charged to eligible individuals for
27126 individual health insurance by health insurance issuers. The
27127 premium rates set by the board may vary by geographical area, as
27128 determined under this section, to reflect differences in cost.
27129 An eligible individual may be reinsured for a rate that is five
27130 times the rate established by the board.

27131 2. The board shall periodically review the methodology
27132 established, including the system of classification and any
27133 rating factors, to ensure that it reasonably reflects the claims
27134 experience of the program. The board may propose changes to the
27135 rates that are subject to the approval of the office department.



HB 1803

2003

27136 (e)1. Before March 1 of each calendar year, the board
 27137 shall determine and report to the office ~~department~~ the program
 27138 net loss in the individual account for the previous year,
 27139 including administrative expenses for that year and the incurred
 27140 losses for that year, taking into account investment income and
 27141 other appropriate gains and losses.

27142 2. Any net loss in the individual account for the year
 27143 shall be recouped by assessing the carriers as follows:

27144 a. The operating losses of the program shall be assessed
 27145 in the following order subject to the specified limitations. The
 27146 first tier of assessments shall be made against reinsuring
 27147 carriers in an amount that may not exceed 5 percent of each
 27148 reinsuring carrier's premiums for individual health insurance.
 27149 If such assessments have been collected and additional moneys
 27150 are needed, the board shall make a second tier of assessments in
 27151 an amount that may not exceed 0.5 percent of each carrier's
 27152 health benefit plan premiums.

27153 b. Except as provided in paragraph (f), risk-assuming
 27154 carriers are exempt from all assessments authorized pursuant to
 27155 this section. The amount paid by a reinsuring carrier for the
 27156 first tier of assessments shall be credited against any
 27157 additional assessments made.

27158 c. The board shall equitably assess reinsuring carriers
 27159 for operating losses of the individual account based on market
 27160 share. The board shall annually assess each carrier a portion of
 27161 the operating losses of the individual account. The first tier
 27162 of assessments shall be determined by multiplying the operating
 27163 losses by a fraction, the numerator of which equals the
 27164 reinsuring carrier's earned premium pertaining to direct
 27165 writings of individual health insurance in the state during the



HB 1803

2003

27166 calendar year for which the assessment is levied, and the
27167 denominator of which equals the total of all such premiums
27168 earned by reinsuring carriers in the state during that calendar
27169 year. The second tier of assessments shall be based on the
27170 premiums that all carriers, except risk-assuming carriers,
27171 earned on all health benefit plans written in this state. The
27172 board may levy interim assessments against reinsuring carriers
27173 to ensure the financial ability of the plan to cover claims
27174 expenses and administrative expenses paid or estimated to be
27175 paid in the operation of the plan for the calendar year prior to
27176 the association's anticipated receipt of annual assessments for
27177 that calendar year. Any interim assessment is due and payable
27178 within 30 days after receipt by a carrier of the interim
27179 assessment notice. Interim assessment payments shall be credited
27180 against the carrier's annual assessment. Health benefit plan
27181 premiums and benefits paid by a carrier that are less than an
27182 amount determined by the board to justify the cost of collection
27183 may not be considered for purposes of determining assessments.

27184 d. Subject to the approval of the office ~~department~~, the
27185 board shall adjust the assessment formula for reinsuring
27186 carriers that are approved as federally qualified health
27187 maintenance organizations by the Secretary of Health and Human
27188 Services pursuant to 42 U.S.C. s. 300e(c)(2)(A) to the extent,
27189 if any, that restrictions are placed on them which are not
27190 imposed on other carriers.

27191 3. Before March 1 of each year, the board shall determine
27192 and file with the office ~~department~~ an estimate of the
27193 assessments needed to fund the losses incurred by the program in
27194 the individual account for the previous calendar year.

27195 4. If the board determines that the assessments needed to



HB 1803

2003

27196 fund the losses incurred by the program in the individual
 27197 account for the previous calendar year will exceed the amount
 27198 specified in subparagraph 2., the board shall evaluate the
 27199 operation of the program and report its findings and
 27200 recommendations to the office ~~department~~ in the format
 27201 established in s. 627.6699(11) for the comparable report for the
 27202 small employer reinsurance program.

27203 (g) Except as otherwise provided in this section, the
 27204 board and the office ~~department~~ shall have all powers, duties,
 27205 and responsibilities with respect to carriers that issue and
 27206 reinsure individual health insurance, as specified for the board
 27207 and the office ~~department~~ in s. 627.6699(11) with respect to
 27208 small employer carriers, including, but not limited to, the
 27209 provisions of s. 627.6699(11) relating to:

- 27210 1. Use of assessments that exceed the amount of actual
- 27211 losses and expenses.
- 27212 2. The annual determination of each carrier's proportion
- 27213 of the assessment.
- 27214 3. Interest for late payment of assessments.
- 27215 4. Authority for the office ~~department~~ to approve
- 27216 deferment of an assessment against a carrier.
- 27217 5. Limited immunity from legal actions or carriers.
- 27218 6. Development of standards for compensation to be paid to
- 27219 agents. Such standards shall be limited to those specifically
- 27220 enumerated in s. 627.6699(13)(d).

27221 7. Monitoring compliance by carriers with this section.

27222 (9) RULEMAKING AUTHORITY.--The commission ~~department~~ may
 27223 adopt rules to administer this section, including rules
 27224 governing compliance by carriers.

27225 Section 901. Subsections (11) and (12) of section



HB 1803

2003

27226 627.6482, Florida Statutes, are amended to read:

27227 627.6482 Definitions.--As used in ss. 627.648-627.6498,
27228 the term:

27229 (11) "Plan" means the comprehensive health insurance plan
27230 adopted by the association or by rule of the commission
27231 ~~Department of Insurance~~.

27232 (12) "Premium" means the entire cost of an insurance plan,
27233 including the administrative fee, the risk assumption charge,
27234 and, in the instance of a minimum premium plan or stop-loss
27235 coverage, the incurred claims whether or not such claims are
27236 paid directly by the insurer. "Premium" shall not include a
27237 health maintenance organization's annual earned premium revenue
27238 for Medicare and Medicaid contracts for any assessment due for
27239 calendar years 1990 and 1991. For assessments due for calendar
27240 year 1992 and subsequent years, a health maintenance
27241 organization's annual earned premium revenue for Medicare and
27242 Medicaid contracts is subject to assessments unless the office
27243 ~~department~~ determines that the health maintenance organization
27244 has made a reasonable effort to amend its Medicare or Medicaid
27245 government contract for 1992 and subsequent years to provide
27246 reimbursement for any assessment on Medicare or Medicaid
27247 premiums paid by the health maintenance organization and the
27248 contract does not provide for such reimbursement.

27249 Section 902. Subsections (1) and (2) of section 627.6484,
27250 Florida Statutes, are amended to read:

27251 627.6484 Termination of enrollment; availability of other
27252 coverage.--

27253 (1) The association shall accept applications for
27254 insurance only until June 30, 1991, after which date no further
27255 applications may be accepted. Upon receipt of an application for



HB 1803

2003

27256 insurance, the association shall issue coverage for an eligible
27257 applicant. When appropriate, the administrator shall forward a
27258 copy of the application to a market assistance plan created by
27259 the office ~~department~~, which shall conduct a diligent search of
27260 the private marketplace for a carrier willing to accept the
27261 application.

27262 (2) The office ~~department~~ shall, after consultation with
27263 the health insurers licensed in this state, adopt a market
27264 assistance plan to assist in the placement of risks of Florida
27265 Comprehensive Health Association applicants. All health insurers
27266 and health maintenance organizations licensed in this state
27267 shall participate in the plan.

27268 Section 903. Paragraph (b) of subsection (4), paragraph
27269 (a) of subsection (5), and subsection (6) of section 627.6487,
27270 Florida Statutes, are amended to read:

27271 627.6487 Guaranteed availability of individual health
27272 insurance coverage to eligible individuals.--

27273 (4)

27274 (b) The requirement of this subsection is met for health
27275 insurance coverage policy forms offered by an issuer in the
27276 individual market if the issuer offers the policy forms for
27277 individual health insurance coverage with the largest, and next
27278 to largest, premium volume of all such policy forms offered by
27279 the issuer in this state or applicable marketing or service
27280 area, as prescribed in rules adopted by the commission
27281 ~~department~~, in the individual market in the period involved. To
27282 the greatest extent possible, such rules must be consistent with
27283 regulations adopted by the United States Department of Health
27284 and Human Services.

27285 (5)(a) In the case of a health insurance issuer that



HB 1803

2003

27286 offers individual health insurance coverage through a network
27287 plan, the issuer may:

27288 1. Limit the individuals who may be enrolled under such
27289 coverage to those who live, reside, or work within the service
27290 area for such network plan; and

27291 2. Within the service area of such plan, deny such
27292 coverage to such individuals if the issuer has demonstrated to
27293 the office ~~department~~ that:

27294 a. It will not have the capacity to deliver services
27295 adequately to additional individual enrollees because of its
27296 obligations to existing group contract holders and enrollees and
27297 individual enrollees; and

27298 b. It is applying this paragraph uniformly to individuals
27299 without regard to any health-status-related factor of such
27300 individuals and without regard to whether the individuals are
27301 eligible individuals.

27302 (6)(a) A health insurance issuer may deny individual
27303 health insurance coverage to an eligible individual if the
27304 issuer has demonstrated to the office ~~department~~ that:

27305 1. It does not have the financial reserves necessary to
27306 underwrite additional coverage; and

27307 2. It is applying this paragraph uniformly to all
27308 individuals in the individual market in this state consistent
27309 with the laws of this state and without regard to any health-
27310 status-related factor of such individuals and without regard to
27311 whether the individuals are eligible individuals.

27312 (b) An issuer, upon denying individual health insurance
27313 coverage in any service area in accordance with paragraph (a),
27314 may not offer such coverage in the individual market within such
27315 service area for a period of 180 days after the date such



HB 1803

2003

27316 coverage is denied or until the issuer has demonstrated to the
 27317 office ~~department~~ that the issuer has sufficient financial
 27318 reserves to underwrite additional coverage, whichever occurs
 27319 later.

27320 Section 904. Paragraph (f) of subsection (3) of section
 27321 627.649, Florida Statutes, is amended to read:

27322 627.649 Administrator.--

27323 (3) The administrator shall:

27324 (f) Following the close of each calendar year, determine
 27325 net premiums, reinsurance premiums less administrative expense
 27326 allowance, the expense of administration pertaining to the
 27327 reinsurance operations of the association, and the incurred
 27328 losses of the year and report this information to the
 27329 association and the office ~~department~~.

27330 Section 905. Subsection (2) of section 627.6494, Florida
 27331 Statutes, is amended to read:

27332 627.6494 Assessments; deferment, limitation.--

27333 (2) The association, upon approval of the office
 27334 ~~department~~, may abate or defer, in whole or in part, the
 27335 assessment of a participating insurer if, in the opinion of the
 27336 board, payment of the assessment would endanger the ability of
 27337 the participating insurer to fulfill its contractual
 27338 obligations. In the event that an assessment against a
 27339 participating insurer is abated or deferred, in whole or in
 27340 part, the amount by which such assessment is abated or deferred
 27341 may be assessed against the other participating insurers in a
 27342 manner consistent with the basis for assessments set forth in s.
 27343 627.6492; and the insurer receiving such abatement or deferment
 27344 shall remain liable to the association for the deficiency for 4
 27345 years.



HB 1803

2003

27346 Section 906. Paragraph (a) of subsection (4) of section
 27347 627.6498, Florida Statutes, is amended to read:

27348 627.6498 Minimum benefits coverage; exclusions; premiums;
 27349 deductibles.--

27350 (4) PREMIUMS, DEDUCTIBLES, AND COINSURANCE.--

27351 (a) The plan shall provide for annual deductibles for
 27352 major medical expense coverage in the amount of \$1,000 or any
 27353 higher amounts proposed by the board and approved by the office
 27354 ~~department~~, plus the benefits payable under any other type of
 27355 insurance coverage or workers' compensation. The schedule of
 27356 premiums and deductibles shall be established by the
 27357 association. With regard to any preferred provider arrangement
 27358 utilized by the association, the deductibles provided in this
 27359 paragraph shall be the minimum deductibles applicable to the
 27360 preferred providers and higher deductibles, as approved by the
 27361 office ~~department~~, may be applied to providers who are not
 27362 preferred providers.

27363 1. Separate schedules of premium rates based on age may
 27364 apply for individual risks.

27365 2. Rates are subject to approval by the office ~~department~~.

27366 3. Standard risk rates for coverages issued by the
 27367 association shall be established by the office ~~department~~,
 27368 pursuant to s. 627.6675(3).

27369 4. The board shall establish separate premium schedules
 27370 for low-risk individuals, medium-risk individuals, and high-risk
 27371 individuals and shall revise premium schedules annually
 27372 beginning January 1999. No rate shall exceed 200 percent of the
 27373 standard risk rate for low-risk individuals, 225 percent of the
 27374 standard risk rate for medium-risk individuals, or 250 percent
 27375 of the standard risk rate for high-risk individuals. For the



HB 1803

2003

27376 purpose of determining what constitutes a low-risk individual,
 27377 medium-risk individual, or high-risk individual, the board shall
 27378 consider the anticipated claims payment for individuals based
 27379 upon an individual's health condition.

27380 Section 907. Section 627.6499, Florida Statutes, is
 27381 amended to read:

27382 627.6499 Reporting by insurers and third-party
 27383 administrators.--The office ~~department~~ may require any insurer,
 27384 third-party administrator, or service company to report any
 27385 information reasonably required to assist the board in assessing
 27386 insurers as required by this act.

27387 Section 908. Subsections (4) and (5) of section 627.6515,
 27388 Florida Statutes, are amended to read:

27389 627.6515 Out-of-state groups.--

27390 (4) Prior to solicitation in this state, a copy of the
 27391 master policy and a copy of the form of the certificate
 27392 evidencing coverage that will be issued to residents of this
 27393 state shall be filed with the office ~~department~~ for
 27394 informational purposes.

27395 (5) Prior to solicitation in this state, an officer of the
 27396 insurer shall truthfully certify to the office ~~department~~ that
 27397 the policy and certificates evidencing coverage have been
 27398 reviewed and approved by the state in which the group policy is
 27399 issued.

27400 Section 909. Paragraphs (a), (b), and (c) of subsection
 27401 (5), paragraph (b) of subsection (7), paragraphs (a) and (e) of
 27402 subsection (8), and paragraph (b) of subsection (9) of section
 27403 627.6561, Florida Statutes, are amended to read:

27404 627.6561 Preexisting conditions.--

27405 (5)(a) The term, "creditable coverage," means, with



HB 1803

2003

27406 respect to an individual, coverage of the individual under any
 27407 of the following:

27408 1. A group health plan, as defined in s. 2791 of the
 27409 Public Health Service Act.

27410 2. Health insurance coverage consisting of medical care,
 27411 provided directly, through insurance or reimbursement, or
 27412 otherwise and including terms and services paid for as medical
 27413 care, under any hospital or medical service policy or
 27414 certificate, hospital or medical service plan contract, or
 27415 health maintenance contract offered by a health insurance
 27416 issuer.

27417 3. Part A or part B of Title XVIII of the Social Security
 27418 Act.

27419 4. Title XIX of the Social Security Act, other than
 27420 coverage consisting solely of benefits under s. 1928.

27421 5. Chapter 55 of Title 10, United States Code.

27422 6. A medical care program of the Indian Health Service or
 27423 of a tribal organization.

27424 7. The Florida Comprehensive Health Association or another
 27425 state health benefit risk pool.

27426 8. A health plan offered under chapter 89 of Title 5,
 27427 United States Code.

27428 9. A public health plan as defined by rules adopted by the
 27429 commission ~~department~~. To the greatest extent possible, such
 27430 rules must be consistent with regulations adopted by the United
 27431 States Department of Health and Human Services.

27432 10. A health benefit plan under s. 5(e) of the Peace Corps
 27433 Act (22 U.S.C. s. 2504(e)).

27434 (b) Creditable coverage does not include coverage that
 27435 consists solely of one or more or any combination thereof of the



HB 1803

2003

27436 following excepted benefits:

- 27437 1. Coverage only for accident, or disability income
- 27438 insurance, or any combination thereof.
- 27439 2. Coverage issued as a supplement to liability insurance.
- 27440 3. Liability insurance, including general liability
- 27441 insurance and automobile liability insurance.
- 27442 4. Workers' compensation or similar insurance.
- 27443 5. Automobile medical payment insurance.
- 27444 6. Credit-only insurance.
- 27445 7. Coverage for on-site medical clinics, including prepaid
- 27446 health clinics under part II of chapter 641.
- 27447 8. Other similar insurance coverage, specified in rules
- 27448 adopted by the commission ~~department~~, under which benefits for
- 27449 medical care are secondary or incidental to other insurance
- 27450 benefits. To the extent possible, such rules must be consistent
- 27451 with regulations adopted by the United States Department of
- 27452 Health and Human Services.

27453 (c) The following benefits are not subject to the
 27454 creditable coverage requirements, if offered separately:

- 27455 1. Limited scope dental or vision benefits.
- 27456 2. Benefits for long-term care, nursing home care, home
- 27457 health care, community-based care, or any combination thereof.
- 27458 3. Such other similar, limited benefits as are specified
- 27459 in rules adopted by the commission ~~department~~.

27460 (7)

27461 (b) An insurer may elect to count, as creditable coverage,
 27462 coverage of benefits within each of several classes or
 27463 categories of benefits specified in rules adopted by the
 27464 commission ~~department~~ rather than as provided under paragraph

27465 (a). To the extent possible, such rules must be consistent with



HB 1803

2003

27466 regulations adopted by the United States Department of Health
27467 and Human Services. Such election shall be made on a uniform
27468 basis for all participants and beneficiaries. Under such
27469 election, an insurer shall count a period of creditable coverage
27470 with respect to any class or category of benefits if any level
27471 of benefits is covered within such class or category.

27472 (8)(a) Periods of creditable coverage with respect to an
27473 individual shall be established through presentation of
27474 certifications described in this subsection or in such other
27475 manner as is specified in rules adopted by the commission
27476 ~~department~~. To the extent possible, such rules must be
27477 consistent with regulations adopted by the United States
27478 Department of Health and Human Services.

27479 (e) The commission ~~department~~ shall adopt rules to prevent
27480 an insurer's failure to provide information under this
27481 subsection with respect to previous coverage of an individual
27482 from adversely affecting any subsequent coverage of the
27483 individual under another group health plan or health insurance
27484 coverage. To the greatest extent possible, such rules must be
27485 consistent with regulations adopted by the United States
27486 Department of Health and Human Services.

27487 (9)

27488 (b) The commission ~~department~~ shall adopt rules that
27489 provide a process whereby individuals who need to establish
27490 creditable coverage for periods before July 1, 1996, and who
27491 would have such coverage credited but for paragraph (a), may be
27492 given credit for creditable coverage for such periods through
27493 the presentation of documents or other means. To the greatest
27494 extent possible, such rules must be consistent with regulations
27495 adopted by the United States Department of Health and Human



HB 1803

2003

27496 Services.

27497 Section 910. Paragraph (b) of subsection (3) of section
27498 627.6571, Florida Statutes, is amended to read:

27499 627.6571 Guaranteed renewability of coverage.--

27500 (3)

27501 (b)1. In any case in which an insurer elects to
27502 discontinue offering all health insurance coverage in the small-
27503 group market or the large-group market, or both, in this state,
27504 health insurance coverage may be discontinued by the insurer
27505 only if:

27506 a. The insurer provides notice to the office ~~department~~
27507 and to each policyholder, and participants and beneficiaries
27508 covered under such coverage, of such discontinuation at least
27509 180 days prior to the date of the nonrenewal of such coverage;
27510 and

27511 b. All health insurance issued or delivered for issuance
27512 in this state in such market is discontinued and coverage under
27513 such health insurance coverage in such market is not renewed.

27514 2. In the case of a discontinuation under subparagraph 1.
27515 in a market, the insurer may not provide for the issuance of any
27516 health insurance coverage in the market in this state during the
27517 5-year period beginning on the date of the discontinuation of
27518 the last insurance coverage not renewed.

27519 Section 911. Section 627.6675, Florida Statutes, is
27520 amended to read:

27521 627.6675 Conversion on termination of eligibility.--

27522 Subject to all of the provisions of this section, a group policy
27523 delivered or issued for delivery in this state by an insurer or
27524 nonprofit health care services plan that provides, on an
27525 expense-incurred basis, hospital, surgical, or major medical



HB 1803

2003

27526 expense insurance, or any combination of these coverages, shall
27527 provide that an employee or member whose insurance under the
27528 group policy has been terminated for any reason, including
27529 discontinuance of the group policy in its entirety or with
27530 respect to an insured class, and who has been continuously
27531 insured under the group policy, and under any group policy
27532 providing similar benefits that the terminated group policy
27533 replaced, for at least 3 months immediately prior to
27534 termination, shall be entitled to have issued to him or her by
27535 the insurer a policy or certificate of health insurance,
27536 referred to in this section as a "converted policy." A group
27537 insurer may meet the requirements of this section by contracting
27538 with another insurer, authorized in this state, to issue an
27539 individual converted policy, which policy has been approved by
27540 the office ~~department~~ under s. 627.410. An employee or member
27541 shall not be entitled to a converted policy if termination of
27542 his or her insurance under the group policy occurred because he
27543 or she failed to pay any required contribution, or because any
27544 discontinued group coverage was replaced by similar group
27545 coverage within 31 days after discontinuance.

27546 (1) TIME LIMIT.--Written application for the converted
27547 policy shall be made and the first premium must be paid to the
27548 insurer, not later than 63 days after termination of the group
27549 policy. However, if termination was the result of failure to pay
27550 any required premium or contribution and such nonpayment of
27551 premium was due to acts of an employer or policyholder other
27552 than the employee or certificateholder, written application for
27553 the converted policy must be made and the first premium must be
27554 paid to the insurer not later than 63 days after notice of
27555 termination is mailed by the insurer or the employer, whichever



HB 1803

2003

27556 is earlier, to the employee's or certificateholder's last
27557 address as shown by the record of the insurer or the employer,
27558 whichever is applicable. In such case of termination due to
27559 nonpayment of premium by the employer or policyholder, the
27560 premium for the converted policy may not exceed the rate for the
27561 prior group coverage for the period of coverage under the
27562 converted policy prior to the date notice of termination is
27563 mailed to the employee or certificateholder. For the period of
27564 coverage after such date, the premium for the converted policy
27565 is subject to the requirements of subsection (3).

27566 (2) EVIDENCE OF INSURABILITY.--The converted policy shall
27567 be issued without evidence of insurability.

27568 (3) CONVERSION PREMIUM; EFFECT ON PREMIUM RATES FOR GROUP
27569 COVERAGE.--

27570 (a) The premium for the converted policy shall be
27571 determined in accordance with premium rates applicable to the
27572 age and class of risk of each person to be covered under the
27573 converted policy and to the type and amount of insurance
27574 provided. However, the premium for the converted policy may not
27575 exceed 200 percent of the standard risk rate as established by
27576 the office ~~department~~, pursuant to this subsection.

27577 (b) Actual or expected experience under converted policies
27578 may be combined with such experience under group policies for
27579 the purposes of determining premium and loss experience and
27580 establishing premium rate levels for group coverage.

27581 (c) The office ~~department~~ shall annually determine
27582 standard risk rates, using reasonable actuarial techniques and
27583 standards adopted by the commission ~~department~~ by rule. The
27584 standard risk rates must be determined as follows:

27585 1. Standard risk rates for individual coverage must be



HB 1803

2003

27586 determined separately for indemnity policies, preferred
27587 provider/exclusive provider policies, and health maintenance
27588 organization contracts.

27589 2. The office ~~department~~ shall survey insurers and health
27590 maintenance organizations representing at least an 80 percent
27591 market share, based on premiums earned in the state for the most
27592 recent calendar year, for each of the categories specified in
27593 subparagraph 1.

27594 3. Standard risk rate schedules must be determined,
27595 computed as the average rates charged by the carriers surveyed,
27596 giving appropriate weight to each carrier's statewide market
27597 share of earned premiums.

27598 4. The rate schedule shall be determined from analysis of
27599 the one county with the largest market share in the state of all
27600 such carriers.

27601 5. The rate for other counties must be determined by using
27602 the weighted average of each carrier's county factor
27603 relationship to the county determined in subparagraph 4.

27604 6. The rate schedule must be determined for different age
27605 brackets and family size brackets.

27606 (4) EFFECTIVE DATE OF COVERAGE.--The effective date of the
27607 converted policy shall be the day following the termination of
27608 insurance under the group policy.

27609 (5) SCOPE OF COVERAGE.--The converted policy shall cover
27610 the employee or member and his or her dependents who were
27611 covered by the group policy on the date of termination of
27612 insurance. At the option of the insurer, a separate converted
27613 policy may be issued to cover any dependent.

27614 (6) OPTIONAL COVERAGE.--The insurer shall not be required
27615 to issue a converted policy covering any person who is or could



HB 1803

2003

27616 be covered by Medicare. The insurer shall not be required to
27617 issue a converted policy covering a person if paragraphs (a) and
27618 (b) apply to the person:

27619 (a) If any of the following apply to the person:

27620 1. The person is covered for similar benefits by another
27621 hospital, surgical, medical, or major medical expense insurance
27622 policy or hospital or medical service subscriber contract or
27623 medical practice or other prepayment plan, or by any other plan
27624 or program.

27625 2. The person is eligible for similar benefits, whether or
27626 not actually provided coverage, under any arrangement of
27627 coverage for individuals in a group, whether on an insured or
27628 uninsured basis.

27629 3. Similar benefits are provided for or are available to
27630 the person under any state or federal law.

27631 (b) If the benefits provided under the sources referred to
27632 in subparagraph(a)1. or the benefits provided or available under
27633 the sources referred to in subparagraphs (a)2. and 3., together
27634 with the benefits provided by the converted policy, would result
27635 in overinsurance according to the insurer's standards. The
27636 insurer's standards must bear some reasonable relationship to
27637 actual health care costs in the area in which the insured lives
27638 at the time of conversion and must be filed with the office
27639 ~~department~~ prior to their use in denying coverage.

27640 (7) INFORMATION REQUESTED BY INSURER.--

27641 (a) A converted policy may include a provision under which
27642 the insurer may request information, in advance of any premium
27643 due date, of any person covered thereunder as to whether:

27644 1. The person is covered for similar benefits by another
27645 hospital, surgical, medical, or major medical expense insurance



HB 1803

2003

27646 policy or hospital or medical service subscriber contract or
 27647 medical practice or other prepayment plan or by any other plan
 27648 or program.

27649 2. The person is covered for similar benefits under any
 27650 arrangement of coverage for individuals in a group, whether on
 27651 an insured or uninsured basis.

27652 3. Similar benefits are provided for or are available to
 27653 the person under any state or federal law.

27654 (b) The converted policy may provide that the insurer may
 27655 refuse to renew the policy or the coverage of any person only
 27656 for one or more of the following reasons:

27657 1. Either the benefits provided under the sources referred
 27658 to in subparagraphs (a)1. and 2. for the person or the benefits
 27659 provided or available under the sources referred to in
 27660 subparagraph (a)3. for the person, together with the benefits
 27661 provided by the converted policy, would result in overinsurance
 27662 according to the insurer's standards on file with the office
 27663 ~~department~~.

27664 2. The converted policyholder fails to provide the
 27665 information requested pursuant to paragraph (a).

27666 3. Fraud or intentional misrepresentation in applying for
 27667 any benefits under the converted policy.

27668 4. Other reasons approved by the office ~~department~~.

27669 (8) BENEFITS OFFERED.--

27670 (a) An insurer shall not be required to issue a converted
 27671 policy that provides benefits in excess of those provided under
 27672 the group policy from which conversion is made.

27673 (b) An insurer shall offer the benefits specified in s.
 27674 627.668 and the benefits specified in s. 627.669 if those
 27675 benefits were provided in the group plan.



HB 1803

2003

27676 (c) An insurer shall offer maternity benefits and dental
27677 benefits if those benefits were provided in the group plan.

27678 (9) PREEXISTING CONDITION PROVISION.--The converted policy
27679 shall not exclude a preexisting condition not excluded by the
27680 group policy. However, the converted policy may provide that any
27681 hospital, surgical, or medical benefits payable under the
27682 converted policy may be reduced by the amount of any such
27683 benefits payable under the group policy after the termination of
27684 coverage ~~covered~~ under the group policy. The converted policy
27685 may also provide that during the first policy year the benefits
27686 payable under the converted policy, together with the benefits
27687 payable under the group policy, shall not exceed those that
27688 would have been payable had the individual's insurance under the
27689 group policy remained in force.

27690 (10) REQUIRED OPTION FOR MAJOR MEDICAL COVERAGE.--Subject
27691 to the provisions and conditions of this part, the employee or
27692 member shall be entitled to obtain a converted policy providing
27693 major medical coverage under a plan meeting the following
27694 requirements:

27695 (a) A maximum benefit equal to the lesser of the policy
27696 limit of the group policy from which the individual converted or
27697 \$500,000 per covered person for all covered medical expenses
27698 incurred during the covered person's lifetime.

27699 (b) Payment of benefits at the rate of 80 percent of
27700 covered medical expenses which are in excess of the deductible,
27701 until 20 percent of such expenses in a benefit period reaches
27702 \$2,000, after which benefits will be paid at the rate of 90
27703 percent during the remainder of the contract year unless the
27704 insured is in the insurer's case management program, in which
27705 case benefits shall be paid at the rate of 100 percent during



HB 1803

2003

27706 the remainder of the contract year. For the purposes of this
27707 paragraph, "case management program" means the specific
27708 supervision and management of the medical care provided or
27709 prescribed for a specific individual, which may include the use
27710 of health care providers designated by the insurer. Payment of
27711 benefits for outpatient treatment of mental illness, if provided
27712 in the converted policy, may be at a lesser rate but not less
27713 than 50 percent.

27714 (c) A deductible for each calendar year that must be \$500,
27715 \$1,000, or \$2,000, at the option of the policyholder.

27716 (d) The term "covered medical expenses," as used in this
27717 subsection, shall be consistent with those customarily offered
27718 by the insurer under group or individual health insurance
27719 policies but is not required to be identical to the covered
27720 medical expenses provided in the group policy from which the
27721 individual converted.

27722 (11) ALTERNATIVE PLANS.--The insurer shall, in addition to
27723 the option required by subsection (10), offer the standard
27724 health benefit plan, as established pursuant to s. 627.6699(12).
27725 The insurer may, at its option, also offer alternative plans for
27726 group health conversion in addition to the plans required by
27727 this section.

27728 (12) RETIREMENT COVERAGE.--If coverage would be continued
27729 under the group policy on an employee following the employee's
27730 retirement prior to the time he or she is or could be covered by
27731 Medicare, the employee may elect, instead of such continuation
27732 of group insurance, to have the same conversion rights as would
27733 apply had his or her insurance terminated at retirement by
27734 reason or termination of employment or membership.

27735 (13) REDUCTION OF COVERAGE DUE TO MEDICARE.--The converted



HB 1803

2003

27736 policy may provide for reduction of coverage on any person upon
 27737 his or her eligibility for coverage under Medicare or under any
 27738 other state or federal law providing for benefits similar to
 27739 those provided by the converted policy.

27740 (14) CONVERSION PRIVILEGE ALLOWED.--The conversion
 27741 privilege shall also be available to any of the following:

27742 (a) The surviving spouse, if any, at the death of the
 27743 employee or member, with respect to the spouse and the children
 27744 whose coverages under the group policy terminate by reason of
 27745 the death, otherwise to each surviving child whose coverage
 27746 under the group policy terminates by reason of such death, or,
 27747 if the group policy provides for continuation of dependents'
 27748 coverages following the employee's or member's death, at the end
 27749 of such continuation.

27750 (b) The former spouse whose coverage would otherwise
 27751 terminate because of annulment or dissolution of marriage, if
 27752 the former spouse is dependent for financial support.

27753 (c) The spouse of the employee or member upon termination
 27754 of coverage of the spouse, while the employee or member remains
 27755 insured under the group policy, by reason of ceasing to be a
 27756 qualified family member under the group policy, with respect to
 27757 the spouse and the children whose coverages under the group
 27758 policy terminate at the same time.

27759 (d) A child solely with respect to himself or herself upon
 27760 termination of his or her coverage by reason of ceasing to be a
 27761 qualified family member under the group policy, if a conversion
 27762 privilege is not otherwise provided in this subsection with
 27763 respect to such termination.

27764 (15) BENEFIT LEVELS.--If the benefit levels required in
 27765 subsection (10) exceed the benefit levels provided under the



HB 1803

2003

27766 group policy, the conversion policy may offer benefits which are
 27767 substantially similar to those provided under the group policy
 27768 in lieu of those required in subsection (10).

27769 (16) GROUP COVERAGE INSTEAD OF INDIVIDUAL COVERAGE.--The
 27770 insurer may elect to provide group insurance coverage instead of
 27771 issuing a converted individual policy.

27772 (17) NOTIFICATION.--A notification of the conversion
 27773 privilege shall be included in each certificate of coverage. The
 27774 insurer shall mail an election and premium notice form,
 27775 including an outline of coverage, on a form approved by the
 27776 office ~~department~~, within 14 days after an individual who is
 27777 eligible for a converted policy gives notice to the insurer that
 27778 the individual is considering applying for the converted policy
 27779 or otherwise requests such information. The outline of coverage
 27780 must contain a description of the principal benefits and
 27781 coverage provided by the policy and its principal exclusions and
 27782 limitations, including, but not limited to, deductibles and
 27783 coinsurance.

27784 (18) OUTSIDE CONVERSIONS.--A converted policy that is
 27785 delivered outside of this state must be on a form that could be
 27786 delivered in the other jurisdiction as a converted policy had
 27787 the group policy been issued in that jurisdiction.

27788 (19) APPLICABILITY.--This section does not require
 27789 conversion on termination of eligibility for a policy or
 27790 contract that provides benefits for specified diseases, or for
 27791 accidental injuries only, disability income, Medicare
 27792 supplement, hospital indemnity, limited benefit,
 27793 nonconventional, or excess policies.

27794 (20) Nothing in this section or in the incorporation of it
 27795 into insurance policies shall be construed to require insurers



HB 1803

2003

27796 to provide benefits equal to those provided in the group policy
 27797 from which the individual converted; provided, however, that
 27798 comprehensive benefits are offered which shall be subject to
 27799 approval by the office ~~Insurance Commissioner~~.

27800 Section 912. Paragraph (a) of subsection (2) of section
 27801 627.6685, Florida Statutes, is amended to read:

27802 627.6685 Mental health coverage.--

27803 (2) BENEFITS.--

27804 (a)1. In the case of a group health plan, or health
 27805 insurance coverage offered in connection with such a plan, which
 27806 provides both medical and surgical benefits and mental health
 27807 benefits:

27808 a. If the plan or coverage does not include an aggregate
 27809 lifetime limit on substantially all medical and surgical
 27810 benefits, the plan or coverage may not impose any aggregate
 27811 lifetime limit on mental health benefits.

27812 b. If the plan or coverage includes an aggregate lifetime
 27813 limit on substantially all medical and surgical benefits, the
 27814 plan or coverage must:

27815 (I) Apply that applicable lifetime limit both to the
 27816 medical and surgical benefits to which it otherwise would apply
 27817 and to mental health benefits and not distinguish in the
 27818 application of such limit between such medical and surgical
 27819 benefits and mental health benefits; or

27820 (II) Not include any aggregate lifetime limit on mental
 27821 health benefits which is less than that applicable lifetime
 27822 limit.

27823 c. For any plan or coverage that is not described in sub-
 27824 subparagraph a. or sub-subparagraph b. and that includes no or
 27825 different aggregate lifetime limits on different categories of



HB 1803

2003

27826 medical and surgical benefits, the commission ~~department~~ shall
27827 establish rules under which sub-subparagraph b. is applied to
27828 such plan or coverage with respect to mental health benefits by
27829 substituting for the applicable lifetime limit an average
27830 aggregate lifetime limit that is computed taking into account
27831 the weighted average of the aggregate lifetime limits applicable
27832 to such categories.

27833 2. In the case of a group health plan, or health insurance
27834 coverage offered in connection with such a plan, which provides
27835 both medical and surgical benefits and mental health benefits:

27836 a. If the plan or coverage does not include an annual
27837 limit on substantially all medical and surgical benefits, the
27838 plan or coverage may not impose any annual limit on mental
27839 health benefits.

27840 b. If the plan or coverage includes an annual limit on
27841 substantially all medical and surgical benefits, the plan or
27842 coverage must:

27843 (I) Apply that applicable annual limit both to medical and
27844 surgical benefits to which it otherwise would apply and to
27845 mental health benefits and not distinguish in the application of
27846 such limit between such medical and surgical benefits and mental
27847 health benefits; or

27848 (II) Not include any annual limit on mental health
27849 benefits which is less than the applicable annual limit.

27850 c. For any plan or coverage that is not described in sub-
27851 subparagraph a. or sub-subparagraph b. and that includes no or
27852 different annual limits on different categories of medical and
27853 surgical benefits, the commission ~~department~~ shall establish
27854 rules under which sub-subparagraph b. is applied to such plan or
27855 coverage with respect to mental health benefits by substituting



HB 1803

2003

27856 for the applicable annual limit an average annual limit that is
 27857 computed taking into account the weighted average of the annual
 27858 limits applicable to such categories.

27859 Section 913. Paragraph (d) of subsection (5) and
 27860 subsection (9) of section 627.6692, Florida Statutes, are
 27861 amended to read:

27862 627.6692 Florida Health Insurance Coverage Continuation
 27863 Act.--

27864 (5) CONTINUATION OF COVERAGE UNDER GROUP HEALTH PLANS.--

27865 (d)1. A qualified beneficiary must give written notice to
 27866 the insurance carrier within 30 days after the occurrence of a
 27867 qualifying event. Unless otherwise specified in the notice, a
 27868 notice by any qualified beneficiary constitutes notice on behalf
 27869 of all qualified beneficiaries. The written notice must inform
 27870 the insurance carrier of the occurrence and type of the
 27871 qualifying event giving rise to the potential election by a
 27872 qualified beneficiary of continuation of coverage under the
 27873 group health plan issued by that insurance carrier, except that
 27874 in cases where the covered employee has been involuntarily
 27875 discharged, the nature of such discharge need not be disclosed.
 27876 The written notice must, at a minimum, identify the employer,
 27877 the group health plan number, the name and address of all
 27878 qualified beneficiaries, and such other information required by
 27879 the insurance carrier under the terms of the group health plan
 27880 or the commission ~~department~~ by rule, to the extent that such
 27881 information is known by the qualified beneficiary.

27882 2. Within 14 days after the receipt of written notice
 27883 under subparagraph 1., the insurance carrier shall send each
 27884 qualified beneficiary by certified mail an election and premium
 27885 notice form, approved by the office ~~department~~, which form must



HB 1803

2003

27886 provide for the qualified beneficiary's election or nonelection
 27887 of continuation of coverage under the group health plan and the
 27888 applicable premium amount due after the election to continue
 27889 coverage. This subparagraph does not require separate mailing
 27890 of notices to qualified beneficiaries residing in the same
 27891 household, but requires a separate mailing for each separate
 27892 household.

27893 (9) RULES.--The commission ~~department~~ shall adopt rules
 27894 establishing standards for the initial notice of rights and as
 27895 otherwise necessary to administer this section.

27896 Section 914. Subsection (2) of section 627.673, Florida
 27897 Statutes, is amended to read:

27898 627.673 Designation as Medicare supplement policy;
 27899 penalties for violations.--

27900 (2) A violation of this part is punishable under s.
 27901 624.4211. In addition, the office ~~department~~ may require
 27902 insurers violating this part to cease marketing any Medicare
 27903 supplement policy in this state which is related directly or
 27904 indirectly to a violation of this part, or the office ~~department~~
 27905 may require the insurer to take any action necessary to comply
 27906 with this part.

27907 Section 915. Section 627.6735, Florida Statutes, is
 27908 amended to read:

27909 627.6735 Order to discontinue certain advertising.--An
 27910 insurer must file with the office ~~department~~ all advertisements
 27911 for Medicare supplement policies pursuant to rules adopted by
 27912 the commission ~~department~~. If, in the opinion of the office
 27913 ~~department~~, any advertisement by a Medicare supplement policy
 27914 insurer violates any of the provisions of part IX of chapter 626
 27915 or any rule of the commission ~~department~~, the office ~~department~~



HB 1803

2003

27916 may enter an immediate order requiring that the use of the
 27917 advertisement be discontinued. If requested by the insurer, the
 27918 office ~~department~~ shall conduct a hearing within 10 days of the
 27919 entry of such order. If, after the hearing or by agreement with
 27920 the insurer, a final determination is made that the advertising
 27921 was in fact violative of any provision of part IX of chapter 626
 27922 or of any rule of the commission ~~department~~, the office
 27923 ~~department~~ may, in lieu of revocation of the certificate of
 27924 authority, require the publication of a corrective
 27925 advertisement; impose an administrative penalty of up to
 27926 \$10,000; and, in the case of an initial solicitation, require
 27927 that the insurer, prior to accepting any application received in
 27928 response to the advertisement, provide an acceptable
 27929 clarification of the advertisement to each individual applicant.

27930 Section 916. Section 627.674, Florida Statutes, is amended
 27931 to read:

27932 627.674 Minimum standards; filing requirements.--

27933 (1) An insurance policy or subscriber contract may not be
 27934 advertised, solicited, or issued for delivery in this state as a
 27935 Medicare supplement policy unless it meets the minimum standards
 27936 adopted under this section. The minimum standards do not
 27937 preclude other provisions or benefits which are not inconsistent
 27938 with the minimum standards.

27939 (2)(a) The commission ~~department~~ must adopt rules
 27940 establishing minimum standards for Medicare supplement policies
 27941 that, taken together with the requirements of this part, are no
 27942 less comprehensive or beneficial to persons insured or covered
 27943 under Medicare supplement policies issued, delivered, or issued
 27944 for delivery in this state, including certificates under group
 27945 or blanket policies issued, delivered, or issued for delivery in



HB 1803

2003

27946 | this state, than the standards provided in 42 U.S.C. s. 1395ss,
 27947 | or the most recent version of the NAIC Model Regulation To
 27948 | Implement the NAIC Medicare Supplement Insurance Minimum
 27949 | Standards Model Act adopted by the National Association of
 27950 | Insurance Commissioners.

27951 | (b) The rules must establish specific standards, including
 27952 | standards of full and fair disclosure, that set forth the
 27953 | manner, content, and required disclosure for the sale of group,
 27954 | blanket, franchise, and individual Medicare supplement policies
 27955 | and Medicare supplement subscriber contracts of dental service
 27956 | plans and nonprofit health care services plans. The standards
 27957 | may cover, but not be limited to:

- 27958 | 1. Terms of renewability.
- 27959 | 2. Initial and subsequent conditions of eligibility.
- 27960 | 3. Nonduplication of coverage.
- 27961 | 4. Probationary periods.
- 27962 | 5. Benefit limitations, exceptions, and reductions.
- 27963 | 6. Elimination periods.
- 27964 | 7. Requirements for replacement coverage.
- 27965 | 8. Recurrent conditions.
- 27966 | 9. Definitions of terms.
- 27967 | 10. Application forms.

27968 | (c) The commission ~~department~~ may adopt rules that specify
 27969 | prohibited policies or policy provisions, not otherwise
 27970 | specifically authorized by statute, which in the opinion of the
 27971 | office ~~department~~ are unjust, unfair, or unfairly discriminatory
 27972 | to the policyholder, the person insured under the policy, or the
 27973 | beneficiary.

27974 | (d) For policies issued on or after January 1, 1991, the
 27975 | commission ~~department~~ may adopt rules to establish minimum



HB 1803

2003

27976 policy standards to authorize the types of policies specified by
27977 42 U.S.C. s. 1395ss(p)(2)(C) and any optional benefits to
27978 facilitate policy comparisons.

27979 (3) A policy may not be filed with the office ~~department~~
27980 as a Medicare supplement policy unless the policy meets or
27981 exceeds the requirements of 42 U.S.C. s. 1395ss, or the most
27982 recent version of the NAIC Medicare Supplement Insurance Minimum
27983 Standards Model Act, adopted by the National Association of
27984 Insurance Commissioners.

27985 (4) A policy filed with the office ~~department~~ as a
27986 Medicare supplement policy must:

27987 (a) Have a definition of "Medicare eligible expense" that
27988 is not more restrictive than health care expenses of the kinds
27989 covered by Medicare or to the extent recognized as reasonable by
27990 Medicare. Payment of benefits by insurers for Medicare eligible
27991 expenses may be conditioned upon the same or less restrictive
27992 payment conditions, including determinations of medical
27993 necessity, as apply to Medicare claims.

27994 (b) Provide that benefits designed to cover cost-sharing
27995 amounts under Medicare will be changed automatically to coincide
27996 with any changes in the applicable Medicare deductible amount
27997 and copayment percentage factor. Premiums may be modified to
27998 correspond with such changes, subject to prior approval by the
27999 office ~~department~~.

28000 (c) Be written in simplified language, be easily
28001 understood by purchasers, and otherwise comply with s. 627.602.

28002 (d) Contain a prominently displayed no-loss cancellation
28003 clause enabling the applicant to return the policy within 30
28004 days after receiving the policy, or the certificate issued
28005 thereunder, with return in full of any premium paid. The



HB 1803

2003

28006 insurer must, in a timely manner, pay a refund under this
 28007 paragraph directly to the individual who paid the premium.

28008 (e) Contain a prominently displayed notice of any
 28009 coordination-of-benefits clause which might in any way restrict
 28010 payment under the policy.

28011 (f)1. Be accompanied by a copy of the Medicare Supplement
 28012 Buyer's Guide developed jointly by the National Association of
 28013 Insurance Commissioners and the Health Care Financing
 28014 Administration of the United States Department of Health and
 28015 Human Services.

28016 2. A policy referred to in subparagraph (g)4. that does
 28017 not qualify as a Medicare supplement policy under this part must
 28018 also be accompanied by the buyer's guide pursuant to this
 28019 paragraph.

28020 3. Except in the case of a direct response insurer,
 28021 delivery of the buyer's guide shall be made at the time of
 28022 application, and acknowledgment of receipt or certification of
 28023 delivery of the buyer's guide shall be provided to the insurer.
 28024 Direct response insurers shall deliver the buyer's guide upon
 28025 request, but not later than at the time the policy is delivered.

28026 (g)1. Be accompanied by an outline of coverage in the form
 28027 prescribed by the National Association of Insurance
 28028 Commissioners in the NAIC Model Regulation To Implement the NAIC
 28029 Medicare Supplement Insurance Minimum Standards Model Act,
 28030 adopted by the National Association of Insurance Commissioners
 28031 on July 31, 1991, and as prescribed in s. 627.6743.

28032 2. The outline shall be delivered to the applicant at the
 28033 time application is made, and, except for the direct response
 28034 policy, acknowledgment of receipt or certification of delivery
 28035 of the outline of coverage shall be provided to the insurer.



HB 1803

2003

28036 3. If the policy is issued on a basis which would require
 28037 revision of the outline, a substitute outline of coverage
 28038 properly describing the policy, contract, or group certificate
 28039 must accompany the policy, when it is delivered, and contain the
 28040 following statement, in no less than 12-point type, immediately
 28041 above the company name: "NOTICE: Read this outline of coverage
 28042 carefully. It is not identical to the outline of coverage
 28043 provided upon application, and the coverage originally applied
 28044 for has not been issued."

28045 4. The following language must be printed on or attached
 28046 to the first page of the outline of coverage delivered in
 28047 conjunction with an individual policy of hospital confinement
 28048 insurance, indemnity insurance, specified disease insurance,
 28049 specified accident insurance, supplemental health insurance
 28050 other than Medicare supplement insurance, or nonconventional
 28051 health insurance coverage, as defined by law in this state, to a
 28052 person eligible for Medicare: "This policy IS NOT A MEDICARE
 28053 SUPPLEMENT policy. If you are eligible for Medicare, review the
 28054 Medicare Supplement Buyer's Guide available from the company."

28055 (5) A Medicare supplement policy may not contain benefits
 28056 which duplicate benefits provided by Medicare.

28057 Section 917. Subsection (5) of section 627.6741, Florida
 28058 Statutes, is amended to read:

28059 627.6741 Issuance, cancellation, nonrenewal, and
 28060 replacement.--

28061 (5) The commission ~~department~~ shall by rule prescribe
 28062 standards relating to the guaranteed issue of coverage, without
 28063 exclusions for preexisting conditions, for continuously covered
 28064 individuals consistent with the provisions of 42 U.S.C. s.

28065 1395ss(s)(3).



HB 1803

2003

28066 Section 918. Subsection (1) of section 627.6742, Florida
 28067 Statutes, is amended to read:

28068 627.6742 Permitted compensation arrangements.--

28069 (1) The commission ~~department~~ shall adopt rules governing
 28070 the permitted compensation arrangements between insurers and
 28071 agents with respect to Medicare supplement policies.

28072 Section 919. Subsection (1) of section 627.6744, Florida
 28073 Statutes, is amended to read:

28074 627.6744 Recommended purchase and excessive insurance.--

28075 (1) Medicare supplement insurance may not be issued or
 28076 sold, whether directly, through the mail, or otherwise, to an
 28077 individual unless the issuer or seller obtains from the
 28078 individual, as a part of the application, a written statement
 28079 signed by the individual stating what Medicare supplement
 28080 policies the individual has, from what source, and whether the
 28081 individual has applied for and been determined to be entitled to
 28082 Medicaid. The written statement must be accompanied by a
 28083 written acknowledgment, signed by the seller, of the request for
 28084 and receipt of the statement. The written acknowledgment does
 28085 not constitute a verification or affirmation by the seller of
 28086 the truth of any information supplied by the individual in the
 28087 written statement. The written statement shall be on forms
 28088 prescribed by the commission ~~department~~ in accordance with the
 28089 Omnibus Budget Reconciliation Act of 1990 (Pub. L. No. 101-508).

28090 Section 920. Subsections (4) and (7) of section 627.6745,
 28091 Florida Statutes, are amended to read:

28092 627.6745 Loss ratio standards; public rate hearings.--

28093 (4) Each insurer providing Medicare supplement insurance
 28094 to residents of this state shall annually submit to the office
 28095 ~~department~~ information on actual loss ratios on forms prescribed



HB 1803

2003

28096 by the National Association of Insurance Commissioners pursuant
 28097 to the Omnibus Budget Reconciliation Act of 1990 (Pub. L. No.
 28098 101-508).

28099 (7) The commission ~~department~~ shall adopt a written policy
 28100 statement regarding the holding of public hearings prior to
 28101 approval of any premium increases for Medicare supplement
 28102 insurance policies.

28103 Section 921. Section 627.678, Florida Statutes, is amended
 28104 to read:

28105 627.678 Rules.--

28106 (1) For the effective protection of the public interest,
 28107 the commission ~~department~~ shall have full power and authority to
 28108 adopt, ~~promulgate,~~ and the office shall enforce, separate rules
 28109 pertaining to issuance and use of each type of credit insurance
 28110 defined in s. 627.677.

28111 (2) Rules made pursuant to this section shall be
 28112 principally designed, and shall be promulgated with the purpose
 28113 of protecting the borrower from excessive charges by or
 28114 collected through the lender for insurance in relation to the
 28115 amount of the loan, to avoid duplication or overlapping of
 28116 insurance coverage and to avoid loss of the borrower's funds by
 28117 short-rate cancellation or termination of such insurance.
 28118 However, nothing in such rules shall be construed to authorize
 28119 the department, commission, or office to prohibit operation of
 28120 normal dividend distributions under participating insurance
 28121 contracts.

28122 Section 922. Subsections (1) and (2) of section 627.6785,
 28123 Florida Statutes, are amended to read:

28124 627.6785 Filing of rates with department.--

28125 (1) Credit disability and credit life insurers shall file



HB 1803

2003

28126 with the office ~~department~~ a copy of all rates and any rate
28127 changes used in this state.

28128 (2) No credit disability rate and no credit life rate
28129 shall exceed the maximum allowable rate promulgated by the
28130 commission ~~department~~.

28131 Section 923. Section 627.682, Florida Statutes, is amended
28132 to read:

28133 627.682 Filing, approval of forms.--All forms of policies,
28134 certificates of insurance, statements of insurance, applications
28135 for insurance, binders, endorsements, and riders of credit life
28136 or disability insurance delivered or issued for delivery in this
28137 state shall be filed with and approved by the office ~~department~~
28138 before use as provided in ss. 627.410 and 627.411. In addition
28139 to grounds as specified in s. 627.411, the office ~~department~~,
28140 upon compliance with the procedures set forth in s. 627.410,
28141 shall disapprove any such form and may withdraw any previous
28142 approval thereof if the benefits provided therein are not
28143 reasonable in relation to the premiums charged, or if it
28144 contains provisions which are unjust, unfair, inequitable,
28145 misleading, or deceptive or which encourage misrepresentation of
28146 such policy.

28147 Section 924. Section 627.6844, Florida Statutes, is
28148 amended to read:

28149 627.6844 Replacement rules.--Group-to-group consolidations
28150 are exempt from any rule of the commission ~~department~~ relating
28151 to the replacement of existing life or health insurance.

28152 Sections 627.6841-627.6845 do not create an exemption from any
28153 such rule for consolidations that involve individual policies.

28154 Section 925. Section 627.6845, Florida Statutes, is
28155 amended to read:



HB 1803

2003

28156 627.6845 Policy forms used in connection with
 28157 consolidations.--A policy or group certificate of credit
 28158 insurance used in connection with any consolidation, or an
 28159 application, endorsement, or rider which becomes a part of any
 28160 such policy or certificate, may not be issued or delivered in
 28161 this state until a copy of the form has been filed with and
 28162 approved by the office ~~department~~ pursuant to s. 627.682.

28163 Section 926. Subsection (2), paragraph (b) of subsection
 28164 (3), paragraph (d) of subsection (5), and subsections (6) and
 28165 (8) of section 627.701, Florida Statutes, are amended to read:

28166 627.701 Liability of insureds; coinsurance; deductibles.--

28167 (2) Unless the office ~~department~~ determines that the
 28168 deductible provision is clear and unambiguous, a property
 28169 insurer may not issue an insurance policy or contract covering
 28170 real property in this state which contains a deductible
 28171 provision that:

28172 (a) Applies solely to hurricane losses.

28173 (b) States the deductible as a percentage rather than as a
 28174 specific amount of money.

28175 (3)

28176 (b)1. Except as otherwise provided in this paragraph,
 28177 prior to issuing a personal lines residential property insurance
 28178 policy on or after April 1, 1996, or prior to the first renewal
 28179 of a residential property insurance policy on or after April 1,
 28180 1996, the insurer must offer alternative deductible amounts
 28181 applicable to hurricane or wind losses equal to \$500 and 2
 28182 percent of the policy dwelling limits, unless the 2 percent
 28183 deductible is less than \$500. The written notice of the offer
 28184 shall specify the hurricane or wind deductible to be applied in
 28185 the event that the applicant or policyholder fails to



HB 1803

2003

28186 affirmatively choose a hurricane deductible. The insurer must
28187 provide such policyholder with notice of the availability of the
28188 deductible amounts specified in this paragraph in a form
28189 approved ~~specified~~ by the office ~~department~~ in conjunction with
28190 each renewal of the policy. The failure to provide such notice
28191 constitutes a violation of this code but does not affect the
28192 coverage provided under the policy.

28193 2. This paragraph does not apply with respect to a
28194 deductible program lawfully in effect on June 14, 1995, or to
28195 any similar deductible program, if the deductible program
28196 requires a minimum deductible amount of no less than 2 percent
28197 of the policy limits.

28198 3. With respect to a policy covering a risk with dwelling
28199 limits of at least \$100,000, but less than \$250,000, the insurer
28200 may, in lieu of offering a policy with a \$500 hurricane or wind
28201 deductible as required by subparagraph 1., offer a policy that
28202 the insurer guarantees it will not nonrenew for reasons of
28203 reducing hurricane loss for one renewal period and that contains
28204 up to a 2 percent hurricane or wind deductible as required by
28205 subparagraph 1.

28206 4. With respect to a policy covering a risk with dwelling
28207 limits of \$250,000 or more, the insurer need not offer the \$500
28208 hurricane or wind deductible as required by subparagraph 1., but
28209 must, except as otherwise provided in this subsection, offer the
28210 2 percent hurricane or wind deductible as required by
28211 subparagraph 1.

28212 (5)

28213 (d) The office ~~department~~ shall draft and formally propose
28214 as a rule the form for the certificate of security ~~no later than~~
28215 ~~July 1, 1996~~. The certificate of security may be issued in any



HB 1803

2003

28216 of the following circumstances:

28217 1. A mortgage lender or other financial institution may
 28218 issue a certificate of security after granting the applicant a
 28219 line of credit, secured by equity in real property or other
 28220 reasonable security, which line of credit may be drawn on only
 28221 to pay for the deductible portion of insured construction or
 28222 reconstruction after a hurricane loss. In the sole discretion of
 28223 the mortgage lender or other financial institution, the line of
 28224 credit may be issued to an applicant on an unsecured basis.

28225 2. A licensed insurance agent may issue a certificate of
 28226 security after obtaining for an applicant a line of credit,
 28227 secured by equity in real property or other reasonable security,
 28228 which line of credit may be drawn on only to pay for the
 28229 deductible portion of insured construction or reconstruction
 28230 after a hurricane loss. The Florida Hurricane Catastrophe Fund
 28231 shall negotiate agreements creating a financing consortium to
 28232 serve as an additional source of lines of credit to secure
 28233 deductibles. Any licensed insurance agent may act as the agent
 28234 of such consortium.

28235 3. Any person qualified to act as a trustee for any
 28236 purpose may issue a certificate of security secured by a pledge
 28237 of assets, with the restriction that the assets may be drawn on
 28238 only to pay for the deductible portion of insured construction
 28239 or reconstruction after a hurricane loss.

28240 4. Any insurer, including any admitted insurer or any
 28241 surplus lines insurer, may issue a certificate of security after
 28242 issuing the applicant a policy of supplemental insurance that
 28243 will pay for 100 percent of the deductible portion of insured
 28244 construction or reconstruction after a hurricane loss.

28245 5. Any other method approved by the office ~~department~~ upon



HB 1803

2003

28246 finding that such other method provides a similar level of
 28247 security as the methods specified in this paragraph and that
 28248 such other method has no negative impact on residential property
 28249 insurance catastrophic capacity. The legislative intent of this
 28250 subparagraph is to provide the flexibility needed to achieve the
 28251 public policy of expanding property insurance capacity while
 28252 improving the affordability of property insurance.

28253 (6) Prior to issuing a personal lines residential property
 28254 insurance policy on or after April 1, 1997, or prior to the
 28255 first renewal of a residential property insurance policy on or
 28256 after April 1, 1997, the insurer must offer a deductible equal
 28257 to \$500 applicable to losses from perils other than hurricane.
 28258 The insurer must provide the policyholder with notice of the
 28259 availability of the deductible specified in this subsection in a
 28260 form approved ~~specified~~ by the office ~~department~~ at least once
 28261 every 3 years. The failure to provide such notice constitutes a
 28262 violation of this code but does not affect the coverage provided
 28263 under the policy. An insurer may require a higher deductible
 28264 only as part of a deductible program lawfully in effect on June
 28265 1, 1996, or as part of a similar deductible program.

28266 (8) Notwithstanding the other provisions of this section
 28267 or of other law, but only as to hurricane coverage as defined in
 28268 s. 627.4025 for commercial lines residential coverages, an
 28269 insurer may offer a deductible in an amount not exceeding 5
 28270 percent of the insured value with respect to a condominium
 28271 association or cooperative association policy, or in an amount
 28272 not exceeding 10 percent of the insured value with respect to
 28273 any other commercial lines residential policy, if, at the time
 28274 of such offer and at each renewal, the insurer also offers to
 28275 the policyholder a deductible in the amount of 3 percent of the



HB 1803

2003

28276 insured value. Nothing in this subsection prohibits any
 28277 deductible otherwise authorized by this section. All forms by
 28278 which the offers authorized in this subsection are made or
 28279 required to be made shall be on forms that are adopted or
 28280 approved by the commission or office ~~department~~.

28281 Section 927. Subsection (2) of section 627.7011, Florida
 28282 Statutes, is amended to read:

28283 627.7011 Homeowners' policies; offer of replacement cost
 28284 coverage and law and ordinance coverage.--

28285 (2) Unless the insurer obtains the policyholder's written
 28286 refusal of the policies or endorsements specified in subsection
 28287 (1), any policy covering the dwelling is deemed to include the
 28288 coverage specified in paragraph (1)(b). The rejection or
 28289 selection of alternative coverage shall be made on a form
 28290 approved by the office ~~department~~. The form shall fully advise
 28291 the applicant of the nature of the coverage being rejected. If
 28292 this form is signed by a named insured, it will be conclusively
 28293 presumed that there was an informed, knowing rejection of the
 28294 coverage or election of the alternative coverage on behalf of
 28295 all insureds. Unless the policyholder requests in writing the
 28296 coverage specified in this section, it need not be provided in
 28297 or supplemental to any other policy that renews, insures,
 28298 extends, changes, supersedes, or replaces an existing policy
 28299 when the policyholder has rejected the coverage specified in
 28300 this section or has selected alternative coverage. The insurer
 28301 must provide such policyholder with notice of the availability
 28302 of such coverage in a form approved ~~specified~~ by the office
 28303 ~~department~~ at least once every 3 years. The failure to provide
 28304 such notice constitutes a violation of this code, but does not
 28305 affect the coverage provided under the policy.



HB 1803

2003

28306 Section 928. Section 627.7012, Florida Statutes, is
 28307 amended to read:

28308 627.7012 Pools of insurance adjusters.--The commission
 28309 ~~Department of Insurance~~ may, by rule, establish a pool of
 28310 qualified insurance adjusters. The rules must provide that, if a
 28311 hurricane occurs or an emergency is declared, the office
 28312 ~~department~~ may assign members of the pool to the affected area
 28313 and that an insurer may request that a member of the pool adjust
 28314 claims in the assigned area. The rules may not require that an
 28315 insurer use those adjusters assigned by the office ~~department~~.

28316 Section 929. Section 627.7017, Florida Statutes, is
 28317 amended to read:

28318 627.7017 Hurricane loss mitigation projects.--In addition
 28319 to any other hurricane loss mitigation activities authorized or
 28320 required by law, the office ~~department~~ may contract with public
 28321 or private entities for hurricane loss mitigation projects.

28322 Section 930. Subsection (6) of section 627.702, Florida
 28323 Statutes, is amended to read:

28324 627.702 Valued policy law.--

28325 (6) With regard to mobile homes included in subsection
 28326 (1), any total loss shall be adjusted on the basis of the amount
 28327 of money for which such property was insured as specified in the
 28328 policy, whether on an actual cash value basis, replacement cost
 28329 basis, or stated amount, and for which a premium has been
 28330 charged and paid only if the insured has elected to purchase
 28331 such coverage at the inception of the policy. However, when
 28332 coverage is written for a mobile home on any basis other than
 28333 stated value, a complete disclosure of the relative cost between
 28334 that policy and the stated value policy shall be made to the
 28335 insured on a form and in a format approved by the office



HB 1803

2003

28336 ~~department~~. Such forms shall disclose and describe the
 28337 differences between the types of policies and shall be signed by
 28338 the insured. Copies shall be maintained in the insurer's file,
 28339 and a copy shall be made available to the insured. Each insurer
 28340 licensed to write insurance covering mobile homes shall make
 28341 such stated value coverage available at the option of the
 28342 insured.

28343 Section 931. Subsection (4) of section 627.706, Florida
 28344 Statutes, is amended to read:

28345 627.706 Sinkhole insurance.--

28346 (4) Every insurer authorized to transact property
 28347 insurance in this state shall make a proper filing with the
 28348 office ~~department~~ for the purpose of extending the appropriate
 28349 forms of property insurance to include coverage for insurable
 28350 sinkhole losses.

28351 Section 932. Subsections (1), (5), and (9) of section
 28352 627.727, Florida Statutes, are amended to read:

28353 627.727 Motor vehicle insurance; uninsured and
 28354 underinsured vehicle coverage; insolvent insurer protection.--

28355 (1) No motor vehicle liability insurance policy which
 28356 provides bodily injury liability coverage shall be delivered or
 28357 issued for delivery in this state with respect to any
 28358 specifically insured or identified motor vehicle registered or
 28359 principally garaged in this state unless uninsured motor vehicle
 28360 coverage is provided therein or supplemental thereto for the
 28361 protection of persons insured thereunder who are legally
 28362 entitled to recover damages from owners or operators of
 28363 uninsured motor vehicles because of bodily injury, sickness, or
 28364 disease, including death, resulting therefrom. However, the
 28365 coverage required under this section is not applicable when, or



HB 1803

2003

28366 to the extent that, an insured named in the policy makes a
 28367 written rejection of the coverage on behalf of all insureds
 28368 under the policy. When a motor vehicle is leased for a period
 28369 of 1 year or longer and the lessor of such vehicle, by the terms
 28370 of the lease contract, provides liability coverage on the leased
 28371 vehicle, the lessee of such vehicle shall have the sole
 28372 privilege to reject uninsured motorist coverage or to select
 28373 lower limits than the bodily injury liability limits, regardless
 28374 of whether the lessor is qualified as a self-insurer pursuant to
 28375 s. 324.171. Unless an insured, or lessee having the privilege
 28376 of rejecting uninsured motorist coverage, requests such coverage
 28377 or requests higher uninsured motorist limits in writing, the
 28378 coverage or such higher uninsured motorist limits need not be
 28379 provided in or supplemental to any other policy which renews,
 28380 extends, changes, supersedes, or replaces an existing policy
 28381 with the same bodily injury liability limits when an insured or
 28382 lessee had rejected the coverage. When an insured or lessee has
 28383 initially selected limits of uninsured motorist coverage lower
 28384 than her or his bodily injury liability limits, higher limits of
 28385 uninsured motorist coverage need not be provided in or
 28386 supplemental to any other policy which renews, extends, changes,
 28387 supersedes, or replaces an existing policy with the same bodily
 28388 injury liability limits unless an insured requests higher
 28389 uninsured motorist coverage in writing. The rejection or
 28390 selection of lower limits shall be made on a form approved by
 28391 the office Insurance Commissioner. The form shall fully advise
 28392 the applicant of the nature of the coverage and shall state that
 28393 the coverage is equal to bodily injury liability limits unless
 28394 lower limits are requested or the coverage is rejected. The
 28395 heading of the form shall be in 12-point bold type and shall



HB 1803

2003

28396 state: "You are electing not to purchase certain valuable
28397 coverage which protects you and your family or you are
28398 purchasing uninsured motorist limits less than your bodily
28399 injury liability limits when you sign this form. Please read
28400 carefully." If this form is signed by a named insured, it will
28401 be conclusively presumed that there was an informed, knowing
28402 rejection of coverage or election of lower limits on behalf of
28403 all insureds. The insurer shall notify the named insured at
28404 least annually of her or his options as to the coverage required
28405 by this section. Such notice shall be part of, and attached to,
28406 the notice of premium, shall provide for a means to allow the
28407 insured to request such coverage, and shall be given in a manner
28408 approved by the office ~~department~~. Receipt of this notice does
28409 not constitute an affirmative waiver of the insured's right to
28410 uninsured motorist coverage where the insured has not signed a
28411 selection or rejection form. The coverage described under this
28412 section shall be over and above, but shall not duplicate, the
28413 benefits available to an insured under any workers' compensation
28414 law, personal injury protection benefits, disability benefits
28415 law, or similar law; under any automobile medical expense
28416 coverage; under any motor vehicle liability insurance coverage;
28417 or from the owner or operator of the uninsured motor vehicle or
28418 any other person or organization jointly or severally liable
28419 together with such owner or operator for the accident; and such
28420 coverage shall cover the difference, if any, between the sum of
28421 such benefits and the damages sustained, up to the maximum
28422 amount of such coverage provided under this section. The amount
28423 of coverage available under this section shall not be reduced by
28424 a setoff against any coverage, including liability insurance.
28425 Such coverage shall not inure directly or indirectly to the



HB 1803

2003

28426 benefit of any workers' compensation or disability benefits
28427 carrier or any person or organization qualifying as a self-
28428 insurer under any workers' compensation or disability benefits
28429 law or similar law.

28430 (5) Any person having a claim against an insolvent insurer
28431 as defined in s. 631.54(5)~~(6)~~ under the provisions of this
28432 section shall present such claim for payment to the Florida
28433 Insurance Guaranty Association only. In the event of a payment
28434 to any person in settlement of a claim arising under the
28435 provisions of this section, the association is not subrogated or
28436 entitled to any recovery against the claimant's insurer. The
28437 association, however, has the rights of recovery as set forth in
28438 chapter 631 in the proceeds recoverable from the assets of the
28439 insolvent insurer.

28440 (9) Insurers may offer policies of uninsured motorist
28441 coverage containing policy provisions, in language approved by
28442 the office ~~department~~, establishing that if the insured accepts
28443 this offer:

28444 (a) The coverage provided as to two or more motor vehicles
28445 shall not be added together to determine the limit of insurance
28446 coverage available to an injured person for any one accident,
28447 except as provided in paragraph (c).

28448 (b) If at the time of the accident the injured person is
28449 occupying a motor vehicle, the uninsured motorist coverage
28450 available to her or him is the coverage available as to that
28451 motor vehicle.

28452 (c) If the injured person is occupying a motor vehicle
28453 which is not owned by her or him or by a family member residing
28454 with her or him, the injured person is entitled to the highest
28455 limits of uninsured motorist coverage afforded for any one



HB 1803

2003

28456 vehicle as to which she or he is a named insured or insured
28457 family member. Such coverage shall be excess over the coverage
28458 on the vehicle the injured person is occupying.

28459 (d) The uninsured motorist coverage provided by the policy
28460 does not apply to the named insured or family members residing
28461 in her or his household who are injured while occupying any
28462 vehicle owned by such insureds for which uninsured motorist
28463 coverage was not purchased.

28464 (e) If, at the time of the accident the injured person is
28465 not occupying a motor vehicle, she or he is entitled to select
28466 any one limit of uninsured motorist coverage for any one vehicle
28467 afforded by a policy under which she or he is insured as a named
28468 insured or as an insured resident of the named insured's
28469 household.

28470

28471

28472 In connection with the offer authorized by this subsection,
28473 insurers shall inform the named insured, applicant, or lessee,
28474 on a form approved by the office ~~department~~, of the limitations
28475 imposed under this subsection and that such coverage is an
28476 alternative to coverage without such limitations. If this form
28477 is signed by a named insured, applicant, or lessee, it shall be
28478 conclusively presumed that there was an informed, knowing
28479 acceptance of such limitations. When the named insured,
28480 applicant, or lessee has initially accepted such limitations,
28481 such acceptance shall apply to any policy which renews, extends,
28482 changes, supersedes, or replaces an existing policy unless the
28483 named insured requests deletion of such limitations and pays the
28484 appropriate premium for such coverage. Any insurer who provides
28485 coverage which includes the limitations provided in this



HB 1803

2003

28486 subsection shall file revised premium rates with the office
 28487 ~~department~~ for such uninsured motorist coverage to take effect
 28488 prior to initially providing such coverage. The revised rates
 28489 shall reflect the anticipated reduction in loss costs
 28490 attributable to such limitations but shall in any event reflect
 28491 a reduction in the uninsured motorist coverage premium of at
 28492 least 20 percent for policies with such limitations. Such
 28493 filing shall not increase the rates for coverage which does not
 28494 contain the limitations authorized by this subsection, and such
 28495 rates shall remain in effect until the insurer demonstrates the
 28496 need for a change in uninsured motorist rates pursuant to s.
 28497 627.0651.

28498 Section 933. Subsection (1) of section 627.7275, Florida
 28499 Statutes, is amended to read:

28500 627.7275 Motor vehicle property damage liability.--

28501 (1) No motor vehicle insurance policy providing personal
 28502 injury protection as set forth in s. 627.736 shall be delivered
 28503 or issued for delivery in this state with respect to any
 28504 specifically insured or identified motor vehicle registered or
 28505 principally garaged in this state unless the policy also
 28506 provides coverage for property damage liability in the amount of
 28507 at least \$10,000 because of damage to, or destruction of,
 28508 property of others in any one accident arising out of the use of
 28509 the motor vehicle or provides coverage in the amount of at least
 28510 \$30,000 for combined property damage liability and bodily injury
 28511 liability in any one accident arising out of the use of the
 28512 motor vehicle. The policy, as to coverage of property damage
 28513 liability, shall meet the applicable requirements of s. 324.151,
 28514 subject to the usual policy exclusions such as have been
 28515 approved in policy forms by the office ~~department~~.



HB 1803

2003

28516 Section 934. Subsections (7), (8), and (9) of section
28517 627.728, Florida Statutes, are amended to read:

28518 627.728 Cancellations; nonrenewals.--

28519 (7) Except in the case of cancellation for nonpayment of
28520 premium or nonrenewal of the policy, the notice of cancellation
28521 as provided by this section must contain the following words
28522 which are to be prominently displayed: "You are permitted by
28523 law to appeal this cancellation. An appeal must be filed no
28524 later than 20 days before the effective date of cancellation set
28525 forth in this notice. Forms for such appeal and the regulations
28526 pertaining thereto may be obtained from the office ~~offices of~~
28527 ~~the Department of Insurance~~. The office ~~Department of Insurance~~
28528 does not have the authority to extend the effective date of
28529 cancellation; therefore you should obtain replacement coverage
28530 prior to the effective date of cancellation."

28531 (8)(a) Within 2 working days after receipt of a timely
28532 appeal of the notice of cancellation, the office ~~department~~
28533 shall initiate a proceeding. If informal procedures fail to
28534 resolve the appeal, the office ~~department~~ shall, upon request of
28535 the insured, call a hearing upon 10 days' notice to the parties
28536 to be held by a disinterested employee of the office ~~department~~.

28537 Proceedings pursuant to this subsection are not subject to the
28538 provisions of chapter 120.

28539 (b) Each insurer subject to this section shall maintain on
28540 file with the office ~~department~~ the name and address of the
28541 person authorized to receive notices pursuant to this section on
28542 behalf of the insurer.

28543 (c) The office ~~department~~ shall, at the conclusion of the
28544 proceeding or hearing or not later than 2 working days
28545 thereafter, issue its written findings to the parties; and, if



HB 1803

2003

28546 it finds for the named insured, it shall either order the
 28547 insurer to rescind its notice of cancellation or, if the date
 28548 cancellation is to be effective has elapsed, order the policy
 28549 reinstated from the date of cancellation, and such coverage
 28550 shall be continuous to, and shall operate prospectively from,
 28551 the date of cancellation. However, no policy shall be reinstated
 28552 while the named insured is in arrears in payment of premium on
 28553 such policy. If the office ~~department~~ finds for the insurer,
 28554 its written findings shall so state.

28555 (d) Reinstatement of a policy under this subsection shall
 28556 not operate in any way to extend the expiration, termination, or
 28557 anniversary date provided in the policy. Upon such
 28558 reinstatement, costs and attorney's fees may be assessed by the
 28559 office ~~department~~ and paid to the named insured by an insurer
 28560 who has wrongfully canceled a policy, as determined by the
 28561 proceeding or hearing provided for in paragraph (c).

28562 (9) The office ~~department~~ shall deposit all fees provided
 28563 for in this section into the Insurance ~~Commissioner's~~ Regulatory
 28564 Trust Fund.

28565 Section 935. Subsection (5) of section 627.7282, Florida
 28566 Statutes, is amended to read:

28567 627.7282 Notice of additional premium; cancellation upon
 28568 nonpayment.--

28569 (5) The commission ~~department~~ may adopt rules prescribing
 28570 the format of the notice.

28571 Section 936. Paragraph (a) of subsection (5) of section
 28572 627.7295, Florida Statutes, is amended to read:

28573 627.7295 Motor vehicle insurance contracts.--

28574 (5)(a) A licensed general lines agent may charge a per-
 28575 policy fee not to exceed \$10 to cover the administrative costs



HB 1803

2003

28576 of the agent associated with selling the motor vehicle insurance
 28577 policy if the policy covers only personal injury protection
 28578 coverage as provided by s. 627.736 and property damage liability
 28579 coverage as provided by s. 627.7275 and if no other insurance is
 28580 sold or issued in conjunction with or collateral to the policy.
 28581 The per-policy fee must be a component of the insurer's rate
 28582 filing and may not be charged by an agent unless the fee is
 28583 included in the filing. The fee is not considered part of the
 28584 premium except for purposes of the office's ~~department's~~ review
 28585 of expense factors in a filing made pursuant to s. 627.062.

28586 Section 937. Paragraph (c) of subsection (4), paragraphs
 28587 (a) and (e) of subsection (5), paragraph (a) of subsection (6),
 28588 and paragraph (c) of subsection (11) of section 627.736, Florida
 28589 Statutes, are amended to read:

28590 627.736 Required personal injury protection benefits;
 28591 exclusions; priority; claims.--

28592 (4) BENEFITS; WHEN DUE.--Benefits due from an insurer
 28593 under ss. 627.730-627.7405 shall be primary, except that
 28594 benefits received under any workers' compensation law shall be
 28595 credited against the benefits provided by subsection (1) and
 28596 shall be due and payable as loss accrues, upon receipt of
 28597 reasonable proof of such loss and the amount of expenses and
 28598 loss incurred which are covered by the policy issued under ss.
 28599 627.730-627.7405. When the Agency for Health Care Administration
 28600 provides, pays, or becomes liable for medical assistance under
 28601 the Medicaid program related to injury, sickness, disease, or
 28602 death arising out of the ownership, maintenance, or use of a
 28603 motor vehicle, benefits under ss. 627.730-627.7405 shall be
 28604 subject to the provisions of the Medicaid program.

28605 (c) All overdue payments shall bear simple interest at the



HB 1803

2003

28606 rate established ~~by the Comptroller~~ under s. 55.03 or the rate
28607 established in the insurance contract, whichever is greater, for
28608 the year in which the payment became overdue, calculated from
28609 the date the insurer was furnished with written notice of the
28610 amount of covered loss. Interest shall be due at the time
28611 payment of the overdue claim is made.

28612 (5) CHARGES FOR TREATMENT OF INJURED PERSONS.--

28613 (a) Any physician, hospital, clinic, or other person or
28614 institution lawfully rendering treatment to an injured person
28615 for a bodily injury covered by personal injury protection
28616 insurance may charge only a reasonable amount for the services
28617 and supplies rendered, and the insurer providing such coverage
28618 may pay for such charges directly to such person or institution
28619 lawfully rendering such treatment, if the insured receiving such
28620 treatment or his or her guardian has countersigned the invoice,
28621 bill, or claim form approved by the office ~~Department of~~
28622 ~~Insurance~~ upon which such charges are to be paid for as having
28623 actually been rendered, to the best knowledge of the insured or
28624 his or her guardian. In no event, however, may such a charge be
28625 in excess of the amount the person or institution customarily
28626 charges for like services or supplies in cases involving no
28627 insurance.

28628 (e) All statements and bills for medical services rendered
28629 by any physician, hospital, clinic, or other person or
28630 institution shall be submitted to the insurer on a Health Care
28631 Finance Administration 1500 form, UB 92 forms, or any other
28632 standard form approved by the office or adopted by the
28633 commission ~~department~~ for purposes of this paragraph. All
28634 billings for such services shall, to the extent applicable,
28635 follow the Physicians' Current Procedural Terminology (CPT) in



HB 1803

2003

28636 the year in which services are rendered. No statement of medical
28637 services may include charges for medical services of a person or
28638 entity that performed such services without possessing the valid
28639 licenses required to perform such services. For purposes of
28640 paragraph (4)(b), an insurer shall not be considered to have
28641 been furnished with notice of the amount of covered loss or
28642 medical bills due unless the statements or bills comply with
28643 this paragraph.

28644 (6) DISCOVERY OF FACTS ABOUT AN INJURED PERSON; DISPUTES.-
28645 -

28646 (a) Every employer shall, if a request is made by an
28647 insurer providing personal injury protection benefits under ss.
28648 627.730-627.7405 against whom a claim has been made, furnish
28649 forthwith, in a form approved by the office ~~department~~, a sworn
28650 statement of the earnings, since the time of the bodily injury
28651 and for a reasonable period before the injury, of the person
28652 upon whose injury the claim is based.

28653 (11) DEMAND LETTER.--

28654 (c) Each notice required by this section must be delivered
28655 to the insurer by United States certified or registered mail,
28656 return receipt requested. Such postal costs shall be reimbursed
28657 by the insurer if so requested by the provider in the notice,
28658 when the insurer pays the overdue claim. Such notice must be
28659 sent to the person and address specified by the insurer for the
28660 purposes of receiving notices under this section, on the
28661 document denying or reducing the amount asserted by the filer to
28662 be overdue. Each licensed insurer, whether domestic, foreign, or
28663 alien, may file with the office ~~department~~ designation of the
28664 name and address of the person to whom notices pursuant to this
28665 section shall be sent when such document does not specify the



HB 1803

2003

28666 name and address to whom the notices under this section are to
28667 be sent or when there is no such document. The name and address
28668 on file with the office ~~department~~ pursuant to s. 624.422 shall
28669 be deemed the authorized representative to accept notice
28670 pursuant to this section in the event no other designation has
28671 been made.

28672 Section 938. Subsection (5) of section 627.739, Florida
28673 Statutes, is amended to read:

28674 627.739 Personal injury protection; optional limitations;
28675 deductibles.--

28676 (5) All such offers shall be made in clear and unambiguous
28677 language at the time the initial application is taken and prior
28678 to each annual renewal and shall indicate that a premium
28679 reduction will result from each election. At the option of the
28680 insurer, the requirements of the preceding sentence are met by
28681 using forms of notice approved by the office ~~department~~, or by
28682 providing the following notice in 10-point type in the insurer's
28683 application for initial issuance of a policy of motor vehicle
28684 insurance and the insurer's annual notice of renewal premium:

28685 For personal injury protection insurance, the named insured may
28686 elect a deductible and to exclude coverage for loss of gross
28687 income and loss of earning capacity ("lost wages"). These
28688 elections apply to the named insured alone, or to the named
28689 insured and all dependent resident relatives. A premium
28690 reduction will result from these elections. The named insured is
28691 hereby advised not to elect the lost wage exclusion if the named
28692 insured or dependent resident relatives are employed, since lost
28693 wages will not be payable in the event of an accident.

28694 Section 939. Section 627.7401, Florida Statutes, is
28695 amended to read:



HB 1803

2003

28696 627.7401 Notification of insured's rights.--

28697 (1) The commission ~~department~~, by rule, shall adopt a form
 28698 for the notification of insureds of their right to receive
 28699 personal injury protection benefits under the Florida Motor
 28700 Vehicle No-Fault Law. Such notice shall include a description of
 28701 the benefits provided by personal injury protection, including,
 28702 but not limited to, the specific types of services for which
 28703 medical benefits are paid, disability benefits, death benefits,
 28704 significant exclusions from and limitations on personal injury
 28705 protection benefits, when payments are due, how benefits are
 28706 coordinated with other insurance benefits that the insured may
 28707 have, penalties and interest that may be imposed on insurers for
 28708 failure to make timely payments of benefits, and rights of
 28709 parties regarding disputes as to benefits.

28710 (2) Each insurer issuing a policy in this state providing
 28711 personal injury protection benefits must mail or deliver the
 28712 notice as specified in subsection(1) to an insured within 21
 28713 days after receiving from the insured notice of an automobile
 28714 accident or claim involving personal injury to an insured who is
 28715 covered under the policy. The office ~~department~~ may allow an
 28716 insurer additional time to provide the notice specified in
 28717 subsection(1) not to exceed 30 days, upon a showing by the
 28718 insurer that an emergency justifies an extension of time.

28719 (3) The notice required by this section does not alter or
 28720 modify the terms of the insurance contract or other requirements
 28721 of this act.

28722 Section 940. Paragraph (h) of subsection (2) and
 28723 subsections (4), (5), and (7) of section 627.744, Florida
 28724 Statutes, are amended to read:

28725 627.744 Required preinsurance inspection of private



HB 1803

2003

28726 passenger motor vehicles.--

28727 (2) This section does not apply:

28728 (h) To any other vehicle or policy exempted by rule of the
28729 commission ~~department~~. The commission ~~department~~ may base a
28730 rule under this paragraph only on a determination that the
28731 likelihood of a fraudulent physical damage claim is remote or
28732 that the inspection would cause a serious hardship to the
28733 insurer or the applicant.

28734 (4) The inspection required by this section shall be
28735 provided by the insurer or by a person or organization
28736 authorized by the insurer. The applicant may be required to pay
28737 the cost of the inspection, not to exceed \$5. The inspection
28738 shall be recorded on a form prescribed by the commission
28739 ~~department~~, and the form or a copy shall be retained by the
28740 insurer with its policy records for the insured. The insurer
28741 shall provide a copy of the form to the insured upon request.
28742 Any inspection fee paid directly by the applicant may not be
28743 considered part of the premium. However, an insurer that
28744 provides the inspection at no cost to the applicant may include
28745 the expense of the inspection within a rate filing.

28746 (5) The inspection shall include at least the following:

28747 (a) Taking a physical imprint of the vehicle
28748 identification number of the vehicle or otherwise recording the
28749 vehicle identification number in a manner prescribed by the
28750 commission ~~department~~.

28751 (b) Recording the presence of accessories required by the
28752 commission ~~department~~ to be recorded.

28753 (c) Recording the locations of and a description of
28754 existing damage to the vehicle.

28755 (7) The commission ~~department~~ may, by rule, establish such



HB 1803

2003

28756 | procedures and notice requirements that it finds necessary to
 28757 | implement this section.

28758 | Section 941. Subsections (1) and (2) of section 627.758,
 28759 | Florida Statutes, are amended to read:

28760 | 627.758 Surety on auto club traffic arrest bond;
 28761 | conditions, limit; bail bond.--

28762 | (1) Any authorized surety insurer may, in any year, become
 28763 | surety in an amount not to exceed \$1,000 with respect to any
 28764 | guaranteed traffic arrest bond certificate issued in such year
 28765 | by an automobile club or association by filing with the office
 28766 | ~~department~~ an undertaking to become surety.

28767 | (2) The undertaking shall be in the form prescribed by the
 28768 | commission ~~department~~ and shall state the following:

28769 | (a) The name and address of the automobile club or
 28770 | association with respect to the guaranteed traffic arrest bond
 28771 | certificates for which the surety insurer undertakes to be
 28772 | surety.

28773 | (b) The unqualified obligation of the surety insurer to
 28774 | pay the fine or forfeiture in an amount not to exceed \$1,000 for
 28775 | any person who, after posting a guaranteed traffic arrest bond
 28776 | certificate with respect to which the insurer has undertaken to
 28777 | be surety, fails to make the appearance for which the
 28778 | certificate was posted.

28779 | Section 942. Subsection (2) of section 627.7711, Florida
 28780 | Statutes, is amended to read:

28781 | 627.7711 Definitions.--As used in this part, the term:

28782 | (2) "Premium" means the charge, as specified by rule of
 28783 | the commission ~~department~~, that is made by a title insurer for a
 28784 | title insurance policy, including the charge for performance of
 28785 | primary title services by a title insurer or title insurance



HB 1803

2003

28786 agent or agency, and incurring the risks incident to such
28787 policy, under the several classifications of title insurance
28788 contracts and forms, and upon which charge a premium tax is paid
28789 under s. 624.509. As used in this part or in any other law,
28790 with respect to title insurance, the word "premium" does not
28791 include a commission.

28792 Section 943. Section 627.777, Florida Statutes, is amended
28793 to read:

28794 627.777 Approval of forms.--A title insurer may not issue
28795 or agree to issue any form of title insurance commitment, title
28796 insurance policy, other contract of title insurance, or related
28797 form until it is filed with and approved by the office
28798 ~~department~~. The office ~~department~~ may not disapprove a title
28799 guarantee or policy form on the ground that it has on it a blank
28800 form for an attorney's opinion on the title.

28801 Section 944. Subsection (2) of section 627.7773, Florida
28802 Statutes, is amended to read:

28803 627.7773 Accounting and auditing of forms by title
28804 insurers.--

28805 (2) If the office ~~department~~ has reason to believe that an
28806 audit of outstanding forms should be required of any title
28807 insurer as to a title insurance agent or agency, the office
28808 ~~department~~ may require the title insurer to make a special audit
28809 of the forms. The title insurer shall complete the audit not
28810 later than 60 days after the request is received from the office
28811 ~~department~~, and shall report the results of the special audit to
28812 the office ~~department~~ no later than 90 days after the request is
28813 received.

28814 Section 945. Subsection (1) of section 627.780, Florida
28815 Statutes, is amended to read:



HB 1803

2003

28816 627.780 Illegal dealings in risk premium.--

28817 (1) A person may not knowingly quote, charge, accept,
28818 collect, or receive a premium for title insurance other than the
28819 premium adopted by the commission ~~department~~.

28820 Section 946. Subsections (1), (2), (7), and (8) of section
28821 627.782, Florida Statutes, are amended to read:

28822 627.782 Adoption of rates.--

28823 (1) Subject to the rating provisions of this code, the
28824 commission ~~department~~ must adopt a rule specifying the premium
28825 to be charged in this state by title insurers for the respective
28826 types of title insurance contracts and, for policies issued
28827 through agents or agencies, the percentage of such premium
28828 required to be retained by the title insurer which shall not be
28829 less than 30 percent. However, in a transaction subject to the
28830 Real Estate Settlement Procedures Act of 1974, 12 U.S.C. ss.
28831 2601 et seq., as amended, no portion of the premium attributable
28832 to providing a primary title service shall be paid to or
28833 retained by any person who does not actually perform or is not
28834 liable for the performance of such service. The commission
28835 ~~department~~ may, by rule, establish limitations on related title
28836 services charges made in addition to the premium based upon the
28837 expenses associated with the services rendered and other
28838 relevant factors.

28839 (2) In adopting premium rates, the commission ~~department~~
28840 must give due consideration to the following:

28841 (a) The title insurers' loss experience and prospective
28842 loss experience under closing protection letters and policy
28843 liabilities.

28844 (b) A reasonable margin for underwriting profit and
28845 contingencies, including contingent liability under s. 627.7865,



HB 1803

2003

28846 sufficient to allow title insurers, agents, and agencies to earn
 28847 a rate of return on their capital that will attract and retain
 28848 adequate capital investment in the title insurance business and
 28849 maintain an efficient title insurance delivery system.

28850 (c) Past expenses and prospective expenses for
 28851 administration and handling of risks.

28852 (d) Liability for defalcation.

28853 (e) Other relevant factors.

28854 (7) The commission ~~department~~ shall, in accordance with
 28855 the standards provided in subsection (2), review the premium as
 28856 needed, but not less frequently than once every 3 years, and
 28857 shall, based upon the review required by this subsection, revise
 28858 the premium if the results of the review so warrant.

28859 (8) The commission ~~department~~ may, by rule, require
 28860 licensees under this part to annually submit statistical
 28861 information, including loss and expense data, as the department
 28862 determines to be necessary to analyze premium rates, retention
 28863 rates, and the condition of the title insurance industry.

28864 Section 947. Section 627.783, Florida Statutes, is amended
 28865 to read:

28866 627.783 Rate deviation.--

28867 (1) A title insurer may petition the office ~~department~~ for
 28868 an order authorizing a specific deviation from the adopted
 28869 premium, and a title insurer or title insurance agent may
 28870 petition the office ~~department~~ for an order authorizing and
 28871 permitting a specific deviation above the reasonable charge for
 28872 related title services rendered specified in s. 627.782(1). The
 28873 petition shall be in writing and sworn to and shall set forth
 28874 allegations of fact upon which the petitioner will rely,
 28875 including the petitioner's reasons for requesting the deviation.



HB 1803

2003

28876 Any authorized title insurer, agent, or agency may join in the
 28877 petition for like authority to deviate or may file a separate
 28878 petition praying for like authority or opposing the deviation.
 28879 The office ~~department~~ shall rule on all such petitions
 28880 simultaneously.

28881 (2) If, in the judgment of the office ~~department~~, the
 28882 requested deviation is not justified, the office ~~department~~ may
 28883 enter an order denying the petition. An order granting a
 28884 petition constitutes an amendment to the adopted premium as to
 28885 the petitioners named in the order, and is subject to s.
 28886 627.782.

28887 Section 948. Subsection (3) of section 627.7843, Florida
 28888 Statutes, is amended to read:

28889 627.7843 Ownership and encumbrance reports.--

28890 (3) Any ownership and encumbrance report or similar report
 28891 that is relied on or intended to be relied on by a consumer must
 28892 be on forms approved by the office ~~department~~, and must provide
 28893 for a maximum liability for incorrect information of not more
 28894 than \$1,000.

28895 Section 949. Subsections (2) and (3) of section 627.7845,
 28896 Florida Statutes, are amended to read:

28897 627.7845 Determination of insurability required;
 28898 preservation of evidence of title search and examination.--

28899 (2) The title insurer shall cause the evidence of the
 28900 reasonable search and examination of the title to be preserved
 28901 and retained in its files or in the files of its title insurance
 28902 agent or agency for a period of not less than 7 years after the
 28903 title insurance commitment, title insurance policy, or guarantee
 28904 of title was issued. The title insurer or agent or agency must
 28905 produce the evidence required to be maintained by this



HB 1803

2003

28906 subsection at its offices upon the demand of the office
 28907 ~~department~~. Instead of retaining the original evidence, the
 28908 title insurer or the title insurance agent or agency may, in the
 28909 regular course of business, establish a system under which all
 28910 or part of the evidence is recorded, copied, or reproduced by
 28911 any photographic, photostatic, microfilm, microcard, miniature
 28912 photographic, or other process which accurately reproduces or
 28913 forms a durable medium for reproducing the original.

28914 (3) The title insurer or its agent or agency must maintain
 28915 a record of the actual risk premium and related title service
 28916 charges made for issuance of the policy and any endorsements in
 28917 its files for a period of not less than 7 years. The title
 28918 insurer, agent, or agency must produce the record at its office
 28919 upon demand of the office ~~department~~.

28920 Section 950. Subsection (3) of section 627.786, Florida
 28921 Statutes, is amended to read:

28922 627.786 Transaction of title insurance and any other kind
 28923 of insurance prohibited.--

28924 (3) Subsection (1) does not preclude a title insurer from
 28925 providing instruments to any prospective insured, in the form
 28926 and content approved by the office ~~department~~, under which the
 28927 title insurer assumes liability for loss due to the fraud of,
 28928 dishonesty of, misappropriation of funds by, or failure to
 28929 comply with written closing instructions by, its contract
 28930 agents, agencies, or approved attorneys in connection with a
 28931 real property transaction for which the title insurer is to
 28932 issue a title insurance policy.

28933 Section 951. Section 627.7865, Florida Statutes, is
 28934 amended to read:

28935 627.7865 Title insurer assessments.--As a condition of



HB 1803

2003

28936 doing business in this state, each title insurer shall be liable
 28937 for an assessment to pay all unpaid title insurance claims on
 28938 real property in this state for any title insurer which is
 28939 liquidated with unpaid outstanding claims. The office
 28940 ~~department~~ shall assess all title insurers on a pro rata basis
 28941 determined by their writings in this state for amounts necessary
 28942 to pay the claims. A title insurer is not required to pay an
 28943 amount in excess of one-tenth of its surplus as to
 28944 policyholders.

28945 Section 952. Section 627.791, Florida Statutes, is amended
 28946 to read:

28947 627.791 Penalties against title insurers for violations by
 28948 persons or entities not licensed.--A title insurer is subject to
 28949 the penalties in ss. 624.418(2) and 624.4211 for any violation
 28950 of a lawful order or rule of the office or commission
 28951 ~~department~~, or for any violation of this code, committed by:

28952 (1) A person, firm, association, corporation, cooperative,
 28953 joint-stock company, or other legal entity not licensed under
 28954 this part when issuing and countersigning commitments or
 28955 policies of title insurance on behalf of the title insurer.

28956 (2) An attorney when issuing and countersigning
 28957 commitments or policies of title insurance on behalf of the
 28958 title insurer.

28959 Section 953. Section 627.793, Florida Statutes, is amended
 28960 to read:

28961 627.793 Rulemaking authority.--The commission may
 28962 ~~department is authorized to~~ adopt rules implementing the
 28963 provisions of this part.

28964 Section 954. Section 627.798, Florida Statutes, is amended
 28965 to read:



HB 1803

2003

28966 627.798 Rulemaking authority.--The commission ~~department~~
 28967 shall by rule adopt a form to be used to provide notice to a
 28968 purchaser-mortgagor that the purchaser-mortgagor is not
 28969 protected by the title policy of the mortgagee.

28970 Section 955. Section 627.805, Florida Statutes, is amended
 28971 to read:

28972 627.805 ~~Departmental~~ Regulation of variable and
 28973 indeterminate value contracts; rules.--The office ~~department~~,
 28974 notwithstanding any other provision of law, shall have the sole
 28975 authority to regulate the issuance and sale of variable and
 28976 indeterminate value contracts, and the commission has authority
 28977 to adopt rules pursuant to ss. 120.536(1) and 120.54 to
 28978 implement the provisions of this part.

28979 Section 956. Section 627.8055, Florida Statutes, is
 28980 amended to read:

28981 627.8055 Qualification of companies to issue variable or
 28982 indeterminate value contracts.--No insurance company shall issue
 28983 or deliver any contract on a variable or indeterminate value
 28984 basis until it has satisfied the office ~~department~~ that its
 28985 financial condition, management, history, and methods of
 28986 operation are not such as would render its operation harmful to
 28987 the public welfare.

28988 Section 957. Section 627.828, Florida Statutes, is amended
 28989 to read:

28990 627.828 License required.--

28991 (1) Except as provided in ss. 627.901 and 627.902, no
 28992 person shall engage in the business of a premium finance company
 28993 unless licensed by the office ~~department~~. Every premium finance
 28994 company licensed under the provisions of this part shall
 28995 maintain at all times a net worth of \$35,000. However, in lieu



HB 1803

2003

28996 of having a net worth of \$35,000, a premium finance company that
 28997 has a net worth of \$10,000 may file a surety bond with the
 28998 office or other acceptable collateral with the department as
 28999 approved by the office or department ~~it~~ in the amount of
 29000 \$35,000, which bond or collateral must be maintained.

29001 (2) The application for a license shall be in writing and
 29002 in the form prescribed by the commission ~~department~~. Every
 29003 applicant shall provide evidence of a net worth of \$35,000
 29004 attested by two officers of the company, or a \$35,000 surety
 29005 bond and evidence of a net worth of \$10,000 attested by two
 29006 officers of the company. Assets to be used in computing the
 29007 required net worth shall be determined by rules adopted by the
 29008 commission ~~department~~.

29009 (3)(a) Each premium finance company authorized under the
 29010 provisions of this part shall maintain at all times an errors
 29011 and omissions insurance policy of no less than \$500,000 covering
 29012 the acts of its officers, employees, and agents. The policy may
 29013 contain reasonable deductibles not to exceed 2 percent of the
 29014 policy limits.

29015 (b)1. A premium finance company with an unencumbered net
 29016 worth of at least \$15 million may self-insure the errors and
 29017 omissions coverage if it meets the requirements of this
 29018 paragraph.

29019 2. To qualify as a self-insurer the premium finance
 29020 company must:

29021 a. Have and maintain an unencumbered net worth of \$15
 29022 million, which shall be determined based on assets permissible
 29023 for insurers pursuant to ss. 625.012 and 625.031;

29024 b. Annually demonstrate as part of its annual report, to
 29025 the satisfaction of the department, that the net-worth



HB 1803

2003

29026 requirement is being met; and

29027 c. Obtain, as a part of its annual application for
 29028 licensure as a premium finance company, a certificate of self-
 29029 insurance from the office ~~department~~ to be renewed annually.

29030 3. If the office ~~department~~ finds that the premium finance
 29031 company:

29032 a. Is not maintaining at all times an unencumbered net
 29033 worth of at least \$15 million; or

29034 b. Is not, in good faith, covering the errors and
 29035 omissions of its officers, employees and agents,

29036
 29037
 29038 the office ~~department~~ shall, in addition to other penalties
 29039 under this code, revoke or suspend the certificate of self-
 29040 insurance, and the premium finance company shall be subject to
 29041 the requirements of paragraph (a).

29042 (c) The commission ~~department~~ may adopt rules necessary to
 29043 administer this subsection, including rules prescribing the
 29044 necessary forms.

29045 (4) A single license shall entitle the holder to operate
 29046 more than one office.

29047 (5) At the time of filing an application for a license,
 29048 the applicant shall pay to the office ~~department~~ the license fee
 29049 and, upon original application or upon application subsequent to
 29050 denial of application, or revocation, suspension or surrender of
 29051 a license, an investigation fee.

29052 (6) Such license shall state the name and address of the
 29053 licensee, and a copy shall be kept conspicuously posted in each
 29054 office of the licensee and shall not be transferable or
 29055 assignable.



HB 1803

2003

29056 (7) Prior to moving an existing office to another
 29057 location, a licensee shall notify the office ~~department~~ in
 29058 writing of its intention to do so.

29059 Section 958. Section 627.829, Florida Statutes, is amended
 29060 to read:

29061 627.829 Approval, disapproval of application; license
 29062 renewal.--

29063 (1) The office ~~department~~ shall issue the license, unless
 29064 it finds that the management of the premium finance company
 29065 filing the application is so lacking in managerial experience as
 29066 to make the proposed operation hazardous to the insurance-buying
 29067 public or unless it has good reason to believe the management of
 29068 the premium finance company is affiliated directly or indirectly
 29069 through ownership, control, or in other business relations with
 29070 any person whose business operations are or have been marked as
 29071 detrimental to the public, policyholders, stockholders,
 29072 investors, or creditors by manipulation of assets or of accounts
 29073 or by bad faith.

29074 (2) If the office ~~department~~ refuses to issue a license,
 29075 it shall notify the applicant of the denial and return to the
 29076 applicant the sum paid as a license fee, but shall retain the
 29077 investigation fee to cover the costs of investigating the
 29078 applicant.

29079 (3) Each license shall remain in force until September 30
 29080 of the year for which issued, unless earlier surrendered,
 29081 suspended, or revoked, and may be renewed for the ensuing
 29082 license year upon the filing of an application therefor. If an
 29083 application for renewal is filed with the office ~~department~~
 29084 before October 1 of any year, the license sought to be renewed
 29085 shall be continued in force either until the issuance by the



HB 1803

2003

29086 office ~~department~~ of the renewal license applied for or until 5
 29087 days after the office ~~department~~ refuses to renew the license.

29088 Section 959. Section 627.832, Florida Statutes, is amended
 29089 to read:

29090 627.832 Grounds for refusal, suspension, or revocation of
 29091 license.--

29092 (1) The office ~~department~~ may deny, suspend, revoke, or
 29093 refuse to renew any license, if it finds:

29094 (a) That the licensee has failed to pay the annual license
 29095 fee or any sum of money lawfully demanded under authority of any
 29096 other section of this part or has failed to comply with any
 29097 order of the office ~~department~~.

29098 (b) That the licensee has violated any provision of this
 29099 part or any rule of the commission ~~department~~.

29100 (c) That any fact or condition exists which, if it had
 29101 existed at the time of the original application, clearly would
 29102 have warranted a refusal to issue the license.

29103 (d) Material misstatement, misrepresentation, or fraud in
 29104 obtaining the license or permit, or in attempting to obtain the
 29105 license or permit.

29106 (e) That the license or permit is being willfully used, or
 29107 is to be used, to circumvent any of the requirements or
 29108 prohibitions of this code.

29109 (f) Willful misrepresentation of any premium finance
 29110 contract or willful deception with regard to any such contract,
 29111 accomplished either in person or by any form of dissemination of
 29112 information.

29113 (g) A demonstrated lack of fitness or trustworthiness.

29114 (h) Fraudulent or dishonest practices in the conduct of
 29115 business.



HB 1803

2003

29116 (i) Misappropriation, conversion, or unlawful withholding
 29117 of moneys belonging to insurers, insureds, or beneficiaries or
 29118 to others and received in the conduct of business.

29119 (j) That the licensee has been found guilty of, or has
 29120 pleaded guilty to, a felony in this state or any other state.

29121 (2) A licensee may surrender a license by delivering to
 29122 the office ~~department~~ written notice that she or he thereby
 29123 surrenders such license, but such surrender shall not affect
 29124 such licensee's civil or criminal liability for acts committed
 29125 prior to such surrender.

29126 (3) No revocation, suspension, or surrender of a license
 29127 shall impair or affect the obligation of any insured under any
 29128 lawful premium finance agreement previously acquired or held by
 29129 the licensee.

29130 (4) Every license issued hereunder shall remain in force
 29131 and effect until it has been surrendered, revoked, or suspended
 29132 or expires in accordance with the provisions of this part; but
 29133 the office may ~~department shall have authority to~~ reinstate a
 29134 suspended license or to issue a new license to a licensee whose
 29135 license has been revoked, if no fact or condition then exists
 29136 which clearly would have warranted office ~~departmental~~ refusal
 29137 originally to issue such license under this part.

29138 Section 960. Section 627.833, Florida Statutes, is amended
 29139 to read:

29140 627.833 Administrative fine and probation in lieu of
 29141 suspension, revocation, or refusal to renew license.--The office
 29142 ~~department~~ may, in its discretion in lieu of a suspension,
 29143 revocation, or refusal to renew or continue any license, impose
 29144 on the licensee an administrative penalty or place such licensee
 29145 on probation pursuant to ss. 626.681 and 626.691.



HB 1803

2003

29146 Section 961. Section 627.834, Florida Statutes, is amended
29147 to read:

29148 627.834 Examinations.--

29149 (1) The office ~~department~~ may conduct examinations and
29150 investigations of premium finance companies under the provisions
29151 of ss. 624.307 and 626.601.

29152 (2) As often as it deems necessary and not less frequently
29153 than each 3 years, the office ~~department~~ shall examine each
29154 licensed premium finance company. The examination shall be for
29155 the purpose of ascertaining compliance by the person examined
29156 with the applicable provisions of this code.

29157 Section 962. Section 627.836, Florida Statutes, is amended
29158 to read:

29159 627.836 Licensee's books and records; reports.--

29160 (1) The licensee shall keep and use in her or his business
29161 such books, accounts, and records as will enable the office
29162 ~~department~~ to determine whether the licensee is complying with
29163 the provisions of this part and with the rules pertaining
29164 thereto. Every licensee shall preserve such books, accounts, and
29165 records, including cards used in a card system, if any, for at
29166 least 3 years after making the final entry in respect to any
29167 premium finance agreement recorded therein; however, the
29168 preservation of photographic reproductions thereof or records in
29169 photographic form shall constitute compliance with this
29170 requirement.

29171 (2) Each licensee shall annually, on or before March 1,
29172 file a report with the office ~~department~~ giving such information
29173 as the office ~~department~~ may require. The report shall be made
29174 under oath and in the form prescribed by the commission
29175 ~~department~~ and shall be accompanied by the annual report filing



HB 1803

2003

29176 fee specified in s. 627.849. The office ~~department~~ may make and
29177 publish annually an analysis and recapitulation of such reports.

29178 In addition, the office ~~department~~ may require such additional
29179 regular or special reports as it may deem necessary.

29180 Section 963. Section 627.838, Florida Statutes, is amended
29181 to read:

29182 627.838 Filing and approval of forms; service charges.--

29183 (1) No premium finance agreement form or related form
29184 shall be used in this state by a premium finance company unless
29185 it has been filed with and approved by the office ~~department~~.
29186 Every filing shall be made within 30 days of issuance or use.

29187 (2) Each premium finance company shall file with the
29188 office ~~department~~ the service charge and interest rate plan,
29189 including all modifications thereto, for informational purposes
29190 only. Every filing shall be made within 30 days of its
29191 effective date.

29192 (3) Each filing shall be accompanied by the filing fee
29193 specified in s. 627.849.

29194 Section 964. Paragraph (b) of subsection (3) of section
29195 627.840, Florida Statutes, is amended to read:

29196 627.840 Limitation on service and other charges.--

29197 (3)

29198 (b) The service charge shall be a maximum of \$12 per \$100
29199 per year plus an additional charge not exceeding \$20, which
29200 additional charge need not be refunded upon prepayment. Such
29201 additional charge may be charged only once in a 12-month period
29202 for any one customer unless that customer's policy has been
29203 canceled due to nonpayment within the immediately preceding 12-
29204 month period. However, any insured may prepay her or his premium
29205 finance agreement in full at any time before the due date of the



HB 1803

2003

29206 final payment; and in such event the unearned service charge
29207 shall be refunded in accordance with the "Rule of 78ths," or any
29208 other method at least as beneficial to the insured and approved
29209 by the office department, and shall represent at least as great
29210 a proportion of the service charge, if any, as the sum of the
29211 periodic balances after the month in which prepayment is made
29212 bears to the sum of all periodic balances under the schedule of
29213 payments in the agreement. When the amount of the refund is
29214 less than \$1, no refund need be made if the agreement so states.

29215 Section 965. Section 627.8405, Florida Statutes, is
29216 amended to read:

29217 627.8405 Prohibited acts; financing companies.--No premium
29218 finance company shall, in a premium finance agreement or other
29219 agreement, finance the cost of or otherwise provide for the
29220 collection or remittance of dues, assessments, fees, or other
29221 periodic payments of money for the cost of:

29222 (1) A membership in an automobile club. The term
29223 "automobile club" means a legal entity which, in consideration
29224 of dues, assessments, or periodic payments of money, promises
29225 its members or subscribers to assist them in matters relating to
29226 the ownership, operation, use, or maintenance of a motor
29227 vehicle; however, this definition of "automobile club" does not
29228 include persons, associations, or corporations which are
29229 organized and operated solely for the purpose of conducting,
29230 sponsoring, or sanctioning motor vehicle races, exhibitions, or
29231 contests upon racetracks, or upon racecourses established and
29232 marked as such for the duration of such particular events. The
29233 words "motor vehicle" used herein have the same meaning as
29234 defined in chapter 320.

29235 (2) An accidental death and dismemberment policy sold in



HB 1803

2003

29236 combination with a personal injury protection and property
29237 damage only policy.

29238 (3) Any product not regulated under the provisions of this
29239 insurance code.

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29242 This section also applies to premium financing by any insurance
29243 agent or insurance company under part XVI. The commission
29244 ~~department~~ shall adopt rules to assure disclosure, at the time
29245 of sale, of coverages financed with personal injury protection
29246 and shall prescribe the form of such disclosure.

29247 Section 966. Paragraph (e) of subsection (1) and
29248 subsection (3) of section 627.848, Florida Statutes, are amended
29249 to read:

29250 627.848 Cancellation of insurance contract upon default.--

29251 (1) When a premium finance agreement contains a power of
29252 attorney or other authority enabling the premium finance company
29253 to cancel any insurance contract listed in the agreement, the
29254 insurance contract shall not be canceled unless cancellation is
29255 in accordance with the following provisions:

29256 (e) Whenever an insurance contract is canceled in
29257 accordance with this section, the insurer shall promptly return
29258 the unpaid balance due under the finance contract, up to the
29259 gross amount available upon the cancellation of the policy, to
29260 the premium finance company and any remaining unearned premium
29261 to the agent or the insured, or both, for the benefit of the
29262 insured or insureds. The insurer shall notify the insured and
29263 the agent of the amount of unearned premium returned to the
29264 premium finance company and the amount of unearned commission
29265 held by the agent. The premium finance company within 15 days



HB 1803

2003

29266 shall notify the insured and the agent of the amount of unearned
 29267 premium. Within 15 days of receipt of notification from the
 29268 premium finance company, the agent shall return such amount
 29269 including any unearned commission to the insured or with the
 29270 written approval of the insured apply such amount to the
 29271 purchase of other insurance products regulated by the office
 29272 ~~department~~. The commission department may adopt rules necessary
 29273 to implement the provisions of this subsection.

29274 (3) The commission department shall adopt a standard
 29275 cancellation notice for use by premium finance companies in
 29276 canceling insurance policies. The commission department shall
 29277 specify the color of the notice so as to promote usability and
 29278 standardization.

29279 Section 967. Section 627.849, Florida Statutes, is amended
 29280 to read:

29281 627.849 Fees.--

29282 (1) The office department shall collect in advance, and
 29283 the persons so served shall pay to it in advance, the following
 29284 fees:

- 29285 (a) Annual license fee....\$250
- 29286 (b) Investigation fee....100
- 29287 (c) Annual report filing fee....25
- 29288 (d) Form filing fee....10

29289 (2) The fees received under this section shall be credited
 29290 to the Insurance ~~Commissioner's~~ Regulatory Trust Fund.

29291 Section 968. Section 627.912, Florida Statutes, is amended
 29292 to read:

29293 627.912 Professional liability claims and actions; reports
 29294 by insurers.--

29295 (1) Each self-insurer authorized under s. 627.357 and each



HB 1803

2003

29296 insurer or joint underwriting association providing professional
 29297 liability insurance to a practitioner of medicine licensed under
 29298 chapter 458, to a practitioner of osteopathic medicine licensed
 29299 under chapter 459, to a podiatric physician licensed under
 29300 chapter 461, to a dentist licensed under chapter 466, to a
 29301 hospital licensed under chapter 395, to a crisis stabilization
 29302 unit licensed under part IV of chapter 394, to a health
 29303 maintenance organization certificated under part I of chapter
 29304 641, to clinics included in chapter 390, to an ambulatory
 29305 surgical center as defined in s. 395.002, or to a member of The
 29306 Florida Bar shall report in duplicate to the office ~~Department~~
 29307 ~~of Insurance~~ any claim or action for damages for personal
 29308 injuries claimed to have been caused by error, omission, or
 29309 negligence in the performance of such insured's professional
 29310 services or based on a claimed performance of professional
 29311 services without consent, if the claim resulted in:

- 29312 (a) A final judgment in any amount.
- 29313 (b) A settlement in any amount.

29314
 29315
 29316 Reports shall be filed with the office ~~department~~ and, if the
 29317 insured party is licensed under chapter 458, chapter 459,
 29318 chapter 461, or chapter 466, with the Department of Health, no
 29319 later than 30 days following the occurrence of any event listed
 29320 in paragraph (a) or paragraph (b). The Department of Health
 29321 shall review each report and determine whether any of the
 29322 incidents that resulted in the claim potentially involved
 29323 conduct by the licensee that is subject to disciplinary action,
 29324 in which case the provisions of s. 456.073 shall apply. The
 29325 Department of Health, as part of the annual report required by



HB 1803

2003

29326 s. 456.026, shall publish annual statistics, without identifying
 29327 licensees, on the reports it receives, including final action
 29328 taken on such reports by the Department of Health or the
 29329 appropriate regulatory board.

29330 (2) The reports required by subsection (1) shall contain:

29331 (a) The name, address, and specialty coverage of the
 29332 insured.

29333 (b) The insured's policy number.

29334 (c) The date of the occurrence which created the claim.

29335 (d) The date the claim was reported to the insurer or
 29336 self-insurer.

29337 (e) The name and address of the injured person. This
 29338 information is confidential and exempt from the provisions of s.
 29339 119.07(1), and must not be disclosed by the office ~~department~~
 29340 without the injured person's consent, except for disclosure by
 29341 the office ~~department~~ to the Department of Health. This
 29342 information may be used by the office ~~department~~ for purposes of
 29343 identifying multiple or duplicate claims arising out of the same
 29344 occurrence.

29345 (f) The date of suit, if filed.

29346 (g) The injured person's age and sex.

29347 (h) The total number and names of all defendants involved
 29348 in the claim.

29349 (i) The date and amount of judgment or settlement, if any,
 29350 including the itemization of the verdict, together with a copy
 29351 of the settlement or judgment.

29352 (j) In the case of a settlement, such information as the
 29353 office ~~department~~ may require with regard to the injured
 29354 person's incurred and anticipated medical expense, wage loss,
 29355 and other expenses.



HB 1803

2003

29356 (k) The loss adjustment expense paid to defense counsel,
 29357 and all other allocated loss adjustment expense paid.

29358 (l) The date and reason for final disposition, if no
 29359 judgment or settlement.

29360 (m) A summary of the occurrence which created the claim,
 29361 which shall include:

29362 1. The name of the institution, if any, and the location
 29363 within the institution at which the injury occurred.

29364 2. The final diagnosis for which treatment was sought or
 29365 rendered, including the patient's actual condition.

29366 3. A description of the misdiagnosis made, if any, of the
 29367 patient's actual condition.

29368 4. The operation, diagnostic, or treatment procedure
 29369 causing the injury.

29370 5. A description of the principal injury giving rise to
 29371 the claim.

29372 6. The safety management steps that have been taken by the
 29373 insured to make similar occurrences or injuries less likely in
 29374 the future.

29375 (n) Any other information required by the office
 29376 ~~department~~ to analyze and evaluate the nature, causes, location,
 29377 cost, and damages involved in professional liability cases.

29378 (3) Upon request by the Department of Health, the office
 29379 ~~department~~ shall provide the Department of Health with any
 29380 information received under this section related to persons
 29381 licensed under chapter 458, chapter 459, chapter 461, or chapter
 29382 466. For purposes of safety management, the office ~~department~~
 29383 shall annually provide the Department of Health with copies of
 29384 the reports in cases resulting in an indemnity being paid to the
 29385 claimants.



HB 1803

2003

29386 (4) There shall be no liability on the part of, and no
 29387 cause of action of any nature shall arise against, any insurer
 29388 reporting hereunder or its agents or employees or the office
 29389 ~~department~~ or its employees for any action taken by them under
 29390 this section. The office ~~department~~ may impose a fine of \$250
 29391 per day per case, but not to exceed a total of \$1,000 per case,
 29392 against an insurer that violates the requirements of this
 29393 section. This subsection applies to claims accruing on or after
 29394 October 1, 1997.

29395 (5) Any self-insurance program established under s.
 29396 1004.24 shall report in duplicate to the office ~~Department of~~
 29397 ~~Insurance~~ any claim or action for damages for personal injuries
 29398 claimed to have been caused by error, omission, or negligence in
 29399 the performance of professional services provided by the state
 29400 university board of trustees through an employee or agent of the
 29401 state university board of trustees, including practitioners of
 29402 medicine licensed under chapter 458, practitioners of
 29403 osteopathic medicine licensed under chapter 459, podiatric
 29404 physicians licensed under chapter 461, and dentists licensed
 29405 under chapter 466, or based on a claimed performance of
 29406 professional services without consent if the claim resulted in a
 29407 final judgment in any amount, or a settlement in any amount. The
 29408 reports required by this subsection shall contain the
 29409 information required by subsection (3) and the name, address,
 29410 and specialty of the employee or agent of the state university
 29411 board of trustees whose performance or professional services is
 29412 alleged in the claim or action to have caused personal injury.

29413 Section 969. Section 627.9122, Florida Statutes, is
 29414 amended to read:

29415 627.9122 Officers' and directors' liability claims;



HB 1803

2003

29416 reports by insurers.--

29417 (1) Each insurer providing coverage for officers' and
29418 directors' liability coverage shall report to the office
29419 ~~Department of Insurance~~ any claim or action for damages claimed
29420 to have been caused by error, omission, or negligence in the
29421 performance of the officer's or director's services, if the
29422 claim resulted in:

29423 (a) A final judgment in any amount.

29424 (b) A settlement in any amount.

29425 (c) A final disposition not resulting in payment on behalf
29426 of the insured.

29427

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29429 Reports shall be filed with the office ~~department~~ no later than
29430 60 days following the occurrence of any event listed in
29431 paragraph(a), paragraph (b), or paragraph (c).

29432 (2) The reports required by subsection (1) shall contain:

29433 (a) The name, address, and position held by the insured,
29434 and the type of corporation or organization, including
29435 classifications as provided in s. 501(c) of the Internal Revenue
29436 Code of 1986, as amended.

29437 (b) The insured's policy number.

29438 (c) The date of the occurrence which created the claim.

29439 (d) The date the claim was reported to the insurer.

29440 (e) The name of the injured person. This information is
29441 confidential and exempt from the provisions of s. 119.07(1), and
29442 must not be disclosed by the office ~~department~~ without the
29443 consent of the injured person. This information may be used by
29444 the office ~~department~~ for purposes of identifying multiple or
29445 duplicate claims arising out of the same occurrence.



HB 1803

2003

- 29446 (f) The date of suit, if filed.
- 29447 (g) The total number and names of all defendants involved
29448 in the claim.
- 29449 (h) The date and amount of judgment or settlement,
29450 together with a copy of the settlement or judgment.
- 29451 (i) In the case of a settlement, such information as the
29452 office ~~department~~ may require with regard to the claimant's
29453 anticipated future losses.
- 29454 (j) The loss adjustment expense paid to defense counsel,
29455 and all other allocated loss adjustment expenses paid.
- 29456 (k) The date and reason for final disposition, if no
29457 judgment or settlement.
- 29458 (l) A summary of the occurrence which created the claim,
29459 which shall include:
- 29460 1. Whether the injuries claimed were the result of
29461 physical damage to the claimant, were the result of damage to
29462 the reputation of the claimant, were based on self-dealing by
29463 the defendant, or were in the nature of a shareholder dispute.
- 29464 2. A description of the type of activity which caused the
29465 injury.
- 29466 3. The steps taken by the officers or directors to assure
29467 that similar occurrences are less likely in the future.
- 29468 (m) Any other information required by the office
29469 ~~department~~ to analyze and evaluate the nature, causes, costs,
29470 and damages involved in officers' and directors' liability
29471 cases.
- 29472 (3) The office ~~department~~ shall include a summary of this
29473 information in its annual report.
- 29474 Section 970. Section 627.9126, Florida Statutes, is
29475 amended to read:



HB 1803

2003

29476 627.9126 Reports by liability insurers.--

29477 (1) Each insurer transacting commercial multiperil,
29478 products liability, commercial automobile liability, private
29479 passenger automobile liability, or other line of liability
29480 insurance shall maintain information as specified in this
29481 section. Such information shall be maintained for each line of
29482 insurance and for direct Florida business only. The office
29483 ~~department~~ may conduct a sampling of claims or actions for
29484 damages for personal injury or property damage claimed to have
29485 been caused by error, omission, or negligence of insureds if the
29486 claim resulted in:

29487 (a) A final judgment in any amount.

29488 (b) A settlement in any amount.

29489 (c) A final disposition not resulting in payment on behalf
29490 of the insured.

29491 (2) Upon request of the office ~~department~~, an insurer
29492 shall, within 60 days, submit to the office ~~department~~ a report
29493 that contains:

29494 (a) A final judgment in any amount.

29495 (b) A settlement in any amount.

29496 (c) A final disposition not resulting in payment on behalf
29497 of the insured.

29498 (3) The reports required by subsection (2) shall contain:

29499 (a)1. The name, address, and class or line of coverage of
29500 the insured.

29501 2. The insured's policy number.

29502 3. The date of the occurrence which created the claim.

29503 4. The date the claim was reported to the insurer or self-
29504 insurer.

29505 5. The date of suit, if filed.



HB 1803

2003

29506 6. The claimant's name, age, and sex; however, the name of
 29507 the claimant is confidential and exempt from the provisions of
 29508 s. 119.07(1).

29509 7. The total number and names of all defendants involved
 29510 in the claim.

29511 8. Claims settled after a suit was filed.

29512 9. Claims paid based on a judgment.

29513 10. Judgments appealed by the insurer, together with the
 29514 total results of such appeals.

29515 11. The date and amount of final judgment or settlement,
 29516 if any, including the itemization of the verdict, together with
 29517 a copy of the settlement or final judgment.

29518 12. In the case of a settlement, such information as the
 29519 office department ~~department~~ may require with regard to the injured
 29520 person's incurred and anticipated medical expense, wage loss,
 29521 and other expenses.

29522 13. The loss adjustment expense paid to defense counsel
 29523 and other allocated loss adjustment expense paid.

29524 14. The date and reason for final disposition, if no
 29525 judgment or settlement.

29526 (b) A summary of the occurrence which created the claim,
 29527 which shall include:

29528 1. The name of the facility, business, or institution, if
 29529 any, and the location within the facility, business, or
 29530 institution at which the injury occurred.

29531 2. A description of the principal injury giving rise to
 29532 the claim.

29533 3. The safety management steps that have been taken by the
 29534 insured to make similar occurrences or injuries less likely in
 29535 the future.



HB 1803

2003

29536 (c) Any other information required by the office
29537 ~~department~~ to analyze and evaluate the nature, causes, location,
29538 cost, and damages involved in liability cases.

29539 (4) There shall be no liability on the part of, and no
29540 cause of action of any nature shall arise against, any insurer
29541 reporting hereunder or its agents or employees or the office
29542 ~~department~~ or its employees for any action taken by them
29543 pursuant to this section.

29544 Section 971. Section 627.913, Florida Statutes, is amended
29545 to read:

29546 627.913 Reports by products liability insurers.--The
29547 office ~~department~~ may require any insurer authorized to write a
29548 policy of products liability insurance in the state to transmit
29549 the following information, based on its statewide products
29550 liability insurance writings. Upon the request of the office
29551 ~~department~~, an insurer shall, within 60 days, submit to the
29552 office ~~department~~ a report that contains:

29553 (1) Premiums written;

29554 (2) Premiums earned;

29555 (3) Unearned premiums;

29556 (4) The dollar amount of claims paid;

29557 (5) Incurred claims, not including claims incurred but not
29558 reported;

29559 (6) Claims closed without payment, and the amount reserved
29560 for such claims;

29561 (7) Loss reserves for all claims except claims incurred
29562 but not reported;

29563 (8) Reserves for claims incurred but not reported;

29564 (9) Losses paid as a percentage of the amount reserved for
29565 such losses;



HB 1803

2003

29566 (10) Net investment gain or loss and other income gain or
 29567 loss allocated to products liability lines according to the
 29568 allocation formula used in the annual insurance expense exhibit;

29569 (11) Underwriting income or loss;

29570 (12) Actual expenses in detail, including, but not limited
 29571 to, loss adjustment expense; commissions; general expense; and
 29572 advertising, home office, and defense costs;

29573 (13) Claims settled after a suit was filed;

29574 (14) Claims paid based on a judgment; and

29575 (15) Judgments appealed by the insurer, together with the
 29576 total results of such appeals.

29577 Section 972. Section 627.914, Florida Statutes, is amended
 29578 to read:

29579 627.914 Reports of information by workers' compensation
 29580 insurers required.--

29581 (1) The commission ~~department~~ shall adopt rules and
 29582 statistical plans that must thereafter be used by each insurer
 29583 and self-insurance fund as defined in s. 624.461 in the
 29584 recording and reporting of loss, expense, and claims experience,
 29585 in order that the experience of all insurers and self-insurance
 29586 funds may be made available at least annually in such form and
 29587 detail as may be necessary to aid the office ~~department~~ in
 29588 determining whether Florida experience for workers' compensation
 29589 insurance is sufficient for establishing rates.

29590 (2) Each insurer and self-insurance fund authorized to
 29591 write a policy of workers' compensation insurance shall transmit
 29592 the following information annually on both Florida experience
 29593 and nationwide experience separately:

29594 (a) Payrolls by classification.

29595 (b) Manual premiums by classification.



HB 1803

2003

- 29596 (c) Standard premiums by classification.
- 29597 (d) Losses by classification and injury type.
- 29598 (e) Expenses.
- 29599
- 29600

29601 A report of this information shall be filed no later than July
 29602 1 of each year. All reports shall be filed in accordance with
 29603 standard reporting procedures for insurers, which procedures
 29604 have received approval by the office department, and shall
 29605 contain data for the most recent policy period available. A
 29606 statistical or rating organization may be used by insurers and
 29607 self-insurance funds to report the data required by this
 29608 section. The statistical or rating organization shall report
 29609 each data element in the aggregate only for insurers and self-
 29610 insurance funds required to report under this section who elect
 29611 to have the organization report on their behalf. Such insurers
 29612 and self-insurance funds shall be named in the report.

29613 (3) Individual self-insurers as defined in s. 440.02 shall
 29614 report only Florida data as prescribed in paragraphs (2)(a)-(e)
 29615 to the office department.

29616 (a) The office department shall publish the dates and
 29617 forms necessary to enable individual self-insurers to comply
 29618 with this section.

29619 (b) A statistical or rating organization may be used by
 29620 individual self-insurers for the purposes of reporting the data
 29621 required by this section and calculating experience ratings.

29622 (4) The office department shall provide a summary of
 29623 information provided pursuant to subsection (2) in its annual
 29624 report.

29625 Section 973. Section 627.915, Florida Statutes, is amended



HB 1803

2003

29626 to read:

29627 627.915 Insurer experience reporting.--

29628 (1) Each insurer transacting private passenger automobile
 29629 insurance in this state shall report certain information
 29630 annually to the office ~~department~~. The information will be due
 29631 on or before July 1 of each year. The information shall be
 29632 divided into the following categories: bodily injury liability;
 29633 property damage liability; uninsured motorist; personal injury
 29634 protection benefits; medical payments; comprehensive and
 29635 collision. The information given shall be on direct insurance
 29636 writings in the state alone and shall represent total limits
 29637 data. The information set forth in paragraphs (a)-(f) is
 29638 applicable to voluntary private passenger and Joint Underwriting
 29639 Association private passenger writings and shall be reported for
 29640 each of the latest 3 calendar-accident years, with an evaluation
 29641 date of March 31 of the current year. The information set forth
 29642 in paragraphs(g)-(j) is applicable to voluntary private
 29643 passenger writings and shall be reported on a calendar-accident
 29644 year basis ultimately seven times at seven different stages of
 29645 development.

29646 (a) Premiums earned for the latest 3 calendar-accident
 29647 years.

29648 (b) Loss development factors and the historic development
 29649 of those factors.

29650 (c) Policyholder dividends incurred.

29651 (d) Expenses for other acquisition and general expense.

29652 (e) Expenses for agents' commissions and taxes, licenses,
 29653 and fees.

29654 (f) Profit and contingency factors as utilized in the
 29655 insurer's automobile rate filings for the applicable years.



HB 1803

2003

- 29656 (g) Losses paid.
- 29657 (h) Losses unpaid.
- 29658 (i) Loss adjustment expenses paid.
- 29659 (j) Loss adjustment expenses unpaid.
- 29660 (2) Each insurer transacting fire, homeowner's multiple
- 29661 peril, commercial multiple peril, medical malpractice, products
- 29662 liability, workers' compensation, private passenger automobile
- 29663 liability, commercial automobile liability, private passenger
- 29664 automobile physical damage, commercial automobile physical
- 29665 damage, officers' and directors' liability insurance, or other
- 29666 liability insurance shall report, for each such line of
- 29667 insurance, the information specified in this subsection to the
- 29668 office ~~department~~. The information shall be reported for direct
- 29669 Florida business only and shall be reported on a calendar-year
- 29670 basis annually by April 1 for the preceding calendar year:
- 29671 (a) Direct premiums written.
- 29672 (b) Direct premiums earned.
- 29673 (c) Loss reserves for all known claims:
- 29674 1. At beginning of the year.
- 29675 2. At end of the year.
- 29676 (d) Reserves for losses incurred but not reported:
- 29677 1. At beginning of the year.
- 29678 2. At end of the year.
- 29679 (e) Allocated loss adjustment expense:
- 29680 1. Reserve at beginning of the year.
- 29681 2. Reserve at end of the year.
- 29682 3. Paid during the year.
- 29683 (f) Unallocated loss adjustment expense:
- 29684 1. Reserve at beginning of the year.
- 29685 2. Reserve at end of the year.



HB 1803

2003

29686 3. Paid during the year.
 29687 (g) Direct losses paid.
 29688 (h) Underwriting income or loss.
 29689 (i) Commissions and brokerage fees.
 29690 (j) Taxes, licenses, and fees.
 29691 (k) Other acquisition costs.
 29692 (l) General expenses.
 29693 (m) Policyholder dividends.
 29694 (n) Net investment gain or loss and other income gain or
 29695 loss allocated pro rata by earned premium to Florida business
 29696 utilizing the investment allocation formula contained in the
 29697 National Association of Insurance Commissioner's Profitability
 29698 Report by line by state.

29699 (3) There shall be no liability on the part of, and no
 29700 cause of action of any nature shall arise against, any insurer
 29701 reporting hereunder or its agents or employees or the office
 29702 ~~department~~ or its employees for any action taken by them
 29703 pursuant to this section unless such action otherwise
 29704 constitutes a violation of this code.

29705 (4) The office ~~department~~ shall provide a summary of
 29706 information provided pursuant to subsections (1) and (2) in its
 29707 annual report.

29708 (5) Any insurer or insurer group which does not write at
 29709 least 0.5 percent of the Florida market based on premiums
 29710 written shall not have to file any report required by subsection
 29711 (2) other than a report indicating its percentage of the market
 29712 share. That percentage shall be calculated by dividing the
 29713 current premiums written by the preceding year's total premiums
 29714 written in the state for that line of insurance.

29715 Section 974. Section 627.917, Florida Statutes, is amended



HB 1803

2003

29716 to read:

29717 627.917 Uniform risk classification reporting system for
 29718 motor vehicle insurance.--

29719 (1) The commission ~~department~~ shall establish and
 29720 promulgate a uniform statewide reporting system to classify
 29721 risks for the purpose of evaluating rates and premiums and for
 29722 the purpose of evaluating competition and the availability of
 29723 motor vehicle insurance in the voluntary market. The system
 29724 shall divide risks into classifications based upon variations in
 29725 hazards or expenses of claims. The classification system may
 29726 include any difference among risks that can be demonstrated to
 29727 have a probable effect upon losses or expenses, but in no event
 29728 shall the system adopted by the commission ~~department~~
 29729 discriminate among risks based upon race, creed, color, or
 29730 national origin. The classification system shall divide the
 29731 state into geographical areas based upon hazards or expenses of
 29732 claims.

29733 (2) Each insurer shall annually file with the office
 29734 ~~department~~ a statement reflecting the total number of persons
 29735 insured by the insurer within each classification by coverage,
 29736 the premium volume in each classification by coverage, the paid
 29737 and reserved losses incurred in each classification by coverage,
 29738 the number of cancellations or nonrenewals by the insurer during
 29739 the period, and the number of new insureds during the period.
 29740 This statement shall be filed annually on a date determined by
 29741 the commission ~~department~~ and shall cover a 1-year period.

29742 (3) The commission ~~department~~ may adopt ~~promulgate~~ rules
 29743 to require each insurer to report its loss and expense
 29744 experience by classification, in such detail and as often as may
 29745 be necessary to aid the office ~~department~~ in determining the



HB 1803

2003

29746 reasonableness of rates, the validity of loss projections, and
29747 the validity of the risk classification system.

29748 Section 975. Section 627.9175, Florida Statutes, is
29749 amended to read:

29750 627.9175 Reports of information on health insurance.--

29751 (1) Each health insurer shall submit annually to the
29752 office ~~department~~ as to policies of individual health insurance:

29753 (a) A summary of typical benefits, exclusions, and
29754 limitations for each type of individual policy form currently
29755 being issued in the state. The summary shall include, as
29756 appropriate:

- 29757 1. The deductible amount;
- 29758 2. The coinsurance percentage;
- 29759 3. The out-of-pocket maximum;
- 29760 4. Outpatient benefits;
- 29761 5. Inpatient benefits; and
- 29762 6. Any exclusions for preexisting conditions.

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29765 The commission ~~department~~ shall determine other appropriate
29766 benefits, exclusions, and limitations to be reported for
29767 inclusion in the consumer's guide published pursuant to this
29768 section.

29769 (b) A schedule of rates for each type of individual policy
29770 form reflecting typical variations by age, sex, region of the
29771 state, or any other applicable factor which is in use and is
29772 determined to be appropriate for inclusion by the commission
29773 ~~department~~.

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29775



HB 1803

2003

29776 The commission ~~department~~ shall provide by rule a uniform
 29777 format for the submission of this information in order to allow
 29778 for meaningful comparisons of premiums charged for comparable
 29779 benefits. The office ~~department~~ shall provide this information
 29780 to the department, which shall publish annually a consumer's
 29781 guide which summarizes and compares the information required to
 29782 be reported under this subsection.

29783 (2)(a) Every insurer transacting health insurance in this
 29784 state shall report annually to the office ~~department~~, not later
 29785 than April 1, information relating to any measure the insurer
 29786 has implemented or proposes to implement during the next
 29787 calendar year for the purpose of containing health insurance
 29788 costs or cost increases. The reports shall identify each measure
 29789 and the forms to which the measure is applied, shall provide an
 29790 explanation as to how the measure is used, and shall provide an
 29791 estimate of the cost effect of the measure.

29792 (b) The commission ~~department~~ shall promulgate forms to be
 29793 used by insurers in reporting information pursuant to this
 29794 subsection and shall utilize such forms to analyze the effects
 29795 of health care cost containment programs used by health insurers
 29796 in this state.

29797 (c) The office ~~department~~ shall analyze the data reported
 29798 under this subsection and shall annually make available to the
 29799 department which shall provide to the public a summary of its
 29800 findings as to the types of cost containment measures reported
 29801 and the estimated effect of these measures.

29802 Section 976. Section 627.918, Florida Statutes, is amended
 29803 to read:

29804 627.918 Reporting formats.--

29805 (1) The office ~~department~~ shall require that the reporting



HB 1803

2003

29806 provided for in this part be made on forms established by the
 29807 commission ~~department~~ or in a format compatible with the
 29808 office's ~~its~~ electronic data processing equipment.

29809 (2) The reporting forms and formats established by the
 29810 commission ~~department~~ shall not provide for repeated collection
 29811 of identical information relating to a single independent data
 29812 element except when repeated collection of such information is
 29813 necessary to accomplish the purpose of the section under which
 29814 the information is reported.

29815 Section 977. Section 627.919, Florida Statutes, is amended
 29816 to read:

29817 627.919 Maintenance of insurance data.--The office
 29818 ~~department~~ shall maintain data elements required in insurers'
 29819 annual statements and information reported by insurers pursuant
 29820 to this part in a computer file which will be available for the
 29821 generation of reports and calculations on a scheduled or demand
 29822 basis by the office ~~department~~ and Legislature. The acquisition
 29823 by the office ~~department~~ of data processing software, hardware,
 29824 and services necessary to carry out the provisions of this
 29825 section ~~by the Treasurer's Management Information Center~~ shall
 29826 be exempt from the provisions of part I of chapter 287.

29827 Section 978. Section 627.9403, Florida Statutes, is
 29828 amended to read:

29829 627.9403 Scope.--The provisions of this part shall apply
 29830 to long-term care insurance policies delivered or issued for
 29831 delivery in this state, and to policies delivered or issued for
 29832 delivery outside this state to the extent provided in s.

29833 627.9406, by an insurer, a fraternal benefit society as defined
 29834 in s. 632.601, a health maintenance organization as defined in
 29835 s. 641.19, a prepaid health clinic as defined in s. 641.402, or



HB 1803

2003

29836 a multiple-employer welfare arrangement as defined in s.
 29837 624.437. A policy which is advertised, marketed, or offered as a
 29838 long-term care policy and as a Medicare supplement policy shall
 29839 meet the requirements of this part and the requirements of ss.
 29840 627.671-627.675 and, to the extent of a conflict, be subject to
 29841 the requirement that is more favorable to the policyholder or
 29842 certificateholder. The provisions of this part shall not apply
 29843 to a continuing care contract issued pursuant to chapter 651 and
 29844 shall not apply to guaranteed renewable policies issued prior to
 29845 October 1, 1988. Any limited benefit policy that limits
 29846 coverage to care in a nursing home or to one or more lower
 29847 levels of care required or authorized to be provided by this
 29848 part or by commission ~~department~~ rule must meet all requirements
 29849 of this part that apply to long-term care insurance policies,
 29850 except ss. 627.9407(3)(c), (9), (10)(f), and (12) and
 29851 627.94073(2). If the limited benefit policy does not provide
 29852 coverage for care in a nursing home, but does provide coverage
 29853 for one or more lower levels of care, the policy shall also be
 29854 exempt from the requirements of s. 627.9407(3)(d).

29855 Section 979. Subsections (6) and (7) of section 627.9404,
 29856 Florida Statutes, are amended to read:

29857 627.9404 Definitions.--For the purposes of this part:

29858 (6) "Licensed health care practitioner" means any
 29859 physician, nurse licensed under part I of chapter 464, or
 29860 psychotherapist licensed under chapter 490 or chapter 491, or
 29861 any individual who meets any requirements prescribed by rule by
 29862 the commission ~~department~~.

29863 (7) "Limited benefit policy" means any policy that limits
 29864 coverage to care in a nursing home or to one or more lower
 29865 levels of care required or authorized to be provided by this



HB 1803

2003

29866 part or by commission ~~department~~ rule.

29867 Section 980. Paragraph (d) of subsection (1) and
 29868 subsection (3) of section 627.9405, Florida Statutes, are
 29869 amended to read:

29870 627.9405 Authorized groups; filing requirements.--

29871 (1) No group long-term care insurance policy shall be
 29872 delivered or issued for delivery in this state insuring more
 29873 than one individual unless issued to one of the following
 29874 groups:

29875 (d) A group other than as described in paragraph (a),
 29876 paragraph (b), or paragraph (c), subject to a determination by
 29877 the office ~~department~~ that:

29878 1. The issuance of the group policy is not contrary to the
 29879 best interest of the public;

29880 2. The issuance of the group policy would result in
 29881 economies of acquisition or administration; and

29882 3. The benefits are reasonable in relation to the premiums
 29883 charged.

29884 (3) Prior to advertising, marketing, or soliciting a group
 29885 long-term care insurance policy in this state, the insurer shall
 29886 demonstrate to the office ~~department~~ that the requirements of
 29887 this section have been met pursuant to the filing procedures
 29888 specified in s. 627.410.

29889 Section 981. Section 627.9406, Florida Statutes, is
 29890 amended to read:

29891 627.9406 Out-of-state group long-term care insurance.--No
 29892 group long-term care insurance coverage may be offered to a
 29893 resident of this state under a group policy issued in another
 29894 state to a group described in s. 627.9405(1)(c) or (d), unless
 29895 this state or such other state having statutory and regulatory



HB 1803

2003

29896 long-term care insurance requirements substantially similar to
29897 those adopted in this state has made a determination that such
29898 requirements have been met. Evidence to this effect shall be
29899 filed by the insurer with the office ~~department~~ pursuant to the
29900 procedures specified in s. 627.410.

29901 Section 982. Subsections (1) and (2), paragraphs (a) and
29902 (c) of subsection (3), paragraph (c) of subsection (4), and
29903 subsection (6) of section 627.9407, Florida Statutes, are
29904 amended to read:

29905 627.9407 Disclosure, advertising, and performance
29906 standards for long-term care insurance.--

29907 (1) STANDARDS.--The commission ~~department~~ shall adopt
29908 rules that include standards for full and fair disclosure
29909 setting forth the manner, content, and required disclosures of
29910 the sale of long-term care insurance policies, terms of
29911 renewability, initial and subsequent conditions of eligibility,
29912 nonduplication of coverage provisions, coverage of dependents,
29913 preexisting conditions, termination of insurance, continuation
29914 or conversion, probationary periods, limitations, exceptions,
29915 reductions, elimination periods, requirements for replacement,
29916 recurrent conditions, disclosure of tax consequences, benefit
29917 triggers, prohibition against post-claims underwriting,
29918 reporting requirements, standards for marketing, and definitions
29919 of terms.

29920 (2) ADVERTISING.--The commission ~~department~~ shall adopt
29921 rules setting forth standards for advertising, marketing, and
29922 sale of long-term care policies in order to protect applicants
29923 from unfair or deceptive sales or enrollment practices. An
29924 insurer shall file with the office ~~department~~ any long-term care
29925 insurance advertising material intended for use in this state at



HB 1803

2003

29926 | least 30 days before the date of use of the advertisement in
29927 | this state. Within 30 days after the date of receipt of the
29928 | advertising material, the office ~~department~~ shall review the
29929 | material and shall disapprove any advertisement if, in the
29930 | opinion of the office ~~department~~, such advertisement violates
29931 | any of the provisions of this part or of part IX of chapter 626
29932 | or any rule of the commission ~~department~~. The office ~~department~~
29933 | may disapprove an advertisement at any time and enter an
29934 | immediate order requiring that the use of the advertisement be
29935 | discontinued if it determines that the advertisement violates
29936 | any of the provisions of this part or of part IX of chapter 626
29937 | or any rule of the commission ~~department~~.

29938 | (3) RESTRICTIONS.--A long-term care insurance policy may
29939 | not:

29940 | (a) Be canceled, nonrenewed, or otherwise terminated on
29941 | the grounds of the age or the deterioration of the mental or
29942 | physical health of the insured individual or certificateholder;
29943 | however, the office ~~department~~ may authorize nonrenewal for an
29944 | insurer on a statewide basis on terms and conditions determined
29945 | to be necessary by the office ~~department~~ to protect the
29946 | interests of the insureds, if the insurer demonstrates that
29947 | renewal will jeopardize the insurer's solvency or that
29948 | substantial and unexpected loss experience cannot reasonably be
29949 | mitigated or remedied.

29950 | (c) Restrict its coverage to care only in a nursing home
29951 | licensed pursuant to part II of chapter 400 or provide
29952 | significantly more coverage for such care than coverage for
29953 | lower levels of care. The commission ~~department~~ shall adopt
29954 | rules defining what constitutes significantly more coverage in
29955 | nursing homes licensed pursuant to part II of chapter 400 than



HB 1803

2003

29956 for lower levels of care.

29957 (4) PREEXISTING CONDITION.--

29958 (c) The office ~~department~~ may extend the limitation
 29959 periods set forth in paragraphs (a) and (b) as to specific age
 29960 group categories in specific policy forms upon findings that the
 29961 extension is in the best interest of the public.

29962 (6) LOSS RATIO AND RESERVE STANDARDS.--The commission
 29963 ~~department~~ shall adopt rules establishing loss ratio and reserve
 29964 standards for long-term care insurance policies. The rules must
 29965 contain a specific reference to long-term care insurance
 29966 policies. Such loss ratio and reserve standards shall be
 29967 established at levels at which benefits are reasonable in
 29968 relation to premiums and that provide for adequate reserving of
 29969 the long-term care insurance risk.

29970 Section 983. Subsection (2) of section 627.94072, Florida
 29971 Statutes, is amended to read:

29972 627.94072 Mandatory offers.--

29973 (2) An insurer that offers a long-term care insurance
 29974 policy, certificate, or rider in this state must offer a
 29975 nonforfeiture protection provision providing reduced paid-up
 29976 insurance, extended term, shortened benefit period, or any other
 29977 benefits approved by the office ~~department~~ if all or part of a
 29978 premium is not paid. Nonforfeiture benefits and any additional
 29979 premium for such benefits must be computed in an actuarially
 29980 sound manner, using a methodology that has been filed with and
 29981 approved by the office ~~department~~.

29982 Section 984. Subsection (1) of section 627.94074, Florida
 29983 Statutes, is amended to read:

29984 627.94074 Standards for benefit triggers.--

29985 (1)(a) A long-term care insurance policy shall condition



HB 1803

2003

29986 the payment of benefits on a determination of the insured's
 29987 ability to perform activities of daily living and on cognitive
 29988 impairment. Eligibility for the payment of benefits shall not
 29989 be more restrictive than requiring either a deficiency in the
 29990 ability to perform not more than three of the activities of
 29991 daily living or the presence of cognitive impairment; or

29992 (b) If a policy is a qualified long-term care insurance
 29993 policy, the policy shall condition the payment of benefits on a
 29994 determination of the insured's being chronically ill; having a
 29995 level of disability similar, as provided by rule of the
 29996 commission ~~Insurance Commissioner~~, to the insured's ability to
 29997 perform activities of daily living; or being cognitively
 29998 impaired as described in paragraph (6)(b). Eligibility for the
 29999 payment of benefits shall not be more restrictive than requiring
 30000 a deficiency in the ability to perform not more than three of
 30001 the activities of daily living.

30002 Section 985. Section 627.9408, Florida Statutes, is
 30003 amended to read:

30004 627.9408 Rules.--

30005 (1) The commission ~~department~~ may adopt rules pursuant to
 30006 ss. 120.536(1) and 120.54 to administer this part.

30007 (2) The commission ~~department~~ may adopt by rule the
 30008 provisions of the Long-Term Care Insurance Model Regulation
 30009 adopted by the National Association of Insurance Commissioners
 30010 in the second quarter of the year 2000 which are not in conflict
 30011 with the Florida Insurance Code.

30012 Section 986. Paragraph (g) of subsection (6) of section
 30013 627.942, Florida Statutes, is amended to read:

30014 627.942 Definitions.--As used in this part, unless the
 30015 context otherwise requires:



HB 1803

2003

30016 (6) "Plan of operation or a feasibility study" means an
 30017 analysis which presents the expected activities and results of a
 30018 risk retention group, including, at a minimum:

30019 (g) Such other matters as are ~~may be~~ requested by the
 30020 office ~~department~~.

30021 Section 987. Subsections (2) and (3) of section 627.943,
 30022 Florida Statutes, are amended to read:

30023 627.943 Risk retention groups certified in Florida.--

30024 (2) Before it may offer insurance in any state, each risk
 30025 retention group shall also submit for approval to the office
 30026 ~~department~~ a plan of operation or a feasibility study. Before
 30027 additional lines of liability insurance are offered in this or
 30028 any other state approval shall be obtained from the office
 30029 ~~department~~.

30030 (3) A proposed risk retention group shall provide to the
 30031 office ~~department~~ a summary of the application for a certificate
 30032 of authority at the time it files the application. The summary
 30033 information shall include the name of the risk retention group,
 30034 the identity of those individuals who organized the group or who
 30035 will provide administrative services or otherwise influence or
 30036 control the activities of the group, the amount and nature of
 30037 initial capitalization, and the states in which the group
 30038 intends to operate. A copy of the summary shall be provided by
 30039 the office ~~department~~ to the National Association of Insurance
 30040 Commissioners.

30041 Section 988. Subsections (1), (2), (5), (6), and (11) of
 30042 section 627.944, Florida Statutes, are amended to read:

30043 627.944 Risk retention groups not certificated in this
 30044 state.--Risk retention groups certificated or licensed in states
 30045 other than this state and seeking to do business as a risk



HB 1803

2003

30046 retention group in this state must observe and abide by the laws
 30047 of this state as follows:

30048 (1) NOTICE OF OPERATIONS AND DESIGNATION OF CHIEF
 30049 FINANCIAL OFFICER ~~COMMISSIONER~~ AS AGENT.--Before offering
 30050 insurance in this state, a risk retention group shall submit to
 30051 the office ~~department~~:

30052 (a) A statement identifying the state or states in which
 30053 the risk retention group is certificated or licensed as a
 30054 liability insurance company, date of certification or licensing,
 30055 its principal place of business, and such other information,
 30056 including information on its membership, as the office
 30057 ~~department~~ may require to verify that the risk retention group
 30058 is qualified as a risk retention group under the provisions of
 30059 this part.

30060 (b) A copy of its plan of operations or a feasibility
 30061 study and revisions of such plan or study submitted to its state
 30062 of domicile; provided, however, that the provision relating to
 30063 the submission of a plan of operation or a feasibility study
 30064 shall not apply with respect to any line or classification of
 30065 liability insurance which was defined in the Product Liability
 30066 Risk Retention Act of 1981 before October 27, 1986, and which
 30067 was offered before such date by any risk retention group which
 30068 had been certificated or licensed and operating for not less
 30069 than 3 years before such date.

30070 (c) A statement of registration which designates the Chief
 30071 Financial Officer ~~Insurance Commissioner and Treasurer~~ or her or
 30072 his designee as its agent for the purpose of receiving service
 30073 of legal documents of process.

30074 (2) FINANCIAL CONDITION.--Any risk retention group doing
 30075 business in this state shall submit to the office ~~department~~:



HB 1803

2003

30076 (a) A copy of the group's financial statement submitted to
 30077 its state of domicile, which shall be certified by an
 30078 independent public accountant and contain a statement of opinion
 30079 on loss and loss adjustment expense reserves made by a member of
 30080 the American Academy of Actuaries or a qualified loss reserve
 30081 specialist under criteria established by rule of the commission
 30082 ~~department~~ after considering any criteria established by the
 30083 National Association of Insurance Commissioners.

30084 (b) A copy of each examination of the risk retention group
 30085 as certified by the insurance commissioner or public official
 30086 conducting the examination.

30087 (c) Upon request by the office ~~department~~, a copy of any
 30088 audit performed with respect to the risk retention group.

30089 (d) Such information as may be required to verify its
 30090 continuing qualification as a risk retention group under the
 30091 provisions of this part.

30092 (5) DECEPTIVE, FALSE, OR FRAUDULENT PRACTICES.--Any risk
 30093 retention group shall comply with and be subject to the laws of
 30094 this state regarding deceptive, false, or fraudulent acts or
 30095 practices, including the provisions of part IX of chapter 626.
 30096 If the office ~~department~~ seeks an injunction regarding conduct
 30097 in violation of these laws, the injunction may be obtained from
 30098 any Florida court of competent jurisdiction.

30099 (6) EXAMINATION REGARDING FINANCIAL CONDITION.--Any risk
 30100 retention group must submit to an examination by the office
 30101 ~~department~~ to determine its financial condition if the insurance
 30102 commissioner of the jurisdiction in which the group is
 30103 certificated or licensed has not initiated an examination or
 30104 does not initiate an examination within 30 days after a request
 30105 by the office ~~department~~. Any examination shall be coordinated



HB 1803

2003

30106 to avoid unjustified repetition and conducted in an expeditious
 30107 manner.

30108 (11) DELINQUENCY PROCEEDINGS.--A risk retention group not
 30109 domiciled in this state but doing business in this state shall
 30110 comply with a lawful order issued in a voluntary dissolution
 30111 proceeding or in a delinquency proceeding commenced by the
 30112 office department if there has been a finding of financial
 30113 impairment after an examination under subsection (6).

30114 Section 989. Section 627.948, Florida Statutes, is amended
 30115 to read:

30116 627.948 Notice and registration requirements of purchasing
 30117 groups.--

30118 (1) A purchasing group which intends to do business in
 30119 this state shall furnish notice to the office department which
 30120 shall:

30121 (a) Identify the state in which the group is domiciled.

30122 (b) Specify the lines and classifications of liability
 30123 insurance which the purchasing group intends to purchase.

30124 (c) Identify the insurance company or companies from which
 30125 the group intends to purchase its insurance and the domicile of
 30126 such company or companies.

30127 (d) Identify the principal place of business of the group.

30128 (e) Provide such other information as may be required by
 30129 the office department to verify that the purchasing group is
 30130 qualified as a purchasing group under the provisions of this
 30131 part.

30132 (2) The purchasing group shall register with and designate
 30133 the Chief Financial Officer ~~Insurance Commissioner and Treasurer~~
 30134 or her or his designee as its agent solely for the purpose of
 30135 receiving service of legal documents or process. This



HB 1803

2003

30136 requirement shall not apply in the case of a purchasing group:

30137 (a) Which:

30138 1. Was domiciled before April 1, 1986.

30139 2. Is domiciled on and after October 27, 1986, in any
30140 state of the United States.

30141 (b) Which:

30142 1. Before October 27, 1986, purchased insurance from an
30143 insurance carrier licensed in any state; and

30144 2. Since October 27, 1986, purchased its insurance from an
30145 insurance carrier licensed in any state.

30146 (c) Which was a purchasing group under the requirements of
30147 the Product Liability Risk Retention Act of 1981 before October
30148 27, 1986.

30149 (d) Which does not purchase insurance that was not
30150 authorized for purposes of an exemption under that act, as in
30151 effect before October 27, 1986.

30152 Section 990. Section 627.950, Florida Statutes, is amended
30153 to read:

30154 627.950 Administrative and procedural authority regarding
30155 risk retention and purchasing groups.--The office ~~department~~ is
30156 authorized to make use of any of the powers established under
30157 the Florida Insurance Code to enforce the laws of this state so
30158 long as those powers are not specifically preempted by the
30159 Product Liability Risk Retention Act of 1981 as amended by the
30160 Risk Retention Amendments of 1986. This includes, but is not
30161 limited to, the office's ~~department's~~ administrative authority
30162 to investigate, issue subpoenas, conduct depositions and
30163 hearings, issue orders, and impose penalties. With regard to
30164 any investigation, administrative proceedings, or litigation,
30165 the office ~~department~~ may rely on the procedural law and



HB 1803

2003

30166 regulations of the state. The injunctive authority of the
30167 office department in regard to risk retention groups is
30168 restricted to the extent that any injunction shall be issued by
30169 a court of competent jurisdiction.

30170 Section 991. Section 627.951, Florida Statutes, is amended
30171 to read:

30172 627.951 Penalties; cease and desist orders; injunctions.--

30173 (1) A risk retention group which violates any applicable
30174 provision of the Florida Insurance Code shall be subject to
30175 fines and penalties applicable to licensed insurers generally,
30176 including revocation of its license or the right to do business
30177 in this state. In addition, any such risk retention group shall
30178 be subject to the issuance of a cease and desist order of the
30179 office department or an injunction issued by a court of
30180 competent jurisdiction prohibiting such violation or prohibiting
30181 the soliciting, selling, or transacting of insurance or
30182 otherwise operating or conducting business in this state in
30183 violation of the laws of this state. The office department may
30184 obtain an order from a court of competent jurisdiction to enjoin
30185 a risk retention group from further operation or from
30186 transacting insurance in this state if the risk retention group
30187 is in hazardous financial condition or financially impaired or
30188 to enjoin a risk retention group from the soliciting, selling,
30189 or transacting of insurance with respect to any person who is
30190 not eligible for membership in the group under state or federal
30191 law.

30192 (2) A purchasing group which violates any applicable
30193 provision of the Florida Insurance Code shall be subject to
30194 fines and penalties applicable to licensed insurers and agents
30195 generally. In addition, any such purchasing group shall be



HB 1803

2003

30196 subject to the issuance of a cease and desist order of the
 30197 office ~~department~~ or an injunction issued by any court of
 30198 competent jurisdiction prohibiting the soliciting, selling,
 30199 transacting, or purchasing of insurance or otherwise operating
 30200 or conducting business in this state.

30201 Section 992. Subsection (4) of section 627.952, Florida
 30202 Statutes, is amended to read:

30203 627.952 Risk retention and purchasing group agents.--

30204 (4) Any person retained or employed to solicit, offer,
 30205 sell, or purchase memberships in a purchasing group may be
 30206 ordered to cease any such enrollment activity in this state
 30207 whenever the office ~~department~~ has reason to believe that any
 30208 such purchasing group has liability insurance coverage from a
 30209 risk retention group or insurance company which is insolvent or
 30210 in a hazardous financial condition. Orders entered under this
 30211 subsection shall be issued in accordance with the procedures set
 30212 forth in s. 627.951.

30213 Section 993. Section 627.954, Florida Statutes, is amended
 30214 to read:

30215 627.954 Rules.--The commission ~~department~~ may establish
 30216 and from time to time amend such rules relating to risk
 30217 retention groups and purchasing groups as may be necessary or
 30218 desirable to carry out the provisions of this part.

30219 Section 994. Subsections (1), (4), (10), and (11) of
 30220 section 627.971, Florida Statutes, are amended to read:

30221 627.971 Definitions.--As used in this part:

30222 (1)(a) "Financial guaranty insurance" means a surety bond,
 30223 insurance policy, an indemnity contract issued by an insurer, or
 30224 any similar guaranty, under which loss is payable upon proof of
 30225 occurrence of financial loss to an insured claimant, obligee, or



HB 1803

2003

30226 indemnatee as a result of:

30227 1. The failure of an obligor on a debt instrument or other
 30228 monetary obligation, including common or preferred stock
 30229 guaranteed under a surety bond, insurance policy, or indemnity
 30230 contract, to make principal, interest, premium, dividend, or
 30231 purchase price payments when due, if the failure is the result
 30232 of a financial default or insolvency, whether such obligation is
 30233 incurred directly or as guarantor by or on behalf of another
 30234 obligor who also defaulted;

30235 2. Changes in the levels of interest rates or the
 30236 differential in interest rates between various markets or
 30237 products;

30238 3. Changes in the rate of exchange of currency;

30239 4. Changes in the value of specific assets or commodities,
 30240 financial or commodity indices, or price levels in general; or

30241 5. Other events which the office ~~department~~ determines are
 30242 substantially similar to any of the foregoing.

30243 (b) However, "financial guaranty insurance" does not
 30244 include:

30245 1. Insurance of a loss resulting from an event described
 30246 in paragraph (a), if the loss is payable only upon the
 30247 occurrence of any of the following, as specified in a surety
 30248 bond, insurance policy, or indemnity contract:

30249 a. A fortuitous physical event;

30250 b. A failure of or deficiency in the operation of
 30251 equipment; or

30252 c. An inability to extract or recover a natural resource;

30253 2. An individual or schedule public official bond;

30254 3. A court bond required in connection with judicial,
 30255 probate, bankruptcy, or equity proceedings, including a waiver,



HB 1803

2003

30256 probate, open estate, or life tenant bond;

30257 4. A bond running to a federal, state, county, municipal

30258 government, or other political subdivision, as a condition

30259 precedent to the granting of a license to engage in a particular

30260 business or of a permit to exercise a particular privilege;

30261 5. A loss security bond or utility payment indemnity bond

30262 running to a governmental unit, railroad, or charitable

30263 organization;

30264 6. A lease, purchase and sale, or concessionaire surety

30265 bond;

30266 7. Credit unemployment insurance on a debtor in connection

30267 with a specific loan or other credit transaction, to provide

30268 payments to a creditor in the event of unemployment of the

30269 debtor for the installments or other periodic payments becoming

30270 due while a debtor is unemployed;

30271 8. Credit insurance indemnifying a manufacturer, merchant,

30272 or educational institution which extends credit against loss or

30273 damage resulting from nonpayment of debts owed to her or him for

30274 goods or services provided in the normal course of her or his

30275 business;

30276 9. Guaranteed investment contracts that are issued by life

30277 insurance companies and that provide that the life insurer will

30278 make specified payments in exchange for specific premiums or

30279 contributions;

30280 10. Mortgage guaranty insurance as defined in s.

30281 635.011(1) or s. 635.021;

30282 11. Indemnity contracts or similar guaranties, to the

30283 extent that they are not otherwise limited or proscribed by this

30284 part, in which a life insurer guarantees:

30285 a. Its obligations or indebtedness or the obligations or



HB 1803

2003

30286 indebtedness of a subsidiary of which it owns more than 50
 30287 percent, other than a financial guaranty insurance corporation,
 30288 if:

30289 (I) For any such obligations or indebtedness that are
 30290 backed by specific assets, such assets are at all times owned by
 30291 the insurer or the subsidiary; and

30292 (II) For the obligations or indebtedness of the subsidiary
 30293 that are not backed by specific assets of the life insurer, the
 30294 guaranty terminates once the subsidiary ceases to be a
 30295 subsidiary; or

30296 b. The obligations or indebtedness, including the
 30297 obligation to substitute assets where appropriate, with respect
 30298 to specific assets acquired by a life insurer in the course of
 30299 normal investment activities and not for the purpose of resale
 30300 with credit enhancement, or guarantees obligations or
 30301 indebtedness acquired by its subsidiary, provided that the
 30302 assets so acquired have been:

30303 (I) Acquired by a special purpose entity where the sole
 30304 purpose is to acquire specific assets of the life insurer or the
 30305 subsidiary and issue securities or participation certificates
 30306 backed by such assets; or

30307 (II) Sold to an independent third party; or

30308 c. The obligations or indebtedness of an employee or agent
 30309 of the life insurer;

30310 12. Any form of surety insurance as defined in s. 624.606;
 30311 or

30312 13. Any other form of insurance covering risks which the
 30313 office ~~department~~ determines to be substantially similar to any
 30314 of the foregoing.

30315 (4) "Collateral" means:



HB 1803

2003

- 30316 (a) Cash;
- 30317 (b) The market value of investment grade securities, other
- 30318 than securities evidencing an interest in the projects financed
- 30319 with the proceeds of the insured obligations;
- 30320 (c) The scheduled cash flow from investment grade
- 30321 obligations scheduled to be received on or prior to the date of
- 30322 scheduled debt service on the insured obligation;
- 30323 (d) A conveyance or mortgage of real property; or
- 30324 (e) A letter of credit;

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30327 if deposited with or held by the corporation; held in trust by

30328 a trustee, acceptable to the office ~~department~~, for the benefit

30329 of the corporation; or held in trust, pursuant to the bond

30330 indenture, by a trustee acceptable to the office ~~department~~, for

30331 the benefit of bondholders in the form of sinking funds or other

30332 reserves which may be used solely for the payment of debt

30333 service.

30334 (10) An "investment grade obligation" means an obligation

30335 that:

- 30336 (a) Has been determined to be in one of the top four
- 30337 generic lettered rating classifications by a securities rating
- 30338 agency acceptable to the office ~~department~~;
- 30339 (b) Has been identified in writing by such a rating agency
- 30340 as an insurable risk deemed to be of investment grade quality
- 30341 for purposes of insurance;
- 30342 (c) Has received a "yes" rating by the Securities
- 30343 Valuation Office of the National Association of Insurance
- 30344 Commissioners; or
- 30345 (d) Has been submitted for review to the appropriate



HB 1803

2003

30346 rating agency or Securities Valuation Office and will be
 30347 qualified pursuant to paragraph (a), paragraph (b), or paragraph
 30348 (c).

30349 (11) "Letter of credit" means:

30350 (a) The stated amount of a clean unconditional,
 30351 irrevocable letter of credit issued by a bank or trust company
 30352 whose debt rating applicable to the term of the insured
 30353 obligation is in one of the two highest generic lettered rating
 30354 classifications by a securities rating agency acceptable to the
 30355 office ~~department~~; or

30356 (b) Fifty percent of the stated amount of a clean
 30357 unconditional, irrevocable letter of credit issued by a bank or
 30358 trust company whose debt rating applicable to the term of the
 30359 insured obligation is in a rating classification other than as
 30360 set forth in paragraph (a).

30361 (c) An issuing or confirming bank referred to in paragraph
 30362 (a) or paragraph (b) shall be:

30363 1. Determined by the Securities Valuation office of the
 30364 National Association of Insurance Commissioners to meet such
 30365 standards of financial condition and standing as are considered
 30366 necessary and appropriate to regulate the quality of banks and
 30367 trust companies whose letters of credit shall be acceptable to
 30368 insurance regulatory authorities; provided, that the letter of
 30369 credit is issued for the full term of the insured obligation, or
 30370 the insured obligation is subject to mandatory call and
 30371 redemption from the proceeds of the letter of credit if the
 30372 letter of credit is not renewed or replaced; and

30373 2.a. A member of the federal reserve system or chartered
 30374 by a state of the United States; or

30375 b. Organized and existing under the laws of a foreign



HB 1803

2003

30376 country whose sovereign debt is rated in the highest major
 30377 rating classification by a securities rating agency acceptable
 30378 to the office ~~department~~; and which has been licensed as a
 30379 domestic branch or agency by the Federal Government or a state
 30380 of the United States; and which is regulated, supervised, and
 30381 examined by United States federal or state authorities having
 30382 regulatory authority over banks and trust companies.

30383 Section 995. Paragraph (b) of subsection (1), paragraph
 30384 (d) of subsection (3), and subsections (4) and (5) of section
 30385 627.972, Florida Statutes, are amended to read:

30386 627.972 Organization; financial requirements.--

30387 (1) A financial guaranty insurance corporation must be
 30388 organized and licensed in the manner prescribed in this code for
 30389 stock property and casualty insurers except that:

30390 (b)1. Prior to the issuance of a license, a corporation
 30391 must submit to the office ~~department~~ for approval, a plan of
 30392 operation detailing:

30393 a. The types and projected diversification of guaranties
 30394 to be issued;

30395 b. The underwriting procedures to be followed;

30396 c. The managerial oversight methods;

30397 d. The investment policies; and

30398 e. Any other matters prescribed by the office ~~department~~;

30399 2. An insurer which is writing only the types of insurance
 30400 allowed under this part on July 1, 1988, and otherwise meets the
 30401 requirements of this part, is exempt from the requirements of
 30402 this paragraph.

30403 (3) An insurer may not transact financial guaranty
 30404 insurance unless it establishes a contingency reserve, net of
 30405 reinsurance, as follows:



HB 1803

2003

30406 (d) Withdrawals from the contingency reserve, to the
30407 extent of any excess, may be made with the approval of the
30408 office ~~department~~ from the earliest contributions to the reserve
30409 remaining therein:

30410 1. In any year in which the actual incurred losses exceed
30411 35 percent of earned premiums, or

30412 2. If the contingency reserve has been in existence for 40
30413 quarters for reserves subject to subparagraph (b)1., and 20
30414 quarters for reserves subject to subparagraph (b)2., upon
30415 demonstration that the amount carried is excessive in relation
30416 to the insurer's outstanding obligations.

30417 (4) In addition to the contingency reserve, the case basis
30418 method or other method prescribed by the office ~~department~~ is
30419 used to determine loss reserves, in a manner consistent with the
30420 requirements of part I of chapter 625, which must include a
30421 reserve for claims reported and unpaid net of collateral. A
30422 deduction from loss reserves shall be allowed for the time value
30423 of money by application of a discount rate equal to the average
30424 rate of return on the admitted assets of the insurer as of the
30425 date of the computation of any such reserve. The discount rate
30426 must be adjusted at the end of each calendar year.

30427 (5) The insurer maintains an unearned premium reserve, net
30428 of reinsurance, computed on the monthly pro rata basis, where
30429 the premiums are paid on an installment basis. All other such
30430 premiums paid must be earned proportionately with the expiration
30431 of exposure or by such other method the office ~~department~~
30432 prescribes or approves.

30433 Section 996. Section 627.973, Florida Statutes, is amended
30434 to read:

30435 627.973 Limitations.--



HB 1803

2003

30436 (1) Financial guaranty insurance shall be transacted in
 30437 this state only by a corporation licensed for such purpose,
 30438 except that a property and casualty insurer transacting business
 30439 pursuant to the provisions of this code may transact financial
 30440 guaranty insurance in this state if the following conditions are
 30441 met:

30442 (a) Total policyholders' surplus exceeds \$100 million;

30443 (b) Not more than 20 percent of total net premiums written
 30444 are applicable to or for financial guaranty insurance;

30445 (c) The provisions of this part are applied to the
 30446 insurer's financial guaranty insurance business;

30447 (d) Not more than 20 percent of the insurer's total
 30448 policyholder's surplus is applied toward meeting the provisions
 30449 of this part;

30450 (e) The policyholders' surplus once utilized to meet the
 30451 requirements of this part shall not be available for meeting any
 30452 policyholders' surplus requirements for any other type of
 30453 insurance;

30454 (f) The insurer is licensed to write financial guaranty
 30455 insurance; and

30456 (g) Unless the insurer is transacting financial guaranty
 30457 insurance prior to July 1, 1988, and otherwise meets the
 30458 requirements of this section, prior to the issuance of a
 30459 license, the insurer must submit to the office ~~department~~ for
 30460 approval, a plan of operation complying with s. 627.972(1)(b).

30461 (2) Financial guaranty insurance shall be written only to
 30462 insure obligations defined in s. 627.971(1)(a)1., except that
 30463 obligations defined in s. 627.971(1)(a)2., 3., 4., and 5. may be
 30464 written with the prior written approval of the office ~~department~~
 30465 pursuant to limitations and restrictions promulgated by rule



HB 1803

2003

30466 that the commission ~~department~~ deems appropriate and necessary
30467 to protect the policyholders of the insurer.

30468 (3) At least 95 percent of the outstanding total liability
30469 on municipal obligation bonds of an insurer transacting
30470 financial guaranty insurance must be investment grade.

30471 (4) An insurer transacting financial guaranty insurance
30472 must at all times maintain capital, surplus, and contingency
30473 reserves, subject to the restrictions in paragraph (1)(d) if
30474 applicable, in the aggregate no less than the sum of:

30475 (a) One-third of one percent of the total liabilities
30476 outstanding under guaranties of municipal obligation bonds;

30477 (b) One percent of the total liabilities outstanding under
30478 guaranties of investment grade obligations, including industrial
30479 development bonds and investment grade consumer debt
30480 obligations;

30481 (c) One and one-third percent of the total liabilities
30482 outstanding under guaranties of noninvestment grade consumer
30483 debt obligations;

30484 (d) Two percent of the total liabilities outstanding under
30485 guaranties of other obligations not of investment grade, other
30486 than consumer debt obligations; and

30487 (e) Surplus determined by the office ~~department~~ to be
30488 adequate to support the writing of residual value insurance,
30489 surety insurance, and credit insurance, if the corporation has
30490 elected to transact these kinds of insurance pursuant to s.
30491 627.972(1).

30492 (5) An insurer transacting financial guaranty insurance
30493 must limit its exposure to loss, net of collateral and
30494 reinsurance, as follows:

30495 (a) For municipal bonds:



HB 1803

2003

30496 1. The insured average annual debt service with respect to
 30497 any one entity and backed by a single revenue source may not
 30498 exceed 10 percent of the aggregate of the corporation's capital,
 30499 surplus, and contingency reserves, subject to the restrictions
 30500 of paragraph (1)(d) if applicable; and

30501 2. The insured unpaid principal issued by a single entity
 30502 and backed by a single revenue source may not exceed 75 percent
 30503 of the aggregate of the corporation's capital, surplus, and
 30504 contingency reserves, subject to the restrictions in paragraph
 30505 (1)(d) if applicable; and

30506 (b) For all other financial guaranties, the insured unpaid
 30507 principal for any one risk may not exceed 10 percent of the
 30508 aggregate of the corporation's capital, surplus, and contingency
 30509 reserves, subject to the restrictions in paragraph (1)(d) if
 30510 applicable. Single risk liability shall be defined with respect
 30511 to any one issuer, except that, if the risk is payable from a
 30512 specified revenue source or adequately secured by loan
 30513 obligations or other assets, such risk shall be defined by the
 30514 revenue source.

30515 (6) If the exposure to loss of an insurer transacting
 30516 financial guaranty insurance exceeds the limitations in
 30517 subsection (4), it may not transact any new financial guaranty
 30518 insurance business until its exposure to loss no longer exceeds
 30519 those limitations.

30520 (7) An insurer which wrote financial guaranty insurance in
 30521 this state during the 12-month period immediately preceding July
 30522 1, 1988, but which does not meet the requirements of subsection
 30523 (1) or of s. 627.972(2), may, nevertheless, continue to write
 30524 financial guaranty insurance as authorized by subsection (2)
 30525 after July 1, 1988, subject to all other provisions of this



HB 1803

2003

30526 part, provided:

30527 (a) Within 45 days after such date the insurer files with
30528 the office ~~department~~ a statement of its intentions to limit its
30529 writings to financial guaranty, surety, and fidelity insurance.

30530 Effective upon such filing, the insurer shall be subject to the
30531 requirements of this part except that the surplus to
30532 policyholders requirement of s. 627.972(2) shall not apply to
30533 such insurer until July 1, 1998, at which time such insurer
30534 shall have and thereafter maintain the minimum surplus
30535 requirement of at least \$35 million. Failure of the insurer to
30536 meet the conditions of such statement of intent filed with the
30537 office ~~department~~, until such time as it meets the requirements
30538 of subsection (1), shall be grounds to subject the insurer to
30539 the penalties provided under this code, including immediate
30540 suspension or revocation of its certificate of authority. If the
30541 insurer does not file such statement of intent, it shall cease
30542 writing any new financial guaranty insurance business within 6
30543 months after the effective date of this act. The insurer may:

30544 1. Reinsure its net in-force business with a licensed
30545 financial guaranty insurance corporation or an insurer exempt
30546 under subsection (1);

30547 2. Subject to the prior approval of its domiciliary
30548 insurance commissioner, reinsure all or part of its net in-force
30549 business pursuant to s. 627.975(1)(b), except that subparagraphs
30550 2. and 4. do not apply. The assuming insurer must maintain
30551 reserves for the reinsured business in the manner applicable to
30552 the ceding insurer under paragraph (b); or

30553 3. May continue the risks in force and, with 30 days prior
30554 written notice to its domiciliary insurance commissioner, write
30555 new financial guaranty policies if the writing of those policies



HB 1803

2003

30556 is reasonably prudent to mitigate either the amount of or
 30557 possibility of loss in connection with business written prior to
 30558 July 1, 1988. However, an insurer must receive the prior
 30559 approval of its domiciliary insurance commissioner before
 30560 writing any new financial guaranty insurance policies that would
 30561 increase its risk of loss.

30562 (b) Must, for all guaranties in force prior to July 1,
 30563 1988, including those which fall under the definition of
 30564 financial guaranty insurance, maintain the reserves applicable
 30565 for municipal bond guaranties in effect prior to July 1, 1988.
 30566 If the insurer's contingency reserves maintained as of July 1,
 30567 1988, are less than those required for municipal bond
 30568 guaranties, the insurer has 3 years to bring its reserves into
 30569 compliance, except that a part of the reserve may be released
 30570 proportional to the reduction in net total liabilities resulting
 30571 from reinsurance if the reinsurer, on the effective date of the
 30572 reinsurance, establishes a reserve in an amount equal to the
 30573 amount released and except that a part of the reserve may be
 30574 released with office ~~departmental~~ approval, upon demonstration
 30575 that the amount carried is excessive in relation to the
 30576 corporation's outstanding obligations.

30577 (c) Shall be subject to the reserve requirements
 30578 applicable to financial guaranty insurance corporations, for
 30579 business written on or after July 1, 1988.

30580 (d) This subsection shall not apply to insurers permitted
 30581 to write financial guaranty insurance pursuant to the exception
 30582 set forth in subsection(1) and such insurers may write financial
 30583 guaranty insurance subject to the requirements of the Florida
 30584 Insurance Code.

30585 Section 997. Section 627.974, Florida Statutes, is amended



HB 1803

2003

30586 to read:

30587 627.974 Filing of policy forms and rates.--

30588 (1) Policy forms and any amendments thereto must be filed
 30589 with the office ~~department~~ within 30 days after their use by the
 30590 insurer. A policy may not provide coverage of the acceleration
 30591 of payments due under the guaranteed obligations, including any
 30592 payment in advance of scheduled maturity to be made by the
 30593 issuer of the guaranteed obligations at the sole option of the
 30594 owner of the guaranteed obligations, unless the acceleration is
 30595 at the sole option of the insurer. Each policy must disclose
 30596 that the insurance provided by the policy is not covered by the
 30597 Florida Insurance Guaranty Association created under part II of
 30598 chapter 631. The commission ~~department~~ may prescribe additional
 30599 minimum policy provisions which are determined by the commission
 30600 ~~department~~ to be necessary or appropriate to protect
 30601 policyholders, claimants, obligees, or indemnitees.

30602 (2) Rates may not be excessive, inadequate, unfairly
 30603 discriminatory, destructive of competition, or detrimental to
 30604 the solvency of the insurer.

30605 (3) Criteria and guidelines used by insurers transacting
 30606 financial guaranty insurance in establishing rating categories
 30607 and ranges of rates to be used must be filed with the office
 30608 ~~department~~ for information prior to their use by the insurer.

30609 (4) All such filings must be available for public
 30610 inspection at the office ~~department~~.

30611 (5) This section is in lieu of the requirements of ss.
 30612 627.062 and 627.410.

30613 Section 998. Section 627.986, Florida Statutes, is amended
 30614 to read:

30615 627.986 Replacement rules.--Group-to-group consolidations



HB 1803

2003

30616 shall be exempt from any rule of the commission ~~department~~
 30617 relating to the replacement of existing life or health
 30618 insurance. Nothing in this part shall be interpreted as creating
 30619 an exemption for consolidations which involve individual
 30620 policies.

30621 Section 999. Section 627.987, Florida Statutes, is amended
 30622 to read:

30623 627.987 Policy forms.--No policy or group certificate of
 30624 mortgage insurance used in connection with any consolidation,
 30625 and no application, endorsement, or rider which becomes a part
 30626 of any such policy or certificate, shall be issued or delivered
 30627 in this state until a copy of the form has been filed with and
 30628 approved by the office ~~department~~.

30629 Section 1000. Section 628.051, Florida Statutes, is
 30630 amended to read:

30631 628.051 Application for permit to form insurer; contents;
 30632 fee.--

30633 (1) No domestic insurer shall be formed unless the persons
 30634 so proposing have received a permit from the office ~~department~~.

30635 (2) Written application for such permit shall be filed
 30636 with the office ~~department~~. Such application and filing shall
 30637 include:

30638 (a) The name, type, and purpose of insurer.

30639 (b) The name, residence address, business background, and
 30640 qualifications of each person associated or to be associated in
 30641 the formation or financing of the insurer. Each such person with
 30642 an ownership interest of 10 percent or more, or who will hold a
 30643 position as an officer or director, must furnish on forms
 30644 adopted by the commission and supplied by the office ~~department~~
 30645 a sworn biographical statement, legible copies of fingerprints,



HB 1803

2003

30646 and authority for release of information in regard to the
 30647 investigation of such person's background.

30648 (c) A full disclosure of the terms of all understandings
 30649 and agreements existing or proposed among persons so associated
 30650 relative to the insurer, or the formation or financing thereof,
 30651 accompanied by a copy of each such agreement or understanding.

30652 (d) A full disclosure of the terms of all understandings
 30653 and agreements existing or proposed for management or exclusive
 30654 agency contracts.

30655 (e) A copy of all proposed articles or certificates of
 30656 incorporation and proposed bylaws of the proposed insurer.

30657 (f) A copy of all articles or certificates of
 30658 incorporation of involved corporations, if a copy of the same is
 30659 not already on file in the office ~~department~~.

30660 (g) A copy of all syndicate, association, firm,
 30661 partnership, organization, or other similar agreements, by
 30662 whatever name called, involved in the formation of the proposed
 30663 insurer or its financing.

30664 (h) If the applicant is a reciprocal insurer, a copy of
 30665 the power of attorney and of other agreements existing or
 30666 proposed as affecting investors, subscribers, the attorney in
 30667 fact, or the applicant.

30668 (i) A copy of any security, or of any proposed document
 30669 evidencing any right or interest, proposed to be offered.

30670 (j) Such other pertinent information and documents as
 30671 reasonably requested by the commission or office ~~department~~.

30672 (3) The application shall be accompanied by the filing fee
 30673 specified in s. 624.501.

30674 Section 1001. Section 628.061, Florida Statutes, is
 30675 amended to read:



HB 1803

2003

30676 628.061 Investigation of proposed organization.--In
30677 connection with any proposal to incorporate a domestic insurer,
30678 the office ~~department~~ shall make an investigation of:

30679 (1) The character, reputation, financial standing, and
30680 motives of the organizers, incorporators, and subscribers
30681 organizing the proposed insurer.

30682 (2) The character, financial responsibility, insurance
30683 experience, and business qualifications of its proposed
30684 officers.

30685 (3) The character, financial responsibility, business
30686 experience, and standing of the proposed stockholders and
30687 directors.

30688 Section 1002. Section 628.071, Florida Statutes, is
30689 amended to read:

30690 628.071 Granting, denial of permit.--

30691 (1) The office ~~department~~ shall expeditiously examine and
30692 investigate the application for a permit as referred to in s.
30693 628.051. If the office ~~department~~ finds that:

30694 (a) The application is complete;

30695 (b) The documents therewith filed are in compliance with
30696 law;

30697 (c) None of the stockholders, organizers, incorporators,
30698 subscribers, and other persons who directly or indirectly
30699 exercise or have the ability to exercise effective control of
30700 the proposed insurer or who will be involved in its management
30701 have been found guilty of, or have pleaded guilty or nolo
30702 contendere to, a felony or a crime punishable by imprisonment of
30703 1 year or more under the law of the United States or any state
30704 thereof, or under the law of any other country, which involves
30705 moral turpitude, without regard to whether a judgment of



HB 1803

2003

30706 conviction has been entered by the court having jurisdiction of
30707 such cases;

30708 (d) The proposed financial structure is adequate; and

30709 (e) All stockholders, organizers, incorporators,
30710 subscribers, and other persons who directly or indirectly
30711 exercise or have the ability to exercise effective control of
30712 the proposed insurer or who will be involved in management of
30713 the proposed insurer possess the financial standing and business
30714 experience to form an insurer;

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30717 it shall issue to the applicant a permit to form the proposed
30718 insurer.

30719 (2) If the office ~~department~~ does not so find, or finds
30720 that the insurer if formed or financed would not be able to
30721 qualify for or retain a certificate of authority by reason of
30722 the provisions of s. 624.404(3), a permit shall not be granted.

30723 (3) A permit granted under the provisions of this section
30724 shall be valid for 1 year from the date of issue, and during any
30725 extension of such period, not to exceed an additional year, as
30726 may be authorized by the office ~~department~~ upon cause shown. The
30727 articles of incorporation and all other proceedings thereunder
30728 shall become void 1 year from the issue date of such permit or
30729 upon the expiration of such extended period, unless the
30730 formation of the proposed insurer has been completed and a
30731 certificate of authority has been issued by the office
30732 ~~department~~.

30733 Section 1003. Section 628.091, Florida Statutes, is
30734 amended to read:

30735 628.091 Filing, approval of articles of incorporation.--



HB 1803

2003

30736 (1) No domestic stock or mutual insurer shall be formed
30737 unless its articles of incorporation are approved by the office
30738 ~~department~~ prior to filing the same with and approval by the
30739 Department of State as provided by law.

30740 (2) The incorporators shall file the triplicate originals
30741 of the articles of incorporation with the office ~~department~~,
30742 accompanied by the filing fee specified in s. 624.501.

30743 (3) The office ~~department~~ shall promptly examine the
30744 articles of incorporation. If it finds that the articles of
30745 incorporation conform to law, and that a permit has been or will
30746 be issued, it shall endorse its approval on each of the
30747 triplicate originals of the articles of incorporation, retain
30748 one copy for its files, and return the remaining copies to the
30749 incorporators for filing with the Department of State.

30750 (4) If the office ~~department~~ does not so find, it shall
30751 refuse to approve the articles of incorporation and shall return
30752 the originals.

30753 Section 1004. Section 628.101, Florida Statutes, is
30754 amended to read:

30755 628.101 Amendment of certificate of incorporation; stock
30756 insurer.--A domestic stock insurer shall not amend its
30757 certificate of incorporation until a copy of the proposed
30758 amendment has been filed with and approved by the office
30759 ~~department~~. The office ~~department~~ shall promptly examine any
30760 such proposed amendment and shall approve the same unless it
30761 finds that the proposed amendment does not comply with law.

30762 Section 1005. Subsections (2) and (3) of section 628.111,
30763 Florida Statutes, are amended to read:

30764 628.111 Amendment of articles of incorporation; mutual
30765 insurer.--



HB 1803

2003

30766 (2)(a) Upon adoption of the amendment, the insurer shall
 30767 make in triplicate under its corporate seal a certificate
 30768 thereof, setting forth the amendment and the date and manner of
 30769 the adoption thereof, which certificate shall be executed by the
 30770 insurer's president or vice president and secretary or assistant
 30771 secretary and acknowledged before an officer authorized to take
 30772 acknowledgments. The insurer shall deliver the triplicate
 30773 originals of the certificate to the office ~~department~~, together
 30774 with the filing fee specified in s. 624.501.

30775 (b) The office ~~department~~ shall promptly examine the
 30776 certificate of amendment; and, if it finds that the certificate
 30777 and the amendment comply with law, it shall endorse its approval
 30778 upon each of the triplicate originals, place one on file in its
 30779 office, and return the remaining sets to the insurer. The
 30780 insurer shall forthwith file such endorsed certificates of
 30781 amendment with the Department of State. The amendment shall be
 30782 effective when filed with and approved by the Department of
 30783 State.

30784 (3) If the office ~~department~~ finds that the proposed
 30785 amendment or certificate does not comply with the law, it shall
 30786 not approve the same, and shall return the triplicate
 30787 certificate of amendment to the insurer.

30788 Section 1006. Subsections (1) and (3) of section 628.152,
 30789 Florida Statutes, are amended to read:

30790 628.152 Domestic stock insurers; proxies, consents, and
 30791 authorizations with respect to any voting security.--

30792 (1) The commission ~~department~~ may, by rule, prescribe the
 30793 form, content, and manner of solicitation of any proxy, consent,
 30794 or authorization with respect to any voting security issued by a
 30795 domestic stock insurer, as may be necessary or appropriate in



HB 1803

2003

30796 the public interest or for the proper protection of investors in
 30797 the voting securities issued by such insurer or to ensure the
 30798 fair dealing in such voting securities.

30799 (3) Any proxy or consent obtained in violation of this
 30800 section is void. The domestic stock insurer, any stockholder of
 30801 record, or the office ~~department~~ may enforce compliance with
 30802 this section, by an appropriate civil action.

30803 Section 1007. Subsection (6) of section 628.161, Florida
 30804 Statutes, is amended to read:

30805 628.161 Initial qualifications; mutuals.--

30806 (6) A self-insured fund organized under s. 624.4621 ~~s.~~
 30807 ~~440.57~~ and holding a certificate of authority as a self-
 30808 insurer's fund on December 31, 1993, may become a mutual insurer
 30809 under this part, pursuant to a plan of reorganization approved
 30810 by the office ~~department~~. A plan of reorganization must be
 30811 approved by the office ~~department~~ if:

30812 (a) The self-insurer's fund has sufficient financial
 30813 resources to satisfy all of its obligations under all policies
 30814 and coverages afforded by the fund before the reorganization and
 30815 has sufficient financial resources to satisfy all of its other
 30816 liabilities;

30817 (b) The self-insurer's fund has a minimum of \$5 million of
 30818 surplus;

30819 (c) The self-insurer's fund submits a plan that
 30820 demonstrates its ability to satisfy the requirements of this
 30821 chapter pertaining to mutual insurers on an ongoing basis; and

30822 (d) The mutual insurer resulting from the reorganization
 30823 of the self-insurer's fund retains ownership of all of the
 30824 assets of the self-insurer's fund, retains all of the
 30825 liabilities of the self-insurer's fund, and agrees to hold all



HB 1803

2003

30826 fund members harmless from any assessment for liabilities of the
 30827 self-insurer's fund before the date of reorganization.

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 30830 Upon approval of the plan by the office ~~department~~, any
 30831 contingent liability of the members or former members of the
 30832 self-insurer's fund for assessment for losses of the self-
 30833 insurer's fund is considered satisfied, and all liability for
 30834 any such contingent assessment is extinguished as of the date
 30835 the self-insurer's fund becomes an authorized mutual insurer and
 30836 retains all of the assets and liabilities of the self-insurer's
 30837 fund.

30838 Section 1008. Section 628.171, Florida Statutes, is
 30839 amended to read:

30840 628.171 Formation of mutual insurer; bond.--The
 30841 incorporators of the proposed insurer shall file with the office
 30842 ~~department~~ a copy of a fidelity bond or insurance policy
 30843 providing coverage in an amount equal to not less than 10
 30844 percent of the funds handled annually and issued in the name of
 30845 the insurer covering its directors, employees, administrator, or
 30846 other individuals managing or handling the funds or assets of
 30847 the insurer. In no case may such bond or policy be less than
 30848 \$1,000 or more than \$500,000.

30849 Section 1009. Subsection (3) of section 628.221, Florida
 30850 Statutes, is amended to read:

30851 628.221 Bylaws of mutual insurer.--

30852 (3) The insurer shall promptly file with the office
 30853 ~~department~~ a copy, certified by the insurer's secretary, of its
 30854 bylaws and of every modification thereof or addition thereto.

30855 The office ~~department~~ shall disapprove any bylaw provision



HB 1803

2003

30856 deemed by it to be unlawful, unreasonable, inadequate, unfair,
 30857 or detrimental to the proper interests or protection of the
 30858 insurer's members or any class thereof. The insurer shall not,
 30859 after receiving written notice of such disapproval and during
 30860 the existence thereof, effectuate any bylaw provision so
 30861 disapproved.

30862 Section 1010. Subsections (1) and (3) of section 628.251,
 30863 Florida Statutes, are amended to read:

30864 628.251 Management and exclusive agency contracts.--

30865 (1) No domestic mutual insurer or stock insurer shall make
 30866 any contract whereby any person is granted or is to enjoy in
 30867 fact the management of the insurer to the substantial exclusion
 30868 of its board of directors or to have the controlling or
 30869 preemptive right to produce substantially all insurance business
 30870 for the insurer, unless the contract is filed with and approved
 30871 by the office ~~department~~.

30872 (3) The office ~~department~~ shall disapprove any such
 30873 contract if it finds that it:

- 30874 (a) Subjects the insurer to excessive charges; ~~or~~
- 30875 (b) Is to extend for an unreasonable length of time; ~~or~~
- 30876 (c) Does not contain fair and adequate standards of
 30877 performance; or

30878 (d) Contains other inequitable provision or provisions
 30879 which impair the proper interests of policyholders or members of
 30880 the insurer.

30881 Section 1011. Subsection (1) of section 628.255, Florida
 30882 Statutes, is amended to read:

30883 628.255 Person with effective control cannot receive
 30884 commission unless contract approved; penalties.--

30885 (1) No director, officer, or other person having effective



HB 1803

2003

30886 control of a domestic insurer shall receive, and no such insurer
 30887 shall pay to such person, a commission or other compensation
 30888 with respect to particular risks insured by the insurer, unless
 30889 such commission or other compensation is paid pursuant to a
 30890 contract filed with and approved by the office ~~department~~.

30891 Section 1012. Section 628.261, Florida Statutes, is
 30892 amended to read:

30893 628.261 Notice of change of director or officer.--An
 30894 insurer shall give the office ~~department~~ written notice of any
 30895 change of personnel among the directors or principal officers of
 30896 the insurer within 45 days of such change. The written notice
 30897 shall include all information necessary to allow the office
 30898 ~~department~~ to determine that the insurer will be in compliance
 30899 with s. 624.404(3) and at a minimum shall contain the
 30900 information required by s. 628.051(2)(b), (c), and (d).

30901 Section 1013. Subsections (1) and (3) of section 628.271,
 30902 Florida Statutes, are amended to read:

30903 628.271 Office and records; penalty for unlawful removal
 30904 of records.--

30905 (1) Every domestic insurer shall have an office in this
 30906 state and shall keep therein complete records of its assets,
 30907 transactions, and affairs, specifically including:

- 30908 (a) Financial records;
- 30909 (b) Corporate records;
- 30910 (c) Reinsurance documents;
- 30911 (d) Access to all accounting transactions and access in
 30912 this state, upon demand by the office ~~department~~, to all
 30913 original accounting documents;
- 30914 (e) Claim files; and
- 30915 (f) Payment of claims,



HB 1803

2003

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in accordance with such methods and systems as are customary or suitable as to the kind or kinds of insurance transacted.

(3) The removal of all or a material part of the records or assets of a domestic insurer from this state except pursuant to a plan of merger or consolidation approved by the office ~~department~~ under this code or for such reasonable purposes and periods of time as may be approved by the office ~~department~~ in writing in advance of such removal, or the concealment of such records or assets or material part thereof from the office ~~department~~, is prohibited. Any person who removes or attempts to remove such records or assets or such material part thereof from the home office or other place of business or of safekeeping of the insurer in this state with the intent to remove the same from this state, or who conceals or attempts to conceal the same from the office ~~department~~, in violation 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. Upon any removal or attempted removal of such records or assets or upon retention of such records or assets or material part thereof outside this state, beyond the period therefor specified in the consent of the office ~~department~~ under which consent the records were so removed thereat, or upon concealment of or attempt to conceal records or assets in violation of this section, the office ~~department~~ may institute delinquency proceedings against the insurer pursuant to the provisions of chapter 631.

Section 1014. Subsection (1) of section 628.281, Florida Statutes, is amended to read:

628.281 Exceptions to requirement that office, records,



HB 1803

2003

30946 and assets be maintained in this state.--

30947 (1) The provisions of s. 628.271 shall not be deemed to
 30948 prohibit or prevent an insurer from:

30949 (a) Establishing and maintaining branch offices or
 30950 regional home offices in other states where necessary or
 30951 convenient to the transaction of its business and keeping
 30952 therein the detailed records and assets customary and reasonably
 30953 necessary for the servicing of its insurance in force and
 30954 affairs in the territory served by such an office, as long as
 30955 such records and assets are made readily available at such
 30956 office for examination by the Office of Insurance Regulation
 30957 ~~department~~ at its request.

30958 (b) Having, depositing, or transmitting funds and assets
 30959 of the insurer in or to jurisdictions outside this state as
 30960 required by other jurisdictions as a condition of transacting
 30961 insurance in such jurisdictions reasonably and customarily
 30962 required in the regular course of its business.

30963 (c) Establishing and maintaining its principal operations
 30964 offices, its usual operations records, and such of its assets as
 30965 may be necessary or convenient for the purpose, in another state
 30966 in which the insurer is authorized to transact insurance in
 30967 order that general administration of its affairs may be combined
 30968 with that of an affiliated insurer or insurers, but subject to
 30969 the following conditions:

30970 1. That the office ~~department~~ consent in writing to such
 30971 removal of offices, records, and assets from this state upon
 30972 evidence satisfactory to it that the same will facilitate and
 30973 make more economical the operations of the insurer and will not
 30974 unreasonably diminish the service or protection thereafter to be
 30975 given the insurer's policyholders in this state and elsewhere;



HB 1803

2003

30976 2. That the insurer will continue to maintain in this
30977 state its principal corporate office or place of business, and
30978 maintain therein available to the inspection of the office
30979 ~~department~~ complete records of its corporate proceedings and a
30980 copy of each financial statement of the insurer current within
30981 the preceding 5 years, including a copy of each interim
30982 financial statement prepared for the information of the
30983 insurer's officers or directors;

30984 3. That, upon the written request of the office
30985 ~~department~~, the insurer will with reasonable promptness produce
30986 at its principal corporate offices in this state for examination
30987 or for subpoena its records or copies thereof relative to a
30988 particular transaction or transactions of the insurer as
30989 designated by the office ~~department~~ in its request; and

30990 4. That, if at any time the office ~~department~~ finds that
30991 the conditions justifying the maintenance of such offices,
30992 records, and assets outside this state no longer exist, or that
30993 the insurer has willfully and knowingly violated any of the
30994 conditions stated in subparagraphs 2. and 3., the office
30995 ~~department~~ may order the return of such offices, records, and
30996 assets to this state within such reasonable time, not less than
30997 6 months, as may be specified in the order; and that for failure
30998 to comply with such order, as thereafter modified or extended,
30999 if any, the office ~~department~~ shall suspend or revoke the
31000 insurer's certificate of authority.

31001 Section 1015. Subsection (1) of section 628.341, Florida
31002 Statutes, is amended to read:

31003 628.341 Nonassessable policies; mutual insurers.--

31004 (1) While possessing surplus funds in amount not less than
31005 the paid-in capital stock required of a domestic stock insurer



HB 1803

2003

31006 transacting like kinds of insurance, a domestic mutual insurer
 31007 may, upon receipt of the order of the office ~~department~~ so
 31008 authorizing, extinguish the contingent liability of its members
 31009 as to all its policies in force and may omit provisions imposing
 31010 contingent liability in all its policies currently issued so
 31011 long as such surplus funds meet such requirement as to amount.

31012 Section 1016. Section 628.351, Florida Statutes, is
 31013 amended to read:

31014 628.351 Nonassessable policies; revocation of authority of
 31015 mutual insurer.--The office ~~department~~ shall revoke the
 31016 authority of a domestic mutual insurer to issue policies without
 31017 contingent liability if at any time the insurer's assets are
 31018 less than the sum of its liabilities and the surplus required
 31019 for such authority, or if the insurer, by resolution of its
 31020 board of directors approved by a majority of its members,
 31021 requests that the authority be revoked. During the absence of
 31022 such authority, the insurer shall not issue any policy without
 31023 providing therein for the contingent liability of the
 31024 policyholder, nor renew any policy which is renewable at the
 31025 option of the insurer without endorsing the same to provide for
 31026 such contingent liability. Such renewal or endorsement shall
 31027 bear conspicuously on its face the provision for contingent
 31028 liability of the policyholder.

31029 Section 1017. Section 628.371, Florida Statutes, is
 31030 amended to read:

31031 628.371 Dividends to stockholders.--

31032 (1) A domestic stock insurer shall not pay any dividend or
 31033 distribute cash or other property to stockholders except out of
 31034 that part of its available and accumulated surplus funds which
 31035 is derived from realized net operating profits on its business



HB 1803

2003

31036 and net realized capital gains.

31037 (2) Dividend payments or distributions to stockholders,
31038 without prior written approval of the office ~~department~~, shall
31039 not exceed the larger of:

31040 (a) The lesser of 10 percent of surplus or net gain from
31041 operations (life and health companies) or net income (property
31042 and casualty companies), not including realized capital gains,
31043 plus a 2-year carryforward for property and casualty companies;

31044 (b) Ten percent of surplus, with dividends payable
31045 constrained to unassigned funds minus 25 percent of unrealized
31046 capital gains;

31047 (c) The lesser of 10 percent of surplus or net investment
31048 income (net gain before capital gains for life and health
31049 companies) plus a 3-year carryforward(2-year carryforward for
31050 life and health companies) with dividends payable constrained to
31051 unassigned funds minus 25 percent of unrealized capital gains.

31052 (3) In lieu of the provisions in subsection (2), an
31053 insurer may pay a dividend or make a distribution without the
31054 prior written approval of the office ~~department~~ when:

31055 (a) The dividend is equal to or less than the greater of:

31056 1. Ten percent of the insurer's surplus as to
31057 policyholders derived from realized net operating profits on its
31058 business and net realized capital gains; or

31059 2. The insurer's entire net operating profits and realized
31060 net capital gains derived during the immediately preceding
31061 calendar year; and

31062 (b) The insurer will have surplus as to policyholders
31063 equal to or exceeding 115 percent of the minimum required
31064 statutory surplus as to policyholders after the dividend or
31065 distribution is made; and



HB 1803

2003

31066 (c) The insurer has filed notice with the office
 31067 ~~department~~ at least 10 business days prior to the dividend
 31068 payment or distribution, or such shorter period of time as
 31069 approved by the office ~~department~~ on a case-by-case basis. Such
 31070 notice shall not create a right in the office ~~department~~ to
 31071 approve or disapprove a dividend otherwise properly payable
 31072 hereunder; and

31073 (d) The notice includes a certification by an officer of
 31074 the insurer attesting that after payment of the dividend or
 31075 distribution the insurer will have at least 115 percent of
 31076 required statutory surplus as to policyholders.

31077 (4) The office ~~department~~ shall not approve a dividend or
 31078 distribution in excess of the maximum amount allowed in
 31079 subsection (1) unless, considering the following factors, it
 31080 determines that the distribution or dividend would not
 31081 jeopardize the financial condition of the insurer:

31082 (a) The liquidity, quality, and diversification of the
 31083 insurer's assets and the effect on its ability to meet its
 31084 obligations.

31085 (b) Reduction of investment portfolio and investment
 31086 income.

31087 (c) Effects on the written premium to surplus ratios as
 31088 required by the Florida Insurance Code.

31089 (d) Industrywide financial conditions.

31090 (e) Prior dividend distributions of the insurer.

31091 (f) Whether the dividend is only a "pass-through" dividend
 31092 from a subsidiary of the insurer.

31093 Section 1018. Subsection (3) of section 628.391, Florida
 31094 Statutes, is amended to read:

31095 628.391 Illegal dividends; penalty.--



HB 1803

2003

31096 (3) The office ~~department~~ may revoke or suspend the
 31097 certificate of authority of an insurer which has declared or
 31098 paid such an illegal dividend.

31099 Section 1019. Subsections (3) and (4) of section 628.401,
 31100 Florida Statutes, are amended to read:

31101 628.401 Borrowed surplus.--

31102 (3) Any such loan to a domestic stock or mutual insurer
 31103 shall be subject to the approval of the office ~~department~~ for
 31104 the issue and the rate of interest to be paid. The insurer
 31105 shall, in advance of the loan, file with the office ~~department~~ a
 31106 statement of the purpose of the loan and a copy of the proposed
 31107 loan agreement. The office ~~department~~ shall disapprove any
 31108 proposed loan or agreement if it finds that the loan is
 31109 unnecessary or excessive for the purpose intended; that the
 31110 terms of the loan agreement are not fair and equitable to the
 31111 parties and to other similar lenders, if any, to the insurer; or
 31112 that the information so filed by the insurer is inadequate.

31113 (4) Any such loan to a domestic stock or mutual insurer,
 31114 or a substantial portion thereof, shall be repaid by the insurer
 31115 when no longer reasonably necessary for the purpose originally
 31116 intended. No repayment of such a loan shall be made by a
 31117 domestic stock or mutual insurer unless approved in advance by
 31118 the office ~~department~~.

31119 Section 1020. Subsections (1) and (4) of section 628.411,
 31120 Florida Statutes, are amended to read:

31121 628.411 Impairment of capital or assets.--

31122 (1) If a domestic stock insurer's capital, as represented
 31123 by the aggregate par value of its outstanding capital stock,
 31124 becomes impaired, or if the assets of a mutual insurer are less
 31125 than the sum of its liabilities and the minimum amount of



HB 1803

2003

31126 surplus required to be maintained by it, the office ~~department~~
 31127 shall at once determine the amount of deficiency and serve
 31128 notice upon the insurer to make good the deficiency within 90
 31129 days after service of such notice.

31130 (4) If the deficiency is not made good and proof thereof
 31131 filed with the office ~~department~~ within such 90-day period, the
 31132 insurer shall be deemed insolvent and the office ~~department~~
 31133 shall institute delinquency proceedings against it under chapter
 31134 631; except that if such deficiency exists because of increased
 31135 loss reserves required by the office ~~department~~, or because of
 31136 disallowance by the office ~~department~~ of certain assets or
 31137 reduction of the value at which carried in the insurer's
 31138 accounts, the office ~~department~~ may, in its discretion and upon
 31139 application and good cause shown, and if it finds that the
 31140 establishment or maintenance of such inadequate reserves or
 31141 overvalued assets was not willful on the part of the insurer,
 31142 extend for not more than an additional 60 days the period within
 31143 which such deficiency may be so made good and such proof thereof
 31144 so filed.

31145 Section 1021. Subsection (1) of section 628.421, Florida
 31146 Statutes, is amended to read:

31147 628.421 Assessment of stockholders or members.--

31148 (1) Any insurer receiving the notice of the office
 31149 ~~department~~ mentioned in s. 628.411(1):

31150 (a) If a stock insurer, by resolution of its board of
 31151 directors and subject to any limitations upon assessment
 31152 contained in its certificate of incorporation, may assess its
 31153 stockholders for amounts necessary to cure the deficiency and
 31154 provide the insurer with a reasonable amount of surplus in
 31155 addition. If any stockholder fails to pay a lawful assessment



HB 1803

2003

31156 after notice given to him or her in person or by advertisement
 31157 in such time and manner as approved by the office ~~department~~,
 31158 the insurer may require the return of the original certificate
 31159 of stock held by the stockholder and, in cancellation and in
 31160 lieu thereof, issue a new certificate for such number of shares
 31161 as the stockholder may then be entitled to, upon the basis of
 31162 the stockholder's proportionate interest in the amount of the
 31163 insurer's capital stock as determined by the office ~~department~~
 31164 to be remaining at the time of determination of the amount of
 31165 impairment under s. 628.411, after deducting from such
 31166 proportionate interest the amount of such unpaid assessment.
 31167 The insurer may pay for or issue fractional shares under this
 31168 subsection.

31169 (b) If a mutual insurer, shall levy such an assessment
 31170 upon members as is provided for under s. 628.321.

31171 Section 1022. Subsections (1) and (2) of section 628.431,
 31172 Florida Statutes, are amended to read:

31173 628.431 Mutualization of stock insurers.--

31174 (1) A stock insurer other than a title insurer may become
 31175 a mutual insurer under such plan and procedure as may be
 31176 approved by the office ~~department~~.

31177 (2) The office ~~department~~ shall not approve any such plan,
 31178 procedure, or mutualization unless:

31179 (a) It is equitable to stockholders and policyholders;

31180 (b) It is subject to approval by the holders of not less
 31181 than three-fourths of the insurer's outstanding capital stock
 31182 having voting rights and by not less than two-thirds of the
 31183 insurer's policyholders who vote on such plan in person, by
 31184 proxy, or by mail pursuant to such notice and procedure as may
 31185 be approved by the office ~~department~~;



HB 1803

2003

31186 (c) If a life insurer, the right to vote thereon is
 31187 limited to holders of policies other than term or group
 31188 policies, and whose policies have been in force for more than 1
 31189 year;

31190 (d) Mutualization will result in retirement of shares of
 31191 the insurer's capital stock at a price not in excess of the fair
 31192 market value thereof as determined by competent disinterested
 31193 appraisers;

31194 (e) The plan provides for the purchase of the shares of
 31195 any nonconsenting stockholder in the same manner and subject to
 31196 the same applicable conditions as provided by s. 607.247, as to
 31197 rights of nonconsenting stockholders, with respect to
 31198 consolidation or merger of private corporations;

31199 (f) The plan provides for definite conditions to be
 31200 fulfilled by a designated early date upon which such
 31201 mutualization will be deemed effective; and

31202 (g) The mutualization leaves the insurer with surplus
 31203 funds reasonably adequate for the security of its policyholders
 31204 and to enable it to continue successfully in business in the
 31205 states in which it is then authorized to transact insurance, and
 31206 for the kinds of insurance included in its certificates of
 31207 authority in such states.

31208 Section 1023. Section 628.441, Florida Statutes, is
 31209 amended to read:

31210 628.441 Converting mutual insurer.--

31211 (1) A mutual insurer may become a stock insurer under such
 31212 plan and procedure as may be approved by the office ~~department~~.

31213 (2) The office ~~department~~ shall not approve any such plan
 31214 or procedure unless:

31215 (a) It is equitable to the insurer's members;



HB 1803

2003

31216 (b) It is subject to approval by vote of not less than
31217 three-fourths of the insurer's current members voting thereon in
31218 person, by proxy, or by mail at a meeting of members called for
31219 the purpose pursuant to such reasonable notice and procedure as
31220 may be approved by the office ~~department~~; if a life insurer, the
31221 right to vote may be limited to members who hold policies other
31222 than term or group policies, and whose policies have been in
31223 force for not less than 1 year;

31224 (c) The corporate equity of each policyholder in the
31225 insurer, other than as to unearned premiums, nonforfeiture
31226 rights, and benefit claims under his or her policy, is
31227 determinable under a fair formula approved by the office
31228 ~~department~~, which equity shall be based upon not less than the
31229 insurer's entire surplus, after deducting contributed or
31230 borrowed surplus funds, plus a reasonable present equity in its
31231 reserves and in all nonadmitted assets;

31232 (d) The policyholders entitled to participate in the
31233 purchase of stock or distribution of assets shall include all
31234 current policyholders and all existing persons who had been
31235 policyholders of the insurer within 3 years prior to the date
31236 such plan was submitted to the office ~~department~~;

31237 (e) The plan gives to each policyholder of the insurer as
31238 specified in paragraph (d) a preemptive right to acquire his or
31239 her proportionate part of all of the proposed capital stock of
31240 the insurer, within a designated reasonable period, and to apply
31241 upon the purchase thereof the amount of his or her equity in the
31242 insurer as determined under paragraph (c);

31243 (f) Shares are so offered to policyholders at a price not
31244 greater than to be thereafter offered to others;

31245 (g) The plan provides for payment of cash to each



HB 1803

2003

31246 policyholder not electing to apply his or her equity in the
 31247 insurer toward the purchase price of stock to which he or she is
 31248 preemptively entitled. The amount so paid shall be not less than
 31249 50 percent of the amount of the policyholder's equity not so
 31250 used for the purchase of stock. Such cash payment together with
 31251 stock so purchased, if any, shall constitute full payment and
 31252 discharge of the policyholder's corporate equity in such mutual
 31253 insurer; and

31254 (h) The plan, when completed, would provide for the
 31255 converted insurer paid-in capital stock in an amount not less
 31256 than the minimum paid-in capital required of a domestic stock
 31257 insurer transacting like kinds of insurance, together with
 31258 surplus funds in amounts not less than one-half of such required
 31259 capital.

31260 Section 1024. Subsection (2) of section 628.451, Florida
 31261 Statutes, is amended to read:

31262 628.451 Merger or share exchange of stock insurers and
 31263 other entities.--

31264 (2) No such merger or share exchange shall be effectuated
 31265 unless in advance thereof the plan and agreement therefor have
 31266 been filed with the office ~~department~~ and approved by it. The
 31267 office ~~department~~ shall give such approval provided it finds
 31268 such plan or agreement:

31269 (a) Is in compliance with law;

31270 (b) Is fair to the stockholders of or other holders of
 31271 interests in any insurer or self-insurer involved; and

31272 (c) Would not substantially reduce the security of and
 31273 service to be rendered to policyholders of the domestic insurer
 31274 in this state or elsewhere.

31275 Section 1025. Section 628.461, Florida Statutes, is



HB 1803

2003

31276 amended to read:

31277 628.461 Acquisition of controlling stock.--

31278 (1) No person shall, individually or in conjunction with
31279 any affiliated person of such person, acquire directly or
31280 indirectly, conclude a tender offer or exchange offer for, enter
31281 into any agreement to exchange securities for, or otherwise
31282 finally acquire 5 percent or more of, the outstanding voting
31283 securities of a domestic stock insurer or of a controlling
31284 company, unless:

31285 (a) The person or affiliated person has filed with the
31286 office ~~department~~ and sent to the insurer and controlling
31287 company a statement as specified in subsection (3) no later than
31288 5 days after any form of tender offer or exchange offer is
31289 proposed, or no later than 5 days after the acquisition of the
31290 securities if no tender offer or exchange offer is involved; and

31291 (b) The office ~~department~~ has approved the tender or
31292 exchange offer, or acquisition if no tender offer or exchange
31293 offer is involved, and approval is in effect.

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31295

31296 In lieu of a filing as required under this subsection, a party
31297 acquiring less than 10 percent of the outstanding voting
31298 securities of an insurer may file a disclaimer of affiliation
31299 and control. The disclaimer shall fully disclose all material
31300 relationships and basis for affiliation between the person and
31301 the insurer as well as the basis for disclaiming the affiliation
31302 and control. After a disclaimer has been filed, the insurer
31303 shall be relieved of any duty to register or report under this
31304 section which may arise out of the insurer's relationship with
31305 the person unless and until the office ~~department~~ disallows the



HB 1803

2003

31306 disclaimer. The office ~~department~~ shall disallow a disclaimer
 31307 only after furnishing all parties in interest with notice and
 31308 opportunity to be heard and after making specific findings of
 31309 fact to support the disallowance. A filing as required under
 31310 this subsection must be made as to any acquisition that equals
 31311 or exceeds 10 percent of the outstanding voting securities.

31312 (2) This section does not apply to any acquisition of
 31313 voting securities of a domestic stock insurer or of a
 31314 controlling company by any person who, on July 1, 1976, is the
 31315 owner of a majority of such voting securities or who, on or
 31316 after July 1, 1976, becomes the owner of a majority of such
 31317 voting securities with the approval of the office ~~department~~
 31318 pursuant to this section.

31319 (3) The statement to be filed with the office ~~department~~
 31320 and furnished to the insurer and controlling company shall
 31321 contain the following information and any additional information
 31322 as the office deems ~~department may deem~~ necessary to determine
 31323 the character, experience, ability, and other qualifications of
 31324 the person or affiliated person of such person for the
 31325 protection of the policyholders and shareholders of the insurer
 31326 and the public:

31327 (a) The identity of, and the background information
 31328 specified in subsection (4) on, each natural person by whom, or
 31329 on whose behalf, the acquisition is to be made; and, if the
 31330 acquisition is to be made by, or on behalf of, a corporation,
 31331 association, or trust, as to the corporation, association, or
 31332 trust and as to any person who controls either directly or
 31333 indirectly the corporation, association, or trust, the identity
 31334 of, and the background information specified in subsection (4)
 31335 on, each director, officer, trustee, or other natural person



HB 1803

2003

31336 performing duties similar to those of a director, officer, or
 31337 trustee for the corporation, association, or trust;

31338 (b) The source and amount of the funds or other
 31339 consideration used, or to be used, in making the acquisition;

31340 (c) Any plans or proposals which such persons may have
 31341 made to liquidate such insurer, to sell any of its assets or
 31342 merge or consolidate it with any person, or to make any other
 31343 major change in its business or corporate structure or
 31344 management; and any plans or proposals which such persons may
 31345 have made to liquidate any controlling company of such insurer,
 31346 to sell any of its assets or merge or consolidate it with any
 31347 person, or to make any other major change in its business or
 31348 corporate structure or management;

31349 (d) The number of shares or other securities which the
 31350 person or affiliated person of such person proposes to acquire,
 31351 the terms of the proposed acquisition, and the manner in which
 31352 the securities are to be acquired; and

31353 (e) Information as to any contract, arrangement, or
 31354 understanding with any party with respect to any of the
 31355 securities of the insurer or controlling company, including, but
 31356 not limited to, information relating to the transfer of any of
 31357 the securities, option arrangements, puts or calls, or the
 31358 giving or withholding of proxies, which information names the
 31359 party with whom the contract, arrangement, or understanding has
 31360 been entered into and gives the details thereof.

31361 (4)(a) The information as to the background and identity
 31362 of each person, which information is required to be furnished
 31363 pursuant to paragraph (3)(a), shall include:

31364 1. The person's occupations, positions of employment, and
 31365 offices held during the past 10 years.



HB 1803

2003

31366 2. The principal business and address of any business,
31367 corporation, or other organization in which each such office of
31368 the person was held or in which each such occupation or position
31369 of employment was carried on.

31370 3. Whether the person was, at any time during such 10-year
31371 period, convicted of any crime other than a traffic violation.

31372 4. Whether the person has been, during such 10-year
31373 period, the subject of any proceeding for the revocation of any
31374 license and, if so, the nature of the proceeding and the
31375 disposition of the proceeding.

31376 5. Whether, during the 10-year period, the person has been
31377 the subject of any proceeding under the federal Bankruptcy Act
31378 or whether, during the 10-year period, any corporation,
31379 partnership, firm, trust, or association in which the person was
31380 a director, officer, trustee, partner, or other official has
31381 been subject to any such proceeding, either during the time in
31382 which the person was a director, officer, trustee, partner, or
31383 other official or within 12 months thereafter.

31384 6. Whether, during the 10-year period, the person has been
31385 enjoined, either temporarily or permanently, by a court of
31386 competent jurisdiction from violating any federal or state law
31387 regulating the business of insurance, securities, or banking, or
31388 from carrying out any particular practice or practices in the
31389 course of the business of insurance, securities, or banking,
31390 together with details as to any such event.

31391 (b) Any corporation, association, or trust filing the
31392 statement required by this section shall give all required
31393 information that is within the knowledge of the directors,
31394 officers, or trustees (or others performing functions similar to
31395 those of a director, officer, or trustee) of the corporation,



HB 1803

2003

31396 association, or trust making the filing and of any person
31397 controlling either directly or indirectly such corporation,
31398 association, or trust. A copy of the statement and any
31399 amendments to the statement shall be sent by registered mail to
31400 the insurer at its principal office within the state and to any
31401 controlling company at its principal office. If any material
31402 change occurs in the facts set forth in the statement filed with
31403 the office ~~department~~ and sent to such insurer or controlling
31404 company pursuant to this section, an amendment setting forth
31405 such changes shall be filed immediately with the office
31406 ~~department~~ and sent immediately to such insurer and controlling
31407 company.

31408 (5)(a) The acquisition of voting securities shall be
31409 deemed approved unless the office ~~department~~ disapproves the
31410 proposed acquisition within 90 days after the statement required
31411 by subsection (1) has been filed. The office ~~department~~ may on
31412 its own initiate, or if requested to do so in writing by a
31413 substantially affected party shall conduct, a proceeding to
31414 consider the appropriateness of the proposed filing. The 90-day
31415 time period shall be tolled during the pendency of the
31416 proceeding. Any written request for a proceeding must be filed
31417 with the office ~~department~~ within 10 days of the date notice of
31418 the filing is given. During the pendency of the proceeding or
31419 review period by the office ~~department~~, any person or affiliated
31420 person complying with the filing requirements of this section
31421 may proceed and take all steps necessary to conclude the
31422 acquisition so long as the acquisition becoming final is
31423 conditioned upon obtaining office ~~departmental~~ approval. The
31424 office ~~department~~ shall, however, at any time that it finds an
31425 immediate danger to the public health, safety, and welfare of



HB 1803

2003

31426 the domestic policyholders exists, immediately order, pursuant
31427 to s. 120.569(2)(n), the proposed acquisition temporarily
31428 disapproved and any further steps to conclude the acquisition
31429 ceased.

31430 (b) During the pendency of the office's ~~department's~~
31431 review of any acquisition subject to the provisions of this
31432 section, the acquiring person shall not make any material change
31433 in the operation of the insurer or controlling company unless
31434 the office ~~department~~ has specifically approved the change nor
31435 shall the acquiring person make any material change in the
31436 management of the insurer unless advance written notice of the
31437 change in management is furnished to the office ~~department~~. A
31438 material change in the operation of the insurer is a transaction
31439 which disposes of or obligates 5 percent or more of the capital
31440 and surplus of the insurer. A material change in the management
31441 of the insurer is any change in management involving officers or
31442 directors of the insurer or any person of the insurer or
31443 controlling company having authority to dispose of or obligate 5
31444 percent or more of the insurer's capital or surplus. The office
31445 ~~department~~ shall approve a material change in operation if it
31446 finds the applicable provisions of subsection (7) have been met.
31447 The office ~~department~~ may disapprove a material change in
31448 management if it finds that the applicable provisions of
31449 subsection (7) have not been met and in such case the insurer
31450 shall promptly change management as acceptable to the office
31451 ~~department~~.

31452 (c) If a request for a proceeding is filed, the proceeding
31453 shall be conducted within 60 days after the date the written
31454 request for a proceeding is received by the office ~~department~~. A
31455 recommended order shall be issued within 20 days of the date of



HB 1803

2003

31456 the close of the proceedings. A final order shall be issued
31457 within 20 days of the date of the recommended order or, if
31458 exceptions to the recommended order are filed, within 20 days of
31459 the date the exceptions are filed.

31460 (6) The office ~~department~~ may disapprove any acquisition
31461 subject to the provisions of this section by any person or any
31462 affiliated person of such person who:

31463 (a) Willfully violates this section;

31464 (b) In violation of an order of the office ~~department~~
31465 issued pursuant to subsection (10), fails to divest himself or
31466 herself of any stock obtained in violation of this section, or
31467 fails to divest himself or herself of any direct or indirect
31468 control of such stock, within 25 days after such order; or

31469 (c) In violation of an order issued by the office
31470 ~~department~~ pursuant to subsection (10), acquires additional
31471 stock of the domestic insurance company or controlling company,
31472 or direct or indirect control of such stock, without complying
31473 with this section.

31474 (7) The person or persons filing the statement required by
31475 subsection (1) shall have the burden of proof. The office
31476 ~~department~~ shall approve any such acquisition if it finds, on
31477 the basis of the record made during any proceeding or on the
31478 basis of the filed statement if no proceeding is conducted,
31479 that:

31480 (a) Upon completion of the acquisition, the domestic stock
31481 insurer will be able to satisfy the requirements for the
31482 issuance of a license to write the line or lines of insurance
31483 for which it is presently licensed;

31484 (b) The financial condition of the acquiring person or
31485 persons will not jeopardize the financial stability of the



HB 1803

2003

31486 insurer or prejudice the interests of its policyholders or the
31487 public;

31488 (c) Any plan or proposal which the acquiring person has,
31489 or acquiring persons have, made:

31490 1. To liquidate the insurer, sell its assets, or merge or
31491 consolidate it with any person, or to make any other major
31492 change in its business or corporate structure or management; or

31493 2. To liquidate any controlling company, sell its assets,
31494 or merge or consolidate it with any person, or to make any major
31495 change in its business or corporate structure or management
31496 which would have an effect upon the insurer

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31499 is fair and free of prejudice to the policyholders of the
31500 domestic stock insurer or to the public;

31501 (d) The competence, experience, and integrity of those
31502 persons who will control directly or indirectly the operation of
31503 the domestic stock insurer indicate that the acquisition is in
31504 the best interest of the policyholders of the insurer and in the
31505 public interest;

31506 (e) The natural persons for whom background information is
31507 required to be furnished pursuant to this section have such
31508 backgrounds as to indicate that it is in the best interests of
31509 the policyholders of the domestic stock insurer, and in the
31510 public interest, to permit such persons to exercise control over
31511 such domestic stock insurer;

31512 (f) The officers and directors to be employed after the
31513 acquisition have sufficient insurance experience and ability to
31514 assure reasonable promise of successful operation;

31515 (g) The management of the insurer after the acquisition



HB 1803

2003

31516 will be competent and trustworthy and will possess sufficient
31517 managerial experience so as to make the proposed operation of
31518 the insurer not hazardous to the insurance-buying public;

31519 (h) The management of the insurer after the acquisition
31520 will not include any person who has directly or indirectly
31521 through ownership, control, reinsurance transactions, or other
31522 insurance or business relations unlawfully manipulated the
31523 assets, accounts, finances, or books of any insurer or otherwise
31524 acted in bad faith with respect thereto;

31525 (i) The acquisition is not likely to be hazardous or
31526 prejudicial to the insurer's policyholders or the public; and

31527 (j) The effect of the acquisition of control would not
31528 substantially lessen competition in insurance in this state or
31529 would not tend to create a monopoly therein.

31530 (8) No vote by the stockholder of record, or by any other
31531 person, of any security acquired in contravention of the
31532 provisions of this section is valid. Any acquisition of any
31533 security contrary to the provisions of this section is void.
31534 Upon the petition of the domestic stock insurer or controlling
31535 company, the circuit court for the county in which the principal
31536 office of such domestic stock insurer is located may, without
31537 limiting the generality of its authority, order the issuance or
31538 entry of an injunction or other order to enforce the provisions
31539 of this section. There shall be a private right of action in
31540 favor of the domestic stock insurer or controlling company to
31541 enforce the provisions of this section. No demand upon the
31542 office ~~department~~ that it perform its functions shall be
31543 required as a prerequisite to any suit by the domestic stock
31544 insurer or controlling company against any other person, and in
31545 no case shall the office ~~department~~ be deemed a necessary party



HB 1803

2003

31546 to any action by such domestic stock insurer or controlling
 31547 company to enforce the provisions of this section. Any person
 31548 who makes or proposes an acquisition requiring the filing of a
 31549 statement pursuant to this section, or who files such a
 31550 statement, shall be deemed to have thereby designated the Chief
 31551 Financial Officer ~~Insurance Commissioner and Treasurer~~, or his
 31552 or her assistant or deputy or another person in charge of his or
 31553 her office, as such person's agent for service of process under
 31554 this section, and shall thereby be deemed to have submitted
 31555 himself or herself to the administrative jurisdiction of the
 31556 office ~~department~~ and to the jurisdiction of the circuit court.

31557 (9) Any approval by the office ~~department~~ under this
 31558 section does not constitute a recommendation by the office
 31559 ~~department~~ for an acquisition, tender offer, or exchange offer.
 31560 It is unlawful for a person to represent that the office's
 31561 ~~department's~~ approval constitutes a recommendation. A person who
 31562 violates the provisions of this subsection is guilty of a felony
 31563 of the third degree, punishable as provided in s. 775.082, s.
 31564 775.083, or s. 775.084. The statute-of-limitations period for
 31565 the prosecution of an offense committed under this subsection is
 31566 5 years.

31567 (10) Upon notification to the office ~~department~~ by the
 31568 domestic stock insurer or a controlling company that any person
 31569 or any affiliated person of such person has acquired 5 percent
 31570 or more of the outstanding voting securities of the domestic
 31571 stock insurer or controlling company without complying with the
 31572 provisions of this section, the office ~~department~~ shall order
 31573 that the person and any affiliated person of such person cease
 31574 acquisition of any further securities of the domestic stock
 31575 insurer or controlling company; however, the person or any



HB 1803

2003

31576 affiliated person of such person may request a proceeding, which
31577 proceeding shall be convened within 7 days after the rendering
31578 of the order for the sole purpose of determining whether the
31579 person, individually or in connection with any affiliated person
31580 of such person, has acquired 5 percent or more of the
31581 outstanding voting securities of a domestic stock insurer or
31582 controlling company. Upon the failure of the person or
31583 affiliated person to request a hearing within 7 days, or upon a
31584 determination at a hearing convened pursuant to this subsection
31585 that the person or affiliated person has acquired voting
31586 securities of a domestic stock insurer or controlling company in
31587 violation of this section, the office ~~department~~ may order the
31588 person and affiliated person to divest themselves of any voting
31589 securities so acquired.

31590 (11)(a) The office ~~department~~ shall, if necessary to
31591 protect the public interest, suspend or revoke the certificate
31592 of authority of any insurer or controlling company:

31593 1. The control of which is acquired in violation of this
31594 section;

31595 2. That is controlled, directly or indirectly, by any
31596 person or any affiliated person of such person who, in violation
31597 of this section, has obtained control of a domestic stock
31598 insurer or controlling company; or

31599 3. That is controlled, directly or indirectly, by any
31600 person who, directly or indirectly, controls any other person
31601 who, in violation of this section, acquires control of a
31602 domestic stock insurer or controlling company.

31603 (b) If any insurer is subject to suspension or revocation
31604 pursuant to paragraph (a), the insurer shall be deemed to be in
31605 such condition, or to be using or to have been subject to such



HB 1803

2003

31606 methods or practices in the conduct of its business, as to
 31607 render its further transaction of insurance presently or
 31608 prospectively hazardous to its policyholders, creditors, or
 31609 stockholders or to the public.

31610 (12)(a) For the purpose of this section, the term
 31611 "affiliated person" of another person means:

- 31612 1. The spouse of such other person;
- 31613 2. The parents of such other person and their lineal
 31614 descendants and the parents of such other person's spouse and
 31615 their lineal descendants;
- 31616 3. Any person who directly or indirectly owns or controls,
 31617 or holds with power to vote, 5 percent or more of the
 31618 outstanding voting securities of such other person;
- 31619 4. Any person 5 percent or more of the outstanding voting
 31620 securities of which are directly or indirectly owned or
 31621 controlled, or held with power to vote, by such other person;
- 31622 5. Any person or group of persons who directly or
 31623 indirectly control, are controlled by, or are under common
 31624 control with such other person;
- 31625 6. Any officer, director, partner, copartner, or employee
 31626 of such other person;
- 31627 7. If such other person is an investment company, any
 31628 investment adviser of such company or any member of an advisory
 31629 board of such company;
- 31630 8. If such other person is an unincorporated investment
 31631 company not having a board of directors, the depositor of such
 31632 company; or
- 31633 9. Any person who has entered into an agreement, written
 31634 or unwritten, to act in concert with such other person in
 31635 acquiring or limiting the disposition of securities of a



HB 1803

2003

31636 domestic stock insurer or controlling company.

31637 (b) For the purposes of this section, the term
 31638 "controlling company" means any corporation, trust, or
 31639 association owning, directly or indirectly, 25 percent or more
 31640 of the voting securities of one or more domestic stock insurance
 31641 companies.

31642 (13) The commission may ~~department is authorized to~~ adopt,
 31643 amend, or repeal rules that are necessary to implement the
 31644 provisions of this section, pursuant to chapter 120.

31645 Section 1026. Subsections (3) and (4) of section 628.471,
 31646 Florida Statutes, are amended to read:

31647 628.471 Mergers; mutual insurers.--

31648 (3) The plan and agreement for merger shall be submitted
 31649 to and approved by at least two-thirds of the members of each
 31650 mutual insurer voting thereon at meetings called for the purpose
 31651 pursuant to such reasonable notice and procedure as has been
 31652 approved by the office ~~department~~. If a life insurer, the right
 31653 to vote may be limited to members whose policies are other than
 31654 term and group policies and have been in effect for more than 1
 31655 year.

31656 (4) No such merger shall be effectuated unless in advance
 31657 thereof the plan and agreement therefor have been filed with the
 31658 office ~~department~~ and approved by it. The office ~~department~~
 31659 shall give such approval unless it finds such plan or agreement:

31660 (a) Is inequitable to the policyholders of any domestic
 31661 insurer involved; or

31662 (b) Would substantially reduce the security of and service
 31663 to be rendered to policyholders of the domestic insurer in this
 31664 state and elsewhere.

31665 Section 1027. Section 628.481, Florida Statutes, is



HB 1803

2003

31666 amended to read:

31667 628.481 Bulk reinsurance; stock insurers.--

31668 (1) A domestic stock insurer may reinsure all or
31669 substantially all of its insurance in force or a major class
31670 thereof, with another insurer by an agreement of bulk
31671 reinsurance; but no such agreement shall become effective unless
31672 filed with the office ~~department~~ and approved by it in writing.

31673 (2) The office ~~department~~ shall approve such agreement
31674 unless it finds that it is inequitable to the stockholders of
31675 the domestic insurer or it would substantially reduce the
31676 protection or service to its policyholders.

31677 Section 1028. Section 628.491, Florida Statutes, is
31678 amended to read:

31679 628.491 Mergers and consolidations; mutual insurers;
31680 agreement of bulk reinsurance.--

31681 (1) A domestic mutual insurer may reinsure all or
31682 substantially all its business in force, or all or substantially
31683 all of a major class thereof, with another insurer, stock or
31684 mutual, by an agreement of bulk reinsurance after compliance
31685 with this section. No such agreement shall become effective
31686 unless filed with the office ~~department~~ and approved by it.

31687 (2) The office ~~department~~ shall approve such agreement if
31688 it finds it to be fair and equitable to each domestic insurer
31689 involved, and that such reinsurance if effectuated would not
31690 substantially reduce the protection or service to its
31691 policyholders.

31692 (3) The plan and agreement for such reinsurance must be
31693 approved by vote of not less than two-thirds of each domestic
31694 mutual insurer's members voting thereon at meetings of members
31695 called for the purpose, pursuant to such reasonable notice and



HB 1803

2003

31696 procedure as the office ~~department~~ may approve. If a life
31697 insurer, the right to vote may be limited to members whose
31698 policies are other than term or group policies and have been in
31699 effect for more than 1 year.

31700 (4) If for reinsurance of a mutual insurer in a stock
31701 insurer, the agreement must provide for payment in cash to each
31702 member of the insurer entitled thereto, as upon conversion of
31703 such insurer pursuant to s. 628.441, of his or her equity in the
31704 business reinsured as determined under a fair formula approved
31705 by the office ~~department~~, which equity shall be based upon such
31706 member's equity in the reserves, assets (whether or not admitted
31707 assets), and surplus, if any, of the mutual insurer to be taken
31708 over by the stock insurer.

31709 Section 1029. Section 628.501, Florida Statutes, is
31710 amended to read:

31711 628.501 Mutual member's share of assets on liquidation.--

31712 (1) Upon any liquidation of a domestic mutual insurer, its
31713 assets remaining after discharge of its indebtedness, policy
31714 obligations, repayment of contributed or borrowed surplus, if
31715 any, and expenses of administration, shall be distributed to
31716 existing persons who were its members at any time within 5 years
31717 next preceding the date such liquidation was authorized or
31718 ordered, or date of last termination of the insurer's
31719 certificate of authority, whichever date is the earlier; except,
31720 that if the office ~~department~~ has reason to believe that those
31721 in charge of the management of the insurer have caused or
31722 encouraged the reduction of the number of members of the insurer
31723 in anticipation of liquidation and for the purpose of reducing
31724 thereby the number of persons who may be entitled to share in
31725 distribution of the insurer's assets, it may enlarge the 5



HB 1803

2003

31726 years' qualification period above provided for by such
31727 additional period as it may deem to be reasonable.

31728 (2) The distributive share of each such member shall be in
31729 the proportion that the aggregate premiums earned by the insurer
31730 on the policies of the member during the combined periods of his
31731 or her membership bear to the aggregate of all premiums so
31732 earned on the policies of all such members. The insurer may,
31733 and if a life insurer shall, make a reasonable classification of
31734 its policies so held by such members, and a formula based upon
31735 such classification, for determining the equitable distributive
31736 share of each such member. Such classification and formula
31737 shall be subject to the approval of the office ~~department~~.

31738 Section 1030. Subsections (1), (2), and (4) of section
31739 628.511, Florida Statutes, are amended to read:

31740 628.511 Book entry accounting system.--

31741 (1) The purpose of this section is to authorize domestic
31742 insurers to utilize modern systems for holding and transferring
31743 securities without physical delivery of securities certificates,
31744 subject to appropriate rules of the commission ~~department~~.

31745 (2) The following terms are defined for use in this
31746 section:

31747 (a) "Securities" means instruments as defined in s.
31748 678.1021 ~~s. 678.102(1)~~.

31749 (b) "Clearing corporation" means a clearing corporation as
31750 defined in s. 678.1021 ~~s. 678.102(3)~~.

31751 (c) "Direct participant" means a national bank, state bank
31752 or trust company which maintains an account in its name in a
31753 clearing corporation and through which an insurance company
31754 participates in a clearing corporation.

31755 (d) "Federal Reserve book-entry system" means the



HB 1803

2003

31756 computerized systems sponsored by the United States Department
 31757 of the Treasury and agencies and instrumentalities of the United
 31758 States for holding and transferring securities of the United
 31759 States Government and such agencies and instrumentalities,
 31760 respectively, in Federal Reserve banks through banks which are
 31761 members of the Federal Reserve System or which otherwise have
 31762 access to such computerized systems.

31763 (e) "Member bank" means a national bank, state bank or
 31764 trust company which is a member of the Federal Reserve System
 31765 and through which an insurer participates in the Federal Reserve
 31766 book-entry system.

31767 (4) The commission may adopt ~~department is authorized to~~
 31768 ~~promulgate~~ rules governing the deposit by insurers of securities
 31769 with clearing corporations and in the Federal Reserve book-entry
 31770 system.

31771 Section 1031. Section 628.520, Florida Statutes, is
 31772 amended to read:

31773 628.520 Change of domicile of a foreign insurer.--Any
 31774 insurer which is organized under the laws of any other state for
 31775 the purpose of writing insurance may become a domestic insurer
 31776 by complying with all of the requirements of law relative to the
 31777 organization and licensing of a domestic insurer of the same
 31778 type and by designating its principal place of business at a
 31779 place in this state upon approval by the office ~~department~~. Such
 31780 domestic insurer shall be entitled to like certificates and
 31781 licenses to transact business in this state and shall be subject
 31782 to the authority and jurisdiction of this state.

31783 Section 1032. Section 628.525, Florida Statutes, is
 31784 amended to read:

31785 628.525 Change of domicile of a domestic insurer.--Any



HB 1803

2003

31786 domestic insurer may, upon the approval of the office
 31787 ~~department~~, transfer its domicile to any other state in which it
 31788 is admitted to transact the business of insurance; upon such a
 31789 transfer it shall cease to be a domestic insurer and shall be
 31790 admitted to this state, if qualified, as a foreign insurer. The
 31791 office ~~department~~ shall approve any such proposed transfer
 31792 unless it shall determine that such transfer is not in the
 31793 interest of the policyholders of this state.

31794 Section 1033. Section 628.530, Florida Statutes, is
 31795 amended to read:

31796 628.530 Effects of redomestication.--The certificate of
 31797 authority, agents appointments and licenses, rates, and other
 31798 items which the office or department allows, in its discretion,
 31799 which are in existence at the time any insurer licensed to
 31800 transact the business of insurance in this state transfers its
 31801 corporate domicile to this or any other state by merger,
 31802 consolidation, merger pursuant to s. 607.1107(5), or any other
 31803 lawful method shall continue in full force and effect upon such
 31804 transfer if such insurer remains duly qualified to transact the
 31805 business of insurance in this state. All outstanding policies of
 31806 any transferring insurer shall remain in full force and effect
 31807 and need not be endorsed as to the new name of the company or
 31808 its new location unless so ordered by the office ~~department~~.
 31809 Every transferring insurer shall file new policy forms with the
 31810 office ~~department~~ on or before the effective date of the
 31811 transfer, but may use existing policy forms with appropriate
 31812 endorsements if allowed by, and under such conditions as are
 31813 approved by, the office ~~department~~. However, every such
 31814 transferring insurer shall notify the office ~~department~~ of the
 31815 details of the proposed transfer and shall file promptly any



HB 1803

2003

31816 resulting amendments to corporate documents filed or required to
 31817 be filed with the office ~~department~~.

31818 Section 1034. Section 628.535, Florida Statutes, is
 31819 amended to read:

31820 628.535 Authority to adopt ~~promulgate~~ rules.--The
 31821 commission may ~~department has authority to~~ adopt rules pursuant
 31822 to ss. 120.536(1) and 120.54 to implement the provisions of this
 31823 chapter.

31824 Section 1035. Subsections (1) and (9) of section 628.6013,
 31825 Florida Statutes, are amended to read:

31826 628.6013 Converted self-insurance fund; trade association;
 31827 board of directors.--

31828 (1) Any self-insurance fund regulated under the insurance
 31829 code other than a commercial self-insurance fund may, with the
 31830 approval of a majority of the members of the fund and after
 31831 written notice to the sponsoring association and approved by the
 31832 office ~~department~~, elect to convert to an assessable mutual
 31833 insurer in accordance with part I.

31834 (9) A management company may be authorized by the office
 31835 ~~department~~ to manage and operate an assessable mutual insurer
 31836 only if its owners, partners, stockholders, officers, or
 31837 directors, and other persons who directly or indirectly exercise
 31838 or have the ability to exercise effective control of the
 31839 management company, possess the competency and business
 31840 experience to manage and operate an assessable mutual insurer.

31841 Section 1036. Subsection (2) of section 628.6014, Florida
 31842 Statutes, is amended to read:

31843 628.6014 Annual reports.--

31844 (2) For financial statements filed on or after January 1,
 31845 1998, future investment income may only be reported as an



HB 1803

2003

31846 admitted asset by an assessable mutual which reported future
31847 investment income in financial statements filed with the former
31848 Department of Insurance prior to December 31, 1996.

31849 Section 1037. Subsections (1) and (4) of section 628.6017,
31850 Florida Statutes, are amended to read:

31851 628.6017 Converting assessable mutual insurer.--

31852 (1) An assessable mutual insurer may become a stock
31853 insurer by filing an application which complies with s. 628.051
31854 and by submitting a plan of conversion which is approved by the
31855 office department. The office department shall not approve any
31856 such plan unless the plan:

31857 (a) Is equitable to the insurer's members.

31858 (b) Is subject to approval by vote of not less than two-
31859 thirds of the insurer's current members voting thereon in
31860 person, by proxy, or by mail at a meeting of members called for
31861 the purpose pursuant to such reasonable notice and procedure as
31862 may be approved by the office department. In no event shall the
31863 failure to vote constitute a vote for approval.

31864 (c) Provides for the determination of the membership
31865 interests of each policyholder in the insurer, taking into
31866 account the relative corporate equity of the policyholder, other
31867 than as to unearned premiums and benefit claims under the
31868 policy, under a fair formula approved by the office department.

31869 (d) Provides for the payment of consideration to each
31870 policyholder in return for his or her membership interests in
31871 the assessable mutual insurer.

31872 (e) Provides for the payment of consideration to be given
31873 in exchange for the policyholders' membership interests in cash,
31874 securities of the reorganized insurer, securities of another
31875 company, surplus notes or other evidence of borrowed surplus,



HB 1803

2003

31876 additional insurance, premium credits, additional benefits,
31877 increased dividends, cancellation of future assessment
31878 obligations, or other consideration or any combination of any
31879 such forms of consideration.

31880 (f) Provides that persons who had been policyholders of
31881 the insurer within 3 years prior to the date such plan was
31882 submitted to the office ~~department~~ shall participate in the
31883 distribution of consideration to policyholders.

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31886 When the plan of reorganization becomes effective, the
31887 assessable mutual insurer shall become a stock insurer and the
31888 stock insurer shall be deemed to be a continuation of the
31889 corporate existence of the assessable mutual insurer. The
31890 provisions of s. 628.441 do not apply to the conversion of an
31891 assessable mutual insurer into a stock insurer. The provisions
31892 of s. 628.441 shall not apply to the conversion of an assessable
31893 mutual insurer to a stock insurer.

31894 (4) An assessable mutual insurer becoming a stock insurer
31895 or a nonassessable mutual insurer shall not be subject to s.
31896 627.215 or s. 627.351(5) for 5 years following authorization of
31897 the conversion by the office ~~department~~. However, the converted
31898 stock insurer or nonassessable mutual insurer shall file all
31899 necessary data required by s. 627.215. Such amounts otherwise
31900 subject to s. 627.215(10) shall be maintained as surplus as to
31901 policyholders and not be available for dividends for a period of
31902 5 years.

31903 Section 1038. Subsection (2) of section 628.705, Florida
31904 Statutes, is amended to read:

31905 628.705 Prohibition of stock transfers.--



HB 1803

2003

31906 (2) Voting shares of the capital stock of a subsidiary
 31907 insurance company or the intermediate holding company may not be
 31908 acquired by any affiliated member of the holding company system
 31909 except where the affiliated member of the mutual holding
 31910 company system is the majority shareholder. A number of shares
 31911 equal to 5 percent of the outstanding voting shares of the
 31912 capital stock of one corporate member of the Mutual Insurance
 31913 Holding Company System selected by the mutual insurance holding
 31914 company may be issued or sold to directors and officers as part
 31915 of a plan of compensation, and such shares shall not be
 31916 considered part of the majority shares to be owned by the mutual
 31917 insurance company under subsection (1). A number of shares
 31918 equal to an additional 5 percent of the outstanding voting
 31919 shares of the capital stock of one corporate member of the
 31920 Mutual Insurance Holding Company System selected by the mutual
 31921 insurance holding company may be issued or sold to employees,
 31922 which may not include any officer or director, as part of an
 31923 employee stock dividend or benefit plan, and such shares shall
 31924 not be considered part of the majority shares to be owned by the
 31925 mutual insurance company under subsection(1). Prior to issuance
 31926 of shares in excess of the authorized 5 percent to either
 31927 officers and directors or employees, pursuant to this section, a
 31928 fairness opinion shall be rendered by an independent authority
 31929 acceptable to the office ~~department~~ to assure that the long term
 31930 interests of the shareholders and policyholders are adequately
 31931 protected. The office ~~department~~ shall approve or disapprove the
 31932 transaction within 30 days after receipt of the fairness
 31933 opinion. Nothing in this section prohibits any officer or
 31934 director from purchasing shares of stock at market value which
 31935 are not part of a plan of compensation, in accordance with the



HB 1803

2003

31936 requirements of s. 628.461, and, if such stock is not regularly
 31937 traded on a national stock exchange, the officer or director
 31938 purchasing the shares of stock is responsible for establishing
 31939 its market value.

31940 Section 1039. Subsection (2) of section 628.707, Florida
 31941 Statutes, is amended to read:

31942 628.707 Applicability of general corporation statutes.--
 31943 The applicable statutes of this state relating to the powers and
 31944 procedures of domestic private corporations formed for profit
 31945 shall apply to domestic mutual insurance holding companies,
 31946 except:

31947 (2) The articles of incorporation of the mutual insurance
 31948 holding company, and any amendment to such articles or
 31949 restatement of such articles shall be subject to the approval of
 31950 the office ~~department~~ for compliance with the provisions of this
 31951 act prior to filing with the Department of State, and shall
 31952 contain the name of the mutual insurance holding company, which
 31953 shall include the word "Mutual."

31954 Section 1040. Subsections (3), (4), and (5) of section
 31955 628.711, Florida Statutes, are amended to read:

31956 628.711 Plan of reorganization.--

31957 (3) Following the adoption of a plan of reorganization,
 31958 and prior to the meeting of the mutual insurance company members
 31959 to approve the plan, the mutual insurance company shall submit
 31960 to the office ~~department~~ the following:

31961 (a) The plan of reorganization, as adopted.

31962 (b) The form of notice to be sent to the mutual insurance
 31963 company members, informing them of their right to vote on the
 31964 plan of reorganization.

31965 (c) The form of proxy statement to be sent to the mutual



HB 1803

2003

31966 insurance company members, informing them of their right to vote
 31967 by proxy on the plan of reorganization, and describing the plan.

31968 (d) The form of proxy to be sent to the mutual insurance
 31969 company members to solicit their vote on the plan of
 31970 reorganization.

31971 (e) Proposed articles of incorporation, merger, or
 31972 consolidation, restatements of or amendments to articles of
 31973 incorporation or bylaws, and plans of merger or consolidation,
 31974 with respect to each entity to be organized, reorganized, or
 31975 otherwise subject to such action under the plan of
 31976 reorganization.

31977 (f) A proposed business plan for the 3 years following the
 31978 date of the reorganization.

31979 (g) An audited financial statement prepared on a statutory
 31980 basis consistent with the Florida Insurance Code, including an
 31981 actuarial opinion for the most recent calendar year ended, or a
 31982 copy thereof, if the statement was previously filed with the
 31983 office ~~department~~.

31984 (4) The office ~~department~~ may hold a public hearing to
 31985 allow public comment on the plan of reorganization. Any hearing
 31986 must be held within 30 days after receipt by the office
 31987 ~~department~~ of a completed plan of reorganization. The office
 31988 ~~department~~ may not approve a plan of reorganization unless it
 31989 finds that it is fair and equitable to the members of the mutual
 31990 insurance company. Ninety days after filing, the plan of
 31991 reorganization shall be deemed approved unless it has previously
 31992 been approved or disapproved by the office ~~department~~. The
 31993 office ~~department~~ shall inform the mutual insurer of the
 31994 specific reasons for the disapproval of any plan of
 31995 reorganization.



HB 1803

2003

31996 (5)(a) A plan of reorganization adopted by the board of
 31997 directors of the applicant may be:

31998 1. Amended by the board of directors of the applicant in
 31999 response to the comments or recommendations of the office
 32000 ~~department~~, or any other state or federal agency or governmental
 32001 entity, before any solicitation of proxies from members of the
 32002 mutual insurance company to vote on the plan of reorganization,
 32003 or at any time with the consent of the office ~~department~~, except
 32004 that any material amendment after the members' approval shall
 32005 require the members' approval; or

32006 2. Terminated by the board of directors of the applicant
 32007 at any time before members of the mutual insurance company vote
 32008 on the plan of reorganization and, otherwise, at any time with
 32009 the consent of the office ~~department~~.

32010 (b) The plan of reorganization is approved upon the
 32011 affirmative vote of at least a majority of the votes cast by
 32012 members of the mutual insurance company, notwithstanding quorum
 32013 or voting action requirements otherwise applicable to the mutual
 32014 insurance company to the contrary.

32015 (c) Within 30 days after members have approved the plan of
 32016 reorganization, the applicant must file with the office
 32017 ~~department~~ the minutes of the meeting at which the plan of
 32018 reorganization was approved.

32019 Section 1041. Section 628.713, Florida Statutes, is
 32020 amended to read:

32021 628.713 Dividends.--A mutual insurance holding company
 32022 shall not be authorized to pay dividends or make distributions
 32023 to mutual insurance holding company members except as may be
 32024 expressly approved by the office ~~department~~. Neither the
 32025 adoption nor the implementation of a plan of reorganization



HB 1803

2003

32026 shall be deemed to give rise to any obligation by or on behalf
 32027 of a mutual insurance company to make any distribution or
 32028 payment to any member or policyholder, or to any other person,
 32029 fund, or entity of any nature whatsoever, in connection with the
 32030 ownership, control, benefits, policies, purpose, or nature of
 32031 the mutual insurance company or otherwise, including, but not
 32032 limited to, requirements imposed by the conversion and bulk
 32033 reinsurance provisions of ss. 628.441 and 628.491.

32034 Section 1042. Section 628.715, Florida Statutes, is
 32035 amended to read:

32036 628.715 Merger and acquisitions.--Subject to applicable
 32037 requirements of this chapter, a mutual insurance holding company
 32038 may:

32039 (1)(a) Merge or consolidate with, or acquire the assets
 32040 of, a mutual insurance holding company licensed pursuant to this
 32041 act or any similar entity organization pursuant to laws of any
 32042 other state;

32043 (b) Either alone or together with one or more intermediate
 32044 stock holding companies, or other subsidiaries, directly or
 32045 indirectly acquire the stock of a stock insurance company or a
 32046 mutual insurance company that reorganizes under this act or the
 32047 law of its state of organization;

32048 (c) Together with one or more of its stock insurance
 32049 company subsidiaries, acquire the assets of a stock insurance
 32050 company or a mutual insurance company;

32051 (d) Acquire a stock insurance company through the merger
 32052 of such stock insurance subsidiary with a stock insurance
 32053 company or interim stock insurance company subsidiary of the
 32054 mutual insurance holding company;

32055 (e) Acquire the stock or assets of any other person to the



HB 1803

2003

32056 same extent as would be permitted for any not-for-profit
32057 corporation under chapter 617 or, if the mutual insurance
32058 holding company writes insurance, a mutual insurance company;

32059 (f) Jointly, with a domestic or foreign mutual insurance
32060 company which redomesticates pursuant to s. 628.520, file an
32061 application with the office ~~department~~, pursuant to the
32062 provisions of this part, to merge the domestic or foreign mutual
32063 insurance company policyholder's membership interests into the
32064 mutual insurance holding company. The reorganizing mutual
32065 insurance company may merge with the mutual insurance holding
32066 company's stock subsidiary or continue its corporate existence
32067 as a domestic stock insurance company subsidiary. The members
32068 of the foreign mutual insurance company may approve in a
32069 contemporaneous vote both the redomestication plan and the
32070 agreement for merger and reorganization; or

32071 (g) Merge or consolidate with, or acquire the assets of, a
32072 domestic or foreign reciprocal insurance company, a group self-
32073 insurance fund, or any other similar entity.

32074 (2) A reorganization pursuant to this section is subject
32075 to the applicable procedures prescribed by the laws of this
32076 state applying to corporations formed for profit, except as
32077 otherwise provided in this subsection.

32078 (a) The plan and agreement for merger shall be submitted
32079 to and approved by a majority of the members, policyholders, or
32080 subscribers of each domestic mutual insurance holding company,
32081 mutual insurance company, stock insurance company, or domestic
32082 or foreign reciprocal insurance company, involved in the merger
32083 who vote either in person or by proxy thereon at meetings called
32084 for the purposes pursuant to such reasonable notice and
32085 procedure as has been approved by the office ~~department~~.



HB 1803

2003

32086 (b) No such merger shall be effectuated unless in advance
32087 thereof, the plan and agreement therefor have been filed with
32088 the office ~~department~~ and approved by it after a public hearing,
32089 which shall be held within 90 days after receipt by the office
32090 ~~department~~ of such plan and agreement. The office ~~department~~ may
32091 retain outside consultants to evaluate the merger. The domestic
32092 mutual insurance holding company shall pay reasonable costs
32093 associated with retaining such consultants. Such payments shall
32094 be made directly to the consultant. The office ~~department~~ shall
32095 give such approval unless it finds such plan or agreement:

32096 1. Is inequitable to the policyholders of any domestic
32097 insurer involved in the merger or the members of any domestic
32098 mutual insurance holding company involved in the merger; or

32099 2. Would substantially reduce the security of and service
32100 to be rendered to policyholders of a domestic insurer in this
32101 state.

32102 (c) All of the initial shares of the capital stock of the
32103 reorganized subsidiary insurance company shall be issued either
32104 to the mutual insurance holding company, or to an intermediate
32105 holding company which is wholly owned by the mutual insurance
32106 holding company. The membership interests of the policyholders
32107 of the reorganized insurance company shall become membership
32108 interests in the mutual insurance holding company. Policyholders
32109 of the reorganized insurance company shall be members of the
32110 mutual insurance holding company in accordance with the articles
32111 of incorporation and bylaws of the mutual insurance holding
32112 company. The mutual insurance holding company shall at all times
32113 own a majority of the voting shares of the capital stock of the
32114 reorganized subsidiary insurance company.

32115 (d) For property and casualty insurers, the rights of the



HB 1803

2003

32116 members of the merging entities under s. 628.729, for a period
32117 of 3 years after the merger, shall be the proportionate share of
32118 the total surplus of the merging entities as determined by the
32119 percentage of the surplus contributed by each of the merging
32120 entities to the total surplus of the surviving entity on the
32121 date of the merger.

32122 Section 1043. Section 628.717, Florida Statutes, is
32123 amended to read:

32124 628.717 Filing of articles of incorporation.--

32125 (1) No mutual insurance holding company shall be formed
32126 unless its articles of incorporation are approved by the office
32127 ~~department~~ prior to filing the same with and approval by the
32128 Department of State as provided by law.

32129 (2) The office ~~department~~ shall promptly examine the
32130 articles of incorporation; and, if it finds that the articles of
32131 incorporation comply with law, the office ~~department~~ shall
32132 endorse its approval upon each of the originals, place one on
32133 file in its office, and return the remaining sets to the
32134 incorporators. The incorporators shall promptly file such
32135 endorsed articles of incorporation with the Department of State.
32136 The articles of incorporation shall be effective when filed with
32137 and approved by the Department of State.

32138 Section 1044. Subsection (2) of section 628.719, Florida
32139 Statutes, is amended to read:

32140 628.719 Amendment of articles of incorporation.--

32141 (2)(a) Upon adoption of an amendment, the mutual insurance
32142 holding company shall make under its corporate seal a
32143 certificate thereof, setting forth the amendment and the date
32144 and manner of the adoption thereof, which certificate shall be
32145 executed by the mutual insurance holding company's president or



HB 1803

2003

32146 vice president and secretary or assistant secretary and
32147 acknowledged before an officer authorized to take
32148 acknowledgments. The mutual insurance holding company shall
32149 deliver the originals of the certificate to the office
32150 ~~department~~.

32151 (b) The office ~~department~~ shall promptly examine the
32152 certificate of amendment, and, if the office ~~department~~ finds
32153 that the certificate and the amendment comply with law, the
32154 office ~~department~~ shall endorse its approval upon each of the
32155 originals, place one on file in its office, and return the
32156 remaining sets to the mutual insurance holding company. The
32157 mutual insurance holding company shall promptly file such
32158 endorsed certificates of amendment with the Department of State.
32159 The amendment shall be effective when filed with and approved by
32160 the Department of State.

32161 Section 1045. Subsection (3) of section 628.721, Florida
32162 Statutes, is amended to read:

32163 628.721 Bylaws.--

32164 (3) The mutual insurance holding company shall file within
32165 30 days with the office ~~department~~ a copy, certified by the
32166 mutual insurance holding company's secretary, of its bylaws and
32167 of every modification thereof or addition thereto. The office
32168 ~~department~~ shall promptly disapprove any bylaw provision deemed
32169 by it to be unlawful, unreasonable, inadequate, unfair, or
32170 detrimental to the proper interests or protection of the mutual
32171 insurance holding company's members or any class thereof. The
32172 insurer shall not, after receiving written notice of such
32173 disapproval and during the existence thereof, effectuate any
32174 bylaw provision disapproved.

32175 Section 1046. Section 628.725, Florida Statutes, is



HB 1803

2003

32176 amended to read:

32177 628.725 Notice of change of director or officer.--A mutual
 32178 insurance holding company shall give the office ~~department~~
 32179 written notice of any change of personnel among the directors or
 32180 principal officers of the mutual insurance holding company
 32181 within 45 days after such change. The written notice shall
 32182 include all information necessary to allow the office ~~department~~
 32183 to determine that the mutual insurance holding company's
 32184 subsidiary stock insurers will be in compliance with s.
 32185 624.404(3) and, at a minimum, shall contain information similar
 32186 to the information required by s. 628.051(2)(b), (c), and (d)
 32187 for directors of insurance companies.

32188 Section 1047. Subsection (1) of section 628.729, Florida
 32189 Statutes, is amended to read:

32190 628.729 Member's share of assets on voluntary
 32191 dissolution.--

32192 (1) Upon any voluntary dissolution of a domestic mutual
 32193 insurance holding company, its assets remaining after discharge
 32194 of its indebtedness, if any, and expenses of administration,
 32195 shall be distributed to existing persons who were its members at
 32196 any time within the 3-year period preceding the date such
 32197 liquidation was authorized or ordered, or date of last
 32198 termination of the insurer's certificate of authority, whichever
 32199 date is earlier; except, if the office ~~department~~ has reason to
 32200 believe that those in charge of the management of the mutual
 32201 insurance holding company have caused or encouraged the
 32202 reduction of the number of members of the insurer in
 32203 anticipation of liquidation and for the purpose of reducing
 32204 thereby the number of persons who may be entitled to share in
 32205 distribution of the insurer's assets, the office ~~department~~ may



HB 1803

2003

32206 enlarge the 3-year qualification period by such additional time
 32207 as the office ~~department~~ may deem to be reasonable.

32208 Section 1048. Section 628.730, Florida Statutes, is
 32209 amended to read:

32210 628.730 Merger with intermediate holding company.--

32211 (1) A mutual insurance holding company may, pursuant to a
 32212 plan and agreement of merger approved by the office ~~department~~,
 32213 in accordance with s. 628.715(2)(b), merge into its intermediate
 32214 holding company. The surviving intermediate holding company
 32215 shall assume all of the assets and liabilities of the mutual
 32216 insurance holding company, and all of the stock of the
 32217 intermediate holding company owned by the mutual insurance
 32218 holding company immediately prior to the merger shall be
 32219 distributed to existing persons who were members of the mutual
 32220 insurance holding company at any time within the 3-year period
 32221 preceding the date of such merger.

32222 (2) The distributive share of each such member shall be
 32223 determined by a formula based upon such reasonable
 32224 classifications of members as the office ~~department~~ may approve.

32225 (3) For purposes of creating a public market for the
 32226 shares of the intermediate holding company, the mutual insurance
 32227 holding company may, immediately prior to the merger, sell or
 32228 cause the intermediate holding company to sell to the public up
 32229 to 25 percent of its capital stock representing no more than 25
 32230 percent of the voting stock of the intermediate holding company.

32231 (4) The office ~~department~~ shall hold a public hearing to
 32232 allow public comment on the plan and agreement of merger. The
 32233 hearing must be held within 90 days after receipt of the office
 32234 ~~department~~ of the proposed plan and agreement of merger.

32235 (5) The plan and agreement of merger shall be submitted to



HB 1803

2003

32236 the members of the mutual holding company for their approval and
32237 shall take effect only if approved by a majority of the members
32238 of the mutual insurance holding company who vote either in
32239 person or by proxy on such merger at a meeting called for the
32240 purpose of voting on such merger, pursuant to reasonable notice
32241 and procedures as approved by the office ~~department~~.

32242 Section 1049. Section 628.733, Florida Statutes, is
32243 amended to read:

32244 628.733 Converting mutual insurance holding company.--

32245 (1) A mutual insurance holding company may become a stock
32246 holding company under such plan and procedure as may be approved
32247 by the office ~~department~~.

32248 (2) The office ~~department~~ shall not approve any such plan
32249 and procedure unless:

32250 (a) The plan and procedure is subject to approval by vote
32251 of not less than a majority of the company's current members
32252 voting thereon in person, by proxy, or by mail at a meeting of
32253 members called for the purpose pursuant to such reasonable
32254 notice and procedure as may be approved by the office
32255 ~~department~~.

32256 (b) The corporate equity of each member is determinable
32257 under a fair formula approved by the office ~~department~~, which
32258 equity shall be based upon not more than the company's net
32259 assets.

32260 (c) The persons entitled to participate in the
32261 distribution of stock shall include all current members and all
32262 existing persons who had been members within 3 years prior to
32263 the date such plan was submitted to the office ~~department~~.

32264 (d) The plan calls for the distribution to each person as
32265 specified in paragraph (c) of capital stock or other property of



HB 1803

2003

32266 the stock holding company, using each person's equity as
32267 determined under paragraph (b).

32268 (e) The plan gives to each member as specified in
32269 paragraph (c) a preemptive right to acquire his or her
32270 proportionate part of all of the proposed capital stock of the
32271 new stock holding company, within a designated reasonable
32272 period, and to apply upon the purchase thereof the amount of his
32273 equity as determined under paragraph (b).

32274 (f) Shares are so offered to policyholders at a price not
32275 greater than to be thereafter offered to others.

32276 (g) The plan provides for payment of cash to each member
32277 not electing to apply his or her equity towards the purchase
32278 price of stock to which he or she is preemptively entitled. The
32279 amount so paid shall be not less than 50 percent of the amount
32280 of his or her equity not so used for the purchase of stock. Such
32281 cash payment together with stock so purchased, if any, shall
32282 constitute full payment and discharge of the member's corporate
32283 equity in such mutual insurance holding company.

32284 Section 1050. Section 628.801, Florida Statutes, is
32285 amended to read:

32286 628.801 Insurance holding companies; registration;
32287 regulation.--Every insurer which is authorized to do business in
32288 this state and which is a member of an insurance holding company
32289 shall register with the office ~~department~~ and be subject to
32290 regulation with respect to its relationship to such holding
32291 company as provided by rule or statute. The commission
32292 ~~department~~ shall adopt rules establishing the information and
32293 form required for registration and the manner in which
32294 registered insurers and their affiliates shall be regulated. The
32295 rules shall apply to domestic insurers, foreign insurers, and



HB 1803

2003

32296 commercially domiciled insurers, except a foreign insurer
 32297 domiciled in states that are accredited by the National
 32298 Association of Insurance Commissioners by December 31, 1995.
 32299 Except to the extent of any conflict with this code, the rules
 32300 must include all requirements and standards of ss. 4 and 5 of
 32301 the Insurance Holding Company System Regulatory Act and the
 32302 Insurance Holding Company System Model Regulation of the
 32303 National Association of Insurance Commissioners, as the
 32304 Regulatory Act and the Model Regulation existed on January 1,
 32305 1997, and may include a prohibition on oral contracts between
 32306 affiliated entities. Upon request, the office ~~department~~ may
 32307 waive filing requirements under this section for a domestic
 32308 insurer that is the subsidiary of an insurer that is in full
 32309 compliance with the insurance holding company registration laws
 32310 of its state of domicile, which state is accredited by the
 32311 National Association of Insurance Commissioners.

32312 Section 1051. Subsection (1) of section 628.802, Florida
 32313 Statutes, is amended to read:

32314 628.802 Injunction.--

32315 (1) Whenever it appears to the office ~~department~~ that any
 32316 insurer or any director, officer, or employee thereof, or
 32317 appears to the department that any agent thereof has committed
 32318 or is about to commit a violation of this part or of any rule or
 32319 order issued by the commission, office, or department pursuant
 32320 to this part, the office or department may apply to the circuit
 32321 court in and for Leon County for an order enjoining the insurer,
 32322 director, officer, employee, or agent from violating or
 32323 continuing to violate this part or the rule or order and for
 32324 other equitable relief as the nature of the case and the
 32325 interest of the insurer's policyholders, creditors, and



HB 1803

2003

32326 shareholders or the public may require.

32327 Section 1052. Section 628.803, Florida Statutes, is
 32328 amended to read:

32329 628.803 Sanctions.--

32330 (1) Any company failing, without just cause, to file any
 32331 registration statement or certificate of exemption required to
 32332 be filed pursuant to commission ~~department~~ rules relating to
 32333 this part shall, in addition to other penalties prescribed under
 32334 the Florida Insurance Code, be subject to pay a penalty of \$100
 32335 for each day's delay, not to exceed a total of \$10,000.

32336 (2) Every director or officer of an insurance holding
 32337 company system who knowingly violates or participates in, or who
 32338 knowingly directs any of the officers or agents of the company
 32339 to engage in transactions or make investments which have not
 32340 been properly filed or approved or which violate commission
 32341 ~~department~~ rules relating to this part, shall pay, in their
 32342 individual capacity, a civil forfeiture of not more than \$5,000
 32343 per violation. In determining the amount of the civil
 32344 forfeiture, the office ~~department~~ shall take into account the
 32345 appropriateness of the forfeiture with respect to the gravity of
 32346 the violation, and the history of previous violations.

32347 (3) Whenever it appears to the office ~~department~~ that any
 32348 insurer subject to this part or any director, officer, employee,
 32349 or agent thereof has engaged in any transaction or entered into
 32350 a contract which violates commission ~~department~~ rules relating
 32351 to this part, the office ~~department~~ may order the insurer to
 32352 cease and desist immediately any further activity under that
 32353 transaction or contract. The office ~~department~~ may also order
 32354 the insurer to void any such transaction or contract and restore
 32355 the status quo if this action is in the best interest of the



HB 1803

2003

32356 policyholders, creditors, or public.

32357 (4) Any officer, director, or employee of an insurance
32358 holding company system who willfully and knowingly subscribes
32359 to, or makes or causes to be made, any false statements, false
32360 reports, or false filings with the intent to deceive the office
32361 ~~department~~ in the performance of its duties under this part is
32362 guilty of a felony of the third degree, punishable as provided
32363 in s. 775.082, s. 775.083, or s. 775.084.

32364 Section 1053. Subsections (1) and (3) of section 628.905,
32365 Florida Statutes, are amended to read:

32366 628.905 Licensing; authority.--

32367 (1) Any captive insurer, when permitted by its charter or
32368 articles of incorporation, may apply to the office ~~department~~
32369 for a license to provide commercial property, commercial
32370 casualty, and commercial marine insurance coverage other than
32371 workers' compensation and employer's liability insurance
32372 coverage, except that an industrial insured captive insurer may
32373 apply for a license to provide workers' compensation and
32374 employer's liability insurance as set forth in subsection (6).

32375 (3) In addition to information otherwise required by this
32376 code, each applicant captive insurer shall file with the office
32377 ~~department~~ evidence of the adequacy of the loss prevention
32378 program of its insureds.

32379 Section 1054. Subsection (2) of section 628.911, Florida
32380 Statutes, is amended to read:

32381 628.911 Reports and statements.--

32382 (2) A captive insurer shall, within 60 days after the end
32383 of its fiscal year and as often as the office ~~department~~ may
32384 deem necessary, submit to the office ~~department~~ a report of its
32385 financial condition verified by oath of two of its executive



HB 1803

2003

32386 officers. The commission ~~department~~ may adopt ~~promulgate~~ by rule
 32387 the form in which captive insurers shall report.

32388 Section 1055. Subsections (1), (2), and (3) of section
 32389 628.913, Florida Statutes, are amended to read:

32390 628.913 Reinsurance.--

32391 (1)(a) A ceding captive insurer may reinsure all or any
 32392 part of any particular risk or class of risks with:

32393 1. An assuming insurer authorized by the office ~~department~~
 32394 to transact such line of insurance or reinsurance in this state.
 32395 Subject to the other requirements of this code, credit may be
 32396 taken for reinsurance with an authorized insurer.

32397 2. An assuming insurer approved by the office ~~department~~
 32398 to transact such line of reinsurance in this state. The office
 32399 ~~department~~ shall approve only solvent insurers meeting the
 32400 criteria established for authorized insurers in this state. From
 32401 time to time, the office ~~department~~ shall publish a list of
 32402 insurers approved pursuant to this subsection. Subject to the
 32403 other requirements of this code, credit may be taken for
 32404 reinsurance with an approved reinsurer.

32405 3. An assuming underwriting member of an insurance
 32406 exchange domiciled in any other state or jurisdiction in the
 32407 United States provided the insurance exchange presents to the
 32408 office ~~department~~ for its approval, and maintains, satisfactory
 32409 evidence that such assuming underwriting member maintains the
 32410 standards and meets the financial requirements applicable to an
 32411 authorized insurer. Subject to the other provisions of this
 32412 code, credit may be taken for reinsurance with members approved
 32413 under this subsection by the office ~~department~~.

32414 4. A group of individual unincorporated alien insurers
 32415 which maintains funds in an amount not less than \$50 million



HB 1803

2003

32416 held in trust for United States policyholders and beneficiaries
32417 in a bank or trust company that is subject to supervision by any
32418 state of the United States or that is a member of the Federal
32419 Reserve System and which group satisfies the office ~~department~~
32420 by annually filing evidence that it can meet its obligations
32421 under its reinsurance agreements. Subject to the other
32422 provisions of this code, credit may be taken for reinsurance
32423 with groups approved under this subsection by the office
32424 ~~department~~.

32425 (b) Credit in accounting and financial statements on
32426 account of reinsurance ceded to an unauthorized or unapproved
32427 reinsurer may be allowed only:

32428 1. When it is demonstrated by the ceding captive insurer
32429 to the satisfaction of the office ~~department~~ that such reinsurer
32430 maintains the standards and meets the financial requirements
32431 applicable to an authorized insurer;

32432 2. To the extent of deposits by, or funds withheld from,
32433 such reinsurer pursuant to express provision therefor in the
32434 reinsurance contract as security for the payment of the
32435 obligations thereunder if such deposits or funds are held
32436 subject to withdrawal by, and under the control of, the ceding
32437 captive insurer or such deposits or funds are placed in trust
32438 for such purposes in a bank which is a member of the Federal
32439 Reserve System if withdrawals from the trust cannot be made
32440 without the consent of the ceding captive insurer. The funds
32441 withheld may be cash or securities which are qualified as
32442 admitted assets under part II of chapter 625 and which have a
32443 market value equal to or greater than the credit taken; or

32444 3. To the extent that the amount of a clean and
32445 irrevocable letter of credit, issued for a term of not less than



HB 1803

2003

32446 1 year and in conformity with the requirements set forth in this
 32447 subparagraph, equals or exceeds the liability of an unauthorized
 32448 or unapproved reinsurer for unearned premiums, outstanding
 32449 losses, and an adequate reserve for incurred but not reported
 32450 losses under a specific reinsurance agreement. The requirements
 32451 are that such a clean and irrevocable letter of credit be issued
 32452 under arrangements satisfactory to the office ~~department~~ as
 32453 constituting security to the ceding captive insurer
 32454 substantially equal to that of a deposit under subparagraph 2.
 32455 and that the letter be issued by a banking institution which is
 32456 a member of the Federal Reserve System and which has financial
 32457 standing satisfactory to the office ~~commissioner~~.

32458 (2) The office ~~department~~ shall disallow any credit which
 32459 it finds would be contrary to the proper interests of the
 32460 policyholders or stockholders of a ceding captive insurer.

32461 (3) No credit may be allowed for reinsurance in an
 32462 unauthorized or unapproved assuming insurer unless such insurer
 32463 designates the Chief Financial Officer ~~commissioner~~ or a person
 32464 resident in the United States as agent for service of process in
 32465 any action arising out of, or in connection with, such
 32466 reinsurance.

32467 Section 1056. Section 629.081, Florida Statutes, is
 32468 amended to read:

32469 629.081 Organization of reciprocal insurer.--

32470 (1) Twenty-five or more persons domiciled in this state
 32471 may organize a domestic reciprocal insurer and make application
 32472 to the office ~~department~~ for a certificate of authority to
 32473 transact insurance.

32474 (2) The proposed attorney shall fulfill the requirements
 32475 of and shall execute and file with the office ~~department~~, when



HB 1803

2003

32476 applying for a certificate of authority, a declaration setting
 32477 forth:

32478 (a) The name of the insurer;

32479 (b) The location of the insurer's principal office, which
 32480 shall be the same as that of the attorney and shall be
 32481 maintained within this state;

32482 (c) The kinds of insurance proposed to be transacted;

32483 (d) The names and addresses of the original subscribers;

32484 (e) The designation and appointment of the proposed
 32485 attorney and a copy of the power of attorney;

32486 (f) The names and addresses of the officers and directors
 32487 of the attorney, if a corporation, or of its members, if other
 32488 than a corporation;

32489 (g) The powers of the subscribers' advisory committee, and
 32490 the names and terms of office of the members thereof;

32491 (h) That all moneys paid to the reciprocal shall, after
 32492 deducting therefrom any sum payable to the attorney, be held in
 32493 the name of the insurer and for the purposes specified in the
 32494 subscribers' agreement;

32495 (i) A copy of the subscribers' agreement;

32496 (j) A statement that each of the original subscribers has
 32497 in good faith applied for insurance of a kind proposed to be
 32498 transacted, and that the insurer has received from each such
 32499 subscriber the full premium or premium deposit required for the
 32500 policy applied for, for a term of not less than 6 months at an
 32501 adequate rate theretofore filed with and approved by the office
 32502 ~~department~~;

32503 (k) A statement of the financial condition of the insurer,
 32504 a schedule of its assets, and a statement that the surplus as
 32505 required by s. 629.071 is on hand; and



HB 1803

2003

32506 (1) A copy of each policy, endorsement, and application
32507 form it then proposes to issue or use.

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32510 Such declaration shall be acknowledged by the attorney before
32511 an officer authorized to take acknowledgments.

32512 Section 1057. Subsection (4) of section 629.101, Florida
32513 Statutes, is amended to read:

32514 629.101 Power of attorney.--

32515 (4) The terms of any power of attorney or agreement
32516 collateral thereto shall be reasonable and equitable, and no
32517 such power or agreement shall be used or be effective in this
32518 state unless filed with the office ~~department~~.

32519 Section 1058. Subsections (1) and (3) of section 629.121,
32520 Florida Statutes, are amended to read:

32521 629.121 Attorney's bond.--

32522 (1) Concurrently with the filing of the declaration
32523 provided for in s. 629.081, the attorney of a domestic
32524 reciprocal insurer shall file with the office ~~department~~ a bond
32525 in favor of this state for the benefit of all persons damaged as
32526 a result of breach by the attorney of the conditions of his or
32527 her bond as set forth in subsection (2). The bond shall be
32528 executed by the attorney and by an authorized corporate surety
32529 and shall be subject to the approval of the office ~~department~~.

32530 (3) The bond shall provide that it is not subject to
32531 cancellation unless 30 days' advance notice in writing of
32532 cancellation is given both the attorney and the office
32533 ~~department~~.

32534 Section 1059. Section 629.131, Florida Statutes, is
32535 amended to read:



HB 1803

2003

32536 629.131 Deposit in lieu of bond.--In lieu of the bond
32537 required under s. 629.121, the attorney may maintain on deposit
32538 with ~~through~~ the ~~office of the~~ department a like amount in value
32539 of securities qualified for deposit under s. 625.52 and subject
32540 to the same conditions as the bond.

32541 Section 1060. Section 629.161, Florida Statutes, is
32542 amended to read:

32543 629.161 Contributions to insurer.--The attorney or other
32544 parties may advance to a domestic reciprocal insurer upon
32545 reasonable terms such funds as it may require from time to time
32546 in its operations. Sums so advanced shall not be treated as a
32547 liability of the insurer and, except upon liquidation of the
32548 insurer, shall not be withdrawn or repaid except out of the
32549 insurer's realized earned surplus in excess of its minimum
32550 required surplus. No such withdrawal or repayment shall be made
32551 without the advance approval of the office ~~department~~. This
32552 section does not apply as to bank loans or to loans made upon
32553 security.

32554 Section 1061. Subsection (2) of section 629.171, Florida
32555 Statutes, is amended to read:

32556 629.171 Annual statement.--

32557 (2) The statement shall be supplemented by such
32558 information as may be required by the office ~~department~~ relative
32559 to the affairs and transactions of the attorney insofar as they
32560 relate to the reciprocal insurer.

32561 Section 1062. Section 629.181, Florida Statutes, is
32562 amended to read:

32563 629.181 Financial condition; method of determining.--In
32564 determining the financial condition of a reciprocal insurer, the
32565 office ~~department~~ shall apply the following rules:



HB 1803

2003

32566 (1) The surplus deposits of subscribers shall be allowed
32567 as assets, except that any premium deposits delinquent for 90
32568 days shall first be charged against such surplus deposit.

32569 (2) An assessment levied upon subscribers, but not
32570 collected, shall not be allowed as an asset.

32571 (3) The contingent liability of subscribers shall not be
32572 allowed as an asset.

32573 Section 1063. Subsection (1) of section 629.231, Florida
32574 Statutes, is amended to read:

32575 629.231 Assessments.--

32576 (1) Assessments may from time to time be levied upon
32577 subscribers of a domestic reciprocal insurer liable therefor
32578 under the terms of their policies by the attorney upon approval
32579 in advance by the subscribers' advisory committee and the office
32580 ~~department~~, or by the department as receiver ~~in liquidation~~ of
32581 the insurer.

32582 Section 1064. Section 629.241, Florida Statutes, is
32583 amended to read:

32584 629.241 Time limit for assessments.--Every subscriber of a
32585 domestic reciprocal insurer having contingent liability shall be
32586 liable for, and shall pay his or her share of, any assessment,
32587 as computed and limited in accordance with this chapter, if:

32588 (1) While his or her policy is in force or within 4 years
32589 after its termination, the subscriber is notified by either the
32590 attorney or the office ~~department~~ of its intentions to levy such
32591 assessment; or

32592 (2) An order to show cause why a receiver, conservator,
32593 rehabilitator, or liquidator of the insurer should not be
32594 appointed is issued while the subscriber's policy is in force or
32595 within 4 years after its termination.



HB 1803

2003

32596 Section 1065. Section 629.261, Florida Statutes, is
32597 amended to read:

32598 629.261 Nonassessable policies.--

32599 (1) If a reciprocal insurer has a surplus as to
32600 policyholders required of a domestic stock insurer authorized to
32601 transact like kinds of insurance, upon application of the
32602 attorney and as approved by the subscribers' advisory committee
32603 the office ~~department~~ shall issue its certificate authorizing
32604 the insurer to extinguish the contingent liability of
32605 subscribers under its policies then in force in this state and
32606 to omit provisions imposing contingent liability in all policies
32607 delivered or issued for delivery in this state for so long as
32608 all such surplus remains unimpaired.

32609 (2) Upon impairment of such surplus, the office ~~department~~
32610 shall forthwith revoke the certificate. Such revocation shall
32611 not render subject to contingent liability any policy then in
32612 force and for the remainder of the period for which the premium
32613 has theretofore been paid; but, after such revocation, no policy
32614 shall be issued or renewed without providing for contingent
32615 assessment liability of the subscriber.

32616 (3) The office ~~department~~ shall not authorize a domestic
32617 reciprocal insurer so to extinguish the contingent liability of
32618 any of its subscribers or in any of its policies to be issued,
32619 unless it qualifies to and does extinguish such liability of all
32620 its subscribers and in all such policies for all kinds of
32621 insurance transacted by it; except that, if required by the laws
32622 of another state in which the insurer is transacting insurance
32623 as an authorized insurer, the insurer may issue policies
32624 providing for the contingent liability of such of its
32625 subscribers as may acquire such policies in such state, and need



HB 1803

2003

32626 not extinguish the contingent liability applicable to policies
32627 theretofore in force in such state.

32628 Section 1066. Section 629.281, Florida Statutes, is
32629 amended to read:

32630 629.281 Subscribers' share in assets.--Upon the
32631 liquidation of a domestic reciprocal insurer, its assets
32632 remaining after discharge of its indebtedness and policy
32633 obligations, the return of any contributions of the attorney or
32634 other persons to its surplus made as provided in s. 629.161, and
32635 the return of any unused premium, savings, or credits then
32636 standing on subscribers' accounts shall be distributed to its
32637 subscribers who were such within the 12 months prior to the last
32638 termination of its certificate of authority, according to such
32639 reasonable formula as the office approves ~~department may~~
32640 ~~approve~~.

32641 Section 1067. Subsections (1) and (3) of section 629.291,
32642 Florida Statutes, are amended to read:

32643 629.291 Merger or conversion.--

32644 (1) A domestic reciprocal insurer, upon affirmative vote
32645 of not less than two-thirds of its subscribers who vote on such
32646 merger pursuant to due notice and the approval of the office
32647 ~~department~~ of the terms therefor, may merge with another
32648 reciprocal insurer or be converted to a stock or mutual insurer.

32649 (3) The office ~~department~~ shall not approve any plan for
32650 such merger or conversion which is inequitable to subscribers or
32651 which, if for conversion to a stock insurer, does not give each
32652 subscriber preferential right to acquire stock of the proposed
32653 insurer proportionate to his or her interest in the reciprocal
32654 insurer, as determined in accordance with s. 629.281, and a
32655 reasonable length of time within which to exercise such right.



HB 1803

2003

32656 Section 1068. Subsections (2) and (3) of section 629.301,
 32657 Florida Statutes, are amended to read:

32658 629.301 Impaired reciprocal insurers.--

32659 (2) If the attorney fails to make up such deficiency or to
 32660 make the assessment within 30 days after the office ~~department~~
 32661 orders him or her to do so, or if the deficiency is not fully
 32662 made up within 60 days after the date the assessment was made,
 32663 the insurer shall be deemed insolvent and shall be proceeded
 32664 against as authorized by this code.

32665 (3) If liquidation of such an insurer is ordered, an
 32666 assessment shall be levied upon the subscribers for such an
 32667 amount, subject to limits as provided by this chapter, as the
 32668 office ~~department~~ determines to be necessary to discharge all
 32669 liabilities of the insurer, exclusive of any funds contributed
 32670 by the attorney or other persons, but including the reasonable
 32671 cost of the liquidation.

32672 Section 1069. Section 629.401, Florida Statutes, is
 32673 amended to read:

32674 629.401 Insurance exchange.--

32675 (1) There may be created one or more insurance exchanges,
 32676 with one or more offices each, subject to such rules as are
 32677 adopted ~~may be promulgated~~ by the commission ~~commissioner~~. For
 32678 the purposes of this section, the term "exchange" applies to any
 32679 such insurance exchange proposed or created under this section.
 32680 The purposes of the exchange are:

- 32681 (a) To provide a facility for the underwriting of:
- 32682 1. Reinsurance of all kinds of insurance.
 - 32683 2. Direct insurance of all kinds on risks located entirely
 - 32684 outside the United States.
 - 32685 3. Surplus lines insurance for risks located in this state



HB 1803

2003

32686 eligible for export under s. 626.916 or s. 626.917 and placed
32687 through a licensed Florida surplus lines agent subject to
32688 compliance with the provisions of ss. 626.921, 626.922, 626.923,
32689 626.924, 626.929, 626.9295, 626.930, and 626.931. With respect
32690 to compliance with s. 626.924, the required legend may refer to
32691 any coverage provided for by a security fund established under
32692 paragraph (3)(d).

32693 4. Surplus lines insurance in any other state subject to
32694 the applicable surplus lines laws of such other state for risks
32695 located entirely outside of this state.

32696 (b) To manage the facility authorized by this section, in
32697 accordance with rules adopted ~~promulgated~~ by the commission
32698 ~~commissioner~~.

32699 (c) In no event shall the exchange be considered to be an
32700 underwriter or broker with respect to any contract of insurance
32701 or reinsurance written by a member of the exchange, and the
32702 exchange shall not incur any liability therefor.

32703 (2) The operation of this subsection shall become
32704 effective with respect to any exchange only after a
32705 determination by the office ~~Insurance Commissioner and Treasurer~~
32706 that the exchange may operate in an economic and beneficial
32707 manner. A committee shall be appointed to write the constitution
32708 and bylaws of the proposed exchange, to make such other
32709 recommendations as may be necessary to assure maximum
32710 coordination of the operations of the exchange with existing
32711 insurance industry operations, and to assure maximum economic
32712 benefits to the state from the operations of the exchange. The
32713 committee shall consist of 13 members, 6 to be appointed by the
32714 Chief Financial Officer ~~Insurance Commissioner and Treasurer~~, 2
32715 each to be appointed by the Speaker of the House of



HB 1803

2003

32716 Representatives and the President of the Senate, 1 each to be
32717 appointed by the minority leader of the House of Representatives
32718 and the minority leader of the Senate, and 1 to be the Chief
32719 Financial Officer ~~Insurance Commissioner and Treasurer~~ or his or
32720 her designated representative. The chair shall be elected by a
32721 majority of the committee. The committee shall transmit such
32722 proposed constitution and bylaws and such other recommendations
32723 to the office ~~Insurance Commissioner and Treasurer~~ and to the
32724 Legislature no later than 5 days prior to the adjournment of a
32725 regular annual legislative session or no later than 5 days prior
32726 to the commencement of any special or organizational legislative
32727 session. Subject to the disapproval of the constitution and
32728 bylaws by either house of the Legislature by resolution before
32729 the end of such legislative session, the exchange shall have
32730 full authority to function pursuant to its constitution and
32731 bylaws 60 days after the end of the session. The initial board
32732 of governors of the exchange shall consist of 14 members, 3
32733 appointed by the Chief Financial Officer ~~Insurance Commissioner~~
32734 ~~and Treasurer~~, 3 by the Speaker of the House of Representatives,
32735 3 by the President of the Senate, 1 by the minority leader of
32736 the House of Representatives, 1 by the minority leader of the
32737 Senate, and 3 by the Governor, to serve until the first election
32738 pursuant to the constitution or bylaws.

32739 (3) The constitution and bylaws of the exchange shall
32740 provide for, but shall not be limited to:

32741 (a) The selection of 13 governors, at least 7 of whom
32742 shall be appointed by and serve at the pleasure of the Chief
32743 Financial Officer ~~Insurance Commissioner~~. Five of the governors
32744 appointed by the Chief Financial Officer ~~Insurance Commissioner~~
32745 shall not be members of the exchange. One of the remaining two



HB 1803

2003

32746 governors appointed by the Chief Financial Officer ~~Insurance~~
 32747 ~~Commissioner~~ shall be a broker member, and one shall be a
 32748 representative of an underwriting member. The remainder of the
 32749 governors shall be elected by the membership of the exchange in
 32750 accordance with the constitution and bylaws, except that at
 32751 least five governors shall be elected by the underwriting
 32752 members of the exchange.

32753 (b) The location of the principal offices of the exchange
 32754 and the principal offices of its members to be within this state
 32755 for the purpose of the transaction of the type of business
 32756 described in subsection (1). A principal office shall be one
 32757 where officers and qualified personnel who are engaged in the
 32758 administration, underwriting, claims, policyholders' service,
 32759 marketing, accounting, recordkeeping, and all supportive
 32760 services shall be located.

32761 (c) The submission by members and all applicants for
 32762 membership on the exchange of such financial information as may
 32763 be required by the office ~~commissioner~~.

32764 (d)1. The establishment by the exchange of a security fund
 32765 in such form and amount as approved by the office ~~commissioner~~.

32766 2. With respect to contracts of insurance written or
 32767 renewed on or after July 2, 1987:

32768 a. The security fund shall pay that amount of each covered
 32769 claim which is determined to be payable in accordance with the
 32770 constitution and bylaws and is in excess of \$100 and less than
 32771 \$300,000, except that the fund shall not be obligated to a
 32772 policyholder or claimant in an amount in excess of the
 32773 obligation of the insolvent underwriting member under the policy
 32774 from which the claim arises.

32775 b. The security fund shall have no obligation and shall



HB 1803

2003

32776 make no payment of any obligation arising under any such
 32777 contract or with respect to any contract of reinsurance written
 32778 or renewed on or after July 2, 1987, to the extent the payment
 32779 or payments exceed, either individually or in the aggregate, 10
 32780 percent of the insolvent underwriting member's surplus as to
 32781 policyholders as reflected on the most recent sworn annual
 32782 statement of the insolvent underwriting member filed with the
 32783 office ~~department~~ prior to issuance of such contract.

32784 c. For the purposes of this subparagraph, each reinsurance
 32785 treaty and each contract of insurance inuring to the benefit of
 32786 multiple parties shall constitute only one contract, and covered
 32787 claims include unpaid claims, including claims of unearned
 32788 premiums, which arise out of and are within the coverage and are
 32789 not in excess of the applicable limits of an insurance policy
 32790 issued by an insolvent underwriting member through the
 32791 facilities of the exchange.

32792 (e) The voting power of members who are underwriting
 32793 syndicates.

32794 (f) The voting power and other rights granted under the
 32795 provisions of the not-for-profit corporation law, chapter 617,
 32796 to participate in the conduct and management of the affairs of
 32797 the exchange, by brokers, agents, and intermediaries transacting
 32798 business on the exchange, each of whom shall be considered
 32799 "members" only under the provisions of such law.

32800 (g) The rights and duties of exchange members, which may
 32801 include, but shall not be limited to, the manner and form of
 32802 conducting business, financial stability, dues, membership fees,
 32803 mandatory arbitration, and all other matters necessary or
 32804 appropriate to conduct any business permitted herein.
 32805



HB 1803

2003

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Any amendments to the constitution and bylaws shall be subject to the approval of the office ~~commissioner~~.

(4) Any insurance exchange formed under the provisions of this section shall not be subject to any state or local taxes or fees measured by income, premiums, or gross receipts; except that for purposes of taxation under s. 624.509, direct premiums written, procured, or received by a member or members through the exchange on risks located in this state shall be construed to be written, procured, or received by the exchange, and the premium tax due on said premium shall be reported and paid by the exchange.

(5) The exchange shall reimburse the office ~~department~~ for any expenses incurred by the office ~~department~~ relating to the regulation of the exchange and its members.

(6)(a)1. The provisions of ss. 625.012 and 625.031 shall be applicable to the underwriting members of an exchange in the same manner as those sections apply to domestic insurers authorized to do business in this state.

2. The provisions of ss. 625.302-625.338 shall be applicable to the underwriting members of an exchange in the same manner as those sections apply to domestic insurers authorized to transact business in this state.

(b) In addition to the insurance laws specified in paragraph (a), the office ~~department~~ shall regulate the exchange pursuant to the following powers, rights, and duties:

1. General examination powers.--The office ~~department~~ shall examine the affairs, transactions, accounts, records, and assets of any security fund, exchange, members, and associate brokers as often as it deems advisable. The examination may be



HB 1803

2003

32836 conducted by the accredited examiners of the office ~~department~~
 32837 at the offices of the entity or person being examined. The
 32838 office ~~department~~ shall examine in like manner each prospective
 32839 member or associate broker applying for membership in an
 32840 exchange.

32841 2. Office ~~Departmental~~ approval and applications of
 32842 underwriting members.--No underwriting member shall commence
 32843 operation without the approval of the office ~~department~~. Before
 32844 commencing operation, an underwriting member shall provide a
 32845 written application containing:

32846 a. Name, type, and purpose of the underwriting member.

32847 b. Name, residence address, business background, and
 32848 qualifications of each person associated or to be associated in
 32849 the formation or financing of the underwriting member.

32850 c. Full disclosure of the terms of all understandings and
 32851 agreements existing or proposed among persons so associated
 32852 relative to the underwriting member, or the formation or
 32853 financing thereof, accompanied by a copy of each such agreement
 32854 or understanding.

32855 d. Full disclosure of the terms of all understandings and
 32856 agreements existing or proposed for management or exclusive
 32857 agency contracts.

32858 3. Investigation of underwriting member applications.--In
 32859 connection with any proposal to establish an underwriting
 32860 member, the office ~~department~~ shall make an investigation of:

32861 a. The character, reputation, financial standing, and
 32862 motives of the organizers, incorporators, or subscribers
 32863 organizing the proposed underwriting member.

32864 b. The character, financial responsibility, insurance
 32865 experience, and business qualifications of its proposed



HB 1803

2003

32866 officers.

32867 c. The character, financial responsibility, business
32868 experience, and standing of the proposed stockholders and
32869 directors, or owners.

32870 4. Notice of management changes.--An underwriting member
32871 shall promptly give the office ~~department~~ written notice of any
32872 change among the directors or principal officers of the
32873 underwriting member within 30 days after such change. The office
32874 ~~department~~ shall investigate the new directors or principal
32875 officers of the underwriting member. The office's ~~department's~~
32876 investigation shall include an investigation of the character,
32877 financial responsibility, insurance experience, and business
32878 qualifications of any new directors or principal officers. As a
32879 result of the investigation, the office ~~department~~ may require
32880 the underwriting member to replace any new directors or
32881 principal officers.

32882 5. Alternate financial statement.--In lieu of any
32883 financial examination, the office ~~department~~ may accept an
32884 audited financial statement.

32885 6. Correction and reconstruction of records.--If the
32886 office ~~department~~ finds any accounts or records to be
32887 inadequate, or inadequately kept or posted, it may employ
32888 experts to reconstruct, rewrite, post, or balance them at the
32889 expense of the person or entity being examined if such person or
32890 entity has failed to maintain, complete, or correct such records
32891 or accounts after the office ~~department~~ has given him or her or
32892 it notice and reasonable opportunity to do so.

32893 7. Obstruction of examinations.--Any person or entity who
32894 or which willfully obstructs the office ~~department~~ or its
32895 examiner in an examination is guilty of a misdemeanor of the



HB 1803

2003

32896 second degree, punishable as provided in s. 775.082 or s.
32897 775.083.

32898 8. Filing of annual statement.--Each underwriting member
32899 shall file with the office ~~department~~ a full and true statement
32900 of its financial condition, transactions, and affairs. The
32901 statement shall be filed on or before March 1 of each year, or
32902 within such extension of time as the office ~~department~~ for good
32903 cause grants, and shall be for the preceding calendar year. The
32904 statement shall contain information generally included in
32905 insurer financial statements prepared in accordance with
32906 generally accepted insurance accounting principles and practices
32907 and in a form generally utilized by insurers for financial
32908 statements, sworn to by at least two executive officers of the
32909 underwriting member. The form of the financial statements shall
32910 be the approved form of the National Association of Insurance
32911 Commissioners or its successor organization. The commission
32912 ~~department~~ may by rule require each insurer to submit any part
32913 of the information contained in the financial statement in a
32914 computer-readable form compatible with the office's ~~department's~~
32915 electronic data processing system. In addition to information
32916 furnished in connection with its annual statement, an
32917 underwriting member must furnish to the office ~~department~~ as
32918 soon as reasonably possible such information about its
32919 transactions or affairs as the office ~~department~~ requests in
32920 writing. All information furnished pursuant to the office's
32921 ~~department's~~ request must be verified by the oath of two
32922 executive officers of the underwriting member.

32923 9. Record maintenance.--Each underwriting member shall
32924 have and maintain its principal place of business in this state
32925 and shall keep therein complete records of its assets,



HB 1803

2003

32926 transactions, and affairs in accordance with such methods and
 32927 systems as are customary for or suitable to the kind or kinds of
 32928 insurance transacted.

32929 10. Examination of agents.--If the department has reason
 32930 to believe that any agent, as defined in s. 626.015 or s.
 32931 626.914, has violated or is violating any provision of the
 32932 insurance law, or upon receipt of a written complaint signed by
 32933 any interested person indicating that any such violation may
 32934 exist, the department shall conduct such examination as it deems
 32935 necessary of the accounts, records, documents, and transactions
 32936 pertaining to or affecting the insurance affairs of such agent.

32937 11. Written reports of office ~~department~~.--The office
 32938 ~~department~~ or its examiner shall make a full and true written
 32939 report of any examination. The report shall contain only
 32940 information obtained from examination of the records, accounts,
 32941 files, and documents of or relative to the person or entity
 32942 examined or from testimony of individuals under oath, together
 32943 with relevant conclusions and recommendations of the examiner
 32944 based thereon. The office ~~department~~ shall furnish a copy of the
 32945 report to the person or entity examined not less than 30 days
 32946 prior to filing the report in its office. If such person or
 32947 entity so requests in writing within such 30-day period, the
 32948 office ~~department~~ shall grant a hearing with respect to the
 32949 report and shall not file the report until after the hearing and
 32950 after such modifications have been made therein as the office
 32951 ~~department~~ deems proper.

32952 12. Admissibility of reports.--The report of an
 32953 examination when filed shall be admissible in evidence in any
 32954 action or proceeding brought by the office ~~department~~ against
 32955 the person or entity examined, or against his or her or its



HB 1803

2003

32956 officers, employees, or agents. The office ~~department~~ or its
32957 examiners may at any time testify and offer other proper
32958 evidence as to information secured or matters discovered during
32959 the course of an examination, whether or not a written report of
32960 the examination has been either made, furnished, or filed in the
32961 office ~~department~~.

32962 13. Publication of reports.--After an examination report
32963 has been filed, the office ~~department~~ may publish the results of
32964 any such examination in one or more newspapers published in this
32965 state whenever it deems it to be in the public interest.

32966 14. Consideration of examination reports by entity
32967 examined.--After the examination report of an underwriting
32968 member has been filed, an affidavit shall be filed with the
32969 office ~~department~~, not more than 30 days after the report has
32970 been filed, on a form furnished by the office ~~department~~ and
32971 signed by the person or a representative of any entity examined,
32972 stating that the report has been read and that the
32973 recommendations made in the report will be considered within a
32974 reasonable time.

32975 15. Examination costs.--Each person or entity examined by
32976 the office ~~department~~ shall pay to the office ~~department~~ the
32977 expenses incurred in such examination.

32978 16. Exchange costs.--An exchange shall reimburse the
32979 office ~~department~~ for any expenses incurred by it relating to
32980 the regulation of the exchange and its members, except as
32981 specified in subparagraph 15.

32982 17. Powers of examiners.--Any examiner appointed by the
32983 office ~~department~~, as to the subject of any examination,
32984 investigation, or hearing being conducted by him or her, may
32985 administer oaths, examine and cross-examine witnesses, and



HB 1803

2003

32986 receive oral and documentary evidence, and shall have the power
32987 to subpoena witnesses, compel their attendance and testimony,
32988 and require by subpoena the production of books, papers,
32989 records, files, correspondence, documents, or other evidence
32990 which the examiner deems relevant to the inquiry. If any person
32991 refuses to comply with any such subpoena or to testify as to any
32992 matter concerning which he or she may be lawfully interrogated,
32993 the Circuit Court of Leon County or the circuit court of the
32994 county wherein such examination, investigation, or hearing is
32995 being conducted, or of the county wherein such person resides,
32996 on the office's ~~department's~~ application may issue an order
32997 requiring such person to comply with the subpoena and to
32998 testify; and any failure to obey such an order of the court may
32999 be punished by the court as a contempt thereof. Subpoenas shall
33000 be served, and proof of such service made, in the same manner as
33001 if issued by a circuit court. Witness fees and mileage, if
33002 claimed, shall be allowed the same as for testimony in a circuit
33003 court.

33004 18. False testimony.--Any person willfully testifying
33005 falsely under oath as to any matter material to any examination,
33006 investigation, or hearing shall upon conviction thereof be
33007 guilty of perjury and shall be punished accordingly.

33008 19. Self-incrimination.--

33009 a. If any person asks to be excused from attending or
33010 testifying or from producing any books, papers, records,
33011 contracts, documents, or other evidence in connection with any
33012 examination, hearing, or investigation being conducted by the
33013 office ~~department~~ or its examiner, on the ground that the
33014 testimony or evidence required of the person may tend to
33015 incriminate him or her or subject him or her to a penalty or



HB 1803

2003

33016 forfeiture, and the person notwithstanding is directed to give
33017 such testimony or produce such evidence, he or she shall, if so
33018 directed by the office ~~department~~ and the Department of Legal
33019 Affairs, nonetheless comply with such direction; but the person
33020 shall not thereafter be prosecuted or subjected to any penalty
33021 or forfeiture for or on account of any transaction, matter, or
33022 thing concerning which he or she may have so testified or
33023 produced evidence, and no testimony so given or evidence so
33024 produced shall be received against him or her upon any criminal
33025 action, investigation, or proceeding; except that no such person
33026 so testifying shall be exempt from prosecution or punishment for
33027 any perjury committed by him or her in such testimony, and the
33028 testimony or evidence so given or produced shall be admissible
33029 against him or her upon any criminal action, investigation, or
33030 proceeding concerning such perjury, nor shall he or she be
33031 exempt from the refusal, suspension, or revocation of any
33032 license, permission, or authority conferred, or to be conferred,
33033 pursuant to the insurance law.

33034 b. Any such individual may execute, acknowledge, and file
33035 with ~~in~~ the office of ~~the department~~ a statement expressly
33036 waiving such immunity or privilege in respect to any
33037 transaction, matter, or thing specified in such statement, and
33038 thereupon the testimony of such individual or such evidence in
33039 relation to such transaction, matter, or thing may be received
33040 or produced before any judge or justice, court, tribunal, grand
33041 jury, or otherwise; and if such testimony or evidence is so
33042 received or produced, such individual shall not be entitled to
33043 any immunity or privileges on account of any testimony so given
33044 or evidence so produced.

33045 20. Penalty for failure to testify.--Any person who



HB 1803

2003

33046 refuses or fails, without lawful cause, to testify relative to
33047 the affairs of any member, associate broker, or other person
33048 when subpoenaed and requested by the office ~~department~~ to so
33049 testify, as provided in subparagraph 17., shall, in addition to
33050 the penalty provided in subparagraph 17., be guilty of a
33051 misdemeanor of the second degree, punishable as provided in s.
33052 775.082 or s. 775.083.

33053 21. Name selection.--No underwriting member shall be
33054 formed or authorized to transact insurance in this state under a
33055 name which is the same as that of any authorized insurer or is
33056 so nearly similar thereto as to cause or tend to cause confusion
33057 or under a name which would tend to mislead as to the type of
33058 organization of the insurer. Before incorporating under or using
33059 any name, the underwriting syndicate or proposed underwriting
33060 syndicate shall submit its name or proposed name to the office
33061 ~~department~~ for the approval of the office ~~department~~.

33062 22. Capitalization.--An underwriting member approved on or
33063 after July 2, 1987, shall provide an initial paid-in capital and
33064 surplus of \$3 million and thereafter shall maintain a minimum
33065 policyholder surplus of \$2 million in order to be permitted to
33066 write insurance. Underwriting members approved prior to July 2,
33067 1987, shall maintain a minimum policyholder surplus of \$1
33068 million. After June 29, 1988, underwriting members approved
33069 prior to July 2, 1987, must maintain a minimum policyholder
33070 surplus of \$1.5 million to write insurance. After June 29,
33071 1989, underwriting members approved prior to July 2, 1987, must
33072 maintain a minimum policyholder surplus of \$1.75 million to
33073 write insurance. After December 30, 1989, all underwriting
33074 members, regardless of the date they were approved, must
33075 maintain a minimum policyholder surplus of \$2 million to write



HB 1803

2003

33076 insurance. Except for that portion of the paid-in capital and
33077 surplus which shall be maintained in a security fund of an
33078 exchange, the paid-in capital and surplus shall be invested by
33079 an underwriting member in a manner consistent with ss. 625.301-
33080 625.340. The portion of the paid-in capital and surplus in any
33081 security fund of an exchange shall be invested in a manner
33082 limited to investments for life insurance companies under the
33083 Florida insurance laws.

33084 23. Limitations on coverage written.--

33085 a. Limit of risk.--No underwriting member shall expose
33086 itself to any loss on any one risk in an amount exceeding 10
33087 percent of its surplus to policyholders. Any risk or portion of
33088 any risk which shall have been reinsured in an assuming
33089 reinsurer authorized or approved to do such business in this
33090 state shall be deducted in determining the limitation of risk
33091 prescribed in this section.

33092 b. Restrictions on premiums written.--If the office
33093 ~~department~~ has reason to believe that the underwriting member's
33094 ratio of actual or projected annual gross written premiums to
33095 policyholder surplus exceeds 8 to 1 or the underwriting member's
33096 ratio of actual or projected annual net premiums to policyholder
33097 surplus exceeds 4 to 1, the office ~~department~~ may establish
33098 maximum gross or net annual premiums to be written by the
33099 underwriting member consistent with maintaining the ratios
33100 specified in this sub-subparagraph.

33101 (I) Projected annual net or gross premiums shall be based
33102 on the actual writings to date for the underwriting member's
33103 current calendar year, its writings for the previous calendar
33104 year, or both. Ratios shall be computed on an annualized basis.

33105 (II) For purposes of this sub-subparagraph, the term



HB 1803

2003

33106 "gross written premiums" means direct premiums written and
33107 reinsurance assumed.

33108 c. Surplus as to policyholders.--For the purpose of
33109 determining the limitation on coverage written, surplus as to
33110 policyholders shall be deemed to include any voluntary reserves,
33111 or any part thereof, which are not required by or pursuant to
33112 law and shall be determined from the last sworn statement of
33113 such underwriting member with the office ~~department~~, or by the
33114 last report or examination filed by the office ~~department~~,
33115 whichever is more recent at the time of assumption of such risk.

33116 24. Unearned premium reserves.--All unearned premium
33117 reserves for business written on the exchange shall be
33118 calculated on a monthly or more frequent basis or on such other
33119 basis as determined by the office ~~department~~; except that all
33120 premiums on any marine or transportation insurance trip risk
33121 shall be deemed unearned until the trip is terminated.

33122 25. Loss reserves.--All underwriting members of an
33123 exchange shall maintain loss reserves, including a reserve for
33124 incurred but not reported claims. The reserves shall be subject
33125 to review by the office ~~department~~, and, if loss experience
33126 shows that an underwriting member's loss reserves are
33127 inadequate, the office ~~department~~ shall require the underwriting
33128 member to maintain loss reserves in such additional amount as is
33129 needed to make them adequate.

33130 26. Distribution of profits.--An underwriting member shall
33131 not distribute any profits in the form of cash or other assets
33132 to owners except out of that part of its available and
33133 accumulated surplus funds which is derived from realized net
33134 operating profits on its business and realized capital gains.
33135 In any one year such payments to owners shall not exceed 30



HB 1803

2003

33136 percent of such surplus as of December 31 of the immediately
33137 preceding year, unless otherwise approved by the office
33138 ~~department~~. No distribution of profits shall be made that would
33139 render an underwriting member either impaired or insolvent.

33140 27. Stock dividends.--A stock dividend may be paid by an
33141 underwriting member out of any available surplus funds in excess
33142 of the aggregate amount of surplus advanced to the underwriting
33143 member under subparagraph 29.

33144 28. Dividends from earned surplus.--A dividend otherwise
33145 lawful may be payable out of an underwriting member's earned
33146 surplus even though the total surplus of the underwriting member
33147 is then less than the aggregate of its past contributed surplus
33148 resulting from issuance of its capital stock at a price in
33149 excess of the par value thereof.

33150 29. Borrowing of money by underwriting members.--

33151 a. An underwriting member may borrow money to defray the
33152 expenses of its organization, provide it with surplus funds, or
33153 for any purpose of its business, upon a written agreement that
33154 such money is required to be repaid only out of the underwriting
33155 member's surplus in excess of that stipulated in such agreement.
33156 The agreement may provide for interest not exceeding 15 percent
33157 simple interest per annum. The interest shall or shall not
33158 constitute a liability of the underwriting member as to its
33159 funds other than such excess of surplus, as stipulated in the
33160 agreement. No commission or promotion expense shall be paid in
33161 connection with any such loan. The use of any surplus note and
33162 any repayments thereof shall be subject to the approval of the
33163 office ~~department~~.

33164 b. Money so borrowed, together with any interest thereon
33165 if so stipulated in the agreement, shall not form a part of the



HB 1803

2003

33166 underwriting member's legal liabilities except as to its surplus
 33167 in excess of the amount thereof stipulated in the agreement, nor
 33168 be the basis of any setoff; but until repayment, financial
 33169 statements filed or published by an underwriting member shall
 33170 show as a footnote thereto the amount thereof then unpaid,
 33171 together with any interest thereon accrued but unpaid.

33172 30. Liquidation, rehabilitation, and restrictions.--The
 33173 office department, upon a showing that a member or associate
 33174 broker of an exchange has met one or more of the grounds
 33175 contained in part I of chapter 631, may restrict sales by type
 33176 of risk, policy or contract limits, premium levels, or policy or
 33177 contract provisions; increase surplus or capital requirements of
 33178 underwriting members; issue cease and desist orders; suspend or
 33179 restrict a member's or associate broker's right to transact
 33180 business; place an underwriting member under conservatorship or
 33181 rehabilitation; or seek an order of liquidation as authorized by
 33182 part I of chapter 631.

33183 31. Prohibited conduct.--The following acts by a member,
 33184 associate broker, or affiliated person shall constitute
 33185 prohibited conduct:

- 33186 a. Fraud.
- 33187 b. Fraudulent or dishonest acts committed by a member or
 33188 associate broker prior to admission to an exchange, if the facts
 33189 and circumstances were not disclosed to the office department
 33190 upon application to become a member or associate broker.
- 33191 c. Conduct detrimental to the welfare of an exchange.
- 33192 d. Unethical or improper practices or conduct,
 33193 inconsistent with just and equitable principles of trade as set
 33194 forth in, but not limited to, ss. 626.951-626.9641 and 626.973.
- 33195 e. Failure to use due diligence to ascertain the insurance



HB 1803

2003

33196 needs of a client or a principal.

33197 f. Misstatements made under oath or upon an application
33198 for membership on an exchange.

33199 g. Failure to testify or produce documents when requested
33200 by the office ~~department~~.

33201 h. Willful violation of any law of this state.

33202 i. Failure of an officer or principal to testify under
33203 oath concerning a member, associate broker, or other person's
33204 affairs as they relate to the operation of an exchange.

33205 j. Violation of the constitution and bylaws of the
33206 exchange.

33207 32. Penalties for participating in prohibited conduct.--

33208 a. The office ~~department~~ may order the suspension of
33209 further transaction of business on the exchange of any member or
33210 associate broker found to have engaged in prohibited conduct. In
33211 addition, any member or associate broker found to have engaged
33212 in prohibited conduct may be subject to reprimand, censure,
33213 and/or a fine not exceeding \$25,000 imposed by the office
33214 ~~department~~.

33215 b. Any member which has an affiliated person who is found
33216 to have engaged in prohibited conduct shall be subject to
33217 involuntary withdrawal or in addition thereto may be subject to
33218 suspension, reprimand, censure, and/or a fine not exceeding
33219 \$25,000.

33220 33. Reduction of penalties.--Any suspension, reprimand,
33221 censure, or fine may be remitted or reduced by the office
33222 ~~department~~ on such terms and conditions as are deemed fair and
33223 equitable.

33224 34. Other offenses.--Any member or associate broker that
33225 is suspended shall be deprived, during the period of suspension,



HB 1803

2003

33226 of all rights and privileges of a member or of an associate
 33227 broker and may be proceeded against by the office ~~department~~ for
 33228 any offense committed either before or after the date of
 33229 suspension.

33230 35. Reinstatement.--Any member or associate broker that is
 33231 suspended may be reinstated at any time on such terms and
 33232 conditions as the office ~~department~~ may specify.

33233 36. Remittance of fines.--Fines imposed under this section
 33234 shall be remitted to the office ~~department~~ and shall be paid
 33235 into the Insurance ~~Commissioner's~~ Regulatory Trust Fund.

33236 37. Failure to pay fines.--When a member or associate
 33237 broker has failed to pay a fine for 15 days after it becomes
 33238 payable, such member or associate broker shall be suspended,
 33239 unless the office ~~department~~ has granted an extension of time to
 33240 pay such fine.

33241 38. Changes in ownership or assets.--In the event of a
 33242 major change in the ownership or a major change in the assets of
 33243 an underwriting member, the underwriting member shall report
 33244 such change in writing to the office ~~department~~ within 30 days
 33245 of the effective date thereof. The report shall set forth the
 33246 details of the change. Any change in ownership or assets of more
 33247 than 5 percent shall be considered a major change.

33248 39. Retaliation.--

33249 a. When by or pursuant to the laws of any other state or
 33250 foreign country any taxes, licenses, or other fees, in the
 33251 aggregate, and any fines, penalties, deposit requirements, or
 33252 other material obligations, prohibitions, or restrictions are or
 33253 would be imposed upon an exchange or upon the agents or
 33254 representatives of such exchange which are in excess of such
 33255 taxes, licenses, and other fees, in the aggregate, or which are



HB 1803

2003

33256 in excess of such fines, penalties, deposit requirements, or
 33257 other obligations, prohibitions, or restrictions directly
 33258 imposed upon similar exchanges or upon the agents or
 33259 representatives of such exchanges of such other state or country
 33260 under the statutes of this state, so long as such laws of such
 33261 other state or country continue in force or are so applied, the
 33262 same taxes, licenses, and other fees, in the aggregate, or
 33263 fines, penalties, deposit requirements, or other material
 33264 obligations, prohibitions, or restrictions of whatever kind
 33265 shall be imposed by the office ~~department~~ upon the exchanges, or
 33266 upon the agents or representatives of such exchanges, of such
 33267 other state or country doing business or seeking to do business
 33268 in this state.

33269 b. Any tax, license, or other obligation imposed by any
 33270 city, county, or other political subdivision or agency of a
 33271 state, jurisdiction, or foreign country on an exchange, or on
 33272 the agents or representatives on an exchange, shall be deemed to
 33273 be imposed by such state, jurisdiction, or foreign country
 33274 within the meaning of sub-subparagraph a.

33275 40. Agents.--

33276 a. Agents as defined in ss. 626.015 and 626.914 who are
 33277 broker members or associate broker members of an exchange shall
 33278 be allowed only to place on an exchange the same kind or kinds
 33279 of business that the agent is licensed to place pursuant to
 33280 Florida law. Direct Florida business as defined in s. 626.916
 33281 or s. 626.917 shall be written through a broker member who is a
 33282 surplus lines agent as defined in s. 626.914. The activities of
 33283 each broker member or associate broker with regard to an
 33284 exchange shall be subject to all applicable provisions of the
 33285 insurance laws of this state, and all such activities shall



HB 1803

2003

33286 constitute transactions under his or her license as an insurance
 33287 agent for purposes of the Florida insurance law.

33288 b. Premium payments and other requirements.--If an
 33289 underwriting member has assumed the risk as to a surplus lines
 33290 coverage and if the premium therefor has been received by the
 33291 surplus lines agent who placed such insurance, then in all
 33292 questions thereafter arising under the coverage as between the
 33293 underwriting member and the insured, the underwriting member
 33294 shall be deemed to have received the premium due to it for such
 33295 coverage; and the underwriting member shall be liable to the
 33296 insured as to losses covered by such insurance, and for unearned
 33297 premiums which may become payable to the insured upon
 33298 cancellation of such insurance, whether or not in fact the
 33299 surplus lines agent is indebted to the underwriting member with
 33300 respect to such insurance or for any other cause.

33301 41. Improperly issued contracts, riders, and
 33302 endorsements.--

33303 a. Any insurance policy, rider, or endorsement issued by
 33304 an underwriting member and otherwise valid which contains any
 33305 condition or provision not in compliance with the requirements
 33306 of this section shall not be thereby rendered invalid, except as
 33307 provided in s. 627.415, but shall be construed and applied in
 33308 accordance with such conditions and provisions as would have
 33309 applied had such policy, rider, or endorsement been in full
 33310 compliance with this section. In the event an underwriting
 33311 member issues or delivers any policy for an amount which exceeds
 33312 any limitations otherwise provided in this section, the
 33313 underwriting member shall be liable to the insured or his or her
 33314 beneficiary for the full amount stated in the policy in addition
 33315 to any other penalties that may be imposed.



HB 1803

2003

33316 b. Any insurance contract delivered or issued for delivery
 33317 in this state governing a subject or subjects of insurance
 33318 resident, located, or to be performed in this state which,
 33319 pursuant to the provisions of this section, the underwriting
 33320 member may not lawfully insure under such a contract shall be
 33321 cancelable at any time by the underwriting member, any provision
 33322 of the contract to the contrary notwithstanding; and the
 33323 underwriting member shall promptly cancel the contract in
 33324 accordance with the request of the office ~~department~~ therefor.
 33325 No such illegality or cancellation shall be deemed to relieve
 33326 the underwriting syndicate of any liability incurred by it under
 33327 the contract while in force or to prohibit the underwriting
 33328 syndicate from retaining the pro rata earned premium thereon.
 33329 This provision does not relieve the underwriting syndicate from
 33330 any penalty otherwise incurred by the underwriting syndicate.

33331 42. Satisfaction of judgments.--

33332 a. Every judgment or decree for the recovery of money
 33333 heretofore or hereafter entered in any court of competent
 33334 jurisdiction against any underwriting member shall be fully
 33335 satisfied within 60 days from and after the entry thereof or, in
 33336 the case of an appeal from such judgment or decree, within 60
 33337 days from and after the affirmance of the judgment or decree by
 33338 the appellate court.

33339 b. If the judgment or decree is not satisfied as required
 33340 under sub-subparagraph a., and proof of such failure to satisfy
 33341 is made by filing with the office ~~department~~ a certified
 33342 transcript of the docket of the judgment or the decree together
 33343 with a certificate by the clerk of the court wherein the
 33344 judgment or decree remains unsatisfied, in whole or in part,
 33345 after the time provided in sub-subparagraph a., the office



HB 1803

2003

33346 ~~department~~ shall forthwith prohibit the underwriting member from
 33347 transacting business. The office ~~department~~ shall not permit
 33348 such underwriting member to write any new business until the
 33349 judgment or decree is wholly paid and satisfied and proof
 33350 thereof is filed with the office ~~department~~ under the official
 33351 certificate of the clerk of the court wherein the judgment was
 33352 recovered, showing that the judgment or decree is satisfied of
 33353 record, and until the expenses and fees incurred in the case are
 33354 also paid by the underwriting syndicate.

33355 43. Tender and exchange offers.--No person shall conclude
 33356 a tender offer or an exchange offer or otherwise acquire 5
 33357 percent or more of the outstanding voting securities of an
 33358 underwriting member or controlling company or purchase 5 percent
 33359 or more of the ownership of an underwriting member or
 33360 controlling company unless such person has filed with, and
 33361 obtained the approval of, the office ~~department~~ and sent to such
 33362 underwriting member a statement setting forth:

33363 a. The identity of, and background information on, each
 33364 person by whom, or on whose behalf, the acquisition is to be
 33365 made; and, if the acquisition is to be made by or on behalf of a
 33366 corporation, association, or trust, the identity of and
 33367 background information on each director, officer, trustee, or
 33368 other natural person performing duties similar to those of a
 33369 director, officer, or trustee for the corporation, association,
 33370 or trust.

33371 b. The source and amount of the funds or other
 33372 consideration used, or to be used, in making the acquisition.

33373 c. Any plans or proposals which such person may have to
 33374 liquidate such member, to sell its assets, or to merge or
 33375 consolidate it.



HB 1803

2003

33376 d. The percentage of ownership which such person proposes
33377 to acquire and the terms of the offer or exchange, as the case
33378 may be.

33379 e. Information as to any contracts, arrangements, or
33380 understandings with any party with respect to any securities of
33381 such member or controlling company, including, but not limited
33382 to, information relating to the transfer of any securities,
33383 option arrangements, or puts or calls or the giving or
33384 withholding of proxies, naming the party with whom such
33385 contract, arrangements, or understandings have been entered and
33386 giving the details thereof.

33387 f. The office ~~department~~ may disapprove any acquisition
33388 subject to the provisions of this subparagraph by any person or
33389 any affiliated person of such person who:

33390 (I) Willfully violates this subparagraph;

33391 (II) In violation of an order of the office ~~department~~
33392 issued pursuant to sub-subparagraph j., fails to divest himself
33393 or herself of any stock obtained in violation of this
33394 subparagraph, or fails to divest himself or herself of any
33395 direct or indirect control of such stock, within 25 days after
33396 such order; or

33397 (III) In violation of an order issued by the office
33398 ~~department~~ pursuant to sub-subparagraph j., acquires additional
33399 stock of the underwriting member or controlling company, or
33400 direct or indirect control of such stock, without complying with
33401 this subparagraph.

33402 g. The person or persons filing the statement required by
33403 this subparagraph have the burden of proof. The office
33404 ~~department~~ shall approve any such acquisition if it finds, on
33405 the basis of the record made during any proceeding or on the



HB 1803

2003

33406 basis of the filed statement if no proceeding is conducted,
 33407 that:

33408 (I) Upon completion of the acquisition, the underwriting
 33409 member will be able to satisfy the requirements for the approval
 33410 to write the line or lines of insurance for which it is
 33411 presently approved;

33412 (II) The financial condition of the acquiring person or
 33413 persons will not jeopardize the financial stability of the
 33414 underwriting member or prejudice the interests of its
 33415 policyholders or the public;

33416 (III) Any plan or proposal which the acquiring person has,
 33417 or acquiring persons have, made:

33418 (A) To liquidate the insurer, sell its assets, or merge or
 33419 consolidate it with any person, or to make any other major
 33420 change in its business or corporate structure or management; or

33421 (B) To liquidate any controlling company, sell its assets,
 33422 or merge or consolidate it with any person, or to make any major
 33423 change in its business or corporate structure or management
 33424 which would have an effect upon the underwriting member

33425
 33426 is fair and free of prejudice to the policyholders of the
 33427 underwriting member or to the public;

33428 (IV) The competence, experience, and integrity of those
 33429 persons who will control directly or indirectly the operation of
 33430 the underwriting member indicate that the acquisition is in the
 33431 best interest of the policyholders of the underwriting member
 33432 and in the public interest;

33433 (V) The natural persons for whom background information is
 33434 required to be furnished pursuant to this subparagraph have such
 33435 backgrounds as to indicate that it is in the best interests of



HB 1803

2003

33436 the policyholders of the underwriting member, and in the public
33437 interest, to permit such persons to exercise control over such
33438 underwriting member;

33439 (VI) The officers and directors to be employed after the
33440 acquisition have sufficient insurance experience and ability to
33441 assure reasonable promise of successful operation;

33442 (VII) The management of the underwriting member after the
33443 acquisition will be competent and trustworthy and will possess
33444 sufficient managerial experience so as to make the proposed
33445 operation of the underwriting member not hazardous to the
33446 insurance-buying public;

33447 (VIII) The management of the underwriting member after the
33448 acquisition will not include any person who has directly or
33449 indirectly through ownership, control, reinsurance transactions,
33450 or other insurance or business relations unlawfully manipulated
33451 the assets, accounts, finances, or books of any insurer or
33452 underwriting member or otherwise acted in bad faith with respect
33453 thereto;

33454 (IX) The acquisition is not likely to be hazardous or
33455 prejudicial to the underwriting member's policyholders or the
33456 public; and

33457 (X) The effect of the acquisition of control would not
33458 substantially lessen competition in insurance in this state or
33459 would not tend to create a monopoly therein.

33460 h. No vote by the stockholder of record, or by any other
33461 person, of any security acquired in contravention of the
33462 provisions of this subparagraph is valid. Any acquisition of
33463 any security contrary to the provisions of this subparagraph is
33464 void. Upon the petition of the underwriting member or
33465 controlling company, the circuit court for the county in which



HB 1803

2003

33466 the principal office of such underwriting member is located may,
33467 without limiting the generality of its authority, order the
33468 issuance or entry of an injunction or other order to enforce the
33469 provisions of this subparagraph. There shall be a private right
33470 of action in favor of the underwriting member or controlling
33471 company to enforce the provisions of this subparagraph. No
33472 demand upon the office ~~department~~ that it perform its functions
33473 shall be required as a prerequisite to any suit by the
33474 underwriting member or controlling company against any other
33475 person, and in no case shall the office ~~department~~ be deemed a
33476 necessary party to any action by such underwriting member or
33477 controlling company to enforce the provisions of this
33478 subparagraph. Any person who makes or proposes an acquisition
33479 requiring the filing of a statement pursuant to this
33480 subparagraph, or who files such a statement, shall be deemed to
33481 have thereby designated the Chief Financial Officer Insurance
33482 ~~Commissioner, or his or her assistant or deputy or another~~
33483 ~~person in charge of his or her office,~~ as such person's agent
33484 for service of process under this subparagraph and shall thereby
33485 be deemed to have submitted himself or herself to the
33486 administrative jurisdiction of the office ~~department~~ and to the
33487 jurisdiction of the circuit court.

33488 i. Any approval by the office ~~department~~ under this
33489 subparagraph does not constitute a recommendation by the office
33490 ~~department~~ for an acquisition, tender offer, or exchange offer.
33491 It is unlawful for a person to represent that the office's
33492 ~~department's~~ approval constitutes a recommendation. A person
33493 who violates the provisions of this sub-subparagraph is guilty
33494 of a felony of the third degree, punishable as provided in s.
33495 775.082, s. 775.083, or s. 775.084. The statute-of-limitations



HB 1803

2003

33496 period for the prosecution of an offense committed under this
33497 sub-subparagraph is 5 years.

33498 j. Upon notification to the office ~~department~~ by the
33499 underwriting member or a controlling company that any person or
33500 any affiliated person of such person has acquired 5 percent or
33501 more of the outstanding voting securities of the underwriting
33502 member or controlling company without complying with the
33503 provisions of this subparagraph, the office ~~department~~ shall
33504 order that the person and any affiliated person of such person
33505 cease acquisition of any further securities of the underwriting
33506 member or controlling company; however, the person or any
33507 affiliated person of such person may request a proceeding, which
33508 proceeding shall be convened within 7 days after the rendering
33509 of the order for the sole purpose of determining whether the
33510 person, individually or in connection with any affiliated person
33511 of such person, has acquired 5 percent or more of the
33512 outstanding voting securities of an underwriting member or
33513 controlling company. Upon the failure of the person or
33514 affiliated person to request a hearing within 7 days, or upon a
33515 determination at a hearing convened pursuant to this sub-
33516 subparagraph that the person or affiliated person has acquired
33517 voting securities of an underwriting member or controlling
33518 company in violation of this subparagraph, the office ~~department~~
33519 may order the person and affiliated person to divest themselves
33520 of any voting securities so acquired.

33521 k.(I) The office ~~department~~ shall, if necessary to protect
33522 the public interest, suspend or revoke the certificate of
33523 authority of any underwriting member or controlling company:

33524 (A) The control of which is acquired in violation of this
33525 subparagraph;



HB 1803

2003

33526 (B) That is controlled, directly or indirectly, by any
 33527 person or any affiliated person of such person who, in violation
 33528 of this subparagraph, has obtained control of an underwriting
 33529 member or controlling company; or

33530 (C) That is controlled, directly or indirectly, by any
 33531 person who, directly or indirectly, controls any other person
 33532 who, in violation of this subparagraph, acquires control of an
 33533 underwriting member or controlling company.

33534 (II) If any underwriting member is subject to suspension
 33535 or revocation pursuant to sub-sub-subparagraph (I), the
 33536 underwriting member shall be deemed to be in such condition, or
 33537 to be using or to have been subject to such methods or practices
 33538 in the conduct of its business, as to render its further
 33539 transaction of insurance presently or prospectively hazardous to
 33540 its policyholders, creditors, or stockholders or to the public.

33541 1.(I) For the purpose of this sub-sub-subparagraph, the
 33542 term "affiliated person" of another person means:

33543 (A) The spouse of such other person;

33544 (B) The parents of such other person and their lineal
 33545 descendants and the parents of such other person's spouse and
 33546 their lineal descendants;

33547 (C) Any person who directly or indirectly owns or
 33548 controls, or holds with power to vote, 5 percent or more of the
 33549 outstanding voting securities of such other person;

33550 (D) Any person 5 percent or more of the outstanding voting
 33551 securities of which are directly or indirectly owned or
 33552 controlled, or held with power to vote, by such other person;

33553 (E) Any person or group of persons who directly or
 33554 indirectly control, are controlled by, or are under common
 33555 control with such other person; or any officer, director,



HB 1803

2003

33556 partner, copartner, or employee of such other person;

33557 (F) If such other person is an investment company, any
33558 investment adviser of such company or any member of an advisory
33559 board of such company;

33560 (G) If such other person is an unincorporated investment
33561 company not having a board of directors, the depositor of such
33562 company; or

33563 (H) Any person who has entered into an agreement, written
33564 or unwritten, to act in concert with such other person in
33565 acquiring or limiting the disposition of securities of an
33566 underwriting member or controlling company.

33567 (II) For the purposes of this section, the term
33568 "controlling company" means any corporation, trust, or
33569 association owning, directly or indirectly, 25 percent or more
33570 of the voting securities of one or more underwriting members.

33571 m. The commission ~~may department is authorized to~~ adopt,
33572 amend, or repeal rules that are necessary to implement the
33573 provisions of this subparagraph, pursuant to chapter 120.

33574 44. Background information.--The information as to the
33575 background and identity of each person about whom information is
33576 required to be furnished pursuant to sub-subparagraph 43.a.
33577 shall include, but shall not be limited to:

33578 a. Such person's occupations, positions of employment, and
33579 offices held during the past 10 years.

33580 b. The principal business and address of any business,
33581 corporation, or other organization in which each such office was
33582 held or in which such occupation or position of employment was
33583 carried on.

33584 c. Whether, at any time during such 10-year period, such
33585 person was convicted of any crime other than a traffic



HB 1803

2003

33586 violation.

33587 d. Whether, during such 10-year period, such person has
33588 been the subject of any proceeding for the revocation of any
33589 license and, if so, the nature of such proceeding and the
33590 disposition thereof.

33591 e. Whether, during such 10-year period, such person has
33592 been the subject of any proceeding under the federal Bankruptcy
33593 Act or whether, during such 10-year period, any corporation,
33594 partnership, firm, trust, or association in which such person
33595 was a director, officer, trustee, partner, or other official has
33596 been subject to any such proceeding, either during the time in
33597 which such person was a director, officer, trustee, partner, or
33598 other official, or within 12 months thereafter.

33599 f. Whether, during such 10-year period, such person has
33600 been enjoined, either temporarily or permanently, by a court of
33601 competent jurisdiction from violating any federal or state law
33602 regulating the business of insurance, securities, or banking, or
33603 from carrying out any particular practice or practices in the
33604 course of the business of insurance, securities, or banking,
33605 together with details of any such event.

33606 45. Security fund.--All underwriting members shall be
33607 members of the security fund of any exchange.

33608 46. Underwriting member defined.--Whenever the term
33609 "underwriting member" is used in this subsection, it shall be
33610 construed to mean "underwriting syndicate."

33611 47. Offsets.--Any action, requirement, or constraint
33612 imposed by the office ~~department~~ shall reduce or offset similar
33613 actions, requirements, or constraints of any exchange.

33614 48. Restriction on member ownership.--

33615 a. Investments existing prior to July 2, 1987.--The



HB 1803

2003

33616 investment in any member by brokers, agents, and intermediaries
 33617 transacting business on the exchange, and the investment in any
 33618 such broker, agent, or intermediary by any member, directly or
 33619 indirectly, shall in each case be limited in the aggregate to
 33620 less than 20 percent of the total investment in such member,
 33621 broker, agent, or intermediary, as the case may be. After
 33622 December 31, 1987, the aggregate percent of the total investment
 33623 in such member by any broker, agent, or intermediary and the
 33624 aggregate percent of the total investment in any such broker,
 33625 agent, or intermediary by any member, directly or indirectly,
 33626 shall not exceed 15 percent. After June 30, 1988, such aggregate
 33627 percent shall not exceed 10 percent and after December 31, 1988,
 33628 such aggregate percent shall not exceed 5 percent.

33629 b. Investments arising on or after July 2, 1987.--The
 33630 investment in any underwriting member by brokers, agents, or
 33631 intermediaries transacting business on the exchange, and the
 33632 investment in any such broker, agent, or intermediary by any
 33633 underwriting member, directly or indirectly, shall in each case
 33634 be limited in the aggregate to less than 5 percent of the total
 33635 investment in such underwriting member, broker, agent, or
 33636 intermediary.

33637 49. "Underwriting manager" defined.--"Underwriting
 33638 manager" as used in this subparagraph includes any person,
 33639 partnership, corporation, or organization providing any of the
 33640 following services to underwriting members of the exchange:

33641 a. Office management and allied services, including
 33642 correspondence and secretarial services.

33643 b. Accounting services, including bookkeeping and
 33644 financial report preparation.

33645 c. Investment and banking consultations and services.



HB 1803

2003

33646 d. Underwriting functions and services including the
 33647 acceptance, rejection, placement, and marketing of risk.

33648 50. Prohibition of underwriting manager investment.--Any
 33649 direct or indirect investment in any underwriting manager by a
 33650 broker member or any affiliated person of a broker member or any
 33651 direct or indirect investment in a broker member by an
 33652 underwriting manager or any affiliated person of an underwriting
 33653 manager is prohibited. "Affiliated person" for purposes of this
 33654 subparagraph is defined in subparagraph 43.

33655 51. An underwriting member may not accept reinsurance on
 33656 an assumed basis from an affiliate or a controlling company, nor
 33657 may a broker member or management company place reinsurance from
 33658 an affiliate or controlling company of theirs with an
 33659 underwriting member. "Affiliate and controlling company" for
 33660 purposes of this subparagraph is defined in subparagraph 43.

33661 52. Premium defined.--"Premium" is the consideration for
 33662 insurance, by whatever name called. Any "assessment" or any
 33663 "membership," "policy," "survey," "inspection," "service" fee or
 33664 charge or similar fee or charge in consideration for an
 33665 insurance contract is deemed part of the premium.

33666 53. Rules.--The commission ~~department~~ shall adopt
 33667 ~~promulgate~~ rules necessary for or as an aid to the effectuation
 33668 of any provision of this section.

33669 (7) The performance of the contractual obligations of the
 33670 exchange or its members entered into pursuant to subsection (1)
 33671 shall not be covered by any of the Florida state security or
 33672 guaranty funds.

33673 Section 1070. Section 629.520, Florida Statutes, is
 33674 amended to read:

33675 629.520 Authority of a limited reciprocal insurer.--The



HB 1803

2003

33676 authority of any limited reciprocal insurer to accept new
 33677 business or renewals shall not continue beyond October 1, 1992;
 33678 however, such limited reciprocal insurer shall continue to
 33679 service its obligations previously incurred or with the approval
 33680 of the office ~~department~~, arrange for the transfer of these
 33681 obligations to an authorized insurer. All power of the office
 33682 ~~department~~ with respect to limited reciprocal insurers shall
 33683 continue undiminished. This section does not affect any other
 33684 power of the office ~~department~~ or any other function of the
 33685 office ~~department~~.

33686 Section 1071. Subsection (1) of section 630.021, Florida
 33687 Statutes, is amended to read:

33688 630.021 Required deposit of assets.--

33689 (1) An alien insurer may use Florida as a state of entry
 33690 to transact insurance in the United States by making and
 33691 maintaining in this state a deposit of assets in trust with a
 33692 solvent bank or trust company or savings and loan association
 33693 approved by the office ~~department~~.

33694 Section 1072. Section 630.031, Florida Statutes, is
 33695 amended to read:

33696 630.031 Existing trusts.--All trusts of trustee assets
 33697 heretofore created and now existing shall be continued under the
 33698 instruments creating them, unless inconsistent with the
 33699 provisions of this chapter. No amendment of the deed of trust
 33700 under which such assets are so held shall be effective unless
 33701 approved by the office ~~department~~ in accordance with the
 33702 provisions of this chapter.

33703 Section 1073. Section 630.051, Florida Statutes, is
 33704 amended to read:

33705 630.051 Trust agreement; approval; amendment.--



HB 1803

2003

33706 (1) The deposit referred to in s. 630.021 shall be made
 33707 under a written trust agreement between the insurer and the
 33708 trustee, consistent with the provisions of this chapter; and the
 33709 agreement and any amendments thereto shall be authenticated in
 33710 such form and manner as the office ~~department~~ may designate or
 33711 approve.

33712 (2) The agreement shall not be effective until filed with
 33713 and approved in writing by the office ~~department~~. If the office
 33714 ~~department~~ finds that the trust agreement is sufficient in form
 33715 and in conformity with law, that the trustee or trustees are
 33716 eligible as such, and that the trust agreement is adequate to
 33717 protect the interests of the beneficiaries of the trust, it
 33718 shall give its written approval thereof. If the office
 33719 ~~department~~ finds that any of the above-mentioned requisites do
 33720 not exist, it shall refuse to approve the trust agreement.

33721 (3) If after a trust agreement has become effective the
 33722 office ~~department~~ finds that the requisites for approval of the
 33723 agreement no longer exist, it may withdraw its approval.

33724 (4) A trust agreement may be amended, but no amendment
 33725 shall be effective unless the agreement as so amended is found
 33726 by the office ~~department~~ to be consistent with the provisions of
 33727 this chapter and the amendment is approved by it.

33728 Section 1074. Subsection (2) of section 630.071, Florida
 33729 Statutes, is amended to read:

33730 630.071 Requirements and contents of trust agreement.--
 33731 Trusteed assets of an alien insurer held in this state under
 33732 this chapter shall be subject to, and the trust agreement shall
 33733 make provisions consistent with, the following conditions:

33734 (2) Substitution of a new trustee or trustees in case of a
 33735 vacancy by death, resignation or otherwise may be made, subject



HB 1803

2003

33736 to the office's ~~department's~~ approval.

33737 Section 1075. Section 630.081, Florida Statutes, is
33738 amended to read:

33739 630.081 Withdrawal of assets, in general.--

33740 (1) The trust agreement shall provide, in substance, that
33741 no withdrawals of trusted assets shall be made by the insurer
33742 or permitted by the trustee or trustees without the written
33743 authorization or approval of the office ~~department~~ in advance
33744 thereof, except as follows:

33745 (a) Any or all income, earnings, dividends, or interest
33746 accumulations of the trusted assets may be paid over to the
33747 United States manager of the insurer upon request of the insurer
33748 or the manager.

33749 (b) For substitution, coincidentally with such withdrawal,
33750 of other securities or assets of value at least equal in amount
33751 to those being withdrawn, if such substituted securities or
33752 assets are likewise such as are eligible for investment of the
33753 funds of domestic insurers under part II of chapter 625; and if
33754 such withdrawal is requested in writing by the insurer's United
33755 States manager pursuant to general or specific written authority
33756 previously given or delegated by the insurer's board of
33757 directors or other similar governing body, and a copy of such
33758 authority has been filed with the trustee or trustees.

33759 (c) For the purpose of making deposits required by law in
33760 any state in which the insurer is or thereafter becomes an
33761 authorized insurer, for the protection of the insurer's
33762 policyholders or policyholders and creditors in such state or in
33763 the United States, if such withdrawal does not reduce the
33764 insurer's deposit in this state to an amount less than the
33765 minimum deposit required under s. 624.412. The trustee or



HB 1803

2003

33766 trustees shall transfer any assets so withdrawn, and in the
33767 amount so required to be deposited in the other state, directly
33768 to the depository required to receive such deposit in such other
33769 state, as certified in writing by the public official having
33770 supervision of insurance in the other state.

33771 (d) For the purpose of transferring the trustee assets to
33772 an official liquidator, conservator, or rehabilitator pursuant
33773 to the order of a court of competent jurisdiction.

33774 (2) The office department shall so authorize or approve
33775 withdrawal of only such assets as are in excess of the amount of
33776 assets required to be so held in trust under s. 630.021, or as
33777 may otherwise be consistent with the provisions of this chapter.

33778 (3) If at any time the insurer becomes insolvent, or if
33779 its assets held in the United States are less in amount than as
33780 required under s. 624.412(1), upon determination thereof the
33781 office department shall in writing order the trustee to suspend
33782 the right of the insurer or any other person to withdraw assets
33783 as otherwise authorized under paragraphs (1)(a), (b), and (c);
33784 and the trustee shall comply with such order until the further
33785 order of the office department.

33786 (4) In the case of withdrawal of trustee assets deposited
33787 in another state in which the insurer is authorized to do
33788 business, it shall be sufficient if the trust agreement requires
33789 similar written approval of the insurance supervisory official
33790 of such state in lieu of any required approval of the office
33791 ~~department~~. In all such cases, the insurer shall notify the
33792 office department in writing of the nature and extent of such
33793 withdrawal.

33794 Section 1076. Section 630.091, Florida Statutes, is
33795 amended to read:



HB 1803

2003

33796 630.091 Statement of trustee.--

33797 (1) The trustee or trustees of trusteed assets shall from
 33798 time to time file with the office ~~department~~ statements, in such
 33799 form as it may designate and request in writing, certifying the
 33800 character of such assets and the amounts thereof.

33801 (2) If the trustee or trustees fail to file any such
 33802 statement after request therefor and expiration of a reasonable
 33803 time thereafter, the office ~~department~~ may suspend or revoke the
 33804 certificate of authority of the insurer.

33805 Section 1077. Section 630.101, Florida Statutes, is
 33806 amended to read:

33807 630.101 Examination of assets.--The office ~~department~~ may
 33808 from time to time examine trusteed assets of any insurer in
 33809 accordance with the same conditions and procedures governing the
 33810 examination of insurers in general under part II of chapter 624.

33811 Section 1078. Section 630.131, Florida Statutes, is
 33812 amended to read:

33813 630.131 Domestication procedure.--

33814 (1) Upon compliance with ss. 630.131-630.161, any alien
 33815 insurer authorized to do business in this state which owns
 33816 beneficially, directly or indirectly, all of the outstanding
 33817 capital stock of a domestic insurer may, with the prior written
 33818 approval of the office ~~department~~ and subject to the final
 33819 approval of the office ~~department~~, domesticate its United States
 33820 branch, if entered through this state, by entering into an
 33821 agreement in writing with the domestic insurer providing for the
 33822 acquisition by the domestic insurer of all the liabilities of
 33823 the United States branch for no consideration other than the
 33824 assumption of such liabilities; except that the agreement may
 33825 further provide for additional consideration payable by the



HB 1803

2003

33826 issuance by the acquiring domestic insurer of shares of its
 33827 capital stock.

33828 (2) Such shares of capital stock of the acquiring domestic
 33829 insurer, or voting trust certificates representing such shares,
 33830 as are held among the trusteed assets of the United States
 33831 branch of the alien insurer or are held in a trust created by
 33832 the alien insurer and of which the alien insurer is a
 33833 beneficiary shall be deemed to be shares held beneficially, but
 33834 indirectly, by an alien insurer.

33835 (3) The acquisition of assets and assumption of
 33836 liabilities of the United States branch by the domestic insurer
 33837 shall be effected by the filing with the office ~~department~~ of an
 33838 instrument of transfer and assumption in form satisfactory to
 33839 the office ~~department~~ and executed by the alien insurer and the
 33840 domestic insurer.

33841 (4) A domestic insurer may either be authorized to
 33842 transact insurance in this state prior to entering into such
 33843 domestication agreement or may, if the office ~~department~~ so
 33844 approves, be authorized effective with the consummation of the
 33845 domestication agreement in accordance with the provisions of s.
 33846 630.161.

33847 Section 1079. Section 630.151, Florida Statutes, is
 33848 amended to read:

33849 630.151 Office ~~Departmental~~ approval of domestication
 33850 agreement.--An executed counterpart of the domestication
 33851 agreement, together with certified copies of the corporate
 33852 proceedings of the domestic insurer and the alien insurer,
 33853 approving, adopting, and authorizing the execution of the
 33854 domestication agreement, shall be submitted to the office
 33855 ~~department~~ for its approval. The office ~~department~~ shall



HB 1803

2003

33856 thereupon consider the agreement; and, if it finds that the same
 33857 is in accordance with the provisions hereof and that the
 33858 interests of policyholders and creditors of the United States
 33859 branch of the alien insurer are not materially adversely
 33860 affected, it may approve the domestication agreement and
 33861 authorize the consummation thereof in compliance with the
 33862 provisions of s. 630.161.

33863 Section 1080. Section 630.161, Florida Statutes, is
 33864 amended to read:

33865 630.161 Consummation of domestication; transfer of assets
 33866 and deposits.--

33867 (1) Upon the filing with the office ~~department~~ of a
 33868 certified copy of the instrument of transfer and assumption
 33869 pursuant to which a domestic insurer succeeds to the business
 33870 and assets of the United States branch of an alien insurer and
 33871 assumes all its liabilities as provided by ss. 630.131-630.161,
 33872 the domestication of the United States branch shall be deemed to
 33873 be effective; and thereupon all the rights, franchises, and
 33874 interests of the United States branch in and to every species of
 33875 property, real, personal, and mixed, and things in action
 33876 thereunto belonging shall be deemed as transferred to and vested
 33877 in the domestic insurer, and simultaneously therewith the
 33878 domestic insurer shall be deemed to have assumed all of the
 33879 liabilities of the United States branch.

33880 (2) All deposits of the United States branch held by the
 33881 department, or state officers or other state regulatory agencies
 33882 pursuant to requirements of state laws, shall be deemed to be
 33883 held as security that the domestic insurer will fully perform
 33884 its assumption as direct liabilities of all the liabilities to
 33885 policyholders or policyholders and creditors within the United



HB 1803

2003

33886 States of the United States branch; and such deposits shall be
33887 deemed to be assets of the domestic insurer and shall be
33888 reported as such in the annual financial statements and other
33889 reports which the domestic insurer may be required to file. Upon
33890 the ultimate release by any such state officer or agency of any
33891 such deposits, the securities and cash constituting such
33892 released deposit shall be delivered and paid over to the
33893 domestic insurer as the lawful successor in interest to the
33894 United States branch.

33895 (3) Contemporaneously with the consummation of the
33896 domestication of the United States branch, notwithstanding any
33897 provision of the statutes to the contrary, the department shall
33898 transfer to the insurer the securities deposited by the United
33899 States branch in compliance with the provisions of this law, and
33900 the department shall consent that the trustee of the trustee
33901 assets deposited by the United States branch in compliance with
33902 the provisions of this law shall withdraw from the trustee
33903 assets and transfer and deliver over to the domestic insurer all
33904 assets held by such trustee.

33905 Section 1081. Subsections (2), (3), (4), and (5) of
33906 section 632.611, Florida Statutes, are amended to read:

33907 632.611 Organization.--A domestic society organized on or
33908 after June 24, 1986, shall be formed as follows:

33909 (2) Such articles of incorporation; duly certified copies
33910 of the society's bylaws and rules; copies of all proposed forms
33911 of certificates, applications therefor, and circulars to be
33912 issued by the society; and a bond, conditioned upon the return
33913 to the applicants of the advanced payments if the organization
33914 is not completed within 1 year, shall be filed with the office
33915 ~~department~~, which may require such further information as it



HB 1803

2003

33916 deems necessary. The bond with sureties approved by the office
33917 ~~department~~ shall be in such amount, not less than \$300,000 nor
33918 more than \$1.5 million, as required by the office ~~department~~.
33919 All documents filed are to be in the English language. If the
33920 purposes of the society conform to the requirements of this
33921 chapter and all provisions of the law have been complied with,
33922 the office ~~department~~ shall so certify, retain, and file the
33923 articles of incorporation and shall furnish the incorporators a
33924 preliminary certificate authorizing the society to solicit
33925 members as hereinafter provided.

33926 (3) No preliminary certificate granted under the
33927 provisions of this section shall be valid after 1 year from its
33928 date or after such further period, not exceeding 1 year, as may
33929 be authorized by the office ~~department~~ upon cause shown. The
33930 articles of incorporation and all other proceedings thereunder
33931 shall become null and void in 1 year from the date of the
33932 preliminary certificate, or at the expiration of the extended
33933 period, unless the society shall have completed its organization
33934 and received a certificate of authority to do business as
33935 hereinafter provided.

33936 (4) Upon receipt of a preliminary certificate of authority
33937 from the office ~~department~~, the society may solicit members for
33938 the purpose of completing its organization, shall collect from
33939 each applicant the amount of not less than one regular monthly
33940 premium in accordance with its table of rates, and shall issue
33941 to each such applicant a receipt for the amount so collected.
33942 No society shall incur any liability other than for the return
33943 of such advance premium, nor issue any certificate, nor pay,
33944 allow, or offer or promise to pay or allow, any benefit, to any
33945 person until:



HB 1803

2003

33946 (a) Actual bona fide applications for benefits have been
33947 secured on not less than 500 applicants, and any necessary
33948 evidence of insurability has been furnished to and approved by
33949 the society;

33950 (b) At least 10 subordinate lodges have been established
33951 into which the 500 applicants have been admitted;

33952 (c) There has been submitted to the office ~~department~~,
33953 under oath of the president or secretary, or corresponding
33954 officer of the society, a list of such applicants, giving their
33955 names, addresses, date each was admitted, name and number of the
33956 subordinate lodge of which each applicant is a member, amount of
33957 benefits to be granted and the premiums therefor; and

33958 (d) It shall have been shown to the office ~~department~~, by
33959 sworn statement of the treasurer or corresponding officer of
33960 such society, that at least 500 applicants have each paid in
33961 cash at least one regular monthly premium as herein provided,
33962 which premiums in the aggregate shall amount to at least
33963 \$150,000. Such advance premiums shall be held in trust during
33964 the period of organization and if the society has not qualified
33965 for a certificate of authority within 1 year, as herein
33966 provided, such premiums shall be returned to said applicants.

33967 (5) The office ~~department~~ may make such examination and
33968 require such further information as it deems advisable. Upon
33969 presentation of satisfactory evidence that the society has
33970 complied with all the provisions of law, the office ~~department~~
33971 shall issue to the society a certificate of authority to that
33972 effect and to the effect that the society is authorized to
33973 transact business pursuant to the provisions of this chapter.
33974 The certificate of authority shall be prima facie evidence of
33975 the existence of the society at the date of such certificate.



HB 1803

2003

33976 The office ~~department~~ shall cause a record of such certificate
 33977 of authority to be made. A certified copy of such record may be
 33978 given in evidence with like effect as the original certificate
 33979 of authority.

33980 Section 1082. Subsections (2), (3), and (4) of section
 33981 632.612, Florida Statutes, are amended to read:

33982 632.612 Amendments to laws.--

33983 (2) No amendment to the laws of any domestic society shall
 33984 take effect unless approved by the office ~~department~~, which
 33985 shall approve such amendment if it finds that the amendment has
 33986 been duly adopted and is not inconsistent with any requirement
 33987 of the laws of this state or with the character, objects, and
 33988 purposes of the society. Unless the office ~~department~~ shall
 33989 disapprove any such amendment within 90 days after the filing of
 33990 same, the amendment shall be considered approved. The approval
 33991 or disapproval of the office ~~department~~ shall be in writing and
 33992 mailed to the secretary or corresponding officer of the society
 33993 at its principal office. In case the office ~~department~~
 33994 disapproves the amendment, the reasons therefor shall be stated
 33995 in the written notice.

33996 (3) Within 90 days from the approval thereof by the office
 33997 ~~department~~, all such amendments or a synopsis thereof shall be
 33998 furnished to all members of the society either by mail or by
 33999 publication in full in the official publication of the society.
 34000 The affidavit of any officer of the society or of anyone
 34001 authorized by it to mail any amendments or a synopsis thereof,
 34002 stating facts which show that same have been duly addressed and
 34003 mailed, shall be prima facie evidence that such amendments or a
 34004 synopsis thereof have been furnished the addressee.

34005 (4) Every foreign or alien society authorized to do



HB 1803

2003

34006 business in this state shall file with the office ~~department~~ a
 34007 duly certified copy of all amendments of, or additions to, its
 34008 laws within 90 days after the enactment of same.

34009 Section 1083. Section 632.614, Florida Statutes, is
 34010 amended to read:

34011 632.614 Reinsurance.--

34012 (1) A domestic society may, by a reinsurance agreement,
 34013 cede any individual risk or risks in whole or in part to an
 34014 insurer, other than another fraternal benefit society, having
 34015 the power to make such reinsurance and authorized to do business
 34016 in this state, or if not so authorized, to an insurer which is
 34017 approved by the office ~~department~~. However, no domestic society
 34018 may reinsure 75 percent or more of its insurance in force
 34019 without the written permission of the office ~~department~~. The
 34020 domestic society may take credit for the reserves on such ceded
 34021 risks to the extent reinsured, but no credit shall be allowed as
 34022 an admitted asset or as a deduction from liability, to a ceding
 34023 society for reinsurance made, ceded, renewed, or otherwise
 34024 becoming effective after the effective date of this act, unless
 34025 the reinsurance is payable by the assuming insurer on the basis
 34026 of the liability of the ceding society under the contract or
 34027 contracts reinsured without diminution because of the insolvency
 34028 of the ceding society.

34029 (2) Notwithstanding the limitation in subsection (1), a
 34030 society may reinsure the risks of another society in a
 34031 consolidation or merger approved by the office ~~department~~ under
 34032 s. 632.615.

34033 Section 1084. Subsections (1) and (2) of section 632.615,
 34034 Florida Statutes, are amended to read:

34035 632.615 Consolidations and mergers.--



HB 1803

2003

34036 (1) A domestic society may not consolidate or merge with
 34037 any other insurer other than another society. It may
 34038 consolidate or merge with another society by complying with the
 34039 provisions of this section. It shall file with the office
 34040 ~~department~~:

34041 (a) A certified copy of the written contract containing in
 34042 full the terms and conditions of the consolidation or merger;

34043 (b) A sworn statement by the president and secretary or
 34044 corresponding officers of each society showing the financial
 34045 condition thereof on a date fixed by the office ~~department~~ but
 34046 not earlier than December 31 next preceding the date of the
 34047 contract;

34048 (c) A certificate of such officers, duly verified by their
 34049 respective oaths, that the consolidation or merger has been
 34050 approved by a two-thirds vote of the supreme governing body of
 34051 each society, such vote being conducted at a regular or special
 34052 meeting of each such body, or, if the society's laws so permit,
 34053 by mail; and

34054 (d) Evidence that at least 60 days prior to the action of
 34055 the supreme governing body of each society, the text of the
 34056 contract has been furnished to all members of each society
 34057 either by mail or by publication in full in the official
 34058 publication of each society.

34059 (2) If the office ~~department~~ finds that the contract is in
 34060 conformity with the provisions of this section, that the
 34061 financial statements are correct, and that the consolidation or
 34062 merger is just and equitable to the members of each society, the
 34063 office ~~department~~ shall approve the contract and issue a
 34064 certificate to such effect. Upon such approval, the contract
 34065 shall be in full force and effect unless any society which is a



HB 1803

2003

34066 party to the contract is incorporated under the laws of any
34067 other state or territory. In such event the consolidation or
34068 merger shall not become effective unless and until it has been
34069 approved as provided by the laws of such state or territory and
34070 a certificate of such approval filed with the office ~~department~~
34071 or, if the laws of such state or territory contain no such
34072 provision, then the consolidation or merger shall not become
34073 effective unless and until it has been approved by the insurance
34074 supervisory official of such state or territory and a
34075 certificate of such approval filed with the office ~~department~~.

34076 Section 1085. Section 632.616, Florida Statutes, is
34077 amended to read:

34078 632.616 Conversion of fraternal benefit society into
34079 mutual life insurance company.--Any domestic fraternal benefit
34080 society may be converted and licensed as a mutual life insurance
34081 company by compliance with all the requirements of chapter 628.

34082 A plan of conversion shall be prepared in writing by the board
34083 of directors setting forth in full the terms and conditions of
34084 conversion. The affirmative vote of two-thirds of all members
34085 of the supreme governing body at a regular or special meeting
34086 shall be necessary for the approval of such plan. No such
34087 conversion shall take effect unless and until approved by the
34088 office ~~department~~, which may give such approval if it finds that
34089 the proposed change is in conformity with the requirements of
34090 law and not prejudicial to the certificateholders of the
34091 society.

34092 Section 1086. Subsection (6) of section 632.621, Florida
34093 Statutes, is amended to read:

34094 632.621 The benefit contract.--

34095 (6) No certificate shall be delivered or issued for



HB 1803

2003

34096 delivery in this state unless a copy of the form has been filed
 34097 with the office ~~department~~ in the manner provided for like
 34098 policies issued by life insurers in this state. Every life,
 34099 accident, health, or disability insurance certificate and every
 34100 annuity certificate issued on or after one year from June 24,
 34101 1986, shall meet the standard contract provision requirements
 34102 not inconsistent with this chapter for like policies issued by
 34103 life insurers in this state, except that a society may provide
 34104 for a grace period for payment of premiums of 1 full month in
 34105 its certificates. The certificate shall also contain a
 34106 provision stating the amount of premiums which are payable under
 34107 the certificate and a provision reciting or setting forth the
 34108 substance of any sections of the society's laws or rules in
 34109 force at the time of issuance of the certificate which, if
 34110 violated, will result in the termination or reduction of
 34111 benefits payable under the certificate. If the laws of the
 34112 society provide for expulsion or suspension of a member, the
 34113 certificate shall also contain a provision that any member so
 34114 expelled or suspended, except for nonpayment of a premium or
 34115 within the contestable period for material misrepresentation in
 34116 the application for membership or insurance, shall have the
 34117 privilege of maintaining the certificate in force by continuing
 34118 payment of the required premium.

34119 Section 1087. Subsection (2) of section 632.622, Florida
 34120 Statutes, is amended to read:

34121 632.622 Nonforfeiture benefits, cash surrender values,
 34122 certificate loans, and other options.--

34123 (2) For certificates issued on or after October 1, 1982,
 34124 reserves shall be computed utilizing the appropriate mortality
 34125 tables approved by the office ~~department~~ for policies containing



HB 1803

2003

34126 life insurance benefits made applicable to life insurers under
34127 s. 625.121.

34128 Section 1088. Subsection (3) of section 632.627, Florida
34129 Statutes, is amended to read:

34130 632.627 Valuation.--

34131 (3) The office ~~department~~ may, in its discretion, accept
34132 other standards for valuation if it finds that the reserves
34133 produced thereby will not be less in the aggregate than reserves
34134 computed in accordance with the minimum valuation standard
34135 herein prescribed. The office ~~department~~ may, in its
34136 discretion, vary the standards of mortality applicable to all
34137 benefit contracts on substandard lives or other extra hazardous
34138 lives by any society authorized to do business in this state.

34139 Section 1089. Section 632.628, Florida Statutes, is
34140 amended to read:

34141 632.628 Reports.--

34142 (1) Reports shall be filed in accordance with the
34143 provisions of this section. Every society transacting business
34144 in this state shall annually, on or before March 1, unless for
34145 cause shown such time has been extended by the office
34146 ~~department~~, file with the office ~~department~~ a true statement of
34147 its financial condition, transactions, and affairs for the
34148 preceding calendar year and pay a fee for filing same, as
34149 provided in s. 624.501(4). The statement shall be in general
34150 form and context as approved by the National Association of
34151 Insurance Commissioners for fraternal benefits societies and as
34152 supplemented by additional information required by the office
34153 ~~department~~.

34154 (2) As part of the annual statement herein required, each
34155 society shall, on or before March 1, file with the office



HB 1803

2003

34156 ~~department~~ a valuation of its certificates in force on December
 34157 31 last preceding, provided the office ~~department~~ may, in its
 34158 discretion for cause shown, extend the time for filing such
 34159 valuation for not more than 2 calendar months. Such valuation
 34160 shall be done in accordance with the standards specified in s.
 34161 632.627. Such valuation and underlying data shall be certified
 34162 by a qualified actuary or, at the expense of the society,
 34163 verified by the actuary of the insurance regulatory agency
 34164 ~~department of insurance~~ of the state of domicile of the society.

34165 (3) A society neglecting to file the annual statement in
 34166 the form and within the time provided by this section shall be
 34167 subject to an administrative fine in an amount up to \$100 for
 34168 each day during which such neglect continues, and, upon notice
 34169 by the office ~~department~~ to that effect, its authority to do
 34170 business in this state shall cease while such default continues.

34171 (4) The office ~~department~~ shall deposit all fees received
 34172 under this section to the credit of the Insurance ~~Commissioner's~~
 34173 Regulatory Trust Fund.

34174 Section 1090. Section 632.629, Florida Statutes, is
 34175 amended to read:

34176 632.629 Annual license.--

34177 (1) A fraternal benefit society may not transact business
 34178 in this state unless authorized therefor under a subsisting
 34179 license issued to the society by the office ~~department~~.

34180 (2) A license issued or renewed under this chapter shall
 34181 continue in force as long as the society is entitled thereto
 34182 under this chapter and until suspended or revoked by the office
 34183 ~~department~~ or terminated at the request of the society,
 34184 provided:

34185 (a) The society pays, prior to June 1, the annual license



HB 1803

2003

34186 tax provided for in s. 624.501(3); and

34187 (b) The office ~~department~~ is satisfied that the society
34188 has met the applicable requirements of the Florida Insurance
34189 Code.

34190 (3) If the license is not continued by the society, the
34191 license shall expire at midnight on May 31 following failure of
34192 the society to continue it. The office ~~department~~ shall
34193 promptly notify the society of the impending expiration of its
34194 license.

34195 (4) The office ~~department~~ may reinstate a license which
34196 the society has inadvertently permitted to expire, after the
34197 society has fully cured all its failures which resulted in the
34198 expiration and upon payment by the society of the fee for
34199 reinstatement in the amount provided in s. 624.501(1)(b).
34200 Otherwise, the society shall be granted another license only
34201 after filing application therefor and meeting all other
34202 requirements for an original license in this state.

34203 (5) A duly certified copy or duplicate of such license
34204 shall be prima facie evidence that the licensee is a fraternal
34205 benefit society within the meaning of this chapter.

34206 Section 1091. Section 632.631, Florida Statutes, is
34207 amended to read:

34208 632.631 Examination of societies; no adverse
34209 publications.--

34210 (1) The office ~~department~~, or any person it may appoint,
34211 may examine any domestic, foreign, or alien society transacting
34212 or applying for admission to transact business in this state in
34213 the same manner as authorized for examination of domestic,
34214 foreign, or alien insurers. Requirements of notice and an
34215 opportunity to respond before findings are made public as



HB 1803

2003

34216 provided in the laws regulating insurers shall also be
 34217 applicable to the examination of societies.

34218 (2) The expense of each examination and of each valuation,
 34219 including compensation and actual expense of examiners, shall be
 34220 paid by the society examined or whose certificates are valued,
 34221 upon statements furnished by the office ~~department~~.

34222 Section 1092. Section 632.632, Florida Statutes, is
 34223 amended to read:

34224 632.632 Foreign or alien society; admission.--No foreign
 34225 or alien society shall transact business in this state without a
 34226 license issued by the office ~~department~~. Any such society
 34227 desiring admission to this state shall have the qualifications
 34228 required of domestic societies organized under this chapter.
 34229 Any such society may be licensed to transact business in this
 34230 state upon filing with the office ~~department~~:

34231 (1) A duly certified copy of its articles of
 34232 incorporation;

34233 (2) A copy of its bylaws, certified by its secretary or
 34234 corresponding officer;

34235 (3) A power of attorney to the office ~~department~~;

34236 (4) A copy of its most recent annual statement certified
 34237 under oath by its president and secretary or corresponding
 34238 officers in a form prescribed by the commission ~~department~~;

34239 (5) A copy of an examination report conducted within the
 34240 most recent 3-year period by the supervising insurance official
 34241 of its home state or other state, territory, province, or
 34242 country, satisfactory to the office ~~department~~;

34243 (6) Certification from the proper official of its home
 34244 state, territory, province, or country that the society is
 34245 legally incorporated and licensed to transact business therein;



HB 1803

2003

34246 (7) Copies of its certificate forms; and

34247 (8) Such other information as the office ~~department~~ may
34248 deem necessary;

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34251 and upon a showing satisfactory to the office ~~department~~ that
34252 its assets are invested in accordance with the provisions of
34253 this chapter.

34254 Section 1093. Section 632.633, Florida Statutes, is
34255 amended to read:

34256 632.633 Additional grounds for suspension, revocation, or
34257 denial of certificate of authority; receivership; insolvency.--

34258 (1) In addition to the grounds set forth in s. 624.418,
34259 the office ~~department~~ may, in its discretion, suspend, revoke,
34260 or deny the certificate of authority of a society, if it finds
34261 that the society:

34262 (a) Has exceeded its powers;

34263 (b) Has failed to comply with any provision of this
34264 chapter;

34265 (c) Is not fulfilling its contracts in good faith;

34266 (d) Has a membership of less than 400 after an existence
34267 of 1 year or more; or

34268 (e) Is conducting business fraudulently or in a manner
34269 hazardous to its members, creditors, the public, or the
34270 business.

34271 (2) In addition to the grounds set forth in s. 626.9571,
34272 whenever the office ~~department~~ has reason to believe that any
34273 society is operating in violation of this chapter or of any
34274 provision of the Florida Insurance Code applicable to societies,
34275 the provisions of ss. 626.9571, 626.9581, 626.9591, and 626.9601



HB 1803

2003

34276 shall apply.

34277 (3) Any rehabilitation, liquidation, conservation, or
 34278 dissolution of a society shall be conducted under the
 34279 supervision of the department. The department and office shall
 34280 have all the powers with respect to such rehabilitation,
 34281 liquidation, conservation, or dissolution that are granted to
 34282 the department and office under the laws governing the
 34283 rehabilitation, liquidation, conservation, or dissolution of
 34284 life insurance companies.

34285 Section 1094. Subsection (5) of section 632.637, Florida
 34286 Statutes, is amended to read:

34287 632.637 Exemption of certain societies.--

34288 (5) The office ~~department~~ may require from any society or
 34289 association, by examination or otherwise, such information as
 34290 will enable the office ~~department~~ to determine whether such
 34291 society or association is exempt from the provisions of this
 34292 chapter.

34293 Section 1095. Subsection (1) of section 633.01, Florida
 34294 Statutes, is amended to read:

34295 633.01 State Fire Marshal; powers and duties; rules.--

34296 (1) The Chief Financial Officer is ~~head of the Department~~
 34297 ~~of Insurance shall be~~ designated as "State Fire Marshal." The
 34298 State Fire Marshal has authority to adopt rules pursuant to ss.
 34299 120.536(1) and 120.54 to implement the provisions of this
 34300 chapter conferring powers or duties upon the department. Rules
 34301 shall be in substantial conformity with generally accepted
 34302 standards of firesafety; shall take into consideration the
 34303 direct supervision of children in nonresidential child care
 34304 facilities; and shall balance and temper the need of the State
 34305 Fire Marshal to protect all Floridians from fire hazards with



HB 1803

2003

34306 the social and economic inconveniences that may be caused or
34307 created by the rules. The department shall adopt the Florida
34308 Fire Prevention Code and the Life Safety Code.

34309 Section 1096. Subsection (1) of section 633.022, Florida
34310 Statutes, is amended to read:

34311 633.022 Uniform firesafety standards.--The Legislature
34312 hereby determines that to protect the public health, safety, and
34313 welfare it is necessary to provide for firesafety standards
34314 governing the construction and utilization of certain buildings
34315 and structures. The Legislature further determines that certain
34316 buildings or structures, due to their specialized use or to the
34317 special characteristics of the person utilizing or occupying
34318 these buildings or structures, should be subject to firesafety
34319 standards reflecting these special needs as may be appropriate.

34320 (1) The department ~~of Insurance~~ shall establish uniform
34321 firesafety standards that apply to:

34322 (a) All new, existing, and proposed state-owned and state-
34323 leased buildings.

34324 (b) All new, existing, and proposed hospitals, nursing
34325 homes, assisted living facilities, adult family-care homes,
34326 correctional facilities, public schools, transient public
34327 lodging establishments, public food service establishments,
34328 elevators, migrant labor camps, mobile home parks, lodging
34329 parks, recreational vehicle parks, recreational camps,
34330 residential and nonresidential child care facilities, facilities
34331 for the developmentally disabled, motion picture and television
34332 special effects productions, and self-service gasoline stations,
34333 of which standards the State Fire Marshal is the final
34334 administrative interpreting authority.

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HB 1803

2003

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In the event there is a dispute between the owners of the buildings specified in paragraph (b) and a local authority requiring a more stringent uniform firesafety standard for sprinkler systems, the State Fire Marshal shall be the final administrative interpreting authority and the State Fire Marshal's interpretation regarding the uniform firesafety standards shall be considered final agency action.

Section 1097. Subsection (4) of section 633.025, Florida Statutes, is amended to read:

633.025 Minimum firesafety standards.--

(4) Such codes shall be minimum codes and a municipality, county, or special district with firesafety responsibilities may adopt more stringent firesafety standards, subject to the requirements of this subsection. Such county, municipality, or special district may establish alternative requirements to those requirements which are required under the minimum firesafety standards on a case-by-case basis, in order to meet special situations arising from historic, geographic, or unusual conditions, if the alternative requirements result in a level of protection to life, safety, or property equal to or greater than the applicable minimum firesafety standards. For the purpose of this subsection, the term "historic" means that the building or structure is listed on the National Register of Historic Places of the United States Department of the Interior.

(a) The local governing body shall determine, following a public hearing which has been advertised in a newspaper of general circulation at least 10 days before the hearing, if there is a need to strengthen the requirements of the minimum firesafety code adopted by such governing body. The



HB 1803

2003

34366 determination must be based upon a review of local conditions by
34367 the local governing body, which review demonstrates that local
34368 conditions justify more stringent requirements than those
34369 specified in the minimum firesafety code for the protection of
34370 life and property or justify requirements that meet special
34371 situations arising from historic, geographic, or unusual
34372 conditions.

34373 (b) Such additional requirements shall not be
34374 discriminatory as to materials, products, or construction
34375 techniques of demonstrated capabilities.

34376 (c) Paragraphs (a) and (b) apply solely to the local
34377 enforcing agency's adoption of requirements more stringent than
34378 those specified in the Florida Fire Prevention Code and the Life
34379 Safety Code that have the effect of amending building
34380 construction standards. Upon request, the enforcing agency shall
34381 provide a person making application for a building permit, or
34382 any state agency or board with construction-related regulation
34383 responsibilities, a listing of all such requirements and codes.

34384 (d) A local government which adopts amendments to the
34385 minimum firesafety code must provide a procedure by which the
34386 validity of such amendments may be challenged by any
34387 substantially affected party to test the amendment's compliance
34388 with the provisions of this section.

34389 1. Unless the local government agrees to stay enforcement
34390 of the amendment, or other good cause is shown, the challenging
34391 party shall be entitled to a hearing on the challenge within 45
34392 days.

34393 2. For purposes of such challenge, the burden of proof
34394 shall be on the challenging party, but the amendment shall not
34395 be presumed to be valid or invalid.



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This subsection gives local government the authority to establish firesafety codes that exceed the minimum firesafety codes and standards adopted by the State Fire Marshal. The Legislature intends that local government give proper public notice and hold public hearings before adopting more stringent firesafety codes and standards. A substantially affected person may appeal, to the department ~~of Insurance~~, the local government's resolution of the challenge, and the department shall determine if the amendment complies with this section. Actions of the department are subject to judicial review pursuant to s. 120.68. The department shall consider reports of the Florida Building Commission, pursuant to part VII of chapter 553, when evaluating building code enforcement.

Section 1098. Paragraph (a) of subsection (1) of section 633.052, Florida Statutes, is amended to read:

633.052 Ordinances relating to firesafety; definitions; penalties.--

(1) As used in this section:

(a) A "firesafety inspector" is an individual certified by the Division of State Fire Marshal ~~of the Department of Insurance~~, officially assigned the duties of conducting firesafety inspections of buildings and facilities on a recurring or regular basis, investigating civil infractions relating to firesafety, and issuing citations pursuant to this section on behalf of the state or any county, municipality, or special district with firesafety responsibilities.

Section 1099. Subsection (7) of section 633.061, Florida Statutes, is amended to read:



HB 1803

2003

34426 633.061 Fire suppression equipment; license to install or
34427 maintain.--

34428 (7) The fees collected for any such licenses and permits
34429 and the filing fees for license and permit examination are
34430 hereby appropriated for the use of the State Fire Marshal in the
34431 administration of this chapter and shall be deposited in the
34432 Insurance ~~Commissioner's~~ Regulatory Trust Fund.

34433 Section 1100. Subsections (4) and (7) of section 633.081,
34434 Florida Statutes, are amended to read:

34435 633.081 Inspection of buildings and equipment; orders;
34436 firesafety inspection training requirements; certification;
34437 disciplinary action.--The State Fire Marshal and her or his
34438 agents shall, at any reasonable hour, when the department has
34439 reasonable cause to believe that a violation of this chapter or
34440 s. 509.215, or a rule promulgated thereunder, or a minimum
34441 firesafety code adopted by a local authority, may exist, inspect
34442 any and all buildings and structures which are subject to the
34443 requirements of this chapter or s. 509.215 and rules promulgated
34444 thereunder. The authority to inspect shall extend to all
34445 equipment, vehicles, and chemicals which are located within the
34446 premises of any such building or structure.

34447 (4) A firefighter certified pursuant to s. 633.35 may
34448 conduct firesafety inspections, under the supervision of a
34449 certified firesafety inspector, while on duty as a member of a
34450 fire department company conducting inservice firesafety
34451 inspections without being certified as a firesafety inspector,
34452 if such firefighter has satisfactorily completed an inservice
34453 fire department company inspector training program of at least
34454 24 hours' duration as provided by rule of the department ~~of~~
34455 ~~Insurance~~.



HB 1803

2003

34456 (7) The department of ~~Insurance~~ shall provide by rule for
 34457 the certification of firesafety inspectors.

34458 Section 1101. Section 633.111, Florida Statutes, is
 34459 amended to read:

34460 633.111 State Fire Marshal to keep records of fires;
 34461 reports of agents.--The State Fire Marshal shall keep in her or
 34462 his office a record of all fires occurring in this state upon
 34463 which she or he had caused an investigation to be made and all
 34464 facts concerning the same. These records, obtained or prepared
 34465 by the State Fire Marshal pursuant to her or his investigation,
 34466 include documents, papers, letters, maps, diagrams, tapes,
 34467 photographs, films, sound recordings, and evidence. These
 34468 records are confidential and exempt from the provisions of s.
 34469 119.07(1) until the investigation is completed or ceases to be
 34470 active. For purposes of this section, an investigation is
 34471 considered "active" while such investigation is being conducted
 34472 by the department with a reasonable, good faith belief that it
 34473 may lead to the filing of administrative, civil, or criminal
 34474 proceedings. An investigation does not cease to be active if the
 34475 department is proceeding with reasonable dispatch, and there is
 34476 a good faith belief that action may be initiated by the
 34477 department or other administrative or law enforcement agency.
 34478 Further, these documents, papers, letters, maps, diagrams,
 34479 tapes, photographs, films, sound recordings, and evidence
 34480 relative to the subject of an investigation shall not be subject
 34481 to subpoena until the investigation is completed or ceases to be
 34482 active, unless the State Fire Marshal consents. These records
 34483 shall be made daily from the reports furnished the State Fire
 34484 Marshal by her or his agents or others. Whenever the State Fire
 34485 Marshal releases an investigative report, any person requesting



HB 1803

2003

34486 a copy of the report shall pay in advance, and the State Fire
34487 Marshal shall collect in advance, notwithstanding the provisions
34488 of s. 624.501(19)(a) and (b), a fee of \$10 for the copy of the
34489 report, which fee shall be deposited into the Insurance
34490 ~~Commissioner's~~ Regulatory Trust Fund. The State Fire Marshal may
34491 release the report without charge to any state attorney or to
34492 any law enforcement agency or fire department assisting in the
34493 investigation.

34494 Section 1102. Subsection (1) of section 633.161, Florida
34495 Statutes, is amended to read:

34496 633.161 Violations; orders to cease and desist, correct
34497 hazardous conditions, preclude occupancy, or vacate;
34498 enforcement; penalties.--

34499 (1) If it is determined by the department ~~of Insurance~~
34500 that a violation specified in this subsection exists, the State
34501 Fire Marshal or her or his deputy may issue and deliver to the
34502 person committing the violation an order to cease and desist
34503 from such violation, to correct any hazardous condition, to
34504 preclude occupancy of the affected building or structure, or to
34505 vacate the premises of the affected building or structure. Such
34506 violations are:

34507 (a) Except as set forth in paragraph (b), a violation of
34508 any provision of this chapter, of any rule adopted pursuant
34509 thereto, of any applicable uniform firesafety standard adopted
34510 pursuant to s. 633.022 which is not adequately addressed by any
34511 alternative requirements adopted on a local level, or of any
34512 minimum firesafety standard adopted pursuant to s. 394.879.

34513 (b) A substantial violation of an applicable minimum
34514 firesafety standard adopted pursuant to s. 633.025 which is not
34515 reasonably addressed by any alternative requirement imposed at



HB 1803

2003

34516 the local level, or an unreasonable interpretation of an
34517 applicable minimum firesafety standard, and which violation or
34518 interpretation clearly constitutes a danger to lifesafety.

34519 (c) A building or structure which is in a dilapidated
34520 condition and as a result thereof creates a danger to life,
34521 safety, or property.

34522 (d) A building or structure which contains explosive
34523 matter or flammable liquids or gases constituting a danger to
34524 life, safety, or property.

34525 Section 1103. Subsection (5) of section 633.162, Florida
34526 Statutes, is amended to read:

34527 633.162 Fire suppression system contractors; disciplinary
34528 action.--

34529 (5) In addition, the department ~~of Insurance~~ shall not
34530 issue a new license or permit if it finds that the circumstance
34531 or circumstances for which the license or permit was previously
34532 revoked or suspended still exist or are likely to recur.

34533 Section 1104. Section 633.30, Florida Statutes, is amended
34534 to read:

34535 633.30 Standards for firefighting; definitions.--As used
34536 in this chapter, the term:

34537 (1) "Firefighter" means any person initially employed as a
34538 full-time professional firefighter by any employing agency, as
34539 defined herein, whose primary responsibility is the prevention
34540 and extinguishment of fires, the protection and saving of life
34541 and property, and the enforcement of municipal, county, and
34542 state fire prevention codes, as well as of any law pertaining to
34543 the prevention and control of fires.

34544 (2) "Employing agency" means any municipality or county,
34545 the state, or any political subdivision of the state, including



HB 1803

2003

34546 authorities and special districts, employing firefighters as
34547 defined in subsection (1).

34548 (3) "Department" means the Department of Financial
34549 Services Insurance.

34550 (4) "Council" means the Firefighters Employment,
34551 Standards, and Training Council.

34552 (5) "Division" means the Division of State Fire Marshal of
34553 the Department of Financial Services Insurance.

34554 Section 1105. Subsection (1) of section 633.31, Florida
34555 Statutes, is amended to read:

34556 633.31 Firefighters Employment, Standards, and Training
34557 Council.--

34558 (1) There is created within the department of ~~Insurance~~ a
34559 Firefighters Employment, Standards, and Training Council of 13
34560 members. Two members shall be fire chiefs appointed by the
34561 Florida Fire Chiefs Association, two members shall be
34562 firefighters who are not officers, appointed by the Florida
34563 Professional Firefighters Association, two members shall be
34564 firefighter officers who are not fire chiefs, appointed by the
34565 State Fire Marshal, one member appointed by the Florida League
34566 of Cities, one member appointed by the Florida Association of
34567 Counties, one member appointed by the Florida Association of
34568 Special Districts, one member appointed by the Florida Fire
34569 Marshal's Association, and one member appointed by the State
34570 Fire Marshal, and one member shall be a director or instructor
34571 of a state-certified firefighting training facility appointed by
34572 the State Fire Marshal. To be eligible for appointment as a fire
34573 chief member, firefighter officer member, firefighter member, or
34574 a director or instructor of a state-certified firefighting
34575 facility, a person shall have had at least 4 years' experience



HB 1803

2003

34576 in the firefighting profession. The remaining member, who shall
 34577 be appointed by the State Fire Marshal, shall not be a member or
 34578 representative of the firefighting profession or of any local
 34579 government. Members shall serve only as long as they continue to
 34580 meet the criteria under which they were appointed, or unless a
 34581 member has failed to appear at three consecutive and properly
 34582 noticed meetings unless excused by the chair.

34583 Section 1106. Section 633.353, Florida Statutes, is
 34584 amended to read:

34585 633.353 Falsification of qualifications.--Any person who
 34586 willfully and knowingly falsifies the qualifications of a new
 34587 employee to the Bureau of Fire Standards and Training of the
 34588 ~~division of State Fire Marshal of the Department of Insurance~~ is
 34589 guilty of a misdemeanor of the second degree, punishable as
 34590 provided in s. 775.082 or s. 775.083.

34591 Section 1107. Subsection (1) of section 633.382, Florida
 34592 Statutes, is amended to read:

34593 633.382 Firefighters; supplemental compensation.--

34594 (1) DEFINITIONS.--As used in this section, the term:

34595 ~~(a) "Division" means the Division of State Fire Marshal of~~
 34596 ~~the Department of Insurance created and existing under the~~
 34597 ~~provisions of this chapter.~~

34598 (a)~~(b)~~ "Employing agency" means any municipality or any
 34599 county, the state, or any political subdivision of the state,
 34600 including authorities and special districts employing
 34601 firefighters.

34602 (b)~~(e)~~ "Firefighter" means any person who meets the
 34603 definition of the term "firefighter" in s. 633.30(1) who is
 34604 certified in compliance with s. 633.35 and who is employed
 34605 solely within the fire department of the employing agency or is



HB 1803

2003

34606 employed by the division.

34607 Section 1108. Section 633.43, Florida Statutes, is amended
34608 to read:

34609 633.43 Florida State Fire College established.--There is
34610 hereby established a state institution to be known as the
34611 Florida State Fire College, to be located at or near Ocala,
34612 Marion County. The institution shall be operated by the
34613 Division of State Fire Marshal of the department of ~~Insurance~~.

34614 Section 1109. Subsections (1), (2), (3), (7), (8), (9),
34615 and (10) of section 633.445, Florida Statutes, are amended to
34616 read:

34617 633.445 State Fire Marshal Scholarship Grant Program.--

34618 (1) All payments, gifts, or grants received pursuant to
34619 this section shall be deposited in the State Treasury to the
34620 credit of the Insurance ~~Commissioner's~~ Regulatory Trust Fund for
34621 the State Fire Marshal Scholarship Grant Program. Such funds
34622 shall provide, from grants to the state from moneys raised from
34623 public and private sources, scholarships for qualified
34624 applicants to the Florida State Fire College as created by s.
34625 633.43.

34626 (2) The Chief Financial Officer ~~Comptroller~~ shall
34627 authorize expenditures from the Insurance ~~Commissioner's~~
34628 Regulatory Trust Fund upon receipt of vouchers approved by the
34629 division State Fire Marshal. All moneys collected from public
34630 and private sources pursuant to this section shall be deposited
34631 into the trust fund. Any balance in the trust fund at the end
34632 of any fiscal year shall remain therein and shall be available
34633 for carrying out the purposes of the fund in the ensuing year.

34634 (3) All funds deposited into the Insurance ~~Commissioner's~~
34635 Regulatory Trust Fund shall be invested pursuant to s. 17.61



HB 1803

2003

34636 ~~18.125.~~ Interest income accruing to moneys so invested shall
 34637 increase the total funds available for the purposes for which
 34638 the trust fund is created.

34639 (7) The criteria and procedures for establishing standards
 34640 of eligibility shall be recommended by the council to the
 34641 department ~~of Insurance~~. The council shall recommend to the
 34642 department ~~of Insurance~~ a rating system upon which to base the
 34643 approval of scholarship grants. However, to be eligible to
 34644 receive a scholarship pursuant to this section, an applicant
 34645 must:

34646 (a) Be a full-time employee or volunteer of a local
 34647 municipal, county, regional or district firefighter unit;

34648 (b) Have graduated from high school, have earned an
 34649 equivalency diploma issued by the Department of Education
 34650 pursuant to s. 1003.435, or have earned an equivalency diploma
 34651 issued by the United States Armed Forces Institute;

34652 (c) Be accepted for full-time enrollment, with the intent
 34653 to maintain such enrollment at the Florida State Fire College;

34654 (d) Have the firefighter unit by whom the applicant is
 34655 employed or for which the applicant is a volunteer, recommend
 34656 her or him and certify that, because of financial need, the
 34657 scholarship is necessary for her or him to attend the State Fire
 34658 College; and

34659 (e) Agree that she or he intends to return to duty with
 34660 the firefighter unit by whom she or he was recommended, or, by
 34661 agreement with such unit, that she or he will remain in some
 34662 capacity relating to the firefighting profession for a period of
 34663 at least 1 year.

34664 (8) The department ~~of Insurance~~ may adopt rules to
 34665 implement this section, including rules detailing the



HB 1803

2003

34666 eligibility standards and an approval rating system which are
34667 based on financial need, need for additional certified
34668 firefighters from the applicant's community, and the applicant's
34669 employment record.

34670 (9) After selection and approval of an applicant for a
34671 grant by the council, payment in the applicant's name for
34672 scholarship funds shall be transmitted from the Insurance
34673 ~~Commissioner's~~ Regulatory Trust Fund by the Chief Financial
34674 Officer ~~Comptroller~~ upon receipt of vouchers authorized by the
34675 division ~~State Fire Marshal~~. If a recipient terminates her or
34676 his enrollment during the course of her or his curriculum at the
34677 State Fire College, unless excused by the council and allowed to
34678 resume training at a later time, any unused portion of the
34679 scholarship funds shall be refunded to the trust fund. A
34680 recipient who terminates her or his enrollment is not liable for
34681 any portion of a scholarship.

34682 (10) The council may accept payments, gifts, and grants of
34683 money from any federal agency, private agency, county, city,
34684 town, corporation, partnership, or individual for deposit in the
34685 Insurance ~~Commissioner's~~ Regulatory Trust Fund to implement this
34686 section and for authorized expenses incurred by the council in
34687 performing its duties.

34688 Section 1110. Subsection (1) of section 633.45, Florida
34689 Statutes, is amended to read:

34690 633.45 Division of State Fire Marshal; powers, duties.--

34691 (1) ~~The division of State Fire Marshal of the Department~~
34692 ~~of Insurance~~ shall:

34693 (a) Establish uniform minimum standards for the employment
34694 and training of firefighters.

34695 (b) Establish minimum curriculum requirements for schools



HB 1803

2003

34696 operated by or for any employing agency for the specific purpose
 34697 of training firefighter recruits or firefighters.

34698 (c) Approve institutions, instructors, and facilities for
 34699 school operation by or for any employing agency for the specific
 34700 purpose of training firefighters and firefighter recruits.

34701 (d) Specify, by rule, standards for the approval, denial
 34702 of approval, probation, and revocation of approval of
 34703 institutions, instructors, and facilities for training
 34704 firefighters and firefighter recruits; including a rule that an
 34705 instructor must complete 40 hours of continuing education every
 34706 3 years in order to maintain the approval of the department.

34707 (e) Issue certificates of competency to persons who, by
 34708 reason of experience and completion of basic inservice training,
 34709 advanced education, or specialized training, are especially
 34710 qualified for particular aspects or classes of firefighter
 34711 duties.

34712 (f) Establish minimum training qualifications for persons
 34713 serving as firesafety coordinators for their respective
 34714 departments of state government and certify all persons who
 34715 satisfy such qualifications.

34716 (g) Establish a uniform lesson plan to be followed by
 34717 firesafety instructors in the training of state employees in
 34718 firesafety and emergency evacuation procedures.

34719 (h) Have complete jurisdiction over, and complete
 34720 management and control of, the Florida State Fire College and be
 34721 invested with full power and authority to make all rules and
 34722 regulations necessary for the governance of said institution.

34723 (i) Appoint a superintendent of the Florida State Fire
 34724 College and such other instructors, experimental helpers, and
 34725 laborers as may be necessary and remove the same as in its



HB 1803

2003

34726 judgment and discretion may be best, fix their compensation, and
 34727 provide for their payment.

34728 (j) Have full management, possession, and control of the
 34729 lands, buildings, structures, and property belonging to the
 34730 Florida State Fire College.

34731 (k) Provide for the courses of study and curriculum of the
 34732 Florida State Fire College.

34733 (l) Make rules and regulations for the admission of
 34734 trainees to the Florida State Fire College.

34735 (m) Visit and inspect the Florida State Fire College and
 34736 every department thereof and provide for the proper keeping of
 34737 accounts and records thereof.

34738 (n) Make and prepare all necessary budgets of expenditures
 34739 for the enlargement, proper furnishing, maintenance, support,
 34740 and conduct of the Florida State Fire College.

34741 (o) Select and purchase all property, furniture, fixtures,
 34742 and paraphernalia necessary for the Florida State Fire College.

34743 (p) Build, construct, change, enlarge, repair, and
 34744 maintain any and all buildings or structures of the Florida
 34745 State Fire College that may at any time be necessary for said
 34746 institution and purchase and acquire all lands and property
 34747 necessary for same, of every nature and description whatsoever.

34748 (q) Care for and maintain the Florida State Fire College
 34749 and do and perform every other matter or thing requisite to the
 34750 proper management, maintenance, support, and control of said
 34751 institution, necessary or requisite to carry out fully the
 34752 purpose of this act and for raising it to, and maintaining it
 34753 at, the proper efficiency and standard as required in and by the
 34754 provisions of ss. 633.43-633.49.

34755 Section 1111. Section 633.46, Florida Statutes, is amended



HB 1803

2003

34756 to read:

34757 633.46 Fees.--The division may fix and collect admission
 34758 fees and other fees which it deems necessary to be charged for
 34759 training given. All fees so collected shall be deposited in the
 34760 Insurance ~~Commissioner's~~ Regulatory Trust Fund.

34761 Section 1112. Section 633.461, Florida Statutes, is
 34762 amended to read:

34763 633.461 Use of Insurance ~~Commissioner's~~ Regulatory Trust
 34764 Fund.--The funds received from the Insurance ~~Commissioner's~~
 34765 Regulatory Trust Fund shall be used by the staff of the Florida
 34766 State Fire College to provide all necessary services, training,
 34767 equipment, and supplies to carry out the college's
 34768 responsibilities, including, but not limited to, the State Fire
 34769 Marshal Scholarship Grant Program and the procurement of
 34770 training films, videotapes, audiovisual equipment, and other
 34771 useful information on fire, firefighting, and fire prevention,
 34772 including public fire service information packages.

34773 Section 1113. Section 633.47, Florida Statutes, is amended
 34774 to read:

34775 633.47 Procedure for making expenditures.--No moneys shall
 34776 be spent for and on behalf of the Florida State Fire College
 34777 except upon a written voucher drawn by the division, stating the
 34778 nature of the expenditures and the person to whom the same shall
 34779 be made payable, which voucher shall be submitted to the Chief
 34780 Financial Officer ~~Comptroller~~ and audited for approval by her or
 34781 him; upon such approval, the Chief Financial Officer ~~Comptroller~~
 34782 shall draw a warrant ~~upon the Treasurer~~ for the payment thereof,
 34783 filing the original voucher in her or his office.

34784 Section 1114. Section 633.50, Florida Statutes, is amended
 34785 to read:



HB 1803

2003

34786 633.50 Division powers and duties; Florida State Fire
34787 College.--

34788 (1) The division ~~of State Fire Marshal of the Department~~
34789 ~~of Insurance~~, in performing its duties related to the Florida
34790 State Fire College, specified in ss. 633.43-633.49, shall:

34791 (a) Enter into agreements with public or private school
34792 districts, community colleges, junior colleges, or universities
34793 to carry out its duties and responsibilities.

34794 (b) Review and approve budget requests for the fire
34795 college educational program.

34796 (c) Prepare the legislative budget request for the Florida
34797 State Fire College education program. The superintendent is
34798 responsible for all expenditures pursuant to appropriations.

34799 (d) Implement procedures to obtain appropriate entitlement
34800 funds from federal and state grants to supplement the annual
34801 legislative appropriation. Such funds must be used expressly for
34802 the fire college educational programs.

34803 (e) Develop a staffing and funding formula for the Florida
34804 State Fire College. The formula shall include differential
34805 funding levels for various types of programs, shall be based on
34806 the number of full-time equivalent students and information
34807 obtained from scheduled attendance counts taken the first day of
34808 each program, and shall provide the basis for the legislative
34809 budget request. As used in this section, a full-time equivalent
34810 student is equal to a minimum of 900 hours in a technical
34811 certificate program and 400 hours in a degree-seeking program.
34812 The funding formula shall be as prescribed pursuant to s.
34813 1011.62, shall include procedures to document daily attendance,
34814 and shall require that attendance records be retained for audit
34815 purposes.



HB 1803

2003

34816 (2) Funds generated by the formula per full-time
 34817 equivalent student may not exceed the level of state funding per
 34818 full-time equivalent student generated through the Florida
 34819 Education Finance Program or the State Community College Program
 34820 Fund for students enrolled in comparable education programs
 34821 provided by public school districts and community colleges.
 34822 Funds appropriated for education and operational costs shall be
 34823 deposited in the Insurance ~~Commissioner's~~ Regulatory Trust Fund
 34824 to be used solely for purposes specified in s. 633.461 and may
 34825 not be transferred to any other budget entity for purposes other
 34826 than education.

34827 Section 1115. Subsection (2) of section 633.524, Florida
 34828 Statutes, is amended to read:

34829 633.524 Certificate fees; use and deposit of collected
 34830 funds.--

34831 (2) All moneys collected by the State Fire Marshal
 34832 pursuant to this chapter are hereby appropriated for the use of
 34833 the State Fire Marshal in the administration of this chapter and
 34834 shall be deposited in the Insurance ~~Commissioner's~~ Regulatory
 34835 Trust Fund.

34836 Section 1116. Section 633.802, Florida Statutes, is
 34837 amended to read:

34838 633.802 Definitions.--Unless the context clearly requires
 34839 otherwise, the following definitions shall apply to ss. 633.801-
 34840 633.821:

34841 ~~(1) "Department" means the Department of Insurance.~~

34842 ~~(2) "Division" means the Division of State Fire Marshal of~~
 34843 ~~the department.~~

34844 (1)(3) "Firefighter employee" means any person engaged in
 34845 any employment, public or private, as a firefighter under any



HB 1803

2003

34846 appointment or contract of hire or apprenticeship, express or
34847 implied, oral or written, whether lawfully or unlawfully
34848 employed, responding to or assisting with fire or medical
34849 emergencies, whether or not the firefighter is on duty, except
34850 those appointed under s. 590.02(1)(d).

34851 ~~(2)~~(4) "Firefighter employer" means the state and all
34852 political subdivisions of this state, all public and quasi-
34853 public corporations in this state, and every person carrying on
34854 any employment for this state, political subdivisions of this
34855 state, and public and quasi-public corporations in this state
34856 which employs firefighters, except those appointed under s.
34857 590.02(1)(d).

34858 ~~(3)~~(5) "Firefighter employment" or "employment" means any
34859 service performed by a firefighter employee for the firefighter
34860 employer.

34861 ~~(4)~~(6) "Firefighter place of employment" or "place of
34862 employment" means the physical location at which the firefighter
34863 is employed.

34864 Section 1117. Section 633.811, Florida Statutes, is
34865 amended to read:

34866 633.811 Firefighter employer penalties.--If any
34867 firefighter employer violates or fails or refuses to comply with
34868 ss. 633.801-633.821, or with any rule adopted by the division
34869 under such sections in accordance with chapter 120 for the
34870 prevention of injuries, accidents, or occupational diseases or
34871 with any lawful order of the division in connection with ss.
34872 633.801-633.821, or fails or refuses to furnish or adopt any
34873 safety device, safeguard, or other means of protection
34874 prescribed by division rule under ss. 633.801-633.821 for the
34875 prevention of accidents or occupational diseases, the division



HB 1803

2003

34876 may assess against the firefighter employer a civil penalty of
 34877 not less than \$100 nor more than \$5,000 for each day the
 34878 violation, omission, failure, or refusal continues after the
 34879 firefighter employer has been given written notice of such
 34880 violation, omission, failure, or refusal. The total penalty for
 34881 each violation shall not exceed \$50,000. The division shall
 34882 adopt rules requiring penalties commensurate with the frequency
 34883 or severity of safety violations. A hearing shall be held in
 34884 the county in which the violation, omission, failure, or refusal
 34885 is alleged to have occurred, unless otherwise agreed to by the
 34886 firefighter employer and authorized by the division. All
 34887 penalties assessed and collected under this section shall be
 34888 deposited in the Insurance ~~Commissioner's~~ Regulatory Trust Fund.

34889 Section 1118. Section 633.814, Florida Statutes, is
 34890 amended to read:

34891 633.814 Expenses of administration.--The amounts that are
 34892 needed to administer ss. 633.801-633.821 shall be disbursed from
 34893 the Insurance ~~Commissioner's~~ Regulatory Trust Fund.

34894 Section 1119. Section 634.011, Florida Statutes, is
 34895 amended to read:

34896 634.011 Definitions.--As used in this part, the term:

34897 (1) "Acquisition cost" means all costs specifically
 34898 associated with acquiring new business, including, but not
 34899 limited to, underwriting costs, commissions, contingent fees,
 34900 and cost of sales material.

34901 (2) "Additive product" means any fuel supplement, oil
 34902 supplement, or any other supplement product added to a motor
 34903 vehicle for the purpose of increasing or enhancing the
 34904 performance or improving the longevity of such motor vehicle.

34905 (3) "Affiliate" means any entity which exercises control



HB 1803

2003

34906 over or is controlled by the motor vehicle service agreement
 34907 company or insurer, directly or indirectly, through:
 34908 (a) Equity ownership of voting securities;
 34909 (b) Common managerial control; or
 34910 (c) Collusive participation by the management of the motor
 34911 vehicle service agreement company or insurer and affiliate in
 34912 the management of the motor vehicle service agreement company or
 34913 insurer or the affiliate.

34914 ~~(4) "Department" means the Department of Insurance.~~

34915 (4)~~(5)~~ "Gross premium written" means the total amount of
 34916 premiums paid by the agreement holder, inclusive of commissions,
 34917 for those agreements which are in force.

34918 (5)~~(6)~~ "Insurer" means any property or casualty insurer
 34919 duly authorized to transact such business in this state.

34920 (6)~~(7)~~ "Motor vehicle" means:

34921 (a) A self-propelled device operated solely or primarily
 34922 upon roadways to transport people or property, or the component
 34923 part of such a self-propelled device, except such term does not
 34924 include any self-propelled vehicle, or component part of such
 34925 vehicle, which:

34926 1. Has a gross vehicle weight rating of 10,000 pounds or
 34927 more, and is not a recreational vehicle as defined by s.

34928 320.01(1)(b);

34929 2. Is designed to transport more than 10 passengers,
 34930 including the driver; or

34931 3. Is used in the transportation of materials found to be
 34932 hazardous for the purposes of the Hazardous Materials
 34933 Transportation Act, as amended, 49 U.S.C. ss. 1801 et seq.; or

34934 (b) A self-propelled device operated solely or primarily
 34935 upon water for noncommercial, personal use, the engine of such a



HB 1803

2003

34936 vehicle, or a trailer or other device used to transport such
 34937 vehicle or device.

34938 (7)~~(8)~~ "Motor vehicle service agreement" or "service
 34939 agreement" means any contract or agreement indemnifying the
 34940 service agreement holder for the motor vehicle listed on the
 34941 service agreement and arising out of the ownership, operation,
 34942 and use of the motor vehicle against loss caused by failure of
 34943 any mechanical or other component part, or any mechanical or
 34944 other component part that does not function as it was originally
 34945 intended; however, nothing in this part shall prohibit or affect
 34946 the giving, free of charge, of the usual performance guarantees
 34947 by manufacturers or dealers in connection with the sale of motor
 34948 vehicles. Transactions exempt under s. 624.125 are expressly
 34949 excluded from this definition and are exempt from the provisions
 34950 of this part. The term "motor vehicle service agreement"
 34951 includes any contract or agreement that provides:

34952 (a) For the coverage or protection defined in this
 34953 subsection and which is issued or provided in conjunction with
 34954 an additive product applied to the motor vehicle that is the
 34955 subject of such contract or agreement; or

34956 (b) For payment of vehicle protection expenses.

34957 1.a. "Vehicle protection expenses" means expenses incurred
 34958 by the service agreement holder for loss or damage to a covered
 34959 vehicle, including, but not limited to, applicable deductibles
 34960 under a motor vehicle insurance policy; temporary vehicle rental
 34961 expenses; expenses for a replacement vehicle that is at least
 34962 the same year, make, and model of the stolen motor vehicle;
 34963 sales taxes or registration fees for a replacement vehicle that
 34964 is at least the same year, make, and model of the stolen
 34965 vehicle; or other incidental expenses specified in the



HB 1803

2003

34966 agreement.

34967 b. "Vehicle protection product" means a product or system
34968 installed or applied to a motor vehicle or designed to prevent
34969 the theft of the motor vehicle or assist in the recovery of the
34970 stolen motor vehicle.

34971 2. Vehicle protection expenses shall be payable in the
34972 event of loss or damage to the vehicle as a result of the
34973 failure of the vehicle protection product to prevent the theft
34974 of the motor vehicle or to assist in the recovery of the stolen
34975 motor vehicle. Vehicle protection expenses covered under the
34976 agreement shall be clearly stated in the service agreement form.

34977 3. Motor vehicle service agreements providing for the
34978 payment of vehicle protection expenses shall:

34979 a. Reimburse a service agreement holder for the following
34980 expenses, at a minimum: deductibles applicable to comprehensive
34981 coverage under the service agreement holder's motor vehicle
34982 insurance policy; temporary vehicle rental expenses; sales taxes
34983 and registration fees on a replacement vehicle that is at least
34984 the same year, make, and model of the stolen motor vehicle; and
34985 the difference between the benefits paid to the service
34986 agreement holder for the stolen vehicle under the service
34987 agreement holder's comprehensive coverage and the actual cost of
34988 a replacement vehicle that is at least the same year, make, and
34989 model of the stolen motor vehicle; or

34990 b. Pay a preestablished flat amount to the service
34991 agreement holder.

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34994 Payments shall not duplicate any benefits or expenses paid to
34995 the service agreement holder by the insurer providing



HB 1803

2003

34996 comprehensive coverage under a motor vehicle insurance policy
 34997 covering the stolen motor vehicle.

34998 (8)~~(9)~~ "Motor vehicle service agreement company" or
 34999 "service agreement company" means any corporation, sole
 35000 proprietorship, or partnership (other than an authorized
 35001 insurer) issuing motor vehicle service agreements.

35002 (9)~~(10)~~ "Net assets" means the amount by which the total
 35003 statutory assets exceed total liability, except that assets
 35004 pledged to secure debts not reflected on the books of the
 35005 service agreement company shall not be included in net assets.

35006 (10)~~(11)~~ "Person" shall have the same meaning as defined
 35007 in s. 624.04.

35008 (11)~~(12)~~ "Premium" means the total amount paid by the
 35009 agreement holder. No "assessment" or any "membership fee,"
 35010 "policy fee," "survey fee," "inspection fee," "service fee,"
 35011 "finance fee," or similar fee shall be charged by the service
 35012 agreement company.

35013 (12)~~(13)~~ "Rate" means the unit charge by which the measure
 35014 of exposure in a service agreement is multiplied to determine
 35015 the premium.

35016 (13)~~(14)~~ "Salesperson" means any dealership, corporation,
 35017 partnership, or sole proprietorship employed or otherwise
 35018 retained by an insurer or motor vehicle service agreement
 35019 company for the purpose of selling or issuing motor vehicle
 35020 service agreements or for the purpose of soliciting or retaining
 35021 other salespersons.

35022 (14)~~(15)~~ "Unearned premium" means that portion of the
 35023 gross written premium which has not been earned on a straight
 35024 pro rata basis.

35025 (15)~~(16)~~ "Unearned premium reserve" means unencumbered



HB 1803

2003

35026 assets equal to 50 percent of the unearned premium.

35027 (16)~~(17)~~ "Unearned gross written premium" means that
 35028 portion of the gross written premium which has not been
 35029 amortized or earned on a pro rata basis.

35030 Section 1120. Section 634.021, Florida Statutes, is
 35031 amended to read:

35032 634.021 Powers of department, commission, and office;
 35033 rules.--The office ~~department~~ shall administer this act and the
 35034 commission may to that end it has authority to adopt rules
 35035 pursuant to ss. 120.536(1) and 120.54 to implement the
 35036 provisions of this act related to motor vehicle agreement
 35037 companies and motor vehicle service agreements. The department
 35038 shall administer this act and may adopt rules pursuant to ss.
 35039 120.536(1) and 120.54 to implement provisions of this act
 35040 related to sales representatives.

35041 Section 1121. Section 634.031, Florida Statutes, is
 35042 amended to read:

35043 634.031 License required.--

35044 (1) A person may not transact, administer, or market,
 35045 attempt to transact, administer, or market, or in any manner
 35046 hold itself out as transacting, administering, or marketing the
 35047 service agreement business, on behalf of herself or himself or
 35048 itself, in this state or from this state unless it is authorized
 35049 to do so under a subsisting license issued to it by the office
 35050 ~~department~~. The company shall pay to the office ~~department~~ an
 35051 annual nonrefundable license fee for the license.

35052 (2) No person shall, from offices or by personnel or
 35053 facilities in this state, solicit applications or otherwise
 35054 transact service agreement sales in another state or country
 35055 unless it holds a subsisting license issued to it by the office



HB 1803

2003

35056 ~~department~~ authorizing it to transact the same kind or kinds of
 35057 service agreement business in this state.

35058 (3) No person shall transact, administer, or market
 35059 service agreements unless it holds a subsisting license issued
 35060 by the office ~~department~~ authorizing it to transact the same
 35061 kind or kinds of service agreement business in this state.

35062 (4) The office ~~department~~ may, pursuant to s. 120.569, in
 35063 its discretion and without advance notice or hearing issue an
 35064 immediate final order to cease and desist to any person or
 35065 entity which violates this section. The Legislature finds that a
 35066 violation of this section constitutes an imminent and immediate
 35067 threat to the public health, safety, and welfare of the
 35068 residents of this state.

35069 Section 1122. Section 634.041, Florida Statutes, is
 35070 amended to read:

35071 634.041 Qualifications for license.--To qualify for and
 35072 hold a license to issue service agreements in this state, a
 35073 service agreement company must be in compliance with this part,
 35074 with applicable rules of the commission ~~department~~, with related
 35075 sections of the Florida Insurance Code, and with its charter
 35076 powers and must comply with the following:

35077 (1) Any service agreement company applying for a license
 35078 must be a solvent corporation formed under the laws of this
 35079 state or of another state or district of the United States and
 35080 must meet minimum requirements under this section.

35081 (2) The service agreement company must furnish the office
 35082 ~~department~~ with evidence satisfactory to the office ~~department~~
 35083 that the management of the company is competent and trustworthy
 35084 and can successfully and lawfully manage its affairs.

35085 (3) The service agreement company must make the deposit



HB 1803

2003

35086 required under s. 634.052.

35087 (4) A service agreement company may not be licensed to
35088 transact service agreement business in this state unless it
35089 maintains the required reserves and the required ratio of liquid
35090 assets to the required reserves.

35091 (5) A service agreement company may not be licensed to
35092 transact service agreement business in this state if, during the
35093 3 years immediately preceding its application for a license, it
35094 has violated any requirement of this part or a rule adopted
35095 thereunder.

35096 (6) In order to obtain or maintain a license, a service
35097 agreement company must have and maintain minimum net assets of
35098 \$500,000. However, a service agreement company that maintains a
35099 gross written premium of less than \$750,000 at all times, that
35100 has been licensed in Florida for more than 5 years, and that has
35101 never had an administrative complaint filed by the office
35102 ~~department~~ against its operations under this part may reach this
35103 net asset requirement in equal increments over a 5-year period
35104 beginning on October 1, 1991.

35105 (7) All assets used to maintain the minimum net asset
35106 requirement must be maintained in the United States.

35107 (8)(a) A service agreement company must establish and
35108 maintain an unearned premium reserve in accordance with the
35109 following:

35110 1. It must consist of unencumbered assets equal to a
35111 minimum of 50 percent of the unearned gross written premium on
35112 each service agreement and must amortize this reserve pro rata
35113 over the duration of the service agreement. Such assets must be
35114 held in the form of cash or invested in securities for
35115 investment under ss. 625.301-625.340.



HB 1803

2003

35116 2. In addition to the net asset requirements set forth in
35117 subsection (6), a company utilizing the 50-percent reserve must
35118 not allow its ratio of gross written premium in force to net
35119 assets to exceed 10 to 1. For companies that have utilized both
35120 contractual liability insurance and the 50-percent reserve, this
35121 ratio must be calculated based only on that portion of gross
35122 written premium in force which is covered by the 50-percent
35123 reserve.

35124 3. A company that uses an unearned premium reserve must
35125 deposit with the department securities of the type eligible for
35126 deposit by insurers under s. 625.52 equal to 15 percent of the
35127 unearned premium reserve. This reserve deposit may be included
35128 as an asset for calculating the requirement of subparagraph 1.
35129 A request for release of the reserve deposit may be made
35130 quarterly only after the office ~~department~~ has approved the
35131 company's current quarterly or annual financial statement and a
35132 statement sworn to by two officers of the company, verifying
35133 that the release will not reduce the reserve deposit to less
35134 than 15 percent of the unearned premium reserve.

35135 (b) A service agreement company does not have to establish
35136 and maintain an unearned premium reserve if it purchases and
35137 maintains contractual liability insurance in accordance with the
35138 following:

35139 1. The insurance covers 100 percent of its claim exposure
35140 and is obtained from an insurer approved by the office
35141 ~~department~~ which holds a certificate of authority to do business
35142 within this state.

35143 2. If the service agreement company does not meet its
35144 contractual obligations, the contractual liability insurance
35145 policy binds its issuer to pay or cause to be paid to the



HB 1803

2003

35146 service agreement holder all legitimate claims and cancellation
35147 refunds for all service agreements issued by the service
35148 agreement company while the policy was in effect. This
35149 requirement also applies to those service agreements for which
35150 no premium has been remitted to the insurer.

35151 3. If the issuer of the contractual liability policy is
35152 fulfilling the service agreements covered by the contractual
35153 liability policy and the service agreement holder cancels the
35154 service agreement, the issuer must make a full refund of
35155 unearned premium to the consumer, subject to the cancellation
35156 fee provisions of s. 634.121(5). The sales representative and
35157 agent must refund to the contractual liability policy issuer
35158 their unearned pro rata commission.

35159 4. The policy may not be canceled, terminated, or
35160 nonrenewed by the insurer or the service agreement company
35161 unless a 90-day written notice thereof has been given to the
35162 office ~~department~~ by the insurer before the date of the
35163 cancellation, termination, or nonrenewal.

35164 5. The service agreement company must provide the office
35165 ~~department~~ with the claims statistics.

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35168 All funds or premiums remitted to an insurer by a motor vehicle
35169 service agreement company under this part shall remain in the
35170 care, custody, and control of the insurer and shall be counted
35171 as an asset of the insurer; provided, however, this requirement
35172 does not apply when the insurer and the motor vehicle service
35173 agreement company are affiliated companies and members of an
35174 insurance holding company system. If the motor vehicle service
35175 agreement company chooses to comply with this paragraph but also



HB 1803

2003

35176 maintains a reserve to pay claims, such reserve shall only be
35177 considered an asset of the covered motor vehicle service
35178 agreement company and may not be simultaneously counted as an
35179 asset of any other entity.

35180 (9) In meeting the requirements of this part, a service
35181 agreement company may not utilize both the 50-percent reserve
35182 and contractual liability insurance simultaneously. However, a
35183 company may have contractual liability coverage on service
35184 agreements previously sold and sell new service agreements
35185 covered by the 50-percent reserve, and the converse of this is
35186 also allowed. A service agreement company must be able to
35187 distinguish how each individual service agreement is covered.

35188 (10) In addition to information called for and furnished
35189 with its annual statement, a service agreement company must
35190 furnish to the office ~~department~~, as soon as reasonably
35191 possible, any information as to its transactions or affairs that
35192 the office ~~department~~ requests in writing. All information
35193 furnished pursuant to the request of the office ~~department~~ must
35194 be verified by the oath of two executive officers of the service
35195 agreement company.

35196 (11) A service agreement company offering service
35197 agreements providing vehicle protection expenses may meet the
35198 requirements for this part only by maintaining contractual
35199 liability insurance in accordance with paragraph(8)(b), which
35200 insurance must be issued by an insurance company not affiliated
35201 with the service agreement company, unless the insurance company
35202 had issued a contractual liability insurance policy to a service
35203 agreement company on or before January 1, 2002. Service
35204 agreements providing vehicle protection expenses may be sold
35205 only to a service agreement holder that has in-force



HB 1803

2003

35206 comprehensive motor vehicle insurance coverage for the vehicle
35207 to be covered by the service agreement.

35208 Section 1123. Section 634.044, Florida Statutes, is
35209 amended to read:

35210 634.044 Assets and liabilities.--

35211 (1) ASSETS.--In any determination of the financial
35212 condition of a service agreement company, there shall be allowed
35213 as assets only those assets that are owned by the service
35214 agreement company and which assets consist of:

35215 (a) Cash in the possession of the service agreement
35216 company, or in transit under its control, including the true
35217 balance of any deposit in a solvent bank, savings and loan
35218 association, or trust company which is domiciled in the United
35219 States.

35220 (b) Investments, securities, properties, and loans
35221 acquired or held in accordance with this part, and in connection
35222 therewith the following items:

35223 1. Interest due or accrued on any bond or evidence of
35224 indebtedness which is not in default and which is not valued on
35225 a basis including accrued interest.

35226 2. Declared and unpaid dividends on stock and shares,
35227 unless the amount of the dividends has otherwise been allowed as
35228 an asset.

35229 3. Interest due or accrued upon a collateral loan which is
35230 not in default in an amount not to exceed 1 year's interest
35231 thereon.

35232 4. Interest due or accrued on deposits or certificates of
35233 deposit in solvent banks, savings and loan associations, and
35234 trust companies domiciled in the United States, and interest due
35235 or accrued on other assets, if such interest is in the judgment



HB 1803

2003

35236 of the office ~~department~~ a collectible asset.

35237 5. Interest due or accrued on current mortgage loans, in
 35238 an amount not exceeding in any event the amount, if any, of the
 35239 excess of the value of the property less delinquent taxes
 35240 thereon over the unpaid principal; but in no event shall
 35241 interest accrued for a period in excess of 90 days be allowed as
 35242 an asset.

35243 6. Rent due or accrued on real property if such rent is
 35244 not in arrears for more than 3 months. However, in no event
 35245 shall rent accrued for a period in excess of 90 days be allowed
 35246 as an asset.

35247 7. The unaccrued portion of taxes paid prior to the due
 35248 date on real property.

35249 (c) Furniture, fixtures, furnishings, vehicles, and
 35250 equipment, if the original cost of each item is at least \$200,
 35251 which cost shall be amortized in full over a period not to
 35252 exceed 5 calendar years, unless otherwise approved by the office
 35253 ~~department~~.

35254 (d) Part inventories maintained for the purpose of
 35255 servicing products warranted. Part inventories must be listed at
 35256 cost. Service agreement companies are required to maintain
 35257 records to support valuation of part inventories.

35258 (e) The liquidation value of prepaid expenses.

35259 (f) Other assets or receivables, not inconsistent with the
 35260 provisions of this section, deemed by the office ~~department~~ to
 35261 be available for the payment of losses and claims, at values to
 35262 be determined by the office ~~department~~.

35263

35264

35265 The office ~~department~~, upon determining that a service



HB 1803

2003

35266 agreement company's asset has not been evaluated according to
35267 applicable law or that it does not qualify as an asset, shall
35268 require the service agreement company to properly reevaluate the
35269 asset or replace the asset with an asset suitable to the office
35270 ~~department~~ within 30 days of written notification by the office
35271 ~~department~~ of this determination, if the removal of the asset
35272 from the organization's assets would impair the company's
35273 solvency.

35274 (2) ASSETS NOT ALLOWED.--In addition to assets impliedly
35275 excluded by the provisions of subsection (1), the following
35276 assets expressly shall not be allowed as assets in any
35277 determination of the financial condition of a service agreement
35278 company:

35279 (a) Goodwill, agreement holder lists, patents, trade
35280 names, agreements not to compete, and other like intangible
35281 assets.

35282 (b) Any note or account receivable from or advances to
35283 officers, directors, or controlling stockholders, whether
35284 secured or not, and advances to employees, agents, or other
35285 persons on personal security only.

35286 (c) Stock of the service agreement company owned by it
35287 directly or owned by it through any entity in which the
35288 organization owns or controls, directly or indirectly, more than
35289 25 percent of the ownership interest.

35290 (d) Leasehold improvements, stationery, and literature,
35291 except that leasehold improvements made prior to October 1,
35292 1991, shall be allowed as an asset and shall be amortized over
35293 the shortest of the following periods:

- 35294 1. The life of the lease.
- 35295 2. The useful life of the improvements.



HB 1803

2003

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3. The 3-year period following October 1, 1991.

(e) Furniture, fixtures, furnishings, vehicles, and equipment, other than those items authorized under paragraph (1)(c).

(f) Notes or other evidences of indebtedness which are secured by mortgages or deeds of trust which are in default and beyond the express period specified in the instrument for curing the default.

(g) Bonds in default for more than 60 days.

(h) Deferred costs other than the liquidation value of prepaid expenses except for those companies that reserve 100 percent of gross written premium.

(i) Any note, account receivable, advance, or other evidence of indebtedness, or investment in:

1. The parent of the service agreement company;
2. Any entity directly or indirectly controlled by the service agreement company parent;
3. An affiliate of the parent or the service agreement company; however, receivables from the parent or affiliated companies shall be considered an admitted asset of the company when the office department ~~department~~ is satisfied that the repayment of receivables, loans, and advances from the parent or the affiliated company are guaranteed by an organization in accordance with s. 634.045; or
4. Officers, directors, shareholders, employees, or salespersons of the service agreement company; however, premium receivables under 45 days old may be considered an admitted asset.



HB 1803

2003

35326 The office ~~department~~ may, however, allow all or a portion of
 35327 such asset, at values to be determined by the office ~~department~~,
 35328 if deemed by the office ~~department~~ to be available for the
 35329 payment of losses and claims.

35330 (3) LIABILITIES.--In any determination of the financial
 35331 condition of a service agreement company, liabilities to be
 35332 charged against its assets shall include, but not be limited to:

35333 (a) The amount, in conformity with generally accepted
 35334 accounting principles, necessary to pay all of its unpaid losses
 35335 and claims incurred for or on behalf of an agreement holder, on
 35336 or prior to the end of the reporting period, whether reported or
 35337 unreported.

35338 (b) Taxes, expenses, and other obligations due or accrued
 35339 at the date of the statement.

35340 (c) Reserve for unearned premiums.

35341

35342

35343 The office ~~department~~, upon determining that the service
 35344 agreement company has failed to report liabilities that should
 35345 have been reported, shall require a correct report which
 35346 reflects the proper liabilities to be submitted by the service
 35347 agreement company to the office ~~department~~ within 10 working
 35348 days of receipt of written notification.

35349 Section 1124. Subsections (2) and (4) of section 634.045,
 35350 Florida Statutes, are amended to read:

35351 634.045 Guarantee agreements.--In order to include
 35352 receivables from affiliated companies as assets under s.
 35353 634.041, the motor vehicle service agreement company shall
 35354 provide a written guarantee to assure repayment of all
 35355 receivables, loans, and advances from affiliated companies,



HB 1803

2003

35356 provided that the written guarantee is made by a guaranteeing
35357 organization which:

35358 (2) Submits a guarantee that is approved by the office
35359 ~~department~~ as meeting the requirements of this part, provided
35360 that the written guarantee contains a provision which requires
35361 that the guarantee be irrevocable unless the guaranteeing
35362 organization can demonstrate to the office ~~department~~ that the
35363 cancellation of the guarantee will not result in the net assets
35364 of the motor vehicle service agreement company falling below its
35365 minimum net asset requirement and the office ~~department~~ approves
35366 cancellation of the guarantee.

35367 (4) Submits annually, within 3 months after the end of its
35368 fiscal year, an audited financial statement certified by an
35369 independent certified public accountant, prepared in accordance
35370 with generally accepted accounting principles. The office
35371 ~~department~~ may, as it deems necessary, require quarterly
35372 financial statements from the guaranteeing organization.

35373 Section 1125. Section 634.052, Florida Statutes, is
35374 amended to read:

35375 634.052 Required deposit.--

35376 (1) To assure the faithful performance of its obligations
35377 to its members or subscribers, each motor vehicle service
35378 agreement company shall, prior to issuance of its license by the
35379 office ~~department~~, deposit with the department securities of the
35380 type eligible for deposit by insurers under s. 625.52 and having
35381 at all times a market value of not less than \$200,000; however,
35382 service agreement companies maintaining an unearned gross
35383 written premium of less than \$750,000 shall have on deposit with
35384 the department \$100,000. After 1 year from the date of initial
35385 licensure, a service agreement company may file a request for



HB 1803

2003

35386 the release of a portion of the deposit and thereafter requests
35387 may be made quarterly. A request may be granted only after the
35388 office ~~department~~ has received and approved the company's
35389 current quarterly or annual financial statement. However, at no
35390 time shall the deposit be less than \$100,000.

35391 (2) In addition to the deposits otherwise required
35392 pursuant to this section, the office ~~department~~ may, after
35393 notice and hearing, require any company for good cause shown to
35394 deposit and maintain deposited in trust for the protection of
35395 the contract holders and creditors of the company, for such time
35396 as the office ~~department~~ deems necessary, securities eligible
35397 for such deposit under s. 625.52 having a value of not less than
35398 the amount which the office ~~department~~ determines is necessary,
35399 which amount shall be neither less than \$100,000, nor more than
35400 \$500,000, depending on the obligation of the company in this
35401 state.

35402 (3) The state shall be responsible for the safekeeping of
35403 all securities deposited with the department under this act.
35404 Such securities shall not, on account of being in this state, be
35405 subject to taxation, but shall be held exclusively and solely to
35406 guarantee the faithful performance by the company of its
35407 obligations to its members or subscribers.

35408 (4) The depositing company shall, during its solvency,
35409 have the right to exchange or substitute other securities of
35410 like quality and value for securities so on deposit, to receive
35411 the interest and other income accruing on such securities, and
35412 to inspect the deposit at all reasonable times.

35413 (5) Such deposit shall be maintained unimpaired as long as
35414 the company continues in business or from offices in this state.

35415 Whenever the company ceases to do business in or from offices



HB 1803

2003

35416 in this state and furnishes to the office ~~department~~ proof
35417 satisfactory to it that it has discharged or otherwise
35418 adequately provided for all its obligations to its members or
35419 subscribers in this state, the office and department shall
35420 release the deposited securities to the parties entitled
35421 thereto, on presentation of the receipts of the department for
35422 such securities.

35423 Section 1126. Section 634.053, Florida Statutes, is
35424 amended to read:

35425 634.053 Levy upon deposit limited.--A judgment creditor or
35426 other claimant of a motor vehicle service agreement company does
35427 not have the right to levy upon any of the assets or securities
35428 held in this state as a deposit under s. 634.052. However, to
35429 pay any unpaid obligation to this state, the office ~~department~~
35430 may levy upon any of the assets of a motor vehicle service
35431 agreement company found to be insolvent or found to be bankrupt
35432 by any court.

35433 Section 1127. Subsections (1), (2), and (4) of section
35434 634.061, Florida Statutes, are amended to read:

35435 634.061 Application for and issuance of license.--

35436 (1) A sworn application for a license as a motor vehicle
35437 service agreement company shall be made to and filed with the
35438 office ~~department~~ on forms as prescribed by the commission and
35439 furnished by the office ~~it~~.

35440 (2) In addition to information relative to its
35441 qualifications as called for under s. 634.041, the application
35442 shall show:

35443 (a) The location of the applicant's home office.

35444 (b) The name and residence address of each director,
35445 officer, and 10-percent or greater stockholder of the applicant.



HB 1803

2003

35446 (c) Other pertinent information as required by the
35447 commission or office department.

35448 (4) Upon completion of the application for license, the
35449 office department shall examine the same and make such further
35450 investigation of the applicant as it deems advisable. If it
35451 finds that the applicant is qualified therefor under this part,
35452 it shall issue to the applicant a license as a motor vehicle
35453 service agreement company. If the office department does not so
35454 find, it shall refuse to issue the license.

35455 Section 1128. Subsections (1), (2), (3), and (5) of
35456 section 634.081, Florida Statutes, are amended to read:

35457 634.081 Suspension or revocation of license; grounds.--

35458 (1) The office department may, in its discretion, suspend
35459 or revoke the license of any motor vehicle service agreement
35460 company if it finds that the company has violated any lawful
35461 order of the office department or any provision of this part.

35462 (2) The office department shall suspend or revoke the
35463 license of a motor vehicle service agreement company if it finds
35464 that the company:

35465 (a) Is impaired or insolvent as defined in s. 631.011 or
35466 in unsound condition, or in a condition, or using methods and
35467 practices in the conduct of its business, as to render its
35468 further transaction of service agreements in this state
35469 hazardous or injurious to its service agreement holders or to
35470 the public.

35471 (b) Has refused to be examined or to produce its accounts,
35472 records, and files for examination, or if any of its officers
35473 have refused to give information with respect to its affairs or
35474 to perform any other legal obligation as to the examination,
35475 when required by the office department.



HB 1803

2003

35476 (c) Has failed to pay any fees, taxes, or other
 35477 assessments within 90 days after their due date.

35478 (d) Has failed to pay any final judgment rendered against
 35479 it in this state within 90 days after the judgment became final.

35480 (e) With a frequency as to indicate its general business
 35481 practice in this state, has without just cause refused to pay
 35482 proper claims arising under its service agreements, or without
 35483 just cause compels service agreement holders to accept less than
 35484 the amount due them or to employ attorneys or to bring suit
 35485 against the service agreement company to secure full payment or
 35486 settlement of proper claims.

35487 (f) Is affiliated with, or under the same general
 35488 management or interlocking directorate or ownership of, another
 35489 motor vehicle service agreement company or person who transacts
 35490 service agreements in or from this state without a subsisting
 35491 license.

35492 (g) Fails to affirm or deny coverage of a claim upon
 35493 written request of the agreement holder within a reasonable time
 35494 after notification of the claim.

35495 (h) Fails to promptly provide a reasonable explanation in
 35496 writing if requested by the agreement holder of the basis in the
 35497 service agreement in relation to the facts or applicable law for
 35498 denial of a claim or for the offer of a compromise settlement.

35499 (3) The office ~~department~~ may, in its discretion, suspend
 35500 the license of any motor vehicle service agreement company as to
 35501 which a proceeding for receivership, conservatorship, or
 35502 rehabilitation or other delinquency proceeding has been
 35503 commenced against it or its affiliate in any state.

35504 (5) The office ~~department~~ shall suspend or revoke the
 35505 license of a company if it finds that the ratio of gross written



HB 1803

2003

35506 premiums written to net assets exceeds 10 to 1 unless the
 35507 company has in excess of \$750,000 in net assets and is utilizing
 35508 contractual liability insurance which cedes 100 percent of the
 35509 service agreement company's claims liabilities to the
 35510 contractual liability insurer or is utilizing contractual
 35511 liability insurance which reimburses the service agreement
 35512 company for 100 percent of its paid claims. However, if a
 35513 service agreement company has been licensed by the office
 35514 ~~department~~ in excess of 10 years, is in compliance with all
 35515 applicable provisions of this part, and has net assets at all
 35516 times in excess of \$3 million that comply with the provisions of
 35517 part II of chapter 625, such company may not exceed a ratio of
 35518 gross written premiums written to net assets of 15 to 1.

35519 Section 1129. Paragraph (b) of subsection (3) of section
 35520 634.095, Florida Statutes, is amended to read:

35521 634.095 Prohibited acts.--Any service agreement company or
 35522 salesperson that engages in one or more of the following acts
 35523 is, in addition to any applicable denial, suspension,
 35524 revocation, or refusal to renew or continue any appointment or
 35525 license, guilty of a misdemeanor of the second degree,
 35526 punishable as provided in s. 775.082 or s. 775.083:

35527 (3) Issuing or causing to be issued any advertisement
 35528 which:

35529 (b) In any respect is in violation of or does not comply
 35530 with this part, applicable provisions of the Florida Insurance
 35531 Code, or applicable rule of the commission ~~department~~.

35532 Section 1130. Section 634.101, Florida Statutes, is
 35533 amended to read:

35534 634.101 Order, notice of suspension or revocation of
 35535 license; effect; publication.--



HB 1803

2003

35536 (1) Suspension or revocation of the license of a company
 35537 shall be by the order of the office ~~department~~ mailed to the
 35538 company by registered or certified mail. The office ~~department~~
 35539 shall promptly also give notice of such suspension or revocation
 35540 to the salespersons of the company in this state of record with
 35541 ~~in the office of~~ the department. The company shall not solicit
 35542 or write any new service agreements in this state during the
 35543 period of any such suspension or revocation, nor after such
 35544 revocation renew any business previously written.

35545 (2) In its discretion, the office ~~department~~ may cause
 35546 notice of any such revocation to be published in one or more
 35547 newspapers of general circulation published in this state.

35548 (3) When the license is surrendered or revoked, the
 35549 service agreement company shall proceed immediately, following
 35550 the effective date of the surrender or order of revocation, to
 35551 conclude its affairs transacted under this part. The service
 35552 agreement company shall not solicit, negotiate, advertise, or
 35553 effectuate new or renewal of service agreements. The office
 35554 ~~department~~ retains jurisdiction over the service agreement
 35555 company as it may find to be in the best interest of the insured
 35556 until all contracts have been fulfilled, canceled, or expired.

35557 Section 1131. Section 634.111, Florida Statutes, is
 35558 amended to read:

35559 634.111 Duration of suspension; obligations of company
 35560 during suspension period; reinstatement.--

35561 (1) The suspension of the license of a company shall be
 35562 for such period not to exceed 1 year as is fixed by the office
 35563 ~~department~~ in the order of suspension, unless the office
 35564 ~~department~~ shortens or rescinds such suspension or the order
 35565 upon which the suspension is based is modified, rescinded, or



HB 1803

2003

35566 reversed.

35567 (2) During the period of suspension, the company shall
 35568 file its annual statement and quarterly reports, pay fees, pay
 35569 licenses, and pay taxes as required under this chapter as if the
 35570 license had continued in full force.

35571 (3) Upon expiration of the suspension period, if within
 35572 such period the license has not otherwise terminated, the
 35573 license of the company shall be reinstated automatically unless
 35574 the office ~~department~~ finds that the causes of the suspension
 35575 have not been removed or that the company is otherwise not in
 35576 compliance with the requirements of this chapter. The office
 35577 ~~department~~ shall give the company notice of any such finding not
 35578 less than 30 days in advance of the expiration of the suspension
 35579 period. If not so automatically reinstated, the license shall
 35580 be deemed to have expired as of the end of the suspension period
 35581 or upon failure of the company to continue the license during
 35582 the suspension period, whichever event first occurs.

35583 (4) Upon reinstatement of the license of a company or
 35584 reinstatement of the certificate of authority of an insurer
 35585 following suspension, the authority of its salespersons in this
 35586 state to represent the company or insurer shall likewise be
 35587 reinstated. The office ~~department~~ shall promptly notify the
 35588 company or insurer and its salespersons of record in this state
 35589 of such reinstatement.

35590 Section 1132. Subsections (1), (2), (3), and (7) of
 35591 section 634.121, Florida Statutes, are amended to read:

35592 634.121 Filing of forms, required procedures, provisions.-

35593 -

35594 (1) A service agreement form or related form may not be
 35595 issued or used in this state unless it has been filed with and



HB 1803

2003

35596 approved by the office ~~department~~. Upon application for a
 35597 license, the office ~~department~~ shall require the applicant to
 35598 submit for approval each brochure, pamphlet, circular, form
 35599 letter, advertisement, or other sales literature or advertising
 35600 communication addressed or intended for distribution. The office
 35601 ~~department~~ shall disapprove any document which is untrue,
 35602 deceptive, or misleading or which contains misrepresentations or
 35603 omissions of material facts.

35604 (a) After an application has been approved, a licensee is
 35605 not required to submit brochures or advertisement to the office
 35606 ~~department~~ for approval; however, a licensee may not have
 35607 published, and a person may not publish, any brochure or
 35608 advertisement which is untrue, deceptive, or misleading or which
 35609 contains misrepresentations or omissions of material fact.

35610 (b) For purposes of this section, brochures and
 35611 advertising includes, but is not limited to, any report,
 35612 circular, public announcement, certificate, or other printed
 35613 matter or advertising material which is designed or used to
 35614 solicit or induce any persons to enter into any motor vehicle
 35615 service agreement.

35616 (c) The office ~~department~~ shall disapprove any service
 35617 agreement form providing vehicle protection expenses which does
 35618 not clearly indicate the method for calculating the benefit to
 35619 be paid or provided to the service agreement holder. All service
 35620 agreement forms providing vehicle protection expenses shall
 35621 clearly indicate the term of the service agreement, whether new
 35622 or used cars are eligible for the vehicle protection product,
 35623 and that the service agreement holder may not make any claim
 35624 against the Florida Insurance Guarantee Association for vehicle
 35625 protection expenses. The service agreement shall be provided to



HB 1803

2003

35626 a service agreement holder on a form that provides only vehicle
 35627 protection expenses. A service agreement form providing vehicle
 35628 protection expenses must state that the service agreement holder
 35629 must have in force at the time of loss comprehensive motor
 35630 vehicle insurance coverage as a condition precedent to
 35631 requesting payment of vehicle protection expenses.

35632 (2) Every filing required under this section must be made
 35633 not less than 30 days in advance of issuance or use. At the
 35634 expiration of 30 days from the date of filing, a form so filed
 35635 becomes approved unless prior thereto it has been affirmatively
 35636 disapproved by written notice of the office ~~department~~. The
 35637 office ~~department~~ may extend by not more than an additional 15
 35638 days the period within which it may affirmatively approve or
 35639 disapprove any form by giving notice of extension before the
 35640 expiration of the initial 30-day period. At the expiration of
 35641 any period as so extended and in the absence of prior
 35642 affirmative disapproval, the form becomes approved.

35643 (3) Before the sale of any service agreement, written
 35644 notice must be given to the prospective purchaser by the service
 35645 agreement company or its agent or salesperson, on an office-
 35646 approved ~~a department-approved~~ form, that purchase of the
 35647 service agreement is not required in order to purchase or obtain
 35648 financing for a motor vehicle.

35649 (7) If a service agreement company violates any lawful
 35650 order of the office ~~department~~ or fails to meet its contractual
 35651 obligations under this part, upon notice from the office
 35652 ~~department~~, the sales representative or agent must refund to the
 35653 service agreement holder the unearned pro rata commission,
 35654 unless the sales representative or agent has made other
 35655 arrangements, satisfactory to the office ~~department~~, with the



HB 1803

2003

35656 service agreement holder.

35657 Section 1133. Section 634.1213, Florida Statutes, is
 35658 amended to read:

35659 634.1213 Grounds for disapproval.--The office ~~department~~
 35660 may disapprove any service agreement form or service agreement
 35661 company sales brochures filed under s. 634.121, or withdraw any
 35662 previous approval thereof, if the form or brochure:

35663 (1) Is in any respect in violation of or does not comply
 35664 with this part, any applicable provision of the Florida
 35665 Insurance Code, or any applicable rule of the commission
 35666 ~~department~~.

35667 (2) Contains or incorporates by reference when such
 35668 incorporation is otherwise permissible, any inconsistent,
 35669 ambiguous, or misleading clauses, or exceptions and conditions
 35670 which deceptively affect the risk purported to be assumed in the
 35671 general coverage of the service agreement.

35672 (3) Has any title, heading, or other indication of its
 35673 provisions which is misleading.

35674 (4) Is printed or otherwise reproduced in such manner as
 35675 to render any material provision of the form substantially
 35676 illegible.

35677 (5) Contains any provision which is unfair or inequitable
 35678 or which encourages misrepresentation.

35679 (6) Contains any provision which makes it difficult to
 35680 determine the actual insurer or service agreement company
 35681 issuing the form.

35682 (7) Contains any provision for reducing claim payments due
 35683 to depreciation of parts, except for marine engines.

35684 Section 1134. Section 634.1216, Florida Statutes, is
 35685 amended to read:



HB 1803

2003

35686 634.1216 Rate filings.--Each insurer and each motor
 35687 vehicle service agreement company shall file with the office
 35688 ~~department~~ the rates, rating schedules, or rating manuals used,
 35689 including all modifications of rates and premiums, to be paid by
 35690 the service agreement holder. Every filing shall state the
 35691 proposed effective date thereon. The filing shall be made not
 35692 less than 30 days before its effective date.

35693 Section 1135. Section 634.137, Florida Statutes, is
 35694 amended to read:

35695 634.137 Financial and statistical reporting requirements.-

35696 -

35697 (1) Each service agreement company shall submit to the
 35698 office ~~department~~ financial reports on forms prescribed by the
 35699 commission and furnished by the office ~~department~~ as follows:

35700 (a) Reports for a period ending December 31 are due by
 35701 March 1.

35702 (b) Reports for a period ending March 31 are due by May
 35703 15.

35704 (c) Reports for a period ending June 30 are due by August
 35705 15.

35706 (d) Reports for a period ending September 30 are due by
 35707 November 15.

35708 (2) Any motor vehicle service agreement company engaged in
 35709 the business of issuing service agreements in this state must
 35710 transmit the following information, based on Florida data, to
 35711 the office ~~department~~ each year with the annual report of the
 35712 company:

35713 (a) Net assets.

35714 (b) Premiums written.

35715 (c) Premiums earned.



HB 1803

2003

- 35716 (d) Unearned premium reserve.
- 35717 (e) Percent of claim exposure for which contractual
- 35718 liability insurance has been obtained.
- 35719 (f) Incurred claims, not including claims incurred but not
- 35720 reported.
- 35721 (g) Claims incurred but not reported.
- 35722 (h) Loss reserve for all claims except those incurred but
- 35723 not reported.
- 35724 (i) Reserves for claims incurred but not reported.
- 35725 (j) Number and dollar amount of claims paid.
- 35726 (k) Itemized acquisition costs.
- 35727 (l) Net gain or loss from operations before income taxes.
- 35728 (m) Net investment income from all reserves.
- 35729 (n) Net investment income from surplus.
- 35730 (o) Ratio of claims paid to premium earned.
- 35731 (p) Ratio of all claims incurred to premium earned plus
- 35732 investment income from all reserves.
- 35733 (q) Number of claims resisted.
- 35734 (r) Any additional information that the commission
- 35735 ~~department~~ requires in order to evaluate the financial condition
- 35736 or trade practices of companies issuing service agreements in
- 35737 this state.
- 35738 (3) Any service agreement company that does not file an
- 35739 annual statement in the form and within the time provided by
- 35740 this section shall forfeit up to \$100 for each day during which
- 35741 the default continues, and, upon notice by the office
- 35742 ~~department~~, the authority of the company to do business in this
- 35743 state shall cease while the default continues. The office
- 35744 ~~department~~ shall deposit all sums collected under this
- 35745 subsection in the Insurance ~~Commissioner's~~ Regulatory Trust



HB 1803

2003

35746 Fund.

35747 (4) The office ~~department~~ shall provide a summary of the
 35748 information provided pursuant to subsection (2) in its annual
 35749 report.

35750 (5) The commission ~~department~~ may by rule require each
 35751 motor vehicle service agreement company to submit to the office
 35752 ~~department~~, as the commission ~~department~~ may designate, all or
 35753 part of the information contained in the financial reports
 35754 required by this section in a computer-readable form compatible
 35755 with the electronic data processing system specified by the
 35756 office ~~department~~.

35757 Section 1136. Section 634.141, Florida Statutes, is
 35758 amended to read:

35759 634.141 Examination of companies.--Motor vehicle service
 35760 agreement companies licensed under this part shall be subject to
 35761 periodic examination by the office ~~department~~ in the same manner
 35762 and subject to the same terms and conditions as applies to
 35763 insurers under part II of chapter 624. The commission ~~department~~
 35764 may by rule establish provisions whereby a company may be
 35765 exempted from examination.

35766 Section 1137. Section 634.151, Florida Statutes, is
 35767 amended to read:

35768 634.151 Service of process; appointment of commissioner as
 35769 process agent.--

35770 (1) Each company applying for authority to transact
 35771 business in this state, whether domestic or foreign, shall file
 35772 with the office ~~department~~ its appointment of the Chief
 35773 Financial Officer ~~Insurance Commissioner and Treasurer~~ and her
 35774 or his successors in office, on a form as furnished by the
 35775 office ~~department~~, as its attorney to receive service of all



HB 1803

2003

35776 legal process issued against it in any civil action or
35777 proceeding in this state and agreeing that process so served
35778 shall be valid and binding upon the company. The appointment
35779 shall be irrevocable, shall bind the company and any successor
35780 in interest as to the assets or liabilities of the company, and
35781 shall remain in effect as long as there is outstanding in this
35782 state any obligation or liability of the company resulting from
35783 its service agreement transactions therein.

35784 (2) At the time of such appointment of the Chief Financial
35785 Officer ~~Insurance Commissioner and Treasurer~~ as its process
35786 agent the company shall file with the department a designation
35787 of the name and address of the person to whom process against it
35788 served upon the Chief Financial Officer ~~Insurance Commissioner~~
35789 ~~and Treasurer~~ is to be forwarded. The company may change the
35790 designation at any time by a new filing.

35791 Section 1138. Section 634.161, Florida Statutes, is
35792 amended to read:

35793 634.161 Service of process; method.--

35794 (1) Service of process upon the Chief Financial Officer
35795 ~~Insurance Commissioner and Treasurer~~ as process agent of the
35796 company shall be made by serving copies in triplicate of the
35797 process upon the Chief Financial Officer ~~Insurance Commissioner~~
35798 ~~and Treasurer or upon her or his assistant, deputy, or other~~
35799 ~~person in charge of her or his office.~~ Upon receiving such
35800 service, the Chief Financial Officer ~~Insurance Commissioner and~~
35801 ~~Treasurer~~ shall file one copy with the department, return one
35802 copy with her or his admission of service, and promptly forward
35803 one copy of the process by registered or certified mail to the
35804 person last designated by the company to receive the same, as
35805 provided under s. 634.151.



HB 1803

2003

35806 (2) Process served upon the Chief Financial Officer
 35807 ~~Insurance Commissioner and Treasurer~~ and copy thereof forwarded
 35808 as in this section provided shall for all purposes constitute
 35809 valid and binding service thereof upon the company.

35810 Section 1139. Subsections (2) and (10) of section 634.181,
 35811 Florida Statutes, are amended to read:

35812 634.181 Grounds for compulsory refusal, suspension, or
 35813 revocation of license or appointment of salespersons.--The
 35814 department shall deny, suspend, revoke, or refuse to renew or
 35815 continue the license or appointment of any such salesperson if
 35816 it finds that as to the salesperson any one or more of the
 35817 following applicable grounds exist:

35818 (2) If the license or appointment is willfully used, or to
 35819 be used, to circumvent any of the requirements or prohibitions
 35820 of this part, any applicable provision of the Florida Insurance
 35821 Code, or rule of the department or commission.

35822 (10) Willful failure to comply with, or willful violation
 35823 of any proper order of the department or office, or willful
 35824 violation of any provision of this part, or of any applicable
 35825 provision of the insurance code, or applicable rule of the
 35826 department or commission.

35827 Section 1140. Subsection (3) of section 634.191, Florida
 35828 Statutes, is amended to read:

35829 634.191 Grounds for discretionary refusal, suspension, or
 35830 revocation of license or appointment of salespersons.--The
 35831 department may, in its discretion, deny, suspend, revoke, or
 35832 refuse to renew or continue the license or appointment of any
 35833 salesperson if it finds that as to the salesperson any one or
 35834 more of the following applicable grounds exist under
 35835 circumstances for which such denial, suspension, revocation, or



HB 1803

2003

35836 refusal is not mandatory under s. 634.181:

35837 (3) Has violated any lawful order or rule of the
35838 department or commission.

35839 Section 1141. Section 634.211, Florida Statutes, is
35840 amended to read:

35841 634.211 Administrative fine in lieu of suspension or
35842 revocation of license or appointment.--

35843 (1) If the department or office finds that one or more
35844 grounds exist for the suspension, revocation, or refusal to
35845 renew or continue any license or appointment issued under this
35846 part, the department or office may, in its discretion, in lieu
35847 of such suspension, revocation, or refusal, on a first offense
35848 and except where such suspension, revocation, or refusal is
35849 mandatory, impose upon the licensee or appointee an
35850 administrative penalty in an amount of up to \$500 per violation,
35851 or if the department or office has found willful misconduct or
35852 willful violation on the part of the licensee or appointee, an
35853 administrative fine of up to \$1,000 per violation. The
35854 administrative penalty may, in the department's or office's
35855 discretion, be augmented in amount by an amount equal to any
35856 commissions received by or accruing to the credit of the
35857 licensee or appointee in connection with any transaction as to
35858 which the grounds for suspension, revocation, or refusal
35859 related.

35860 (2) The department or office may allow the licensee or
35861 appointee a reasonable period, not to exceed 30 days, within
35862 which to pay to the department or office the amount of the
35863 penalty so imposed. If the licensee or appointee fails to pay
35864 the penalty in its entirety to the department or office ~~at its~~
35865 ~~office at Tallahassee~~ within the period so allowed, the license



HB 1803

2003

35866 and appointment of the licensee or appointee shall stand
 35867 suspended, revoked, or renewal or continuation refused, as the
 35868 case may be, upon expiration of such period.

35869 Section 1142. Section 634.221, Florida Statutes, is
 35870 amended to read:

35871 634.221 Disposition of taxes and fees.--All license taxes,
 35872 taxes on premiums and assessments, registration fees, and
 35873 administrative fines and penalties collected under this act from
 35874 motor vehicle service agreement companies shall be deposited to
 35875 the credit of the Insurance ~~Commissioner's~~ Regulatory Trust
 35876 Fund.

35877 Section 1143. Section 634.231, Florida Statutes, is
 35878 amended to read:

35879 634.231 Insurance business not authorized.--Nothing in the
 35880 Florida Insurance Code or in this part shall be deemed to
 35881 authorize any motor vehicle service agreement company to
 35882 transact any insurance business other than that of motor vehicle
 35883 service agreement as herein defined or otherwise to engage in
 35884 any other type of insurance unless the company is authorized
 35885 under a certificate of authority issued by the office ~~department~~
 35886 under the provisions of the Florida Insurance Code.

35887 Section 1144. Section 634.242, Florida Statutes, is
 35888 amended to read:

35889 634.242 Injunctive proceedings.--In addition to the
 35890 penalties and other enforcement provisions of this part, if any
 35891 person violates s. 634.031 or s. 634.171 or any rule adopted
 35892 pursuant thereto, the department or office may resort to a
 35893 proceeding for injunction in the circuit court of the county
 35894 where such person resides or has her or his or its principal
 35895 place of business, and therein apply for such temporary and



HB 1803

2003

35896 permanent orders as the department or office may deem necessary
 35897 to restrain such person from engaging in any such activity,
 35898 until such person has complied with such provision or rule.

35899 Section 1145. Section 634.253, Florida Statutes, is
 35900 amended to read:

35901 634.253 Delinquency proceedings.--

35902 (1) If any of the grounds for rehabilitation, liquidation,
 35903 conservation, reorganization, seizure, or summary proceedings of
 35904 an insurer as set forth in ss. 631.051, 631.061, and 631.071
 35905 exist as to a company, the office ~~department~~ may petition for an
 35906 appropriate court order or may pursue such other relief as is
 35907 afforded in part I of chapter 631.

35908 (2) In the event an order of rehabilitation, liquidation,
 35909 conservation, reorganization, seizure, or summary proceedings
 35910 has been entered against a company, the department and office
 35911 shall be vested with all of the powers and duties they have ~~it~~
 35912 ~~has~~ under the provisions of part I of chapter 631 in regard to
 35913 delinquency proceedings of insurance companies.

35914 Section 1146. Section 634.261, Florida Statutes, is
 35915 amended to read:

35916 634.261 Voluntary compliance in lieu of suspension or
 35917 revocation.--The department or office may terminate an
 35918 investigation or an action upon acceptance of the written
 35919 assurance of a company or salesperson of voluntary compliance
 35920 with this part. An acceptance of assurance may be conditioned
 35921 on a commitment to reimburse agreement purchasers or to take
 35922 other appropriate corrective action. An assurance is not
 35923 evidence of a prior violation of this part. However, unless an
 35924 assurance has been rescinded by agreement of the parties or
 35925 voided by a court for good cause, the subsequent failure to



HB 1803

2003

35926 | comply with the terms of an assurance is prima facie evidence of
 35927 | a violation of this part. No such assurance shall act as a
 35928 | limitation upon any action or remedy available to a person
 35929 | aggrieved by a violation of this part.

35930 | Section 1147. Subsections (7) and (13) of section 634.282,
 35931 | Florida Statutes, are amended to read:

35932 | 634.282 Unfair methods of competition and unfair or
 35933 | deceptive acts or practices defined.--The following methods,
 35934 | acts, or practices are defined as unfair methods of competition
 35935 | and unfair or deceptive acts or practices:

35936 | (7) UNLAWFUL REBATES.--Except as otherwise expressly
 35937 | provided by law, or in an applicable filing with the office
 35938 | ~~department~~, knowingly:

35939 | (a) Permitting, or offering to make, or making, any
 35940 | contract or agreement as to such contract other than as plainly
 35941 | expressed in the motor vehicle service agreement issued thereon;

35942 | (b) Paying, allowing, or giving, or offering to pay,
 35943 | allow, or give, directly or indirectly, as inducement to such
 35944 | motor vehicle service agreement, any unlawful rebate of premiums
 35945 | payable on the agreement, any special favor or advantage in the
 35946 | benefits thereon, or any valuable consideration or inducement
 35947 | not specified in the agreement;

35948 | (c) Giving, selling, or purchasing, or offering to give,
 35949 | sell, or purchase, as an inducement to such motor vehicle
 35950 | service agreement or in connection therewith, any stocks, bonds,
 35951 | or other securities of any insurance company, service agreement
 35952 | company, or other corporation, association, or partnership, or
 35953 | any dividends or profits accrued thereon, or anything of value
 35954 | not specified in the motor vehicle service agreement.

35955 | (13) ILLEGAL DEALINGS IN PREMIUMS; EXCESS OR REDUCED



HB 1803

2003

35956 CHARGES FOR MOTOR VEHICLE SERVICE AGREEMENTS.--

35957 (a) Knowingly collecting any sum as a premium or charge
35958 for a motor vehicle service agreement, which is not then
35959 provided, or is not in due course to be provided, subject to
35960 acceptance of the risk by a service agreement company or an
35961 insurer, by a motor vehicle service agreement issued by a
35962 service agreement company or an insurer as permitted by this
35963 part.

35964 (b) Knowingly collecting as a premium or charge for a
35965 motor vehicle service agreement any sum in excess of or less
35966 than the premium or charge applicable to such motor vehicle
35967 service agreement, in accordance with the applicable
35968 classifications and rates as filed with the office ~~department~~,
35969 and as specified in the motor vehicle service agreement.

35970
35971 No provision of this section shall be deemed to prohibit a
35972 service agreement company or a licensed insurer from giving to
35973 service agreement holders, prospective service agreement
35974 holders, and others for the purpose of advertising, any article
35975 of merchandise having a value of not more than \$25.

35976 Section 1148. Section 634.283, Florida Statutes, is
35977 amended to read:

35978 634.283 Power of department and office to examine and
35979 investigate.--The department and office may, within their
35980 respective regulatory jurisdictions, examine and investigate the
35981 affairs of every person involved in the business of motor
35982 vehicle service agreements in this state in order to determine
35983 whether such person has been or is engaged in any unfair method
35984 of competition or in any unfair or deceptive act or practice
35985 prohibited by s. 634.2815, and each shall have the powers and



HB 1803

2003

35986 duties specified in ss. 634.284-634.289 in connection therewith.

35987 Section 1149. Section 634.284, Florida Statutes, is
35988 amended to read:

35989 634.284 Prohibited practices; hearings; procedure; service
35990 of process.--

35991 (1) Whenever the department or office has reason to
35992 believe that any person has engaged, or is engaging, in this
35993 state in any unfair method of competition or any unfair or
35994 deceptive act or practice as defined in s. 634.282, or is
35995 engaging in the business of motor vehicle service agreements
35996 without being properly licensed as required by this part, and
35997 that a proceeding by the department or office in respect thereto
35998 would be in the interest of the public, the department or office
35999 shall conduct or cause to have conducted a hearing in accordance
36000 with chapter 120.

36001 (2) The department or office, a duly empowered hearing
36002 officer, or an administrative law judge shall, during the
36003 conduct of such hearing, have those powers enumerated in s.
36004 120.569; however, the penalty for failure to comply with a
36005 subpoena or with an order directing discovery is limited to a
36006 fine not to exceed \$1,000 per violation.

36007 (3) A statement of charges, notice, or order under this
36008 part may be served by anyone duly authorized by the department
36009 or office, either in the manner provided by law for service of
36010 process in civil actions or by certifying and mailing a copy
36011 thereof to the person affected by such statement, notice, order,
36012 or other process at her or his residence or principal office or
36013 place of business. The verified return by the person so serving
36014 such statement, notice, order, or other process, setting forth
36015 the manner of the service, is proof of the same; and the return



HB 1803

2003

36016 postcard receipt for such statement, notice, order, or other
 36017 process, certified and mailed as provided in this subsection, is
 36018 proof of service of the same.

36019 Section 1150. Section 634.285, Florida Statutes, is
 36020 amended to read:

36021 634.285 Cease and desist and penalty orders.--After the
 36022 hearing provided for in s. 634.284, the department or office
 36023 shall enter a final order in accordance with s. 120.569. If it
 36024 is determined that the person charged has engaged in an unfair
 36025 or deceptive act or practice or the unlawful transaction of a
 36026 service agreement business, the department or office also shall
 36027 issue an order requiring the violator to cease and desist from
 36028 engaging in such method of competition, act, or practice or the
 36029 unlawful transaction of service agreement business. Further, the
 36030 department or office may, at its discretion, order any one or
 36031 more of the following penalties:

36032 (1) The suspension or revocation of such person's license,
 36033 or eligibility for any license, if the person knew, or
 36034 reasonably should have known, that she or he was in violation of
 36035 this part.

36036 (2) If it is determined that the person charged has
 36037 provided or offered to provide motor vehicle service agreements
 36038 without proper licensure, the imposition of an administrative
 36039 penalty not to exceed \$1,000 for each service agreement contract
 36040 offered or effectuated.

36041 Section 1151. Section 634.286, Florida Statutes, is
 36042 amended to read:

36043 634.286 Appeals from orders of the department or office--
 36044 Any person subject to an order of the department or office under
 36045 s. 634.285 may obtain a review of such order by filing an appeal



HB 1803

2003

36046 therefrom in accordance with the provisions and procedures for
 36047 appeal from the orders of the department or office in general
 36048 under s. 120.68.

36049 Section 1152. Section 634.287, Florida Statutes, is
 36050 amended to read:

36051 634.287 Penalty for violation of cease and desist order.--
 36052 Any person who violates a cease and desist order of the
 36053 department or office under s. 634.285 while such order is in
 36054 effect, after notice and hearing as provided in s. 634.284, is
 36055 subject, at the discretion of the department or office, to any
 36056 one or more of the following penalties:

36057 (1) A monetary penalty of not more than \$50,000 as to all
 36058 matters determined in such hearing.

36059 (2) The suspension or revocation of such person's license
 36060 or eligibility to hold a license.

36061 Section 1153. Section 634.288, Florida Statutes, is
 36062 amended to read:

36063 634.288 Civil liability.--The provisions of this part are
 36064 cumulative to rights under the general civil and common law, and
 36065 no action of the department or office will abrogate such rights
 36066 to damages or other relief in any court.

36067 Section 1154. Section 634.289, Florida Statutes, is
 36068 amended to read:

36069 634.289 Rules.--The department or commission may adopt
 36070 rules, in accordance with chapter 120, to identify specific
 36071 methods of competition or acts or practices that are prohibited
 36072 by s. 634.282, but these rules shall not enlarge upon or extend
 36073 the provisions of that section.

36074 Section 1155. Section 634.301, Florida Statutes, is
 36075 amended to read:



HB 1803

2003

36076 634.301 Definitions.--As used in this part, the term:
 36077 ~~(1) "Department" means the Department of Insurance.~~
 36078 (1)(2) "Gross written premiums" means the total amount of
 36079 premiums, paid for the entire period of the home warranty,
 36080 inclusive of commissions, for which the association is obligated
 36081 under home warranties issued.
 36082 (2)(3) "Home improvement" means major remodeling,
 36083 enclosure of a garage, addition of a room, addition of a pool,
 36084 and other like items that add value to the residential property.
 36085 The term does not include normal maintenance for items such as
 36086 painting, reroofing, and other like items subject to normal wear
 36087 and tear.
 36088 (3)(4) "Home warranty" or "warranty" means any contract or
 36089 agreement:
 36090 (a) Offered in connection with the sale of residential
 36091 property;
 36092 (b) Offered in connection with a loan of \$5,000 or more
 36093 which is secured by residential property that is the subject of
 36094 the warranty, but not in connection with the sale of such
 36095 property; or
 36096 (c) Offered in connection with a home improvement of
 36097 \$7,500 or more for residential property that is the subject of
 36098 the warranty, but not in connection with the sale of such
 36099 property;
 36100
 36101
 36102 whereby a person undertakes to indemnify the warranty holder
 36103 against the cost of repair or replacement, or actually furnishes
 36104 repair or replacement, of any structural component or appliance
 36105 of a home, necessitated by wear and tear or an inherent defect



HB 1803

2003

36106 of any such structural component or appliance or necessitated by
36107 the failure of an inspection to detect the likelihood of any
36108 such loss. However, this part does not prohibit the giving of
36109 usual performance guarantees by either the builder of a home or
36110 the manufacturer or seller of an appliance, as long as no
36111 identifiable charge is made for such guarantee. This part does
36112 not permit the provision of indemnification against
36113 consequential damages arising from the failure of any structural
36114 component or appliance of a home, which practice constitutes the
36115 transaction of insurance subject to all requirements of the
36116 insurance code. This part does not apply to service contracts
36117 entered into between consumers and nonprofit organizations or
36118 cooperatives the members of which consist of condominium
36119 associations and condominium owners and which perform repairs
36120 and maintenance for appliances or maintenance of the residential
36121 property.

36122 (4)~~(5)~~ "Home warranty association" means any corporation
36123 or any other organization, other than an authorized insurer,
36124 issuing home warranties.

36125 (5)~~(6)~~ "Impaired" means having liabilities in excess of
36126 assets.

36127 (6)~~(7)~~ "Insolvent" means the inability of a corporation to
36128 pay its debts as they become due in the usual course of its
36129 business.

36130 (7)~~(8)~~ "Insurance code" means the Florida Insurance Code.

36131 (8)~~(9)~~ "Insurer" means any property or casualty insurer
36132 duly authorized to transact such business in this state.

36133 (9)~~(10)~~ "Listing period" means the period of time
36134 residential property is listed for sale with a licensed real
36135 estate broker, beginning on the date the residence is first



HB 1803

2003

36136 listed for sale and ending on either the date the sale of the
 36137 residence is closed, the date the residence is taken off the
 36138 market, or the date the listing contract with the real estate
 36139 broker expires.

36140 (10)~~(11)~~ "Net assets" means the amount by which the total
 36141 statutory assets of an association exceed the total liabilities
 36142 of the association.

36143 (11)~~(12)~~ "Person" includes an individual, company,
 36144 corporation, association, insurer, agent, and every other legal
 36145 entity.

36146 (12)~~(13)~~ "Premium" means the total consideration received,
 36147 or to be received, by an insurer or home warranty association
 36148 for or related to the issuance and delivery of any binder or
 36149 warranty, including any charges designated as assessments or
 36150 fees for policies, surveys, inspections, or service or any other
 36151 charges.

36152 (13)~~(14)~~ "Sales representative" means any person with whom
 36153 an insurer or home inspection or warranty association has a
 36154 contract and who is utilized by such insurer or association for
 36155 the purpose of selling or issuing home warranties. The term
 36156 includes all employees of an insurer or association engaged
 36157 directly in the sale or issuance of home warranties.

36158 (14)~~(15)~~ "Structural component" means the roof, plumbing
 36159 system, electrical system, foundation, basement, walls,
 36160 ceilings, or floors of a home.

36161 Section 1156. Section 634.302, Florida Statutes, is
 36162 amended to read:

36163 634.302 Powers of department, commission, and office;
 36164 rules.--The office ~~department~~ shall administer this part, and
 36165 the commission may, to that end, it has authority to adopt rules



HB 1803

2003

36166 pursuant to ss. 120.536(1) and 120.54 to implement the
 36167 provisions of this part related to home warranty associations
 36168 and home warranties. The department shall administer this part
 36169 and may adopt rules pursuant to ss. 120.536(1) and 120.54 to
 36170 implement provisions of this part related to sales
 36171 representatives. Such rules by the commission or department may
 36172 ~~include rules that~~ identify specific methods of competition or
 36173 acts or practices that are prohibited by s. 634.336, but ~~the~~
 36174 ~~rules~~ shall not enlarge upon or extend the provisions of that
 36175 section.

36176 Section 1157. Subsection (1) of section 634.303, Florida
 36177 Statutes, is amended to read:

36178 634.303 License required.--

36179 (1) No person in this state shall provide or offer to
 36180 provide home warranties unless authorized therefor under a
 36181 subsisting license issued by the office ~~department~~. The home
 36182 warranty association shall pay to the office ~~department~~ a
 36183 license tax of \$200 for such license for each license year, or
 36184 part thereof, the license is in force.

36185 Section 1158. Section 634.304, Florida Statutes, is
 36186 amended to read:

36187 634.304 Qualifications for license.--The office ~~department~~
 36188 may not issue or renew a license to any home warranty
 36189 association unless the association:

36190 (1) Is a solvent corporation formed under the laws of this
 36191 state or of another state, district, territory, or possession of
 36192 the United States.

36193 (2) Furnishes the office ~~department~~ with evidence
 36194 satisfactory to it that the management of the association is
 36195 competent and trustworthy and can successfully manage the



HB 1803

2003

36196 affairs of the association in compliance with law.

36197 (3) Proposes to use and uses in its business a name,
36198 together with a trademark or emblem, if any, which is
36199 distinctive and not so similar to the name or trademark of any
36200 other association, corporation, or organization already doing
36201 business in this state as will tend to mislead or confuse the
36202 public.

36203 (4) Meets the deposit requirements under s. 634.305.

36204 (5) Is otherwise in compliance with this part.

36205 Section 1159. Subsections (1), (2), and (6) of section
36206 634.305, Florida Statutes, are amended to read:

36207 634.305 Required deposit or bond.--

36208 (1) To assure the faithful performance of its obligations
36209 to its members or subscribers in the event of insolvency, every
36210 home warranty association shall, before the issuance of its
36211 license by the office ~~department~~, deposit with the department
36212 securities of the type eligible for deposit by insurers under s.
36213 625.52, which securities shall have at all times a market value
36214 of not less than \$100,000.

36215 (2) In lieu of any deposit of securities required under
36216 subsection (1), the association may:

36217 (a) Deposit with the department securities of the type
36218 eligible for deposit by insurers under s. 625.52, which
36219 securities shall have at all times a market value of not less
36220 than \$25,000; and

36221 (b) File with the office ~~department~~ a surety bond in the
36222 amount of \$75,000. The bond shall be one issued by an
36223 authorized surety insurer, shall be for the same purpose as the
36224 deposit in lieu of which it is filed, and shall be subject to
36225 the approval of the office ~~department~~. The bond shall guarantee



HB 1803

2003

36226 that the home warranty association will faithfully and truly
36227 perform all the conditions of any home warranty contract. No
36228 such bond may be canceled or subject to cancellation unless at
36229 least 60 days' advance notice thereof in writing is filed with
36230 the office ~~department~~. In the event that notice of termination
36231 of the bond is filed with the office ~~department~~, the home
36232 warranty association insured thereunder shall, within 30 days of
36233 the filing of notice of termination, provide the office
36234 ~~department~~ with a replacement bond meeting the requirements of
36235 this part or deposit additional securities as required under
36236 subsection (1). The cancellation of a bond will not relieve the
36237 obligation of the issuer of the bond for claims arising out of
36238 contracts issued before cancellation of the bond unless a
36239 replacement bond or securities are filed pursuant to this
36240 section. In no event may the liability of the issuer under the
36241 bond exceed the face amount of the bond. If within 30 days of
36242 filing the notice of termination no replacement bond or
36243 additional security is provided, the office ~~department~~ shall
36244 suspend the license of the association until the deposit
36245 requirements are satisfied.

36246 (6) Such deposit or bond shall be maintained unimpaired as
36247 long as the association continues in business in this state.
36248 Whenever the association ceases to do business in this state and
36249 furnishes the office ~~department~~ proof satisfactory to the office
36250 ~~department~~ that it has discharged or otherwise adequately
36251 provided for all its obligations to its members or subscribers
36252 in this state, the office and department shall release the
36253 deposited securities to the parties entitled thereto, on
36254 presentation of the receipts of the department for such
36255 securities, or shall release any bond filed with it pursuant to



HB 1803

2003

36256 this section.

36257 Section 1160. Section 634.306, Florida Statutes, is
 36258 amended to read:

36259 634.306 Application for and issuance of license.--

36260 (1) An application for license as a home warranty
 36261 association must be made to and must be filed with the office
 36262 ~~department~~ on printed forms prescribed by the commission and
 36263 furnished by the office ~~it~~.

36264 (2) In addition to information relative to its
 36265 qualifications as required under s. 634.304, the application
 36266 must show:

36267 (a) The location of the applicant's home office.

36268 (b) The name and residence address of each director or
 36269 officer of the applicant and the name and residence address of
 36270 each shareholder who owns or controls 10 percent or more shares
 36271 of the applicant.

36272 (c) Such other pertinent information as is required by the
 36273 office or commission ~~department~~.

36274 (3) The application must be accompanied by:

36275 (a) A copy of the applicant's articles of incorporation,
 36276 certified by the public official having custody of the original,
 36277 and a copy of the applicant's bylaws, certified by the
 36278 applicant's secretary.

36279 (b) A copy of the most recent financial statement of the
 36280 applicant, verified under oath of at least two of its principal
 36281 officers.

36282 (c) A license fee in the amount of \$200, as required under
 36283 s. 634.303.

36284 (4) Upon completion of the application for license, the
 36285 office ~~department~~ shall examine the application and make any



HB 1803

2003

36286 further investigation of the applicant as it deems advisable.
36287 If it finds that the applicant is qualified therefor, the office
36288 ~~department~~ shall issue to the applicant a license as a home
36289 warranty association. If the office ~~department~~ does not so find,
36290 it shall refuse to issue the license and shall give the
36291 applicant written notice of such refusal, setting forth the
36292 grounds therefor.

36293 Section 1161. Section 634.307, Florida Statutes, is
36294 amended to read:

36295 634.307 License expiration; renewal.--Each license as a
36296 home warranty association issued under this part shall expire on
36297 June 1 next following the date of issuance. If the association
36298 is then qualified therefor under the provisions of this part,
36299 its license may be renewed annually, upon its request and upon
36300 payment to the office ~~department~~ of the license tax in the
36301 amount of \$200, in advance, for each such license year.

36302 Section 1162. Subsections (3) and (4) of section 634.3077,
36303 Florida Statutes, are amended to read:

36304 634.3077 Financial requirements.--

36305 (3) An association shall not be required to set up an
36306 unearned premium reserve if it has purchased contractual
36307 liability insurance which demonstrates to the satisfaction of
36308 the office ~~department~~ that 100 percent of its claim exposure is
36309 covered by such insurance. Such contractual liability insurance
36310 shall be obtained from an insurer that holds a certificate of
36311 authority to do business within the state or from an insurer
36312 approved by the office ~~department~~ as financially capable of
36313 meeting the obligations incurred pursuant to the policy. For
36314 purposes of this subsection, the contractual liability policy
36315 shall contain the following provisions:



HB 1803

2003

36316 (a) In the event that the home warranty association is
 36317 unable to fulfill its obligation under its contracts issued in
 36318 this state for any reason, including insolvency, bankruptcy, or
 36319 dissolution, the contractual liability insurer will pay losses
 36320 and unearned premiums under such plans directly to persons
 36321 making claims under such contracts.

36322 (b) The insurer issuing the policy shall assume full
 36323 responsibility for the administration of claims in the event of
 36324 the inability of the association to do so.

36325 (c) The policy may not be canceled or not renewed by
 36326 either the insurer or the association unless 60 days' written
 36327 notice thereof has been given to the office ~~department~~ by the
 36328 insurer before the date of such cancellation or nonrenewal.

36329 (4) An association that purchases contractual liability
 36330 insurance on the warranties that it issues shall provide the
 36331 office ~~department~~ with claim statistics required to be filed by
 36332 associations not purchasing such insurance.

36333 Section 1163. Section 634.3078, Florida Statutes, is
 36334 amended to read:

36335 634.3078 Assets and liabilities.--

36336 (1) ASSETS.--In any determination of the financial
 36337 condition of a home warranty association, there shall be allowed
 36338 as assets only those assets that are owned by the home warranty
 36339 association company and which assets consist of:

36340 (a) Cash in the possession of the home warranty
 36341 association, or in transit under its control, including the true
 36342 balance of any deposit in a solvent bank, savings and loan
 36343 association, or trust company that is domiciled in the United
 36344 States.

36345 (b) Investments, securities, properties, and loans



HB 1803

2003

36346 acquired or held in accordance with this part and, in connection
36347 therewith, the following items:

36348 1. Interest due or accrued on any bond or evidence of
36349 indebtedness which is not in default and which is not valued on
36350 a basis including accrued interest.

36351 2. Declared and unpaid dividends on stock and shares,
36352 unless the amount of the dividends has otherwise been allowed as
36353 an asset.

36354 3. Interest due or accrued upon a collateral loan that is
36355 not in default in an amount not to exceed 1 year's interest
36356 thereon.

36357 4. Interest due or accrued on deposits or certificates of
36358 deposit in solvent banks, savings and loan associations, and
36359 trust companies domiciled in the United States, and interest due
36360 or accrued on other assets, if such interest is in the judgment
36361 of the office ~~department~~ a collectible asset.

36362 5. Interest due or accrued on current mortgage loans, in
36363 an amount not exceeding the amount, if any, of the excess of the
36364 value of the property less delinquent taxes thereon over the
36365 unpaid principal; but interest accrued for a period in excess of
36366 90 days may not be allowed as an asset.

36367 6. Rent due or accrued on real property if such rent is
36368 not in arrears for more than 3 months. However, rent accrued for
36369 a period in excess of 90 days may not be allowed as an asset.

36370 7. The unaccrued portion of taxes paid prior to the due
36371 date on real property.

36372 (c) Furniture, fixtures, furnishings, vehicles, and
36373 equipment, if the original cost of each item is at least \$200,
36374 which cost shall be amortized in full over a period not to
36375 exceed 5 calendar years, unless otherwise approved by the office



HB 1803

2003

36376 ~~department.~~

36377 (d) Part inventories maintained for the purpose of
36378 servicing products warranted. Part inventories must be listed at
36379 cost. Home warranty associations companies are required to
36380 maintain records to support valuation of part inventories.

36381 (e) The liquidation value of prepaid expenses.

36382 (f) Other assets or receivables, not inconsistent with the
36383 provisions of this section, deemed by the office ~~department~~ to
36384 be available for the payment of losses and claims, at values to
36385 be determined by the office ~~department~~.

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36387

36388 The office ~~department~~, upon determining that a home warranty
36389 association's asset has not been evaluated according to
36390 applicable law or that it does not qualify as an asset, shall
36391 require the home warranty association to properly reevaluate the
36392 asset or replace the asset with an asset suitable to the office
36393 ~~department~~ within 30 days after written notification by the
36394 office ~~department~~ of this determination, if the removal of the
36395 asset from the organization's assets would impair the company's
36396 solvency.

36397 (2) ASSETS NOT ALLOWED.--In addition to assets impliedly
36398 excluded by the provisions of subsection (1), the following
36399 assets expressly shall not be allowed as assets in any
36400 determination of the financial condition of a home warranty
36401 association:

36402 (a) Goodwill, agreement holder lists, patents, trade
36403 names, agreements not to compete, and other like intangible
36404 assets.

36405 (b) Any note or account receivable from or advances to



HB 1803

2003

36406 officers, directors, or controlling stockholders, whether
 36407 secured or not, and advances to employees, agents, or other
 36408 persons on personal security only.

36409 (c) Stock of the home warranty association owned by it
 36410 directly or owned by it through any entity in which the
 36411 organization owns or controls, directly or indirectly, more than
 36412 25 percent of the ownership interest.

36413 (d) Leasehold improvements, stationery, and literature,
 36414 except that leasehold improvements made prior to October 1,
 36415 2001, shall be allowed as an asset and shall be amortized over
 36416 the shortest of the following periods:

- 36417 1. The life of the lease.
- 36418 2. The useful life of the improvements.
- 36419 3. The 3-year period following October 1, 2001.

36420 (e) Furniture, fixtures, furnishings, vehicles, and
 36421 equipment, other than those items authorized under paragraph
 36422 (1)(c).

36423 (f) Notes or other evidences of indebtedness which are
 36424 secured by mortgages or deeds of trust which are in default and
 36425 beyond the express period specified in the instrument for curing
 36426 the default.

36427 (g) Bonds in default for more than 60 days.

36428 (h) Deferred costs other than the liquidation value of
 36429 prepaid expenses except for those companies that reserve 100
 36430 percent of gross written premium.

36431 (i) Any note, account receivable, advance, or other
 36432 evidence of indebtedness, or investment in:

- 36433 1. The parent of the home warranty association;
- 36434 2. Any entity directly or indirectly controlled by the
 36435 home warranty association's parent;



HB 1803

2003

36436 3. An affiliate of the parent or the home warranty
36437 association; or

36438 4. Officers, directors, shareholders, employees, or
36439 salespersons of the home warranty association; however, premium
36440 receivables under 45 days old may be considered an admitted
36441 asset.

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36444 The office department may, however, allow all or a portion of
36445 such asset, at values to be determined by the office department,
36446 if deemed by the office department to be available for the
36447 payment of losses and claims.

36448 (3) LIABILITIES.--In any determination of the financial
36449 condition of a home warranty association, liabilities to be
36450 charged against its assets shall include, but not be limited to:

36451 (a) The amount, in conformity with generally accepted
36452 accounting principles, necessary to pay all of its unpaid losses
36453 and claims incurred for or on behalf of an agreement holder, on
36454 or prior to the end of the reporting period, whether reported or
36455 unreported.

36456 (b) Taxes, expenses, and other obligations due or accrued
36457 at the date of the statement.

36458 (c) Reserve for unearned premiums.

36459
36460
36461 The office department, upon determining that the home warranty
36462 association has failed to report liabilities that should have
36463 been reported, shall require a correct report which reflects the
36464 proper liabilities to be submitted by the home warranty
36465 association to the office department within 10 working days



HB 1803

2003

36466 after receipt of written notification.

36467 Section 1164. Subsections (1), (2), and (3) of section
36468 634.308, Florida Statutes, are amended to read:

36469 634.308 Grounds for suspension or revocation of license.--

36470 (1) The license of any home warranty association may be
36471 revoked or suspended, or the office ~~department~~ may refuse to
36472 renew any such license, if it is determined that:

36473 (a) The association has violated any lawful rule or order
36474 of the commission or office ~~department~~ or any provision of this
36475 part.

36476 (b) The association has not maintained a funded, unearned
36477 premium reserve account as required by s. 634.3077(1).

36478 (c) The association has not maintained, at a minimum, net
36479 assets as required by s. 634.3077(2).

36480 (2) The license of any home warranty association shall be
36481 suspended, revoked, or not renewed if it is determined that such
36482 association:

36483 (a) Is in unsound financial condition or is in such
36484 condition or is using such methods and practices in the conduct
36485 of its business as to render its further transaction of
36486 warranties in this state hazardous or injurious to its warranty
36487 holders or to the public.

36488 (b) Has refused to be examined or to produce its accounts,
36489 records, and files for examination, or if any of its officers
36490 have refused to give information with respect to its affairs or
36491 have refused to perform any other legal obligation as to such
36492 examination, when required by the office ~~department~~.

36493 (c) Has failed to pay any final judgment rendered against
36494 it in this state within 60 days after the judgment became final.

36495 (d) Has, without just cause, refused to pay proper claims



HB 1803

2003

36496 arising under its warranties or, without just cause, has
 36497 compelled warranty holders to accept less than the amount due
 36498 them or to employ attorneys, or to bring suit against the
 36499 association, to secure full payment or settlement of such
 36500 claims.

36501 (e) Is affiliated with, and under the same general
 36502 management, interlocking directorate, or ownership as, another
 36503 home warranty association which transacts direct warranties in
 36504 this state without having a license therefor.

36505 (f) Has issued warranty contracts which renewal contracts
 36506 provide that the cost of renewal exceeds the then-current cost
 36507 for new warranty contracts or impose a fee for inspection of the
 36508 premises.

36509 (3) The office ~~department~~ may, pursuant to s. 120.60, in
 36510 its discretion and without advance notice or hearing thereon,
 36511 immediately suspend the license of any home warranty association
 36512 if it finds that one or more of the following circumstances
 36513 exist:

36514 (a) The association is insolvent or impaired.

36515 (b) The reserve account or net asset ratio requirement of
 36516 s. 634.3077 is not being maintained.

36517 (c) A proceeding for receivership, conservatorship or
 36518 rehabilitation or any other delinquency proceeding regarding the
 36519 association has been commenced in any state.

36520 (d) The financial condition or business practices of the
 36521 association otherwise pose an imminent threat to the public
 36522 health, safety, or welfare of the residents of this state.

36523 Section 1165. Section 634.310, Florida Statutes, is
 36524 amended to read:

36525 634.310 Order, notice of suspension or revocation of



HB 1803

2003

36526 license; effect; publication.--

36527 (1) A suspension or revocation of the license of a home
 36528 warranty association shall be effected by order mailed to the
 36529 association by registered or certified mail. The office
 36530 ~~department~~ also shall promptly give notice of such suspension or
 36531 revocation to the sales representatives of the association in
 36532 this state who are of record with ~~in the office of~~ the
 36533 department. The association may not solicit or write any new
 36534 warranties in this state during the period of any such
 36535 suspension or revocation.

36536 (2) In its discretion, the office ~~department~~ may cause
 36537 notice of any such revocation or suspension to be published in
 36538 one or more newspapers of general circulation published in this
 36539 state.

36540 Section 1166. Subsection (4) of section 634.311, Florida
 36541 Statutes, is amended to read:

36542 634.311 Duration of suspension; obligations of association
 36543 during suspension period; reinstatement.--

36544 (4) Upon reinstatement of the license of an association,
 36545 or reinstatement of the certificate of authority of an insurer,
 36546 following suspension, the authority of the sales representatives
 36547 of the association in this state to represent the association or
 36548 insurer shall likewise be reinstated. The office ~~department~~
 36549 shall promptly notify the association.

36550 Section 1167. Section 634.3112, Florida Statutes, is
 36551 amended to read:

36552 634.3112 Administrative fine in lieu of suspension or
 36553 revocation of license of association.--

36554 (1) If it is found that one or more grounds exist for the
 36555 suspension, revocation, or refusal to renew the license of any



HB 1803

2003

36556 association issued under this part, the office ~~department~~ may,
36557 in lieu of such revocation or suspension, impose a fine upon the
36558 association.

36559 (2) With respect to any nonwillful violation, such fine
36560 may not exceed \$500 per violation. In no event may such fine
36561 exceed an aggregate amount of \$5,000 for all nonwillful
36562 violations arising out of the same action. When an association
36563 discovers a nonwillful violation, the association shall correct
36564 the violation and, if restitution is due, make restitution to
36565 all affected persons. Such restitution shall include interest
36566 at 12 percent per year from either the date of the violation or
36567 the date of inception of the affected person's policy, at the
36568 option of the association.

36569 (3) With respect to any knowing and willful violation of a
36570 lawful order or rule of the office or commission ~~department~~ or a
36571 provision of this part, the office ~~department~~ may impose a fine
36572 upon the association in an amount not to exceed \$2,500 for each
36573 such violation. In no event may such fine exceed an aggregate
36574 amount of \$25,000 for all knowing and willful violations arising
36575 out of the same action. In addition to such fines, an
36576 association shall make restitution when due in accordance with
36577 the provisions of subsection (2).

36578 (4) The failure of an association to make restitution when
36579 due, as required under this section, constitutes a willful
36580 violation of this code. However, if an insurer in good faith is
36581 uncertain as to whether any restitution is due or as to the
36582 amount of such restitution, it shall promptly notify the office
36583 ~~department~~ of the circumstances, and the failure to make
36584 restitution pending a determination thereof will not constitute
36585 a violation of this part.



HB 1803

2003

36586 Section 1168. Subsections (1), (2), and (3) of section
36587 634.312, Florida Statutes, are amended to read:

36588 634.312 Filing, approval of forms.--

36589 (1) No warranty form or related form shall be issued or
36590 used in this state unless it has been filed with and approved by
36591 the office ~~department~~. Also upon application for a license, the
36592 office ~~department~~ shall require the applicant to submit for
36593 approval each brochure, pamphlet, circular, form letter,
36594 advertisement, or other sales literature or advertising
36595 communication addressed or intended for distribution. Approval
36596 of the application constitutes approval of such documents,
36597 unless the applicant has consented otherwise in writing. The
36598 office ~~department~~ shall disapprove any document which is untrue,
36599 deceptive, or misleading or which contains misrepresentations or
36600 omissions of material facts.

36601 (a) After an application has been approved, a licensee is
36602 not required to submit brochures or advertisement to the office
36603 ~~department~~ for approval; however, a licensee may not have
36604 published, and a person may not publish, any brochure or
36605 advertisement which is untrue, deceptive, or misleading or which
36606 contains misrepresentations or omissions of material fact.

36607 (b) For purposes of this section, brochures and
36608 advertising includes, but is not limited to, any report,
36609 circular, public announcement, certificate, or other printed
36610 matter or advertising material which is designed or used to
36611 solicit or induce any persons to enter into any home warranty
36612 agreement.

36613 (2) Every such filing shall be made not less than 30 days
36614 in advance of issuance or use. At the expiration of 30 days
36615 from date of filing, a form so filed shall be deemed approved



HB 1803

2003

36616 unless prior thereto it has been affirmatively approved or
36617 disapproved by written order of the office ~~department~~.

36618 (3) The office ~~department~~ shall not approve any such form
36619 which allows for more than nine annual renewals or which renewal
36620 contracts provide that the cost of renewal exceeds the then-
36621 current cost for new warranty contracts or impose a fee for
36622 inspection of the premises.

36623 Section 1169. Section 634.3123, Florida Statutes, is
36624 amended to read:

36625 634.3123 Grounds for disapproval of forms.--The office
36626 ~~department~~ shall disapprove any form filed under s. 634.312 or
36627 withdraw any previous approval if the form:

36628 (1) Is in violation of or does not comply with this part.

36629 (2) Contains or incorporates by reference, when such
36630 incorporation is otherwise permissible, any inconsistent,
36631 ambiguous, or misleading clauses or exceptions or conditions
36632 which deceptively affect the risk purported to be assumed in the
36633 general coverage of the contract.

36634 (3) Has any title, heading, or other indication of its
36635 provisions which is misleading.

36636 (4) Is printed or otherwise reproduced in such a manner as
36637 to render any material provision of the form illegible.

36638 (5) Provides that the cost of renewal exceeds the then-
36639 current cost for new warranty contracts or impose a fee for
36640 inspection of the premises.

36641 Section 1170. Section 634.3126, Florida Statutes, is
36642 amended to read:

36643 634.3126 Rate filings.--Each insurer and home warranty
36644 association shall file with the office ~~department~~ for
36645 informational purposes the rate to be charged for each warranty



HB 1803

2003

36646 and the premium, including all modifications of rates and
36647 premiums. Each filing shall state the proposed effective date.

36648 Section 1171. Section 634.313, Florida Statutes, is
36649 amended to read:

36650 634.313 Tax on premiums; annual statement; reports.--

36651 (1) In addition to paying the license taxes provided for
36652 in this part for home warranty associations and license taxes
36653 provided in the insurance code as to insurers, each such
36654 association and each such insurer must, annually on or before
36655 March 1, file with the office ~~department~~ its annual statement,
36656 in the form prescribed by the commission ~~department~~, showing all
36657 premiums received by it in connection with the issuance of
36658 warranties in this state during the preceding calendar year and
36659 using accounting principles that will enable the office
36660 ~~department~~ to ascertain whether the reserve required by s.
36661 634.3077 has been maintained. Each annual statement must
36662 contain a balance sheet listing all assets and liabilities; a
36663 statement of operations and retained earnings; and a schedule
36664 used to report all claims statistics. The annual statement must
36665 be completed using generally accepted accounting principles
36666 except as otherwise provided in this part. Further, each
36667 association and each insurer must pay to the Chief Financial
36668 Officer ~~Treasurer~~ a tax in an amount equal to 2 percent of the
36669 amount of such premiums so received.

36670 (2) Premiums received by insurers and taxed under this
36671 section are not subject to any premium tax provided for in the
36672 insurance code.

36673 (3) Any association or insurer neglecting to file the
36674 annual statement in the form and within the time provided by
36675 this section shall forfeit up to \$100 for each day during which



HB 1803

2003

36676 such neglect continues; and, upon notice by the office
 36677 ~~department~~ to that effect, its authority to do business in this
 36678 state shall cease while such default continues. The office
 36679 ~~department~~ shall deposit all sums collected by it under this
 36680 section to the credit of the Insurance ~~Commissioner's~~ Regulatory
 36681 Trust Fund.

36682 (4) In addition to an annual statement, the office
 36683 ~~department~~ may require of licensees, under oath and in the form
 36684 prescribed by it, such additional regular or special reports as
 36685 it may deem necessary to the proper supervision of licensees
 36686 under this part.

36687 (5) The commission ~~department~~ may by rule require each
 36688 home warranty association to submit to the office ~~department~~, as
 36689 the commission ~~department~~ may designate, all or part of the
 36690 information contained in the financial reports required by this
 36691 section in a computer-readable form compatible with the
 36692 electronic data processing system specified by the office
 36693 ~~department~~.

36694 Section 1172. Section 634.314, Florida Statutes, is
 36695 amended to read:

36696 634.314 Examination of associations.--Home warranty
 36697 associations licensed under this part shall be subject to
 36698 periodic examinations by the office ~~department~~, in the same
 36699 manner and subject to the same terms and conditions as apply to
 36700 insurers under part II of chapter 624 of the insurance code.

36701 Section 1173. Subsection (10) of section 634.320, Florida
 36702 Statutes, is amended to read:

36703 634.320 Grounds for compulsory refusal, suspension, or
 36704 revocation of license or appointment of sales representatives.--
 36705 The department shall deny, suspend, revoke, or refuse to renew



HB 1803

2003

36706 or continue the license or appointment of any sales
 36707 representative if it is found that any one or more of the
 36708 following grounds applicable to the sales representative exist:
 36709 (10) Willful failure to comply with, or willful violation
 36710 of, any proper order or rule of the department or commission or
 36711 willful violation of any provision of this part.

36712 Section 1174. Subsection (3) of section 634.321, Florida
 36713 Statutes, is amended to read:

36714 634.321 Grounds for discretionary refusal, suspension, or
 36715 revocation of license or appointment of sales representatives.--
 36716 The department may, in its discretion, deny, suspend, revoke, or
 36717 refuse to renew or continue the license or appointment of any
 36718 sales representative if it is found that any one or more of the
 36719 following grounds applicable to the sales representative exist
 36720 under circumstances for which such denial, suspension,
 36721 revocation, or refusal is not mandatory under s. 634.320:

36722 (3) Violation of any lawful order or rule of the
 36723 department or commission.

36724 Section 1175. Section 634.324, Florida Statutes, is
 36725 amended to read:

36726 634.324 Disposition of taxes and fees.--All license taxes,
 36727 taxes on premiums, license and appointment fees, and
 36728 administrative fines and penalties collected under this part
 36729 from home warranty associations and sales representatives shall
 36730 be deposited to the credit of the Insurance ~~Commissioner's~~
 36731 Regulatory Trust Fund.

36732 Section 1176. Section 634.325, Florida Statutes, is
 36733 amended to read:

36734 634.325 Insurance business not authorized.--Nothing in the
 36735 Florida Insurance Code or in this part shall be deemed to



HB 1803

2003

36736 authorize any home warranty association to transact any
 36737 insurance business other than that of home warranty as herein
 36738 defined or otherwise to engage in any other type of insurance
 36739 unless the association is authorized under a certificate of
 36740 authority issued by the office ~~department~~ under the provisions
 36741 of the Florida Insurance Code.

36742 Section 1177. Section 634.327, Florida Statutes, is
 36743 amended to read:

36744 634.327 Applicability to warranty on new home.--This part
 36745 shall not apply to any program offering a warranty on a new home
 36746 which is underwritten by an insurer licensed to do business in
 36747 the state when the insurance policy underwriting such program
 36748 has been filed with and approved by the office ~~Department of~~
 36749 ~~Insurance~~ as required by law.

36750 Section 1178. Subsection (8) of section 634.336, Florida
 36751 Statutes, is amended to read:

36752 634.336 Unfair methods of competition and unfair or
 36753 deceptive acts or practices defined.--The following methods,
 36754 acts, or practices are defined as unfair methods of competition
 36755 and unfair or deceptive acts or practices:

36756 (8) COERCION OF DEBTORS.--When a home warranty is sold as
 36757 authorized by s. 634.301(3)~~(4)~~(b):

36758 (a) Requiring, as a condition precedent or condition
 36759 subsequent to the lending of the money or the extension of the
 36760 credit or any renewal thereof, that the person to whom such
 36761 credit is extended purchase a home warranty; or

36762 (b) Failing to provide the advice required by s. 634.344;
 36763 or

36764 (c) Failing to comply with the provisions of s. 634.345.

36765 Section 1179. Section 634.337, Florida Statutes, is



HB 1803

2003

36766 amended to read:

36767 634.337 Power of department and office to examine and
36768 investigate.--The department and office ~~have~~ has the power,
36769 within their respective regulatory jurisdictions, to examine and
36770 investigate the affairs of every person involved in the business
36771 of home warranty in this state in order to determine whether
36772 such person has been or is engaged in any unfair method of
36773 competition or in any unfair or deceptive act or practice
36774 prohibited by s. 634.335, and each shall have the powers and
36775 duties specified in ss. 634.338-634.342 in connection therewith.

36776 Section 1180. Section 634.338, Florida Statutes, is
36777 amended to read:

36778 634.338 Prohibited practices; hearings; procedure; service
36779 of process.--

36780 (1) Whenever the department or office has reason to
36781 believe that any person has engaged, or is engaging, in this
36782 state in any unfair method of competition or any unfair or
36783 deceptive act or practice as defined in s. 634.336, or is
36784 engaging in the business of home warranty without being properly
36785 licensed as required by this part, and that a proceeding by the
36786 department or office in respect thereto would be in the interest
36787 of the public, the department or office shall conduct or cause
36788 to have conducted a hearing in accordance with chapter 120.

36789 (2) The department or office, a duly empowered hearing
36790 officer, or an administrative law judge shall, during the
36791 conduct of such hearing, have those powers enumerated in s.
36792 120.569; however, the penalty for failure to comply with a
36793 subpoena or with an order directing discovery is limited to a
36794 fine not to exceed \$1,000 per violation.

36795 (3) A statement of charges, notice, or order under this



HB 1803

2003

36796 part may be served by anyone duly authorized by the department
36797 or office, either in the manner provided by law for service of
36798 process in civil actions or by certifying and mailing a copy
36799 thereof to the person affected by such statement, notice, order,
36800 or other process at her or his or its residence or principal
36801 office or place of business. The verified return by the person
36802 so serving such statement, notice, order, or other process,
36803 setting forth the manner of the service is proof of the same;
36804 and the return postcard receipt for such statement, notice,
36805 order, or other process, certified and mailed as provided in
36806 this subsection, is proof of service of the same.

36807 Section 1181. Section 634.339, Florida Statutes, is
36808 amended to read:

36809 634.339 Cease and desist and penalty orders.--After the
36810 hearing provided for in s. 634.338, the department or office
36811 shall enter a final order in accordance with s. 120.569. If it
36812 is determined that the person charged has engaged in an unfair
36813 or deceptive act or practice or the unlawful transaction of home
36814 warranty business, the department or office also shall issue an
36815 order requiring the violator to cease and desist from engaging
36816 in such method of competition, act, or practice or the unlawful
36817 transaction of home warranty business. Further, the department
36818 or office may, at its discretion, order any one or more of the
36819 following penalties:

36820 (1) The suspension or revocation of such person's license,
36821 or eligibility for any license, if the person knew, or
36822 reasonably should have known, that she or he was in violation of
36823 this part.

36824 (2) If it is determined that the person charged has
36825 provided or offered to provide home warranties without proper



HB 1803

2003

36826 licensure, the imposition of an administrative penalty not to
 36827 exceed \$1,000 for each home warranty contract offered or
 36828 effectuated.

36829 Section 1182. Section 634.34, Florida Statutes, is amended
 36830 to read:

36831 634.34 Appeals from orders of the department or office.--
 36832 Any person subject to an order of the department or office under
 36833 s. 634.339 may obtain a review of such order by filing an appeal
 36834 therefrom in accordance with the provisions and procedures for
 36835 appeal from the orders of the department or office in general
 36836 under s. 120.68.

36837 Section 1183. Section 634.341, Florida Statutes, is
 36838 amended to read:

36839 634.341 Penalty for violation of cease and desist order.--
 36840 Any person who violates a cease and desist order of the
 36841 department or office under s. 634.339 while such order is in
 36842 effect, after notice and hearing as provided in s. 634.338, is
 36843 subject, at the discretion of the department or office, to any
 36844 one or more of the following penalties:

36845 (1) A monetary penalty of not more than \$25,000 as to all
 36846 matters determined in such hearing.

36847 (2) The suspension or revocation of such person's license
 36848 or eligibility to hold a license.

36849 Section 1184. Section 634.342, Florida Statutes, is
 36850 amended to read:

36851 634.342 Injunctive proceedings.--In addition to the
 36852 penalties and other enforcement provisions of this part, in the
 36853 event any person violates s. 634.303 or s. 634.318 or any rule
 36854 adopted or promulgated pursuant thereto, the department or
 36855 office is authorized to resort to a proceeding for injunction in



HB 1803

2003

36856 the circuit court of the county where such person resides or has
36857 her or his principal place of business, and therein apply for
36858 such temporary and permanent orders as the department or office
36859 may deem necessary to restrain such person from engaging in any
36860 such activities, until such person has complied with such
36861 provision or rule.

36862 Section 1185. Section 634.343, Florida Statutes, is
36863 amended to read:

36864 634.343 Civil liability.--The provisions of this part are
36865 cumulative to rights under the general civil and common law, and
36866 no action of the department or office will abrogate such rights
36867 to damages or other relief in any court.

36868 Section 1186. Section 634.344, Florida Statutes, is
36869 amended to read:

36870 634.344 Coercion of debtor prohibited.--

36871 (1) When a home warranty is sold as authorized by s.
36872 634.301~~(3)~~(4)(b), no person may require, as a condition
36873 precedent or condition subsequent to the lending of the money or
36874 the extension of the credit or any renewal thereof, that the
36875 person to whom such money or credit is extended purchase a home
36876 warranty.

36877 (2) When a home warranty is purchased in connection with
36878 the lending of money as authorized by s. 634.301~~(3)~~(4)(b), the
36879 insurer or home warranty association or the sales representative
36880 of the insurer or home warranty association shall advise the
36881 borrower or purchaser in writing that Florida law prohibits the
36882 lender from requiring the purchase of a home warranty as a
36883 condition precedent or condition subsequent to the making of the
36884 loan.



HB 1803

2003

36885 Section 1187. Section 634.345, Florida Statutes, is
 36886 amended to read:

36887 634.345 Buyer's right to cancel.--Every warranty sold in
 36888 connection with a loan as authorized by s. 634.301 (3) ~~(4)~~ (b)
 36889 shall contain a provision providing that the purchaser or
 36890 borrower may cancel the warranty within 10 days of purchase
 36891 without penalty and, upon such cancellation, the insurer or home
 36892 warranty association shall promptly refund the premium paid.
 36893 This provision may be included in the warranty or by rider or
 36894 endorsement thereto.

36895 Section 1188. Section 634.348, Florida Statutes, is
 36896 amended to read:

36897 634.348 Investigatory records.--All active examination or
 36898 investigatory records of the department or office made or
 36899 received pursuant to this part are confidential and exempt from
 36900 the provisions of s. 119.07(1) until such investigation is
 36901 completed or ceases to be active. For the purposes of this
 36902 section, an investigation is considered "active" while the
 36903 investigation is being conducted by the department or office
 36904 with a reasonable, good faith belief that it may lead to the
 36905 filing of administrative, civil, or criminal proceedings. An
 36906 investigation does not cease to be active if the department or
 36907 office is proceeding with reasonable dispatch, and there is good
 36908 faith belief that action may be initiated by the department or
 36909 office or other administrative or law enforcement agency.

36910 Section 1189. Section 634.401, Florida Statutes, is
 36911 amended to read:

36912 634.401 Definitions.--As used in this part, the term:

36913 (1) "Consumer product" means tangible property primarily
 36914 used for personal, family, or household purposes.



HB 1803

2003

36915 ~~(2)~~ "Department" means the Department of Insurance.

36916 (2)~~(3)~~ "Gross income" means the total amount of revenue
 36917 received in connection with business-related activity.

36918 (3)~~(4)~~ "Gross written premiums" means the total amount of
 36919 premiums, paid or to be paid by the consumer for the entire
 36920 period of the service warranty inclusive of commissions, for
 36921 which the association is obligated under service warranties
 36922 issued.

36923 (4)~~(5)~~ "Impaired" means having liabilities in excess of
 36924 assets.

36925 (5)~~(6)~~ "Indemnify" means to undertake repair or
 36926 replacement of a consumer product, in return for the payment of
 36927 a segregated premium, when such consumer product suffers
 36928 operational failure.

36929 (6)~~(7)~~ "Insolvent" means unable to pay debts as they
 36930 become due in the usual course of business.

36931 (7)~~(8)~~ "Insurance code" means the Florida Insurance Code
 36932 as defined in s. 624.01.

36933 (8)~~(9)~~ "Insurer" means any property or casualty insurer
 36934 duly authorized to transact such business in this state.

36935 (9)~~(10)~~ "Net assets" means total statutory assets in
 36936 excess of liabilities, except that assets pledged to secure
 36937 debts not reflected on the books of the service warranty
 36938 association shall not be included in net assets.

36939 (10)~~(11)~~ "Person" includes an individual, company,
 36940 corporation, association, insurer, agent, and any other legal
 36941 entity.

36942 (11)~~(12)~~ "Premium" means the total amount paid by the
 36943 consumer, including any charges designated as assessments or
 36944 fees for membership, policy, survey, inspection, finance,



HB 1803

2003

36945 service, or other charges by the association.

36946 (12)~~(13)~~ "Sales representative" means any person, retail
36947 store, corporation, partnership, or sole proprietorship utilized
36948 by an insurer or service warranty association for the purpose of
36949 selling or issuing service warranties. However, in the case of
36950 service warranty associations selling service warranties from
36951 one or more business locations, the person in charge of each
36952 location may be considered the sales representative.

36953 (13)~~(14)~~ "Service warranty" means any warranty, guaranty,
36954 extended warranty or extended guaranty, maintenance service
36955 contract greater than 1 year in length or which does not meet
36956 the exemption in paragraph (a), contract agreement, or other
36957 written promise to indemnify against the cost of repair or
36958 replacement of a consumer product in return for the payment of a
36959 segregated charge by the consumer; however:

36960 (a) Maintenance service contracts written for 1 year or
36961 less which do not contain provisions for indemnification and
36962 which do not provide a discount to the consumer for any
36963 combination of parts and labor in excess of 20 percent during
36964 the effective period of such contract, motor vehicle service
36965 agreements, transactions exempt under s. 624.125, and home
36966 warranties subject to regulation under parts I and II of this
36967 chapter are excluded from this definition; and

36968 (b) The term "service warranty" does not include service
36969 contracts between consumers and condominium associations.

36970 (14)~~(15)~~ "Service warranty association" or "association"
36971 means any person, other than an authorized insurer, issuing
36972 service warranties.

36973 (15)~~(16)~~ "Warrantor" means any person engaged in the sale
36974 of service warranties and deriving not more than 50 percent of



HB 1803

2003

36975 its gross income from the sale of service warranties.

36976 (16)~~(17)~~ "Warranty seller" means any person engaged in the
36977 sale of service warranties and deriving more than 50 percent of
36978 its gross income from the sale of service warranties.

36979 (17)~~(18)~~ "Manufacturer" means any entity or its affiliate
36980 which:

36981 (a) Derives a majority of its revenues from products
36982 manufactured, built, assembled, constructed, or produced under a
36983 product name wholly controlled by the applicant or an affiliate
36984 thereof;

36985 (b) Issues service warranties only for consumer products
36986 manufactured, built, assembled, constructed, or produced under a
36987 product name wholly controlled by the applicant or an affiliate
36988 thereof;

36989 (c) Is listed and traded on a recognized stock exchange,
36990 is listed in NASDAQ (National Association of Security Dealers
36991 Automated Quotation system) and publicly traded in the over-the-
36992 counter securities markets, is required to file either of Forms
36993 10-K, 10-Q, or 20-G with the United States Securities and
36994 Exchange Commission, or whose American Depository Receipts are
36995 listed on a recognized stock exchange and publicly traded;

36996 (d) Maintains outstanding debt obligations, if any, rated
36997 in the top four rating categories by a recognized rating
36998 service;

36999 (e) Has and maintains at all times, a minimum net worth of
37000 at least \$10 million as evidenced by certified financial
37001 statements prepared by an independent certified public
37002 accountant in accordance with generally accepted accounting
37003 principles; and

37004 (f) Is authorized to do business in this state.



HB 1803

2003

37005 (18)~~(19)~~ "Affiliate" means any entity which exercises
 37006 control over or is controlled by, the service warranty
 37007 association or insurer, directly or indirectly, through:

- 37008 (a) Equity ownership of voting securities;
- 37009 (b) Common managerial control; or
- 37010 (c) Collusive participation by the management of the
- 37011 service warranty association or insurer or the affiliate.

37012 Section 1190. Section 634.402, Florida Statutes, is
 37013 amended to read:

37014 634.402 Powers of department, commission, and office;
 37015 rules.--The office ~~department~~ shall administer this part, and
 37016 the commission may to that end it has authority to adopt rules
 37017 pursuant to ss. 120.536(1) and 120.54 to implement the
 37018 provisions of this part related to service warranty associations
 37019 and service warranties. The department shall administer this
 37020 part and may adopt rules pursuant to ss. 120.536(1) and 120.54
 37021 to implement provisions of this part related to sales
 37022 representatives. Such rules by the commission or department may
 37023 identify specific methods of competition or acts or practices
 37024 that are prohibited by s. 634.436, but shall not enlarge upon or
 37025 extend the provisions of that section.

37026 Section 1191. Subsections (1) and (3) of section 634.403,
 37027 Florida Statutes, are amended to read:

37028 634.403 License required.--

37029 (1) No person in this state shall provide or offer to
 37030 provide service warranties unless authorized therefor under a
 37031 subsisting license issued by the office ~~department~~. The service
 37032 warranty association shall pay to the office ~~department~~ a
 37033 license fee of \$200 for such license for each license year, or
 37034 part thereof, the license is in force.



HB 1803

2003

37035 (3) The office ~~department~~ may, pursuant to s. 120.569, in
 37036 its discretion and without advance notice and hearing, issue an
 37037 immediate final order to cease and desist to any person or
 37038 entity which violates this section. The Legislature finds that a
 37039 violation of this section constitutes an imminent and immediate
 37040 threat to the public health, safety, and welfare of the
 37041 residents of this state.

37042 Section 1192. Section 634.404, Florida Statutes, is
 37043 amended to read:

37044 634.404 Qualifications for license.--The office ~~department~~
 37045 may not issue or allow a service warranty association to
 37046 maintain a license unless the association:

37047 (1) Is a warrantor with minimum net assets of \$25,000 or a
 37048 warranty seller with minimum net assets of \$300,000.

37049 (2) Furnishes the office ~~department~~ with evidence
 37050 satisfactory to it that the management of the association is
 37051 competent and trustworthy and can successfully manage the
 37052 affairs of the association in compliance with law.

37053 (3) Proposes to use and uses in its business a name,
 37054 together with a trademark or emblem, if any, which is
 37055 distinctive and not so similar to the name or trademark of any
 37056 other person already doing business in this state as will tend
 37057 to mislead or confuse the public.

37058 (4) Makes the deposit or files the bond required under s.
 37059 634.405.

37060 (5) Is formed under the laws of this state or another
 37061 state, district, territory, or possession of the United States,
 37062 if the association is other than a natural person.

37063 (6) In lieu of the provisions of subsections (1)-(5) of
 37064 this section and s. 634.407, a manufacturer or affiliate as



HB 1803

2003

37065 defined in this part is eligible for licensure as a service
37066 warranty association under the provisions of this part and shall
37067 complete an application evidencing its qualifications as set
37068 forth in this section. The application for license as a service
37069 warranty association from a manufacturer or affiliate shall be
37070 made to, and filed with, the office ~~department~~ on printed forms
37071 as promulgated by the commission ~~department~~ to be specifically
37072 and exclusively applicable to qualifying manufacturers.

37073 (a) The commission ~~department~~ may require that the
37074 applicant show:

- 37075 1. The state of the applicant's incorporation;
- 37076 2. The location of the applicant's home office; and
- 37077 3. The names and business addresses of the applicant's
37078 board of directors and managing executive officer.

37079 (b) The ~~department shall require that the~~ application,
37080 when filed, must be accompanied by:

- 37081 1. A copy of the applicant's articles of incorporation,
37082 certified by the public official having custody of the original,
37083 and a copy of the applicant's bylaws, certified by the
37084 applicant's corporate secretary;

37085 2. Evidence that the applicant has complied with all
37086 applicable statutory requirements regarding registering to do
37087 business in this state; and

- 37088 3. A license fee in the amount of \$500.

37089 (c) Upon submission of the application for license, the
37090 office ~~department~~ shall examine the application to determine its
37091 compliance with applicable sections of this part. Applicants
37092 shall be advised of any inadequate responses or missing
37093 information.

37094 (d) Information as required in this section shall be



HB 1803

2003

37095 updated as to changes thereto no less than two times annually,
 37096 once at the time of the submission of the service warranty
 37097 association's submission of its annual report, and the second
 37098 time, no later than September 30 of each year.

37099 Section 1193. Section 634.405, Florida Statutes, is
 37100 amended to read:

37101 634.405 Required deposit or bond.--

37102 (1) To assure the faithful performance of its obligations
 37103 to its members or subscribers in the event of insolvency, each
 37104 service warranty association shall, before the issuance of its
 37105 license by the office ~~department~~ and during such time as the
 37106 association may have premiums in force in this state, deposit
 37107 and maintain with the department securities of the type eligible
 37108 for deposit by insurers under s. 625.52. Whenever the market
 37109 value of the securities deposited with the department is less
 37110 than 95 percent of the amount required, the association shall
 37111 deposit additional securities or otherwise increase the deposit
 37112 to the amount required. Such securities shall have at all times
 37113 a market value as follows:

37114 (a) Warrantors.--

37115 1. Any warrantor which:

37116 a. Was licensed under this part before October 1, 1983;

37117 b. Was transacting service warranty business in this state
 37118 before June 14, 1978;

37119 c. Has continuously transacted service warranty business
 37120 in this state since June 14, 1978; and

37121 d. Has not during any year since June 14, 1978, written
 37122 more than \$100,000 of gross written premiums,

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HB 1803

2003

37125 shall place and maintain in trust with the department an amount
 37126 equal to 50 percent of the gross written premiums in force.

37127 2. A warrantor which has \$300,000 or less of gross written
 37128 premiums in this state and to which the provisions of
 37129 subparagraph 1. do not apply shall place and maintain in trust
 37130 with the department an amount not less than \$50,000. A new
 37131 warrantor, before the issuance of its license and before
 37132 receiving any premiums, shall place and maintain in trust with
 37133 the department the amount of \$50,000.

37134 3. A warrantor which has more than \$300,000 but less than
 37135 \$750,000 of gross written premiums in this state shall place and
 37136 maintain in trust with the department an amount not less than
 37137 \$75,000.

37138 4. A warrantor which has \$750,000 or more of gross written
 37139 premiums in this state shall place and maintain in trust with
 37140 the department an amount equal to \$100,000.

37141 5. All warrantors, upon receipt of written notice from the
 37142 office ~~department~~, shall have 30 calendar days in which to make
 37143 additional deposits.

37144 (b) Warranty sellers.--A warranty seller shall, before the
 37145 issuance of its license, place in trust with the department an
 37146 amount not less than \$100,000.

37147 (2) In lieu of any deposit of securities required under
 37148 subsection (1) and subject to the approval of the office
 37149 ~~department~~, the service warranty association may file with the
 37150 office ~~department~~ a surety bond issued by an authorized surety
 37151 insurer. The bond shall be for the same purpose as the deposit
 37152 in lieu of which it is filed. The office ~~department~~ may not
 37153 approve any bond under the terms of which the protection
 37154 afforded against insolvency is not equivalent to the protection



HB 1803

2003

37155 afforded by those securities provided for in subsection (1).
37156 When a bond is deposited in lieu of the required securities, no
37157 warranties may be written which provide coverage for a time
37158 period beyond the duration of such bond. The bond shall
37159 guarantee that the service warranty association will faithfully
37160 and truly perform all the conditions of any service warranty
37161 contract. No such bond may be canceled or subject to
37162 cancellation unless at least 60 days' advance notice thereof, in
37163 writing, is filed with the office ~~department~~. In the event that
37164 notice of termination of the bond is filed with the office
37165 ~~department~~, the service warranty association insured thereunder
37166 shall, within 30 days of the filing of notice of termination,
37167 provide the office ~~department~~ with a replacement bond meeting
37168 the requirements of this part or deposit additional securities
37169 as required under subsection (1). The cancellation of a bond
37170 will not relieve the obligation of the issuer of the bond for
37171 claims arising out of contracts issued before cancellation of
37172 the bond unless a replacement bond or securities are filed. In
37173 no event may the liability of the issuer under the bond exceed
37174 the face amount of the bond. If within 30 days of filing the
37175 notice of termination no replacement bond or additional security
37176 is provided, the office ~~department~~ shall suspend the license of
37177 the association until the deposit requirements are satisfied.

37178 (3) Securities and bonds posted by an association pursuant
37179 to this section are for the benefit of, and subject to action
37180 thereon in the event of insolvency or impairment of any
37181 association or insurer by, any person or persons sustaining an
37182 actionable injury due to the failure of the association to
37183 faithfully perform its obligations to its warranty holders.

37184 (4) The state is responsible for the safekeeping of all



HB 1803

2003

37185 securities deposited with the department under this part. Such
 37186 securities are not, on account of being in this state, subject
 37187 to taxation, but shall be held exclusively and solely to
 37188 guarantee the faithful performance by the association of its
 37189 obligations to its members or subscribers.

37190 (5) The depositing association shall, during its solvency,
 37191 have the right to exchange or substitute other securities of
 37192 like quality and value for securities on deposit, to receive the
 37193 interest and other income accruing to such securities, and to
 37194 inspect the deposit at all reasonable times.

37195 (6) Such deposit or bond shall be maintained unimpaired as
 37196 long as the association continues in business in this state.
 37197 Whenever the association ceases to do business in this state and
 37198 furnishes the office ~~department~~ proof satisfactory to the office
 37199 ~~department~~ that it has discharged or otherwise adequately
 37200 provided for all its obligations to its members or subscribers
 37201 in this state, the office and department shall release the
 37202 deposited securities to the parties entitled thereto, on
 37203 presentation of the receipts of the department for such
 37204 securities, or shall release any bond filed with it in lieu of
 37205 such deposit.

37206 (7) Any business, or its affiliate, whose primary source
 37207 of income is the sale of goods to the final consumer and derives
 37208 more than 50 percent of its revenue through such sales and
 37209 maintains a net worth of \$100 million, as evidenced by either
 37210 filing a form 10-K or other similar statement with the
 37211 Securities and Exchange Commission or which has an annual
 37212 financial statement that is audited and certified by an
 37213 independent public accounting firm, shall be presumed to have
 37214 complied with this subsection if such forms or statement are



HB 1803

2003

37215 filed with the office ~~department~~.

37216 Section 1194. Subsections (2), (3), (6), and (7) of
 37217 section 634.406, Florida Statutes, are amended to read:

37218 634.406 Financial requirements.--

37219 (2) An association utilizing an unearned premium reserve
 37220 shall deposit with the department a reserve deposit equal to 10
 37221 percent of the gross written premium received on all warranty
 37222 contracts in force. Such reserve deposit shall be of a type
 37223 eligible for deposit by insurers under s. 625.52. Request for
 37224 release of all or part of the reserve deposit may be made
 37225 quarterly and only after the office ~~department~~ has received and
 37226 approved the association's current financial statements, as well
 37227 as a statement sworn to by two officers of the association
 37228 verifying such release will not reduce the reserve deposit to
 37229 less than 10 percent of the gross written premium. The reserve
 37230 deposit required under this part shall be included in
 37231 calculating the reserve required by subsection (1). The deposit
 37232 required in s. 634.405(1)(b) shall be included in calculating
 37233 the reserve requirements of this section.

37234 (3) An association will not be required to establish an
 37235 unearned premium reserve if it has purchased contractual
 37236 liability insurance which demonstrates to the satisfaction of
 37237 the office ~~department~~ that 100 percent of its claim exposure is
 37238 covered by such policy. The contractual liability insurance
 37239 shall be obtained from an insurer that holds a certificate of
 37240 authority to do business within the state. For the purposes of
 37241 this subsection, the contractual liability policy shall contain
 37242 the following provisions:

37243 (a) In the event that the service warranty association
 37244 does not fulfill its obligation under contracts issued in this



HB 1803

2003

37245 state for any reason, including insolvency, bankruptcy, or
37246 dissolution, the contractual liability insurer will pay losses
37247 and unearned premium refunds under such plans directly to the
37248 person making a claim under the contract.

37249 (b) The insurer issuing the contractual liability policy
37250 shall assume full responsibility for the administration of
37251 claims in the event of the inability of the association to do
37252 so.

37253 (c) The policy may not be canceled or not renewed by
37254 either the insurer or the association unless 60 days' written
37255 notice thereof has been given to the office ~~department~~ by the
37256 insurer before the date of such cancellation or nonrenewal.

37257 (d) The contractual liability insurance policy shall
37258 insure all service warranty contracts which were issued while
37259 the policy was in effect whether or not the premium has been
37260 remitted to the insurer.

37261 (e) In the event the issuer of the contractual liability
37262 policy is fulfilling the service warranty covered by policy and
37263 in the event the service warranty holder cancels the service
37264 warranty, it is the responsibility of the contractual liability
37265 policy issuer to effectuate a full refund of unearned premium to
37266 the consumer. This refund shall be subject to the cancellation
37267 fee provisions of s. 634.414(3). The salesperson or agent shall
37268 refund to the contractual liability policy issuer the unearned
37269 pro rata commission.

37270 (f) An association may not utilize both the unearned
37271 premium reserve and contractual liability insurance
37272 simultaneously. However, an association shall be allowed to have
37273 contractual liability coverage on service warranties previously
37274 sold and sell new service warranties covered by the unearned



HB 1803

2003

37275 premium reserve, and the converse of this shall also be allowed.

37276 An association must be able to distinguish how each individual
 37277 service warranty is covered.

37278 (6) An association which holds a license under this part
 37279 and which does not hold any other license under this chapter may
 37280 allow its premiums to exceed the ratio to net assets limitations
 37281 of this section if the association meets all of the following:

37282 (a) Maintains net assets of at least \$750,000.

37283 (b) Utilizes a contractual liability insurance policy
 37284 approved by the office ~~department~~ which reimburses the service
 37285 warranty association for 100 percent of its claims liability.

37286 (c) The insurer issuing the contractual liability
 37287 insurance policy:

37288 1. Maintains a policyholder surplus of at least \$100
 37289 million.

37290 2. Is rated "A" or higher by A.M. Best Company or an
 37291 equivalent rating by another national rating service acceptable
 37292 to the office ~~department~~.

37293 3. Is in no way affiliated with the warranty association.

37294 4. In conjunction with the warranty association's filing
 37295 of the quarterly and annual reports, provides, on a form
 37296 prescribed by the commission ~~department~~, a statement certifying
 37297 the gross written premiums in force reported by the warranty
 37298 association and a statement that all of the warranty
 37299 association's gross written premium in force is covered under
 37300 the contractual liability policy, whether or not it has been
 37301 reported.

37302 (7) ~~The department shall require that~~ A contractual
 37303 liability policy must insure 100 percent of an association's
 37304 claims exposure under all of the association's service warranty



HB 1803

2003

37305 contracts, wherever written, unless all of the following are
37306 satisfied:

37307 (a) The contractual liability policy contains a clause
37308 that specifically names the service warranty contract holders as
37309 sole beneficiaries of the contractual liability policy and
37310 claims are paid directly to the person making a claim under the
37311 contract;

37312 (b) The contractual liability policy meets all other
37313 requirements of this part, including subsection (3) of this
37314 section, which are not inconsistent with this subsection;

37315 (c) The association has been in existence for at least 5
37316 years or the association is a wholly owned subsidiary of a
37317 corporation that has been in existence and has been licensed as
37318 a service warranty association in the state for at least 5
37319 years, and:

37320 1. Is listed and traded on a recognized stock exchange; is
37321 listed in NASDAQ (National Association of Security Dealers
37322 Automated Quotation system) and publicly traded in the over-the-
37323 counter securities market; is required to file either of Forms
37324 10-K, 100, or 20-G with the United States Securities and
37325 Exchange Commission; or has American Depositary Receipts listed
37326 on a recognized stock exchange and publicly traded or is the
37327 wholly owned subsidiary of a corporation that is listed and
37328 traded on a recognized stock exchange; is listed in NASDAQ
37329 (National Association of Security Dealers Automated Quotation
37330 system) and publicly traded in the over-the-counter securities
37331 market; is required to file Form 10-K, Form 100, or Form 20-G
37332 with the United States Securities and Exchange Commission; or
37333 has American Depositary Receipts listed on a recognized stock
37334 exchange and is publicly traded;



HB 1803

2003

37335 2. Maintains outstanding debt obligations, if any, rated
 37336 in the top four rating categories by a recognized rating
 37337 service;

37338 3. Has and maintains at all times a minimum net worth of
 37339 not less than \$10 million as evidenced by audited financial
 37340 statements prepared by an independent certified public
 37341 accountant in accordance with generally accepted accounting
 37342 principles and submitted to the office ~~department~~ annually; and

37343 4. Is authorized to do business in this state; and
 37344 (d) The insurer issuing the contractual liability policy:

37345 1. Maintains and has maintained for the preceding 5 years,
 37346 policyholder surplus of at least \$100 million and is rated "A"
 37347 or higher by A.M. Best Company or has an equivalent rating by
 37348 another rating company acceptable to the office ~~department~~;

37349 2. Holds a certificate of authority to do business in this
 37350 state and is approved to write this type of coverage; and

37351 3. Acknowledges to the office ~~department~~ quarterly that it
 37352 insures all of the association's claims exposure under contracts
 37353 delivered in this state.

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37356 If all the preceding conditions are satisfied, then the scope
 37357 of coverage under a contractual liability policy shall not be
 37358 required to exceed an association's claims exposure under
 37359 service warranty contracts delivered in this state.

37360 Section 1195. Section 634.4061, Florida Statutes, is
 37361 amended to read:

37362 634.4061 Assets and liabilities.--

37363 (1) ASSETS.--In any determination of the financial
 37364 condition of a service warranty association, there shall be



HB 1803

2003

37365 allowed as assets only those assets that are owned by the
 37366 service warranty association and which assets consist of:

37367 (a) Cash in the possession of the service warranty
 37368 association, or in transit under its control, including the true
 37369 balance of any deposit in a solvent bank, savings and loan
 37370 association, or trust company which is domiciled in the United
 37371 States.

37372 (b) Investments, securities, properties, and loans
 37373 acquired or held in accordance with this part, and in connection
 37374 therewith the following items:

37375 1. Interest due or accrued on any bond or evidence of
 37376 indebtedness which is not in default and which is not valued on
 37377 a basis including accrued interest.

37378 2. Declared and unpaid dividends on stock and shares,
 37379 unless the amount of the dividends has otherwise been allowed as
 37380 an asset.

37381 3. Interest due or accrued upon a collateral loan which is
 37382 not in default in an amount not to exceed 1 year's interest
 37383 thereon.

37384 4. Interest due or accrued on deposits or certificates of
 37385 deposit in solvent banks, savings and loan associations, and
 37386 trust companies domiciled in the United States, and interest due
 37387 or accrued on other assets, if such interest is in the judgment
 37388 of the office ~~department~~ a collectible asset.

37389 5. Interest due or accrued on current mortgage loans, in
 37390 an amount not exceeding in any event the amount, if any, of the
 37391 excess of the value of the property less delinquent taxes
 37392 thereon over the unpaid principal; but in no event shall
 37393 interest accrued for a period in excess of 90 days be allowed as
 37394 an asset.



HB 1803

2003

37395 6. Rent due or accrued on real property if such rent is
 37396 not in arrears for more than 3 months. However, in no event
 37397 shall rent accrued for a period in excess of 90 days be allowed
 37398 as an asset.

37399 7. The unaccrued portion of taxes paid prior to the due
 37400 date on real property.

37401 (c) Furniture, fixtures, furnishings, vehicles, and
 37402 equipment, if the original cost of each item is at least \$200,
 37403 which cost shall be amortized in full over a period not to
 37404 exceed 5 calendar years, unless otherwise approved by the office
 37405 ~~department~~.

37406 (d) Part inventories maintained for the purpose of
 37407 servicing products warranted. Part inventories must be listed
 37408 at cost. Associations are required to maintain records to
 37409 support valuation of parts inventories.

37410 (e) The liquidation value of prepaid expenses.

37411 (f) Other assets, not inconsistent with the provisions of
 37412 this section, deemed by the office ~~department~~ to be available
 37413 for the payment of losses and claims, at values to be determined
 37414 by it.

37415
 37416
 37417 The office ~~department~~, upon determining that a service warranty
 37418 association's asset has not been evaluated according to
 37419 applicable law or that it does not qualify as an asset, shall
 37420 require the service warranty association to properly reevaluate
 37421 the asset or replace the asset with an asset suitable to the
 37422 office ~~department~~ within 30 days of written notification by the
 37423 office ~~department~~ of this determination, if the removal of the
 37424 asset from the organization's assets would impair the company's



HB 1803

2003

37425 solvency.

37426 (2) ASSETS NOT ALLOWED.--In addition to assets impliedly
 37427 excluded by the provisions of subsection (1), the following
 37428 assets expressly shall not be allowed as assets in any
 37429 determination of the financial condition of a service warranty
 37430 association:

37431 (a) Goodwill, agreement holder lists, patents, trade
 37432 names, agreements not to compete, and other like intangible
 37433 assets.

37434 (b) Any note or account receivable from or advances to
 37435 officers, directors, or controlling stockholders, whether
 37436 secured or not, and advances to employees, agents, or other
 37437 persons on personal security only.

37438 (c) Stock of the service warranty association owned by it
 37439 directly or owned by it through any entity in which the
 37440 organization owns or controls, directly or indirectly, more than
 37441 25 percent of the ownership interest.

37442 (d) Leasehold improvements, stationery, and literature,
 37443 except that leasehold improvements made prior to October 1,
 37444 1991, shall be allowed as an asset and shall be amortized over
 37445 the shortest of the following periods:

- 37446 1. The life of the lease.
- 37447 2. The useful life of the improvements.
- 37448 3. The 3-year period following October 1, 1991.

37449 (e) Furniture, fixtures, furnishings, vehicles, and
 37450 equipment, other than those items authorized under paragraph
 37451 (1)(c).

37452 (f) Notes or other evidences of indebtedness which are
 37453 secured by mortgages or deeds of trust which are in default and
 37454 beyond the express period specified in the instrument for curing



HB 1803

2003

37455 the default.

37456 (g) Bonds in default for more than 60 days.

37457 (h) Deferred costs other than the liquidation value of
37458 prepaid expenses.

37459 (i) Any note, account receivable, advance, or other
37460 evidence of indebtedness, or investment in:

37461 1. The parent of the service warranty association;

37462 2. Any entity directly or indirectly controlled by the
37463 service warranty association parent; or

37464 3. An affiliate of the parent or the service warranty
37465 association; however, receivables from the parent or affiliated
37466 companies shall be considered an admitted asset of the company
37467 when the office department is satisfied that the repayment of
37468 receivables, loans, and advances from the parent or the
37469 affiliated company are guaranteed by an organization in
37470 accordance with s. 634.4065.

37471 4. Officers, directors, shareholders, employees, or
37472 salespersons of the association. However, premium receivables
37473 under 45 days old may be considered an admitted asset.

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37476 The office department may, however, allow all or a portion of
37477 such asset, at values to be determined by the office department,
37478 if deemed by the office department to be available for the
37479 payment losses and claims.

37480 (3) LIABILITIES.--In any determination of the financial
37481 condition of a service warranty association, liabilities to be
37482 charged against its assets shall include, but not be limited to:

37483 (a) The amount, in conformity with generally accepted
37484 accounting principles, necessary to pay all of its unpaid losses



HB 1803

2003

37485 and claims incurred for or on behalf of an agreement holder, on
 37486 or prior to the end of the reporting period, whether reported or
 37487 unreported.

37488 (b) Taxes, expenses, and other obligations due or accrued
 37489 at the date of the statement.

37490 (c) Reserve for unearned premiums.
 37491
 37492

37493 The office department, upon determining that the service
 37494 warranty association has failed to report liabilities that
 37495 should have been reported, shall require a correct report which
 37496 reflects the proper liabilities to be submitted by the service
 37497 warranty association to the office department within 10 working
 37498 days of receipt of written notification.

37499 Section 1196. Subsections (2) and (4) of section 634.4065,
 37500 Florida Statutes, are amended to read:

37501 634.4065 Guarantee agreements.--In order to include
 37502 receivables from affiliated companies as assets under s.
 37503 634.401(9)(10), the service warranty association may provide a
 37504 written guarantee to assure repayment of all receivables, loans,
 37505 and advances from affiliated companies, provided that the
 37506 written guarantee is made by a guaranteeing organization which:

37507 (2) Submits a guarantee that is approved by the office
 37508 ~~department~~ as meeting the requirements of this part, provided
 37509 that the written guarantee contains a provision which requires
 37510 that the guarantee be irrevocable unless the guaranteeing
 37511 organization can demonstrate to the office department that the
 37512 cancellation of the guarantee will not result in the net assets
 37513 of the service warranty association falling below its minimum
 37514 net assets requirement and the office department approves



HB 1803

2003

37515 cancellation of the guarantee.

37516 (4) Submits annually, within 3 months after the end of its
37517 fiscal year, an audited financial statement certified by an
37518 independent certified public accountant, prepared in accordance
37519 with generally accepted accounting principles. The office
37520 ~~department~~ may, as it deems necessary, require quarterly
37521 financial statements from the guaranteeing organization.

37522 Section 1197. Section 634.407, Florida Statutes, is
37523 amended to read:

37524 634.407 Application for and issuance of license.--

37525 (1) An application for license as a service warranty
37526 association shall be made to, and filed with, the office
37527 ~~department~~ on printed forms as prescribed by the commission and
37528 furnished by the office ~~it~~.

37529 (2) In addition to information relative to its
37530 qualifications as required under s. 634.404, the commission
37531 ~~department~~ may require that the application show:

37532 (a) The location of the applicant's home office.

37533 (b) The name and residence address of each director,
37534 officer, and 10-percent or greater stockholder of the applicant.

37535 (c) Such other pertinent information as may be required by
37536 the commission ~~department~~.

37537 (3) The commission ~~department~~ may require that the
37538 application, when filed, be accompanied by:

37539 (a) A copy of the applicant's articles of incorporation,
37540 certified by the public official having custody of the original,
37541 and a copy of the applicant's bylaws, certified by the
37542 applicant's secretary.

37543 (b) A copy of the most recent financial statement of the
37544 applicant, verified under oath of at least two of its principal



HB 1803

2003

37545 officers.

37546 (c) A license fee in the amount of \$200, as required under
37547 s. 634.403.

37548 (4) Upon completion of the application for license, the
37549 office ~~department~~ shall examine the application and make such
37550 further investigation of the applicant as it deems advisable. If
37551 it finds that the applicant is qualified therefor, the office
37552 ~~department~~ shall issue to the applicant a license as a service
37553 warranty association. If the office ~~department~~ does not find the
37554 applicant to be qualified, it shall refuse to issue the license
37555 and shall give the applicant written notice of such refusal,
37556 setting forth the grounds therefor.

37557 Section 1198. Subsections (1), (2), and (3) of section
37558 634.409, Florida Statutes, are amended to read:

37559 634.409 Grounds for suspension or revocation of license.--

37560 (1) The license of any service warranty association may be
37561 revoked or suspended, or the office ~~department~~ may refuse to
37562 renew any such license, if it is determined that the association
37563 has violated any lawful rule or order of the commission or
37564 office ~~department~~ or any provision of this part.

37565 (2) The license of any service warranty association shall
37566 be suspended or revoked if it is determined that such
37567 association:

37568 (a) Is in an unsound financial condition, or is in such
37569 condition as would render its further transaction of service
37570 warranties in this state hazardous or injurious to its warranty
37571 holders or to the public.

37572 (b) Has refused to be examined or to produce its accounts,
37573 records, and files for examination, or if any of its officers
37574 have refused to give information with respect to its affairs or



HB 1803

2003

37575 | have refused to perform any other legal obligation as to such
 37576 | examination, when required by the office ~~department~~.

37577 | (c) Has failed to pay any final judgment rendered against
 37578 | it in this state within 60 days after the judgment became final.

37579 | (d) Has, without just cause, refused to pay proper claims
 37580 | arising under its service warranties or, without just cause, has
 37581 | compelled warranty holders to accept less than the amount due
 37582 | them, or to employ attorneys, or to bring suit against the
 37583 | association to secure full payment or settlement of such claims.

37584 | (e) Is affiliated with, and under the same general
 37585 | management or interlocking directorate or ownership as, another
 37586 | service warranty association which transacts direct warranties
 37587 | in this state without having a license therefor.

37588 | (f) Is using such methods or practices in the conduct of
 37589 | its business as would render its further transaction of service
 37590 | warranties in this state hazardous or injurious to its warranty
 37591 | holders or to the public.

37592 | (3) The office ~~department~~ may, pursuant to s. 120.60, in
 37593 | its discretion and without advance notice or hearing thereon,
 37594 | immediately suspend the license of any service warranty
 37595 | association if it finds that one or more of the following
 37596 | circumstances exist:

37597 | (a) The association is insolvent or impaired as defined in
 37598 | s. 631.011.

37599 | (b) The association's reserve account required by s.
 37600 | 634.406(1) is not being maintained.

37601 | (c) A proceeding for receivership, conservatorship, or
 37602 | rehabilitation or any other delinquency proceeding regarding the
 37603 | association has been commenced in any state.

37604 | (d) The financial condition or business practices of the



HB 1803

2003

37605 association otherwise pose an imminent threat to the public
 37606 health, safety, or welfare of the residents of this state.

37607 (e) The association fails to affirm or deny coverage of
 37608 claims upon the written request of the agreement holder within a
 37609 reasonable time after notification of the claim.

37610 (f) The association fails to promptly provide a reasonable
 37611 explanation in writing to the agreement holder of the basis in
 37612 the service agreement, in relation to the facts or applicable
 37613 law, for denial of a claim or for the offer of a compromise
 37614 settlement.

37615 Section 1199. Section 634.411, Florida Statutes, is
 37616 amended to read:

37617 634.411 Order; notice of suspension or revocation of
 37618 license; effect; publication.--

37619 (1) Suspension or revocation of a service warranty
 37620 association's license shall be by order of the office ~~department~~
 37621 mailed to the association by registered or certified mail. The
 37622 office ~~department~~ shall also promptly give notice of such
 37623 suspension or revocation to the association's sales
 37624 representatives in this state which are of record with the
 37625 department ~~in the department's office~~. The association shall not
 37626 solicit or write any new service warranties in this state during
 37627 the period of any such suspension or revocation.

37628 (2) In its discretion, the office ~~department~~ may cause
 37629 notice of any such revocation or suspension to be published in
 37630 one or more newspapers of general circulation published in this
 37631 state.

37632 (3) When the license is surrendered, nonrenewed, or
 37633 revoked, the association shall proceed, immediately following
 37634 the effective date of the surrender, nonrenewal, or order of



HB 1803

2003

37635 | revocation, to conclude the affairs transacted under this part.
37636 | The association shall not solicit, negotiate, advertise, or
37637 | effectuate new or renewal service warranty contracts. The
37638 | office department retains jurisdiction over the association as
37639 | it may find to be in the best interest of the contract holders
37640 | until all contracts have been fulfilled, canceled, or expired.

37641 | Section 1200. Section 634.413, Florida Statutes, is
37642 | amended to read:

37643 | 634.413 Administrative fine in lieu of suspension or
37644 | revocation.--If the office department finds that one or more
37645 | grounds exist for the discretionary revocation or suspension of
37646 | a certificate of authority issued under this part, the office
37647 | ~~department~~ may, in lieu of such suspension or revocation, impose
37648 | a fine upon the insurer or service warranty association in an
37649 | amount not to exceed \$1,000 per violation; however, if it is
37650 | found that an insurer or service warranty association has
37651 | knowingly and willfully violated a lawful rule or order of the
37652 | commission or office department or a provision of this part, the
37653 | office department may impose a fine upon the insurer or
37654 | association in an amount not to exceed \$10,000 for each
37655 | violation.

37656 | Section 1201. Subsections (1) and (2) of section 634.414,
37657 | Florida Statutes, are amended to read:

37658 | 634.414 Filing; approval of forms.--

37659 | (1) No service warranty form or related form shall be
37660 | issued or used in this state unless it has been filed with and
37661 | approved by the office department. Upon application for a
37662 | license, the office department shall require the applicant to
37663 | submit for approval each brochure, pamphlet, circular, form
37664 | letter, advertisement, or other sales literature or advertising



HB 1803

2003

37665 communication addressed or intended for distribution. The office
37666 ~~department~~ shall disapprove any document which is untrue,
37667 deceptive, or misleading or which contains misrepresentations or
37668 omissions of material facts.

37669 (a) After an application has been approved, a licensee is
37670 not required to submit brochures or advertisement to the office
37671 ~~department~~ for approval; however, a licensee may not have
37672 published, and a person may not publish, any brochure or
37673 advertisement which is untrue, deceptive, or misleading or which
37674 contains misrepresentations or omissions of material fact.

37675 (b) For purposes of this section, brochures and
37676 advertising includes, but is not limited to, any report,
37677 circular, public announcement, certificate, or other printed
37678 matter or advertising material which is designed or used to
37679 solicit or induce any persons to enter into any service warranty
37680 agreement.

37681 (2) Each filing shall be made not less than 30 days in
37682 advance of its issuance or use. At the expiration of 30 days
37683 from date of filing, a form so filed shall be deemed approved
37684 unless prior thereto it has been affirmatively disapproved by
37685 written order of the office ~~department~~.

37686 Section 1202. Section 634.4145, Florida Statutes, is
37687 amended to read:

37688 634.4145 Grounds for disapproval of forms.--The office
37689 ~~department~~ shall disapprove any form filed under s. 634.414 if
37690 the form:

37691 (1) Violates this part;

37692 (2) Is misleading in any respect;

37693 (3) Is reproduced so that any material provision is
37694 substantially illegible; or



HB 1803

2003

37695 (4) Contains provisions which are unfair or inequitable or
 37696 which encourage misrepresentation.

37697 Section 1203. Section 634.415, Florida Statutes, is
 37698 amended to read:

37699 634.415 Tax on premiums; annual statement; reports;
 37700 quarterly statements.--

37701 (1) In addition to the license fees provided in this part
 37702 for service warranty associations and license taxes as provided
 37703 in the insurance code as to insurers, each such association and
 37704 insurer shall, annually on or before March 1, file with the
 37705 office ~~department~~ its annual statement, in the form prescribed
 37706 by the commission ~~department~~, showing all premiums or
 37707 assessments received by it in connection with the issuance of
 37708 service warranties in this state during the preceding calendar
 37709 year and using accounting principles which will enable the
 37710 office ~~department~~ to ascertain whether the financial
 37711 requirements set forth in s. 634.406 have been satisfied.

37712 (2) The gross amount of premiums and assessments is
 37713 subject to the sales tax imposed by s. 212.0506.

37714 (3) The office ~~department~~ may levy a fine of up to \$100 a
 37715 day for each day an association neglects to file the annual
 37716 statement in the form and within the time provided by this part.
 37717 The amount of the fine shall be established by rules adopted
 37718 ~~promulgated~~ by the commission ~~department~~. The office ~~department~~
 37719 shall deposit all sums collected by it under this section to the
 37720 credit of the Insurance ~~Commissioner's~~ Regulatory Trust Fund.

37721 (4) In addition to an annual statement, the office
 37722 ~~department~~ may require of licensees, under oath and in the form
 37723 prescribed by it, quarterly statements or special reports which
 37724 it deems necessary to the proper supervision of licensees under



HB 1803

2003

37725 this part. For manufacturers as defined in s. 634.401, the
 37726 office department shall require only the annual audited
 37727 financial statements of the warranty operations and corporate
 37728 reports as filed by the manufacturer with the Securities and
 37729 Exchange Commission, provided that the office department may
 37730 require additional reporting by manufacturers upon a showing by
 37731 the office department that annual reporting is insufficient to
 37732 protect the interest of purchasers of service warranty
 37733 agreements in this state or fails to provide sufficient proof of
 37734 the financial status required by this part.

37735 (5) The office department may suspend or revoke the
 37736 license of a service warranty association failing to file its
 37737 annual statement or quarterly report when due.

37738 (6) The commission department may by rule require each
 37739 service warranty association to submit to the office department,
 37740 as the commission department may designate, all or part of the
 37741 information contained in the financial statements and reports
 37742 required by this section in a computer-readable form compatible
 37743 with the electronic data processing system specified by the
 37744 office department.

37745 Section 1204. Section 634.416, Florida Statutes, is
 37746 amended to read:

37747 634.416 Examination of associations.--

37748 (1) Service warranty associations licensed under this part
 37749 are subject to periodic examination by the office department, in
 37750 the same manner and subject to the same terms and conditions
 37751 that apply to insurers under part II of chapter 624. However,
 37752 the rate charged a service warranty association by the office
 37753 ~~department~~ for examination may be adjusted to reflect the amount
 37754 collected for the Form 10-K filing fee as provided in this



HB 1803

2003

37755 section. On or before May 1 of each year, an association may
 37756 submit to the office ~~department~~ the Form 10-K, as filed with the
 37757 United States Securities and Exchange Commission pursuant to the
 37758 Securities Exchange Act of 1934, as amended. Upon receipt and
 37759 review of the most current Form 10-K, the office ~~department~~ may
 37760 waive the examination requirement; if the office ~~department~~
 37761 determines not to waive the examination, such examination will
 37762 be limited to that examination necessary to ensure compliance
 37763 with this part. The Form 10-K shall be accompanied by a filing
 37764 fee of \$2,000 to be deposited into the Insurance ~~Commissioner's~~
 37765 Regulatory Trust Fund.

37766 (2) The office ~~department~~ is not required to examine an
 37767 association that has less than \$20,000 in gross written premiums
 37768 as reflected in its most recent annual statement. The office
 37769 ~~department~~ may examine such an association if it has reason to
 37770 believe that the association may be in violation of this part or
 37771 is otherwise in an unsound financial condition. If the office
 37772 ~~department~~ examines an association that has less than \$20,000 in
 37773 gross written premiums, the examination fee may not exceed 5
 37774 percent of the gross written premiums of the association.

37775 Section 1205. Subsection (10) of section 634.422, Florida
 37776 Statutes, is amended to read:

37777 634.422 Grounds for compulsory refusal, suspension, or
 37778 revocation of license or appointment of sales representatives.--
 37779 The department shall deny, suspend, revoke, or refuse to renew
 37780 or continue the license or appointment of any sales
 37781 representative if it is found that any one or more of the
 37782 following grounds applicable to the sales representative exist:

37783 (10) Willful failure to comply with, or willful violation
 37784 of, any proper order or rule of the department or commission, or



HB 1803

2003

37785 willful violation of any provision of this part.

37786 Section 1206. Subsection (3) of section 634.423, Florida
37787 Statutes, is amended to read:

37788 634.423 Grounds for discretionary refusal, suspension, or
37789 revocation of license or appointment of sales representatives.--
37790 The department may deny, suspend, revoke, or refuse to renew or
37791 continue the license or appointment of any sales representative
37792 if it is found that any one or more of the following grounds
37793 applicable to the sales representative exist under circumstances
37794 for which such denial, suspension, revocation, or refusal is not
37795 mandatory under s. 634.422:

37796 (3) Violation of any lawful order or rule of the
37797 department or commission.

37798 Section 1207. Subsection (2) of section 634.426, Florida
37799 Statutes, is amended to read:

37800 634.426 Administrative fine in lieu of suspension or
37801 revocation of license or appointment.--

37802 (2) The order may allow the licensee or appointee a
37803 reasonable period, not to exceed 30 days, within which to pay to
37804 the department or office the amount of the penalty so imposed.
37805 If the licensee or appointee fails to pay the penalty in its
37806 entirety to the department or office ~~at its office in~~
37807 Tallahassee within the period so allowed, the license and
37808 appointment of the licensee or appointee shall stand suspended
37809 or revoked or renewal or continuation may be refused, as the
37810 case may be, upon expiration of such period and without any
37811 further proceedings.

37812 Section 1208. Section 634.427, Florida Statutes, is
37813 amended to read:

37814 634.427 Disposition of taxes and fees.--All license fees,



HB 1803

2003

37815 taxes on premiums, registration fees, and administrative fines
 37816 and penalties collected under this part from service warranty
 37817 associations and sales representatives shall be deposited to the
 37818 credit of the Insurance ~~Commissioner's~~ Regulatory Trust Fund.

37819 Section 1209. Section 634.428, Florida Statutes, is
 37820 amended to read:

37821 634.428 Insurance business not authorized.--Nothing in the
 37822 Florida Insurance Code or in this part shall be deemed to
 37823 authorize any service warranty association to transact any
 37824 insurance business other than that of service warranty as herein
 37825 defined or otherwise to engage in any other type of insurance
 37826 unless the association is authorized under a certificate of
 37827 authority issued by the office ~~department~~ under the provisions
 37828 of the Florida Insurance Code.

37829 Section 1210. Section 634.437, Florida Statutes, is
 37830 amended to read:

37831 634.437 Power of department and office to examine and
 37832 investigate.--The department and office have ~~has~~ the power,
 37833 within their respective regulatory jurisdictions, to examine and
 37834 investigate the affairs of every person involved in the business
 37835 of service warranty in this state in order to determine whether
 37836 such person has been or is engaged in any unfair method of
 37837 competition or in any unfair or deceptive act or practice
 37838 prohibited by s. 634.435, and each shall have the powers and
 37839 duties specified in ss. 634.438-634.442 in connection therewith.

37840 Section 1211. Section 634.438, Florida Statutes, is
 37841 amended to read:

37842 634.438 Prohibited practices; hearings; procedure; service
 37843 of process.--

37844 (1) Whenever the department or office has reason to



HB 1803

2003

37845 believe that any person has engaged, or is engaging, in this
37846 state in any unfair method of competition or any unfair or
37847 deceptive act or practice as defined in s. 634.436, or is
37848 engaging in the business of service warranty without being
37849 properly licensed as required by this part, and that a
37850 proceeding by the department or office in respect thereto would
37851 be in the interest of the public, the department or office shall
37852 conduct or cause to have conducted a hearing in accordance with
37853 chapter 120.

37854 (2) The department or office, a duly empowered hearing
37855 officer, or an administrative law judge shall, during the
37856 conduct of such hearing, have those powers enumerated in s.
37857 120.569; however, the penalty for failure to comply with a
37858 subpoena or with an order directing discovery is limited to a
37859 fine not to exceed \$1,000 per violation.

37860 (3) A statement of charges, notice, or order under this
37861 part may be served by anyone duly authorized by the department
37862 or office, either in the manner provided by law for service of
37863 process in civil actions or by certifying and mailing a copy
37864 thereof to the person affected by such statement, notice, order,
37865 or other process at her or his or its residence or principal
37866 office or place of business. The verified return by the person
37867 so serving such statement, notice, order, or other process,
37868 setting forth the manner of the service, is proof of the same;
37869 and the return postcard receipt for such statement, notice,
37870 order, or other process, certified and mailed as provided in
37871 this subsection, is proof of service of the same.

37872 Section 1212. Section 634.439, Florida Statutes, is
37873 amended to read:

37874 634.439 Cease and desist and penalty orders.--After the



HB 1803

2003

37875 hearing provided for in s. 634.438, the department or office
37876 shall enter a final order in accordance with s. 120.569. If it
37877 is determined that the person charged has engaged in an unfair
37878 or deceptive act or practice or the unlawful transaction of
37879 service warranty business, the department or office also shall
37880 issue an order requiring the violator to cease and desist from
37881 engaging in such method of competition, act, or practice or the
37882 unlawful transaction of service warranty business. Further, the
37883 department or office may, at its discretion, order any one or
37884 more of the following penalties:

37885 (1) The suspension or revocation of such person's license,
37886 or eligibility for any license, if the person knew, or
37887 reasonably should have known, she or he was in violation of this
37888 part.

37889 (2) If it is determined that the person charged has
37890 provided or offered to provide service warranties without proper
37891 licensure, the imposition of an administrative penalty not to
37892 exceed \$1,000 for each service warranty contract offered or
37893 effectuated.

37894 Section 1213. Section 634.44, Florida Statutes, is amended
37895 to read:

37896 634.44 Appeals from orders of the department or office.--
37897 Any person subject to an order of the department or office under
37898 s. 634.439 may obtain a review of such order by filing an appeal
37899 therefrom in accordance with the provisions and procedures for
37900 appeal from the orders of the department or office in general
37901 under s. 120.68.

37902 Section 1214. Section 634.441, Florida Statutes, is
37903 amended to read:

37904 634.441 Penalty for violation of cease and desist order.--



HB 1803

2003

37905 Any person who violates a cease and desist order of the
 37906 department or office under s. 634.439 while such order is in
 37907 effect, after notice and hearing as provided in s. 634.438, is
 37908 subject, at the discretion of the department or office, to any
 37909 one or more of the following penalties:

37910 (1) A monetary penalty of not more than \$50,000 as to all
 37911 matters determined in such hearing.

37912 (2) The suspension or revocation of such person's license
 37913 or eligibility to hold a license.

37914 Section 1215. Section 634.442, Florida Statutes, is
 37915 amended to read:

37916 634.442 Injunctive proceedings.--In addition to the
 37917 penalties and other enforcement provisions of this part, if any
 37918 person violates s. 634.403 or s. 634.420 or any rule adopted
 37919 pursuant thereto, the department or office may resort to a
 37920 proceeding for injunction in the circuit court of the county
 37921 where such person resides or has her or his or its principal
 37922 place of business, and therein apply for such temporary and
 37923 permanent orders as the department or office deems ~~may deem~~
 37924 necessary to restrain such person from engaging in any such
 37925 activities, until such person has complied with such provision
 37926 or rule.

37927 Section 1216. Section 634.443, Florida Statutes, is
 37928 amended to read:

37929 634.443 Civil liability.--The provisions of this part are
 37930 cumulative to rights under the general civil and common law, and
 37931 no action of the department or office will abrogate such rights
 37932 to damages or other relief in any court.

37933 Section 1217. Section 634.444, Florida Statutes, is
 37934 amended to read:



HB 1803

2003

37935 634.444 Investigatory records.--All active examination or
 37936 investigatory records of the department or office made or
 37937 received pursuant to this part are confidential and exempt from
 37938 the provisions of s. 119.07(1) until such investigation is
 37939 completed or ceases to be active. For the purposes of this
 37940 section, an investigation is considered "active" while the
 37941 investigation is being conducted by the department or office
 37942 with a reasonable, good faith belief that it may lead to the
 37943 filing of administrative, civil, or criminal proceedings. An
 37944 investigation does not cease to be active if the department or
 37945 office is proceeding with reasonable dispatch, and there is good
 37946 faith belief that action may be initiated by the department or
 37947 office or other administrative law enforcement agency.

37948 Section 1218. Subsection (3) of section 635.011, Florida
 37949 Statutes, is amended to read:

37950 635.011 Definitions.--As used in this chapter, the term:
 37951 ~~(3) "Department" means the Department of Insurance of this~~
 37952 ~~state.~~

37953 Section 1219. Subsection (1) of section 635.031, Florida
 37954 Statutes, is amended to read:

37955 635.031 Additional limitations.--In addition to laws
 37956 otherwise applicable, mortgage guaranty insurers are subject to
 37957 the following limitations:

37958 (1) No such insurer may retain risk as to any one subject
 37959 of insurance in any amount exceeding 10 percent of its surplus
 37960 as to policyholders. In determining the amount of risk
 37961 retained, applicable reinsurance in any assuming insurer
 37962 authorized to transact insurance in this state or approved by
 37963 the office ~~department~~ shall be deducted from the total direct
 37964 risk insured.



HB 1803

2003

37965 Section 1220. Subsection (2) of section 635.041, Florida
37966 Statutes, is amended to read:

37967 635.041 Contingency reserve.--

37968 (2) Subject to approval by the insurance department of the
37969 insurer's state of domicile and upon 30 days' prior notice to
37970 the office ~~Department of Insurance of this state~~, the
37971 contingency reserve shall be available for loss payments only
37972 when the insurer's incurred losses in any one calendar year
37973 exceed 35 percent of the corresponding earned premiums.

37974 Section 1221. Subsection (3) of section 635.042, Florida
37975 Statutes, is amended to read:

37976 635.042 Minimum surplus requirement.--

37977 (3) If a mortgage guaranty insurer is not in compliance
37978 with this section, the office ~~department~~ may take any action
37979 against the insurer that the office ~~department~~ may take against
37980 an insurer that is not in compliance with s. 624.408.

37981 Section 1222. Subsections (1) and (2) of section 635.071,
37982 Florida Statutes, are amended to read:

37983 635.071 Filings, approval of forms; rate filings.--

37984 (1) No policy form or related form may be issued or used
37985 in this state unless it has been filed with and approved by the
37986 office ~~department~~ as provided by laws applicable to casualty or
37987 surety insurance.

37988 (2) Each insurer shall file with the office ~~department~~ for
37989 informational purposes the rate to be charged and the premium to
37990 be paid by the policyholder, including all modifications of
37991 rates and premiums.

37992 Section 1223. Section 635.081, Florida Statutes, is
37993 amended to read:

37994 635.081 Administration and enforcement.--The commission



HB 1803

2003

37995 ~~may department has authority to~~ adopt rules pursuant to ss.
 37996 120.536(1) and 120.54 to implement the provisions of this
 37997 chapter and shall have the same powers of administration and
 37998 enforcement of the provisions of this chapter as it has with
 37999 respect to casualty or surety insurers in general under the
 38000 Florida Insurance Code.

38001 Section 1224. Section 636.003, Florida Statutes, is
 38002 amended to read:

38003 636.003 Definitions.--As used in this act, the term:

38004 (1) "Capitation" means the fixed amount paid by a prepaid
 38005 limited health service organization to a health care provider
 38006 under contract with the prepaid limited health service
 38007 organization in exchange for the rendering of covered limited
 38008 health services.

38009 ~~(2) "Commissioner" means the Commissioner of Insurance.~~

38010 ~~(3) "Department" means the Department of Insurance.~~

38011 (2)~~(4)~~ "Enrollee" means an individual, including
 38012 dependents, who is entitled to limited health services pursuant
 38013 to a contract, or any other evidence of coverage, with an entity
 38014 authorized to provide or arrange for such services under this
 38015 act.

38016 (3)~~(5)~~ "Evidence of coverage" means the certificate,
 38017 agreement, membership card, or contract issued pursuant to this
 38018 act setting forth the coverage to which an enrollee is entitled.

38019 (4)~~(6)~~ "Insolvent" means that all the statutory assets of
 38020 the prepaid limited health service organization, if made
 38021 immediately available, would not be sufficient to discharge all
 38022 of its statutory liabilities or that the prepaid limited health
 38023 service organization is unable to pay its debts as they become
 38024 due in the usual course of business.



HB 1803

2003

38025 (5)~~(7)~~ "Limited health service" means ambulance services,
 38026 dental care services, vision care services, mental health
 38027 services, substance abuse services, chiropractic services,
 38028 podiatric care services, and pharmaceutical services. "Limited
 38029 health service" does not include inpatient, hospital surgical
 38030 services, or emergency services except as such services are
 38031 provided incident to the limited health services set forth in
 38032 this subsection.

38033 (6)~~(8)~~ "Prepaid limited health service contract" means any
 38034 contract entered into by a prepaid limited health service
 38035 organization with a subscriber or group of subscribers to
 38036 provide limited health services in exchange for a prepaid per
 38037 capita or prepaid aggregate fixed sum.

38038 (7)~~(9)~~ "Prepaid limited health service organization" means
 38039 any person, corporation, partnership, or any other entity which,
 38040 in return for a prepayment, undertakes to provide or arrange
 38041 for, or provide access to, the provision of a limited health
 38042 service to enrollees through an exclusive panel of providers.
 38043 Prepaid limited health service organization does not include:

38044 (a) An entity otherwise authorized pursuant to the laws of
 38045 this state to indemnify for any limited health service;

38046 (b) A provider or entity when providing limited health
 38047 services pursuant to a contract with a prepaid limited health
 38048 service organization, a health maintenance organization, a
 38049 health insurer, or a self-insurance plan; or

38050 (c) Any person who, in exchange for fees, dues, charges or
 38051 other consideration, provides access to a limited health service
 38052 provider without assuming any responsibility for payment for the
 38053 limited health service or any portion thereof.

38054 (8)~~(10)~~ "Provider" means, but is not limited to, any



HB 1803

2003

38055 physician, dentist, health facility, or other person or
38056 institution which is duly licensed in this state to deliver
38057 limited health services.

38058 (9)~~(11)~~ "Qualified independent actuary" means an actuary
38059 who is a member of the American Academy of Actuaries or the
38060 Society of Actuaries and has experience in establishing rates
38061 for limited health services and who has no financial or
38062 employment interest in the prepaid limited health service
38063 organization.

38064 (10)~~(12)~~ "Reporting period" means the annual accounting
38065 period or fiscal year, or any part thereof, of the prepaid
38066 limited health service organization. The calendar year shall be
38067 the fiscal year for each such organization other than those
38068 holding an existing certificate of authority as of October 1,
38069 1993.

38070 (11)~~(13)~~ "Subscriber" means an individual who has
38071 contracted, or arranged, or on whose behalf a contract or
38072 arrangement has been entered into, with a prepaid limited health
38073 service organization for health care services or other persons
38074 who also receive health care services as a result of the
38075 contract.

38076 (12)~~(14)~~ "Surplus" means total statutory assets in excess
38077 of total liabilities, except that assets pledged to secure debts
38078 not reflected on the books of the prepaid limited health service
38079 organization shall not be included in surplus. Surplus includes
38080 capital stock, capital in excess of par, other contributed
38081 capital, retained earnings, and surplus notes.

38082 (13)~~(15)~~ "Surplus notes" means debt which has been
38083 subordinated to all claims of subscribers and general creditors
38084 of the organization and the debt instrument shall so state.



HB 1803

2003

38085 (14)~~(16)~~ "Statutory accounting principles" means generally
 38086 accepted accounting principles, except as modified by this act.

38087 (15)~~(17)~~ "Qualified employee" means an employee of the
 38088 organization:

38089 (a) Who has a minimum of 5 years of experience in rate
 38090 determinations for prepaid health services, and who demonstrates
 38091 through filings with the office ~~department~~ that the person is in
 38092 fact qualified under the terms of this act; or

38093 (b) Who is a member of the American Academy of Actuaries
 38094 or the Society of Actuaries and has experience in establishing
 38095 rates for limited health service.

38096 Section 1225. Section 636.006, Florida Statutes, is
 38097 amended to read:

38098 636.006 Insurance business not authorized.--Nothing in the
 38099 Florida Insurance Code or this act authorizes any prepaid
 38100 limited health service organization to transact any insurance
 38101 business other than that specifically authorized by this act, or
 38102 otherwise to engage in any other type of insurance unless it is
 38103 authorized under a certificate of authority issued by the office
 38104 ~~department~~ under the provisions of the Florida Insurance Code.

38105 Section 1226. Section 636.007, Florida Statutes, is
 38106 amended to read:

38107 636.007 Certificate of authority required.--A person,
 38108 corporation, partnership, or other entity may not operate a
 38109 prepaid limited health service organization in this state
 38110 without obtaining and maintaining a certificate of authority
 38111 from the office ~~department~~ pursuant to this act. A political
 38112 subdivision of this state which is operating an emergency
 38113 medical services system and offers a prepaid ambulance service
 38114 plan as a part of its emergency medical services system shall be



HB 1803

2003

38115 exempt from the provisions of this act and all other provisions
38116 of the insurance code. An insurer, while authorized to transact
38117 health insurance in this state, or a health maintenance
38118 organization possessing a valid certificate of authority in this
38119 state, may also provide services under this act without
38120 additional qualification or authority, but shall be otherwise
38121 subject to the applicable provisions of this act.

38122 Section 1227. Section 636.008, Florida Statutes, is
38123 amended to read:

38124 636.008 Application for certificate of authority.--Before
38125 any entity may operate a prepaid limited health service
38126 organization, it must obtain a certificate of authority from the
38127 office department. An application for a certificate of authority
38128 to operate a prepaid limited health service organization must be
38129 filed with the office department on a form prescribed by the
38130 commission department. Such application must be sworn to by an
38131 officer or authorized representative of the applicant and be
38132 accompanied by the following:

38133 (1) A copy of the applicant's basic organizational
38134 document, including the articles of incorporation, articles of
38135 association, partnership agreements, trust agreement, or other
38136 applicable documents and all amendments to such documents.

38137 (2) A copy of all bylaws, rules, and regulations, or
38138 similar documents, if any, regulating the conduct of the
38139 applicant's internal affairs.

38140 (3) A list of the names, addresses, official positions,
38141 and biographical information of the individuals who are
38142 responsible for conducting the applicant's affairs, including,
38143 but not limited to, all members of the board of directors, board
38144 of trustees, executive committee, or other governing board or



HB 1803

2003

38145 committee, the officers, contracted management company
38146 personnel, and any person or entity owning or having the right
38147 to acquire 10 percent or more of the voting securities of the
38148 applicant. Such listing must fully disclose the extent and
38149 nature of any contracts or arrangements between any individual
38150 who is responsible for conducting the applicant's affairs and
38151 the prepaid limited health service organization, including any
38152 possible conflicts of interest.

38153 (4) A complete biographical statement, on forms prescribed
38154 by the commission ~~department~~, an independent investigation
38155 report, and a set of fingerprints, as provided in chapter 624,
38156 with respect to each individual identified under subsection (3).

38157 (5) A statement generally describing the applicant, its
38158 facilities and personnel, and the limited health service or
38159 services to be offered.

38160 (6) A copy of the form of all contracts made or to be made
38161 between the applicant and any providers regarding the provision
38162 of limited health services to enrollees.

38163 (7) A copy of the form of any contract made or arrangement
38164 to be made between the applicant and any person listed in
38165 subsection (3).

38166 (8) A copy of the form of any contract made or to be made
38167 between the applicant and any person, corporation, partnership,
38168 or other entity for the performance on the applicant's behalf of
38169 any function, including, but not limited to, marketing,
38170 administration, enrollment, investment management, and
38171 subcontracting for the provision of limited health services to
38172 enrollees.

38173 (9) A copy of the form of any prepaid limited health
38174 service contract which is to be issued to employers, unions,



HB 1803

2003

38175 trustees, individuals, or other organizations and a copy of any
38176 form of evidence of coverage to be issued to subscribers.

38177 (10) A copy of the applicant's most recent financial
38178 statements audited by an independent certified public
38179 accountant.

38180 (11) A copy of the applicant's financial plan, including a
38181 3-year projection of anticipated operating results, a statement
38182 of the sources of funding, and provisions for contingencies, for
38183 which projection all material assumptions shall be disclosed.

38184 (12) A schedule of rates and charges for each contract to
38185 be used which contains an opinion from a qualified independent
38186 actuary or a qualified employee that the rates are not
38187 inadequate, excessive, or discriminatory. If a prepaid limited
38188 health service organization does not employ or otherwise retain
38189 the services of an independent actuary, the chief executive
38190 officer of the prepaid limited health service organization must
38191 review and sign the certification indicating her or his
38192 agreement with its conclusions. If the office ~~department~~
38193 determines that, based upon documents filed with the office
38194 ~~department~~, the qualified employee is not qualified, the
38195 organization shall retain the services of a qualified
38196 independent actuary.

38197 (13) A description of the proposed method of marketing.

38198 (14) A description of the subscriber complaint procedures
38199 to be established and maintained as required under s. 636.038.

38200 (15) A description of how the applicant will comply with
38201 s. 636.046.

38202 (16) The fee for issuance of a certificate of authority as
38203 provided in s. 636.057.

38204 (17) Such other information as the commission or office



HB 1803

2003

38205 ~~department~~ may reasonably require to make the determinations
 38206 required by this act.

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38208

38209 The office ~~department~~ shall issue a certificate of authority
 38210 which shall expire on June 1 each year and which the office
 38211 ~~department~~ shall renew if the applicant pays the license fees
 38212 provided in s. 636.057 and if the office ~~department~~ is satisfied
 38213 that the organization is in compliance with this act.

38214 Section 1228. Section 636.009, Florida Statutes, is
 38215 amended to read:

38216 636.009 Issuance of certificate of authority; denial.--

38217 (1) Following receipt of an application filed pursuant to
 38218 s. 636.008, the office ~~department~~ shall review such application
 38219 and notify the applicant of any deficiencies contained therein.
 38220 The office ~~department~~ shall issue a certificate of authority to
 38221 an applicant who has filed a completed application in conformity
 38222 with s. 636.008, upon payment of the fees specified by s.
 38223 636.057 and upon the office ~~department~~ being satisfied that the
 38224 following conditions are met:

38225 (a) The requirements of s. 636.008 have been fulfilled.

38226 (b) The entity is actuarially sound.

38227 (c) The entity has met the applicable minimum surplus
 38228 requirements specified in s. 636.045.

38229 (d) The procedures for offering limited health services
 38230 and offering and terminating contracts to subscribers will not
 38231 unfairly discriminate on the basis of age, sex, race, handicap,
 38232 health, or economic status. However, this paragraph does not
 38233 prohibit reasonable underwriting classifications for the
 38234 purposes of establishing contract rates, nor does it prohibit



HB 1803

2003

38235 prospective experience rating.

38236 (e) The entity furnished evidence of adequate insurance
38237 coverage, including, but not limited to, general liability or
38238 professional liability coverage, or an adequate plan for self-
38239 insurance to respond to claims for injuries arising out of the
38240 furnishing covered services.

38241 (f) The ownership, control, and management of the entity
38242 are competent and trustworthy and possess managerial experience
38243 that would make the proposed operation beneficial to the
38244 subscribers. The office ~~department~~ shall not grant or continue
38245 authority to transact the business of a prepaid limited health
38246 service organization in this state at any time during which the
38247 office ~~department~~ has good reason to believe that the ownership,
38248 control, or management of the organization includes any person
38249 whose business operations are or have been marked by business
38250 practices or conduct that is to the detriment of the public,
38251 stockholders, investors, or creditors.

38252 (g) The entity has demonstrated compliance with s. 636.047
38253 by obtaining a blanket fidelity bond in the amount of at least
38254 \$50,000, issued by a licensed insurance carrier in this state,
38255 that will reimburse the entity in the event that anyone handling
38256 the funds of the entity either misappropriates or absconds with
38257 the funds. All employees handling the funds must be covered by
38258 the blanket fidelity bond. However, the fidelity bond need not
38259 cover an individual who owns 100 percent of the stock of the
38260 organization if such stockholder maintains total control of the
38261 organization's financial assets, books and records, and fidelity
38262 bond coverage is not available for such individual. An agent
38263 licensed under the provisions of the Florida Insurance Code may,
38264 either directly or indirectly, represent the prepaid limited



HB 1803

2003

38265 health service organization in the solicitation, negotiation,
 38266 effectuation, procurement, receipt, delivery, or forwarding of
 38267 any subscriber's contract, or collect or forward any
 38268 consideration paid by the subscriber to the prepaid limited
 38269 health service organization. The licensed agent shall not be
 38270 required to post the bond required by this subsection.

38271 (h) The prepaid limited health service organization has a
 38272 grievance procedure that will facilitate the resolution of
 38273 subscriber grievances and that includes both formal and informal
 38274 steps available within the organization.

38275 (i) The applicant is financially responsible and may
 38276 reasonably be expected to meet its obligations to enrollees and
 38277 to prospective enrollees. In making this determination, the
 38278 office ~~department~~ may consider:

38279 1. The financial soundness of the applicant's arrangements
 38280 for limited health services and the minimum standard rates,
 38281 deductibles, copayments, and other patient charges used in
 38282 connection therewith.

38283 2. The adequacy of surplus, other sources of funding, and
 38284 provisions for contingencies.

38285 3. The manner in which the requirements of s. 636.046 have
 38286 been fulfilled.

38287 (j) The agreements with providers for the provision of
 38288 limited health services contain the provisions required by s.
 38289 636.035.

38290 (k) Any deficiencies identified by the office ~~department~~
 38291 have been corrected.

38292 (l) All requirements of this chapter have been met.

38293 (m) If the certificate of authority is denied, the office
 38294 ~~department~~ shall notify the applicant and shall specify the



HB 1803

2003

38295 reasons for denial in the notice.

38296 Section 1229. Section 636.015, Florida Statutes, is
 38297 amended to read:

38298 636.015 Language used in contracts and advertisements;
 38299 translations.--

38300 (1)(a) All contracts or forms must be printed in English.

38301 (b) If the negotiations leading up to the effectuation of
 38302 a prepaid limited health service organization contract are
 38303 conducted in a language other than English, the prepaid limited
 38304 health service organization must supply to the member a written
 38305 translation of the contract, which translation accurately
 38306 reflects the substance of the contract and is in the language
 38307 used to negotiate the contract. The written translation must be
 38308 affixed to, and shall become a part of, the contract or form,
 38309 including a certification that the written translation is
 38310 identical to the English version. Any such translation must be
 38311 furnished to the office ~~department~~ as part of the filing of the
 38312 prepaid limited health services contract form. No translation of
 38313 a prepaid limited health services contract form may be approved
 38314 by the office ~~department~~ unless the translation accurately
 38315 reflects the substance of the prepaid limited health services
 38316 contract form in translation.

38317 (2) The text of all advertisements by a prepaid limited
 38318 health service organization, if printed or broadcast in a
 38319 language other than English, also must be available in English
 38320 and must be furnished to the office ~~department~~ upon request. As
 38321 used in this subsection, the term "advertisement" means any
 38322 advertisement, circular, pamphlet, brochure, or other printed
 38323 material disclosing or disseminating advertising material or
 38324 information by a prepaid limited health service organization to



HB 1803

2003

38325 prospective or existing subscribers and includes any radio or
38326 television transmittal of an advertisement or information.

38327 Section 1230. Paragraph (a) of subsection (1) of section
38328 636.016, Florida Statutes, is amended to read:

38329 636.016 Prepaid limited health service contracts.--For any
38330 entity licensed prior to October 1, 1993, all subscriber
38331 contracts in force at such time shall be in compliance with this
38332 section upon renewal of such contract.

38333 (1) Any entity issued a certificate of authority and
38334 otherwise in compliance with this act may enter into contracts
38335 in this state to provide an agreed-upon set of limited health
38336 services to subscribers in exchange for a prepaid per capita sum
38337 or a prepaid aggregate fixed sum.

38338 (a) The office ~~department~~ shall disapprove any form filed
38339 under this subsection, or withdraw any previous approval
38340 thereof, if the form:

38341 1. Is in any respect in violation of, or does not comply
38342 with, any provision of this act or rule adopted thereunder.

38343 2. Contains or incorporates by reference, where such
38344 incorporation is otherwise permissible, any inconsistent,
38345 ambiguous, or misleading clauses or exceptions and conditions
38346 which deceptively affect the risk purported to be assumed in the
38347 general coverage of the contract.

38348 3. Has any title, heading, or other indication of its
38349 provisions which is misleading.

38350 4. Is printed or otherwise reproduced in such a manner as
38351 to render any material provision of the form substantially
38352 illegible.

38353 5. Contains provisions which are unfair, inequitable, or
38354 contrary to the public policy of this state or which encourage



HB 1803

2003

38355 misrepresentation.

38356 6. Charges rates that are determined by the office
 38357 ~~department~~ to be inadequate, excessive, or unfairly
 38358 discriminatory, or if the rating methodology followed by the
 38359 prepaid limited health service organization is determined by the
 38360 office ~~department~~ to be inconsistent with the provisions of s.
 38361 636.017.

38362 Section 1231. Section 636.017, Florida Statutes, is
 38363 amended to read:

38364 636.017 Rates and charges.--

38365 (1) The rates charged by any prepaid limited health
 38366 service organization to its subscribers shall not be excessive,
 38367 inadequate, or unfairly discriminatory. The commission or office
 38368 ~~department~~ may require whatever information it deems necessary
 38369 to determine that a rate or proposed rate meets the requirements
 38370 of this section.

38371 (2) In determining whether a rate is in compliance with
 38372 subsection (1), the office ~~department~~ must take into
 38373 consideration the limited services provided, the method in which
 38374 the services are provided, and the method of provider payment.
 38375 This section may not be construed as authorizing the commission
 38376 ~~department~~ to establish by rule minimum loss ratios for prepaid
 38377 limited health service organizations' rates.

38378 Section 1232. Section 636.018, Florida Statutes, is
 38379 amended to read:

38380 636.018 Changes in rates and benefits; material
 38381 modifications; addition of limited health services.--

38382 (1)(a) No prepaid limited health services contract,
 38383 certificate of coverage, application, enrollment form, rider,
 38384 endorsement, and applicable rates to be charged may be delivered



HB 1803

2003

38385 in this state unless the forms and rates have been filed with
 38386 the office ~~department~~ by or on behalf of the prepaid limited
 38387 health service organization and have been approved by the office
 38388 ~~department~~. Every form filed shall be identified by a unique
 38389 form number placed in the lower left corner of each form. If a
 38390 prepaid limited health service organization desires to amend any
 38391 contract with its subscribers or any certificate or member
 38392 handbook, or desires to change any rate charged for the contract
 38393 or to change any basic prepaid limited health services contract,
 38394 certificate, grievance procedure, or member handbook form, or
 38395 application form where written application is required and is to
 38396 be made a part of the contract, or printed amendment, addendum,
 38397 rider, or endorsement form or form renewal certificate, it must
 38398 file such changes 30 days prior to the effective date of the
 38399 proposed change. At least 30 days' written notice must be
 38400 provided to the subscriber before application of any approved
 38401 change in rates. In the case of a group enrollee, there may be
 38402 a contractual agreement with the prepaid limited health service
 38403 organization to have the contract holder provide the required
 38404 notice to the individual enrollees of the group. Any proposed
 38405 change must contain information as required by s. 636.017.

38406 (b) The prepaid limited health service organization's
 38407 certification must be prepared by an independent actuary or a
 38408 qualified employee. The chief executive officer of the prepaid
 38409 limited health service organization must review and sign the
 38410 certification indicating her or his agreement with its
 38411 conclusions. Following receipt of notice of any disapproval or
 38412 withdrawal of approval, no prepaid limited health service
 38413 organization may issue or use any form disapproved by the office
 38414 ~~department~~ or as to which the office ~~department~~ has withdrawn



HB 1803

2003

38415 approval.

38416 (2) If such filings are disapproved, the office ~~department~~
 38417 shall notify the prepaid limited health service organization and
 38418 shall specify the reasons for disapproval in the notice. The
 38419 prepaid limited health service organization has 21 days from the
 38420 date of receipt of notice to request a hearing before the office
 38421 ~~department~~ pursuant to chapter 120.

38422 Section 1233. Subsection (2) of section 636.025, Florida
 38423 Statutes, is amended to read:

38424 636.025 Validity of noncomplying contracts.--

38425 (2) Any prepaid limited health services contract delivered
 38426 or issued for delivery in this state covering a subscriber,
 38427 which subscriber pursuant to the provisions of this act the
 38428 organization may not lawfully cover under the contract, is
 38429 cancelable at any time by the organization, any provision of the
 38430 contract to the contrary notwithstanding, and the organization
 38431 must promptly cancel the contract in accordance with the request
 38432 of the office ~~department~~ therefor. No such illegality or
 38433 cancellation may be deemed to relieve the organization of any
 38434 liability incurred by it under the contract while in force or to
 38435 prohibit the organization from retaining the pro rata earned
 38436 premium or rate thereon. This subsection does not relieve the
 38437 organization from any penalty otherwise incurred by the
 38438 organization under this act for any such violation.

38439 Section 1234. Subsection (3) of section 636.029, Florida
 38440 Statutes, is amended to read:

38441 636.029 Construction and relationship with other laws.--

38442 (3) The department and office are ~~is~~ vested with all
 38443 powers granted to it under the insurance code with respect to
 38444 the investigation of any violation of this act within their



HB 1803

2003

38445 respective regulatory jurisdictions.

38446 Section 1235. Section 636.036, Florida Statutes, is
 38447 amended to read:

38448 636.036 Administrative, provider, and management
 38449 contracts.--

38450 (1) The office ~~department~~ may require a prepaid limited
 38451 health service organization to submit any contract for
 38452 administrative services, contract with a provider physician,
 38453 contract for management services, or contract with an affiliated
 38454 entity to the office ~~department~~ if the office ~~department~~ has
 38455 information that the prepaid limited health service organization
 38456 has entered into a contract which requires it to pay a fee which
 38457 is unreasonably high in relation to the service provided.

38458 (2) After review of a contract, the office ~~department~~ may
 38459 order the prepaid limited health service organization to cancel
 38460 the contract if it determines that the fees to be paid by the
 38461 prepaid limited health service organization under the contract
 38462 are so unreasonably high as compared with similar contracts
 38463 entered into by the prepaid limited health service organization
 38464 in similar circumstances that the contract is detrimental to the
 38465 subscribers, stockholders, investors, or creditors of the
 38466 prepaid limited health service organization.

38467 (3) All contracts for administrative services, management
 38468 services, or provider services or contracts with affiliated
 38469 entities, entered into or renewed by a prepaid limited health
 38470 service organization on or after October 1, 1993, must contain a
 38471 provision that the contract will be canceled upon issuance of an
 38472 order by the office ~~department~~ pursuant to this section.

38473 Section 1236. Section 636.037, Florida Statutes, is
 38474 amended to read:



HB 1803

2003

38475 636.037 Contract providers.--Each prepaid limited health
 38476 service organization must, upon the request of the office
 38477 ~~department~~, file financial statements for all contract providers
 38478 of limited health care services who have assumed through
 38479 capitation or other means more than 10 percent of the health
 38480 care risks of the prepaid limited health service organization.

38481 Section 1237. Section 636.038, Florida Statutes, is
 38482 amended to read:

38483 636.038 Complaint system; annual report.--

38484 (1) Every prepaid limited health service organization must
 38485 establish and maintain a complaint system providing reasonable
 38486 procedures for resolving written complaints initiated by
 38487 enrollees and providers. This section does not preclude an
 38488 enrollee or a provider from filing a complaint with the
 38489 department or office or limit the department's or office's
 38490 ability to investigate such complaints.

38491 (2) Every prepaid limited health service organization
 38492 shall report annually to the department and office the total
 38493 number of grievances handled, a categorization of the cases
 38494 underlying the grievances, and the final disposition of the
 38495 grievances.

38496 Section 1238. Section 636.039, Florida Statutes, is
 38497 amended to read:

38498 636.039 Examination by the office ~~department~~.--The office
 38499 ~~department~~ shall examine the affairs, transactions, accounts,
 38500 business records, and assets of any prepaid limited health
 38501 service organization, in the same manner and subject to the same
 38502 terms and conditions that apply to insurers under part II of
 38503 chapter 624, as often as it deems it expedient for the
 38504 protection of the people of this state, but not less frequently



HB 1803

2003

38505 than once every 3 years. In lieu of making its own financial
38506 examination, the office ~~department~~ may accept an independent
38507 certified public accountant's audit report prepared on a
38508 statutory accounting basis consistent with this act. However,
38509 except when the medical records are requested and copies
38510 furnished pursuant to s. 456.057, medical records of individuals
38511 and records of physicians providing service under contract to
38512 the prepaid limited health service organization are not subject
38513 to audit, but may be subject to subpoena by court order upon a
38514 showing of good cause. For the purpose of examinations, the
38515 office ~~department~~ may administer oaths to and examine the
38516 officers and agents of a prepaid limited health service
38517 organization concerning its business and affairs. The expenses
38518 of examination of each prepaid limited health service
38519 organization by the office ~~department~~ are subject to the same
38520 terms and conditions as apply to insurers under part II of
38521 chapter 624. Expenses of all examinations of a prepaid limited
38522 health service organization may never exceed a maximum of
38523 \$20,000 for any 1-year period.

38524 Section 1239. Section 636.043, Florida Statutes, is
38525 amended to read:

38526 636.043 Annual, quarterly, and miscellaneous reports.--

38527 (1) Each prepaid limited health service organization must
38528 file with the office ~~department~~ annually, within 3 months after
38529 the end of its fiscal year, a report verified by the oath of at
38530 least two officers covering the preceding calendar year. Any
38531 organization licensed prior to October 1, 1993, shall not be
38532 required to file a financial statement, as required by paragraph
38533 (2)(a), based on statutory accounting principles until the first
38534 annual report for fiscal years ending after December 31, 1994.



HB 1803

2003

38535 (2) Such report must be on forms prescribed by the
38536 commission ~~department~~ and must include:

38537 (a)1. A statutory financial statement of the organization
38538 prepared in accordance with statutory accounting principles,
38539 including its balance sheet, income statement, and statement of
38540 changes in cash flow for the preceding year, certified by an
38541 independent certified public accountant, or a consolidated
38542 audited financial statement of its parent company prepared on
38543 the basis of statutory accounting principles, certified by an
38544 independent certified public accountant, attached to which must
38545 be consolidating financial statements of the parent company,
38546 including the prepaid limited health service organization.

38547 2. Any entity subject to this chapter may make written
38548 application to the office ~~department~~ for approval to file
38549 audited financial statements prepared in accordance with
38550 generally accepted accounting principles in lieu of statutory
38551 financial statements. The office ~~department~~ shall approve the
38552 application if it finds it to be in the best interest of the
38553 subscribers. An application for exemption is required each year
38554 and must be filed with the office ~~department~~ at least 2 months
38555 prior to the end of the fiscal year for which the exemption is
38556 being requested.

38557 (b) A list of the names and residence addresses of all
38558 persons responsible for the conduct of its affairs, together
38559 with a disclosure of the extent and nature of any contracts or
38560 arrangements between such persons and the prepaid limited health
38561 service organization, including any possible conflicts of
38562 interest.

38563 (c) The number of prepaid limited health services
38564 contracts, issued and outstanding, and the number of prepaid



HB 1803

2003

38565 limited health services contracts terminated.

38566 (d) The number and amount of damage claims for medical
 38567 injury initiated against the prepaid limited health service
 38568 organization, and if known, any of the providers engaged by it
 38569 during the reporting year, broken down into claims with and
 38570 without formal legal process, and the disposition, if any, of
 38571 each such claim.

38572 (e) An actuarial report certified by a qualified
 38573 independent actuary or qualified employee that:

38574 1. The prepaid limited health service organization is
 38575 actuarially sound, which certification shall consider the rates,
 38576 benefits, and expenses of, and any other funds available for,
 38577 the payment of obligations of the organization.

38578 2. The rates being charged or to be charged are
 38579 actuarially adequate to the end of the period for which rates
 38580 have been guaranteed.

38581 3. Incurred but not reported claims and claims reported
 38582 but not fully paid have been adequately provided for.

38583 (f) Such other information relating to the performance of
 38584 the prepaid limited health service organization as is reasonably
 38585 required by the commission or office ~~department~~.

38586 (3) Every prepaid limited health service organization
 38587 which fails to file an annual report or quarterly report in the
 38588 form and within the time required by this section shall forfeit
 38589 up to \$500 for each day for the first 10 days during which the
 38590 neglect continues and shall forfeit up to \$1,000 for each day
 38591 after the first 10 days during which the neglect continues; and,
 38592 upon notice by the office ~~department~~ to that effect, the
 38593 organization's authority to enroll new subscribers or to do
 38594 business in this state ceases while such default continues. The



HB 1803

2003

38595 office department shall deposit all sums collected by it under
 38596 this section to the credit of the Insurance ~~Commissioner's~~
 38597 Regulatory Trust Fund. The office department may not collect
 38598 more than \$50,000 for each report.

38599 (4) Each authorized prepaid limited health service
 38600 organization must file a quarterly report for each calendar
 38601 quarter within 45 days after the end of the quarter. The report
 38602 shall contain:

38603 (a) A financial statement prepared in accordance with
 38604 statutory accounting principles. Any entity licensed before
 38605 October 1, 1993, shall not be required to file a financial
 38606 statement based on statutory accounting principles until the
 38607 first quarterly filing after the entity files its annual
 38608 financial statement based on statutory accounting principles as
 38609 required by subsection(1).

38610 (b) A listing of providers.

38611 (c) Such other information relating to the performance of
 38612 the prepaid limited health service organization as is reasonably
 38613 required by the commission or office department.

38614 (5) The office department may require monthly reports if
 38615 the financial condition of the prepaid limited health service
 38616 organization has deteriorated from previous periods or if the
 38617 financial condition of the organization is such that it may be
 38618 hazardous to subscribers if not monitored more frequently.

38619 (6) Each authorized prepaid limited health service
 38620 organization shall retain an independent certified public
 38621 accountant, hereinafter referred to as "CPA," who agrees by
 38622 written contract with the prepaid limited health service
 38623 organization to comply with the provisions of this act. The
 38624 contract must state that:



HB 1803

2003

38625 (a) The CPA will provide to the prepaid limited health
38626 service organization audited statutory financial statements
38627 consistent with this act.

38628 (b) Any determination by the CPA that the prepaid limited
38629 health service organization does not meet minimum surplus
38630 requirements as set forth in this act will be stated by the CPA,
38631 in writing, in the audited financial statement.

38632 (c) The completed workpapers and any written
38633 communications between the CPA and the prepaid limited health
38634 service organization relating to the audit of the prepaid
38635 limited health service organization will be made available for
38636 review on a visual-inspection-only basis by the office
38637 ~~department~~ at the offices of the prepaid limited health service
38638 organization, at the office ~~department~~, or at any other
38639 reasonable place as mutually agreed between the office
38640 ~~department~~ and the prepaid limited health service organization.
38641 The CPA must retain for review the workpapers and written
38642 communications for a period of not less than 6 years.

38643 Section 1240. Subsection (2) of section 636.045, Florida
38644 Statutes, is amended to read:

38645 636.045 Minimum surplus requirements.--

38646 (2) The office ~~department~~ may not issue a certificate of
38647 authority unless the prepaid limited health service organization
38648 has a minimum surplus in an amount of \$150,000 or 10 percent of
38649 liabilities, whichever is the greater amount.

38650 Section 1241. Subsections (1) and (2) of section 636.046,
38651 Florida Statutes, are amended to read:

38652 636.046 Insolvency protection.--

38653 (1) Except as required in subsection (2), each prepaid
38654 limited health service organization must deposit with the



HB 1803

2003

38655 department cash or securities of the type eligible under s.
38656 641.35 which must have at all times a market value in the amount
38657 set forth in this subsection. The amount of the deposit shall be
38658 reviewed annually or more often as the office ~~department~~ deems
38659 necessary. The market value of the deposit must be \$50,000.

38660 (2)(a) If securities or assets deposited by a prepaid
38661 limited health service organization under this act are subject
38662 to material fluctuations in market value, the office ~~department~~
38663 may in its discretion require the organization to deposit and
38664 maintain on deposit additional securities or assets in an amount
38665 as may be reasonably necessary to assure that the deposit will
38666 at all times have a market value of not less than the amount
38667 specified under this section.

38668 (b) If for any reason the market value of assets and
38669 securities of a prepaid limited health service organization held
38670 on deposit under this act falls below the amount required, the
38671 organization must promptly deposit other or additional assets or
38672 securities eligible for deposit sufficient to cure the
38673 deficiency. If the prepaid limited health service organization
38674 has failed to cure the deficiency within 30 days after receipt
38675 of notice by certified mail from the office ~~department~~, the
38676 office ~~department~~ may revoke the certificate of authority of the
38677 prepaid limited health service organization.

38678 (c) A prepaid limited health service organization may, at
38679 its option, deposit assets or securities in an amount exceeding
38680 its deposit required or otherwise permitted under this act for
38681 the purpose of absorbing fluctuations in the value of securities
38682 and assets deposited and to facilitate the exchange and
38683 substitution of securities and assets. During the solvency of
38684 the prepaid limited health service organization any excess must



HB 1803

2003

38685 | be released to the organization upon its request. During the
 38686 | insolvency of the prepaid limited health service organization,
 38687 | any excess deposit may be released only as provided in s.
 38688 | 625.62.

38689 | Section 1242. Section 636.047, Florida Statutes, is
 38690 | amended to read:

38691 | 636.047 Officers' and employees' fidelity bond.--

38692 | (1) A prepaid limited health service organization must
 38693 | maintain in force a fidelity bond in its own name on its
 38694 | officers and employees, in an amount not less than \$50,000 or in
 38695 | any other amount prescribed by the commission ~~department~~. Except
 38696 | as otherwise provided by this subsection, the bond must be
 38697 | issued by an insurance company that is licensed to do business
 38698 | in this state.

38699 | (2) In lieu of the bond specified in subsection (1), a
 38700 | prepaid limited health service organization may deposit with the
 38701 | department cash or securities or other investments of the types
 38702 | set forth in s. 636.042. Such a deposit must be maintained in
 38703 | joint custody with the department ~~commissioner~~ in the amount and
 38704 | subject to the same conditions required for a bond under this
 38705 | subsection.

38706 | Section 1243. Section 636.048, Florida Statutes, is
 38707 | amended to read:

38708 | 636.048 Suspension or revocation of certificate of
 38709 | authority; suspension of enrollment of new subscribers; terms of
 38710 | suspension.--

38711 | (1) The office ~~department~~ may suspend the authority of a
 38712 | prepaid limited health service organization to enroll new
 38713 | subscribers or revoke any certificate issued to a prepaid
 38714 | limited health service organization or order compliance within



HB 1803

2003

38715 30 days, if it finds that any of the following conditions exist:

38716 (a) The organization is not operating in compliance with
38717 this act.

38718 (b) The plan is no longer actuarially sound or the
38719 organization does not have the minimum surplus as required by
38720 this act.

38721 (c) The organization has advertised, merchandised, or
38722 attempted to merchandise its services in such a manner as to
38723 misrepresent its services or capacity for service or has engaged
38724 in deceptive, misleading, or unfair practices with respect to
38725 advertising or merchandising.

38726 (d) The organization is insolvent.

38727 (e) The prepaid limited health service organization is
38728 operating significantly in contravention of its basic
38729 organizational document or in a manner contrary to that
38730 described in and reasonably inferred from any other information
38731 submitted pursuant to ss. 636.008 and 636.009, unless amendments
38732 to such submissions have been filed with and approved by the
38733 office ~~department~~.

38734 (f) The prepaid limited health service organization is
38735 unable to fulfill its obligations to furnish limited health
38736 services.

38737 (g) The prepaid limited health service organization has no
38738 subscribers 12 months after the issuance of the certificate of
38739 authority.

38740 (h) The continued operation of the prepaid limited health
38741 service organization would be hazardous to its enrollees.

38742 (2) If the office ~~department~~ has cause to believe that
38743 grounds for the suspension or revocation of a certificate of
38744 authority exist, it shall notify the prepaid limited health



HB 1803

2003

38745 service organization in writing specifically stating the grounds
38746 for suspension or revocation and shall pursue a hearing on the
38747 matter in accordance with the provisions of chapter 120.

38748 (3) When the certificate of authority of a prepaid limited
38749 health service organization is surrendered or revoked, such
38750 organization must proceed, immediately following the effective
38751 date of the order of revocation, to wind up its affairs
38752 transacted under the certificate of authority. It may not
38753 engage in any further advertising, solicitation, or renewal of
38754 contracts. The office ~~department~~ may, by written order, permit
38755 such further operation of the organization as it finds to be in
38756 the best interest of enrollees, so that enrollees will be
38757 afforded the greatest practical opportunity to obtain continuing
38758 limited health services.

38759 (4) The office ~~department~~ shall, in its order suspending
38760 the authority of a prepaid limited health service organization
38761 to enroll new subscribers, specify the period during which the
38762 suspension is to be in effect and the conditions, if any, which
38763 must be met by the prepaid limited health service organization
38764 prior to reinstatement of its authority to enroll new
38765 subscribers. The order of suspension is subject to rescission or
38766 modification by further order of the office ~~department~~ prior to
38767 the expiration of the suspension period. Reinstatement may not
38768 be made unless requested by the prepaid limited health service
38769 organization; however, the office ~~department~~ may not grant
38770 reinstatement if it finds that the circumstances for which the
38771 suspension occurred still exist or are likely to recur.

38772 Section 1244. Section 636.049, Florida Statutes, is
38773 amended to read:

38774 636.049 Administrative penalty in lieu of suspension or



HB 1803

2003

38775 revocation.--In lieu of suspending or revoking a certificate of
 38776 authority, or when no penalty is specifically provided, whenever
 38777 any prepaid limited health service organization or other person,
 38778 corporation, partnership, or entity subject to this act has been
 38779 found to have violated any provision of this act, the office or
 38780 department, within its respective regulatory jurisdiction, may:

38781 (1) Issue and cause to be served upon the organization,
 38782 person, or entity charged with the violation a copy of such
 38783 findings and an order requiring such organization, person, or
 38784 entity to cease and desist from engaging in the act or practice
 38785 which constitutes the violation.

38786 (2) Impose a monetary penalty of not less than \$100 for
 38787 each violation, but not to exceed an aggregate penalty of
 38788 \$100,000.

38789 Section 1245. Section 636.052, Florida Statutes, is
 38790 amended to read:

38791 636.052 Civil remedy.--In any civil action brought to
 38792 enforce the terms and conditions of a prepaid limited health
 38793 service organization contract, the prevailing party is entitled
 38794 to recover reasonable attorney's fees and court costs. This
 38795 section does not authorize a civil action against the office or
 38796 ~~department, its employees, or the commissioner~~ or against the
 38797 Agency for Health Care Administration, its employees, or the
 38798 director of that agency.

38799 Section 1246. Section 636.053, Florida Statutes, is
 38800 amended to read:

38801 636.053 Injunction.--In addition to the penalties and
 38802 other enforcement provisions of this act, the office and
 38803 department, subject to their respective jurisdictions, are ~~is~~
 38804 vested with the power to seek both temporary and permanent



HB 1803

2003

38805 injunctive relief when:

38806 (1) A prepaid limited health service organization is being
 38807 operated by any person or entity without a subsisting
 38808 certificate of authority.

38809 (2) Any person, entity, or prepaid limited health service
 38810 organization has engaged in any activity prohibited by this act
 38811 or any rule adopted pursuant thereto.

38812 (3) Any prepaid limited health service organization,
 38813 person, or entity is renewing, issuing, or delivering a prepaid
 38814 limited health services contract without a subsisting
 38815 certificate of authority.

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38818 The office's or department's authority to seek injunctive
 38819 relief is not conditioned on having conducted any proceeding
 38820 pursuant to chapter 120.

38821 Section 1247. Section 636.055, Florida Statutes, is
 38822 amended to read:

38823 636.055 Levy upon deposit limited.--No judgment creditor
 38824 or other claimant, other than the office or department, of a
 38825 prepaid limited health service organization shall have the right
 38826 to levy upon any of the assets or securities held in this state
 38827 as a deposit under s. 636.046.

38828 Section 1248. Subsection (1) of section 636.056, Florida
 38829 Statutes, is amended to read:

38830 636.056 Rehabilitation, conservation, liquidation, or
 38831 reorganization; exclusive methods of remedy.--

38832 (1) A delinquency proceeding under part I of chapter 631
 38833 or supervision ~~by the department~~ pursuant to ss. 624.80-624.87
 38834 constitute the sole and exclusive means of liquidating,



HB 1803

2003

38835 reorganizing, rehabilitating, or conserving a prepaid limited
 38836 health service organization.

38837 Section 1249. Section 636.057, Florida Statutes, is
 38838 amended to read:

38839 636.057 Fees.--Every prepaid limited health service
 38840 organization subject to this act must pay to the office
 38841 ~~department~~ the following fees:

38842 (1) For filing an application for a certificate of
 38843 authority or amendment thereto: \$500.

38844 (2) For filing each annual report: \$200.

38845 (3) For each renewal of certificate of authority: \$500.

38846 Section 1250. Section 636.058, Florida Statutes, is
 38847 amended to read:

38848 636.058 Investigative power of department and office--The
 38849 department and office, within their respective regulatory
 38850 jurisdictions, have ~~has~~ the power to examine and investigate the
 38851 affairs of every person, entity, or prepaid limited health
 38852 service organization in order to determine whether the person,
 38853 entity, or prepaid limited health service organization is
 38854 operating in accordance with the provisions of this act or has
 38855 been or is engaged in any unfair method of competition or in any
 38856 unfair or deceptive act or practice prohibited by s. 641.3903.
 38857 The office ~~department~~ also has the powers enumerated in ss.
 38858 641.3907, 641.3909, and 641.3913.

38859 Section 1251. Section 636.062, Florida Statutes, is
 38860 amended to read:

38861 636.062 Appeals from the office or department.--Any
 38862 person, entity, or prepaid limited health service organization
 38863 subject to an order of the office or department under s.
 38864 641.3909 or s. 641.3913 may obtain a review of the order by



HB 1803

2003

38865 filing an appeal therefrom in accordance with the provisions and
 38866 procedures for appeal under s. 120.68.

38867 Section 1252. Section 636.063, Florida Statutes, is
 38868 amended to read:

38869 636.063 Civil liability.--The provisions of this act are
 38870 cumulative to rights under the general civil and common law, and
 38871 no action of the office or department abrogates such rights to
 38872 damage or other relief in any court.

38873 Section 1253. Subsection (3) of section 636.064, Florida
 38874 Statutes, is amended to read:

38875 636.064 Confidentiality.--

38876 (3) Any information obtained or produced by the department
 38877 or office pursuant to an examination or investigation is
 38878 confidential and exempt from the provisions of s. 119.07(1) and
 38879 s. 24(a), Art. I of the State Constitution until the examination
 38880 report has been filed pursuant to s. 624.319 or until such
 38881 investigation is completed or ceases to be active. For purposes
 38882 of this subsection, an investigation is considered "active"
 38883 while such investigation is being conducted by the department or
 38884 office with a reasonable, good faith belief that it may lead to
 38885 the filing of administrative, civil, or criminal proceedings. An
 38886 investigation does not cease to be active if the department or
 38887 office is proceeding with reasonable dispatch and there is a
 38888 good faith belief that action may be initiated by the department
 38889 or office or other administrative or law enforcement agency.
 38890 Except for active criminal intelligence or criminal
 38891 investigative information, as defined in s. 119.011; personal
 38892 financial and medical information; information that would defame
 38893 or cause unwarranted damage to the good name or reputation of an
 38894 individual; information that would impair the safety and



HB 1803

2003

38895 financial soundness of the licensee or affiliated party;
 38896 proprietary financial information; or information that would
 38897 reveal the identity of a confidential source, all information
 38898 obtained by the department or office pursuant to an examination
 38899 or investigation shall be available after the examination report
 38900 has been filed or the investigation is completed or ceases to be
 38901 active.

38902 Section 1254. Section 642.015, Florida Statutes, is
 38903 amended to read:

38904 642.015 Definitions.--As used in ss. 642.011-642.049, the
 38905 term:

38906 ~~(1) "Department" means the Department of Insurance.~~

38907 (1)~~(2)~~ "Gross written premiums" means the total amount of
 38908 premiums paid by the consumer for the entire period of the legal
 38909 expense insurance contract, including commissions.

38910 ~~(3) "Insurance code" means the Florida Insurance Code as~~
 38911 ~~provided in s. 624.01.~~

38912 (2)~~(4)~~ "Insurer" means any person authorized to conduct a
 38913 life or casualty insurance business in this state or a legal
 38914 expense insurance corporation authorized under ss. 642.011-
 38915 642.049.

38916 (3)~~(5)~~ "Legal expense insurance" means a contractual
 38917 obligation to provide specific legal services, or to reimburse
 38918 for specific legal expenses, in consideration of a specified
 38919 payment for an interval of time, regardless of whether the
 38920 payment is made by the beneficiaries individually or by a third
 38921 person for them, but does not include the provision of, or
 38922 reimbursement for, legal services incidental to other insurance
 38923 coverages.

38924 Section 1255. Section 642.017, Florida Statutes, is



HB 1803

2003

38925 amended to read:

38926 642.017 Exemptions.--The provisions of the Florida
 38927 Insurance Code and ~~ss. 642.011-642.049~~ do not apply to:

38928 (1) Retainer contracts made by attorneys at law with
 38929 individual clients with fees based on estimates of the nature
 38930 and amount of services to be provided to the specific client and
 38931 similar contracts made with a group of clients involved in the
 38932 same or closely related legal matters.

38933 (2) Any lawyer referral service authorized by The Florida
 38934 Bar.

38935 (3) The furnishing of legal assistance by labor unions or
 38936 other employee organizations to their members in matters
 38937 relating to employment or occupation.

38938 (4) The furnishing of legal assistance to members, or
 38939 their dependents, by a church, cooperative, educational
 38940 institution, credit union, or organization of employees, in
 38941 which the organization contracts directly with a lawyer or law
 38942 firm for the provision of legal services and the administration
 38943 and marketing of such legal services are conducted wholly by the
 38944 organization.

38945 (5) Employee welfare benefit plans to the extent that
 38946 state laws are superseded by the Employee Retirement Income
 38947 Security Act of 1974, 29 U.S.C. s. 1144, provided evidence of
 38948 exemption from state laws is shown to the office ~~department~~.

38949 Section 1256. Section 642.021, Florida Statutes, is
 38950 amended to read:

38951 642.021 Certificate of authority.--

38952 (1) It is unlawful for any person to engage in a legal
 38953 expense insurance business in this state without a valid
 38954 certificate of authority issued by the office ~~department~~,



HB 1803

2003

38955 | pursuant to ss. 642.011-642.049, except that a domestic,
 38956 | foreign, or alien insurer authorized to transact life or
 38957 | casualty insurance in this state may transact legal expense
 38958 | insurance provided it complies with the applicable provisions of
 38959 | ss. 642.011-642.049. A certificate of authority under ss.
 38960 | 642.011-642.049 may be issued only to a legal expense insurance
 38961 | corporation.

38962 | (2) The corporation shall file with the office ~~department~~
 38963 | an application for a certificate of authority upon a form
 38964 | adopted by the commission and ~~to be~~ furnished by the office
 38965 | ~~department~~, which shall include or have attached the following:

38966 | (a) The names, addresses, and occupations of all directors
 38967 | and officers and of each shareholder who owns or controls 10
 38968 | percent or more of the shares of the applicant corporation.

38969 | (b) A certified copy of the corporate articles and bylaws
 38970 | and, for the 3 most recent years, the annual statements and
 38971 | reports of the corporation.

38972 | (c) Each agreement relating to the corporation to which
 38973 | any director or officer, or any shareholder who owns or controls
 38974 | 10 percent or more of the shares of the corporation, is a party.

38975 | (d) A statement of the amount and sources of the funds
 38976 | available for organization expenses and the proposed
 38977 | arrangements for reimbursement and compensation of incorporators
 38978 | or other persons.

38979 | (e) A statement of compensation to be provided directors
 38980 | and officers.

38981 | (f) The forms to be used for any proposed contracts
 38982 | between the corporation and participating attorneys or between
 38983 | the corporation and corporations which perform administration,
 38984 | marketing, or management services and the forms relating to the



HB 1803

2003

38985 provision of services to insureds.

38986 (g) The plan for conducting the insurance business, which
38987 plan shall include all of the following:

38988 1. The geographical area in which business is intended to
38989 be conducted in the first 5 years.

38990 2. The types of insurance intended to be written in the
38991 first 5 years, including specification whether and to what
38992 extent indemnity rather than service benefits are to be
38993 provided.

38994 3. The proposed marketing methods.

38995 (h) A current statement of the assets and liabilities of
38996 the corporate applicant.

38997 (i) Forms of all legal service contracts the applicant
38998 proposes to offer showing the rates to be charged for each form
38999 of contract.

39000 (j) Such other documents and information as the commission
39001 or office ~~department~~ may reasonably require.

39002 (3) Copies of the documents filed pursuant to paragraphs
39003 (f) and (i) of subsection (2) shall be filed with The Florida
39004 Bar within 5 days after filing with the office ~~department~~.

39005 (4) The office ~~department~~ shall issue a certificate of
39006 authority only to a legal expense insurance corporation,
39007 provided it is satisfied that:

39008 (a) All requirements of law have been met;

39009 (b) All natural persons who are directors and officers,
39010 and each shareholder who owns or controls 10 percent or more of
39011 the shares of the applicant corporation, are trustworthy and
39012 collectively have the competence and experience to engage in the
39013 particular insurance business proposed; and

39014 (c) The business plan is consistent with the interests of



HB 1803

2003

39015 potential insureds and of the public.

39016 Section 1257. Section 642.022, Florida Statutes, is
 39017 amended to read:

39018 642.022 Insurance business not authorized.--Nothing in the
 39019 Florida Insurance Code or this chapter shall be deemed to
 39020 authorize any legal expense corporation to transact any
 39021 insurance business other than that of legal expense insurance or
 39022 to otherwise engage in any other type of insurance unless it is
 39023 authorized under a certificate of authority issued by the office
 39024 ~~department~~ under the provisions of the Florida Insurance Code.

39025 Section 1258. Subsections (2), (5), (6), and (7) of
 39026 section 642.023, Florida Statutes, are amended to read:

39027 642.023 Required deposit or bond.--

39028 (2) In lieu of any deposit of securities required under
 39029 subsection (1) and subject to the approval of the office
 39030 ~~department~~, a legal service insurance corporation may file with
 39031 the office ~~department~~ a surety bond issued by an authorized
 39032 surety insurer. The bond shall be for the same purpose as the
 39033 deposit in lieu of which it is filed. The office ~~department~~ may
 39034 not approve any bond under the terms of which the protection
 39035 afforded against insolvency is not equivalent to the protection
 39036 afforded by those securities provided for in subsection (1).

39037 (5) Such deposit or bond shall be maintained unimpaired as
 39038 long as the legal expense insurance corporation continues to do
 39039 business in this state. Whenever the corporation ceases to do
 39040 business in this state and furnishes proof satisfactory to the
 39041 office ~~department~~ that it has discharged or otherwise adequately
 39042 provided for all its obligations to its insureds in this state,
 39043 the office and department shall release the deposited securities
 39044 to the parties entitled thereto, on presentation of the receipts



HB 1803

2003

39045 of the department for such securities, or shall release the bond
 39046 filed with it in lieu of such deposit.

39047 (6) The office ~~department~~, upon written request of the
 39048 legal expense insurance corporation, may reduce the amount of
 39049 deposit or bond required under subsection (1) if it finds that
 39050 the policyholders and certificateholders of the corporation are
 39051 adequately protected by:

39052 (a) The terms and number of existing contracts with
 39053 subscribers;

39054 (b) Financial guarantees of financially sound public or
 39055 private organizations or agencies;

39056 (c) Other reliable financial guarantees; or

39057 (d) Plan attorney agreements that provide for full plan
 39058 benefits to subscribers without additional payments by the
 39059 subscribers if the plan terminates.

39060 (7) The office ~~department~~ may at any time enter an order
 39061 modifying the amount of the deposit or bond specified under
 39062 subsection(1) or subsection (2) if it finds that there has been
 39063 a substantial change in the facts on which the determination was
 39064 based.

39065 Section 1259. Subsections (2), (3), and (4) of section
 39066 642.025, Florida Statutes, are amended to read:

39067 642.025 Policy and certificate forms.--

39068 (2) No policy or certificate of legal expense insurance
 39069 may be issued in this state unless a copy of the form has been
 39070 filed with and approved by the office ~~department~~ pursuant to s.
 39071 627.410.

39072 (3) The office ~~department~~ shall not approve any policy or
 39073 certificate form which does not meet the following requirements:

39074 (a) Policies shall contain a list and description of the



HB 1803

2003

39075 legal services to be supplied or the legal matters for which
39076 expenses are to be reimbursed and any limits on the amounts to
39077 be reimbursed.

39078 (b) Policies and certificates shall indicate the name of
39079 the insurer and the full address of its principal place of
39080 business.

39081 (c) Certificates issued under group policies shall contain
39082 a full statement of the benefits provided and exceptions thereto
39083 but may summarize the other terms of the master policy.

39084 (d) Policies providing for legal services to be supplied
39085 by a limited number of attorneys who have executed provider
39086 contracts with the insurer, whether the attorney in an
39087 individual case is to be selected by the insured or by the
39088 insurer, shall provide for alternative benefits if the insured
39089 is unable to find a participating attorney willing to perform
39090 the services or the attorney selected by the insurer is
39091 disqualified or otherwise unable to perform the services. The
39092 alternative benefit may consist of furnishing the services of an
39093 attorney selected and paid by the insurer or paying the fee of
39094 an attorney selected by the insured. The policy shall also
39095 provide a procedure that includes impartial review for settling
39096 disagreements concerning the grounds for demanding an
39097 alternative benefit.

39098 (e) No policy, except one issued by a mutual or reciprocal
39099 insurance company, may provide for assessments on policyholders
39100 or for reduction of benefits for the purpose of maintaining the
39101 insurer's solvency.

39102 (f) Policies shall contain a statement that the subscriber
39103 has a right to file a complaint with The Florida Bar concerning
39104 attorney conduct pursuant to the plan.



HB 1803

2003

39105 (g) Policies shall contain a statement that the individual
 39106 beneficiary has the right to retain, at his or her own expense,
 39107 except when the policy provides otherwise, any attorney
 39108 authorized to practice law in this state.

39109 (4) The office ~~department~~ may disapprove a policy or
 39110 certificate form if it finds that the form:

39111 (a) Is unfair, unfairly discriminatory, misleading, or
 39112 ambiguous or encourages misrepresentation or misunderstanding of
 39113 the contract;

39114 (b) Provides coverage or benefits or contains other
 39115 provisions that would endanger the solvency of the insurer; or

39116 (c) Is contrary to law.

39117 Section 1260. Section 642.027, Florida Statutes, is
 39118 amended to read:

39119 642.027 Premium rates.--No policy of legal expense
 39120 insurance may be issued in this state unless the premium rates
 39121 for the insurance have been filed with and approved by the
 39122 office ~~department~~. Premium rates shall be established and
 39123 justified in accordance with generally accepted insurance
 39124 principles, including, but not limited to, the experience or
 39125 judgment of the insurer making the rate filing or actuarial
 39126 computations. The office ~~department~~ may disapprove rates that
 39127 are excessive, inadequate, or unfairly discriminatory. Rates are
 39128 not unfairly discriminatory because they are averaged broadly
 39129 among persons insured under group, blanket, or franchise
 39130 policies. The office ~~department~~ may require the submission of
 39131 any other information reasonably necessary in determining
 39132 whether to approve or disapprove a filing made under this
 39133 section or s. 642.025.

39134 Section 1261. Section 642.029, Florida Statutes, is



HB 1803

2003

39135 amended to read:

39136 642.029 Contracts by insurers.--

39137 (1) Contracts made between the insurer and participating
 39138 attorneys, management contracts, or contracts with providers of
 39139 other services covered by the legal expense insurance policy
 39140 shall be filed with and approved by the office ~~department~~.

39141 (2) An insurer shall annually report to the office
 39142 ~~department~~ the number and geographical distribution of attorneys
 39143 and providers of other services covered by the legal expense
 39144 insurance policy with whom it maintains contractual relations
 39145 and the nature of the relations. The office ~~department~~ may
 39146 require more frequent reports from an insurer or group of
 39147 insurers.

39148 Section 1262. Section 642.0301, Florida Statutes, is
 39149 amended to read:

39150 642.0301 Filing, license, statement, and miscellaneous
 39151 fees.--

39152 (1) Every legal expense insurance corporation must pay to
 39153 the office ~~department~~ the following fees:

39154 (a) Certificate of authority of legal expense insurance
 39155 corporation. Filing application for original certificate of
 39156 authority, including all accompanying documents, filing
 39157 fee....\$250

39158 (b) Annual license fee for legal expense insurance
 39159 corporations....\$300

39160 (c) Statements of legal expense insurance corporation:

39161 1. Annual statement....\$100

39162 2. Quarterly statement....\$25

39163 (2) For any service not described in subsection (1), the
 39164 fee is that prescribed in s. 624.501.



HB 1803

2003

39165 Section 1263. Section 642.0331, Florida Statutes, is
39166 amended to read:

39167 642.0331 Grounds for suspension or revocation of
39168 certificate.--

39169 (1) The certificate of authority of an insurer, whether
39170 issued pursuant to this chapter or the insurance code, may be
39171 revoked or suspended, or the office ~~department~~ may refuse to
39172 renew a certificate of authority, if the office ~~department~~
39173 determines that the insurer:

39174 (a) Has violated any lawful rule or order of the
39175 commission or office ~~department~~ or any provision of this
39176 chapter.

39177 (b) Is in an unsound financial condition which would
39178 render its further transaction of business in this state
39179 hazardous or injurious to its policyholders, its
39180 certificateholders, or the public.

39181 (c) Is using such methods or practices in the conduct of
39182 its business so as to render its further transaction of business
39183 in this state hazardous or injurious to its policyholders, its
39184 certificateholders, or the public.

39185 (d) Has refused to be examined or to produce its accounts,
39186 records, or files for examination, or if any of its officers
39187 have refused to give information with respect to its affairs or
39188 have refused to perform any other legal obligation as to such
39189 examination, when required by the office ~~department~~.

39190 (e) Has failed to pay any final judgment rendered against
39191 it in this state within 60 days after the judgment became final.

39192 (f) Without just cause has refused to pay proper claims or
39193 perform services arising under its policies or contracts;
39194 without just cause has compelled policyholders or



HB 1803

2003

39195 certificateholders to accept less than the amount due them; or
 39196 has employed attorneys, or has brought suit against the
 39197 association, to secure full payment or settlement of such
 39198 claims.

39199 (g) Is affiliated with, and under the same general
 39200 management or interlocking directorate or ownership as, another
 39201 insurer which transacts business in this state without having a
 39202 certificate of authority.

39203 (2) The office ~~department~~ may, pursuant to s. 120.60, in
 39204 its discretion and without advance notice or hearing thereon,
 39205 immediately suspend the certificate of any insurer, whether such
 39206 certificate was issued pursuant to this chapter or the insurance
 39207 code, if it finds that one or more of the following
 39208 circumstances exist:

39209 (a) The insurer is insolvent or impaired.

39210 (b) The deposit required by s. 642.023 is not being
 39211 maintained.

39212 (c) Proceedings for receivership, conservatorship, or
 39213 rehabilitation or other delinquency proceedings regarding the
 39214 insurer have been commenced in any state.

39215 (d) The financial condition or business practices of the
 39216 insurer otherwise pose an imminent threat to the public health,
 39217 safety, or welfare of the residents of this state.

39218 Section 1264. Section 642.0334, Florida Statutes, is
 39219 amended to read:

39220 642.0334 Order; notice of suspension or revocation of
 39221 certificate; effect; publication.--

39222 (1) Suspension or revocation of a certificate of authority
 39223 of an insurer shall be by order of the office ~~department~~ mailed
 39224 to the corporation by registered or certified mail. The office



HB 1803

2003

39225 ~~department~~ also shall promptly give notice of such suspension or
 39226 revocation to the sales representatives in this state of the
 39227 corporation who are of record in the office of the office
 39228 ~~department~~. The insurer shall not solicit or write any new
 39229 contracts in this state during the period of any such suspension
 39230 or revocation.

39231 (2) In its discretion, the office ~~department~~ may cause
 39232 notice of the revocation or suspension to be published in one or
 39233 more newspapers of general circulation published in this state.
 39234

39235 Section 1265. Subsections (1), (3), and (4) of section
 39236 642.0338, Florida Statutes, are amended to read:

39237 642.0338 Administrative fine in lieu of suspension or
 39238 revocation.--

39239 (1) If the office ~~department~~ finds that one or more
 39240 grounds exist for the revocation or suspension of a certificate
 39241 of authority issued under this chapter, the office ~~department~~
 39242 may, in lieu of such suspension or revocation, impose a fine
 39243 upon the insurer.

39244 (3) With respect to any knowing and willful violation of
 39245 an order or rule of the office or commission ~~department~~ or a
 39246 provision of this chapter, the office ~~department~~ may impose a
 39247 fine upon the insurer in an amount not to exceed \$5,000 for each
 39248 such violation. In no event shall such fine exceed an aggregate
 39249 amount of \$25,000 for all knowing and willful violations arising
 39250 out of the same action. In addition to such fines, such insurer
 39251 shall make restitution when due in accordance with the
 39252 provisions of subsection (2).

39253 (4) The failure of an insurer to make restitution when due
 39254 as required under this section constitutes a willful violation



HB 1803

2003

39255 of this chapter. However, if an insurer in good faith is
 39256 uncertain as to whether any restitution is due or as to the
 39257 amount of such restitution, it shall promptly notify the office
 39258 ~~department~~ of the circumstances, and the failure to make
 39259 restitution pending a determination thereof will not constitute
 39260 a violation of this chapter.

39261 Section 1266. Subsection (10) of section 642.041, Florida
 39262 Statutes, is amended to read:

39263 642.041 Grounds for compulsory refusal, suspension, or
 39264 revocation of license or appointment of contracting sales
 39265 representatives.--The department shall, pursuant to the
 39266 insurance code, deny, suspend, revoke, or refuse to renew or
 39267 continue the license or appointment of any sales representative
 39268 or the license or appointment of any general lines agent if it
 39269 finds that, as to the sales representative or general lines
 39270 agent, any one or more of the following applicable grounds
 39271 exist:

39272 (10) Willful failure to comply with, or willful violation
 39273 of, any proper order or rule of the office, commission, or
 39274 department or willful violation of any provision of ss. 642.011-
 39275 642.049.

39276 Section 1267. Subsection (3) of section 642.043, Florida
 39277 Statutes, is amended to read:

39278 642.043 Grounds for discretionary refusal, suspension, or
 39279 revocation of license or appointment of sales representatives.--
 39280 The department may, in its discretion, deny, suspend, revoke, or
 39281 refuse to renew or continue the license or appointment of any
 39282 sales representative if it finds that, as to the representative,
 39283 any one or more of the following applicable grounds exist under
 39284 circumstances for which such denial, suspension, revocation, or



HB 1803

2003

39285 refusal is not mandatory under s. 642.041:

39286 (3) Violation of any lawful order or rule of the office,
 39287 commission, or department.

39288 Section 1268. Subsection (2) of section 642.047, Florida
 39289 Statutes, is amended to read:

39290 642.047 Administrative fine in lieu of suspension or
 39291 revocation of license or appointment.--

39292 (2) The order may allow the licensee or appointee a
 39293 reasonable period not to exceed 30 days, within which to pay to
 39294 the department or office the amount of the penalty so imposed.
 39295 If the licensee or appointee fails to pay the penalty in its
 39296 entirety to the department or office ~~at its office in~~
 39297 Tallahassee within the period so allowed, the license or
 39298 appointment of the licensee or appointee shall stand suspended
 39299 or revoked, or renewal or continuation may be refused, as the
 39300 case may be, upon expiration of such period and without any
 39301 further proceedings.

39302 Section 1269. Section 648.25, Florida Statutes, is amended
 39303 to read:

39304 648.25 Definitions.--As used in this chapter, the term:

39305 (1) "Bail bond agency" means:

39306 (a) The building where a licensee maintains an office and
 39307 where all records required by ss. 648.34 and 648.36 are
 39308 maintained; or

39309 (b) An entity that:

39310 1. Charges a fee or premium to release an accused
 39311 defendant or detainee from jail; or

39312 2. Engages in or employs others to engage in any activity
 39313 that may be performed only by a licensed and appointed bail bond
 39314 agent.



HB 1803

2003

39315 (2) "Bail bond agent" means a limited surety agent or a
39316 professional bail bond agent as hereafter defined.

39317 ~~(3) "Department" means the Department of Insurance.~~

39318 (3)~~(4)~~ "Managing general agent" means any individual,
39319 partnership, association, or corporation appointed or employed
39320 by an insurer to supervise or manage the bail bond business
39321 written in this state by limited surety agents appointed by the
39322 insurer.

39323 (4)~~(5)~~ "Insurer" means any domestic, foreign, or alien
39324 surety company which has been authorized to transact surety
39325 business in this state.

39326 (5)~~(6)~~ "Limited surety agent" means any individual
39327 appointed by an insurer by power of attorney to execute or
39328 countersign bail bonds in connection with judicial proceedings
39329 who receives or is promised money or other things of value
39330 therefor.

39331 (6)~~(7)~~ "Primary bail bond agent" means a licensed bail
39332 bond agent who is responsible for the overall operation and
39333 management of a bail bond agency location and whose
39334 responsibilities include hiring and supervising all individuals
39335 within that location. A bail bond agent may be designated as
39336 primary bail bond agent for only one bail bond agency location.

39337 (7)~~(8)~~ "Professional bail bond agent" means any person who
39338 pledges United States currency, United States postal money
39339 orders, or cashier's checks as security for a bail bond in
39340 connection with a judicial proceeding and receives or is
39341 promised therefor money or other things of value.

39342 (8)~~(9)~~ "Temporary bail bond agent" means a person employed
39343 by a bail bond agent or agency, insurer, or managing general
39344 agent, and such licensee has the same authority as a licensed



HB 1803

2003

39345 bail bond agent, including presenting defendants in court;
 39346 apprehending, arresting, and surrendering defendants to the
 39347 proper authorities, while accompanied by a supervising bail bond
 39348 agent or an agent from the same agency; and keeping defendants
 39349 under necessary surveillance. However, a temporary licensee may
 39350 not execute or sign bonds, handle collateral receipts, or
 39351 deliver bonds to appropriate authorities. A temporary licensee
 39352 may not operate an agency or branch agency separate from the
 39353 location of the supervising bail bond agent, managing general
 39354 agent, or insurer by whom the licensee is employed. This does
 39355 not affect the right of a bail bond agent or insurer to hire
 39356 counsel or to obtain the assistance of law enforcement officers.

39357 Section 1270. Section 648.26, Florida Statutes, is amended
 39358 to read:

39359 648.26 Department of Financial Services ~~Insurance~~;
 39360 administration.--

39361 (1) The department shall administer the provisions of this
 39362 chapter as provided in this chapter.

39363 (a) The department has authority to adopt rules pursuant
 39364 to ss. 120.536(1) and 120.54 to implement the provisions of this
 39365 chapter conferring powers or duties upon it.

39366 (b) The department may employ and discharge such
 39367 employees, examiners, counsel, and other assistants as shall be
 39368 deemed necessary, and it shall prescribe their duties; their
 39369 compensation shall be the same as other state employees receive
 39370 for similar services.

39371 (2) The department shall adopt a seal by which its
 39372 proceedings are authenticated. Any written instrument
 39373 purporting to be a copy of any action, proceeding, or finding of
 39374 fact by the department, or any record of the department



HB 1803

2003

39375 authenticated by the seal, shall be accepted by all the courts
 39376 of this state as prima facie evidence of the contents thereof.

39377 (3) The papers, documents, reports, or any other
 39378 investigatory records of the department are confidential and
 39379 exempt from the provisions of s. 119.07(1) until such
 39380 investigation is completed or ceases to be active. For the
 39381 purpose of this section, an investigation is considered "active"
 39382 while the investigation is being conducted by the department
 39383 with a reasonable, good faith belief that it may lead to the
 39384 filing of administrative, civil, or criminal proceedings. An
 39385 investigation does not cease to be active if the department is
 39386 proceeding with reasonable dispatch and there is good faith
 39387 belief that action may be initiated by the department or other
 39388 administrative or law enforcement agency.

39389 Section 1271. Subsection (2) of section 648.33, Florida
 39390 Statutes, is amended to read:

39391 648.33 Bail bond rates.--

39392 (2) It is unlawful for a bail bond agent to execute a bail
 39393 bond without charging a premium therefor, and the premium rate
 39394 may not exceed or be less than the premium rate as filed with
 39395 and approved by the office ~~department~~.

39396 Section 1272. Subsection (3) of section 648.34, Florida
 39397 Statutes, is amended to read:

39398 648.34 Bail bond agents; qualifications.--

39399 (3) The department may collect a fee necessary to cover
 39400 the cost of a character and credit report made by an established
 39401 and reputable independent reporting service. The fee shall be
 39402 deposited to the credit of the Insurance ~~Commissioner's~~
 39403 Regulatory Trust Fund. Any information so furnished is
 39404 confidential and exempt from the provisions of s. 119.07(1).



HB 1803

2003

39405 Section 1273. Section 648.35, Florida Statutes, is amended
 39406 to read:

39407 648.35 Professional bail bond agent; qualifications.--In
 39408 addition to the qualifications prescribed in s. 648.34, to
 39409 qualify as a professional bail bond agent an applicant shall:

39410 (1) File with his or her application for licensure and
 39411 with each application for renewal or continuation of his or her
 39412 appointment a detailed financial statement under oath; and

39413 (2) File with his or her application for licensure the
 39414 rating plan proposed for use in writing bail bonds. Such rating
 39415 plan must be approved by the office ~~department~~ prior to issuance
 39416 of the license.

39417 Section 1274. Subsection (5) of section 648.355, Florida
 39418 Statutes, is amended to read:

39419 648.355 Temporary limited license as limited surety agent
 39420 or professional bail bond agent; pending examination.--

39421 (5) The department may collect a fee necessary to cover
 39422 the cost of a character and credit report made by an established
 39423 and reputable independent reporting service. The fee shall be
 39424 deposited to the credit of the Insurance ~~Commissioner's~~
 39425 Regulatory Trust Fund.

39426 Section 1275. Section 648.365, Florida Statutes, is
 39427 amended to read:

39428 648.365 Statistical reporting requirements; penalty for
 39429 failure to comply.--

39430 (1) Each insurer and each bail bond agent who writes bail
 39431 bonds in this state, shall maintain and transmit the following
 39432 information, based on their Florida bail bond business, to the
 39433 department or office when requested and shall report the
 39434 information separately for each company represented but only



HB 1803

2003

39435 insurers shall report the information specified in paragraphs

39436 (a), (l), and (m):

39437 (a) Commissions paid.

39438 (b) The number of, and the total dollar amount of, bonds
39439 executed.

39440 (c) The number of, and the total dollar amount of, bonds
39441 declared forfeited.

39442 (d) The number of, and the total dollar amount of,
39443 forfeitures discharged, remitted, or otherwise recovered prior
39444 to payment for any reason.

39445 (e) The number of, and the total dollar amount of,
39446 forfeitures discharged, remitted, or otherwise recovered prior
39447 to payment due to the apprehension of the defendant by the bail
39448 bond agent.

39449 (f) The number of, and the total dollar amount of,
39450 judgments entered.

39451 (g) The number of, and the total dollar amount of,
39452 forfeitures paid and subsequently recovered from the court by
39453 discharge or remission or otherwise.

39454 (h) A list of every outstanding or unpaid forfeiture,
39455 estreature, and judgment, with the case number and the name of
39456 the court in which such forfeiture, estreature, or judgment is
39457 recorded and the name of each agency or firm that employs the
39458 bail bond agent.

39459 (i) The number of, and the total dollar amount of, bonds
39460 for which collateral was accepted.

39461 (j) The actual realized value of collateral converted,
39462 excluding the cost of converting the collateral.

39463 (k) The cost of converting collateral.

39464 (l) The underwriting gain or loss.



HB 1803

2003

39465 (m) The net investment gain or loss allocated to the flow
 39466 of funds associated with Florida business.

39467 (n) Such additional information as the department or
 39468 office may require in order to:

39469 1. Evaluate the reasonableness of rates or assure that
 39470 such rates are not excessive or unfairly discriminatory.

39471 2. Evaluate the financial condition or trade practices of
 39472 bail bond agents and sureties executing bail bonds.

39473 3. Evaluate the performance of the commercial bail bond
 39474 industry in accordance with appropriate criminal justice system
 39475 goals and standards.

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39478 Each bail bond agent shall submit a copy of such information to
 39479 each insurer he or she represents.

39480 (2) Any person who intentionally fails to provide the
 39481 information in this section when requested by the department or
 39482 office, intentionally provides incorrect or misleading
 39483 information, or intentionally omits any required information
 39484 commits a misdemeanor of the first degree, punishable as
 39485 provided in s. 775.082 or s. 775.083.

39486 Section 1276. Subsections (1) and (2) of section 648.386,
 39487 Florida Statutes, are amended to read:

39488 648.386 Qualifications for prelicensing and continuing
 39489 education schools and instructors.--

39490 (1) SCHOOLS AND CURRICULUM FOR PRELICENSING SCHOOLS.--In
 39491 order to be considered for approval and certification as an
 39492 approved limited surety agent and professional bail bond agent
 39493 prelicensing school, such entity must:

39494 (a)1. Offer a minimum of two 120-hour classroom-



HB 1803

2003

39495 instruction basic certification courses in the criminal justice
 39496 system per calendar year unless a reduced number of course
 39497 offerings per calendar year is warranted in accordance with
 39498 rules promulgated by the department; or

39499 2. Offer a department-approved correspondence course
 39500 pursuant to department rules.

39501 (b) Submit a prelicensing course curriculum to the
 39502 department ~~of Insurance~~ for approval.

39503 (c) If applicable, offer prelicensing classes which are
 39504 taught by instructors approved by the department.

39505 (2) SCHOOLS AND CURRICULUM FOR CONTINUING EDUCATION
 39506 SCHOOLS.--In order to be considered for approval and
 39507 certification as an approved limited surety agent and
 39508 professional bail bond agent continuing education school, such
 39509 entity must:

39510 (a) Provide a minimum of three continuing education
 39511 classes per calendar year.

39512 (b) Submit a course curriculum to the department ~~of~~
 39513 ~~Insurance~~ for approval.

39514 (c) Offer continuing education classes which are comprised
 39515 of a minimum of 2 hours of approved coursework and are taught by
 39516 an approved supervising instructor or guest lecturer approved by
 39517 the entity or the supervising instructor.

39518 Section 1277. Paragraph (j) of subsection (1) of section
 39519 648.44, Florida Statutes, is amended to read:

39520 648.44 Prohibitions; penalty.--

39521 (1) A bail bond agent or temporary bail bond agent may
 39522 not:

39523 (j) Accept anything of value from a principal for
 39524 providing a bail bond except the premium and transfer fee



HB 1803

2003

39525 authorized by the office ~~department~~, except that the bail bond
39526 agent may accept collateral security or other indemnity from the
39527 principal or another person in accordance with the provisions of
39528 s. 648.442, together with documentary stamp taxes, if
39529 applicable. No fees, expenses, or charges of any kind shall be
39530 permitted to be deducted from the collateral held or any return
39531 premium due, except as authorized by this chapter or rule of the
39532 department or commission. A bail bond agent may, upon written
39533 agreement with another party, receive a fee or compensation for
39534 returning to custody an individual who has fled the jurisdiction
39535 of the court or caused the forfeiture of a bond.

39536 Section 1278. Subsection (10) of section 648.442, Florida
39537 Statutes, is amended to read:

39538 648.442 Collateral security.--

39539 (10) An indemnity agreement may not be entered into
39540 between a principal and either a surety or any agent of the
39541 surety, and an application may not be accepted either by a bail
39542 bond agent engaged in the bail bond business or by a surety
39543 company for a bail bond in which an indemnity agreement is
39544 required between a principal and either a surety or any agent of
39545 such surety, unless the indemnity agreement reads as follows:
39546 "For good and valuable consideration, the undersigned principal
39547 agrees to indemnify and hold harmless the surety company or its
39548 agent for all losses not otherwise prohibited by law or by rules
39549 of the Department of Financial Services ~~Insurance~~."

39550 Section 1279. Paragraph (a) of subsection (3) of section
39551 648.571, Florida Statutes, is amended to read:

39552 648.571 Failure to return collateral; penalty.--

39553 (3)(a) Fees or charges other than those provided in this
39554 chapter or by rule of the department or commission may not be



HB 1803

2003

39555 deducted from the collateral due.

39556 Section 1280. Subsection (4) of section 650.06, Florida
39557 Statutes, is amended to read:

39558 650.06 Social Security Contribution Trust Fund.--

39559 (4) The Chief Financial Officer ~~Treasurer of the state~~
39560 shall be ex officio treasurer and custodian of the Social
39561 Security Contribution Trust Fund and shall administer such fund
39562 in accordance with the provisions of this chapter and the
39563 directions of the state agency. The Chief Financial Officer
39564 ~~Treasurer~~ shall pay all warrants drawn ~~by the Comptroller~~ upon
39565 the fund in accordance with the provisions of this section and
39566 with such regulations as the state agency may prescribe pursuant
39567 thereto.

39568 Section 1281. Section 651.011, Florida Statutes, is
39569 amended to read:

39570 651.011 Definitions.--For the purposes of this chapter,
39571 the term:

39572 (1) "Advisory council" means the Continuing Care Advisory
39573 Council established by s. 651.121.

39574 (2) "Continuing care" or "care" means furnishing pursuant
39575 to a contract shelter and either nursing care or personal
39576 services as defined in s. 400.402, whether such nursing care or
39577 personal services are provided in the facility or in another
39578 setting designated by the contract for continuing care, to an
39579 individual not related by consanguinity or affinity to the
39580 provider furnishing such care, upon payment of an entrance fee.

39581 Other personal services provided shall be designated in the
39582 continuing care contract. Contracts to provide continuing care
39583 include agreements to provide care for any duration, including
39584 contracts that are terminable by either party.



HB 1803

2003

39585 ~~(3)~~ "Department" means the Department of Insurance of this
39586 state.

39587 (3)~~(4)~~ "Entrance fee" means an initial or deferred payment
39588 of a sum of money or property made as full or partial payment to
39589 assure the resident a place in a facility. An accommodation
39590 fee, admission fee, or other fee of similar form and application
39591 shall be considered to be an entrance fee.

39592 (4)~~(5)~~ "Facility" means a place in which it is undertaken
39593 to provide continuing care.

39594 (5)~~(6)~~ "Licensed" means that the provider has obtained a
39595 certificate of authority from the department.

39596 (6)~~(7)~~ "Provider" means the owner or operator, whether a
39597 natural person, partnership or other unincorporated association,
39598 however organized, trust, or corporation, of an institution,
39599 building, residence, or other place, whether operated for profit
39600 or not, which owner or operator undertakes to provide continuing
39601 care for a fixed or variable fee, or for any other remuneration
39602 of any type, whether fixed or variable, for the period of care,
39603 payable in a lump sum or lump sum and monthly maintenance
39604 charges or in installments, but does not mean any entity that
39605 has existed and continuously operated a facility located on no
39606 less than 63 acres in this state providing residential lodging
39607 to members and their spouses for at least 66 years on or before
39608 July 1, 1989, and such facility has the residential capacity of
39609 500 persons, is directly or indirectly owned or operated by a
39610 nationally recognized fraternal organization, is not open to the
39611 public, and accepts only its members and their spouses as
39612 residents at such a facility.

39613 (7)~~(8)~~ "Records" means the permanent financial, directory,
39614 and personnel information and data maintained by a provider



HB 1803

2003

39615 pursuant to this chapter.

39616 ~~(8)(9)~~ "Resident" means a purchaser of or a nominee of, or
39617 a subscriber to, a continuing care agreement. Such an agreement
39618 may not be construed to give the resident a part ownership of
39619 the facility in which the resident is to reside, unless
39620 expressly provided for in the agreement.

39621 ~~(9)(10)~~ "Generally accepted accounting principles" means
39622 those accounting principles and practices adopted by the
39623 Financial Accounting Standards Board and the American Institute
39624 of Certified Public Accountants, including Statement of Position
39625 90-8 with respect to any full year to which the statement
39626 applies.

39627 ~~(10)(11)~~ "Insolvency" means the condition in which the
39628 provider is unable to pay its obligations as they come due in
39629 the normal course of business.

39630 ~~(11)(12)~~ "Advertising" means the dissemination of any
39631 written, visual, or electronic information by a provider, or any
39632 person affiliated with or controlled by a provider, to potential
39633 residents or their representatives for the purpose of inducing
39634 such persons to subscribe to or enter into a contract to reside
39635 in a continuing care community covered by this act.

39636 Section 1282. Section 651.012, Florida Statutes, is
39637 amended to read:

39638 651.012 Exempted facility; written disclosure of
39639 exemption.--Any facility exempted under ss. 632.637(1)(e) and
39640 651.011 ~~(6)(7)~~ must provide written disclosure of such exemption
39641 to each person admitted to the facility after October 1, 1996.
39642 This disclosure must be written using language likely to be
39643 understood by the person and must briefly explain the provisions
39644 of ss. 632.637(1)(e) and 651.011 ~~(6)(7)~~.



HB 1803

2003

39645 Section 1283. Subsection (2) of section 651.013, Florida
 39646 Statutes, is amended to read:

39647 651.013 Chapter exclusive; applicability of other laws.--

39648 (2) In addition to other applicable provisions cited in
 39649 this chapter, the office ~~department~~ has the authority granted
 39650 under ss. 624.302-624.305, 624.308-624.312, 624.319(1)-(3),
 39651 624.320-624.321, 624.324, and 624.34 of the Florida Insurance
 39652 Code to regulate providers of continuing care.

39653 Section 1284. Section 651.014, Florida Statutes, is
 39654 amended to read:

39655 651.014 Insurance business not authorized.--Nothing in the
 39656 Florida Insurance Code or this chapter shall be deemed to
 39657 authorize any provider of a continuing care facility to transact
 39658 any insurance business other than that of continuing care
 39659 insurance or otherwise to engage in any other type of insurance
 39660 unless it is authorized under a certificate of authority issued
 39661 by the office ~~department~~ under the provisions of the Florida
 39662 Insurance Code.

39663 Section 1285. Section 651.015, Florida Statutes, is
 39664 amended to read:

39665 651.015 Administration; forms; fees; rules; fines.--The
 39666 administration of this chapter is vested in the commission,
 39667 office, and department, which shall:

39668 (1) Prepare and furnish all forms necessary under the
 39669 provisions of this chapter in relation to applications for
 39670 provisional certificates of authority, certificates of authority
 39671 or renewals thereof, statements, examinations, and other
 39672 required reports. The office ~~department~~ is authorized to accept
 39673 any application statement, report, or information submitted
 39674 electronically or by facsimile to comply with requirements in



HB 1803

2003

39675 this chapter or rules adopted under this section. The commission
 39676 ~~department~~ may adopt rules to implement the provisions of this
 39677 subsection.

39678 (2) Collect in advance, and the applicant shall pay in
 39679 advance, the following fees:

39680 (a) At the time of filing an application for a certificate
 39681 of authority, an application fee in the amount of \$75 for each
 39682 facility.

39683 (b) At the time of filing the annual report required by s.
 39684 651.026, a fee in the amount of \$100 for each year or part
 39685 thereof for each facility.

39686 (c) A late fee not to exceed \$50 a day for each day of
 39687 noncompliance.

39688 (d) A fee to cover the actual cost of a credit report and
 39689 fingerprint processing.

39690 (e) At the time of filing an application for a provisional
 39691 certificate of authority, a fee in the amount of \$50.

39692 (3) Adopt rules pursuant to ss. 120.536(1) and 120.54 to
 39693 implement the provisions of this chapter.

39694 (4) Impose administrative fines and penalties pursuant to
 39695 this chapter.

39696 (5) Deposit all fees and fines collected under the
 39697 provisions of this chapter into the Insurance ~~Commissioner's~~
 39698 Regulatory Trust Fund.

39699 Section 1286. Section 651.018, Florida Statutes, is
 39700 amended to read:

39701 651.018 Administrative supervision.--The office ~~department~~
 39702 may place a facility in administrative supervision pursuant to
 39703 part VI of chapter 624.

39704 Section 1287. Section 651.019, Florida Statutes, is



HB 1803

2003

39705 amended to read:

39706 651.019 New financing, additional financing, or
 39707 refinancing.--

39708 (1) After issuance of a certificate of authority, the
 39709 provider shall submit to the office ~~department~~ a general
 39710 outline, including intended use of proceeds, with respect to any
 39711 new financing, additional financing, or refinancing at least 30
 39712 days before the closing date of such financing transaction.

39713 (2) The provider shall furnish any information the office
 39714 ~~department~~ may reasonably request in connection with any new
 39715 financing, additional financing, or refinancing, including, but
 39716 not limited to, the financing agreements and any related
 39717 documents, escrow or trust agreements, and statistical or
 39718 financial data. The provider shall also submit to the office
 39719 ~~department~~ copies of executed financing documents within 30 days
 39720 after the closing date.

39721 Section 1288. Section 651.021, Florida Statutes, is
 39722 amended to read:

39723 651.021 Certificate of authority required.--

39724 (1) No person may engage in the business of providing
 39725 continuing care or issuing continuing care agreements or
 39726 construct a facility for the purpose of providing continuing
 39727 care in this state without a certificate of authority therefor
 39728 obtained from the office ~~department~~ as provided in this chapter.
 39729 This subsection shall not be construed to prohibit preparation
 39730 of the construction site or construction of a model residence
 39731 unit for marketing purposes, or both. The office ~~department~~ may
 39732 allow the purchase of an existing building for the purpose of
 39733 providing continuing care if the office ~~department~~ determines
 39734 that the purchase is not being made for the purpose of



HB 1803

2003

39735 circumventing the prohibitions contained in this section.

39736 (2)(a) Before commencement of construction or marketing
39737 for any expansion of a certificated facility equivalent to the
39738 addition of at least 20 percent of existing units, written
39739 approval must be obtained from the office ~~department~~. This
39740 provision does not apply to construction for which a certificate
39741 of need from the Agency for Health Care Administration is
39742 required.

39743 (b) The application for such approval shall be on forms
39744 adopted by the commission and provided by the office ~~department~~.
39745 The application shall include the feasibility study required by
39746 s. 651.022(3) or s. 651.023(1)(b) and such other information as
39747 required by s. 651.023.

39748 (c) In determining whether an expansion should be
39749 approved, the office ~~department~~ shall utilize the criteria
39750 provided in ss. 651.022(6) and 651.023(2).

39751 Section 1289. Subsection (2), paragraph (i) of subsection
39752 (3), and subsections (5), (6), (7), and (8) of section 651.022,
39753 Florida Statutes, are amended to read:

39754 651.022 Provisional certificate of authority;
39755 application.--

39756 (2) The application for a provisional certificate of
39757 authority shall be on a form prescribed by the commission
39758 ~~department~~ and shall contain the following information:

39759 (a) If the applicant or provider is a corporation, a copy
39760 of the articles of incorporation and bylaws; if the applicant or
39761 provider is a partnership or other unincorporated association, a
39762 copy of the partnership agreement, articles of association, or
39763 other membership agreement; and, if the applicant or provider is
39764 a trust, a copy of the trust agreement or instrument.



HB 1803

2003

39765 (b) The full names, residences, and business addresses of:

39766 1. The proprietor, if the applicant or provider is an
39767 individual.

39768 2. Every partner or member, if the applicant or provider
39769 is a partnership or other unincorporated association, however
39770 organized, having fewer than 50 partners or members, together
39771 with the business name and address of the partnership or other
39772 organization.

39773 3. The principal partners or members, if the applicant or
39774 provider is a partnership or other unincorporated association,
39775 however organized, having 50 or more partners or members,
39776 together with the business name and business address of the
39777 partnership or other organization. If such unincorporated
39778 organization has officers and a board of directors, the full
39779 name and business address of each officer and director may be
39780 set forth in lieu of the full name and business address of its
39781 principal members.

39782 4. The corporation and each officer and director thereof,
39783 if the applicant or provider is a corporation.

39784 5. Every trustee and officer, if the applicant or provider
39785 is a trust.

39786 6. The manager, whether an individual, corporation,
39787 partnership, or association.

39788 7. Any stockholder holding at least a 10-percent interest
39789 in the operations of the facility in which the care is to be
39790 offered.

39791 8. Any person whose name is required to be provided in the
39792 application under the provisions of this paragraph and who owns
39793 any interest in or receives any remuneration from, either
39794 directly or indirectly, any professional service firm,



HB 1803

2003

39795 association, trust, partnership, or corporation providing goods,
 39796 leases, or services to the facility for which the application is
 39797 made, with a real or anticipated value of \$500 or more, and the
 39798 name and address of the professional service firm, association,
 39799 trust, partnership, or corporation in which such interest is
 39800 held. The applicant shall describe such goods, leases, or
 39801 services and the probable cost to the facility or provider and
 39802 shall describe why such goods, leases, or services should not be
 39803 purchased from an independent entity.

39804 9. Any person, corporation, partnership, association, or
 39805 trust owning land or property leased to the facility, along with
 39806 a copy of the lease agreement.

39807 10. Any affiliated parent or subsidiary corporation or
 39808 partnership.

39809 (c)1. Evidence that the applicant is reputable and of
 39810 responsible character. If the applicant is a firm, association,
 39811 organization, partnership, business trust, corporation, or
 39812 company, the form shall require evidence that the members or
 39813 shareholders are reputable and of responsible character, and the
 39814 person in charge of providing care under a certificate of
 39815 authority shall likewise be required to produce evidence of
 39816 being reputable and of responsible character.

39817 2. Evidence satisfactory to the office ~~department~~ of the
 39818 ability of the applicant to comply with the provisions of this
 39819 chapter and with rules adopted by the commission ~~department~~
 39820 pursuant to this chapter.

39821 3. A statement of whether a person identified in the
 39822 application for a provisional certificate of authority or the
 39823 administrator or manager of the facility, if such person has
 39824 been designated, or any such person living in the same location:



HB 1803

2003

39825 a. Has been convicted of a felony or has pleaded nolo
 39826 contendere to a felony charge, or has been held liable or has
 39827 been enjoined in a civil action by final judgment, if the felony
 39828 or civil action involved fraud, embezzlement, fraudulent
 39829 conversion, or misappropriation of property.

39830 b. Is subject to a currently effective injunctive or
 39831 restrictive order or federal or state administrative order
 39832 relating to business activity or health care as a result of an
 39833 action brought by a public agency or department, including,
 39834 without limitation, an action affecting a license under chapter
 39835 400.

39836
 39837
 39838 The statement shall set forth the court or agency, the date of
 39839 conviction or judgment, and the penalty imposed or damages
 39840 assessed, or the date, nature, and issuer of the order. Before
 39841 determining whether a provisional certificate of authority is to
 39842 be issued, the office ~~department~~ may make an inquiry to
 39843 determine the accuracy of the information submitted pursuant to
 39844 subparagraphs 1. and 2.

39845 (d) The agreements for continuing care to be entered into
 39846 between the provider and residents which meet the minimum
 39847 requirements of s. 651.055 and which include a statement
 39848 describing the procedures required by law relating to the
 39849 release of escrowed entrance fees. Such statement may be
 39850 furnished through an addendum.

39851 (e) Any advertisement or other written material proposed
 39852 to be used in the solicitation of residents.

39853 (f) Such other reasonable data, financial statements, and
 39854 pertinent information as the commission or office ~~department~~ may



HB 1803

2003

39855 reasonably require with respect to the provider or the facility,
39856 including the most recent audited financial statements of
39857 comparable facilities currently or previously owned, managed, or
39858 developed by the applicant or its principal, to assist in
39859 determining the financial viability of the project and the
39860 management capabilities of its managers and owners.

39861 (3) In addition to the information required in subsection
39862 (2), an applicant for a provisional certificate of authority
39863 shall submit a market feasibility study. The market feasibility
39864 study shall include at least the following information:

39865 (i) The application for a provisional certificate of
39866 authority shall be accompanied by the forms of the continuing
39867 care residency and reservation contracts and escrow agreements
39868 proposed to be used by the provider in the furnishing of care.
39869 If the office ~~department~~ finds that the continuing care
39870 contracts and escrow agreements comply with ss. 651.023(1)(c),
39871 651.033, and 651.055, it shall approve them. Thereafter, no
39872 other form of contract or agreement may be used by the provider
39873 until it has been submitted to the office ~~department~~ and
39874 approved.

39875 (5)(a) Within 30 days after receipt of an application for
39876 a provisional certificate of authority, the office ~~department~~
39877 shall examine the application and shall notify the applicant in
39878 writing, specifically setting forth and specifically requesting
39879 any additional information the office ~~department~~ is permitted by
39880 law to require. If the application submitted is determined by
39881 the office ~~department~~ to be substantially incomplete so as to
39882 require substantial additional information, including
39883 biographical information, the office ~~department~~ may return the
39884 application to the applicant with a written notice that the



HB 1803

2003

39885 application as received is substantially incomplete and,
39886 therefore, unacceptable for filing without further action
39887 required by the office ~~department~~. Any filing fee received shall
39888 be refunded to the applicant.

39889 (b) Within 15 days after receipt of all of the requested
39890 additional information, the office ~~department~~ shall notify the
39891 applicant in writing that all of the requested information has
39892 been received and the application is deemed to be complete as of
39893 the date of the notice. Failure to so notify the applicant in
39894 writing within the 15-day period shall constitute acknowledgment
39895 by the office ~~department~~ that it has received all requested
39896 additional information, and the application shall be deemed to
39897 be complete for purposes of review upon the date of the filing
39898 of all of the requested additional information.

39899 (6) Within 45 days from the date an application is deemed
39900 to be complete, as set forth in paragraph (5)(b), the office
39901 ~~department~~ shall complete its review and shall issue a
39902 provisional certificate of authority to the applicant based upon
39903 its review and a determination that the application meets all
39904 requirements of law and that the feasibility study was based on
39905 sufficient data and reasonable assumptions and that the
39906 applicant will be able to provide continuing care as proposed
39907 and meet all financial obligations related to its operations,
39908 including the financial requirements of this chapter to provide
39909 continuing care as proposed. If the application is denied, the
39910 office ~~department~~ shall notify the applicant in writing, citing
39911 the specific failures to meet the provisions of this chapter.
39912 Such denial shall entitle the applicant to a hearing pursuant to
39913 the provisions of chapter 120.

39914 (7) The issuance of a provisional certificate of authority



HB 1803

2003

39915 entitles the applicant to collect entrance fees and reservation
 39916 deposits from prospective residents. All or any part of an
 39917 entrance fee or deposit collected shall be placed in an escrow
 39918 account or on deposit with the department, pursuant to s.
 39919 651.033, until a certificate of authority is issued by the
 39920 office ~~department~~.

39921 (8) The office ~~department~~ shall not approve any
 39922 application which includes in the plan of financing any
 39923 encumbrance of the operating reserves required by this chapter.

39924 Section 1290. Section 651.023, Florida Statutes, is
 39925 amended to read:

39926 651.023 Certificate of authority; application.--

39927 (1) After issuance of a provisional certificate of
 39928 authority, the office ~~department~~ shall issue to the holder of
 39929 such provisional certificate of authority a certificate of
 39930 authority; provided, however, that no certificate of authority
 39931 shall be issued until the holder of such provisional certificate
 39932 of authority provides the office ~~department~~ with the following
 39933 information:

39934 (a) Any material change in status with respect to the
 39935 information required to be filed under s. 651.022(2) in the
 39936 application for a provisional certificate of authority.

39937 (b) A feasibility study prepared by an independent
 39938 consultant which contains all of the information required by s.
 39939 651.022(3) and contains financial forecasts or projections
 39940 prepared in accordance with standards promulgated by the
 39941 American Institute of Certified Public Accountants or financial
 39942 forecasts or projections prepared in accordance with standards
 39943 for feasibility studies or continuing care retirement
 39944 communities promulgated by the Actuarial Standards Board. The



HB 1803

2003

39945 study must also contain an independent evaluation and
39946 examination opinion, or a comparable opinion acceptable to the
39947 office ~~department~~, by the consultant who prepared the study, of
39948 the underlying assumptions used as a basis for the forecasts or
39949 projections in the study and that the assumptions are reasonable
39950 and proper and that the project as proposed is feasible. The
39951 study shall take into account project costs, actual marketing
39952 results to date and marketing projections, resident fees and
39953 charges, competition, resident contract provisions, and any
39954 other factors which affect the feasibility of operating the
39955 facility.

39956 (c) Subject to the requirements of subsection (2), a
39957 provider may submit an application for a certificate of
39958 authority and any required exhibits upon submission of proof
39959 that the project has a minimum of 30 percent of the units
39960 reserved for which the provider is charging an entrance fee;
39961 however, this provision shall not apply to an application for a
39962 certificate of authority for the acquisition of a facility for
39963 which a certificate of authority was issued prior to October 1,
39964 1983, to a provider who subsequently becomes a debtor in a case
39965 under the United States Bankruptcy Code, 11 U.S.C. ss. 101 et
39966 seq., or to a provider for which the department has been
39967 appointed receiver pursuant to the provisions of part II of
39968 chapter 631.

39969 (d) Proof that commitments have been secured for both
39970 construction financing and long-term financing or a documented
39971 plan acceptable to the office ~~department~~ has been adopted by the
39972 applicant for long-term financing.

39973 (e) Proof that all conditions of the lender have been
39974 satisfied to activate the commitment to disburse funds other



HB 1803

2003

39975 | than the obtaining of the certificate of authority, the
 39976 | completion of construction, or the closing of the purchase of
 39977 | realty or buildings for the facility.

39978 | (f) Proof that the aggregate amount of entrance fees
 39979 | received by or pledged to the applicant, plus anticipated
 39980 | proceeds from any long-term financing commitment, plus funds
 39981 | from all other sources in the actual possession of the
 39982 | applicant, equal not less than 100 percent of the aggregate cost
 39983 | of constructing or purchasing, equipping, and furnishing the
 39984 | facility plus 100 percent of the anticipated startup losses of
 39985 | the facility.

39986 | (g) Complete audited financial statements of the
 39987 | applicant, prepared by an independent certified public
 39988 | accountant in accordance with generally accepted accounting
 39989 | principles, as of the date the applicant commenced business
 39990 | operations or for the fiscal year that ended immediately
 39991 | preceding the date of application, whichever is later, and
 39992 | complete unaudited quarterly financial statements attested to by
 39993 | the applicant subsequent to the date of the last audit.

39994 | (h) Proof that the applicant has complied with the escrow
 39995 | requirements of subsection (3) or subsection (5) and will be
 39996 | able to comply with s. 651.035.

39997 | (i) Such other reasonable data, financial statements, and
 39998 | pertinent information as the commission or office ~~department~~ may
 39999 | require with respect to the applicant or the facility, to
 40000 | determine the financial status of the facility and the
 40001 | management capabilities of its managers and owners.

40002 | (j) Within 30 days of the receipt of the information
 40003 | required under paragraphs (a)-(h), the office ~~department~~ shall
 40004 | examine such information and shall notify the provider in



HB 1803

2003

40005 writing, specifically requesting any additional information the
 40006 office department is permitted by law to require. Within 15 days
 40007 after receipt of all of the requested additional information,
 40008 the office department shall notify the provider in writing that
 40009 all of the requested information has been received and the
 40010 application is deemed to be complete as of the date of the
 40011 notice. Failure to so notify the applicant in writing within the
 40012 15-day period shall constitute acknowledgment by the office
 40013 ~~department~~ that it has received all requested additional
 40014 information, and the application shall be deemed to be complete
 40015 for purposes of review upon the date of the filing of all of the
 40016 required additional information.

40017 (k) Within 45 days after an application is deemed complete
 40018 as set forth in paragraph (j), and upon completion of the
 40019 remaining requirements of this section, the office department
 40020 shall complete its review and shall issue, or deny, to the
 40021 holder of a provisional certificate of authority a certificate
 40022 of authority. If a certificate of authority is denied, the
 40023 office department shall notify the holder of the provisional
 40024 certificate of authority in writing, citing the specific
 40025 failures to satisfy the provisions of this chapter. If denied,
 40026 the holder of the provisional certificate of authority shall be
 40027 entitled to an administrative hearing pursuant to chapter 120.

40028 (2)(a) The office department shall issue a certificate of
 40029 authority upon its determination that the applicant meets all
 40030 requirements of law and has submitted all of the information
 40031 required by this section, that all escrow requirements have been
 40032 satisfied, and that the fees prescribed in s. 651.015(2) have
 40033 been paid. Notwithstanding satisfaction of the 30-percent
 40034 minimum reservation requirement of paragraph (1)(c), no



HB 1803

2003

40035 certificate of authority shall be issued until the project has a
 40036 minimum of 50 percent of the units reserved for which the
 40037 provider is charging an entrance fee, and proof thereof is
 40038 provided to the office ~~department~~.

40039 (b) In order for a unit to be considered reserved under
 40040 this section, the provider must collect a minimum deposit of 10
 40041 percent of the then-current entrance fee for that unit, and must
 40042 assess a forfeiture penalty of 2 percent of the entrance fee due
 40043 to termination of the reservation contract after 30 days for any
 40044 reason other than the death or serious illness of the resident,
 40045 the failure of the provider to meet its obligations under the
 40046 reservation contract, or other circumstances beyond the control
 40047 of the resident that equitably entitle the resident to a refund
 40048 of the resident's deposit. The reservation contract shall state
 40049 the cancellation policy and the terms of the continuing care
 40050 contract to be entered into.

40051 (3) No more than 25 percent of the moneys paid for all or
 40052 any part of an initial entrance fee may be included or pledged
 40053 for the construction or purchase of the facility, or included or
 40054 pledged as security for long-term financing. The term "initial
 40055 entrance fee" means the total entrance fee charged by the
 40056 facility to the first occupant of a unit. A minimum of 75
 40057 percent of the moneys paid for all or any part of an initial
 40058 entrance fee collected shall be placed in an escrow account or
 40059 on deposit with the department as prescribed in s. 651.033.

40060 (4) The provider shall be entitled to secure release of
 40061 the moneys held in escrow within 7 days after receipt by the
 40062 office ~~department~~ of an affidavit from the provider, along with
 40063 appropriate copies to verify, and notification to the escrow
 40064 agent by certified mail, that the following conditions have been



HB 1803

2003

40065 satisfied:

40066 (a) A certificate of occupancy has been issued.

40067 (b) Payment in full has been received for no less than 70
 40068 percent of the total units of a phase or of the total of the
 40069 combined phases constructed.

40070 (c) The consultant who prepared the feasibility study
 40071 required by this section or a substitute approved by the office
 40072 ~~department~~ certifies that there has been no material adverse
 40073 change in status with regard to the feasibility study, with such
 40074 statement dated not more than 12 months from the date of filing
 40075 for office ~~department~~ approval. If a material adverse change
 40076 should exist at the time of submission, then sufficient
 40077 information acceptable to the office ~~department~~ and the
 40078 feasibility consultant shall be submitted which remedies the
 40079 adverse condition.

40080 (d) Proof that commitments have been secured or a
 40081 documented plan adopted by the applicant has been approved by
 40082 the office ~~department~~ for long-term financing.

40083 (e) Proof that the provider has sufficient funds to meet
 40084 the requirements of s. 651.035, which may include funds
 40085 deposited in the initial entrance fee account.

40086 (f) Proof as to the intended application of the proceeds
 40087 upon release and proof that the entrance fees when released will
 40088 be applied as represented to the office ~~department~~.

40089

40090

40091 Notwithstanding any provision of chapter 120, no person, other
 40092 than the provider, the escrow agent, and the office ~~department~~,
 40093 shall have a substantial interest in any office ~~departmental~~
 40094 decision regarding release of escrow funds in any proceedings



HB 1803

2003

40095 under chapter 120 or this chapter regarding release of escrow
40096 funds.

40097 (5) In lieu of the provider fulfilling the requirements in
40098 subsection (3) and paragraphs (4)(b) and (d), the office
40099 ~~department~~ may authorize the release of escrowed funds to retire
40100 all outstanding debts on the facility and equipment upon
40101 application of the provider and upon the provider's showing that
40102 the provider will grant to the residents a first mortgage on the
40103 land, buildings, and equipment that constitute the facility, and
40104 that the provider satisfies the requirements of paragraphs
40105 (4)(a), (c), and (e). Such mortgage shall secure the refund of
40106 the entrance fee in the amount required by this chapter. The
40107 granting of such mortgage shall be subject to the following:

40108 (a) The first mortgage shall be granted to an independent
40109 trust which is beneficially held by the residents. The document
40110 creating the trust shall contain a provision that it agrees to
40111 an annual audit and will furnish to the office ~~department~~ all
40112 information the office ~~department~~ may reasonably require. The
40113 mortgage may secure payment on bonds issued to the residents or
40114 trustee. Such bonds shall be redeemable after termination of
40115 the residency contract in the amount and manner required by this
40116 chapter for the refund of an entrance fee.

40117 (b) Before granting a first mortgage to the residents, all
40118 construction shall be substantially completed and substantially
40119 all equipment shall be purchased. No part of the entrance fees
40120 may be pledged as security for a construction loan or otherwise
40121 used for construction expenses before the completion of
40122 construction.

40123 (c) If the provider is leasing the land or buildings used
40124 by the facility, the leasehold interest shall be for a term of



HB 1803

2003

40125 at least 30 years.

40126 (6) The timeframes provided under s. 651.022(5) and (6)
40127 apply to applications submitted under s. 651.021(2). The office
40128 ~~department~~ may not issue a certificate of authority under this
40129 chapter to any facility which does not have a component which is
40130 to be licensed pursuant to part II or part III of chapter 400 or
40131 which will not offer personal services or nursing services
40132 through written contractual agreement. Any written contractual
40133 agreement must be disclosed in the continuing care contract and
40134 is subject to the provisions of s. 651.1151, relating to
40135 administrative, vendor, and management contracts.

40136 (7) The office ~~department~~ shall not approve an application
40137 which includes in the plan of financing any encumbrance of the
40138 operating reserves required by this chapter.

40139 Section 1291. Section 651.0235, Florida Statutes, is
40140 amended to read:

40141 651.0235 Validity of provisional certificates of authority
40142 and certificates of authority.--

40143 (1) The provisional certificate of authority and
40144 certificate of authority shall be valid for as long as the
40145 office ~~department~~ determines that the provider continues to meet
40146 the requirements of this chapter.

40147 (2) If the provider fails to meet the requirements of this
40148 chapter for a provisional certificate of authority or a
40149 certificate of authority, the office ~~department~~ may notify the
40150 provider of any deficiencies and require the provider to correct
40151 such deficiencies within a period to be determined by the office
40152 ~~department~~. If such deficiencies are not corrected within 20
40153 days after the notice to the provider, or within less time at
40154 the discretion of the office ~~department~~, the office ~~department~~



HB 1803

2003

40155 shall notify the advisory council, which may assist the facility
40156 in formulating a remedial plan to be submitted to the office
40157 ~~department~~ no later than 60 days from the date of notification.
40158 The time period granted to correct deficiencies may be extended
40159 upon submission of a plan for corrective action approved by the
40160 office ~~department~~. If such deficiencies have not been cleared by
40161 the expiration of such time period, as extended, the office
40162 ~~department~~ shall petition for a delinquency proceeding or pursue
40163 such other relief as is provided for under this chapter, as the
40164 circumstances may require.

40165 (3) The office ~~Department of Insurance~~ shall notify the
40166 Agency for Health Care Administration of any facility for which
40167 a provisional certificate of authority or certificate of
40168 authority is no longer valid.

40169 Section 1292. Section 651.026, Florida Statutes, is
40170 amended to read:

40171 651.026 Annual reports.--

40172 (1) Annually, on or before May 1, the provider shall file
40173 an annual report and such other information and data showing its
40174 condition as of the last day of the preceding calendar year,
40175 except as provided in subsection (5). If the office ~~department~~
40176 does not receive the required information on or before May 1, a
40177 late fee may be charged pursuant to s. 651.015(2)(c). The office
40178 ~~department~~ may approve an extension of up to 30 days.

40179 (2) The annual report shall be in such form as the
40180 commission ~~department~~ prescribes and shall contain at least the
40181 following:

40182 (a) Any change in status with respect to the information
40183 required to be filed under s. 651.022(2).

40184 (b) Financial statements audited by an independent



HB 1803

2003

40185 certified public accountant, which shall contain, for two or
40186 more periods if the facility has been in existence that long,
40187 the following:

40188 1. An accountant's opinion and, in accordance with
40189 generally accepted accounting principles:

40190 a. A balance sheet;

40191 b. A statement of income and expenses;

40192 c. A statement of equity or fund balances; and

40193 d. A statement of changes in cash flows; and

40194 2. Notes to the financial statements considered customary
40195 or necessary to full disclosure or adequate understanding of the
40196 financial statements, financial condition, and operation.

40197 (c) The following financial information:

40198 1. A detailed listing of the assets maintained in the
40199 liquid reserve as required in s. 651.035 and in accordance with
40200 part II of chapter 625;

40201 2. A schedule giving additional information relating to
40202 property, plant, and equipment having an original cost of at
40203 least \$25,000, so as to show in reasonable detail with respect
40204 to each separate facility original costs, accumulated
40205 depreciation, net book value, appraised value or insurable value
40206 and date thereof, insurance coverage, encumbrances, and net
40207 equity of appraised or insured value over encumbrances. Any
40208 property not used in continuing care shall be shown separately
40209 from property used in continuing care;

40210 3. The level of participation in Medicare or Medicaid
40211 programs, or both;

40212 4. A statement of all fees required of residents,
40213 including, but not limited to, a statement of the entrance fee
40214 charged, the monthly service charges, the proposed application



HB 1803

2003

40215 of the proceeds of the entrance fee by the provider, and the
40216 plan by which the amount of the entrance fee is determined if
40217 the entrance fee is not the same in all cases; and

40218 5. Any change or increase in fees when the provider
40219 changes either the scope of, or the rates for, care or services,
40220 regardless of whether the change involves the basic rate or only
40221 those services available at additional costs to the resident.

40222 6.a. If the provider has more than one certificated
40223 facility, it shall submit a statement of operations for each
40224 facility as supplemental information to the audited financial
40225 statements required as part of the annual report.

40226 b. If the provider has operations that are not Florida
40227 certificated facilities, the provider shall also submit as
40228 supplemental information to the audited financial statements,
40229 balance sheets, statements of changes in equity, and statements
40230 of cash flows for each Florida certificated facility.

40231 (d) Such other reasonable data, financial statements, and
40232 pertinent information as the commission or office ~~department~~ may
40233 require with respect to the provider or the facility, or its
40234 directors, trustees, members, branches, subsidiaries, or
40235 affiliates, to determine the financial status of the facility
40236 and the management capabilities of its managers and owners.

40237 (e) Each facility shall file with the office ~~department~~
40238 annually, together with the annual report required by this
40239 section, a computation of its minimum liquid reserve calculated
40240 in accordance with s. 651.035 on a form prescribed by the
40241 commission ~~department~~.

40242 (3) The commission ~~department~~ shall adopt by rule
40243 meaningful measures of assessing the financial viability of a
40244 provider. The rule may include the following factors:



HB 1803

2003

40245 (a) Debt service coverage ratios.
 40246 (b) Current ratios.
 40247 (c) Adjusted current ratios.
 40248 (d) Cash flows.
 40249 (e) Occupancy rates.
 40250 (f) Other measures, ratios, or trends.
 40251 (g) Other factors as may be appropriate.

40252 (4) If the provider is an individual, the annual statement
 40253 shall be sworn to by him or her; if a limited partnership, by
 40254 the general partner; if a partnership other than a limited
 40255 partnership, by all the partners; if any other unincorporated
 40256 association, by all its members or officers and directors; if a
 40257 trust, by all its trustees and officers; and, if a corporation,
 40258 by the president and secretary thereof.

40259 (5) A provider may declare at the time of application a
 40260 fiscal year other than the calendar year, and may use such
 40261 fiscal year for its accounting period. A provider may
 40262 subsequently adopt a fiscal year upon providing the office
 40263 ~~department~~ with a copy of the Internal Revenue Service approval
 40264 of such change, if such approval is required. The annual report
 40265 filing with the office ~~department~~ must be made within 120 days
 40266 of the last day of the fiscal year of the provider.

40267 (6) The workpapers, account analyses, descriptions of
 40268 basic assumptions, and other information necessary for a full
 40269 understanding of the annual statement of a provider as filed
 40270 with the office ~~department~~ shall be made available for visual
 40271 inspection by the office ~~department~~ at the facility or, if the
 40272 office ~~department~~ requests, at another agreed-upon site.
 40273 Photocopies may not be made unless consented to by the provider.

40274 (7) A filing fee in the amount of \$100 shall accompany



HB 1803

2003

40275 each annual report required by this section.

40276 (8) All financial reports and any supplemental financial
40277 information submitted to the office ~~department~~ shall be prepared
40278 in conformity with generally accepted accounting principles.

40279 Section 1293. Section 651.0261, Florida Statutes, is
40280 amended to read:

40281 651.0261 Quarterly statements.--If the office ~~department~~
40282 finds, pursuant to rules of the commission ~~department~~, that such
40283 information is needed to properly monitor the financial
40284 condition of a provider or facility or is otherwise needed to
40285 protect the public interest, the office ~~department~~ may require
40286 the provider to file, within 45 days after the end of each
40287 fiscal quarter, a quarterly unaudited financial statement of the
40288 provider or of the facility in the form prescribed by the
40289 commission ~~department~~ by rule.

40290 Section 1294. Section 651.028, Florida Statutes, is
40291 amended to read:

40292 651.028 Accredited facilities.--If a provider is
40293 accredited by a process found by the office ~~department~~ to be
40294 acceptable and substantially equivalent to the provisions of
40295 this chapter, the office ~~department~~ may, pursuant to rule of the
40296 commission, waive any requirements of this chapter with respect
40297 to the provider if the office ~~department~~ finds that such waivers
40298 are not inconsistent with the security protections intended by
40299 this chapter.

40300 Section 1295. Section 651.033, Florida Statutes, is
40301 amended to read:

40302 651.033 Escrow accounts.--

40303 (1) When funds are required to be deposited in an escrow
40304 account pursuant to s. 651.022, s. 651.023, s. 651.035, or s.



HB 1803

2003

40305 651.055:

40306 (a) The escrow account shall be established in a Florida
 40307 bank, Florida savings and loan association, or Florida trust
 40308 company acceptable to the office ~~department~~ or on deposit with
 40309 the department; and the funds deposited therein shall be kept
 40310 and maintained in an account separate and apart from the
 40311 provider's business accounts.

40312 (b) An escrow agreement shall be entered into between the
 40313 bank, savings and loan association, or trust company and the
 40314 provider of the facility; the agreement shall state that its
 40315 purpose is to protect the resident or the prospective resident;
 40316 and, upon presentation of evidence of compliance with applicable
 40317 portions of this chapter, or upon order of a court of competent
 40318 jurisdiction, the escrow agent shall release and pay over the
 40319 funds, or portions thereof, together with any interest accrued
 40320 thereon or earned from investment of the funds, to the provider
 40321 or resident as directed.

40322 (c) Any agreement establishing an escrow account required
 40323 under the provisions of this chapter shall be subject to
 40324 approval by the office ~~department~~. The agreement shall be in
 40325 writing and shall contain, in addition to any other provisions
 40326 required by law, a provision whereby the escrow agent agrees to
 40327 abide by the duties imposed under this section.

40328 (d) All funds deposited in an escrow account, if invested,
 40329 shall be invested as set forth in part II of chapter 625;
 40330 however, such investment shall not diminish the funds held in
 40331 escrow below the amount required by this chapter. All funds
 40332 deposited in an escrow account shall not be subject to any
 40333 charges by the escrow agent except escrow agent fees associated
 40334 with administering the accounts, or subject to any liens,



HB 1803

2003

40335 judgments, garnishments, creditor's claims, or other
40336 encumbrances against the provider or facility except as provided
40337 in s. 651.035(2).

40338 (e) At the request of either the provider or the office
40339 ~~department~~, the escrow agent shall issue a statement indicating
40340 the status of the escrow account.

40341 (2) In addition, the escrow agreement shall provide that
40342 the escrow agent or another person designated to act in the
40343 escrow agent's place and the provider, except as otherwise
40344 provided in s. 651.035, shall notify the office ~~department~~ in
40345 writing at least 10 days before the withdrawal of any portion of
40346 any funds required to be escrowed under the provisions of s.
40347 651.035. However, in the event of an emergency and upon petition
40348 by the provider, the office ~~department~~ may waive the 10-day
40349 notification period and allow a withdrawal of up to 10 percent
40350 of the required minimum liquid reserve. The office ~~department~~
40351 shall have 3 working days to deny the petition for the emergency
40352 10-percent withdrawal. If the office ~~department~~ fails to deny
40353 the petition within 3 working days, the petition shall be deemed
40354 to have been granted by the office ~~department~~. For the purpose
40355 of this section, "working day" means each day that is not a
40356 Saturday, Sunday, or legal holiday as defined by Florida law.
40357 Also for the purpose of this section, the day the petition is
40358 received by the office ~~department~~ shall not be counted as one of
40359 the 3 days.

40360 (3) In addition, when entrance fees are required to be
40361 deposited in an escrow account pursuant to s. 651.022, s.
40362 651.023, or s. 651.055:

40363 (a) The provider shall deliver to the resident a written
40364 receipt. The receipt shall show the payor's name and address,



HB 1803

2003

40365 the date, the price of the care contract, and the amount of
40366 money paid. A copy of each receipt together with the funds shall
40367 be deposited with the escrow agent or as provided in paragraph
40368 (c). The escrow agent shall release such funds to the provider
40369 upon the expiration of 7 days after the date of receipt of the
40370 funds by the escrow agent if the provider, operating under a
40371 certificate of authority issued by the office ~~department~~, has
40372 met the requirements of s. 651.023(4). However, if the resident
40373 rescinds the contract within the 7-day period, the escrow agent
40374 shall release the escrowed fees to the resident.

40375 (b) At the request of an individual resident of a
40376 facility, the escrow agent shall issue a statement indicating
40377 the status of the resident's portion of the escrow account.

40378 (c) At the request of an individual resident of a
40379 facility, the provider may hold the check for the 7-day period
40380 and shall not deposit it during this time period. If the
40381 resident rescinds the contract within the 7-day period, the
40382 check shall be immediately returned to the resident. Upon the
40383 expiration of the 7 days, the provider shall deposit the check.

40384 (4) Any fees of \$1,500 or less which are assessed with
40385 respect to prospective residents to have their names placed on a
40386 facility's waiting list shall not be subject to the escrow
40387 provisions of this section.

40388 (5) When funds are required to be deposited in an escrow
40389 account pursuant to s. 651.022, s. 651.023, or s. 651.035, the
40390 following shall apply:

40391 (a) The escrow agreement shall require that the escrow
40392 agent furnish the provider with a quarterly statement indicating
40393 the amount of any disbursements from or deposits to the escrow
40394 account and the condition of the account during the period



HB 1803

2003

40395 covered by the statement. The agreement shall require that the
40396 statement be furnished to the provider by the escrow agent on or
40397 before the 10th day of the month following the end of the
40398 quarter for which the statement is due. If the escrow agent does
40399 not provide the quarterly statement to the provider on or before
40400 the 10th day of the month following the month for which the
40401 statement is due, the office ~~department~~ may, in its discretion,
40402 levy against the escrow agent a fine not to exceed \$25 a day for
40403 each day of noncompliance with the provisions of this
40404 subsection.

40405 (b) If the escrow agent does not provide the quarterly
40406 statement to the provider on or before the 10th day of the month
40407 following the quarter for which the statement is due, the
40408 provider shall, on or before the 15th day of the month following
40409 the quarter for which the statement is due, send a written
40410 request for the statement to the escrow agent by certified mail
40411 return receipt requested.

40412 (c) On or before the 20th day of the month following the
40413 quarter for which the statement is due, the provider shall file
40414 with the office ~~department~~ a copy of the escrow agent's
40415 statement or, if the provider has not received the escrow
40416 agent's statement, a copy of the written request to the escrow
40417 agent for the statement.

40418 (d) The office ~~department~~ may, in its discretion, in
40419 addition to any other penalty that may be provided for under
40420 this chapter, levy a fine against the provider not to exceed \$25
40421 a day for each day the provider fails to comply with the
40422 provisions of this subsection.

40423 (e) Funds held on deposit with the department are exempt
40424 from the reporting requirements of this subsection.



HB 1803

2003

40425 Section 1296. Paragraphs (b) and (c) of subsection (2),
40426 paragraph (b) of subsection (4), and subsections (5), (6), (7),
40427 and (8) of section 651.035, Florida Statutes, are amended to
40428 read:

40429 651.035 Minimum liquid reserve requirements.--

40430 (2)

40431 (b) A provider which has outstanding indebtedness which
40432 requires what is normally referred to as a "debt service
40433 reserve" to be held in escrow pursuant to a trust indenture or
40434 mortgage lien on the facility and for which the debt service
40435 reserve may only be used to pay principal and interest payments
40436 on the debt which the debtor is obligated to pay, and which may
40437 include taxes and insurance, may include such debt service
40438 reserve in its computation of its minimum liquid reserve to
40439 satisfy this subsection, provided that the provider furnishes to
40440 the office ~~Department of Insurance~~ a copy of the agreement under
40441 which such debt service is held, together with a statement of
40442 the amount being held in escrow for the debt service reserve,
40443 certified by the lender or trustee and the provider to be
40444 correct. The trustee shall provide the office ~~department~~ with
40445 any information concerning the debt service reserve account upon
40446 request of the provider or the office ~~department~~.

40447 (c) Each provider shall maintain in escrow an operating
40448 reserve in an amount equal to 30 percent of the total operating
40449 expenses projected in the feasibility study required by s.
40450 651.023 for the first 12 months of operation. Thereafter, each
40451 provider shall maintain in escrow an operating reserve in an
40452 amount equal to 15 percent of the total operating expenses in
40453 the annual report filed pursuant to s. 651.026. Where a provider
40454 has been in operation for more than 12 months, the total annual



HB 1803

2003

40455 operating expenses shall be determined by averaging the total
40456 annual operating expenses reported to the office ~~department~~ by
40457 the number of annual reports filed with the office ~~department~~
40458 within the immediate preceding 3-year period subject to
40459 adjustment in the event there is a change in the number of
40460 facilities owned. For purposes of this subsection, total annual
40461 operating expenses shall include all expenses of the facility
40462 except: depreciation and amortization; interest, insurance and
40463 taxes included in subsection (1); extraordinary expenses which
40464 are adequately explained and documented in accordance with
40465 generally accepted accounting principles; liability insurance
40466 premiums in excess of those paid in calendar year 1999; and
40467 changes in the obligation to provide future services to current
40468 residents. For providers initially licensed during or after
40469 calendar year 1999, liability insurance shall be included in the
40470 total operating expenses in an amount not to exceed the premium
40471 paid during the first 12 months of facility operation. Beginning
40472 January 1, 1993, the operating reserves required under this
40473 subsection shall be in an unencumbered account held in escrow
40474 for the benefit of the residents. Such funds may not be
40475 encumbered or subject to any liens or charges by the escrow
40476 agent or judgments, garnishments, or creditors' claims against
40477 the provider or facility. However, if a facility had a lien,
40478 mortgage, trust indenture, or similar debt instrument in place
40479 prior to January 1, 1993, which encumbered all or any part of
40480 the reserves required by this subsection and such funds were
40481 used to meet the requirements of this subsection, then such
40482 arrangement may be continued, unless a refinancing or
40483 acquisition has occurred, and the provider shall be in
40484 compliance with this subsection.



HB 1803

2003

40485 (4)

40486 (b) In facilities which have voluntarily and permanently
40487 discontinued marketing continuing care contracts, the office
40488 ~~department~~ may allow a reduced debt service reserve as required
40489 in subsection (1) based upon the ratio of residents under
40490 continuing care contracts to those residents who do not hold
40491 such contracts if the office ~~department~~ finds that such
40492 reduction is not inconsistent with the security protections
40493 intended by this chapter. In making this determination, the
40494 office ~~department~~ may consider such factors as the financial
40495 condition of the facility, the provisions of the outstanding
40496 continuing care contracts, the ratio of residents under
40497 continuing care agreements to those residents who do not hold a
40498 continuing care contract, current occupancy rates, previous
40499 sales and marketing efforts, life expectancy of the remaining
40500 contract holders, and the written policies of the board of
40501 directors of the provider or a similar board.

40502 (5) When principal and interest payments are paid to a
40503 trust which is beneficially held by the residents as described
40504 in s. 651.023(5), the office ~~department~~ may waive all or any
40505 portion of the escrow requirements for mortgage principal and
40506 interest contained in subsection (1) if the office ~~department~~
40507 finds that such waiver is not inconsistent with the security
40508 protections intended by this chapter.

40509 (6) The office ~~department~~, upon approval of a plan for
40510 fulfilling the requirements of this section and upon
40511 demonstration by the facility of an annual increase in liquid
40512 reserves, may extend the time for compliance.

40513 (7)(a) A provider may satisfy the minimum liquid reserve
40514 requirements of this section by acquiring from a financial



HB 1803

2003

40515 institution, as specified in paragraph (b), a clean,
40516 unconditional irrevocable letter of credit in an amount equal to
40517 the requirements of this section. The letter of credit shall be
40518 issued by a financial institution participating in the State of
40519 Florida Treasury Certificate of Deposit Program, and the letter
40520 of credit shall be subject to the approval of the office
40521 ~~department~~ prior to issuance and prior to any renewal or
40522 modification thereof. At a minimum, the letter of credit shall
40523 provide for:

40524 1. Ninety days' prior written notice to both the provider
40525 and the office ~~department~~ of the financial institution's
40526 determination not to renew or extend the term of the letter of
40527 credit.

40528 2. Unless otherwise arranged by the provider to the
40529 satisfaction of the office ~~department~~, deposit by the financial
40530 institution of such letter of credit funds in an account
40531 designated by the office ~~department~~ no later than 30 days prior
40532 to the expiration of the letter of credit.

40533 3. Deposit by the financial institution of such letter of
40534 credit funds in an account designated by the office ~~department~~
40535 no later than 4 business days following written instructions
40536 from the office ~~department~~ that, in the sole judgment of the
40537 office ~~department~~, funding of the minimum liquid reserve is
40538 required.

40539 (b) The terms of such letter of credit shall be approved
40540 by the office ~~department~~ and the long-term debt of the financial
40541 institution providing such letter of credit shall be rated in
40542 one of their top three long-term debt rating categories by
40543 either Moody's Investors Service, Standard & Poor's Corporation,
40544 or a recognized securities rating agency acceptable to the



HB 1803

2003

40545 office ~~department~~.

40546 (c) The letter of credit shall name the office ~~department~~
40547 as beneficiary.

40548 (d) Notwithstanding any other provision of this section, a
40549 provider utilizing a letter of credit pursuant to this
40550 subsection shall, at all times, have and maintain in escrow an
40551 operating cash reserve equal to 2 months' operating expenses as
40552 determined pursuant to s. 651.026.

40553 (e) In the event the issuing financial institution no
40554 longer participates in the State of Florida Treasury Certificate
40555 of Deposit Program, such financial institution shall deposit as
40556 collateral with the department ~~State of Florida Treasury~~
40557 eligible securities, as prescribed by s. 625.52, having a market
40558 value equal to or greater than 100 percent of the stated amount
40559 of the letter of credit.

40560 (8)(a) Each fiscal year, a provider may withdraw up to 33
40561 percent of the total renewal and replacement reserve available.
40562 The reserve available is equal to the market value of the
40563 invested reserves at the end of the provider's prior fiscal
40564 year. The withdrawal is to be used for capital items or major
40565 repairs, and before any funds are eligible for withdrawal, the
40566 provider must obtain written permission from the office
40567 ~~department~~ by submitting the following information:

40568 1. The amount of the withdrawal and the intended use of
40569 the proceeds.

40570 2. A board resolution and sworn affidavit signed by two
40571 officers or general partners of the provider which indicates
40572 approval of the withdrawal and use of the funds.

40573 3. Proof that the provider has met all funding
40574 requirements for the operating, debt service, and renewal and



HB 1803

2003

40575 replacement reserves computed for the previous fiscal year.

40576 4. Anticipated payment schedule for refunding the renewal
40577 and replacement reserve fund.

40578 (b) Within 30 days after the withdrawal of funds from the
40579 renewal and replacement reserve fund, the provider must begin
40580 refunding the reserve account in equal monthly payments which
40581 allow for a complete funding of such withdrawal within 36
40582 months. If the payment schedule required under subparagraph
40583 (a)4. has changed, the provider must update the office
40584 ~~department~~ with the new payment schedule. If the provider fails
40585 to make a required monthly payment or the payment is late, the
40586 provider must notify the office ~~department~~ within 5 days after
40587 the due date of the payment. No additional withdrawals from the
40588 renewal and replacement reserve will be allowed until all
40589 scheduled payments are current.

40590 Section 1297. Section 651.051, Florida Statutes, is
40591 amended to read:

40592 651.051 Maintenance of assets and records in state.--No
40593 records or assets may be removed from this state by a provider
40594 unless the office ~~department~~ consents to such removal in writing
40595 before such removal. Such consent shall be based upon the
40596 provider's submitting satisfactory evidence that the removal
40597 will facilitate and make more economical the operations of the
40598 provider and will not diminish the service or protection
40599 thereafter to be given the provider's residents in this state.
40600 Prior to such removal, the provider shall give notice to the
40601 president or chair of the facility's residents' council. If such
40602 removal is part of a cash management system which has been
40603 approved by the office ~~department~~, disclosure of the system
40604 shall meet the notification requirements.



HB 1803

2003

40605 Section 1298. Subsection (1) of section 651.055, Florida
40606 Statutes, is amended to read:

40607 651.055 Contracts; right to rescind.--

40608 (1) Each continuing care contract and each addendum to
40609 such contract shall be submitted to and approved by the office
40610 ~~department~~ prior to its use in this state. Thereafter, no other
40611 form of contract shall be used by the provider unless it has
40612 been submitted to and approved by the office ~~department~~. Each
40613 contract shall:

40614 (a) Provide for the continuing care of only one resident,
40615 or for two persons occupying space designed for double
40616 occupancy, under appropriate regulations established by the
40617 provider and shall list all properties transferred and their
40618 market value at the time of transfer, including donations,
40619 subscriptions, fees, and any other amounts paid or payable by,
40620 or on behalf of, the resident or residents.

40621 (b) Specify all services which are to be provided by the
40622 provider to each resident, including, in detail, all items which
40623 each resident will receive, whether the items will be provided
40624 for a designated time period or for life, and whether the
40625 services will be available on the premises or at another
40626 specified location. The provider shall indicate which services
40627 or items are included in the contract for continuing care and
40628 which services or items are made available at or by the facility
40629 at extra charge. Such items shall include, but are not limited
40630 to, food, shelter, personal services or nursing care, drugs,
40631 burial, and incidentals.

40632 (c) Describe the terms and conditions under which a
40633 contract for continuing care may be canceled by the provider or
40634 by a resident and the conditions, if any, under which all or any



HB 1803

2003

40635 portion of the entrance fee will be refunded in the event of
40636 cancellation of the contract by the provider or by the resident,
40637 including the effect of any change in the health or financial
40638 condition of a person between the date of entering a contract
40639 for continuing care and the date of initial occupancy of a
40640 living unit by that person.

40641 (d) Describe the health and financial conditions required
40642 for a person to be accepted as a resident and to continue as a
40643 resident, once accepted, including the effect of any change in
40644 the health or financial condition of a person between the date
40645 of entering into a continuing care contract and the date of
40646 taking occupancy in a unit.

40647 (e) Describe the circumstances under which the resident
40648 will be permitted to remain in the facility in the event of
40649 financial difficulties of the resident. The stated policy may
40650 not be less than the terms stated in s. 651.061.

40651 (f) State the fees that will be charged if the resident
40652 marries while at the designated facility, the terms concerning
40653 the entry of a spouse to the facility, and the consequences if
40654 the spouse does not meet the requirements for entry.

40655 (g) Provide that the contract may be canceled upon the
40656 giving of written notice of cancellation of at least 30 days by
40657 the provider, the resident, or the person who provided the
40658 transfer of property or funds for the care of such resident;
40659 however, if a contract is canceled because there has been a good
40660 faith determination that a resident is a danger to himself or
40661 herself or others, only such notice as is reasonable under the
40662 circumstances shall be required.

40663 1. The contract shall further provide in clear and
40664 understandable language, in print no smaller than the largest



HB 1803

2003

40665 type used in the body of the contract, the terms governing the
40666 refund of any portion of the entrance fee.

40667 2. For a resident whose contract with the facility
40668 provides that the resident does not receive a transferable
40669 membership or ownership right in the facility, and who has
40670 occupied his or her unit, the refund shall be calculated on a
40671 pro rata basis with the facility retaining no more than 2
40672 percent per month of occupancy by the resident and no more than
40673 a 4-percent fee for processing. Such refund shall be paid no
40674 later than 120 days after the giving of notice of intention to
40675 cancel.

40676 3. If the contract provides for the facility to retain no
40677 more than 1 percent per month of occupancy by the resident, it
40678 may provide that such refund will be paid from the proceeds of
40679 the next entrance fees received by the provider for units for
40680 which there are no prior claims by any resident until paid in
40681 full or, if the provider has discontinued marketing continuing
40682 care contracts, within 200 days after the date of notice.

40683 4. Unless the provisions of subsection (5) apply, for any
40684 prospective resident, regardless of whether or not such a
40685 resident receives a transferable membership or ownership right
40686 in the facility, who cancels the contract prior to occupancy of
40687 the unit, the refund shall be the entire amount paid toward the
40688 entrance fee, less a processing fee not to exceed 4 percent of
40689 the entire entrance fee, but in no event shall such processing
40690 fee exceed the amount paid by the prospective resident. Such
40691 refund shall be paid no later than 60 days after the giving of
40692 notice of intention to cancel. For a resident who has occupied
40693 his or her unit and who has received a transferable membership
40694 or ownership right in the facility, the foregoing refund



HB 1803

2003

40695 provisions shall not apply but shall be deemed satisfied by the
40696 acquisition or receipt of a transferable membership or an
40697 ownership right in the facility. The provider shall not charge
40698 any fee for the transfer of membership or sale of an ownership
40699 right.

40700 (h) State the terms under which a contract is canceled by
40701 the death of the resident. These terms may contain a provision
40702 that, upon the death of a resident, the entrance fee of such
40703 resident shall be considered earned and shall become the
40704 property of the provider. When the unit is shared, the
40705 conditions with respect to the effect of the death or removal of
40706 one of the residents shall be included in the contract.

40707 (i) Describe the policies which may lead to changes in
40708 monthly recurring and nonrecurring charges or fees for goods and
40709 services received. The contract shall provide for advance notice
40710 to the resident, of not less than 60 days, before any change in
40711 fees or charges or the scope of care or services may be
40712 effective, except for changes required by state or federal
40713 assistance programs.

40714 (j) Provide that charges for care paid in one lump sum
40715 shall not be increased or changed during the duration of the
40716 agreed upon care, except for changes required by state or
40717 federal assistance programs.

40718 (k) Specify whether or not the facility is, or is
40719 affiliated with, a religious, nonprofit, or proprietary
40720 organization or management entity; the extent to which the
40721 affiliate organization will be responsible for the financial and
40722 contractual obligations of the provider; and the provisions of
40723 the federal Internal Revenue Code, if any, under which the
40724 provider or affiliate is exempt from the payment of federal



HB 1803

2003

40725 income tax.

40726 Section 1299. Subsection (3) of section 651.083, Florida
40727 Statutes, is amended to read:

40728 651.083 Residents' rights.--

40729 (3) Any violation of the residents' rights set forth in
40730 subsection (1) constitutes grounds for disciplinary action by
40731 the office ~~department~~ under ss. 651.106 and 651.108.

40732 Section 1300. Subsection (1) of section 651.085, Florida
40733 Statutes, is amended to read:

40734 651.085 Quarterly meetings between residents and the
40735 governing body of the provider; resident representation before
40736 the governing body of the provider.--

40737 (1) The governing body of a provider, or the designated
40738 representative of the provider, shall hold quarterly meetings
40739 with the residents of the continuing care facility for the
40740 purpose of free discussion of subjects including, but not
40741 limited to, income, expenditures, and financial trends and
40742 problems as they apply to the facility, as well as a discussion
40743 on proposed changes in policies, programs, and services. Upon
40744 request of the residents' organization, a member of the
40745 governing body of the provider, such as a board member, a
40746 general partner, or a principal owner shall attend such
40747 meetings. Residents shall be entitled to at least 7 days'
40748 advance notice of each quarterly meeting. An agenda and any
40749 materials that will be distributed by the governing body or
40750 representative of the provider shall be posted in a conspicuous
40751 place at the facility and shall be available upon request to
40752 residents of the facility. The office ~~department~~ shall request
40753 verification from a facility that quarterly meetings are held
40754 and open to all residents when it receives a complaint from the



HB 1803

2003

40755 residents' council that a facility is not in compliance with the
40756 provisions of this subsection. In addition, a facility shall
40757 report to the office ~~department~~ in the annual report required
40758 under s. 651.026 the dates on which quarterly meetings were held
40759 during the reporting period.

40760 Section 1301. Section 651.091, Florida Statutes, is
40761 amended to read:

40762 651.091 Availability, distribution, and posting of reports
40763 and records; requirement of full disclosure.--

40764 (1) Each continuing care facility shall maintain as public
40765 information, available upon request, records of all cost and
40766 inspection reports pertaining to that facility that have been
40767 filed with or issued by any governmental agency. A copy of each
40768 such report shall be retained in such records for not less than
40769 5 years from the date the report is filed or issued. Each
40770 facility shall also maintain as public information, available
40771 upon request, all annual statements that have been filed with
40772 the office ~~department~~.

40773 (2) Every continuing care facility shall:

40774 (a) Display the certificate of authority in a conspicuous
40775 place inside the facility.

40776 (b) Post in a prominent position in the facility so as to
40777 be accessible to all residents and to the general public a
40778 concise summary of the last examination report issued by the
40779 office ~~department~~, with references to the page numbers of the
40780 full report noting any deficiencies found by the office
40781 ~~department~~, and the actions taken by the provider to rectify
40782 such deficiencies, indicating in such summary where the full
40783 report may be inspected in the facility.

40784 (c) Post in a prominent position in the facility so as to



HB 1803

2003

40785 be accessible to all residents and to the general public a
40786 summary of the latest annual statement, indicating in the
40787 summary where the full annual statement may be inspected in the
40788 facility. A listing of any proposed changes in policies,
40789 programs, and services shall also be posted.

40790 (d) Distribute a copy of the full annual statement to the
40791 president or chair of the residents' council within 30 days
40792 after the filing of the annual report with the office
40793 ~~department~~, and designate a staff person to provide explanation
40794 thereof.

40795 (e) Notify the residents' council of any plans filed with
40796 the office ~~department~~ to obtain new financing, additional
40797 financing, or refinancing for the facility and of any
40798 applications to the office ~~department~~ for any expansion of the
40799 facility.

40800 (3) Before entering into a contract to furnish continuing
40801 care, the provider undertaking to furnish the care, or the agent
40802 of the provider, shall make full disclosure, and provide copies
40803 of the disclosure documents to the prospective resident or his
40804 or her legal representative, of the following information:

40805 (a) The contract to furnish continuing care.

40806 (b) The summary listed in paragraph (2)(b).

40807 (c) All ownership interests and lease agreements,
40808 including information specified in s. 651.022(2)(b)8.

40809 (d) In keeping with the intent of this subsection relating
40810 to disclosure, the provider shall make available for review,
40811 master plans approved by the provider's governing board and any
40812 plans for expansion or phased development, to the extent that
40813 the availability of such plans will not put at risk real estate,
40814 financing, acquisition, negotiations, or other implementation of



HB 1803

2003

40815 operational plans and thus jeopardize the success of
 40816 negotiations, operations, and development.

40817 (e) Copies of the rules and regulations of the facility
 40818 and an explanation of the responsibilities of the resident.

40819 (f) The policy of the facility with respect to admission
 40820 to and discharge from the various levels of health care offered
 40821 by the facility.

40822 (g) The amount and location of any reserve funds required
 40823 by this chapter, and the name of the person or entity having a
 40824 claim to such funds in the event of a bankruptcy, foreclosure,
 40825 or rehabilitation proceeding.

40826 (h) A copy of the resident's rights as described in s.
 40827 651.083.

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 40830 A true and complete copy of the full disclosure document to be
 40831 used shall be filed with the office ~~department~~ prior to its use.
 40832 A resident or prospective resident or his or her legal
 40833 representative shall be permitted to inspect the full reports
 40834 referred to in paragraph (2)(b); the charter or other agreement
 40835 or instrument required to be filed with the office ~~department~~
 40836 pursuant to s. 651.022(2), together with all amendments thereto;
 40837 and the bylaws of the corporation or association, if any. Upon
 40838 request, copies of the reports and information shall be provided
 40839 to the individual requesting them if the individual agrees to
 40840 pay a reasonable charge to cover copying costs.

40841 Section 1302. Subsections (1) and (2) of section 651.095,
 40842 Florida Statutes, are amended to read:

40843 651.095 Advertisements; requirements; penalties.--

40844 (1) Upon application for a provisional certificate of



HB 1803

2003

40845 authority, the office ~~department~~ shall require the applicant to
40846 submit for approval all advertising. Approval of the application
40847 constitutes approval of the advertising, unless the office
40848 ~~department~~ has otherwise notified the applicant. The office
40849 ~~department~~ shall disapprove any document which is a violation of
40850 any provision of part IX of chapter 626.

40851 (2) After an application has been approved, a provider is
40852 not required to submit new advertising to the office ~~department~~
40853 for approval; however, a provider may not use, and may not have
40854 published, and a person may not use or may not have published,
40855 any advertisement which is a violation of any provision of part
40856 IX of chapter 626 or which has previously been disapproved by
40857 the office ~~department~~.

40858 Section 1303. Section 651.105, Florida Statutes, is
40859 amended to read:

40860 651.105 Examination and inspections.--

40861 (1) The office ~~department~~ may at any time, and shall at
40862 least once every 3 years, examine the business of any applicant
40863 for a certificate of authority and any provider engaged in the
40864 execution of care contracts or engaged in the performance of
40865 obligations under such contracts, in the same manner as is
40866 provided for examination of insurance companies pursuant to s.
40867 624.316. Such examinations shall be made by a representative or
40868 examiner designated by the office ~~department~~, whose compensation
40869 will be fixed by the office ~~department~~ pursuant to s. 624.320.
40870 Routine examinations may be made by having the necessary
40871 documents submitted to the office ~~department~~; and, for this
40872 purpose, financial documents and records conforming to commonly
40873 accepted accounting principles and practices, as required under
40874 s. 651.026, will be deemed adequate. The final written report of



HB 1803

2003

40875 each such examination shall be filed with ~~in~~ the office ~~of the~~
40876 ~~department~~ and, when so filed, will constitute a public record.
40877 Any provider being examined shall, upon request, give reasonable
40878 and timely access to all of its records. The representative or
40879 examiner designated by the office ~~department~~ may at any time
40880 examine the records and affairs and inspect the physical
40881 property of any provider, whether in connection with a formal
40882 examination or not.

40883 (2) Any duly authorized officer, employee, or agent of the
40884 office ~~department~~ may, upon presentation of proper
40885 identification, have access to, and inspect, any records, with
40886 or without advance notice, to secure compliance with, or to
40887 prevent a violation of, any provision of this chapter.

40888 (3) Reports of the results of such financial examinations
40889 must be kept on file by the office ~~department~~. Any investigatory
40890 records, reports, or documents held by the office ~~department~~ are
40891 confidential and exempt from the provisions of s. 119.07(1),
40892 until the investigation is completed or ceases to be active. For
40893 the purpose of this section, an investigation is active while it
40894 is being conducted by the office ~~department~~ with a reasonable,
40895 good faith belief that it could lead to the filing of
40896 administrative, civil, or criminal proceedings. An investigation
40897 does not cease to be active if the office ~~department~~ is
40898 proceeding with reasonable dispatch and has a good faith belief
40899 that action could be initiated by the office ~~department~~ or other
40900 administrative or law enforcement agency.

40901 (4) The office ~~department~~ shall notify the provider in
40902 writing of all deficiencies in its compliance with the
40903 provisions of this chapter and the rules adopted pursuant to
40904 this chapter and shall set a reasonable length of time for



HB 1803

2003

40905 compliance by the provider. In addition, the office ~~department~~
 40906 shall require corrective action or request a corrective action
 40907 plan from the provider which plan demonstrates a good faith
 40908 attempt to remedy the deficiencies by a specified date. If the
 40909 provider fails to comply within the established length of time,
 40910 the office ~~department~~ may initiate action against the provider
 40911 in accordance with the provisions of this chapter.

40912 Section 1304. Section 651.106, Florida Statutes, is
 40913 amended to read:

40914 651.106 Grounds for discretionary refusal, suspension, or
 40915 revocation of certificate of authority.--The office ~~department~~,
 40916 in its discretion, may deny, suspend, or revoke the provisional
 40917 certificate of authority or the certificate of authority of any
 40918 applicant or provider if it finds that any one or more of the
 40919 following grounds applicable to the applicant or provider exist:

- 40920 (1) Failure by the provider to continue to meet the
 40921 requirements for the authority originally granted.
- 40922 (2) Failure by the provider to meet one or more of the
 40923 qualifications for the authority specified by this chapter.
- 40924 (3) Material misstatement, misrepresentation, or fraud in
 40925 obtaining the authority, or in attempting to obtain the same.
- 40926 (4) Demonstrated lack of fitness or trustworthiness.
- 40927 (5) Fraudulent or dishonest practices of management in the
 40928 conduct of business.
- 40929 (6) Misappropriation, conversion, or withholding of
 40930 moneys.
- 40931 (7) Failure to comply with, or violation of, any proper
 40932 order or rule of the office or commission ~~department~~ or
 40933 violation of any provision of this chapter.
- 40934 (8) The insolvent condition of the provider or the



HB 1803

2003

40935 provider's being in such condition or using such methods and
40936 practices in the conduct of its business as to render its
40937 further transactions in this state hazardous or injurious to the
40938 public.

40939 (9) Refusal by the provider to be examined or to produce
40940 its accounts, records, and files for examination, or refusal by
40941 any of its officers to give information with respect to its
40942 affairs or to perform any other legal obligation under this
40943 chapter when required by the office ~~department~~.

40944 (10) Failure by the provider to comply with the
40945 requirements of s. 651.026 or s. 651.033.

40946 (11) Failure by the provider to maintain escrow accounts
40947 or funds as required by this chapter.

40948 (12) Failure by the provider to meet the requirements of
40949 this chapter for disclosure of information to residents
40950 concerning the facility, its ownership, its management, its
40951 development, or its financial condition or failure to honor its
40952 continuing care contracts.

40953 (13) Any cause for which issuance of the license could
40954 have been refused had it then existed and been known to the
40955 office ~~department~~.

40956 (14) Having been found guilty of, or having pleaded guilty
40957 or nolo contendere to, a felony in this state or any other
40958 state, without regard to whether a judgment or conviction has
40959 been entered by the court having jurisdiction of such cases.

40960 (15) In the conduct of business under the license,
40961 engaging in unfair methods of competition or in unfair or
40962 deceptive acts or practices prohibited under part IX of chapter
40963 626.

40964 (16) A pattern of bankrupt enterprises.



HB 1803

2003

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Revocation of a certificate of authority under this section does not relieve a provider from the provider's obligation to residents under the terms and conditions of any continuing care contract between the provider and residents or the provisions of this chapter. The provider shall continue to file its annual statement and pay license fees to the office ~~department~~ as required under this chapter as if the certificate of authority had continued in full force, but the provider shall not issue any new continuing care contracts. The office ~~department~~ may seek an action in the circuit court of Leon County to enforce the office's ~~department's~~ order and the provisions of this section.

Section 1305. Subsections (1) and (3) of section 651.107, Florida Statutes, are amended to read:

651.107 Duration of suspension; obligations during suspension period; reinstatement.--

(1) Suspension of a certificate of authority shall be for such period, not to exceed 1 year, as is fixed by the office ~~department~~ in the order of suspension, unless the office ~~department~~ shortens or rescinds such suspension or the order of suspension is modified, rescinded, or reversed.

(3) Upon expiration of the suspension period, if within such period the certificate of authority has not otherwise terminated, the provider's certificate of authority shall automatically be reinstated unless the office ~~department~~ finds that the causes for the suspension have not been removed or that the provider is otherwise not in compliance with the requirements of this chapter. If not so automatically



HB 1803

2003

40995 reinstated, the certificate of authority shall be deemed to be
40996 revoked as of the end of the suspension period or upon failure
40997 of the provider to continue the certificate during the
40998 suspension period, whichever event first occurs.

40999 Section 1306. Section 651.108, Florida Statutes, is
41000 amended to read:

41001 651.108 Administrative fines.--

41002 (1) If the office ~~department~~ finds that one or more
41003 grounds exist for the discretionary revocation or suspension of
41004 a certificate of authority issued under this chapter, the office
41005 ~~department~~, in lieu of such revocation or suspension, may impose
41006 a fine upon the provider in an amount not to exceed \$1,000 per
41007 violation.

41008 (2) If it is found that the provider has knowingly and
41009 willfully violated a lawful order of the office ~~department~~ or a
41010 provision of this chapter, the office ~~department~~ may impose a
41011 fine in an amount not to exceed \$10,000 for each such violation.

41012 Section 1307. Subsections (1) and (2) of section 651.1081,
41013 Florida Statutes, are amended to read:

41014 651.1081 Remedies available in cases of unlawful sale.--

41015 (1) Upon a determination by the office ~~department~~ that a
41016 provider is or has been violating the provisions of this
41017 chapter, the office ~~department~~ may order the provider to cease
41018 sales and make a rescission offer to the resident in accordance
41019 with the provisions of this section.

41020 (2) Upon such order by the office ~~department~~, every
41021 unlawful sale made in violation of this chapter may be rescinded
41022 at the election of the resident without penalty.

41023 Section 1308. Subsections (1), (2), and (3) of section
41024 651.111, Florida Statutes, are amended to read:



HB 1803

2003

41025 651.111 Requests for inspections.--

41026 (1) Any interested party may request an inspection of the
41027 records and related financial affairs of a provider providing
41028 care in accordance with the provisions of this chapter by
41029 transmitting to the office ~~department~~ notice of an alleged
41030 violation of applicable requirements prescribed by statute or by
41031 rule, specifying to a reasonable extent the details of the
41032 alleged violation, which notice shall be signed by the
41033 complainant.

41034 (2) The substance of the complaint shall be given to the
41035 provider no earlier than the time of the inspection. Unless the
41036 complainant specifically requests otherwise, neither the
41037 substance of the complaint which is provided to the provider nor
41038 any copy of the complaint or any record which is published,
41039 released, or otherwise made available to the provider shall
41040 disclose the name of any person mentioned in the complaint
41041 except the name of any duly authorized officer, employee, or
41042 agent of the office ~~department~~ conducting the investigation or
41043 inspection pursuant to this chapter.

41044 (3) Upon receipt of a complaint, the office ~~department~~
41045 shall make a preliminary review; and, unless the office
41046 ~~department~~ determines that the complaint is without any
41047 reasonable basis, the office ~~department~~ shall make an
41048 inspection. The complainant shall be advised, within 30 days
41049 after the receipt of the complaint by the office ~~department~~, of
41050 the proposed course of action of the office ~~department~~.

41051 Section 1309. Section 651.114, Florida Statutes, is
41052 amended to read:

41053 651.114 Delinquency proceedings; remedial rights.--

41054 (1) Upon determination by the office ~~department~~ that a



HB 1803

2003

41055 provider is not in compliance with this chapter, the office
41056 ~~department~~ may notify the chair of the advisory council, who may
41057 assist the office ~~department~~ in formulating a corrective action
41058 plan.

41059 (2) A provider shall make available to the advisory
41060 council, no later than 30 days after being requested to do so by
41061 the advisory council, a plan for obtaining compliance or
41062 solvency.

41063 (3) The council shall, no later than 30 days after
41064 notification:

41065 (a) Consider and evaluate the plan submitted by the
41066 provider.

41067 (b) Discuss the problem and solutions with the provider.

41068 (c) Conduct such other business as is necessary.

41069 (d) Report its findings and recommendations to the office
41070 ~~department~~, which may require additional modification of the
41071 plan.

41072 (4)(a) Upon approval of a plan by the office ~~department~~,
41073 the provider shall submit monthly a progress report to the
41074 council or the office ~~department~~, or both, in a manner
41075 prescribed by the office ~~department~~.

41076 (b) After a period of 3 months, or at any earlier time
41077 deemed necessary, the council shall evaluate the progress by the
41078 provider and shall advise the office ~~department~~ of its findings.

41079 (5) Should the office ~~department~~ find that sufficient
41080 grounds exist for rehabilitation, liquidation, conservation,
41081 reorganization, seizure, or summary proceedings of an insurer as
41082 set forth in ss. 631.051, 631.061, and 631.071, the office
41083 ~~department~~ may petition for an appropriate court order or may
41084 pursue such other relief as is afforded in part I of chapter



HB 1803

2003

41085 631. Before invoking its powers under part I of chapter 631, the
41086 office department shall notify the chair of the advisory
41087 council.

41088 (6) In the event an order of rehabilitation, liquidation,
41089 conservation, reorganization, seizure, or summary proceeding has
41090 been entered against a provider, the department and office are
41091 ~~is~~ vested with all of the powers and duties they have ~~it has~~
41092 under the provisions of part I of chapter 631 in regard to
41093 delinquency proceedings of insurance companies.

41094 (7) If the financial condition of the continuing care
41095 facility or provider is such that, if not modified or corrected,
41096 its continued operation would result in insolvency, the office
41097 ~~department~~ may direct the provider to formulate and file with
41098 the office department a corrective action plan. If the provider
41099 fails to submit a plan within 30 days after the office's
41100 ~~department's~~ directive or submits a plan that is insufficient to
41101 correct the condition, the office department may specify a plan
41102 and direct the provider to implement the plan.

41103 (8)(a) The rights of the office department described in
41104 this section shall be subordinate to the rights of a trustee or
41105 lender pursuant to the terms of a resolution, ordinance, loan
41106 agreement, indenture of trust, mortgage, lease, security
41107 agreement, or other instrument creating or securing bonds or
41108 notes issued to finance a facility, and the office department,
41109 subject to the provisions of paragraph (c), shall not exercise
41110 its remedial rights provided under this section and ss. 651.018,
41111 651.106, 651.108, and 651.116 with respect to a facility that is
41112 subject to a lien, mortgage, lease, or other encumbrance or
41113 trust indenture securing bonds or notes issued in connection
41114 with the financing of the facility, if the trustee or lender, by



HB 1803

2003

41115 inclusion or by amendment to the loan documents or by a separate
41116 contract with the office ~~department~~, agrees that the rights of
41117 residents under a continuing care contract will be honored and
41118 will not be disturbed by a foreclosure or conveyance in lieu
41119 thereof as long as the resident:

41120 1. Is current in the payment of all monetary obligations
41121 required by the continuing care contract;

41122 2. Is in compliance and continues to comply with all
41123 provisions of the resident's continuing care contract; and

41124 3. Has asserted no claim inconsistent with the rights of
41125 the trustee or lender.

41126 (b) Nothing in this subsection requires a trustee or
41127 lender to:

41128 1. Continue to engage in the marketing or resale of new
41129 continuing care contracts;

41130 2. Pay any rebate of entrance fees as may be required by a
41131 resident's continuing care contract as of the date of
41132 acquisition of the facility by the trustee or lender and until
41133 expiration of the period described in paragraph(d);

41134 3. Be responsible for any act or omission of any owner or
41135 operator of the facility arising prior to the acquisition of the
41136 facility by the trustee or lender; or

41137 4. Provide services to the residents to the extent that
41138 the trustee or lender would be required to advance or expend
41139 funds that have not been designated or set aside for such
41140 purposes.

41141 (c) Should the office ~~department~~ determine, at any time
41142 during the suspension of its remedial rights as provided in
41143 paragraph(a), that the trustee or lender is not in compliance
41144 with the provisions of paragraph (a), or that a lender or



HB 1803

2003

41145 trustee has assigned or has agreed to assign all or a portion of
41146 a delinquent or defaulted loan to a third party without the
41147 office's ~~department's~~ written consent, the office ~~department~~
41148 shall notify the trustee or lender in writing of its
41149 determination, setting forth the reasons giving rise to the
41150 determination and specifying those remedial rights afforded to
41151 the office ~~department~~ which the office ~~department~~ shall then
41152 reinstate.

41153 (d) Upon acquisition of a facility by a trustee or lender
41154 and evidence satisfactory to the office ~~department~~ that the
41155 requirements of paragraph (a) have been met, the office
41156 ~~department~~ shall issue a 90-day temporary certificate of
41157 authority granting the trustee or lender the authority to engage
41158 in the business of providing continuing care and to issue
41159 continuing care contracts subject to the office's ~~department's~~
41160 right to immediately suspend or revoke the temporary certificate
41161 of authority if the office ~~department~~ determines that any of the
41162 grounds described in s. 651.106 apply to the trustee or lender
41163 or that the terms of the agreement used as the basis for the
41164 issuance of the temporary certificate of authority by the office
41165 ~~department~~ have not been or are not being met by the trustee or
41166 lender since the date of acquisition.

41167 Section 1310. Section 651.1151, Florida Statutes, is
41168 amended to read:

41169 651.1151 Administrative, vendor, and management
41170 contracts.--

41171 (1) The office ~~department~~ may require a provider to submit
41172 any contract for administrative, vendor, or management services
41173 if the office ~~department~~ has information and belief that a
41174 provider has entered into a contract with an affiliate, an



HB 1803

2003

41175 entity controlled by the provider, or an entity controlled by an
 41176 affiliate of the provider, which has not been disclosed to the
 41177 office ~~department~~ or which contract requires the provider to pay
 41178 a fee that is unreasonably high in relation to the service
 41179 provided.

41180 (2) After review of the contract, the office ~~department~~
 41181 may order the provider to cancel the contract in accordance with
 41182 the terms of the contract and applicable law if it determines
 41183 that the fees to be paid are so unreasonably high as compared
 41184 with similar contracts entered into by other providers in
 41185 similar circumstances that the contract is detrimental to the
 41186 facility or its residents.

41187 (3) Any contract with an affiliate, an entity controlled
 41188 by the provider, or an entity controlled by an affiliate of the
 41189 provider for administrative, vendor, or management services
 41190 entered into or renewed after October 1, 1991, shall contain a
 41191 provision that the contract shall be canceled upon issuance of
 41192 an order by the office ~~department~~ pursuant to this section. A
 41193 copy of the current management services contract, pursuant to
 41194 this section, if any, must be on file in the marketing office or
 41195 other accessible area to residents and the appropriate resident
 41196 organizations.

41197 (4) Any action of the office ~~department~~ under this section
 41198 is subject to review pursuant to the procedures provided in
 41199 chapter 120.

41200 Section 1311. Subsection (12) of section 651.118, Florida
 41201 Statutes, is amended to read:

41202 651.118 Agency for Health Care Administration;
 41203 certificates of need; sheltered beds; community beds.--

41204 (12) A facility that is under administrative supervision



HB 1803

2003

41205 for financial problems pursuant to s. 651.018 may petition the
 41206 Agency for Health Care Administration for the conversion of
 41207 sheltered beds to community nursing home beds in accordance with
 41208 the corrective action plan approved by the office ~~department~~.
 41209 The agency shall, upon petition by the facility and through an
 41210 expedited review, issue a certificate of need converting the
 41211 sheltered nursing home beds to community nursing home beds.

41212 Section 1312. Section 52 of chapter 2001-45, Laws of
 41213 Florida, is amended to read:

41214 Section 52. Notwithstanding the establishment of need as
 41215 provided for in chapter 408, Florida Statutes, no certificate of
 41216 need for additional community nursing home beds shall be
 41217 approved by the agency until July 1, 2006. The Legislature finds
 41218 that the continued growth in the Medicaid budget for nursing
 41219 home care has constrained the ability of the state to meet the
 41220 needs of its elderly residents through the use of less
 41221 restrictive and less institutional methods of long-term care. It
 41222 is therefore the intent of the Legislature to limit the increase
 41223 in Medicaid nursing home expenditures in order to provide funds
 41224 to invest in long-term care that is community-based and provides
 41225 supportive services in a manner that is both more cost-effective
 41226 and more in keeping with the wishes of the elderly residents of
 41227 this state. This moratorium on certificates of need shall not
 41228 apply to sheltered nursing home beds in a continuing care
 41229 retirement community certified by the former Department of
 41230 Insurance or by the Office of Insurance Regulation pursuant to
 41231 chapter 651, Florida Statutes.

41232 Section 1313. Subsections (1), (3), and (5) of section
 41233 651.121, Florida Statutes, are amended to read:

41234 651.121 Advisory council.--



HB 1803

2003

41235 (1) The Continuing Care Advisory Council to the office
 41236 ~~department of Insurance~~ is created to consist of 10 members who
 41237 are residents of this state appointed by the Governor and
 41238 geographically representative of this state. Three members shall
 41239 be administrators of facilities which hold valid certificates of
 41240 authority under this chapter and shall have been actively
 41241 engaged in the offering of continuing care agreements in this
 41242 state for 5 years before appointment. The remaining members
 41243 shall include:

41244 (a) A representative of the business community whose
 41245 expertise is in the area of management.

41246 (b) A representative of the financial community who is not
 41247 a facility owner or administrator.

41248 (c) A certified public accountant.

41249 (d) An attorney.

41250 (e) Three residents who hold continuing care agreements
 41251 with a facility certified in this state.

41252 (3) The council members shall serve without pay, but shall
 41253 be reimbursed for per diem and travel expenses by the office
 41254 ~~department~~ in accordance with s. 112.061.

41255 (5) The council shall:

41256 (a) Meet at least once a year and, at such annual meeting,
 41257 elect a chair from their number and elect or appoint a
 41258 secretary, each of whom shall hold office for 1 year and
 41259 thereafter until a successor is elected and qualified.

41260 (b) Hold other meetings at such times and places as the
 41261 office ~~department~~ or the chair of the council may direct.

41262 (c) Keep a record of its proceedings. The books and
 41263 records of the council shall be prima facie evidence of all
 41264 matters reported therein and, except for proceedings conducted



HB 1803

2003

41265 under s. 651.018, shall be open to inspection at all times.

41266 (d) Act in an advisory capacity to the office ~~department~~.

41267 (e) Recommend to the office ~~department~~ needed changes in
41268 statutes and rules.

41269 (f) Upon the request of the office ~~department~~, assist,
41270 with any corrective action, rehabilitation or cessation of
41271 business plan of a provider.

41272 Section 1314. Section 651.123, Florida Statutes, is
41273 amended to read:

41274 651.123 Alternative dispute resolution.--The commission
41275 ~~department~~ shall, by rule, adopt alternative procedures for
41276 resolution of disputes between residents and providers. The
41277 rules shall provide for an informal, nonbinding mediation
41278 process, and for binding arbitration when mediation fails to
41279 resolve a dispute, and shall provide minimum qualifications for
41280 arbitrators substantially similar to other arbitration programs
41281 under the Florida Insurance Code. The rules shall specify the
41282 types of disputes that are subject to mediation or arbitration,
41283 and shall provide that disputes over increases in monthly
41284 maintenance fees are not subject to mediation or arbitration.
41285 Arbitration is available only if all parties agree in advance to
41286 be bound by the result.

41287 Section 1315. Subsections (2), (3), and (4) of section
41288 651.125, Florida Statutes, are amended to read:

41289 651.125 Criminal penalties; injunctive relief.--

41290 (2) The state attorney for a circuit shall, upon
41291 application of the office ~~department~~ or its authorized
41292 representative, institute and conduct the prosecution of an
41293 action for violation, within such circuit, of any provision of
41294 this chapter.



HB 1803

2003

41295 (3) The office ~~department~~ may bring an action to enjoin a
41296 violation, threatened violation, or continued violation of this
41297 chapter in the circuit court in and for the county in which the
41298 violation occurred, is occurring, or is about to occur.

41299 (4) Any action brought by the office ~~department~~ against a
41300 provider shall not abate by reason of a sale or other transfer
41301 of ownership of the facility used to provide care, which
41302 provider is a party to the action, except with the express
41303 written consent of the director of the office ~~Treasurer and~~
41304 ~~Insurance Commissioner~~.

41305 Section 1316. Section 651.134, Florida Statutes, is
41306 amended to read:

41307 651.134 Investigatory records.--Any active investigatory
41308 record of the office ~~department~~ made or received under this
41309 chapter, and any active examination record necessary to complete
41310 an active investigation, is confidential and exempt from s.
41311 119.07(1) until such investigation is completed or ceases to be
41312 active. For the purpose of this section, an investigation is
41313 active while it is being conducted by the office ~~department~~ with
41314 a reasonable, good faith belief that it could lead to the filing
41315 of administrative, civil, or criminal proceedings. An
41316 investigation does not cease to be active if the office
41317 ~~department~~ is proceeding with reasonable dispatch and has a good
41318 faith belief that action could be initiated by the office
41319 ~~department~~ or other administrative or law enforcement agency.

41320 Section 1317. Subsection (1) and paragraph (j) of
41321 subsection (2) of section 655.001, Florida Statutes, are amended
41322 to read:

41323 655.001 Purpose; application.--The purposes of the
41324 financial institutions codes are to:



HB 1803

2003

41325 (1) Provide general regulatory powers to be exercised by
 41326 the Financial Services Commission and the Office of Financial
 41327 Institutions and Securities Regulation ~~Department of Banking and~~
 41328 ~~Finance~~ in relation to the regulation of financial institutions.
 41329 The financial institutions codes apply to all state-authorized
 41330 or state-chartered financial institutions and to the enforcement
 41331 of all laws relating to state-authorized or state-chartered
 41332 financial institutions.

41333 (2) Provide for and promote:

41334 (j) The delegation to the commission ~~department~~ of
 41335 adequate rulemaking power and to the office adequate
 41336 administrative discretion, subject to the provisions of the
 41337 financial institutions codes and to the purposes and policies
 41338 stated in this section, in order that the supervision and
 41339 regulation of financial institutions may be flexible and readily
 41340 responsive to changes in economic conditions, in technology, and
 41341 in financial institution practices.

41342 Section 1318. Paragraphs (e), (i), (m), (q), and (r) of
 41343 subsection (1) of section 655.005, Florida Statutes, are
 41344 amended, and paragraph (s) is added to that subsection, to read:

41345 655.005 Definitions.--

41346 (1) As used in the financial institutions codes, unless
 41347 the context otherwise requires, the term:

41348 (e) "Commission" means the Financial Services Commission
 41349 ~~"Department" means the Department of Banking and Finance.~~

41350 (i) "Financial institution-affiliated party" means:

41351 1. Any director, officer, employee, or controlling
 41352 stockholder (other than a financial institution holding company)
 41353 of, or agent for, a financial institution, subsidiary, or
 41354 service corporation;



HB 1803

2003

41355 2. Any other person who has filed or is required to file a
41356 change-of-control notice with the appropriate state or federal
41357 regulatory agency;

41358 3. Any stockholder (other than a financial institution
41359 holding company), any joint venture partner, or any other person
41360 as determined by the office ~~department~~ who participates in the
41361 conduct of the affairs of a financial institution, subsidiary,
41362 or service corporation; or

41363 4. Any independent contractor (including any attorney,
41364 appraiser, consultant, or accountant) who knowingly or
41365 recklessly participates in:

- 41366 a. Any violation of any law or regulation;
- 41367 b. Any breach of fiduciary duty; or
- 41368 c. Any unsafe and unsound practice,

41369
41370
41371 which caused or is likely to cause more than a minimal
41372 financial loss to, or a significant adverse effect on, the
41373 financial institution, subsidiary, or service corporation.

41374 (m) "Main office" or "principal office" of a financial
41375 institution means the main business office designated or
41376 provided for in the articles of incorporation or bylaws of a
41377 financial institution at such identified location as has been or
41378 is hereafter approved by the Office of Financial Institutions
41379 and Securities Regulation ~~department~~, in the case of a state
41380 financial institution, or by the appropriate federal regulatory
41381 agency, in the case of a federal financial institution; and,
41382 with respect to the trust department of a bank or association
41383 that has trust powers, each of these terms means the office or
41384 place of business of the trust department at such identified



HB 1803

2003

41385 location, which need not be the same location as the main office
41386 of the bank or association exclusive of the trust department, as
41387 has been or is hereafter approved by the Office of Financial
41388 Institutions and Securities Regulation ~~department~~, in the case
41389 of a state bank or association that has a trust department, or
41390 by the appropriate federal regulatory agency, in the case of a
41391 national bank or federal association that has a trust
41392 department. "Main office" or "principal office" of a trust
41393 company means the office designated or provided for as such in
41394 its articles of incorporation, at such identified location as
41395 has been or is hereafter approved by the relevant chartering
41396 authority.

41397 (q) "Subsidiary" means any organization permitted by the
41398 office ~~department~~ which is controlled by a financial
41399 institution.

41400 (r) "Unsafe or unsound practice" means any practice or
41401 conduct found by the office ~~department~~ to be contrary to
41402 generally accepted standards applicable to the specific
41403 financial institution, or a violation of any prior order of a
41404 state or federal regulatory agency, which practice, conduct, or
41405 violation creates the likelihood of loss, insolvency, or
41406 dissipation of assets or otherwise prejudices the interest of
41407 the specific financial institution or its depositors or members.

41408 In making this determination, the office ~~department~~ must
41409 consider the size and condition of the financial institution,
41410 the gravity of the violation, and the prior conduct of the
41411 person or institution involved.

41412 (s) "Office" means the Office of Financial Institutions
41413 and Securities Regulation.

41414 Section 1319. Section 655.015, Florida Statutes, is



HB 1803

2003

41415 amended to read:

41416 655.015 Construction; standards to be observed by
 41417 commission and office ~~department~~.--

41418 (1) The financial institutions codes shall be liberally
 41419 construed and applied to promote their purposes and policies.

41420 (2) The purposes and policies as stated in s. 655.001
 41421 constitute standards to be observed by the commission and office
 41422 ~~department~~ in the exercise of their ~~its~~ discretionary powers
 41423 under the financial institutions codes, in the adoption of
 41424 rules, in the issuance of orders and declaratory statements, in
 41425 the examination and supervision of financial institutions, and
 41426 in all matters of construction and application of the financial
 41427 institutions codes required for any determination or action ~~by~~
 41428 ~~the department~~.

41429 (3) The headings, captions, and catchlines at the
 41430 beginning of sections, subsections, and paragraphs are for
 41431 convenience only, do not constitute any part of the statutes
 41432 comprising the financial institutions codes, do not constitute a
 41433 complete index of the financial institutions codes, are not
 41434 indicative of the intent of the financial institutions codes,
 41435 and may not be used in construing or interpreting the financial
 41436 institutions codes.

41437 Section 1320. Section 655.016, Florida Statutes, is
 41438 amended to read:

41439 655.016 Liability when acting upon rule, order, or
 41440 declaratory statement ~~issued by department~~.--No person acting,
 41441 or who has acted, in good faith reliance upon a rule, order, or
 41442 declaratory statement issued by the commission or office
 41443 ~~department~~ shall be subject to any criminal, civil, or
 41444 administrative liability for such action, notwithstanding a



HB 1803

2003

41445 subsequent decision by a court of competent jurisdiction
41446 invalidating the rule, order, or declaratory statement. In the
41447 case of an order or a declaratory statement which is not of
41448 general application, no person other than the person to whom the
41449 order or declaratory statement was issued is entitled to rely
41450 upon it, except upon material facts or circumstances which are
41451 substantially the same as those upon which the order or
41452 declaratory statement was based.

41453 Section 1321. Section 655.031, Florida Statutes, is
41454 amended to read:

41455 655.031 Administrative enforcement guidelines.--

41456 (1) In imposing any administrative remedy or penalty
41457 provided for in the financial institutions codes, the office
41458 ~~department~~ shall take into account the appropriateness of the
41459 penalty with respect to the size of the financial resources and
41460 good faith of the person charged, the gravity of the violation,
41461 the history of previous violations, and such other matters as
41462 justice may require.

41463 (2) All administrative proceedings under ss. 655.033 and
41464 655.037 shall be conducted in accordance with chapter 120. Any
41465 service required or authorized to be made by the office
41466 ~~department~~ under the financial institutions codes may be made by
41467 certified mail, return receipt requested, delivered to addressee
41468 only; by personal delivery; or in accordance with chapter 48.
41469 The service provided for hereunder is effective from the date of
41470 delivery.

41471 Section 1322. Section 655.032, Florida Statutes, is
41472 amended to read:

41473 655.032 Investigations, subpoenas, hearings, and
41474 witnesses.--



HB 1803

2003

41475 (1) The office ~~department~~ may make investigations, within
 41476 or outside this state, which it deems necessary to determine
 41477 whether a person has violated or is about to violate any
 41478 provision of the financial institutions codes or of the rules
 41479 adopted by the commission ~~department~~ pursuant to such codes.

41480 (2)(a) In the course of or in connection with an
 41481 investigation by the office ~~department~~ pursuant to the
 41482 provisions of subsection (1) or an investigation or examination
 41483 in connection with any application to the office ~~department~~ for
 41484 the organization or establishment of a state financial
 41485 institution or a branch thereof, and in connection with an
 41486 examination of a state financial institution, subsidiary, or
 41487 service corporation by the office ~~department~~, the office
 41488 ~~department~~, or any of its officers holding no lesser title and
 41489 position than examiner in charge or attorney at law, shall have
 41490 the power:

41491 1. To administer oaths and affirmations;
 41492 2. To take or cause to be taken testimony and depositions;
 41493 and

41494 3. To issue, revoke, quash, or modify subpoenas and
 41495 subpoenas duces tecum under the seal of the office ~~department~~ or
 41496 to cause any such subpoena or subpoena duces tecum to be issued
 41497 by any county court judge or clerk of the circuit court or
 41498 county court to require persons to be or appear before the
 41499 office ~~department~~ at a time and place to be therein named and to
 41500 bring such books, records, and documents for inspection as may
 41501 be therein designated. Such subpoenas may be served by a
 41502 representative of the office ~~department~~ or may be served as
 41503 otherwise provided for by law for the service of subpoenas.

41504 (b) In connection with any such investigation or



HB 1803

2003

41505 examination, the office ~~department~~ may permit a person to file a
41506 statement in writing, under oath or otherwise as the office
41507 ~~department~~ determines, as to facts and circumstances specified
41508 by the office ~~department~~.

41509 (3)(a) In the event of noncompliance with a subpoena
41510 issued or caused to be issued by the office ~~department~~ pursuant
41511 to this section, the office ~~department~~ may petition the circuit
41512 court of the county in which the person subpoenaed resides or
41513 has its principal place of business for an order requiring the
41514 subpoenaed person to appear and testify and to produce such
41515 books, records, and documents as are specified in such subpoena
41516 duces tecum. The office ~~department~~ is entitled to the summary
41517 procedure provided in s. 51.011, and the court shall advance the
41518 cause on its calendar.

41519 (b) A copy of the petition shall be served upon the person
41520 subpoenaed by any person authorized by this section to serve
41521 subpoenas, who shall make and file with the court an affidavit
41522 showing the time, place, and date of service.

41523 (c) At any hearing on any such petition, the person
41524 subpoenaed, or any person whose interests will be substantially
41525 affected by the investigation, examination, or subpoena, may
41526 appear and object to the subpoena and to the granting of the
41527 petition. The court may make any order which justice requires to
41528 protect a party or other person and his or her personal and
41529 property rights, including, but not limited to, protection from
41530 annoyance, embarrassment, oppression, or undue burden or
41531 expense.

41532 (d) Failure to comply with an order granting, in whole or
41533 in part, a petition for enforcement of a subpoena is a contempt
41534 of court.



HB 1803

2003

41535 (4) Witnesses shall be entitled to the same fees and
41536 mileage to which they might be entitled by law for attending as
41537 witnesses in the circuit court, except that no fees or mileage
41538 shall be allowed in the case of testimony of a financial
41539 institution-affiliated party if such testimony is taken at the
41540 principal office of the state financial institution, subsidiary,
41541 or service corporation or at the residence of the financial
41542 institution-affiliated party.

41543 (5) Reasonable and necessary expenses incurred by the
41544 office department and payable to persons in investigations may
41545 be assessed against such an applicant, state financial
41546 institution, subsidiary, service corporation, or financial
41547 institution-affiliated party on the basis of actual costs
41548 incurred. Assessable expenses include, but are not limited to:
41549 expenses for interpreters; expenses for communications; expenses
41550 for legal representation; expenses for economic, legal, or other
41551 research, analyses, and testimony; and fees and expenses for
41552 witnesses. The failure to reimburse the office department is a
41553 ground for denial of the application or for revocation of any
41554 approval thereof.

41555 Section 1323. Section 655.0321, Florida Statutes, is
41556 amended to read:

41557 655.0321 Restricted access to certain hearings,
41558 proceedings, and related documents.--The office department shall
41559 consider the public purposes specified in s. 119.14(4)(b) in
41560 determining whether the hearings and proceedings conducted
41561 pursuant to s. 655.033 for the issuance of cease and desist
41562 orders and s. 655.037 for the issuance of suspension or removal
41563 orders shall be closed and exempt from the provisions of s.
41564 286.011, and whether related documents shall be confidential and



HB 1803

2003

41565 exempt from the provisions of s. 119.07(1).

41566 Section 1324. Subsections (1), (3), and (4) of section
41567 655.0322, Florida Statutes, are amended to read:

41568 655.0322 Prohibited acts and practices; criminal
41569 penalties.--

41570 (1) As used in this section, the term "financial
41571 institution" means a financial institution as defined in s.
41572 655.50 which includes a state trust company, state or national
41573 bank, state or federal association, state or federal savings
41574 bank, state or federal credit union, Edge Act or agreement
41575 corporation, international bank agency, representative office or
41576 administrative office or other business entity as defined by the
41577 commission ~~department~~ by rule, whether organized under the laws
41578 of this state, the laws of another state, or the laws of the
41579 United States, which institution is located in this state.

41580 (3) It is unlawful for any financial institution-
41581 affiliated party to:

41582 (a) Knowingly receive or possess himself or herself of any
41583 of its property otherwise than in payment of a just demand, and,
41584 with intent to deceive or defraud, to omit to make or cause to
41585 be made a full and true entry thereof in its books and accounts,
41586 or concur in omitting to make any material entry thereof;

41587 (b) Embezzle, abstract, or misapply any money, property,
41588 or thing of value of the financial institution, subsidiary, or
41589 service corporation with intent to deceive or defraud such
41590 financial institution, subsidiary, or service corporation;

41591 (c) Knowingly make, draw, issue, put forth, or assign any
41592 certificate of deposit, draft, order, bill of exchange,
41593 acceptance, note, debenture, bond or other obligation, mortgage,
41594 judgment, or decree without authority from the board of



HB 1803

2003

41595 | directors of such financial institution;

41596 | (d) Make any false entry in any book, report, or statement
 41597 | of such financial institution, subsidiary, or service
 41598 | corporation with intent to deceive or defraud such financial
 41599 | institution or another person, firm, or corporation, or with
 41600 | intent to deceive the office ~~department~~, any other appropriate
 41601 | federal regulatory agency, or any authorized representative
 41602 | appointed to examine the affairs of such financial institution,
 41603 | subsidiary, or service corporation; or

41604 | (e) Deliver or disclose to the office ~~department~~ or any of
 41605 | its employees any examination report, report of condition,
 41606 | report of income and dividends, internal audit, account,
 41607 | statement, or document known by him or her to be fraudulent or
 41608 | false as to any material matter.

41609 |
 41610 |
 41611 | Any person who violates this subsection is guilty of a felony
 41612 | of the third degree, punishable as provided in s. 775.082, s.
 41613 | 775.083, or s. 775.084.

41614 | (4) It is unlawful for any financial institution-
 41615 | affiliated party to knowingly place among the assets of such
 41616 | financial institution, subsidiary, or service corporation any
 41617 | note, obligation, or security which the financial institution,
 41618 | subsidiary, or service corporation does not own or which to the
 41619 | individual's knowledge is fraudulent or otherwise worthless or
 41620 | for any such individual to represent to the office ~~department~~
 41621 | that any note, obligation, or security carried as an asset of
 41622 | such financial institution, subsidiary, or service corporation
 41623 | is the property of the financial institution, subsidiary, or
 41624 | service corporation and is genuine if it is known to such



HB 1803

2003

41625 individual that such representation is false or that such note,
 41626 obligation, or security is fraudulent or otherwise worthless.
 41627 Any person who violates this subsection is guilty of a felony of
 41628 the third degree, punishable as provided in s. 775.082, s.
 41629 775.083, or s. 775.084.

41630 Section 1325. Subsections (1), (3), and (6) of section
 41631 655.033, Florida Statutes, are amended to read:

41632 655.033 Cease and desist orders.--

41633 (1) The office ~~department~~ may issue and serve upon any
 41634 state financial institution, subsidiary, or service corporation,
 41635 or upon any financial institution-affiliated party, a complaint
 41636 stating charges whenever the office ~~department~~ has reason to
 41637 believe that such state financial institution, subsidiary,
 41638 service corporation, financial institution-affiliated party, or
 41639 individual named therein is engaging in or has engaged in
 41640 conduct that is:

- 41641 (a) An unsafe or unsound practice;
- 41642 (b) A violation of any law relating to the operation of a
 41643 financial institution;
- 41644 (c) A violation of any rule of the commission ~~department~~;
- 41645 (d) A violation of any order of the office ~~department~~;
- 41646 (e) A breach of any written agreement with the office
 41647 ~~department~~;
- 41648 (f) A prohibited act or practice pursuant to s. 655.0322;
 41649 or
- 41650 (g) A willful failure to provide information or documents
 41651 to the office ~~department~~ or any appropriate federal agency, or
 41652 any of its representatives, upon written request.

41653 (3) If no hearing is requested within the time allowed by
 41654 ss. 120.569 and 120.57, or if a hearing is held and the office



HB 1803

2003

41655 ~~department~~ finds that any of the charges are true, the office
41656 ~~department~~ may enter an order directing the state financial
41657 institution, subsidiary, service corporation, financial
41658 institution-affiliated party, or the individual named therein to
41659 cease and desist from engaging in the conduct complained of and
41660 to take corrective action.

41661 (6) Whenever the office ~~department~~ finds that conduct
41662 described in subsection (1) is likely to cause insolvency,
41663 substantial dissipation of assets or earnings of the state
41664 financial institution, subsidiary, or service corporation or
41665 substantial prejudice to the depositors, members, or
41666 shareholders, it may issue an emergency cease and desist order
41667 requiring the state financial institution, subsidiary, service
41668 corporation, or financial institution-affiliated party to
41669 immediately cease and desist from engaging in the conduct
41670 complained of and to take corrective action. The emergency
41671 order is effective immediately upon service of a copy of the
41672 order upon the state financial institution, subsidiary, service
41673 corporation, or financial institution-affiliated party and
41674 remains effective for 90 days. If the office ~~department~~ begins
41675 nonemergency cease and desist proceedings under subsection (1),
41676 the emergency order remains effective until the conclusion of
41677 the proceedings under ss. 120.569 and 120.57. Any emergency
41678 order entered under this subsection is confidential and exempt
41679 from s. 119.07(1) until the emergency order is made permanent,
41680 unless the office ~~department~~ finds that such confidentiality
41681 will result in substantial risk of financial loss to the public.

41682 Section 1326. Section 655.034, Florida Statutes, is
41683 amended to read:

41684 655.034 Injunctions.--Whenever a violation of the



HB 1803

2003

41685 financial institutions codes is threatened or impending and such
 41686 violation will cause substantial injury to a state financial
 41687 institution or to the depositors, members, creditors, or
 41688 stockholders thereof, the circuit court has jurisdiction to hear
 41689 any complaint filed by the office ~~department~~ and, upon proper
 41690 showing, to issue an injunction restraining such violation or
 41691 granting other such appropriate relief.

41692 Section 1327. Section 655.037, Florida Statutes, is
 41693 amended to read:

41694 655.037 Removal of a financial institution-affiliated
 41695 party by the office ~~department~~.--

41696 (1) The office ~~department~~ may issue and serve upon any
 41697 financial institution-affiliated party and upon the state
 41698 financial institution, subsidiary, or service corporation
 41699 involved, a complaint stating charges whenever the office
 41700 ~~department~~ has reason to believe that the financial institution-
 41701 affiliated party is engaging or has engaged in conduct that is:

41702 (a) An unsafe or unsound practice;

41703 (b) A prohibited act or practice;

41704 (c) A willful violation of any law relating to financial
 41705 institutions;

41706 (d) A violation of any other law involving fraud or moral
 41707 turpitude which constitutes a felony;

41708 (e) A violation of s. 655.50, relating to the Florida
 41709 Control of Money Laundering in Financial Institutions Act;
 41710 chapter 896, relating to offenses related to financial
 41711 transactions; or any similar state or federal law;

41712 (f) A willful violation of any rule of the commission
 41713 ~~department~~;

41714 (g) A willful violation of any order of the office



HB 1803

2003

41715 ~~department;~~

41716 (h) A willful breach of any written agreement with the
41717 office ~~department~~; or

41718 (i) An act of commission or omission or a practice which
41719 is a breach of trust or a breach of fiduciary duty.

41720 (2) The complaint must contain the statement of facts and
41721 notice of opportunity for a hearing pursuant to ss. 120.569 and
41722 120.57.

41723 (3) If no hearing is requested within the time allowed by
41724 ss. 120.569 and 120.57, or if a hearing is held and the office
41725 ~~department~~ finds that any of the charges in the complaint are
41726 true and that the state financial institution has suffered or
41727 will likely suffer loss or other damage or that the interests of
41728 the depositors, members, or shareholders could be seriously
41729 prejudiced by reason of such violation or practice or breach of
41730 fiduciary duty or that the financial institution-affiliated
41731 party has received financial gain by reason of such violation,
41732 practice, or breach of fiduciary duty, and that such violation,
41733 practice, or breach of fiduciary duty is one involving personal
41734 dishonesty on the part of such financial institution-affiliated
41735 party or a continuing disregard for the safety or soundness of
41736 the state financial institution, subsidiary, or service
41737 corporation, the office ~~department~~ may enter an order removing
41738 the financial institution-affiliated party or restricting or
41739 prohibiting participation by such financial institution-
41740 affiliated party in the affairs of that particular state
41741 financial institution, subsidiary, or service corporation or any
41742 other state financial institution, subsidiary, or service
41743 corporation.

41744 (4) If the financial institution-affiliated party fails to



HB 1803

2003

41745 respond to the complaint within the time allowed in ss. 120.569
41746 and 120.57, such failure constitutes a default and justifies the
41747 entry of an order of removal.

41748 (5) A contested or default order of removal is effective
41749 when reduced to writing and served on the state financial
41750 institution, subsidiary, or service corporation and the
41751 financial institution-affiliated party. An uncontested order of
41752 removal is effective as agreed.

41753 (6)(a) The chief executive officer, or the person holding
41754 the equivalent office, of a state financial institution shall
41755 promptly notify the office ~~department~~ if he or she has actual
41756 knowledge that any financial institution-affiliated party is
41757 charged with a felony in a state or federal court.

41758 (b) Whenever any financial institution-affiliated party is
41759 charged with a felony in a state or federal court, or in the
41760 courts of any foreign country with which the United States
41761 maintains diplomatic relations, and such charge alleges
41762 violation of any law involving fraud, currency transaction
41763 reporting, money laundering, theft, or moral turpitude and the
41764 charge under such foreign law is equivalent to a felony charge
41765 under state or federal law, the office ~~department~~ may enter an
41766 emergency order suspending such financial institution-affiliated
41767 party or restricting or prohibiting participation by such
41768 financial institution-affiliated party in the affairs of that
41769 particular state financial institution, subsidiary, or service
41770 corporation or any other financial institution, subsidiary, or
41771 service corporation, upon service of the order upon the state
41772 financial institution, subsidiary, or service corporation and
41773 the financial institution-affiliated party so charged. The
41774 order shall contain notice of opportunity for a hearing pursuant



HB 1803

2003

41775 to ss. 120.569 and 120.57, where the financial institution-
41776 affiliated party may request a postsuspension hearing to show
41777 that continued service to or participation in the affairs of the
41778 state financial institution, subsidiary, or service corporation
41779 does not pose a threat to the interests of the state financial
41780 institution's depositors, members, or stockholders, or threaten
41781 to impair public confidence in the state financial institution.

41782 In accordance with applicable commission ~~departmental~~ rules,
41783 the office ~~department~~ shall notify the financial institution-
41784 affiliated party whether the order suspending or prohibiting the
41785 financial institution-affiliated party from participation in the
41786 affairs of a state financial institution, subsidiary, or service
41787 corporation will be rescinded or otherwise modified. The
41788 emergency order will remain in effect, unless otherwise modified
41789 by the office ~~department~~, until the criminal charge is disposed
41790 of. The acquittal of the financial institution-affiliated party
41791 charged, or the final, unappealed dismissal of all charges
41792 against such person, will dissolve the emergency order, but will
41793 not prohibit the office ~~department~~ from instituting proceedings
41794 under subsection (1). If the financial institution-affiliated
41795 party charged is convicted or pleads guilty or nolo contendere,
41796 whether or not an adjudication of guilt is entered by the court,
41797 the emergency order becomes final.

41798 (7) Any financial institution-affiliated party removed
41799 from office pursuant to this section is not eligible for
41800 reelection to such position or to any official position in any
41801 financial institution in this state except with the written
41802 consent of the office ~~department~~. Any financial institution-
41803 affiliated party who is removed, restricted, or prohibited from
41804 participation in the affairs of a state financial institution



HB 1803

2003

41805 pursuant to this section may petition the office ~~department~~ for
 41806 modification or termination of any such removal, restriction, or
 41807 prohibition.

41808 (8) The resignation, termination of employment or
 41809 participation, or separation from a state financial institution,
 41810 subsidiary, or service corporation of the financial institution-
 41811 affiliated party does not affect the jurisdiction and authority
 41812 of the office ~~department~~ to issue any notice and proceed under
 41813 this section against such financial institution-affiliated
 41814 party, if such notice is served before the end of the 6-year
 41815 period beginning on the date such person ceases to be such a
 41816 financial institution-affiliated party with respect to such
 41817 state financial institution, subsidiary, or service corporation.

41818 Section 1328. Section 655.0385, Florida Statutes, is
 41819 amended to read:

41820 655.0385 Disapproval of directors and executive officers.-
 41821 -

41822 (1) Each state financial institution shall notify the
 41823 office ~~department~~ of the proposed appointment of any individual
 41824 to the board of directors or the employment of any individual as
 41825 an executive officer or equivalent position at least 60 days
 41826 before such appointment or employment becomes effective, if the
 41827 state financial institution:

- 41828 (a) Has been chartered for less than 2 years;
- 41829 (b) Has undergone a change in control or conversion within
 41830 the preceding 2 years. The office ~~department~~ may exempt a
 41831 financial institution from this paragraph if it operates in a
 41832 safe and sound manner;
- 41833 (c) Is not in compliance with the minimum capital
 41834 requirements applicable to such financial institution; or



HB 1803

2003

41835 (d) Is otherwise operating in an unsafe and unsound
41836 condition, as determined by the office ~~department~~, on the basis
41837 of such financial institution's most recent report of condition
41838 or report of examination.

41839 (2) A state financial institution may not appoint any
41840 individual to the board of directors, or employ any individual
41841 as an executive officer or equivalent position, if the office
41842 ~~department~~ issues a notice of disapproval with respect to that
41843 person.

41844 (3) The office ~~department~~ shall issue a notice of
41845 disapproval if the competence, experience, character, or
41846 integrity of the individual to be appointed or employed
41847 indicates that it is not in the best interests of the
41848 depositors, the members, or the public to permit the individual
41849 to be employed by or associated with the state financial
41850 institution.

41851 (4) The commission ~~department~~ may adopt rules to implement
41852 this section.

41853 Section 1329. Subsection (2) of section 655.0386, Florida
41854 Statutes, is amended to read:

41855 655.0386 Transactions with financial institution-
41856 affiliated parties.--

41857 (2) DISCLOSURE OF PERSONAL INTEREST.--Without limitation
41858 by any of the specific provisions of this section, the
41859 commission or office ~~department~~ may require the disclosure by
41860 financial institution-affiliated parties of their personal
41861 interests, directly or indirectly, in any business or
41862 transactions on behalf of or involving the state financial
41863 institution, subsidiary, or service corporation and of their
41864 control of or active participation in enterprises having



HB 1803

2003

41865 activities related to the business of the state financial
 41866 institution, subsidiary, or service corporation.

41867 Section 1330. Section 655.0391, Florida Statutes, is
 41868 amended to read:

41869 655.0391 Retention of supervision by office ~~department~~.--A
 41870 state financial institution may not cause to be performed, by
 41871 contract or otherwise, any financial-institution services for
 41872 itself, whether at or away from its main or branch office or on
 41873 or off its premises, unless assurances satisfactory to the
 41874 office ~~department~~ are furnished to the office ~~department~~ by both
 41875 the state financial institution and the person performing such
 41876 services that the performance thereof will be subject to
 41877 regulation and examination by the office ~~department~~ to the same
 41878 extent as if such services were being performed by the state
 41879 financial institution itself on its own premises.

41880 Section 1331. Section 655.041, Florida Statutes, is
 41881 amended to read:

41882 655.041 Administrative fines; enforcement.--

41883 (1) The office ~~department~~ may, by complaint, initiate a
 41884 proceeding pursuant to chapter 120 to impose an administrative
 41885 fine against any person found to have violated any provision of
 41886 the financial institutions codes or a cease and desist order of
 41887 the office ~~department~~ or any written agreement with the office
 41888 ~~department~~. No such proceeding shall be initiated and no fine
 41889 shall accrue pursuant to this section until after such person
 41890 has been notified in writing of the nature of the violation and
 41891 has been afforded a reasonable period of time, as set forth in
 41892 the notice, to correct the violation and has failed to do so.

41893 (2) Any such fine may not exceed \$2,500 a day for each
 41894 violation except as provided in this section.



HB 1803

2003

41895 (a) If the office ~~department~~ determines that any such
 41896 person has recklessly violated any provision of the financial
 41897 institutions codes or a cease and desist order of the office
 41898 ~~department~~ or any written agreement with the office ~~department~~,
 41899 which violation results in more than a minimal loss to a
 41900 financial institution, subsidiary, or service corporation, or a
 41901 pecuniary benefit to such person, the office ~~department~~ may
 41902 impose a fine not exceeding \$10,000 a day for each day the
 41903 violation continues.

41904 (b) If the office ~~department~~ determines that any such
 41905 person has knowingly violated any provision of the financial
 41906 institutions codes or a cease and desist order of the office
 41907 ~~department~~ or any written agreement with the office ~~department~~,
 41908 which violation results in more than a minimal loss to a
 41909 financial institution, subsidiary, or service corporation, or a
 41910 pecuniary benefit to such a person, the office ~~department~~ may
 41911 impose a fine not exceeding the lesser of \$500,000 per day or 1
 41912 percent of the total assets in the case of a financial
 41913 institution, or \$50,000 per day in any other case for each day
 41914 the violation continues.

41915 (c) The office ~~department~~ may by complaint impose an
 41916 administrative fine, not exceeding \$10,000 a day, upon any
 41917 financial institution-affiliated party, and upon a state
 41918 financial institution, subsidiary, service corporation, or
 41919 affiliate, who refuses to permit an examiner to examine a state
 41920 financial institution, subsidiary, or service corporation, who
 41921 refuses to permit an examiner to review the books and records of
 41922 an affiliate, or who refuses to give an examiner any information
 41923 required in the course of any examination or review of the books
 41924 and records.



HB 1803

2003

41925 (3) Any administrative fine levied by the office
41926 ~~department~~ may be enforced by the office ~~department~~ by
41927 appropriate proceedings in the circuit court of the county in
41928 which such person resides or in which the principal office of a
41929 state financial institution is located. In any administrative
41930 or judicial proceeding arising under this section, a party may
41931 elect to correct the violation asserted by the office ~~department~~
41932 and, upon doing so, any fine ceases to accrue; however, an
41933 election to correct the violation does not render any
41934 administrative or judicial proceeding moot.

41935 Section 1332. Section 655.043, Florida Statutes, is
41936 amended to read:

41937 655.043 Articles of incorporation; amendments; approval.--
41938 A bank, trust company, or association may not amend its articles
41939 of incorporation without the written approval of the office
41940 ~~department~~.

41941 Section 1333. Subsections (1) and (2) of section 655.044,
41942 Florida Statutes, are amended to read:

41943 655.044 Accounting practices; bad debts ineligible to be
41944 carried as assets.--

41945 (1) Except as otherwise provided by law, a state financial
41946 institution shall observe generally accepted accounting
41947 principles and practices. The commission ~~department~~ may
41948 authorize by rule exceptions to such accounting practices as
41949 necessary.

41950 (2) A state financial institution, subsidiary, or service
41951 corporation may not carry as an asset any note, obligation, or
41952 security which it does not own absolutely or which is known by
41953 the state financial institution to be fraudulent or otherwise
41954 worthless; and a state financial institution may not carry as an



HB 1803

2003

41955 asset, in any report to the office ~~department~~ or in any
 41956 published report, any note or other obligation which is past due
 41957 or upon which no interest has been paid for 1 year or longer or
 41958 which has been determined by the office ~~department~~ to be a loss.

41959 However, past due paper may be carried to the extent of the
 41960 reasonable value of any lien or other collateral given to secure
 41961 such obligation; and, if the obligation is in the process of
 41962 collection, it may be carried at its reasonable value as
 41963 determined by the board of directors. The office ~~department~~ may
 41964 order the revision of any value so determined hereunder.

41965 Section 1334. Section 655.045, Florida Statutes, is
 41966 amended to read:

41967 655.045 Examinations, reports, and internal audits;
 41968 penalty.--

41969 (1)(a) The office ~~department~~ shall conduct an examination
 41970 of the condition of each state financial institution during each
 41971 18-month period, beginning July 1, 1981. The office ~~department~~
 41972 may accept an examination made by the appropriate federal
 41973 regulator, insuring or guaranteeing corporation, or agency with
 41974 respect to the condition of the state financial institution or
 41975 may make a joint or concurrent examination with the appropriate
 41976 federal regulator, insuring or guaranteeing corporation, or
 41977 agency. However, at least once during each 36-month period
 41978 beginning on July 3, 1992, the office ~~department~~ shall conduct
 41979 an examination of each state financial institution in such a
 41980 manner as to allow the preparation of a complete examination
 41981 report not subject to the right of any federal or other non-
 41982 Florida entity to limit access to the information contained
 41983 therein. If, as a part of an examination or investigation of a
 41984 state financial institution, subsidiary, or service corporation,



HB 1803

2003

41985 the office ~~department~~ has reason to believe that an affiliate is
41986 engaged in an unsafe or unsound practice or that the affiliate
41987 has a negative impact on the state financial institution,
41988 subsidiary, or service corporation, then the office ~~department~~
41989 may review such books and records as are reasonably related to
41990 the examination or investigation. The office ~~department~~ may
41991 furnish a copy of all examinations or reviews made of such
41992 financial institutions or their affiliates to the state or
41993 federal financial institution regulators participating in the
41994 examination of a bank holding company; an association holding
41995 company; or any of their subsidiaries, service corporations, or
41996 affiliates; an insuring or guaranteeing corporation or agency or
41997 its representatives; or state financial institution regulators
41998 participating in the examination of a holding company or its
41999 subsidiaries.

42000 (b) The office ~~department~~ may recover the costs of
42001 examination and supervision of a state financial institution,
42002 subsidiary, or service corporation that is determined by the
42003 office ~~department~~ to be engaged in an unsafe or unsound
42004 practice. The office ~~department~~ may also recover the costs of
42005 any review conducted pursuant to paragraph (a) of any affiliate
42006 of a state financial institution determined by the office
42007 ~~department~~ to have contributed to an unsafe or unsound practice
42008 at a state financial institution, subsidiary, or service
42009 corporation.

42010 (c) For the purposes of this section, the term "costs"
42011 means the salary and travel expenses directly attributable to
42012 the field staff examining the state financial institution,
42013 subsidiary, or service corporation, and the travel expenses of
42014 any supervisory staff required as a result of examination



HB 1803

2003

42015 findings. The mailing of any costs incurred under this
 42016 subsection must be postmarked not later than 30 days after the
 42017 date of receipt of a notice stating that such costs are due.
 42018 The office ~~department~~ may levy a late payment of up to \$100 per
 42019 day or part thereof that a payment is overdue, unless it is
 42020 excused for good cause. However, for intentional late payment
 42021 of costs, the office ~~department~~ may levy an administrative fine
 42022 of up to \$1,000 per day for each day the payment is overdue.

42023 (d) The office ~~department~~ may require an audit of any
 42024 state financial institution, subsidiary, or service corporation
 42025 by an independent certified public accountant approved by the
 42026 office ~~department~~ whenever the office ~~department~~, after
 42027 conducting an examination of such state financial institution,
 42028 subsidiary, or service corporation, or after accepting an
 42029 examination of such state financial institution by the
 42030 appropriate state or federal regulatory agency, determines that
 42031 such an audit is necessary in order to ascertain the condition
 42032 of the financial institution, subsidiary, or service
 42033 corporation. The cost of such audit shall be paid by the state
 42034 financial institution, subsidiary, or state service corporation.

42035 (2)(a) ~~The department shall require~~ Each state financial
 42036 institution, subsidiary, or service corporation shall ~~to~~ submit
 42037 a report, at least four times each calendar year, as of such
 42038 dates as the commission or office determines ~~department may~~
 42039 ~~determine~~. Such report must include such information as the
 42040 commission ~~department~~ by rule requires for that type of
 42041 institution.

42042 (b) The office ~~department~~ shall levy an administrative
 42043 fine of up to \$100 per day for each day the report is past due,
 42044 unless it is excused for good cause. However, for intentional



HB 1803

2003

42045 late filing of the report required under paragraph (a), the
 42046 office department shall levy an administrative fine of up to
 42047 \$1,000 per day for each day the report is past due.

42048 (3)(a) ~~The department shall require~~ The board of directors
 42049 of each state financial institution or, in the case of a credit
 42050 union, the supervisory committee or audit committee shall ~~to~~
 42051 perform or cause to be performed, within each calendar year, an
 42052 internal audit of each state financial institution, subsidiary,
 42053 or service corporation and to file a copy of the report and
 42054 findings of such audit with the office department on a timely
 42055 basis. Such internal audit must include such information as the
 42056 commission department by rule requires for that type of
 42057 institution.

42058 (b) With the approval of the office department, the board
 42059 of directors or, in the case of a credit union, the supervisory
 42060 committee may elect, in lieu of such periodic audits, to adopt
 42061 and implement an adequate continuous audit system and procedure
 42062 which must include full, adequate, and continuous written
 42063 reports to, and review by, the board of directors or, in the
 42064 case of a credit union, the supervisory committee, together with
 42065 written statements of the actions taken thereon and reasons for
 42066 omissions to take actions, all of which shall be noted in the
 42067 minutes and filed among the records of the board of directors
 42068 or, in the case of a credit union, the supervisory committee.
 42069 If at any time such continuous audit system and procedure,
 42070 including the reports and statements, becomes inadequate, in the
 42071 judgment of the office department, the state financial
 42072 institution shall promptly make such changes as may be required
 42073 by the office department to cause the same to accomplish the
 42074 purpose of this section.



HB 1803

2003

42075 (4) A copy of the report of each examination must be
42076 furnished to the financial institution examined. Such report of
42077 examination shall be presented to the board of directors at its
42078 next regular or special meeting.

42079 Section 1335. Section 655.047, Florida Statutes, is
42080 amended to read:

42081 655.047 Assessments; financial institutions.--

42082 (1) Each state financial institution shall pay to the
42083 office department ~~department~~ a semiannual assessment based on the total
42084 assets as shown on the statement of condition of the financial
42085 institution on the last business day in December and the last
42086 business day in June of each year.

42087 (2) The mailing of a semiannual assessment must be
42088 postmarked on or before January 31 and July 31 of each year.
42089 The office department ~~department~~ may levy a late payment penalty of up to
42090 \$100 per day or part thereof that a semiannual assessment
42091 payment is overdue, unless it is excused for good cause.
42092 However, for intentional late payment of a semiannual
42093 assessment, the office department ~~department~~ shall levy an administrative
42094 fine of up to \$1,000 a day for each day the semiannual
42095 assessment is overdue.

42096 (3) The assessments required by this section cover the 6-
42097 month period following the first day of the month in which they
42098 are due. The office department ~~department~~ may prorate the amount of the
42099 semiannual assessment; however, no portion of a semiannual
42100 assessment is refundable.

42101 Section 1336. Section 655.049, Florida Statutes, is
42102 amended to read:

42103 655.049 Deposit of fees and assessments.--The assessments,
42104 application fees, late payment penalties, civil penalties,



HB 1803

2003

42105 administrative fines, and other fees or penalties provided for
 42106 in the financial institutions codes shall, in all cases, be paid
 42107 directly to the office ~~department~~, which shall deposit all
 42108 thereof in the Financial Institutions' Regulatory Trust Fund,
 42109 which fund shall be used by the office ~~department~~ to pay its
 42110 costs for administration of the financial institutions codes.
 42111 The office ~~department~~ shall determine and report to the
 42112 Legislature whether the fees and assessments provided in the
 42113 financial institutions codes and assessed against and collected
 42114 from the financial institutions that are subject to the
 42115 financial institutions codes support the office's ~~department's~~
 42116 expenditures. The Financial Institutions' Regulatory Trust Fund
 42117 is subject to the service charge imposed pursuant to chapter
 42118 215.

42119 Section 1337. Section 655.057, Florida Statutes, is
 42120 amended to read:

42121 655.057 Records; limited restrictions upon public access.-
 42122 -

42123 (1) Except as otherwise provided in this section and
 42124 except for such portions thereof which are otherwise public
 42125 record, all records and information relating to an investigation
 42126 by the office ~~department~~ are confidential and exempt from the
 42127 provisions of s. 119.07(1) until such investigation is completed
 42128 or ceases to be active. For purposes of this subsection, an
 42129 investigation is considered "active" while such investigation is
 42130 being conducted by the office ~~department~~ with a reasonable, good
 42131 faith belief that it may lead to the filing of administrative,
 42132 civil, or criminal proceedings. An investigation does not cease
 42133 to be active if the office ~~department~~ is proceeding with
 42134 reasonable dispatch, and there is a good faith belief that



HB 1803

2003

42135 action may be initiated by the office ~~department~~ or other
42136 administrative or law enforcement agency. After an investigation
42137 is completed or ceases to be active, portions of such records
42138 relating to the investigation shall be confidential and exempt
42139 from the provisions of s. 119.07(1) to the extent that
42140 disclosure would:

42141 (a) Jeopardize the integrity of another active
42142 investigation;

42143 (b) Impair the safety and soundness of the financial
42144 institution;

42145 (c) Reveal personal financial information;

42146 (d) Reveal the identity of a confidential source;

42147 (e) Defame or cause unwarranted damage to the good name or
42148 reputation of an individual or jeopardize the safety of an
42149 individual; or

42150 (f) Reveal investigative techniques or procedures.

42151 (2) Except as otherwise provided in this section and
42152 except for such portions thereof which are public record,
42153 reports of examinations, operations, or condition, including
42154 working papers, or portions thereof, prepared by, or for the use
42155 of, the office ~~department~~ or any state or federal agency
42156 responsible for the regulation or supervision of financial
42157 institutions in this state are confidential and exempt from the
42158 provisions of s. 119.07(1). However, such reports or papers or
42159 portions thereof may be released to:

42160 (a) The financial institution under examination;

42161 (b) Any holding company of which the financial institution
42162 is a subsidiary;

42163 (c) Proposed purchasers if necessary to protect the
42164 continued financial viability of the financial institution, upon



HB 1803

2003

42165 prior approval by the board of directors of such institution;

42166 (d) Persons proposing in good faith to acquire a
 42167 controlling interest in or to merge with the financial
 42168 institution, upon prior approval by the board of directors of
 42169 such financial institution;

42170 (e) Any officer, director, committee member, employee,
 42171 attorney, auditor, or independent auditor officially connected
 42172 with the financial institution, holding company, proposed
 42173 purchaser, or person seeking to acquire a controlling interest
 42174 in or merge with the financial institution; or

42175 (f) A fidelity insurance company, upon approval of the
 42176 financial institution's board of directors. However, a fidelity
 42177 insurance company may receive only that portion of an
 42178 examination report relating to a claim or investigation being
 42179 conducted by such fidelity insurance company.

42180 (g) Examination, operation, or condition reports of a
 42181 financial institution shall be released by the office ~~department~~
 42182 within 1 year after the appointment of a liquidator, receiver,
 42183 or conservator to such financial institution. However, any
 42184 portion of such reports which discloses the identities of
 42185 depositors, bondholders, members, borrowers, or stockholders,
 42186 other than directors, officers, or controlling stockholders of
 42187 the institution, shall remain confidential and exempt from the
 42188 provisions of s. 119.07(1).

42189
 42190 Any confidential information or records obtained from the office
 42191 ~~department~~ pursuant to this paragraph shall be maintained as
 42192 confidential and exempt from the provisions of s. 119.07(1).

42193 (3) The provisions of this section do not prevent or
 42194 restrict:



HB 1803

2003

42195 (a) Publishing reports required to be submitted to the
 42196 office department pursuant to s. 655.045(2)(a) or required by
 42197 applicable federal statutes or regulations to be published.

42198 (b) Furnishing records or information to any other state,
 42199 federal, or foreign agency responsible for the regulation or
 42200 supervision of financial institutions, including Federal Home
 42201 Loan Banks.

42202 (c) Furnishing records or information, in the case of a
 42203 credit union, to the Florida Credit Union Guaranty Corporation,
 42204 Inc.

42205 (d) Disclosing or publishing summaries of the condition of
 42206 financial institutions and general economic and similar
 42207 statistics and data, provided that the identity of a particular
 42208 financial institution is not disclosed.

42209 (e) Reporting any suspected criminal activity, with
 42210 supporting documents and information, to appropriate law
 42211 enforcement and prosecutorial agencies.

42212 (f) Furnishing information upon request to the Chief
 42213 Financial Officer or the Division of Treasury of the Department
 42214 of Financial Services ~~State Treasurer~~ regarding the financial
 42215 condition of any financial institution that is, or has applied
 42216 to be, designated as a qualified public depository pursuant to
 42217 chapter 280.

42218
 42219 Any confidential information or records obtained from the office
 42220 ~~department~~ pursuant to this subsection shall be maintained as
 42221 confidential and exempt from the provisions of s. 119.07(1).

42222 (4)(a) Orders of courts or of administrative law judges
 42223 for the production of confidential records or information shall
 42224 provide for inspection in camera by the court or the



HB 1803

2003

42225 administrative law judge and, after the court or administrative
 42226 law judge has made a determination that the documents requested
 42227 are relevant or would likely lead to the discovery of admissible
 42228 evidence, said documents shall be subject to further orders by
 42229 the court or the administrative law judge to protect the
 42230 confidentiality thereof. Any order directing the release of
 42231 information shall be immediately reviewable, and a petition by
 42232 the office ~~department~~ for review of such order shall
 42233 automatically stay further proceedings in the trial court or the
 42234 administrative hearing until the disposition of such petition by
 42235 the reviewing court. If any other party files such a petition
 42236 for review, it will operate as a stay of such proceedings only
 42237 upon order of the reviewing court.

42238 (b) Confidential records and information furnished
 42239 pursuant to a legislative subpoena shall be kept confidential by
 42240 the legislative body or committee which received the records or
 42241 information, except in a case involving investigation of charges
 42242 against a public official subject to impeachment or removal, and
 42243 then disclosure of such information shall be only to the extent
 42244 determined by the legislative body or committee to be necessary.

42245 (5) Every credit union and mutual association shall
 42246 maintain, in the principal office where its business is
 42247 transacted, full and correct records of the names and residences
 42248 of all the members of the credit union or mutual association.
 42249 Such records shall be subject to the inspection of all the
 42250 members of the credit union or mutual association, and the
 42251 officers authorized to assess taxes under state authority,
 42252 during business hours of each business day. A current list of
 42253 members shall be made available to the office's ~~department's~~
 42254 examiners for their inspection and, upon the request of the



HB 1803

2003

42255 office ~~department~~, shall be submitted to the office ~~department~~.

42256 Except as otherwise provided in this subsection, the list of the
 42257 members of the credit union or mutual association is
 42258 confidential and exempt from the provisions of s. 119.07(1).

42259 (6) Every bank, trust company, and stock association shall
 42260 maintain, in the principal office where its business is
 42261 transacted, full and complete records of the names and
 42262 residences of all the shareholders of the bank, trust company,
 42263 or stock association and the number of shares held by each.
 42264 Such records shall be subject to the inspection of all the
 42265 shareholders of the bank, trust company, or stock association,
 42266 and the officers authorized to assess taxes under state
 42267 authority, during business hours of each banking day. A current
 42268 list of shareholders shall be made available to the office's
 42269 ~~department's~~ examiners for their inspection and, upon the
 42270 request of the office ~~department~~, shall be submitted to the
 42271 office ~~department~~. Except as otherwise provided in this
 42272 subsection, any portion of this list which reveals the
 42273 identities of the shareholders is confidential and exempt from
 42274 the provisions of s. 119.07(1).

42275 (7) Materials supplied to the office ~~department~~ or to
 42276 employees of any financial institution by other governmental
 42277 agencies, federal or state, or the Florida Credit Union Guaranty
 42278 Corporation, Inc., shall remain the property of the submitting
 42279 agency or the corporation, and any document request must be made
 42280 to the appropriate agency. Any confidential documents supplied
 42281 to the office ~~department~~ or to employees of any financial
 42282 institution by other governmental agencies, federal or state, or
 42283 by the Florida Credit Union Guaranty Corporation, Inc., shall be
 42284 confidential and exempt from the provisions of s. 119.07(1).



HB 1803

2003

42285 Such information shall be made public only with the consent of
 42286 such agency or the corporation.

42287 (8) Examination reports, investigatory records,
 42288 applications, and related information compiled by the office
 42289 ~~department~~, or photographic copies thereof, shall be retained by
 42290 the office ~~department~~ for a period of at least 10 years.

42291 (9) A copy of any document on file with the office
 42292 ~~department~~ which is certified by the office ~~department~~ as being
 42293 a true copy may be introduced in evidence as if it were the
 42294 original. The commission ~~department~~ shall establish a schedule
 42295 of fees for preparing true copies of documents.

42296 (10) Any person who willfully discloses information made
 42297 confidential by this section is guilty of a felony of the third
 42298 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 42299 775.084.

42300 Section 1338. Subsection (1) of section 655.059, Florida
 42301 Statutes, is amended to read:

42302 655.059 Access to books and records; confidentiality;
 42303 penalty for disclosure.--

42304 (1) The books and records of a financial institution are
 42305 confidential and shall be made available for inspection and
 42306 examination only:

42307 (a) To the office ~~department~~ or its duly authorized
 42308 representative;

42309 (b) To any person duly authorized to act for the financial
 42310 institution;

42311 (c) To any federal or state instrumentality or agency
 42312 authorized to inspect or examine the books and records of an
 42313 insured financial institution;

42314 (d) With respect to an international banking corporation,



HB 1803

2003

42315 to the home-country supervisor of the corporation, provided:

42316 1. The supervisor provides advance notice to the office
 42317 ~~department~~ that the supervisor intends to examine the Florida
 42318 office of the corporation.

42319 2. The supervisor confirms to the office ~~department~~ that
 42320 the purpose of the examination is to ensure the safety and
 42321 soundness of the corporation.

42322 3. The books and records pertaining to customer deposit,
 42323 investment, and custodial accounts are not disclosed to the
 42324 supervisor.

42325 4. At any time during the conduct of the examination, the
 42326 office ~~department~~ reserves the right to have an examiner present
 42327 or to participate jointly in the examination.

42328
 42329 For purposes of this paragraph, "home-country supervisor" means
 42330 the governmental entity in the corporation's home country with
 42331 responsibility for the supervision and regulation of the
 42332 corporation;-

42333 (e) As compelled by a court of competent jurisdiction;

42334 (f) As compelled by legislative subpoena as provided by
 42335 law, in which case the provisions of s. 655.057 apply;

42336 (g) Pursuant to a subpoena, to any federal or state law
 42337 enforcement or prosecutorial instrumentality authorized to
 42338 investigate suspected criminal activity;

42339 (h) As authorized by the board of directors of the
 42340 financial institution; or

42341 (i) As provided in subsection (2).

42342 Section 1339. Section 655.061, Florida Statutes, is
 42343 amended to read:

42344 655.061 Competitive equality with federally organized or



HB 1803

2003

42345 chartered financial institutions.--Subject to the prior approval
 42346 of the office ~~department~~ pursuant to commission rule or office
 42347 order of general application, state financial institutions
 42348 subject to the financial institutions codes may make any loan or
 42349 investment or exercise any power which they could make or
 42350 exercise if incorporated or operating in this state as a
 42351 federally chartered or regulated financial institution of the
 42352 same type and are entitled to all privileges and protections
 42353 granted federally chartered or regulated financial institutions
 42354 of the same type under federal statutes and regulations. The
 42355 provisions of this section take precedence over, and must be
 42356 given effect over, any other general or specific provisions of
 42357 the financial institutions codes to the contrary. In issuing an
 42358 order or rule under this section, the office or commission
 42359 ~~department~~ shall consider the importance of maintaining a
 42360 competitive dual system of financial institutions and whether
 42361 such an order or rule is in the public interest.

42362 Section 1340. Section 655.071, Florida Statutes, is
 42363 amended to read:

42364 655.071 International banking facilities; definitions;
 42365 notice before establishment.--

42366 (1) "International banking facility" means a set of asset
 42367 and liability accounts segregated on the books and records of a
 42368 banking organization, as that term is defined in s. 199.023,
 42369 that includes only international banking facility deposits,
 42370 borrowings, and extensions of credit, as those terms shall be
 42371 defined by the commission ~~department~~ pursuant to subsection (2).

42372 (2) The commission ~~department~~ shall by rule define the
 42373 terms "deposit," "borrowing," and "extension of credit" as they
 42374 relate to the activities of international banking facilities.



HB 1803

2003

42375 These definitions shall take into account all transactions in
 42376 which international banking facilities are permitted to engage
 42377 by regulations of the Board of Governors of the Federal Reserve
 42378 System, as from time to time amended. When adopting
 42379 ~~promulgating~~ such rules, the commission ~~department~~ shall also
 42380 consider the public interest, including the need to maintain a
 42381 sound and competitive banking system, as well as the purpose of
 42382 this act, which is to create an environment conducive to the
 42383 conduct of an international banking business in the state.

42384 (3) Before establishing an international banking facility,
 42385 a state-chartered or state-licensed banking organization shall
 42386 notify the office ~~department~~ in the manner prescribed by rule of
 42387 the commission ~~department~~.

42388 Section 1341. Subsections (1) and (2) of section 655.411,
 42389 Florida Statutes, are amended to read:

42390 655.411 Conversion of charter.--

42391 (1) Any financial entity may apply to the office
 42392 ~~department~~ for permission to convert its charter without a
 42393 change of business form or convert its charter in order to do
 42394 business as another type of financial entity in accordance with
 42395 the following procedures:

42396 (a) The board of directors must approve a plan of
 42397 conversion by a vote of a majority of all the directors. The
 42398 plan must include a statement of:

42399 1. The type of financial entity which would result if the
 42400 application were approved and the proposed name under which it
 42401 would do business.

42402 2. The method and schedule for terminating any activities
 42403 and disposing of any assets or liabilities which would not
 42404 conform to the requirements applicable to the resulting



HB 1803

2003

42405 financial entity.

42406 3. The competitive impact of such change, including any
42407 effect on the availability of particular financial services in
42408 the market area served by the financial entity.

42409 4. Such financial data as may be required to determine
42410 compliance with the capital, reserve, and liquidity requirements
42411 applicable to the resulting financial entity.

42412 5. Such other information as the commission ~~department~~ may
42413 by rule require.

42414 (b) Following approval by the board of directors, the
42415 conversion plan, together with a certified copy of the
42416 authorizing resolution adopted by the board, must be submitted
42417 to the office ~~department~~ for approval before being submitted to
42418 the members or stockholders of the financial entity. The
42419 application for conversion must be in the such form prescribed
42420 by the commission, ~~and~~ contain such additional information as
42421 the commission or office ~~department~~ reasonably requires, and
42422 ~~must~~ be accompanied by a filing fee in accordance with s.
42423 657.066(4) or s. 658.73. Additionally, the office ~~department~~ is
42424 authorized to assess any financial entity, applying to convert
42425 pursuant to this section, a nonrefundable examination fee to
42426 cover the actual costs of any examination required as a part of
42427 the application process.

42428 (c) The office ~~department~~ shall approve the plan if it
42429 finds that:

42430 1. The resulting financial entity would have an adequate
42431 capital structure with regard to its activities and its deposit
42432 liabilities.

42433 2. The proposed conversion would not cause a substantially
42434 adverse effect on the financial condition of any financial



HB 1803

2003

42435 entity already established in the primary service area.

42436 3. The officers and directors have sufficient experience,
42437 ability, and standing to indicate reasonable promise for
42438 successful operation of the resulting financial entity.

42439 4. The schedule for termination of any nonconforming
42440 activities and disposition of any nonconforming assets and
42441 liabilities is reasonably prompt, and the plan for such
42442 termination and disposition does not include any unsafe or
42443 unsound practice.

42444 5. None of the officers or directors has been convicted
42445 of, or pled guilty or nolo contendere to, a violation of s.
42446 655.50, relating to the Florida Control of Money Laundering in
42447 Financial Institutions Act; chapter 896, relating to offenses
42448 related to financial transactions; or any similar state or
42449 federal law.

42450
42451 If the office ~~department~~ disapproves the plan, it shall state
42452 its objections and give an opportunity to the parties to amend
42453 the plan to overcome such objections. The office ~~department~~ may
42454 deny an application by any financial entity which is subject to
42455 a cease and desist order or other supervisory restriction or
42456 order imposed by any state or federal supervisory authority,
42457 insurer, or guarantor.

42458 (d) If the office ~~department~~ approves the plan, it may be
42459 submitted to the members or stockholders at an annual meeting or
42460 at any special meeting called to consider such action. Upon a
42461 favorable vote of a majority of the total number of votes
42462 eligible to be cast or, in the case of a credit union, a
42463 majority of the members present at the meeting, the plan is
42464 adopted. Copies of the minutes of the proceedings of such



HB 1803

2003

42465 meeting of the members or stockholders, verified by the
42466 affidavit of an officer, as established in the bylaws of the
42467 financial institution, must be filed with the office ~~department~~
42468 within 10 days after such meeting. Such verified copies of the
42469 proceedings of such meeting are presumptive evidence of the
42470 holding and action of such meeting. If the members or
42471 stockholders approve the plan of conversion, the directors shall
42472 then execute new articles of incorporation or amendments to
42473 existing articles and two copies of the new bylaws. The
42474 directors shall insert in the articles of incorporation the
42475 following: "This . . . (bank, association, etc.) . . . is
42476 incorporated by conversion from a . . . (national bank, state
42477 association, etc.)"

42478 (e) If the members or stockholders adopt the plan of
42479 conversion, the financial entity shall apply to the appropriate
42480 insurer for a commitment for insurance of accounts for the
42481 shares and deposits of the resulting financial entity.

42482 (f) The plan shall not take effect until the office
42483 ~~department~~ has received notice that the commitment for insurance
42484 of accounts has been given by the insurer. Upon receipt of such
42485 notice, the office ~~department~~ shall issue a new charter to the
42486 financial entity authorizing it to transact business pursuant to
42487 applicable law.

42488 (2) The commission ~~department~~ may provide by rule for any
42489 additional procedures to be followed by any national or federal
42490 financial entity seeking to convert its charter pursuant to this
42491 section.

42492 Section 1342. Subsection (1) of section 655.412, Florida
42493 Statutes, is amended to read:

42494 655.412 Merger and consolidation.--



HB 1803

2003

42495 (1) With the approval of the office ~~department~~, any
42496 capital stock financial institution may be merged into or
42497 consolidated with another capital stock financial institution or
42498 a mutual financial institution. The provisions of ss. 658.41-
42499 658.45 govern any merger or consolidation pursuant to this
42500 subsection; and, for this purpose, references therein to banks
42501 and trust companies are deemed to refer to capital stock
42502 financial institutions.

42503 Section 1343. Section 655.414, Florida Statutes. is
42504 amended to read:

42505 655.414 Acquisition of assets; assumption of liabilities.-
42506 -With prior approval of the office ~~department~~ and upon such
42507 conditions as the commission ~~department~~ prescribes by rule, any
42508 financial entity may acquire all or substantially all of the
42509 assets of, or assume the liabilities of, any other financial
42510 entity in accordance with the procedures and subject to the
42511 following conditions and limitations:

42512 (1) ADOPTION OF A PLAN.--The board of directors of the
42513 acquiring or assuming financial entity and the board of
42514 directors of the transferring financial entity must adopt, by a
42515 majority vote, a plan for such acquisition, assumption, or sale
42516 on such terms as are mutually agreed upon. The plan must
42517 include:

42518 (a) The names and types of financial entities involved.

42519 (b) A statement setting forth the material terms of the
42520 proposed acquisition, assumption, or sale, including the plan
42521 for disposition of all assets and liabilities not subject to the
42522 plan.

42523 (c) A provision for liquidation of the transferring
42524 financial entity upon execution of the plan.



HB 1803

2003

42525 (d) A statement that the entire transaction is subject to
 42526 written approval of the office ~~department~~ and approval of the
 42527 members or stockholders of the transferring financial entity.

42528 (e) If a stock financial institution is the transferring
 42529 financial entity and the proposed sale is not to be for cash, a
 42530 clear and concise statement that dissenting stockholders of such
 42531 financial entity are entitled to the rights set forth in s.
 42532 658.44(4) and (5).

42533 (f) The proposed effective date of such acquisition,
 42534 assumption, or sale and such other information and provisions as
 42535 may be necessary to execute the transaction or as may be
 42536 required by the office ~~department~~.

42537 (2) APPROVAL OF OFFICE ~~DEPARTMENT~~.--Following approval by
 42538 the board of directors of each participating financial entity,
 42539 the plan, together with certified copies of the authorizing
 42540 resolutions adopted by the boards and a completed application
 42541 with a nonrefundable filing fee, must be forwarded to the office
 42542 ~~department~~ for its approval or disapproval. The office
 42543 ~~department~~ shall approve the plan of acquisition, assumption, or
 42544 sale if it appears that:

42545 (a) The resulting financial entity would have an adequate
 42546 capital structure in relation to its activities and its deposit
 42547 liabilities;

42548 (b) The plan is fair to all parties; and

42549 (c) The plan is not contrary to the public interest.

42550

42551 If the office ~~department~~ disapproves the plan, it shall state
 42552 its objections and give an opportunity to the parties to amend
 42553 the plan to overcome such objections.

42554 (3) VOTE OF MEMBERS OR STOCKHOLDERS.--If the office



HB 1803

2003

42555 ~~department~~ approves the plan, it may be submitted to the members
 42556 or stockholders of the transferring financial entity at an
 42557 annual meeting or at any special meeting called to consider such
 42558 action. Upon a favorable vote of 51 percent or more of the total
 42559 number of votes eligible to be cast or, in the case of a credit
 42560 union, 51 percent or more of the members present at the meeting,
 42561 the plan is adopted.

42562 (4) ADOPTED PLAN; CERTIFICATE; ABANDONMENT.--

42563 (a) If the plan is adopted by the members or stockholders
 42564 of the transferring financial entity, the president or vice
 42565 president and the cashier, manager, or corporate secretary of
 42566 such financial entity shall submit the adopted plan to the
 42567 office ~~department~~, together with a certified copy of the
 42568 resolution of the members or stockholders approving it.

42569 (b) Upon receipt of the certified copies and evidence that
 42570 the participating financial entities have complied with all
 42571 applicable federal law and regulations, the office ~~department~~
 42572 shall certify, in writing, to the participants that the plan has
 42573 been approved.

42574 (c) Notwithstanding approval of the members or
 42575 stockholders or certification by the office ~~department~~, the
 42576 board of directors of the transferring financial entity may, in
 42577 its discretion, abandon such a transaction without further
 42578 action or approval by the members or stockholders, subject to
 42579 the rights of third parties under any contracts relating
 42580 thereto.

42581 (5) FEDERALLY CHARTERED INSTITUTION AS A PARTICIPANT.--If
 42582 one of the participants in a transaction under this section is a
 42583 federally chartered financial entity, all participants must also
 42584 comply with such requirements as may be imposed by federal law



HB 1803

2003

42585 for such an acquisition, assumption, or sale and provide
42586 evidence of such compliance to the office ~~department~~ as a
42587 condition precedent to the issuance of a certificate authorizing
42588 the transaction; however, if the purchasing or assuming
42589 financial entity is a federally chartered financial entity,
42590 approval of the office ~~department~~ is not required.

42591 (6) STOCK INSTITUTION ACQUIRING MUTUAL INSTITUTION.--A
42592 mutual financial institution may not sell all or substantially
42593 all of its assets to a stock financial entity until it has first
42594 converted into a capital stock financial institution in
42595 accordance with s. 665.033(1) and (2). For this purpose,
42596 references in s. 665.033(1) and (2) to associations are deemed
42597 to refer also to credit unions; but, in the case of a credit
42598 union, the provision therein concerning proxy statements does
42599 not apply.

42600 Section 1344. Section 655.416, Florida Statutes, is
42601 amended to read:

42602 655.416 Book value of assets.--Upon the effective date of
42603 a merger, consolidation, conversion, or acquisition pursuant to
42604 ss. 655.41-655.419, an asset may not be carried on the books of
42605 the resulting financial entity at a valuation higher than that
42606 at which it was carried on the books of a participating or
42607 converting financial entity at the time of its last examination
42608 by a state or federal examiner before the effective date of such
42609 merger, consolidation, conversion, or acquisition, without
42610 written approval from the office ~~department~~.

42611 Section 1345. Subsections (3) and (4) of section 655.418,
42612 Florida Statutes, are amended to read:

42613 655.418 Nonconforming activities; cessation.--If, as a
42614 result of a merger, consolidation, conversion, or acquisition



HB 1803

2003

42615 pursuant to ss. 655.41-655.419, the resulting financial entity
 42616 is to be of a different type or of a different character than
 42617 any one or all of the participating or converting financial
 42618 entities, such resulting financial entity will be subject to the
 42619 following conditions and limitations:

42620 (3) COMPLIANCE WITH LENDING AND INVESTMENT LIMITATIONS.--
 42621 If, as a result of such merger, consolidation, conversion, or
 42622 acquisition, the resulting financial entity will exceed any
 42623 lending, investment, or other limitations imposed by law, the
 42624 financial entity shall conform to such limitations within such
 42625 period of time as is established by the office ~~department~~.

42626 (4) DIVESTITURE.--The office ~~department~~ may, as a
 42627 condition to such merger, consolidation, conversion, or
 42628 acquisition, require a nonconforming activity to be divested in
 42629 accordance with such additional requirements as it considers
 42630 appropriate under the circumstances.

42631 Section 1346. Subsection (2), paragraph (f) of subsection
 42632 (3), paragraph (a) of subsection(4), and subsections (5), (6),
 42633 (7), (8), and (9) of section 655.50, Florida Statutes, are
 42634 amended to read:

42635 655.50 Florida Control of Money Laundering in Financial
 42636 Institutions Act; reports of transactions involving currency or
 42637 monetary instruments; when required; purpose; definitions;
 42638 penalties.--

42639 (2) It is the purpose of this section to require
 42640 submission to the office ~~department~~ of certain reports and
 42641 maintenance of certain records of transactions involving
 42642 currency or monetary instruments when such reports and records
 42643 deter the use of financial institutions to conceal the proceeds
 42644 of criminal activity and have a high degree of usefulness in



HB 1803

2003

42645 criminal, tax, or regulatory investigations or proceedings.

42646 (3) As used in this section, the term:

42647 (f) "Report" means a report of each deposit, withdrawal,
42648 exchange of currency, or other payments or transfer, by,
42649 through, or to that financial institution, that involves a
42650 transaction required or authorized to be reported by this
42651 section, and includes the electronic submission of such
42652 information in the manner provided for by rule of the commission
42653 ~~department~~.

42654 (4)(a) Every financial institution shall keep a record of
42655 each financial transaction occurring in this state known to it
42656 to involve currency or other monetary instrument, as the
42657 commission ~~department~~ prescribes by rule, of a value in excess
42658 of \$10,000, to involve the proceeds of specified unlawful
42659 activity, or to be designed to evade the reporting requirements
42660 of this section, chapter 896, or any similar state or federal
42661 law and shall maintain appropriate procedures to ensure
42662 compliance with this section, chapter 896, and any other similar
42663 state or federal law.

42664 (5)(a) Each financial institution shall file a report with
42665 the office ~~department~~ of the record required under paragraphs
42666 (4)(a) and (b) and any record maintained pursuant to
42667 paragraph(4)(c). Each record filed pursuant to subsection (4)
42668 must be filed at such time and contain such information as the
42669 commission ~~department~~ requires by rule.

42670 (b) The timely filing of the report required by 31 U.S.C.
42671 s. 5313 with the appropriate federal agency is deemed compliance
42672 with the reporting requirements of this subsection unless the
42673 reports are not regularly and comprehensively transmitted by the
42674 federal agency to the office ~~department~~.



HB 1803

2003

42675 (6) Each financial institution shall maintain a record of
42676 each designation of a person granted exemption under the
42677 authority of 31 U.S.C. s. 5313, including any name, address, and
42678 taxpayer identification number of the exempt person, as well as
42679 the name and address of the financial institution and the
42680 signature of the financial institution official designating the
42681 exempt person. Such record of exemptions shall be made available
42682 to the office ~~department~~ for inspection and copying and shall be
42683 submitted to the office ~~department~~ within 15 days after request.

42684 (7) All reports and records filed with the office
42685 ~~department~~ pursuant to this section are confidential and exempt
42686 from s. 119.07(1). However, the office ~~department~~ shall provide
42687 any report filed pursuant to this section, or information
42688 contained therein, to federal, state, and local law enforcement
42689 and prosecutorial agencies, and any federal or state agency
42690 responsible for the regulation or supervision of financial
42691 institutions.

42692 (8)(a) The office ~~department~~ shall retain a copy of all
42693 reports received under subsection (4) for a minimum of 5
42694 calendar years after receipt of the report. However, if a report
42695 or information contained in a report is known by the office
42696 ~~department~~ to be the subject of an existing criminal proceeding,
42697 the report shall be retained for a minimum of 10 calendar years
42698 after receipt of the report.

42699 (b) Each financial institution shall maintain for a
42700 minimum of 5 calendar years full and complete records of all
42701 financial transactions, including all records required by 31
42702 C.F.R. parts 103.33 and 103.34.

42703 (c) The financial institution shall retain a copy of all
42704 reports filed with the office ~~department~~ under subsection (4)



HB 1803

2003

42705 for a minimum of 5 calendar years after submission of the
42706 report. However, if a report or information contained in a
42707 report is known by the financial institution to be the subject
42708 of an existing criminal proceeding, the report shall be retained
42709 for a minimum of 10 calendar years after submission of the
42710 report.

42711 (d) The financial institution shall retain a copy of all
42712 records of exemption for each designation of exempt person made
42713 pursuant to subsection(6) for a minimum of 5 calendar years
42714 after termination of exempt status of such customer. However, if
42715 it is known by the financial institution that the customer or
42716 the transactions of the customer are the subject of an existing
42717 criminal proceeding, the records shall be retained for a minimum
42718 of 10 calendar years after termination of exempt status of such
42719 customer.

42720 (9) In addition to any other power conferred upon it to
42721 enforce and administer this chapter and the financial
42722 institutions codes, the office ~~department~~ may:

42723 (a) Bring an action in any court of competent jurisdiction
42724 to enforce or administer this section. In such action, the
42725 office ~~department~~ may seek award of any civil penalty authorized
42726 by law and any other appropriate relief at law or equity.

42727 (b) Pursuant to s. 655.033, issue and serve upon a person
42728 an order requiring such person to cease and desist and take
42729 corrective action whenever the office ~~department~~ finds that such
42730 person is violating, has violated, or is about to violate any
42731 provision of this section, chapter 896, or any similar state or
42732 federal law; any rule or order adopted under this section,
42733 chapter 896, or any similar state or federal law; or any written
42734 agreement related to this section, chapter 896, or any similar



HB 1803

2003

42735 state or federal law and entered into with the office
42736 ~~department~~.

42737 (c) Pursuant to s. 655.037, issue and serve upon any
42738 person an order of removal whenever the office ~~department~~ finds
42739 that such person is violating, has violated, or is about to
42740 violate any provision of this section, chapter 896, or any
42741 similar state or federal law; any rule or order adopted under
42742 this section, chapter 896, or any similar state or federal law;
42743 or any written agreement related to this section, chapter 896,
42744 or any similar state or federal law and entered into with the
42745 office ~~department~~.

42746 (d) Impose and collect an administrative fine against any
42747 person found to have violated any provision of this section,
42748 chapter 896, or any similar state or federal law; any rule or
42749 order adopted under this section, chapter 896, or any similar
42750 state or federal law; or any written agreement related to this
42751 section, chapter 896, or any similar state or federal law and
42752 entered into with the office ~~department~~, in an amount not
42753 exceeding \$10,000 a day for each willful violation or \$500 a day
42754 for each negligent violation.

42755 Section 1347. Section 655.60, Florida Statutes, is amended
42756 to read:

42757 655.60 Appraisals.--

42758 (1) The office ~~department~~ is authorized to cause to be
42759 made appraisals of real estate or other property held by any
42760 state financial institution, subsidiary, or service corporation
42761 or securing the assets of the state financial institution,
42762 subsidiary, or service corporation when specific facts or
42763 information with respect to real estate or other property held,
42764 secured loans, or lending, or when in its opinion the state



HB 1803

2003

42765 financial institution's policies, practices, operating results,
42766 and trends give evidence that the state financial institution's
42767 appraisals or evaluations of ability to make payments may be
42768 excessive, that lending or investment may be of a marginal
42769 nature, that appraisal policies and loan practices may not
42770 conform with generally accepted and established professional
42771 standards, or that real estate or other property held by the
42772 state financial institution, subsidiary, or service corporation
42773 or assets secured by real estate or other property are
42774 overvalued. In lieu of causing such appraisals to be made, the
42775 office ~~department~~ may accept any appraisal caused to be made by
42776 an appropriate state or federal regulatory agency or other
42777 insuring agency or corporation of a state financial institution.

42778 Unless otherwise ordered by the office ~~department~~, an appraisal
42779 of real estate or other property pursuant to this section must
42780 be made by a licensed or certified appraiser or appraisers
42781 selected by the office ~~department~~, and the cost of such
42782 appraisal shall be paid promptly by such state financial
42783 institution, subsidiary, or service corporation directly to such
42784 appraiser or appraisers upon receipt by the state financial
42785 institution of a statement of such cost bearing the written
42786 approval of the office ~~department~~. A copy of the report of each
42787 appraisal caused to be made by the office ~~department~~ pursuant to
42788 this section shall be furnished to the state financial
42789 institution, subsidiary, or service corporation within a
42790 reasonable time, not exceeding 60 days, following the completion
42791 of such appraisal and may be furnished to the insuring agency or
42792 corporation or federal or state regulatory agency.

42793 (2) A state financial institution may not make loans based
42794 on the security of real estate unless appraisal standards and



HB 1803

2003

42795 policies have been previously established by the board of
 42796 directors. Such standards must be in written form and include,
 42797 without limitation, information required by rules of the
 42798 commission ~~department~~.

42799 (3) If any appraisal required pursuant to this section
 42800 discloses that any asset of a state financial institution,
 42801 subsidiary, or service corporation is overvalued on its books,
 42802 the office ~~department~~ may require the state financial
 42803 institution, subsidiary, or service corporation to charge off
 42804 such asset or portion thereof pursuant to s. 655.044.

42805 Section 1348. Section 655.762, Florida Statutes, is
 42806 amended to read:

42807 655.762 Sale of assets.--A state financial institution may
 42808 sell any asset in the ordinary course of business or with the
 42809 approval of the office ~~department~~ in any other circumstances.

42810 Section 1349. Subsection (6) of section 655.89, Florida
 42811 Statutes, is amended to read:

42812 655.89 Legal holidays; business days; business and
 42813 transactions.--

42814 (6) With prior written approval of the office ~~department~~,
 42815 an institution may designate another day or other days on which
 42816 the institution may be closed and which day or days will not be
 42817 considered business days.

42818 Section 1350. Paragraph (a) of subsection (1) of section
 42819 655.90, Florida Statutes, is amended to read:

42820 655.90 Closing during emergencies and other special days.-

42821 -

42822 (1) DEFINITIONS.--As used in this section, the term:

42823 (a) "Commissioner" means the director of the Office of
 42824 Financial Institutions and Securities Regulation ~~officer of this~~



HB 1803

2003

42825 ~~state designated by law as the head of the Department of Banking~~
42826 ~~and Finance~~ and any other person lawfully exercising such
42827 powers, ~~whether as a deputy to such officer, as a director,~~
42828 ~~bureau chief, or financial administrator of or within such~~
42829 ~~department, or otherwise.~~

42830 Section 1351. Subsection (3) of section 655.922, Florida
42831 Statutes, is amended to read:

42832 655.922 Banking business by unauthorized persons; use of
42833 name.--

42834 (3) Any court, in a proceeding brought by the office
42835 ~~department~~, by any financial institution the principal place of
42836 business of which is in this state, or by any other person
42837 residing, or whose principal place of business is located, in
42838 this state and whose interests are substantially affected
42839 thereby, may enjoin any person from violating any of the
42840 provisions of this section. For the purposes of this
42841 subsection, the interests of a trade organization or association
42842 are deemed to be substantially affected if the interests of any
42843 of its members are so affected. In addition, the office
42844 ~~department~~ may issue and serve upon any person who violates any
42845 of the provisions of this section a complaint seeking a cease
42846 and desist order in accordance with the procedures and in the
42847 manner prescribed by s. 655.033.

42848 Section 1352. Subsection (1) of section 655.942, Florida
42849 Statutes, is amended to read:

42850 655.942 Standards of conduct; institutions.--

42851 (1) A financial institution that ~~which~~ is licensed or
42852 authorized to do business pursuant to the financial institutions
42853 codes, or its officers, directors, or employees may not make or
42854 grant any loan or gratuity to any employee of the office



HB 1803

2003

42855 ~~department~~ who has authority to examine or otherwise supervise
42856 such financial institution.

42857 Section 1353. Section 655.943, Florida Statutes, is
42858 amended to read:

42859 655.943 Applications; verification.--All information
42860 required by the financial institutions codes or rule of the
42861 commission ~~department~~ to be furnished in conjunction with
42862 applications to form, acquire or acquire assets of, merge, or
42863 change control of a financial institution must be verified by
42864 the office ~~department~~ by all reasonable means available. The
42865 office ~~department~~ shall conduct a detailed review of all
42866 financial information provided by an applicant, including a
42867 review of assets totaling 5 percent or more of the applicant's
42868 net worth.

42869 Section 1354. Subsection (1), paragraph (b) of subsection
42870 (2), and paragraph (a) of subsection (4) of section 655.948,
42871 Florida Statutes, are amended to read:

42872 655.948 Significant events; notice required.--

42873 (1) Unless exempted by the office ~~department~~ pursuant to
42874 subsection (4), every financial institution shall notify the
42875 office ~~department~~ of the occurrence of any of the events listed
42876 in subsection (2) by filing with the office ~~department~~ a
42877 disclosure in a form to be specified by the commission
42878 ~~department~~. The form shall include the number and caption of all
42879 applicable events, along with a summary of each. Completed forms
42880 shall be certified for authenticity and accuracy by the chief
42881 executive officer of the financial institution.

42882 (2) Events for which disclosure forms must be filed and
42883 the filing schedule for each are as follows:

42884 (b) Every financial institution shall notify the office



HB 1803

2003

42885 ~~department~~ within 30 days of the existence of any asset which is
 42886 defined as a nonaccrual asset and which is in excess of 15
 42887 percent of total assets.

42888 (4)(a) The office ~~department~~ must exempt a financial
 42889 institution from any of the provisions of this section if the
 42890 office ~~department~~ determines that such financial institution is
 42891 operating in a safe and sound manner pursuant to commission
 42892 ~~departmental~~ rules relating to safe and sound operations. The
 42893 commission ~~department~~, ~~prior to granting any such exemption,~~
 42894 shall adopt rules defining the term "safe and sound" and
 42895 explicitly stating the criteria which shall constitute operating
 42896 in a safe and sound manner.

42897 Section 1355. Section 655.949, Florida Statutes, is
 42898 amended to read:

42899 655.949 ~~Department~~ Personnel; qualifications.--~~Before~~
 42900 ~~January 1, 1993,~~ The office ~~department~~ shall establish and
 42901 publish educational, professional, and other appropriate
 42902 qualifications for each position in the office ~~department~~ and
 42903 ~~the Office of the Comptroller~~ authorized to participate in the
 42904 regulation of financial institutions, including positions with
 42905 the authority to overrule the actions or decisions of
 42906 professional examiners or legal staff in their exercise of their
 42907 duties under the financial institutions codes ~~excepting the~~
 42908 ~~position of assistant comptroller~~. Such qualifications shall
 42909 contain at a minimum sufficient experience and expertise in the
 42910 regulation of financial institutions as to clearly justify the
 42911 exercise of authority to overrule the actions or decisions of
 42912 professional examiners or legal staff.

42913 Section 1356. Section 655.963, Florida Statutes, is
 42914 amended to read:



HB 1803

2003

42915 655.963 Access devices.--Customers receiving access
 42916 devices shall be furnished by the respective issuers thereof
 42917 with such information regarding safety precautions as the
 42918 commission ~~department~~ may require by rule. This information
 42919 shall be furnished by personally delivering or mailing the
 42920 information to each customer whose mailing address as to the
 42921 account to which the access device relates is in this state.
 42922 Such information shall be furnished with respect to access
 42923 devices issued on or after October 1, 1994, at or before the
 42924 time the customer is furnished with his or her access device.
 42925 With respect to a customer to whom an "accepted access device,"
 42926 as defined in Federal Reserve Board Regulation E, 12 C.F.R. part
 42927 205, has been issued prior to October 1, 1994, the information
 42928 shall be delivered on or before 6 months from October 1, 1994.
 42929 Only one notice need be furnished per household, and if access
 42930 devices are furnished to more than one customer for a single
 42931 account or set of accounts or on the basis of a single
 42932 application or other request for access devices, only a single
 42933 notice need be furnished in satisfaction of the notification
 42934 responsibilities as to those customers. The information may be
 42935 included with other disclosures related to the access device
 42936 furnished to the customer, such as with any initial or periodic
 42937 disclosure statement furnished pursuant to the Electronic Fund
 42938 Transfer Act.

42939 Section 1357. Section 657.002, Florida Statutes, is
 42940 amended to read:

42941 657.002 Definitions.--As used in this part:

- 42942 (1) "Capital" means shares, deposits, and equity.
- 42943 (2) "Central credit union" means a credit union the
- 42944 membership of which includes, but is not limited to, other



HB 1803

2003

42945 credit unions, members of credit unions, credit union employees,
 42946 employees of organizations serving credit unions, and the
 42947 families of such members.

42948 (3) "Corporate credit union" means any central credit
 42949 union organized pursuant to any state or federal act for the
 42950 purpose of serving other credit unions.

42951 (4) "The corporation" means the Florida Credit Union
 42952 Guaranty Corporation, Inc.

42953 (5) "Correspondent" means that person designated on an
 42954 application to organize a credit union as the person to whom all
 42955 correspondence regarding the application should be sent.

42956 (6) "Credit union" means any cooperative society organized
 42957 pursuant to this part.

42958 ~~(7) "Department" means the Department of Banking and~~
 42959 ~~Finance.~~

42960 (7)~~(8)~~ "Deposits" means that portion of the capital paid
 42961 into the credit union by members on which a contractual rate of
 42962 interest will be paid.

42963 (8)~~(9)~~ "Equity" means undivided earnings, reserves, and
 42964 allowance for loan losses.

42965 (9)~~(10)~~ "Foreign credit union" means a credit union
 42966 organized and operating under the laws of another state.

42967 (10)~~(11)~~ "Immediate family" means parents, children,
 42968 spouse, or surviving spouse of the member, or any other relative
 42969 by blood, marriage, or adoption.

42970 (11)~~(12)~~ "Limited field of membership" means the defined
 42971 group of persons designated as eligible for membership in the
 42972 credit union who:

42973 (a) Have a similar profession, occupation, or formal
 42974 association with an identifiable purpose; or



HB 1803

2003

42975 (b) Reside within an identifiable neighborhood, community,
 42976 rural district, or county; or

42977 (c) Are employed by a common employer; or

42978 (d) Are employed by the credit union; and

42979

42980 members of the immediate family of persons within such group.

42981 (12)~~(13)~~ "Shares" means that portion of the capital paid
 42982 into the credit union by members on which dividends may be paid.

42983 (13)~~(14)~~ "Unimpaired capital" means capital which is not
 42984 impaired by losses that exceed applicable reserves.

42985 Section 1358. Section 657.005, Florida Statutes, is
 42986 amended to read:

42987 657.005 Notice of intent to organize; investigation ~~by~~
 42988 ~~department~~; application for authority to organize a credit
 42989 union.--

42990 (1) The proposed organizers of the proposed credit union
 42991 shall file with the office ~~department~~ a notice of intent to
 42992 organize, upon such form as the commission ~~department~~ may, by
 42993 rule, prescribe.

42994 (2) Any five or more residents of this state who represent
 42995 a limited field of membership may apply to the office ~~department~~
 42996 for permission to organize a credit union. The fact that
 42997 individuals within the proposed limited field of membership have
 42998 credit union services available to them through another limited
 42999 field of membership shall not preclude the granting of a
 43000 certificate of authorization to engage in the business of a
 43001 credit union.

43002 (3) The application shall be submitted to the office
 43003 ~~department~~ on forms and in the manner prescribed by rules
 43004 adopted by the commission ~~department~~ and shall be accompanied by



HB 1803

2003

43005 a nonrefundable filing fee of \$250. Such application shall
43006 include:

43007 (a) The proposed name and the proposed location where the
43008 proposed credit union is to have its principal place of
43009 business.

43010 (b) Designation of the par value of each share of the
43011 credit union.

43012 (c) Designation of at least five persons who agree to
43013 serve on the board of directors, and at least three other
43014 persons who agree to serve on the supervisory committee or audit
43015 committee, with a signed agreement to serve in these capacities
43016 until the first annual meeting or until the election of their
43017 successors, whichever is later, executed by those who so agree.

43018 (d) Any information required by the commission or office
43019 ~~department~~ to be submitted to the corporation or insuring
43020 agency.

43021 (e) Bylaws of the credit union, which bylaws shall be in
43022 the form and substance as required by the commission ~~department~~.

43023 (4) The office ~~department~~ shall have the power of
43024 investigation to the extent necessary to make the finding
43025 required under this section.

43026 (5) The application shall be approved if the office
43027 ~~department~~ determines that:

43028 (a) There is a showing of sufficient interest on the part
43029 of the proposed limited field of membership;

43030 (b) The qualifications of the proposed board of directors
43031 and committee members are such as to indicate a reasonable
43032 likelihood that the affairs of the proposed credit union will be
43033 administered consistently with sound financial and credit union
43034 practices;



HB 1803

2003

43035 (c) The organization of the credit union would benefit its
43036 members; and

43037 (d) The limited field of membership is of sufficient
43038 financial viability to indicate reasonable promise of successful
43039 operation of the proposed credit union. In determining the
43040 financial viability of the proposed limited field of membership
43041 and chances for reasonable promise of success of the proposed
43042 credit union, the office ~~department~~ shall consider:

43043 1. The size of the proposed limited field of membership,
43044 excluding potential members based upon familial relationships;
43045 and

43046 2. Any other evidence that tends to indicate the
43047 reasonable promise of success of the proposed credit union.

43048 (6) If the organization of a proposed credit union would
43049 result in an overlapping limited field of membership, the office
43050 ~~department~~ may disapprove the application if it finds that the
43051 formation of the proposed credit union will result in a
43052 substantial, adverse financial impact to an existing credit
43053 union having the same or substantially the same limited field of
43054 membership.

43055 (7) Concurrently with submission of the application to the
43056 office ~~department~~, the applicant shall apply for insurance of
43057 accounts with the National Credit Union Administration.

43058 (8) The applicant shall not accept any payments for credit
43059 to share or deposit accounts, or commence business operations as
43060 a credit union, until the certificate of authorization and the
43061 insurance certificate have been delivered to the credit union.

43062 (9) The office ~~department~~ shall perform a preopening
43063 examination to verify good faith compliance with all the
43064 requirements of law. If the office ~~department~~ finds that such



HB 1803

2003

43065 requirements have been met, it shall issue and deliver the
 43066 certificate of authorization to transact business. Any credit
 43067 union which fails to open for business within 6 months after the
 43068 issuance of such certificate will forfeit its existence as a
 43069 credit union, and the certificate of authorization shall be
 43070 revoked. For good cause shown, the office ~~department~~ may extend
 43071 the opening date for an additional 6 months on its own motion or
 43072 at the request of the credit union. Amounts credited on share
 43073 accounts, less expenditures authorized by law, shall be returned
 43074 pro rata to the respective account holders.

43075 (10) All preopening costs and expenses in connection with
 43076 the organization of the credit union and preparation for opening
 43077 for business may be paid only from funds provided by the
 43078 organizers or a sponsor and may be reimbursed by the credit
 43079 union only out of undivided earnings, after provision has been
 43080 made for reserves and dividends. However, the credit union may
 43081 reimburse, as an operating expense, for forms and supplies,
 43082 insurance, rent, and other expenses applicable to or consumed in
 43083 the period after opening in accordance with rules adopted by the
 43084 commission ~~department~~.

43085 (11) The commission shall adopt and the office ~~department~~
 43086 shall provide a form certificate of authorization and bylaws
 43087 consistent with this chapter which shall be used by applicants
 43088 for credit unions.

43089 Section 1359. Section 657.0061, Florida Statutes, is
 43090 amended to read:

43091 657.0061 Amendments to bylaws.--

43092 (1) All bylaw amendments must be submitted to the office
 43093 ~~department~~. The office ~~department~~ shall approve or disapprove
 43094 bylaw amendments within 60 days after receipt. The office



HB 1803

2003

43095 ~~department~~ shall approve the proposed bylaw amendment unless it
 43096 finds that the amendment:

- 43097 (a) Is not in the best interest of the membership;
- 43098 (b) Is not in accord with sound credit union practices; or
- 43099 (c) Exposes the assets of the credit union to unnecessary
 43100 risks.

43101 (2) The commission ~~department~~ may, by rule, allow certain
 43102 bylaw amendments that are ministerial in nature to become
 43103 effective immediately upon filing with the office ~~department~~.

43104 Section 1360. Paragraph (a) of subsection (2) and
 43105 subsections (5) and (6) of section 657.008, Florida Statutes,
 43106 are amended to read:

43107 657.008 Place of doing business.--

43108 (2)(a) With 30 days' ~~days~~ prior written notification to
 43109 the office ~~department~~, a credit union may maintain branches at
 43110 locations other than its main office or relocate branches
 43111 previously established if the maintenance of such branches is
 43112 determined by the board of directors to be reasonably necessary
 43113 to furnish service to its members.

43114 (5) A credit union may change its principal place of
 43115 business within this state upon approval by the office
 43116 ~~department~~.

43117 (6)(a) The office ~~department~~ may authorize foreign credit
 43118 unions to establish branches in Florida if all of the following
 43119 criteria are met:

- 43120 1. The state in which the foreign credit union's home
 43121 office is located permits Florida credit unions to do business
 43122 in the state under restrictions that are no greater than those
 43123 placed upon a domestic credit union doing business in that
 43124 state. For this purpose, such restrictions shall include, but



HB 1803

2003

43125 are not limited to, any fees, bonds, or other charges levied on
43126 domestic credit unions doing business in that state.

43127 2. The deposits of such foreign credit union and its
43128 proposed Florida branch will be insured or guaranteed by an
43129 insurer or guarantor acceptable to the office ~~department~~.
43130 Insurance or guarantee of accounts comparable to that provided
43131 by the Florida Credit Union Guaranty Corporation is deemed to be
43132 acceptable; however, acceptance of insurance or guarantee of
43133 accounts by any insuring or guaranteeing agencies or companies
43134 shall be subject to a determination by the office ~~department~~
43135 that the insuring or guaranteeing agency or company is in sound
43136 financial condition and that its reserves with respect to its
43137 insured or guaranteed accounts are no less than those of the
43138 Florida Credit Union Guaranty Corporation.

43139 3. The credit union's field of membership is so limited as
43140 to be within that meaning of that term as defined in s. 657.002.

43141 (b) Every foreign credit union operating in Florida shall
43142 keep the office ~~department~~ informed of every location at which
43143 it is operating.

43144 (c) If the office ~~department~~ has reason to believe that a
43145 foreign credit union is operating a branch in this state in an
43146 unsafe and unsound manner, it shall have the right to examine
43147 such branch. If, upon examination, the office ~~department~~ finds
43148 that such branch is operating in an unsafe and unsound manner,
43149 it shall require the branch office to make appropriate
43150 modifications to bring such branch operations into compliance
43151 with generally accepted credit union operation in this state.
43152 Such foreign credit union shall reimburse the office ~~department~~
43153 for the full cost of this examination. Costs shall include
43154 examiner salaries, per diem, and travel expenses.



HB 1803

2003

43155 (d) Any foreign credit union operating in this state shall
 43156 in any connection therewith be subject to suit in the courts of
 43157 this state, by this state and the citizens of this state.

43158 Section 1361. Subsection (3) and paragraphs (a) and (e) of
 43159 subsection (7) of section 657.021, Florida Statutes, are amended
 43160 to read:

43161 657.021 Board of directors; executive committee.--

43162 (3) Each director, upon assuming office, shall acknowledge
 43163 that he or she is familiar with his or her responsibilities as a
 43164 director and that he or she will diligently and honestly
 43165 administer the affairs of such credit union and will not
 43166 knowingly violate, or willfully permit to be violated, any of
 43167 the provisions of the financial institution's codes or pertinent
 43168 rules of the commission ~~department~~. The signed copy of such oath
 43169 shall be filed with the office ~~department~~ within 30 days after
 43170 election.

43171 (7) The board of directors must exercise the following
 43172 duties which are nondelegable:

43173 (a) Require any officer or employee who has custody of or
 43174 handles funds to give bond with good and sufficient surety in an
 43175 amount and character determined by the board of directors in
 43176 compliance with rules adopted by the commission ~~department~~.

43177 (e) Adequately provide for reserves as required by this
 43178 part or by rules or order of the commission or office ~~department~~
 43179 or as otherwise determined necessary by the board.

43180 Section 1362. Subsections (3) and (4) of section 657.026,
 43181 Florida Statutes, are amended to read:

43182 657.026 Supervisory or audit committee.--

43183 (3) The supervisory or audit committee shall:

43184 (a) Make or cause to be made a comprehensive annual audit



HB 1803

2003

43185 of the credit union, in accordance with the rules of the
43186 commission ~~department~~.

43187 (b) Make or cause to be made such supplementary audits or
43188 examinations as it deems necessary or as are requested by the
43189 board of directors or the office ~~department~~.

43190 (c) Submit a report of every required audit or examination
43191 within a reasonable time to the board of directors with a copy
43192 to the office ~~department~~ and, depending upon which organization
43193 is applicable, a copy to the corporation or the National Credit
43194 Union Administration.

43195 (d) Make a summary report, to the membership at the annual
43196 meeting, of any audits or examinations conducted during the
43197 preceding year.

43198 (4) The supervisory or audit committee shall notify the
43199 board of directors, the office ~~department~~, and, as applicable,
43200 either the corporation or the National Credit Union
43201 Administration of any violation of this part, any violation of
43202 the certificate of authorization or bylaws of the credit union,
43203 or any practice of the credit union deemed by the supervisory or
43204 audit committee to be unsafe, unsound, or unauthorized.

43205
43206 For the purposes of this subsection, two-thirds of the members
43207 of the supervisory or audit committee constitutes a quorum.

43208 Section 1363. Subsections (3) and (6) of section 657.028,
43209 Florida Statutes, are amended to read:

43210 657.028 Activities of directors, officers, committee
43211 members, employees, and agents.--

43212 (3) A person may not serve as an officer, director, or
43213 committee member of a credit union if she or he:

43214 (a) Has been convicted of a felony or of an offense



HB 1803

2003

43215 involving dishonesty, a breach of trust, a violation of this
 43216 chapter, or fraud, except with the prior approval of the office
 43217 ~~department~~ upon a showing of rehabilitation;

43218 (b) Has been adjudicated bankrupt within the previous 7
 43219 years;

43220 (c) Has been removed by any regulatory agency as a
 43221 director, officer, committee member, or employee of any
 43222 financial institution, except with the prior approval of the
 43223 office ~~department~~ upon a showing of rehabilitation and upon
 43224 showing of ability to be bondable;

43225 (d) Has performed acts of fraud or dishonesty, or has
 43226 failed to perform duties, resulting in a loss which was subject
 43227 to a paid claim under a fidelity bond, except with the prior
 43228 approval of the office ~~department~~ upon a showing of
 43229 rehabilitation and upon showing of ability to be bondable; or

43230 (e) Has been found guilty of a violation of s. 655.50,
 43231 relating to the Florida Control of Money Laundering in Financial
 43232 Institutions Act; chapter 896, relating to offenses related to
 43233 financial transactions; or any similar state or federal law.

43234 (6) Within 30 days after election or appointment, a record
 43235 of the names and addresses of the members of the board, members
 43236 of committees, and all officers of the credit union shall be
 43237 filed with the office ~~department~~ on forms prescribed by the
 43238 commission ~~department~~.

43239 Section 1364. Subsections (19), (26), (27), and (29) of
 43240 section 657.031, Florida Statutes, are amended to read:

43241 657.031 Powers.--A credit union shall have the power to:

43242 (19) Perform tasks and render any services requested by
 43243 the Federal Government or by this state or any agency, political
 43244 subdivision, or municipality thereof, if approved by the office



HB 1803

2003

43245 ~~department.~~

43246 (26) Participate in systems which allow the transfer,
 43247 withdrawal, or deposit of funds of credit unions or credit union
 43248 members by automated or electronic means and hold membership in
 43249 entities established to promote and effectuate these systems,
 43250 provided such participation is not inconsistent with those rules
 43251 of the commission ~~department~~ adopted to further service to the
 43252 members and to protect members' funds against unreasonable
 43253 risks.

43254 (27) Issue credit cards and debit cards to allow members
 43255 to obtain access to their shares, deposits, and extensions of
 43256 credit, provided such issuance is not inconsistent with the
 43257 rules of the commission ~~department~~. The commission ~~department~~
 43258 may, by rule, allow the use of devices similar to credit cards
 43259 and debit cards to allow members to obtain access to their
 43260 shares, deposits, and extensions of credit.

43261 (29) Exercise such incidental powers as are necessary or
 43262 requisite to effectively carry out the purposes for which it is
 43263 organized, provided such exercise is approved by rule or order
 43264 of the commission or office ~~department~~.

43265 Section 1365. Subsection (3) of section 657.033, Florida
 43266 Statutes, is amended to read:

43267 657.033 Accounts.--

43268 (3) A credit union may receive deposits from its members
 43269 and contract to pay interest thereon, subject to conditions the
 43270 board of directors establishes and subject to rules of the
 43271 commission ~~department~~.

43272 Section 1366. Section 657.0335, Florida Statutes, is
 43273 amended to read:

43274 657.0335 Additional power to restrict withdrawals.--In



HB 1803

2003

43275 extraordinary circumstances external to the operations of the
 43276 credit union which threaten the continued existence and
 43277 operation of the credit union, the office ~~department~~ may
 43278 restrict withdrawals for a period not to exceed 60 days.

43279 Section 1367. Subsections (6) and (12) of section 657.038,
 43280 Florida Statutes, are amended to read:

43281 657.038 Loan powers.--

43282 (6) Loans secured by mortgages on real property must be
 43283 made in accordance with written policies of the board of
 43284 directors and rules of the commission ~~department~~.

43285 (12) The commission ~~department~~ may adopt rules to provide
 43286 for minimum documentation and safe lending procedures necessary
 43287 to protect the members' funds.

43288 Section 1368. Paragraph (i) of subsection (1), paragraph
 43289 (a) of subsection (2), paragraph (b) of subsection (5), and
 43290 subsections (6) and (7) of section 657.042, Florida Statutes,
 43291 are amended to read:

43292 657.042 Investment powers and limitations.--A credit union
 43293 may invest its funds subject to the following definitions,
 43294 restrictions, and limitations:

43295 (1) INVESTMENTS NOT SUBJECT TO LIMITATIONS.--There is no
 43296 limitation with respect to the capital of the investing credit
 43297 union on the following investments:

43298 (i) Stock of the Federal National Mortgage Association, or
 43299 any other similar entity designated by the office ~~department~~,
 43300 designed to promote investment in residential mortgages, which
 43301 may be purchased and retained as required in connection with
 43302 mortgage transactions with the association or entity.

43303 (2) INVESTMENTS SUBJECT TO LIMITATION OF 25 PERCENT OF
 43304 CAPITAL OF THE CREDIT UNION.--Up to 25 percent of the capital of



HB 1803

2003

43305 the credit union may be invested in:

43306 (a) The shares or deposit accounts in any one corporate
 43307 credit union or other insured financial depository institution.
 43308 The credit union may exceed the 25-percent investment limitation
 43309 in the corporate credit union, subject to the prior written
 43310 approval of the office ~~department~~.

43311 (5) INVESTMENTS IN REAL ESTATE AND EQUIPMENT FOR THE
 43312 CREDIT UNION.--

43313 (b) The limitations provided by this subsection may be
 43314 exceeded with the prior written approval of the office
 43315 ~~department~~. The office ~~department~~ shall grant such approval if
 43316 it is satisfied that:

- 43317 1. The proposed investment is necessary.
- 43318 2. The amount thereof is commensurate with the size and
 43319 needs of the credit union.
- 43320 3. The investment will be beneficial to the members.

43321 (6) INVESTMENTS SUBJECT TO ~~DEPARTMENT~~ APPROVAL.--A credit
 43322 union may invest its funds in such other investments, including
 43323 the capital stock of other financial institutions, as the
 43324 commission or office ~~department~~ approves by rule or order.

43325 (7) SPECIAL PROVISIONS.--

43326 (a) None of the bonds or other obligations described in
 43327 this section shall be eligible for investment by credit unions
 43328 in any amount unless current as to all payments of principal and
 43329 interest and unless rated in one of the four highest
 43330 classifications, or, in the case of commercial paper, unless it
 43331 is of prime quality and of the highest letter and numerical
 43332 rating, as established by a nationally recognized investment
 43333 rating service, or any comparable rating as determined by the
 43334 office ~~department~~.



HB 1803

2003

43335 (b) With prior approval of the office ~~department~~, any
43336 investment permitted in this section may also be made indirectly
43337 by investment in a trust or mutual, the investments of which are
43338 limited as set forth in this section, provided that the credit
43339 union must maintain a current file on each investment which
43340 contains sufficient information to determine whether the
43341 investment complies with the requirements of this section. If
43342 the investment fails to comply with the requirements of this
43343 section, the credit union must divest itself of its investment,
43344 unless otherwise approved by the office ~~department~~.

43345 Section 1369. Subsections (1), (2), (3), (5), (6), (7),
43346 and (8) of section 657.043, Florida Statutes, are amended to
43347 read:

43348 657.043 Reserves.--

43349 (1) TRANSFERS TO REGULAR RESERVE.--Immediately before
43350 paying each dividend, the total of all income for the period
43351 shall be determined. From this amount, there shall be set aside
43352 sums as a regular reserve in accordance with the following
43353 schedule:

43354 (a) A credit union shall set aside:

43355 1. Five percent of the total of all income for the period,
43356 until the regular reserve equals 6 percent of the risk assets,
43357 then,

43358 2. Two percent of the total of all income for the period,
43359 until the regular reserve equals 8 percent of the risk assets.

43360 (b) Whenever the ratio of regular reserves to risk assets
43361 falls below the stated percent, it shall be replenished by
43362 regular contributions as provided in paragraph (a).

43363 (c) The office ~~department~~ may decrease the reserve
43364 requirements set forth in this subsection when in its opinion



HB 1803

2003

43365 such a decrease is necessary to preserve the fiscal soundness of
43366 the credit union.

43367 (2) ALLOWANCE FOR LOAN LOSSES ACCOUNT.--The credit union
43368 shall maintain an account for loan losses. The amount in the
43369 account must equal the board's estimate of losses in the loan
43370 portfolio and be consistent with the rules of the commission
43371 ~~department~~. The account must be provided for, before paying a
43372 dividend, in the manner provided by rule. This account
43373 constitutes part of the regular reserve for the purpose of
43374 determining the ratio of regular reserves to risk assets.

43375 (3) USE OF REGULAR RESERVE.--The regular reserve shall
43376 belong to the credit union and shall be used to meet losses. In
43377 the event of a decrease, the office ~~department~~ may require
43378 additional transfers to the regular reserve above the amount
43379 required by subsection (1) until the decrease has been restored.
43380 The regular reserve may not be decreased without the prior
43381 written approval of the office ~~department~~ or as provided by rule
43382 of the commission.

43383 (5) ALLOWANCE FOR INVESTMENT LOSSES.--The credit union may
43384 maintain a contra asset account to provide an allowance for
43385 investment losses, which will not be included in the
43386 determination of equity. The account must be maintained
43387 consistent with the rules of the commission ~~department~~.

43388 (6) SPECIAL RESERVES.--In addition to such regular
43389 reserve, special reserves shall be established:

43390 (a) To protect members against losses resulting from
43391 credit extended or from risk assets when required by rule, or
43392 when found by the office ~~department~~, in any special case, to be
43393 necessary for that purpose; or

43394 (b) As authorized by the board of directors.



HB 1803

2003

43395 (7) RESERVE FOR CONTINGENCIES.--The board of directors
43396 may, after the regular reserve required by this section and
43397 rules of the commission ~~department~~ has been set aside, transfer
43398 a portion of undivided earnings to an auxiliary reserve account
43399 to provide for additional possible losses and expenses.

43400 (8) RESERVES.--The ratio of equity to total assets for
43401 each credit union must be maintained at not less than 5 percent.

43402 At the end of the calendar quarter when this ratio is
43403 determined to be less than 5 percent, the credit union shall,
43404 within 60 days thereafter, prepare and file with the office
43405 ~~department~~ for approval a plan to achieve the minimum ratio
43406 within 4 years, or such longer period of time approved by the
43407 office ~~department~~. Once achieved, each credit union must
43408 maintain a ratio of equity to total assets of not less than 5
43409 percent, unless otherwise authorized by the office ~~department~~.
43410 The commission ~~department~~, by rule, shall prescribe the
43411 information, types of restrictions and limitations on
43412 operations, reporting requirements, and other criteria that are
43413 required to be included in an acceptable plan. An acceptable
43414 plan must recognize the unique characteristics and risk
43415 differences for the individual credit union.

43416 Section 1370. Section 657.053, Florida Statutes, is
43417 amended to read:

43418 657.053 Assessments; state credit unions.--Each state
43419 credit union shall pay to the office ~~department~~ a semiannual
43420 assessment equal to \$500 plus 15 cents for each \$1,000 of total
43421 assets. The amounts of all assessments provided for in this
43422 section shall be deemed to be maximum amounts. The commission
43423 ~~department~~ has the authority to establish, by rule, and from
43424 time to time to change, assessments in amounts less than the



HB 1803

2003

43425 maximum amounts stated in this section.

43426 Section 1371. Section 657.062, Florida Statutes, is
43427 amended to read:

43428 657.062 Assumption of control by guarantor or insurer.--

43429 (1) The office ~~department~~ may direct the corporation or
43430 the National Credit Union Administration, whichever is
43431 applicable, to assume control of the property, assets, and
43432 business of its member credit union and to operate it subject to
43433 the directions of the office ~~department~~:

43434 (a) Whenever the office ~~department~~ finds that the credit
43435 union:

43436 1. Is engaging or has engaged in an unsafe or unsound
43437 practice;

43438 2. Is violating or has violated any provision of this
43439 chapter; or

43440 3. Is violating or has violated any commission ~~department~~
43441 rule, office ~~department~~ order, or written agreement entered into
43442 with the office ~~department~~,

43443
43444 in such a manner that the credit union is threatened with
43445 imminent insolvency.

43446 (b) Whenever a majority of the members of the board of
43447 directors of the credit union have been removed by the office
43448 ~~department~~ or shall have resigned.

43449 (2) Except when prohibited by federal or state law, in the
43450 event of assumption of control, the guarantor or insurer may
43451 elect the board of directors and the operating committees and
43452 may, without penalty or liability, prepay any deposit accounts;
43453 terminate any contracts or agreements with employees,
43454 independent contractors, or consultants; terminate any contract



HB 1803

2003

43455 or agreement with any person to provide goods, products, or
43456 services if the performance of such contract would adversely
43457 affect the safety or soundness of the credit unions or if such
43458 contract was entered into in violation of s. 657.0315(1); and
43459 terminate or assign any lease for property. The authority of
43460 the guarantor or insurer to continue operation of a credit union
43461 shall continue for a period not to exceed 180 days, unless
43462 extended by the office ~~department~~ for an additional period not
43463 to exceed 180 days at the request of the guarantor or insurer,
43464 or unless involuntary liquidation proceedings have been
43465 initiated by the office ~~department~~. In the event that the
43466 guarantor or insurer does assume control pursuant to the
43467 direction of the office ~~department~~, a meeting of the credit
43468 union shall be called within 180 days, or within the period of
43469 extension as approved by the office ~~department~~, for the specific
43470 purpose of electing a new board of directors, who shall take
43471 office when the guarantor or insurer surrenders control, or
43472 considering such other recommendations as the guarantor or
43473 insurer and the office ~~department~~ may make.

43474 Section 1372. Section 657.063, Florida Statutes, is
43475 amended to read:

43476 657.063 Involuntary liquidation.--

43477 (1) If the office ~~department~~ finds that any credit union
43478 is bankrupt or insolvent, or is transacting its business in an
43479 unsound, unsafe, or unauthorized manner such that it is
43480 threatened with imminent insolvency, and liquidation is in the
43481 best interest of the members, the office ~~department~~ may, in its
43482 discretion, order the credit union placed in involuntary
43483 liquidation and designate and appoint a liquidator to take
43484 charge of the assets and affairs of the credit union. The order



HB 1803

2003

43485 shall set forth the specific findings and reasons for the action
43486 taken.

43487 (2) The liquidator must be appointed by the office
43488 ~~department~~. The corporation or the National Credit Union
43489 Administration, whichever is applicable, must be given the right
43490 of first refusal. The office ~~department~~ may appoint another
43491 entity if refused by the primary guarantor or insurer.

43492 (3) Upon appointment and in accordance with the directions
43493 of the office ~~department~~, the liquidator shall take possession
43494 and charge of all of the assets, books, and records of the
43495 credit union and shall take charge of the affairs, business, and
43496 operations of the credit union and shall have all of the powers
43497 of the board of directors, credit committee, credit manager, and
43498 supervisory committee of the credit union. The liquidator shall
43499 continue the business operation of the credit union for a period
43500 not to exceed 180 days, subject to the direction of the office
43501 ~~department~~. The liquidator shall have full authority to make
43502 loans and investments and to permit deposits to or withdrawals
43503 from accounts by members, except that during the period of such
43504 operation by the liquidator, no withdrawal from any account or
43505 accounts which are not fully insured or guaranteed shall be
43506 permitted. Except when prohibited by federal or state law, the
43507 liquidator may, without penalty or liability, prepay any deposit
43508 accounts; terminate any contracts or agreements with employees,
43509 independent contractors, or consultants; terminate any contract
43510 or agreement that was entered into in violation of s.
43511 657.0315(1) or s. 657.062(2); and terminate or assign any lease
43512 for property. The liquidator shall proceed with a liquidation
43513 of assets by sale or transfer of assets and conversion of assets
43514 into cash or liquid investments in preparation for distribution



HB 1803

2003

43515 to members on account of shares and deposits. The liquidator
43516 shall have specific authority to sell loan assets. The
43517 liquidator may enter into agreements for the sale or transfer of
43518 loans and other assets with the assumption of outstanding share
43519 and deposit accounts, which assumption constitutes full and
43520 complete distribution to members on account of shares and
43521 deposits.

43522 (4) On the completion of the liquidation and certification
43523 by the liquidator that the distribution of the assets of the
43524 credit union has been completed, the office ~~department~~ shall
43525 cancel the certificate of authorization of the credit union. The
43526 office ~~department~~ may designate a custodian to maintain the
43527 books and records of the liquidated credit union.

43528 (5) When the liquidating agent of the credit union has
43529 been appointed, the office ~~department~~ may waive or deem
43530 inapplicable the fees required by this chapter and the
43531 examination required by s. 655.045(1)(a), provided the
43532 liquidating agent submits periodic reports to the office
43533 ~~department~~ on the status of the liquidation.

43534 Section 1373. Subsections (1), (5), (8), and (9) of
43535 section 657.064, Florida Statutes, are amended to read:

43536 657.064 Voluntary liquidation.--A credit union may elect
43537 to dissolve voluntarily and liquidate its affairs in the
43538 following manner:

43539 (1) Before considering any resolution pertaining to
43540 voluntary liquidation by the board of directors, the credit
43541 union must inform the office ~~department~~ and the corporation or
43542 the National Credit Union Administration, whichever is
43543 applicable, of the time and place of the meeting of the board of
43544 directors. The notification must be transmitted at least 5 days



HB 1803

2003

43545 before the board of directors meets.

43546 (5) The notice required by subsection (3) shall also be
43547 mailed to the office ~~department~~ within 5 days after the action
43548 of the board of directors. Within 10 days after the meeting of
43549 the membership, the board of directors shall notify the office
43550 ~~department~~ and the corporation or the National Credit Union
43551 Administration, whichever is applicable, in writing of the
43552 action taken by the members.

43553 (8) When the liquidating agent of the credit union has
43554 been appointed, the office ~~department~~ may waive or hold
43555 inapplicable the fees required by this chapter and the
43556 examination required by s. 655.045(1)(a), provided the
43557 liquidating agent submits periodic reports to the office
43558 ~~department~~ on the status of the liquidation.

43559 (9) Whenever the board of directors or liquidator
43560 determines that all assets from which there is a reasonable
43561 expectancy of realization have been liquidated and distributed
43562 to the members, a certificate of dissolution on forms prescribed
43563 by the commission ~~department~~ shall be prepared and filed with
43564 the office ~~department~~ together with all pertinent books and
43565 records of the credit union, and thereupon the credit union
43566 shall be dissolved and its certificate of authorization
43567 canceled. The office ~~department~~ may designate a custodian to
43568 maintain the books and records of the liquidated credit union.

43569 Section 1374. Subsections (2), (4), (5), (6), and (7) of
43570 section 657.065, Florida Statutes, are amended to read:

43571 657.065 Merger.--

43572 (2) The office ~~department~~ shall approve a merger as
43573 provided in this section if it finds upon the written and
43574 verified application filed by each board of directors that:



HB 1803

2003

43575 (a) Notice of intent to merge was given to the members of
43576 the surviving credit union;

43577 (b) Notice of the meeting called to consider the merger
43578 was given to the members entitled to vote upon the question;

43579 (c) Such notice disclosed the purpose of the meeting and
43580 properly informed the membership of the merging credit union
43581 that approval of a merger was under consideration;

43582 (d) A majority of the votes cast upon the question by the
43583 members of the merging credit union were in favor of the merger;
43584 and

43585 (e) The merger will not seriously impair the ongoing
43586 viability of the surviving credit union.

43587 (4) The plan of merger shall be transmitted to the office
43588 ~~department~~ for its approval.

43589 (5) A merger application shall be accompanied by a
43590 nonrefundable fee of \$500. The fee may be waived by the office
43591 ~~department~~ for a merger pursuant to subsection (6).

43592 (6) Notwithstanding any other provisions of this chapter
43593 or of chapter 120, a credit union may merge without a vote of
43594 the membership when the office ~~department~~ determines that the
43595 credit union is in danger of insolvency and that the merger will
43596 enable the credit union to avoid liquidation.

43597 (7) A merger with a resulting state credit union may not
43598 take place or be effective unless the office ~~department~~ issues a
43599 certificate of merger. Upon consummation of the merger, the
43600 certificate of authorization of the merged credit union shall be
43601 returned to the proper authority to be canceled. Also at
43602 consummation, all property and property rights of, and members'
43603 interests in, the merged credit union vest in the surviving
43604 credit union without deed, endorsement, or other instrument of



HB 1803

2003

43605 transfer, and all debts, obligations, and liabilities of the
 43606 merged credit union must be assumed by the surviving credit
 43607 union under the certificate of authorization under which the
 43608 merger was effected. All members of the surviving credit union
 43609 have the same rights, privileges, and responsibilities after the
 43610 merger is completed. The certificate of merger must be recorded
 43611 in the public records of all counties in which the merging
 43612 credit union owned any real property at the effective date of
 43613 the merger.

43614 Section 1375. Subsection (4) of section 657.066, Florida
 43615 Statutes, is amended to read:

43616 657.066 Conversion from state credit union to federal
 43617 credit union and conversely.--Any credit union organized under
 43618 this part may convert into a federal credit union and any
 43619 federal credit union may convert into a credit union organized
 43620 pursuant to this part upon approval of the authority under the
 43621 supervision of which the converted credit union will operate and
 43622 upon compliance with applicable laws.

43623 (4) Upon the written approval of the authority under the
 43624 supervision of which the converting credit union is to operate,
 43625 the converting credit union shall become a credit union under
 43626 this chapter or under the laws of the United States, as the case
 43627 may be, and thereupon all assets shall become the property of
 43628 the converted credit union, subject to all existing liabilities
 43629 against the credit union. All shares and deposits shall remain
 43630 intact. Any federal credit union seeking to convert to a state-
 43631 chartered credit union shall pay a nonrefundable filing fee of
 43632 \$500. The office ~~department~~ may conduct an examination of any
 43633 converting federal credit union before approving the conversion
 43634 and the converting credit union shall pay a nonrefundable



HB 1803

2003

43635 examination fee as provided in s. 655.411(1)(b).

43636 Section 1376. Subsection (2) of section 657.068, Florida
 43637 Statutes, is amended to read:

43638 657.068 Central credit unions.--

43639 (2) Membership in a central credit union shall be limited
 43640 to:

43641 (a) Credit unions organized and operating under this part
 43642 or any other credit union act;

43643 (b) Officers, directors, committee members, and employees
 43644 of such credit unions, and officials and employees of any
 43645 association of credit unions;

43646 (c) Organizations and associations of those persons or
 43647 organizations set forth in paragraph (a) or paragraph (b);

43648 (d) Residents of this state having a limited field of
 43649 membership who have applied to the office ~~department~~ to organize
 43650 a credit union and have been denied on grounds other than those
 43651 set forth in s. 657.005(6);

43652 (e) Residents of this state having a limited field of
 43653 membership, if their application for membership is approved by
 43654 the board of directors of the central credit union and by the
 43655 office ~~department~~;

43656 (f) Persons in the field of membership of liquidated
 43657 credit unions or of credit unions which have entered into or are
 43658 about to enter into voluntary or involuntary liquidation
 43659 proceedings; and

43660 (g) Members of the immediate families of all members
 43661 qualified above.

43662 Section 1377. Subsection (6) of section 658.12, Florida
 43663 Statutes, is amended to read:

43664 658.12 Definitions.--Subject to other definitions



HB 1803

2003

43665 contained in the financial institutions codes and unless the
43666 context otherwise requires:

43667 (6) "Community" means an incorporated city, town, or
43668 village or, where not within any of the foregoing or if the
43669 office department determines that the area within the corporate
43670 limits of any of the foregoing is inappropriate under specific
43671 circumstances, such trade area or other area, determined by the
43672 office department to be appropriate under the circumstances, in
43673 which are located persons having generally similar interests,
43674 including residential, social, or business interests or
43675 combinations thereof.

43676 Section 1378. Section 658.16, Florida Statutes, is amended
43677 to read:

43678 658.16 Creation of banking or trust corporation.--When
43679 authorized by the office department, as provided herein, a
43680 corporation may be formed under the laws of this state for the
43681 purpose of becoming a state bank or a state trust company and
43682 conducting a general banking or trust business.

43683 Section 1379. Section 658.165, Florida Statutes, is
43684 amended to read:

43685 658.165 Banker's banks; formation; applicability of
43686 financial institutions codes; exceptions.--

43687 (1) When authorized by the office department, a
43688 corporation may be formed under the laws of this state for the
43689 purpose of becoming a banker's bank. An application for
43690 authority to organize a banker's bank is subject to the
43691 provisions of ss. 658.19, 658.20, and 658.21, except that the
43692 provisions of ss. 658.20(1)(b) and (c) and 658.21(2) do not
43693 apply.

43694 (2) A banker's bank chartered pursuant to subsection (1)



HB 1803

2003

43695 shall be subject to the provisions of the financial institutions
 43696 codes and rules adopted thereunder; and, except as otherwise
 43697 specifically provided herein or by rule or order of the
 43698 commission or office ~~department~~, a banker's bank shall be vested
 43699 with or subject to the same rights, privileges, duties,
 43700 restrictions, penalties, liabilities, conditions, and
 43701 limitations that would apply to a state bank.

43702 (3) Notwithstanding any other provision of this chapter, a
 43703 banker's bank may repurchase, for its own account, shares of its
 43704 own capital stock; however, the outstanding capital stock may
 43705 not be reduced below the minimum required by this chapter
 43706 without the prior approval of the office ~~department~~.

43707 (4) A banker's bank may provide services at the request of
 43708 financial institutions in organizations that have:

43709 (a) Received conditional regulatory approval from the
 43710 office ~~department~~ in the case of a state bank or preliminary
 43711 approval from the Office of the Comptroller of the Currency in
 43712 the case of a national bank.

43713 (b) Filed articles of incorporation pursuant to s. 658.23
 43714 in the case of a state bank, or filed acceptable articles of
 43715 incorporation and an organization certificate in the case of a
 43716 national bank.

43717 (c) Received capital funds in an amount not less than the
 43718 minimum capitalization required in any notice of or order
 43719 granting conditional regulatory approval.

43720 (5) A banker's bank may provide services to the organizers
 43721 of a proposed financial institution that has not received
 43722 conditional regulatory approval provided that such services are
 43723 limited to the financing of the expenses of organizing such
 43724 financial institution and expenses relating to the acquisition



HB 1803

2003

43725 or construction of the institution's proposed operating
43726 facilities and associated fixtures and equipment.

43727 (6) If the commission or office ~~department~~ finds that any
43728 provision of this chapter is inconsistent with the purpose for
43729 which a banker's bank is organized and that the welfare of the
43730 public or any financial institution would not be jeopardized
43731 thereby, the commission, it may by rule, or the office, by
43732 order, may exempt a banker's bank from such provision or limit
43733 the application thereof.

43734 Section 1380. Section 658.19, Florida Statutes, is amended
43735 to read:

43736 658.19 Application for authority to organize a bank or
43737 trust company.--

43738 (1) A written application for authority to organize a
43739 banking corporation or a trust company shall be filed with the
43740 office ~~department~~ by the proposed directors and shall include:

43741 (a) The name, residence, and occupation of each proposed
43742 director.

43743 (b) The proposed corporate name.

43744 (c) The total initial capital, the number of shares of
43745 each class of the capital stock to be authorized, and the par
43746 value of the shares of each class.

43747 (d) The community, including the street and number, if
43748 available, or, if not available, the area within the community,
43749 where the principal office of the proposed bank or proposed
43750 trust company is to be located.

43751 (e) If known, the name and residence of the proposed
43752 president, the proposed chief executive officer if other than
43753 the proposed president and, if the application is for
43754 organization of a trust company or a bank with trust powers, the



HB 1803

2003

43755 name and address of the proposed trust officer.

43756 (f) Such detailed financial, business, and biographical
 43757 information as the commission or office ~~department~~ may
 43758 reasonably require for each proposed director, president, chief
 43759 executive officer (if other than the president), and trust
 43760 officer (if applicable).

43761 (g) A request for trust powers if desired in connection
 43762 with an application to organize a bank.

43763 (2) The application shall be in such form as the
 43764 commission prescribes and contain such additional information as
 43765 the commission or office ~~department~~ may reasonably requires
 43766 ~~require~~ and shall be accompanied by the required fee, which
 43767 shall not be refundable.

43768 (3) Notwithstanding chapter 120, an application may be
 43769 returned to the applicant, on a one-time basis, for correction
 43770 of substantial deficiencies and may be resubmitted without
 43771 payment of an additional fee if such resubmission takes place
 43772 within 60 days after the date the office ~~department~~ returns the
 43773 application.

43774 Section 1381. Section 658.20, Florida Statutes, is amended
 43775 to read:

43776 658.20 Investigation by office ~~department~~.--

43777 (1) Upon the filing of an application, the office
 43778 ~~department~~ shall make an investigation of:

43779 (a) The character, reputation, financial standing,
 43780 business experience, and business qualifications of the proposed
 43781 officers and directors.

43782 (b) The need for bank or trust facilities or additional
 43783 bank or trust facilities, as the case may be, in the primary
 43784 service area where the proposed bank or trust company is to be



HB 1803

2003

43785 located.

43786 (c) The ability of the primary service area to support the
43787 proposed bank or trust company and all other existing bank or
43788 trust facilities in the primary service area.

43789 (2) The office ~~department~~ is authorized to obtain criminal
43790 record information from the National Crime Information Center or
43791 from the Department of Law Enforcement as a part of its
43792 investigation pursuant to this section.

43793 (3) The office ~~department~~ may accept an application for
43794 prior approval of individuals who may become directors and
43795 executive officers of a failing bank, association, or trust
43796 company. Such applications are governed by the application
43797 criteria set forth in paragraph (1)(a) and ss. 658.21(4) and
43798 658.28. The application must be in the form prescribed by the
43799 commission and must contain additional information prescribed by
43800 the commission or office ~~department~~, and must be accompanied by
43801 a nonrefundable, nontransferable filing fee of \$7,500.

43802 Section 1382. Section 658.21, Florida Statutes, is amended
43803 to read:

43804 658.21 Approval of application; findings required.--The
43805 office ~~department~~ shall approve the application if it finds
43806 that:

43807 (1) Local conditions indicate reasonable promise of
43808 successful operation for the proposed state bank or trust
43809 company. In determining whether an applicant meets the
43810 requirements of this subsection, the office ~~department~~ shall
43811 consider all materially relevant factors, including:

43812 (a) The purpose, objectives, and business philosophy of
43813 the proposed state bank or trust company.

43814 (b) The projected financial performance of the proposed



HB 1803

2003

43815 bank or trust company.

43816 (c) The feasibility of the proposed bank or trust company,
43817 as stated in the business plan, particularly with respect to
43818 asset and liability growth and management.

43819 (2) The proposed capitalization is in such amount as the
43820 office ~~department~~ deems adequate, but in no case may the total
43821 capital accounts at opening for a bank be less than \$6 million
43822 if the proposed bank is to be located in any county which is
43823 included in a metropolitan statistical area, or \$4 million if
43824 the proposed bank is to be located in any other county. The
43825 total capital accounts at opening for a trust company may not be
43826 less than \$2 million. Of total capital accounts at opening, as
43827 noted in the application or amendments or changes to the
43828 application, at least 25 percent of the capital shall be
43829 directly owned or controlled by the organizing directors of the
43830 bank. Directors of banks owned by single-bank holding companies
43831 shall have direct ownership or control of at least 25 percent of
43832 the bank holding company's capital accounts. The office
43833 ~~department~~ may disallow illegally obtained currency, monetary
43834 instruments, funds, or other financial resources from the
43835 capitalization requirements of this section.

43836 (3) The proposed capital structure is in such form as the
43837 office ~~department~~ may require, but, at a minimum, every state
43838 bank or trust company hereafter organized shall establish paid-
43839 in capital equal in amount to not less than 50 percent of its
43840 total capital accounts and a paid-in surplus equal in amount to
43841 not less than 20 percent of its paid-in capital.

43842 (4) The proposed officers have sufficient financial
43843 institution experience, ability, standing, and reputation and
43844 the proposed directors have sufficient business experience,



HB 1803

2003

43845 ability, standing, and reputation to indicate reasonable promise
43846 of successful operation, and none of the proposed officers or
43847 directors has been convicted of, or pled guilty or nolo
43848 contendere to, any violation of s. 655.50, relating to the
43849 Florida Control of Money Laundering in Financial Institutions
43850 Act; chapter 896, relating to offenses related to financial
43851 institutions; or any similar state or federal law. At least two
43852 of the proposed directors who are not also proposed officers
43853 shall have had at least 1 year direct experience as an executive
43854 officer, regulator, or director of a financial institution
43855 within 3 years of the date of the application. However, if the
43856 applicant demonstrates that at least one of the proposed
43857 directors has very substantial experience as an executive
43858 officer, director, or regulator of a financial institution more
43859 than 3 years before the date of the application, the office
43860 ~~department~~ may modify the requirement and allow only one
43861 director to have direct financial institution experience within
43862 the last 3 years. The proposed president or chief executive
43863 officer shall have had at least 1 year of direct experience as
43864 an executive officer, director, or regulator of a financial
43865 institution within the last 3 years.

43866 (5) The corporate name of the proposed state bank or trust
43867 company is approved by the office ~~department~~.

43868 (6) Provision has been made for suitable quarters at the
43869 location in the application.

43870 Section 1383. Section 658.22, Florida Statutes, is amended
43871 to read:

43872 658.22 Coordination with federal agencies.--Upon approval
43873 by the office ~~department~~ of the application for authority to
43874 organize a state bank, the office ~~department~~ shall forward a



HB 1803

2003

43875 copy of its final order to the appropriate federal regulatory
43876 agencies. The failure of an applicant to apply for membership
43877 in the Federal Reserve System or apply for the insurance of
43878 accounts by the Federal Deposit Insurance Corporation within 3
43879 months after approval by the office ~~department~~ or a final order
43880 by the Federal Deposit Insurance Corporation denying an
43881 applicant's application for insurance of accounts, terminates
43882 and revokes the final order issued by the office ~~department~~
43883 approving the application.

43884 Section 1384. Section 658.23, Florida Statutes, is amended
43885 to read:

43886 658.23 Submission of articles of incorporation; contents;
43887 form; approval; filing; commencement of corporate existence;
43888 bylaws.--

43889 (1) Within 3 months after approval by the office
43890 ~~department~~ and the appropriate federal regulatory agency, the
43891 applicant shall submit its duly executed articles of
43892 incorporation to the office ~~department~~, together with the filing
43893 fee due the Department of State under s. 607.0122.

43894 (2) The articles of incorporation shall contain:

43895 (a) The name of the proposed bank or trust company.

43896 (b) The general nature of the business to be transacted or
43897 a statement that the corporation may engage in any activity or
43898 business permitted by law. Such statement shall authorize all
43899 such activities and business by the corporation.

43900 (c) The amount of capital stock authorized, showing the
43901 maximum number of shares of par value common stock and of
43902 preferred stock, and of every kind, class, or series of each,
43903 together with the distinguishing characteristics and the par
43904 value of all shares.



HB 1803

2003

43905 (d) The amount of capital with which the corporation will
 43906 begin business, which shall not be less than the amount required
 43907 by the office ~~department~~ pursuant to s. 658.21.

43908 (e) A provision that the corporation is to have perpetual
 43909 existence unless existence is terminated pursuant to the
 43910 financial institutions codes.

43911 (f) The initial street address of the main office of the
 43912 corporation, which shall be in this state.

43913 (g) The number of directors, which shall be five or more,
 43914 and the names and street addresses of the members of the initial
 43915 board of directors.

43916 (h) A provision for preemptive rights, if applicable.

43917 (i) A provision authorizing the board of directors to
 43918 appoint additional directors, pursuant to s. 658.33, if
 43919 applicable.

43920

43921

43922 The office ~~department~~ shall provide to the proposed directors
 43923 form articles of incorporation which shall include only those
 43924 provisions required by this section or by chapter 607. The form
 43925 articles shall be acknowledged by the proposed directors and
 43926 returned to the office ~~department~~ for filing with the Department
 43927 of State.

43928 (3) Within 30 days of receipt of the executed articles of
 43929 incorporation in the form previously approved, and the required
 43930 filing fees, the office ~~department~~ shall place the following
 43931 legend upon the articles of incorporation and affix the seal of
 43932 the office ~~of the Comptroller of Florida~~ thereto. The legend
 43933 shall in substance read: "Approved by the Office of Financial
 43934 Institutions and Securities Regulation ~~Department of Banking and~~



HB 1803

2003

43935 ~~Finance~~ this ____ day of ____ . . . (herein the name and
 43936 signature of the director ~~head~~ of the office ~~department~~) . . .
 43937 ." Thereafter, the articles of incorporation shall be filed with
 43938 the Department of State.

43939 (4) The corporate existence of a banking corporation or a
 43940 trust company corporation shall commence on the date the
 43941 approved articles of incorporation are filed with the Department
 43942 of State, unless otherwise provided in the articles of
 43943 incorporation pursuant to s. 607.0203. Thereafter, a banking
 43944 corporation or trust company corporation may perform all acts
 43945 necessary to perfect its organization, obtain and equip a place
 43946 of business, and otherwise prepare to conduct a general banking
 43947 business or trust business. However, no banking corporation or
 43948 trust company corporation shall become a state bank or a state
 43949 trust company or transact any banking business or trust business
 43950 until it has received a certificate of authority to transact
 43951 business as provided in s. 658.25.

43952 (5) Unless the articles of incorporation provide
 43953 otherwise, the board of directors shall have authority to adopt
 43954 or amend bylaws that do not conflict with bylaws that may have
 43955 been adopted by the stockholders. The bylaws shall be for the
 43956 government of the bank or trust company, subordinate only to the
 43957 articles of incorporation and the laws of the United States and
 43958 of this state. A current copy of the bylaws shall be filed with
 43959 the office ~~department~~ at all times.

43960 (6) A bank or trust company may not amend its articles of
 43961 incorporation without the prior written approval of the office
 43962 ~~department~~.

43963 Section 1385. Section 658.235, Florida Statutes, is
 43964 amended to read:



HB 1803

2003

43965 658.235 Subscriptions for stock; approval of major
 43966 shareholders.--

43967 (1) Within 6 months after commencement of corporate
 43968 existence, and at least 30 days prior to opening, the directors
 43969 shall have completed the stock offering and shall file with the
 43970 office ~~department~~ a final list of subscribers to all of the
 43971 capital stock of the proposed bank or trust company showing the
 43972 name and residence of each subscriber and the amount of stock of
 43973 every class subscribed for by each.

43974 (2) The directors shall also provide such detailed
 43975 financial, business, and biographical information as the
 43976 commission or office ~~department~~ may reasonably require for each
 43977 person who, together with related interests, subscribes to 10
 43978 percent or more of the voting stock or nonvoting stock which is
 43979 convertible into voting stock of the proposed bank or trust
 43980 company. The office ~~department~~ shall make an investigation of
 43981 the character, financial responsibility, and financial standing
 43982 of each such person in order to determine whether he or she is
 43983 likely to control the bank or trust company in a manner which
 43984 would jeopardize the interests of the depositors and creditors
 43985 of the bank or trust company, the other stockholders, or the
 43986 general public. This investigation shall include a
 43987 determination of whether any such person has been convicted of,
 43988 or pled guilty or nolo contendere to, a violation of s. 655.50,
 43989 relating to the Florida Control of Money Laundering in Financial
 43990 Institutions Act; chapter 896, relating to offenses related to
 43991 financial transactions; or any similar state or federal law.

43992 (3) At the time the shares are issued, the corporation
 43993 shall furnish to the office ~~department~~ a final list of
 43994 shareholders and an affidavit from the corporation that the



HB 1803

2003

43995 entire capital accounts have been fully and unconditionally paid
 43996 in cash and that valid assets representing such total capital
 43997 accounts are held by the bank, trust company, or escrow agent.

43998 Section 1386. Section 658.24, Florida Statutes, is amended
 43999 to read:

44000 658.24 Organizational procedures.--After the corporate
 44001 existence of a bank or trust company corporation has commenced
 44002 and the stock has been issued, but no less than 30 days prior to
 44003 the intended opening date, a shareholders' meeting shall be held
 44004 to elect directors already approved by the office ~~department~~, to
 44005 approve organizational expenses, and to conduct such other
 44006 business relating to the corporation as may be appropriate.
 44007 Immediately after the board of directors has been elected by the
 44008 shareholders, the board shall meet to adopt bylaws, elect
 44009 officers, and conduct such other business relating to the
 44010 corporation as may be appropriate. Within 10 days after the
 44011 shareholders' and directors' meetings, the corporation shall
 44012 file with the office ~~department~~ a copy of the minutes of the
 44013 meetings together with a copy of the bylaws that were adopted, a
 44014 list showing the names and residence addresses of the officers
 44015 elected and the title of each, and a detailed accounting of the
 44016 organization expenses approved by the shareholders.

44017 Section 1387. Subsections (2) and (3) of section 658.25,
 44018 Florida Statutes, are amended to read:

44019 658.25 Opening for business.--

44020 (2) At least 30 days prior to its intended opening date,
 44021 the corporation shall notify the office ~~department~~ of its
 44022 proposed opening date and confirm its compliance with all
 44023 conditions imposed in the order or orders issued by the office
 44024 ~~department~~ relating to its organization.



HB 1803

2003

44025 (3) The office ~~department~~ shall perform a preopening
44026 examination to verify good faith compliance with all the
44027 requirements of law and that the bank or trust company
44028 corporation is ready to engage in a general commercial bank or
44029 trust business. If the office ~~department~~ finds that such
44030 requirements have been met, it shall issue a certificate of
44031 authorization to transact a general commercial bank or trust
44032 business. Upon the issuance of the certificate of
44033 authorization, the bank or trust company corporation shall
44034 become a state bank or a state trust company and the certificate
44035 shall constitute its charter.

44036 Section 1388. Subsections (2), (3), and (4) of section
44037 658.26, Florida Statutes, are amended to read:

44038 658.26 Places of transacting business; branches;
44039 facilities.--

44040 (2)(a) In addition, with the approval of the office
44041 ~~department~~ and upon such conditions as the commission or office
44042 ~~department~~ prescribes, any bank or trust company may establish
44043 branches within or outside the state. With the approval of the
44044 office ~~department~~ upon a determination that the resulting bank
44045 or trust company will be of sound financial condition, any bank
44046 or trust company incorporated pursuant to this chapter may
44047 establish branches by merger with any other bank or trust
44048 company.

44049 (b) An application for a branch by a bank that does not
44050 meet the requirements for the branch notification process shall
44051 be in writing in such form as the commission ~~department~~
44052 prescribes and be supported by such information, data, and
44053 records as the commission or office ~~department~~ may require to
44054 make findings necessary for approval. Applications filed



HB 1803

2003

44055 pursuant to this subsection shall not be published in the
44056 Florida Administrative Weekly but shall otherwise be subject to
44057 the provisions of chapter 120. Upon the filing of an
44058 application and a nonrefundable filing fee for the establishment
44059 of any branch permitted by paragraph (a), the office ~~department~~
44060 shall make an investigation with respect to compliance with the
44061 requirements of paragraph(a) and shall investigate and consider
44062 all factors relevant to such requirements, including the
44063 following:

44064 1. The sufficiency of capital accounts in relation to the
44065 deposit liabilities of the bank, or in relation to the number
44066 and valuation of fiduciary accounts of the trust company,
44067 including the proposed branch, and the additional fixed assets,
44068 if any, which are proposed for the branch and its operations,
44069 without undue risk to the bank or its depositors, or undue risk
44070 to the trust company or its fiduciary accounts;

44071 2. The sufficiency of earnings and earning prospects of
44072 the bank or trust company to support the anticipated expenses
44073 and any anticipated operating losses of the branch during its
44074 formative or initial years;

44075 3. The sufficiency and quality of management available to
44076 operate the branch;

44077 4. The name of the proposed branch to determine if it
44078 reasonably identifies the branch as a branch of the main office
44079 and is not likely to unduly confuse the public; and

44080 5. Substantial compliance by the applicants with
44081 applicable law governing their operations.

44082 (c) As provided by commission ~~departmental~~ rule, a
44083 financial institution operating in a safe and sound manner may
44084 establish a branch by filing a written notice with the office



HB 1803

2003

44085 ~~department~~ at least 30 days before opening that branch. In such
44086 case, the financial institution need not file a branch
44087 application or pay a branch application fee.

44088 (3)(a) An office in this state may be relocated with prior
44089 written approval of the office ~~department~~. An application for
44090 relocation shall be in writing in such form as the commission
44091 ~~department~~ prescribes and shall be supported by such
44092 information, data, and records as the commission or office
44093 ~~department~~ may require to make findings necessary for approval.

44094 (b) Applications filed pursuant to this subsection shall
44095 not be published in the Florida Administrative Weekly but shall
44096 otherwise be subject to the provisions of chapter 120. Upon the
44097 filing of a relocation application and a nonrefundable filing
44098 fee, the office ~~department~~ shall investigate to determine
44099 substantial compliance by the financial institution with
44100 applicable law governing its operations. Additional investments
44101 in land, buildings, leases, and leasehold improvements resulting
44102 from such relocation shall comply with the limitations imposed
44103 by s. 658.67(7)(a). A main office may not be moved outside this
44104 state unless expressly authorized by the financial institutions
44105 codes or by federal law.

44106 (c) A relocation application filed by a state bank or
44107 trust company that is operating in a safe and sound manner which
44108 is not denied within 10 working days after receipt shall be
44109 deemed approved unless the office ~~department~~ notifies the
44110 financial institution in writing that the application was not
44111 complete.

44112 (d) In addition to the application required by paragraph
44113 (a), a financial institution whose main office in this state has
44114 been in operation less than 24 months must provide evidence that



HB 1803

2003

44115 the criteria of s. 658.21(1) will be met.

44116 (e) A branch office may be closed with 30 days' prior
44117 written notice to the office ~~department~~. The notice shall
44118 include any information the commission prescribes ~~department may~~
44119 ~~prescribe~~ by rule.

44120 (4) With prior written notification to the office
44121 ~~department~~, any bank may operate facilities which are not
44122 physically connected to the main or branch office of the bank,
44123 provided that the facilities are situated on the property of the
44124 main or branch office or property contiguous thereto. Property
44125 which is separated from the main or branch office of a bank by
44126 only a street, and one or more walkways and alleyways are
44127 determined to be, for purposes of this subsection, contiguous to
44128 the property of the main or branch office.

44129 Section 1389. Subsections (1), (2), (4), and (5) of
44130 section 658.27, Florida Statutes, are amended to read:

44131 658.27 Control of bank or trust company; definitions and
44132 related provisions.--

44133 (1) In ss. 658.27-658.29, unless the context clearly
44134 requires otherwise:

44135 (a) "Bank holding company" means any business organization
44136 which has or acquires control over any bank or trust company or
44137 over any business organization that is or becomes a bank holding
44138 company by virtue of ss. 658.27-658.29.

44139 (b) "Business organization" means a corporation,
44140 association, partnership, or business trust and includes any
44141 similar organization(including a trust company and including a
44142 bank, whether or not authorized to engage in trust business, but
44143 only if such bank is, or by virtue of ss. 658.27-658.29 becomes,
44144 a bank holding company), whether created, organized, or existing



HB 1803

2003

44145 under the laws of the United States; this state or any other
 44146 state of the United States; or any other country, government, or
 44147 jurisdiction. "Business organization" does not include any
 44148 corporation the majority of the shares of which are owned by the
 44149 United States or by this state. "Business organization" also
 44150 includes any other trust, unless by its terms it must terminate
 44151 within 25 years or not later than 21 years and 10 months after
 44152 the death of individuals living on the effective date of the
 44153 trust, unless the office ~~department~~ determines, after notice and
 44154 opportunity for hearing, that a purpose for the creation of such
 44155 trust was the evasion of the provisions of ss. 658.27-658.29.

44156 (c) "Edge Act corporation" means a corporation organized
 44157 and existing under the provisions of s. 25(a) of the Federal
 44158 Reserve Act, 12 U.S.C. ss. 611-632.

44159 (d) "Subsidiary," with respect to a specified bank, trust
 44160 company, or bank holding company, means:

44161 1. Any business organization 25 percent or more of the
 44162 voting shares of which, excluding shares owned by the United
 44163 States or by any business organization wholly owned by the
 44164 United States, are directly or indirectly owned or controlled by
 44165 such bank, trust company, or bank holding company or are held by
 44166 such bank, trust company, or bank holding company with power to
 44167 vote;

44168 2. Any business organization the election of a majority of
 44169 the directors of which is controlled in any manner by such bank,
 44170 trust company, or bank holding company; or

44171 3. Any business organization with respect to the
 44172 management or policies of which such bank, trust company, or
 44173 bank holding company has the power, directly or indirectly, to
 44174 exercise a controlling influence, as determined by the office



HB 1803

2003

44175 ~~department~~ after notice and opportunity for hearing.

44176 (e) "Successor," with respect to a specified bank holding
 44177 company, means any business organization which acquires directly
 44178 or indirectly from the bank holding company shares of any bank
 44179 or trust company, when and if the relationship between such
 44180 business organization and the bank holding company is such that
 44181 the transaction effects no substantial change in the control of
 44182 the bank or trust company or beneficial ownership of such shares
 44183 of such bank or trust company. The commission ~~department~~ may, by
 44184 rule, further define the term "successor" to the extent
 44185 necessary to prevent evasion of the purposes of ss. 658.27-
 44186 658.29. For the purposes of ss. 658.27-658.29, any successor to
 44187 a bank holding company shall be deemed to have been a bank
 44188 holding company from the date on which the predecessor business
 44189 organization became a bank holding company.

44190 (2) A business organization has control over a bank or
 44191 over any other business organization if:

44192 (a) The business organization directly or indirectly or
 44193 acting through one or more other persons owns, controls, or has
 44194 power to vote 25 percent or more of any class of voting
 44195 securities of the bank or other business organization;

44196 (b) The business organization controls in any manner the
 44197 election of a majority of the directors, trustees, or other
 44198 governing body of the bank or other business organization;

44199 (c) The business organization owns, controls, or has power
 44200 to vote 10 percent or more of any class of voting securities of
 44201 the bank or other business organization and exercises a
 44202 controlling influence over the management or policies of the
 44203 bank or other business organization; or

44204 (d) The office ~~department~~ determines, after notice and



HB 1803

2003

44205 opportunity for hearing, that the business organization directly
 44206 or indirectly exercises a controlling influence over the
 44207 management or policies of the bank or other business
 44208 organization.

44209 (4) Shares of any kind or class of voting securities, and
 44210 assets, of a bank or business organization which, after March
 44211 28, 1972, the effective date of former s. 659.141(2)(g), are
 44212 transferred by any bank holding company, or by any bank or any
 44213 business organization which, but for such transfer, would be a
 44214 bank holding company, directly or indirectly to any transferee
 44215 that is indebted to the transferor, or has one or more officers,
 44216 directors, trustees, or beneficiaries in common with or subject
 44217 to control by the transferor, shall be deemed to be indirectly
 44218 owned or controlled by the transferor unless the office
 44219 ~~department~~, after opportunity for hearing, determines that the
 44220 transferor is not in fact capable of controlling the transferee.

44221 (5) Notwithstanding any other provision of this section,
 44222 no bank and no business organization shall be deemed to own or
 44223 control voting shares or assets of another bank or another
 44224 business organization if:

44225 (a) The ownership or control of such shares or assets is
 44226 in a fiduciary capacity, except as provided in paragraph (3)(b)
 44227 and subsection (4). For the purposes of the preceding sentence,
 44228 shares of a bank or a business organization shall not be deemed
 44229 to have been acquired in a fiduciary capacity if the acquiring
 44230 bank or business organization has sole discretionary authority
 44231 to exercise voting rights with respect thereto, except that this
 44232 limitation is applicable in the case of a bank or business
 44233 organization acquiring such shares prior to March 28, 1972, the
 44234 effective date of former s. 659.141(3)(a), only if the bank or



HB 1803

2003

44235 business organization has the right, consistent with its
44236 obligations under the instrument, agreement, or other
44237 arrangement establishing the fiduciary relationship, to divest
44238 itself of such voting rights and fails to exercise that right to
44239 divest within 1 year after that date;

44240 (b) The shares are acquired in connection with the
44241 underwriting of securities by a business organization, in good
44242 faith and without any intent or purpose to evade the purposes of
44243 ss. 658.27-658.29, and if such shares are held only for such
44244 period of time, not exceeding 3 months from date of acquisition,
44245 as will permit the sale thereof on a reasonable basis; however,
44246 upon application by the underwriting business organization, and
44247 after notice and opportunity for hearing, if the office
44248 ~~department~~ finds that the sale of such shares within that period
44249 of time would create an unreasonable hardship on the
44250 underwriting business organization, that there is no intent or
44251 purpose to evade the purposes of ss. 658.27-658.29 by the
44252 continued ownership or control of such shares by such
44253 underwriting business organization, and that an extension of
44254 such period of time would not be detrimental to the public
44255 interest, the office ~~department~~ is authorized to extend, from
44256 time to time, for not more than 1 month at a time, the 3-month
44257 period, but the aggregate of such extensions shall not exceed 3
44258 months;

44259 (c) Control of voting rights of such shares is acquired in
44260 good faith, and without any purpose or intent to evade the
44261 purposes of ss. 658.27-658.29, in the course of participating in
44262 a proxy solicitation by a business organization formed in good
44263 faith, and without any purpose or intent to evade the purposes
44264 of ss. 658.27-658.29, for the sole purpose of participating in



HB 1803

2003

44265 such proxy solicitation, and such control of voting rights
44266 terminates immediately upon the conclusion of the sole purpose
44267 for which such business organization was formed; or

44268 (d) The ownership or control of such shares or assets is
44269 acquired in securing or collecting a debt previously contracted
44270 in good faith, unless the office ~~department~~, after notice and
44271 opportunity for hearing, finds that a purpose of any part of any
44272 transaction was an evasion of the purposes of ss. 658.27-658.29
44273 and if the ownership or control of such shares or assets is held
44274 only for such reasonable period of time, not exceeding 2 years
44275 after the date of acquisition, as will permit the divestiture
44276 thereof on a reasonable basis. Upon application by the bank or
44277 business organization which acquired such ownership or control
44278 in accordance with the preceding provisions of this paragraph,
44279 and after notice and opportunity for hearing, if the office
44280 ~~department~~ finds that the bank or business organization has made
44281 reasonable and good faith efforts to divest itself of such
44282 ownership or control on a reasonable basis within the 2-year
44283 period but has been unable to do so, that immediate divestiture
44284 of such ownership or control would create an unreasonable
44285 hardship on such bank or business organization, that
44286 continuation of such ownership or control involves no purpose or
44287 intent to evade the purposes of ss. 658.27-658.29, and that an
44288 extension of the 2-year period would not be detrimental to the
44289 public interest, the office ~~department~~ is authorized to extend,
44290 from time to time and for not more than 1 year at a time, the 2-
44291 year period, but the aggregate of all such extensions shall not
44292 exceed 3 years.

44293 Section 1390. Subsections (1), (2), and (3) of section
44294 658.28, Florida Statutes, are amended to read:



HB 1803

2003

44295 658.28 Acquisition of control of a bank or trust company.-

44296 -

44297 (1) In any case in which a person or a group of persons,
 44298 directly or indirectly or acting by or through one or more
 44299 persons, proposes to purchase or acquire a controlling interest
 44300 in any state bank or state trust company, and thereby to change
 44301 the control of that bank or trust company, each person or group
 44302 of persons shall first make application to the office ~~department~~
 44303 for a certificate of approval of such proposed change of control
 44304 of the bank or trust company. The application shall contain the
 44305 name and address, and such other relevant information as the
 44306 commission or office requires ~~department may require~~, including
 44307 information relating to other and former addresses and the
 44308 reputation, character, responsibility, and business
 44309 affiliations, of the proposed new owner or each of the proposed
 44310 new owners of the controlling interest. The office ~~department~~
 44311 shall issue a certificate of approval only after it has made an
 44312 investigation and determined that the proposed new owner or
 44313 owners of the interest are qualified by reputation, character,
 44314 experience, and financial responsibility to control and operate
 44315 the bank or trust company in a legal and proper manner and that
 44316 the interests of the other stockholders, if any, and the
 44317 depositors and creditors of the bank or trust company and the
 44318 interests of the public generally will not be jeopardized by the
 44319 proposed change in ownership, controlling interest, or
 44320 management. No person who has been convicted of, or pled guilty
 44321 or nolo contendere to, a violation of s. 655.50, relating to the
 44322 Florida Control of Money Laundering in Financial Institutions
 44323 Act; chapter 896, relating to offenses related to financial
 44324 transactions; or any similar state or federal law shall be given



HB 1803

2003

44325 a certificate of approval by the office ~~department~~.

44326 (2) For the purposes of this section, the standards,
44327 criteria, and exceptions contained in s. 658.27(2), (3), (4),
44328 and (5) relating to control by a business organization of a bank
44329 or another business organization apply to the persons mentioned
44330 in this section and constitute the standards, criteria, and
44331 exceptions which determine whether any person or group of
44332 persons shall be deemed to be purchasing or acquiring, or to
44333 have purchased or acquired, directly or indirectly a
44334 "controlling interest" in a state bank or a state trust company;
44335 but the office ~~department~~ is not limited to those standards or
44336 criteria in determining whether any such person shall be deemed
44337 to be acting by or through one or more other persons.

44338 (3) In any case in which a proposed purchase or
44339 acquisition of voting securities of a state bank or trust
44340 company would give rise to the presumption created under s.
44341 658.27(2)(c), the person or group of persons who propose to
44342 purchase or acquire the voting securities shall first give
44343 written notice of the proposal to the office ~~department~~. Such
44344 notice may present information that the proposed purchase or
44345 acquisition will not result in control. The office ~~department~~
44346 shall afford the person seeking to rebut the presumption an
44347 opportunity to present views in writing or orally before its
44348 designated representatives at an informal conference. If the
44349 office ~~department~~ determines, pursuant to the informal
44350 conference, that the person or group of persons seeking to rebut
44351 the presumption exercises a controlling influence over the bank,
44352 an application for change of control must be filed pursuant to
44353 this section.

44354 Section 1391. Section 658.285, Florida Statutes, is



HB 1803

2003

44355 amended to read:

44356 658.285 Acquisition or ownership of state banks by
 44357 international banking corporations.--An international banking
 44358 corporation may, with the approval of the office ~~department~~
 44359 pursuant to s. 658.28, acquire control over or organize a state
 44360 bank organized under the laws of this state. For the purposes of
 44361 this section, the word "bank" shall have the meaning given in s.
 44362 2(c) of the Bank Holding Company Act of 1956, 12 U.S.C. s.
 44363 1841(c).

44364 Section 1392. Subsections (2), (4), (5), (6), (7), (9),
 44365 and (10) of section 658.295, Florida Statutes, are amended to
 44366 read:

44367 658.295 Interstate banking.--

44368 (2) DEFINITIONS.--For purposes of this section, the term:

44369 (a) "Acquire," with respect to a company, means to:

44370 1. Merge or consolidate with a bank holding company;

44371 2. Assume direct or indirect ownership or control of:

44372 a. More than 25 percent of any class of voting shares of a
 44373 bank holding company or a bank, if the acquiring company was not
 44374 a bank holding company prior to such acquisition;

44375 b. More than 5 percent of any class of voting shares of a
 44376 bank holding company or a bank, if the acquiring company was a
 44377 bank holding company prior to such acquisition; or

44378 c. All or substantially all of the assets of a bank
 44379 holding company or bank, if the acquiring company was a bank
 44380 holding company prior to such acquisition; or

44381 3. Take any other action that results in the direct or
 44382 indirect acquisition of control by a company of a bank holding
 44383 company, if the acquiring company was a bank holding company
 44384 prior to such acquisition.



HB 1803

2003

44385 (b) "Affiliate" has the meaning set forth in s. 2(k) of
 44386 the Bank Holding Company Act.

44387 (c) "Bank" means an institution as defined in s. 2(c) of
 44388 the Bank Holding Company Act.

44389 (d) "Bank holding company" has the meaning set forth in s.
 44390 2(a) of the Bank Holding Company Act, and unless the context
 44391 requires otherwise, includes any Florida bank holding company,
 44392 any out-of-state bank holding company, or any international
 44393 banking company.

44394 (e) "Banking office" means any bank, branch of a bank, or
 44395 other office at which a bank accepts deposits, provided the term
 44396 does not include any:

- 44397 1. Unmanned automatic teller machine, point-of-sale
- 44398 terminal, or other similar unmanned electronic banking facility
- 44399 at which deposits may be accepted;
- 44400 2. Office located outside the United States; or
- 44401 3. Loan production office, representative office, or other
- 44402 office at which deposits are not accepted.

44403 (f) "Bank Holding Company Act" means the federal Bank
 44404 Holding Company Act of 1956, as amended, 12 U.S.C. ss. 1841 et
 44405 seq.

44406 (g) "Bank regulatory agency" means:

- 44407 1. Any agency of another state with primary responsibility
- 44408 for chartering and regulating banks;
- 44409 2. The Office of the Comptroller of the Currency, the
- 44410 Federal Deposit Insurance Corporation, the Board of Governors of
- 44411 the Federal Reserve System, and any successor to these agencies;
- 44412 or
- 44413 3. An agency of a country other than the United States
- 44414 with primary responsibility for chartering and regulating banks



HB 1803

2003

44415 and bank holding companies in such country.

44416 (h) "Branch" has the meaning set forth in s. 658.12.

44417 (i) "Company" has the meaning set forth in s. 2(b) of the
44418 Bank Holding Company Act, and includes a bank holding company.

44419 (j) "Control" has the meaning set forth in s. 2(a)(2) of
44420 the Bank Holding Company Act.

44421 ~~(k) "Department" means the Department of Banking and~~
44422 ~~Finance.~~

44423 (k)~~(l)~~ "Deposits" means all demand, time, and savings
44424 deposits of individuals, partnerships, corporations, the United
44425 States, and states and political subdivisions in the United
44426 States, as set forth in 12 U.S.C. s. 1813. However, the term
44427 "deposits" does not include deposits of banks or foreign
44428 governments or institutions or deposits held by foreign banking
44429 offices or corporations organized pursuant to s. 25 or s. 25(a)
44430 of the Federal Reserve Act, as amended, 12 U.S.C. ss. 601-604a
44431 or 12 U.S.C. ss. 611-631. Pursuant to rules established by the
44432 commission ~~department~~, determinations of deposits shall be made
44433 by reference to the most recently available consolidated report
44434 of condition or similar reports filed by banks with state or
44435 federal regulatory agencies.

44436 (l)~~(m)~~ "Depository institution" means any institution
44437 included for any purpose within the definitions of "insured
44438 depository institution" as set forth in 12 U.S.C. s. 1813(c)(2)
44439 and (3).

44440 (m)~~(n)~~ "Florida bank" means a bank whose home state is
44441 this state.

44442 (n)~~(o)~~ "Florida bank holding company" means a bank holding
44443 company that:

44444 1. Had its principal place of business in this state on



HB 1803

2003

44445 July 1, 1966, or the date on which it became a bank holding
 44446 company, whichever is later.

44447 2. Is not controlled by an out-of-state bank holding
 44448 company.

44449 (o)~~(p)~~ "Home state" means:

44450 1. With respect to a state bank, the state by which the
 44451 bank is chartered.

44452 2. With respect to a national bank, the state in which the
 44453 main office of the bank is located.

44454 3. With respect to a foreign bank, the state determined to
 44455 be the home state of such foreign bank under 12 U.S.C. s.
 44456 3103(c).

44457 (p)~~(q)~~ "Home state regulator" means, with respect to an
 44458 out-of-state bank holding company, the bank regulatory agency of
 44459 the state in which such company maintains its principal place of
 44460 business.

44461 (q)~~(r)~~ "International banking corporation" means an entity
 44462 as defined in s. 663.01(6).

44463 (r)~~(s)~~ "State bank" means a bank chartered under the laws
 44464 of this state.

44465 (s)~~(t)~~ "Principal place of business," of a bank holding
 44466 company, means the state in which the total deposits of its
 44467 subsidiaries were the greatest on July 1, 1966, or on the date
 44468 on which the company became a bank holding company, whichever is
 44469 later.

44470 (t)~~(u)~~ "Out-of-state bank holding company" means a bank
 44471 holding company that has its principal place of business in a
 44472 state other than this state or the District of Columbia and,
 44473 unless the context requires otherwise, includes an international
 44474 banking corporation.



HB 1803

2003

44475 (u)~~(v)~~ "State" means any state, territory, or other
44476 possession of the United States, including the District of
44477 Columbia.

44478 (v)~~(w)~~ "Subsidiary" has the meaning set forth in s. 2(d)
44479 of the Bank Holding Company Act.

44480 (4) APPLICABLE LAW.--Any out-of-state bank holding company
44481 that controls a Florida bank or a Florida bank holding company
44482 is subject to the laws of this state, and the rules of the
44483 commission ~~department~~, relating to the acquisition, ownership,
44484 and operation of banks and bank holding companies located in
44485 this state which are applicable to Florida bank holding
44486 companies.

44487 (5) AUTHORITY TO ENTER INTO COOPERATIVE AGREEMENTS; FEES.-
44488 -In order to carry out the purposes of this section, the office
44489 ~~department~~ may:

44490 (a) Enter into cooperative, coordinating, or information-
44491 sharing agreements with other bank regulatory agencies or any
44492 organization affiliated with or representing one or more bank
44493 regulatory agencies to facilitate the regulation of banks and
44494 bank holding companies doing business in this state.

44495 (b) Accept reports of examinations or investigations or
44496 other records from other bank regulatory agencies having
44497 concurrent jurisdiction over a state bank or a bank holding
44498 company that controls a state bank in lieu of conducting its own
44499 examinations or investigations.

44500 (c) Take any action jointly with other bank regulatory
44501 agencies having concurrent jurisdiction over banks and bank
44502 holding companies doing business in this state, or take such
44503 action independently, to carry out its responsibilities.

44504 (d) Assess supervisory fees that shall be payable by



HB 1803

2003

44505 Florida banks and Florida bank holding companies in connection
44506 with the office's ~~department's~~ performance of its duties. Such
44507 fees may be shared with other bank regulatory agencies or any
44508 organizations affiliated with or representing one or more bank
44509 regulatory agencies in accordance with agreements between them
44510 and the office ~~department~~.

44511 (6) PERMITTED ACQUISITIONS.--

44512 (a) Except as otherwise expressly permitted by s. 1841 of
44513 the Bank Holding Company Act, no bank holding company may
44514 acquire a Florida bank holding company or a Florida bank without
44515 the prior approval of the office ~~department~~.

44516 (b) Notwithstanding paragraph (a), prior office ~~department~~
44517 approval is not required and the standards for approval in
44518 subsection (8) shall be waived by the office ~~department~~ if the
44519 acquisition is made:

44520 1. In a transaction arranged by the office ~~department~~ or
44521 another bank regulatory agency to prevent insolvency or the
44522 appointment of a liquidator or receiver of the acquired bank; or

44523 2. In a transaction in which a bank forms its own bank
44524 holding company, if the ownership rights of the former bank
44525 shareholders are substantially similar to those of the
44526 shareholders of the new bank holding company.

44527 (c) The prohibition in paragraph (a) does not apply if the
44528 acquisition is made solely for the purpose of facilitating an
44529 acquisition of a successor institution as defined in s.
44530 658.40(4).

44531 (d) Notwithstanding paragraph (a), to the extent
44532 prohibited or preempted by federal law, or to the extent the
44533 determination of compliance with the conditions imposed in
44534 subsection (8) duplicates a determination made or to be made by



HB 1803

2003

44535 the responsible federal regulatory agency as part of the federal
44536 approval process, prior office ~~department~~ approval of any
44537 application filed by an out-of-state bank or out-of-state bank
44538 holding company to acquire a Florida bank or a Florida bank
44539 holding company is not required when such Florida bank or all
44540 bank subsidiaries of such Florida bank holding company are
44541 national banks.

44542 (7) REQUIRED APPLICATION.--

44543 (a) A company that proposes to make an acquisition under
44544 this section shall:

44545 1. File with the office ~~department~~ a copy of the
44546 application that such company has filed with the responsible
44547 federal bank regulatory agency, together with such additional
44548 information as the commission or office requires ~~department may~~
44549 ~~prescribe~~.

44550 2. Pay to the office ~~department~~ the required application
44551 fee, pursuant to s. 658.73.

44552 (b) To the extent consistent with the effective discharge
44553 of the office's ~~department's~~ responsibilities, the forms
44554 established under this section for application and reporting
44555 shall conform to those established by the Board of Governors of
44556 the Federal Reserve System under the Bank Holding Company Act.

44557 (c) In connection with an application received under this
44558 section, the office ~~department~~ shall:

44559 1. Require that prior notice of the application be
44560 published once in a daily newspaper of general circulation in
44561 the county in which the bank to be acquired has its principal
44562 place of business or that a notice of intent have been mailed
44563 via certified mail to each person owning stock in the bank to be
44564 acquired and provide an opportunity for public comment.



HB 1803

2003

44565 2. Make the application available for public inspection to
44566 the extent required or permitted under applicable state or
44567 federal law.

44568 (d) If the applicant is an out-of-state bank holding
44569 company that is not incorporated under the laws of this state,
44570 it shall submit with the application proof that the applicant
44571 has complied with applicable requirements of chapter 607,
44572 together with the filing fee due the Department of State under
44573 s. 607.0122.

44574 (9) REPORTS; EXAMINATIONS.--To the extent required
44575 ~~prescribed~~ by the commission or office ~~department~~, each bank
44576 holding company that directly or indirectly controls a state
44577 bank shall submit to the office ~~department~~ financial reports
44578 filed by such company with any bank regulatory agency concerning
44579 state banks located in this state within 15 days after the
44580 filing thereof with such agency. However, any report prohibited
44581 by applicable federal or state law is not required to be
44582 submitted to the office ~~department~~.

44583 (10) PENALTIES.--The office ~~department~~ may enforce the
44584 provisions of this section pursuant to the financial
44585 institutions' codes. The office ~~department~~ shall promptly give
44586 notice to the home state regulator of any enforcement action
44587 initiated against an out-of-state bank holding company and, to
44588 the extent practicable, shall consult and cooperate with the
44589 home state regulator in pursuing and resolving said enforcement
44590 action. In the case of an out-of-state holding company, the
44591 office ~~department~~ shall recognize the exclusive authority of the
44592 home state regulator over corporate governance matters and the
44593 primary responsibility of the home state regulator with respect
44594 to safety and soundness matters.



HB 1803

2003

44595 Section 1393. Paragraph (g) of subsection (3), and
 44596 subsections (4), (6), (8), (9), (11),(12), and (13) of section
 44597 658.2953, Florida Statutes, are amended to read:

44598 658.2953 Interstate branching.--

44599 (3) LEGISLATIVE INTENT.--The Legislature finds it is in
 44600 the interest of the citizens of this state, and declares it to
 44601 be the intent of this section, to:

44602 (g) Provide the commission and office department
 44603 sufficient powers and responsibilities to carry out such
 44604 purposes.

44605 (4) DEFINITIONS.--As used in this section, unless a
 44606 different meaning is required by the context:

44607 (a) "Bank" has the meaning set forth in 12 U.S.C. s.
 44608 1813(h), provided the term "bank" does not include any "foreign
 44609 bank" as defined in 12 U.S.C. s. 3101(7), except such term
 44610 includes any foreign bank organized under the laws of a
 44611 territory of the United States, Puerto Rico, Guam, American
 44612 Samoa, or the Virgin Islands, the deposits of which are insured
 44613 by the Federal Deposit Insurance Corporation.

44614 (b) "Bank holding company" has the meaning set forth in 12
 44615 U.S.C. s. 1841(a)(1).

44616 (c) "Bank regulatory agency" means:

44617 1. Any agency of another state with primary responsibility
 44618 for chartering and regulating banks.

44619 2. The Office of the Comptroller of the Currency, the
 44620 Federal Deposit Insurance Corporation, the Board of Governors of
 44621 the Federal Reserve System, and any successor to such agencies.

44622 (d) "Branch" has the meaning set forth in s. 658.12.

44623 ~~(e) "Department" means the Department of Banking and~~
 44624 ~~Finance.~~



HB 1803

2003

44625 (e)~~(f)~~ "De novo branch" means a branch of a bank located
44626 in a host state which:

44627 1. Is originally established by the bank as a branch.

44628 2. Does not become a branch of the bank as a result of:

44629 a. The acquisition of another bank or a branch of another
44630 bank; or

44631 b. The merger, consolidation, or conversion involving any
44632 such bank or branch.

44633 (f)~~(g)~~ "Control" shall be construed consistently with the
44634 provisions of 12 U.S.C. s. 1841(a)(2).

44635 (g)~~(h)~~ "Failing financial entity" means an out-of-state
44636 state bank that has been determined by its home state regulator
44637 or the appropriate federal regulatory agency to be imminently
44638 insolvent or to require immediate action to prevent its probable
44639 failure.

44640 (h)~~(i)~~ "Home state" means:

44641 1. With respect to a state bank, the state by which the
44642 bank is chartered.

44643 2. With respect to a national bank, the state in which the
44644 main office of the bank is located.

44645 3. With respect to a foreign bank, the state determined to
44646 be the home state of such foreign bank under 12 U.S.C. s.
44647 3103(c).

44648 (i)~~(j)~~ "Home state regulator" means, with respect to an
44649 out-of-state state bank, the bank's regulatory agency of the
44650 state in which such bank is chartered.

44651 (j)~~(k)~~ "Host state" means a state, other than the home
44652 state of a bank, in which the bank maintains or seeks to
44653 establish and maintain a branch.

44654 (k)~~(l)~~ "Insured depository institution" has the meaning



HB 1803

2003

44655 set forth in 12 U.S.C. s. 1813(c)(2) and (3).

44656 (l)~~(m)~~ "Interstate merger transaction" means the merger or
 44657 consolidation of banks with different home states, and the
 44658 conversion of branches of any bank involved in the merger or
 44659 consolidation into branches of the resulting bank.

44660 (m)~~(n)~~ "Out-of-state bank" means a bank whose home state
 44661 is a state other than this state.

44662 (n)~~(o)~~ "Out-of-state state bank" means a bank chartered
 44663 under the laws of any state other than this state.

44664 (o)~~(p)~~ "Resulting bank" means a bank that has resulted
 44665 from an interstate merger transaction under this section.

44666 (p)~~(q)~~ "State" means any state of the United States, the
 44667 District of Columbia, any territory of the United States, Puerto
 44668 Rico, Guam, American Samoa, the Trust Territory of the Pacific
 44669 Islands, the Virgin Islands, and the Northern Mariana ~~Marian~~
 44670 Islands.

44671 (q)~~(r)~~ "Florida bank" means a bank whose home state is
 44672 this state.

44673 (r)~~(s)~~ "State bank" means a bank chartered under the laws
 44674 of this state.

44675 (6) AUTHORITY OF STATE BANKS TO ESTABLISH INTERSTATE
 44676 BRANCHES BY MERGER.--~~Beginning May 31, 1997,~~ With the prior
 44677 written approval of the office ~~department~~, a state bank may
 44678 establish, maintain, and operate one or more branches in a state
 44679 other than this state pursuant to an interstate merger
 44680 transaction in which the state bank is the resulting bank. No
 44681 later than the date on which the required application for the
 44682 interstate merger transaction is filed with the responsible
 44683 federal bank regulatory agency, the applicant state bank shall
 44684 file an application on a form prescribed by the commission



HB 1803

2003

44685 ~~department~~ accompanied by the required fee pursuant to s.
 44686 658.73. The applicant shall also comply with the provisions of
 44687 ss. 658.40-658.45.

44688 (8) NOTICE AND FILING REQUIREMENTS.--Any out-of-state bank
 44689 that will be the resulting bank pursuant to an interstate merger
 44690 transaction involving a Florida bank shall notify the office
 44691 ~~department~~ of the proposed merger within 15 days after the date
 44692 on which it files an application for an interstate merger
 44693 transaction with the appropriate federal regulatory agency.

44694 (9) EXAMINATIONS; PERIODIC REPORTS; COOPERATIVE
 44695 AGREEMENTS; ASSESSMENT OF FEES.--

44696 (a) The office ~~department~~ may examine any Florida branch
 44697 of an out-of-state state bank which the office ~~department~~ deems
 44698 necessary for the purpose of determining whether the branch is
 44699 being operated in compliance with the laws of this state and in
 44700 accordance with safe and sound banking practices.

44701 (b) The office ~~department~~ may enter into cooperative,
 44702 coordinating or information-sharing agreements with other bank
 44703 regulatory agencies or any organization affiliated with or
 44704 representing one or more bank regulatory agencies to facilitate
 44705 the regulation of out-of-state state branches doing business in
 44706 this state.

44707 (c) The office ~~department~~ may accept reports of
 44708 examinations or investigations, or other records from other
 44709 regulatory agencies having concurrent jurisdiction over a state
 44710 bank or a bank holding company that controls out-of-state state
 44711 banks that operate branches in this state in lieu of conducting
 44712 its own examinations or investigations.

44713 (d) The office ~~department~~ may assess supervisory and
 44714 examination fees that shall be payable by state banks and out-



HB 1803

2003

44715 of-state state bank holding companies doing business in this
44716 state in connection with the office's ~~department's~~ performance
44717 of its duties under this section and as prescribed by the
44718 commission ~~department~~. Such fees may be shared with other bank
44719 regulatory agencies or any organizations affiliated with or
44720 representing one or more bank regulatory agencies in accordance
44721 with agreements between them and the office ~~department~~.

44722 (11) ENFORCEMENT.--

44723 (a) If the office ~~department~~ determines that a branch
44724 maintained by an out-of-state state bank in this state is being
44725 operated in violation of any provision of law of this state, or
44726 that such branch is being operated in an unsafe and unsound
44727 manner, the office ~~department~~ may take all such enforcement
44728 actions as it would be empowered to take if the branch were a
44729 state bank, provided that the office ~~department~~ shall promptly
44730 give notice to the home state regulator of each enforcement
44731 action taken against an out-of-state state bank and, to the
44732 extent practicable, shall consult and cooperate with the home
44733 state regulator in pursuing and resolving said enforcement
44734 action.

44735 (b) The office ~~department~~ may take any action jointly with
44736 other regulatory agencies having concurrent jurisdiction over
44737 out-of-state banks and bank holding companies that operate
44738 branches in this state, or take such action independently, to
44739 carry out its responsibilities.

44740 (12) NOTICE OF SUBSEQUENT MERGER.--

44741 (a) Each out-of-state state bank that has established and
44742 maintains a branch in this state pursuant to this section shall
44743 give at least 30 days' prior written notice to the office
44744 ~~department~~ of any merger, consolidation, or other transaction



HB 1803

2003

44745 that would cause a change of control pursuant to home state or
44746 federal law with respect to such bank or any bank holding
44747 company that controls such bank.

44748 (b) Notwithstanding any other provisions of the financial
44749 institutions' codes or of chapter 120, in the case of a failing
44750 financial entity, the office ~~department~~ shall have the power,
44751 with the concurrence of the appropriate regulatory agency, to
44752 issue an emergency order authorizing:

44753 1. The merger or interstate merger transaction of any such
44754 failing financial entity with a state bank or bank holding
44755 company that controls a state bank;

44756 2. Any bank to acquire assets and assume liabilities of
44757 the Florida branches of any such failing financial entity;

44758 3. The conversion of any such failing financial entity
44759 into a state bank or trust company;

44760 4. The chartering of a new state bank to acquire the
44761 Florida branches of any such failing financial entity; or

44762 5. The chartering of a new state trust company to acquire
44763 assets and assume liabilities and rights, powers, and
44764 responsibilities as fiduciary of such failing financial entity.

44765 (13) DE NOVO INTERSTATE BRANCHING BY STATE BANKS.--

44766 (a) With the prior approval of the office ~~department~~, any
44767 state bank may establish and maintain a de novo branch or
44768 acquire a branch in a state other than this state.

44769 (b) A state bank desiring to establish and maintain a
44770 branch in another state pursuant to s. 658.26 shall pay the
44771 branch application fee set forth in s. 658.73. In acting on the
44772 application, the office ~~department~~ shall consider the views of
44773 the appropriate bank regulatory agencies.

44774 Section 1394. Paragraph (d) of subsection (1) and



HB 1803

2003

44775 subsection (4) of section 658.296, Florida Statutes, are amended
 44776 to read:

44777 658.296 Control of deposit-taking institutions.--

44778 (1) As used in this section, unless the context clearly
 44779 requires otherwise:

44780 (d) "Control" has the meaning set forth in s. 2(a)(2) and
 44781 (3) of the federal Bank Holding Company Act of 1956, as amended,
 44782 12 U.S.C. s. 1841(a)(2) and (3), except that the reference
 44783 therein to "the Board" shall be deemed to refer to the office
 44784 ~~department~~.

44785 (4) The office ~~department~~ shall have the power to enforce
 44786 the prohibitions of this section by seeking to enjoin any
 44787 violation, by issuing cease and desist orders, by imposing
 44788 administrative fines, or by any other remedies that are provided
 44789 by law.

44790 Section 1395. Section 658.32, Florida Statutes, is amended
 44791 to read:

44792 658.32 Annual meetings.--Unless otherwise approved by the
 44793 office ~~department~~, the annual meeting of stockholders of a state
 44794 bank or trust company shall be held on such day in the first 4
 44795 months of each year as is specified therefor in the articles of
 44796 incorporation or in the bylaws of the corporation; however, when
 44797 the day fixed in the articles of incorporation or in the bylaws
 44798 for the regular annual meeting of the stockholders falls on a
 44799 legal holiday, the annual meeting of stockholders shall be held
 44800 on the next following day which is not a legal holiday.

44801 Section 1396. Subsections (3), (4), and (5) of section
 44802 658.33, Florida Statutes, are amended to read:

44803 658.33 Directors, number, qualifications; officers.--

44804 (3) Within 30 days following the annual meeting or any



HB 1803

2003

44805 other meeting at which directors or officers are elected, the
44806 bank or trust company must submit to the office ~~department~~ the
44807 names and residence addresses of those persons on a form adopted
44808 by the commission and provided by the office ~~department~~.

44809 (4) Each director, upon assuming office, must acknowledge
44810 that he or she is familiar with his or her responsibilities as a
44811 director and that he or she will diligently and honestly
44812 administer the affairs of the bank or trust company and will not
44813 knowingly violate, or willfully permit to be violated, any of
44814 the provisions of the financial institutions codes or pertinent
44815 rules of the commission ~~department~~. The signed copy of such
44816 oath must be filed with the office ~~department~~ within 30 days
44817 after election.

44818 (5) The president or chief executive officer of a bank or
44819 trust company must have had at least 1 year of direct experience
44820 as an executive officer, director, or regulator of a financial
44821 institution within the last 3 years. This requirement may be
44822 waived by the office ~~department~~ after considering the overall
44823 experience and expertise of the proposed officer.

44824 Section 1397. Subsections (3) and (4) of section 658.34,
44825 Florida Statutes, are amended to read:

44826 658.34 Shares of capital stock.--

44827 (3) With the approval of the office ~~department~~, a bank or
44828 trust company may issue preferred stock of one or more classes
44829 in an amount and with a par value as approved by the office
44830 ~~department~~.

44831 (4) With the approval of the office ~~department~~, a bank or
44832 trust company may issue less than all the number of shares of
44833 any of its capital stock authorized by its articles of
44834 incorporation. Such authorized but unissued shares may be issued



HB 1803

2003

44835 only for the following purposes:

44836 (a) To provide for stock options as provided in s. 658.35.

44837 (b) To declare or pay a stock dividend; however, any such
44838 stock dividend must comply with the provisions of this section
44839 and s. 658.37.

44840 (c) To increase the capital of the bank or trust company,
44841 with the approval of the office ~~department~~.

44842 Section 1398. Subsection (1) of section 658.35, Florida
44843 Statutes, is amended to read:

44844 658.35 Share options; warrants.--

44845 (1) After obtaining the approval of the majority of the
44846 board of directors, the majority of the holders of common stock
44847 of the bank, and the office ~~department~~ and after complying with
44848 the provisions of s. 607.0624, any bank or trust company may,
44849 for the purpose of providing share options for or issuing
44850 warrants to one or more of its directors, officers, or
44851 employees, hold authorized but unissued, or purchase or
44852 otherwise acquire and hold, shares of its own capital stock in
44853 an amount not to exceed 20 percent of the total number of shares
44854 outstanding.

44855 Section 1399. Section 658.36, Florida Statutes, is amended
44856 to read:

44857 658.36 Changes in capital.--

44858 (1) No state bank or trust company shall reduce its
44859 outstanding capital stock without first obtaining the approval
44860 of the office ~~department~~, and such approval shall be withheld if
44861 the reduction will cause the outstanding capital stock to be
44862 less than the minimum required pursuant to the financial
44863 institutions codes.

44864 (2) Any state bank or trust company may, with the approval



HB 1803

2003

44865 of the office ~~department~~, provide for an increase in its capital
 44866 stock.

44867 Section 1400. Section 658.37, Florida Statutes, is amended
 44868 to read:

44869 658.37 Dividends and surplus.--The directors of any bank
 44870 or trust company, after charging off bad debts, depreciation,
 44871 and other worthless assets if any, and making provision for
 44872 reasonably anticipated future losses on loans and other assets,
 44873 may quarterly, semiannually, or annually declare a dividend of
 44874 so much of the aggregate of the net profits of that period
 44875 combined with its retained net profits of the preceding 2 years
 44876 as they shall judge expedient, and, with the approval of the
 44877 office ~~department~~, any bank or trust company may declare a
 44878 dividend from retained net profits which accrued prior to the
 44879 preceding 2 years, but each bank or trust company shall, before
 44880 the declaration of a dividend on its common stock, carry 20
 44881 percent of its net profits for such preceding period as is
 44882 covered by the dividend to its surplus fund, until the same
 44883 shall at least equal the amount of its common and preferred
 44884 stock then issued and outstanding. No bank or trust company
 44885 shall declare any dividend at any time at which its net income
 44886 from the current year combined with the retained net income from
 44887 the preceding 2 years is a loss or which would cause the capital
 44888 accounts of the bank or trust company to fall below the minimum
 44889 amount required by law, regulation, order, or any written
 44890 agreement with the office ~~department~~ or a state or federal
 44891 regulatory agency. A bank or trust company may, however, split
 44892 up or divide the issued shares of capital stock into a greater
 44893 number of shares without increasing or decreasing the capital
 44894 accounts of the bank or trust company, and such shall not be



HB 1803

2003

44895 construed to be a dividend within the meaning of this section.

44896 Section 1401. Section 658.39, Florida Statutes, is amended
44897 to read:

44898 658.39 Stockholders; examination of records.--No bank,
44899 trust company, or financial institution-affiliated party shall
44900 permit any stockholder, other than a qualified director,
44901 officer, or employee thereof, to have access to, or to examine
44902 or inspect, any of the books or records of such bank or trust
44903 company other than its general statement of condition of its
44904 general assets and liabilities, the quarterly reports of
44905 condition and quarterly reports of income required to be
44906 submitted to the office ~~department~~ pursuant to s. 655.045, and a
44907 list of shareholders as provided in s. 655.057.

44908 Section 1402. Subsection (4) of section 658.40, Florida
44909 Statutes, is amended to read:

44910 658.40 Definitions for merger and consolidation.--As used
44911 in the provisions of this code relating to the merger and
44912 consolidation of banks and trust companies, unless the context
44913 requires otherwise:

44914 (4) "Successor institution" means a banking corporation or
44915 a trust company organized under the laws of this state to which
44916 the office ~~department~~ has not issued a certificate of
44917 authorization, as provided in s. 658.25, to conduct a banking
44918 business or trust business, the sole purpose of the organization
44919 of which is to facilitate a plan of merger, reorganization, or
44920 consolidation.

44921 Section 1403. Subsection (1) of section 658.41, Florida
44922 Statutes, is amended to read:

44923 658.41 Merger; resulting state or national bank.--

44924 (1) Upon filing of an application with the office



HB 1803

2003

44925 ~~department~~ by the constituent banks or trust companies, and upon
 44926 approval by the office ~~department~~, banks and state trust
 44927 companies may be merged with a resulting state bank or state
 44928 trust company, as prescribed in this code, except that the
 44929 action by a constituent national bank shall be taken in the
 44930 manner prescribed by, and shall be subject to, any limitations
 44931 or requirements imposed by any law of the United States
 44932 applicable thereto, which shall also govern the rights of its
 44933 dissenting shareholders; and the terms and provisions of the
 44934 plan of merger and merger agreement required by s. 658.42, as
 44935 they relate to a constituent national bank, shall conform with
 44936 such federal laws. The application shall be accompanied by a
 44937 plan of merger and merger agreement as provided in s. 658.42.

44938 Section 1404. Paragraphs (d) and (f) of subsection (1) and
 44939 subsection (2) of section 658.42, Florida Statutes, are amended
 44940 to read:

44941 658.42 Plan of merger and merger agreement.--

44942 (1) If the resulting bank or trust company will be a state
 44943 bank or a state trust company, the constituent banks or trust
 44944 companies shall adopt a plan of merger and merger agreement
 44945 stating the method, terms, and conditions of the merger,
 44946 including the rights of the stockholders of each constituent
 44947 bank or trust company and all agreements concerning the merger.

44948 The board of directors of each constituent bank or trust
 44949 company shall, by a majority of the entire board, approve the
 44950 plan of merger and merger agreement which shall contain:

44951 (d) A statement that the plan and agreement are subject to
 44952 approval by the office ~~department~~ and by the stockholders of
 44953 each constituent bank or trust company.

44954 (f) Such additional provisions not contrary to law as may



HB 1803

2003

44955 | be agreed upon by the constituent banks and trust companies and
 44956 | such other provisions as the office ~~department~~ requires to
 44957 | enable it to discharge its duties with respect to the merger.

44958 | (2) In connection with the organization of a successor
 44959 | institution, a showing and finding of public convenience and
 44960 | advantage for the organization of a new state bank or state
 44961 | trust company is not required; and the commission ~~department~~
 44962 | shall adopt special rules relating to the formation,
 44963 | organization, approval, and chartering of successor institutions
 44964 | which omit or waive such of the provisions of ss. 658.16-658.26
 44965 | as are not essential to safeguard the public interest and the
 44966 | safety and soundness of state banks and state trust companies,
 44967 | but no certificate of authorization to conduct a banking
 44968 | business or trust business shall be issued to a successor
 44969 | institution unless a certificate of merger, as provided in s.
 44970 | 658.45, is issued pursuant to the plan of merger and merger
 44971 | agreement. However, nothing in this subsection shall be
 44972 | construed as waiving or otherwise impairing the public-interest
 44973 | requirement in s. 658.43(3)(d).

44974 | Section 1405. Section 658.43, Florida Statutes, is amended
 44975 | to read:

44976 | 658.43 Approval by office ~~department~~; valuation of assets;
 44977 | emergency action.--

44978 | (1) After approval by the board of directors of each
 44979 | constituent bank or trust company, the plan of merger and merger
 44980 | agreement shall be submitted to the office ~~department~~ for
 44981 | approval, together with a certified copy of the authorizing
 44982 | resolutions of the board of directors of each constituent state
 44983 | bank or state trust company showing approval by a majority of
 44984 | the entire board of directors of each such state bank or state



HB 1803

2003

44985 trust company, and evidence of proper action by the board of
44986 directors of any constituent national bank.

44987 (2) Without approval by the office ~~department~~, no asset
44988 shall be carried on the books of the resulting state bank or
44989 state trust company at a valuation higher than that on the books
44990 of the constituent bank or trust company at the time of the last
44991 examination by a state or national bank or trust company
44992 examiner before the effective date of the merger.

44993 (3) The office ~~department~~ shall approve the plan of merger
44994 and merger agreement if it appears that:

44995 (a) The resulting state bank or state trust company meets
44996 all the requirements of state law as to the formation of a new
44997 state bank or state trust company, except that this provision
44998 shall not apply to the establishment of branches by merger as
44999 provided in s. 658.26.

45000 (b) The agreement provides an adequate capital structure,
45001 including surplus, of the resulting state bank or state trust
45002 company in relation to its activities which are to continue or
45003 are to be undertaken, and also in relation to its deposit
45004 liabilities in the case of a resulting state bank.

45005 (c) The valuation is fair.

45006 (d) The merger is not contrary to the public interest.

45007

45008 If the office ~~department~~ disapproves a plan of merger or merger
45009 agreement, it shall state its objections and, the provisions of
45010 chapter 120 notwithstanding, give an opportunity to the
45011 constituent banks, trust companies, or banks and trust companies
45012 to amend the plan of merger and merger agreement to obviate such
45013 objections.

45014 (4) If the resulting state bank is not to have trust



HB 1803

2003

45015 powers, the office ~~department~~ shall not approve a merger until
45016 adequate provision has been made for successors to fiduciary
45017 positions held by any constituent trust company or any
45018 constituent bank.

45019 (5) Approval by the office ~~department~~, by final order or
45020 otherwise, of a plan of merger or merger agreement shall be
45021 deemed subject to approval of the plan of merger and merger
45022 agreement by the stockholders of each constituent bank or trust
45023 company as provided in s. 658.44(1) and shall also be deemed
45024 subject to approval of the merger and the plan of merger and
45025 merger agreement by each appropriate federal regulatory agency.
45026 Unless all such approvals have been obtained and proper evidence
45027 thereof submitted to the office ~~department~~ within 6 months after
45028 the approval by the office ~~department~~, the approval by the
45029 office ~~department~~ of the plan of merger and merger agreement
45030 shall be deemed to be revoked and terminated; however, the
45031 office ~~department~~ on its own motion, or at the request of the
45032 constituent banks or trust companies for good cause shown, may
45033 extend the time for a period not exceeding 6 months.

45034 (6) No merger with a resulting state bank or trust company
45035 shall take place or be effective without the issuance by the
45036 office ~~department~~ of a certificate of merger.

45037 (7) Notwithstanding any other provisions of the financial
45038 institutions codes or of chapter 120, if the office ~~department~~
45039 or the appropriate federal regulatory agency finds that
45040 immediate action is necessary in order to prevent the probable
45041 failure of one or more banks, associations, or trust companies,
45042 which in this subsection may be referred to as a "failing
45043 financial entity," the office ~~department~~ shall have the power,
45044 with the concurrence of the appropriate federal regulatory



HB 1803

2003

45045 agency in the case of any bank or association the deposits of
 45046 which are insured by the Federal Deposit Insurance Corporation,
 45047 to issue an emergency order authorizing:

45048 (a) The merger of any such failing financial entity with a
 45049 state bank;

45050 (b) The merger of any such failing financial entity with a
 45051 state trust company;

45052 (c) Any state bank to acquire assets and assume
 45053 liabilities of any such failing financial entity, including all
 45054 rights, powers, and responsibilities as fiduciary in instances
 45055 where the failing financial institution is actively engaged in
 45056 the exercise of trust powers;

45057 (d) Any state trust company to acquire assets and assume
 45058 liabilities of any such failing trust company and rights,
 45059 powers, and responsibilities as fiduciary of such failing trust
 45060 company;

45061 (e) The conversion of any such failing financial entity
 45062 into a state bank or trust company;

45063 (f) The chartering of a new state bank or state
 45064 association to acquire assets and assume liabilities of any such
 45065 failing financial entity and to assume rights, powers, and
 45066 responsibilities as fiduciary in cases where such failing
 45067 financial entity is engaged in the exercise of trust powers; or

45068 (g) The chartering of a new state trust company to acquire
 45069 assets and assume liabilities and rights, powers, and
 45070 responsibilities as fiduciary of such failing trust company.

45071
 45072
 45073 Any such finding by the office ~~department~~ shall be based upon
 45074 reports furnished to it by a state bank, association, or trust



HB 1803

2003

45075 company examiner or by a federal bank or association examiner or
45076 upon other evidence from which it is reasonable to conclude that
45077 any such bank, association, or trust company is insolvent or is
45078 threatened with imminent insolvency. The office ~~department~~ may
45079 disallow illegally obtained currency, monetary instruments,
45080 funds, or other financial resources from the capitalization
45081 requirements of this section. The stockholders of a failing
45082 bank, association, or trust company that is acquired by another
45083 bank or trust company pursuant to this subsection shall be
45084 entitled to the same procedural rights and to compensation for
45085 the remaining value of their shares as is provided for
45086 dissenters in s. 658.44, except that they shall have no right to
45087 vote against the transaction. Any transaction authorized by this
45088 subsection may be accomplished through the organization of a
45089 successor institution.

45090 Section 1406. Subsections (1), (5), and (9) of section
45091 658.44, Florida Statutes, are amended to read:

45092 658.44 Approval by stockholders; rights of dissenters;
45093 preemptive rights.--

45094 (1) The office ~~department~~ shall not issue a certificate of
45095 merger to a resulting state bank or trust company unless the
45096 plan of merger and merger agreement, as adopted by a majority of
45097 the entire board of directors of each constituent bank or trust
45098 company, and as approved by each appropriate federal regulatory
45099 agency and by the office ~~department~~, has been approved:

45100 (a) By the stockholders of each constituent national bank
45101 as provided by, and in accordance with the procedures required
45102 by, the laws of the United States applicable thereto, and

45103 (b) After notice as hereinafter provided, by the
45104 affirmative vote or written consent of the holders of at least a



HB 1803

2003

45105 majority of the shares entitled to vote thereon of each
45106 constituent state bank or state trust company, unless any class
45107 of shares of any constituent state bank or state trust company
45108 is entitled to vote thereon as a class, in which event as to
45109 such constituent state bank or state trust company the plan of
45110 merger and merger agreement shall be approved by the
45111 stockholders upon receiving the affirmative vote or written
45112 consent of the holders of a majority of the shares of each class
45113 of shares entitled to vote thereon as a class and of the total
45114 shares entitled to vote thereon. Such vote of stockholders of a
45115 constituent state bank or state trust company shall be at an
45116 annual or special meeting of stockholders or by written consent
45117 of the stockholders without a meeting as provided in s.
45118 607.0704.

45119
45120 Approval by the stockholders of a constituent bank or trust
45121 company of a plan of merger and merger agreement shall
45122 constitute the adoption by the stockholders of the articles of
45123 incorporation of the resulting state bank or state trust company
45124 as set forth in the plan of merger and merger agreement.

45125 (5) The value of dissenting shares of each constituent
45126 state bank or state trust company, the owners of which have not
45127 accepted an offer for such shares made pursuant to subsection
45128 (3), shall be determined as of the effective date of the merger
45129 by three appraisers, one to be selected by the owners of at
45130 least two-thirds of such dissenting shares, one to be selected
45131 by the board of directors of the resulting state bank, and the
45132 third to be selected by the two so chosen. The value agreed
45133 upon by any two of the appraisers shall control and be final and
45134 binding on all parties. If, within 90 days from the effective



HB 1803

2003

45135 date of the merger, for any reason one or more of the appraisers
45136 is not selected as herein provided, or the appraisers fail to
45137 determine the value of such dissenting shares, the office
45138 ~~department~~ shall cause an appraisal of such dissenting shares to
45139 be made which will be final and binding on all parties. The
45140 expenses of appraisal shall be paid by the resulting state bank
45141 or trust company.

45142 (9) After approval of the plan of merger and merger
45143 agreement by the stockholders as provided in subsection (1),
45144 there shall be filed with the office ~~department~~, within 30 days
45145 after the time limit in s. 658.43(5), a fully executed
45146 counterpart of the plan of merger and merger agreement as so
45147 approved if it differs in any respect from any fully executed
45148 counterpart thereof theretofore filed with the office
45149 ~~department~~, and copies of the resolutions approving the same by
45150 the stockholders of each constituent bank or trust company,
45151 certified by the president, or chief executive officer if other
45152 than the president, and the cashier or corporate secretary of
45153 each constituent bank or trust company, respectively, with the
45154 corporate seal impressed thereon.

45155 Section 1407. Subsections (1) and (4) of section 658.45,
45156 Florida Statutes, are amended to read:

45157 658.45 Certificate of merger and effective date; effect on
45158 charters and powers.--

45159 (1) Promptly upon compliance with the provisions of s.
45160 658.44(9), the office ~~department~~ shall issue to the resulting
45161 bank a certificate of merger setting forth the name of each
45162 constituent bank and trust company, the name of the resulting
45163 bank or trust company, and the effective date of the merger
45164 which, unless the office ~~department~~ for good cause determines



HB 1803

2003

45165 otherwise, shall be the date requested by the resulting bank if
45166 such request was made at the time of compliance with the
45167 requirements of s. 658.44(9), but not later than 3 months after
45168 the date of such compliance. On the effective date of the
45169 merger, the charters and franchises of the constituent banks and
45170 trust companies, other than the resulting bank or trust company,
45171 shall be deemed terminated and surrendered. The certificate of
45172 merger shall be conclusive evidence of the merger and of the
45173 correctness of all proceedings therefor in all courts and places
45174 and may be recorded in any office for the recording of deeds.

45175 (4)(a) If the resulting state bank is to have trust powers
45176 and if one or more of the parties to the merger is a state trust
45177 company or a bank having an existing trust department operating
45178 pursuant to trust powers theretofore granted by the office
45179 ~~department~~, in the case of a constituent state bank, or by the
45180 appropriate federal regulatory authority, in the case of a
45181 constituent national bank, such trust powers shall pass to the
45182 resulting state bank; and it shall have and may exercise trust
45183 powers in the same manner and to the same extent as the
45184 constituent banks or trust companies to which such trust powers
45185 were originally issued, and no application to have or to
45186 continue to have or exercise trust powers shall be required.
45187 However, if the name of the resulting state bank differs from
45188 that of a constituent state trust company or a constituent bank
45189 having trust powers, the office ~~department~~ shall issue a
45190 certificate to the resulting state bank showing its right to
45191 exercise the trust powers theretofore granted to the constituent
45192 banks or trust companies. All fiduciary relationships and
45193 capacities of all the constituent banks and trust companies
45194 shall, by operation of law, pass to and be assumed by the



HB 1803

2003

45195 resulting bank having trust powers, in the same manner and to
 45196 the same extent as such fiduciary capacities and relationships
 45197 were held by any constituent bank or trust company.

45198 (b) Upon the merger of two or more state trust companies,
 45199 the resulting state trust company shall continue to have and
 45200 exercise the trust powers of the constituent trust companies,
 45201 and no application to have or to continue to exercise trust
 45202 powers shall be required. However, if the name of the resulting
 45203 state trust company differs from that of any of the constituent
 45204 trust companies, the office ~~department~~ shall issue a certificate
 45205 to the resulting state trust company showing its right to
 45206 exercise the trust powers theretofore granted to the constituent
 45207 trust companies. All fiduciary relationships and capacities of
 45208 the constituent state trust companies shall pass to and be
 45209 assumed by the resulting state trust company by operation of
 45210 law.

45211 Section 1408. Paragraph (b) of subsection (1), paragraph
 45212 (e) of subsection (5), and subsection (9) of section 658.48,
 45213 Florida Statutes, are amended to read:

45214 658.48 Loans.--A state bank may make loans and extensions
 45215 of credit, with or without security, subject to the following
 45216 limitations and provisions:

45217 (1) LOANS; GENERAL LIMITATIONS.--

45218 (b) The commission ~~department~~ may provide by rule for
 45219 securities margin requirements.

45220 (5) SPECIAL PROVISIONS.--

45221 (e) Loans based upon the security of real estate mortgages
 45222 shall be documented as first liens, except that liens other than
 45223 first liens may be taken:

45224 1. To protect a loan previously made in good faith;



HB 1803

2003

45225 2. To further secure a loan otherwise amply and entirely
45226 secured;

45227 3. As additional security for Federal Housing
45228 Administration Title 1 loans or loans made with participation or
45229 guaranty by the Small Business Administration;

45230 4. To secure a loan not in excess of 15 percent of the
45231 capital accounts of the bank; or

45232 5. As provided by rules of the commission ~~department~~.

45233 (9) When a bank's capital has been diminished by losses so
45234 that its ability to honor legally binding written loan
45235 commitments is impaired, the office ~~department~~ may approve
45236 limited expansion of the lending limitations set forth in this
45237 section.

45238 Section 1409. Subsection (2) and paragraph (i) of
45239 subsection (3) of section 658.53, Florida Statutes, are amended
45240 to read:

45241 658.53 Borrowing; limits of indebtedness.--

45242 (2) A state bank may at any time, pursuant to action taken
45243 by its board of directors, and after obtaining the written
45244 approval of the office ~~department~~ and the approval of
45245 stockholders holding not less than two-thirds of the outstanding
45246 stock of the bank entitled to vote, evidenced either in a
45247 writing signed by the stockholders or by vote at a legally
45248 called and held meeting of the stockholders, issue and sell
45249 convertible and nonconvertible capital notes and convertible and
45250 nonconvertible capital debentures having a final maturity of not
45251 more than 25 years from the date of issue, in such amounts and
45252 under such terms and conditions as shall be approved by the
45253 office ~~department~~. If deemed necessary by the office ~~department~~,
45254 reasonable provisions for the amortization of the principal



HB 1803

2003

45255 amount thereof may be required. The principal amount of the
45256 capital notes and capital debentures is subject to the
45257 limitations imposed by this chapter on indebtedness of state
45258 banks and trust companies. Capital notes and capital debentures
45259 issued pursuant to the provisions of this subsection, and the
45260 claims of holders thereof, shall be subordinate to the claims of
45261 depositors and all other creditors of the issuing state bank,
45262 regardless of whether the claims of, or the liability of the
45263 issuing bank to, the depositors arose before or after the
45264 issuance of such capital notes or debentures, but shall be
45265 superior to the claims of shareholders for dividends, reserve
45266 profits, or other claims on account of shares of capital stock
45267 held by them. The holders of the capital notes and the holders
45268 of the capital debentures shall not be held individually
45269 responsible as such holders for any debts, contracts, or
45270 engagements of the issuing state bank and shall not be liable
45271 for assessments.

45272 (3) No state bank or trust company shall at any time be
45273 indebted, or in any way liable, to an amount exceeding the
45274 amount of its unimpaired capital stock plus 50 percent of the
45275 amount of its unimpaired surplus fund and unimpaired undivided
45276 profits fund, except on account of demands of the nature
45277 following:

45278 (i) Liabilities incurred for moneys borrowed from a bank
45279 when such borrowing is made with the express written approval of
45280 the office ~~department~~.

45281 Section 1410. Subsections (6), (7), and (8), paragraph (c)
45282 of subsection (9), paragraph (a) of subsection (10), and
45283 subsection (11) of section 658.67, Florida Statutes, are amended
45284 to read:



HB 1803

2003

45285 658.67 Investment powers and limitations.--A bank may
45286 invest its funds, and a trust company may invest its corporate
45287 funds, subject to the following definitions, restrictions, and
45288 limitations:

45289 (6) INVESTMENTS IN CORPORATIONS.--Up to an aggregate of 10
45290 percent of the total assets of a bank may be invested in the
45291 stock, obligations, or other securities of subsidiary
45292 corporations or other corporations or entities, except that
45293 during the first 3 years of existence of a bank, such
45294 investments are limited to 5 percent of the total assets. Any
45295 bank whose aggregate investment on June 30, 1992, exceeds the
45296 limitation in this subsection has 5 years within which to
45297 achieve compliance; additional time may be approved by the
45298 office department if the office department finds that compliance
45299 with this subsection will result in more than a minimal loss to
45300 the bank. The commission department may, by rule, further limit
45301 any type of investment made pursuant to this subsection if it
45302 finds that such investment would constitute an unsafe or unsound
45303 practice.

45304 (7) INVESTMENTS IN REAL ESTATE AND EQUIPMENT.--A bank or
45305 trust company may invest in real estate and equipment to the
45306 extent hereinafter defined:

45307 (a)1. Up to 60 percent of the capital accounts of the bank
45308 or trust company may be invested in the direct ownership of, or
45309 in leasehold interests in, land and buildings utilized or to be
45310 utilized by the bank or trust company in the transaction of its
45311 business. This limitation applies to assets subject to a lease
45312 agreement which is required to be capitalized under criteria
45313 issued by the Financial Accounting Standards Board. In lieu of
45314 such investment in real estate, with the prior written approval



HB 1803

2003

45315 of the office ~~department~~, up to 60 percent of the capital
45316 accounts of the bank or trust company may be invested in the
45317 stock of a corporation which owns the land and buildings within
45318 which the business of the bank or trust company is or will be
45319 transacted.

45320 2. The real estate investment limitations provided by this
45321 subsection may not be exceeded except with the prior written
45322 approval of the office ~~department~~.

45323 (b) A bank or trust company may own or lease furniture,
45324 fixtures, machinery, and equipment such as may be necessary to
45325 the transaction of its business.

45326 (8) INVESTMENTS IN PERSONAL PROPERTY.--A bank or trust
45327 company may own or lease personal property acquired upon the
45328 specific request and for the use of a customer and may incur
45329 such additional obligations as may be incident to becoming an
45330 owner and lessor of such property. In addition, a bank or trust
45331 company may purchase leases as provided by rules of the
45332 commission ~~department~~.

45333 (9) ACQUISITIONS OF PROPERTY AS SECURITY.--A bank or trust
45334 company may acquire property of any kind to secure, protect, or
45335 satisfy a loan or investment previously made in good faith, and
45336 such property shall be entered on the books of the bank or trust
45337 company and held and disposed of subject to the following
45338 conditions and limitations:

45339 (c) Unless an extension of time is approved in writing by
45340 the office ~~department~~, real estate shall be sold or charged off
45341 within 5 years of the date of acquisition, and personal property
45342 shall be sold or charged off within 6 months of the date of
45343 acquisition.

45344 (10) SPECIAL PROVISIONS.--



HB 1803

2003

45345 (a) None of the bonds or other obligations described in
45346 this section shall be eligible for investment in any amount
45347 unless current as to all payments of principal and interest and
45348 unless rated in one of the four highest classifications, or, in
45349 the case of commercial paper, unless it is of prime quality and
45350 of the highest letter and numerical rating, as established by a
45351 nationally recognized rating service or any comparable rating as
45352 determined by the office ~~department~~. Bonds or other obligations
45353 which are unrated shall not be eligible for investment unless
45354 otherwise supported as to investment quality and marketability
45355 by a credit rating file compiled and maintained in current
45356 status by the purchasing bank or trust company.

45357 (11) OTHER INVESTMENTS; SUBJECT TO ~~DEPARTMENTAL~~ APPROVAL. -
45358 -A bank or trust company may make such other investments as the
45359 commission ~~department~~ approves by rule.

45360 Section 1411. Section 658.68, Florida Statutes, is amended
45361 to read:

45362 658.68 Liquidity.--

45363 (1) A state bank must maintain a daily liquidity position
45364 equal to at least 15 percent of its total transaction accounts
45365 and 8 percent of its total nontransaction accounts, less those
45366 deposits of public funds for which security has been pledged as
45367 provided by law. Bank assets eligible to meet the liquidity
45368 requirement are cash on hand, demand deposits due from
45369 correspondent banks, and other investments and short-term
45370 marketable securities as determined by rule of the commission
45371 ~~department~~.

45372 (2) Whenever a state bank fails to demonstrate compliance
45373 with subsection(1), the bank shall not further diminish its
45374 liquidity by making any new loans or discounts otherwise than by



HB 1803

2003

45375 discounting or purchasing bills of exchange payable at sight,
 45376 nor by paying any dividends of its profits until compliance with
 45377 the liquidity requirement of either has been met. The office
 45378 ~~department~~ may notify any bank whose liquidity is below the
 45379 amount required to be maintained to make good such liquidity,
 45380 and if the bank fails within 30 days thereafter to achieve its
 45381 liquidity requirement, the office ~~department~~ may determine the
 45382 bank insolvent and may appoint a liquidator to wind up the
 45383 business as provided in ss. 658.79-658.96.

45384 Section 1412. Section 658.73, Florida Statutes, is amended
 45385 to read:

45386 658.73 Fees and assessments.--

45387 (1) Each state bank and state trust company shall pay to
 45388 the office ~~department~~ examination fees and assessments as
 45389 follows:

45390 (a) A semiannual fee of \$2,500; and

45391 (b) A semiannual assessment, each in such amount as may be
 45392 determined by the commission ~~department~~, by rule, but not
 45393 exceeding 15 cents for each \$1,000 of total assets as shown on
 45394 the statement of condition of the bank or trust company as of
 45395 the last business day in June and the last business day in
 45396 December in each year. In its determination, the commission
 45397 ~~department~~ may consider examination fees and application fees
 45398 received from banks and trust companies in setting the
 45399 semiannual assessment for purposes of meeting the cost of
 45400 regulation of banks and trust companies subject to this chapter.

45401 (2) Applications filed with the office ~~department~~ shall be
 45402 accompanied by payment of the following nonrefundable fees:

45403 (a) Fifteen thousand dollars for each application for
 45404 authority to organize a new state bank or state trust company.



HB 1803

2003

45405 (b) Two thousand five hundred dollars for each application
45406 by an existing bank or association for trust powers.

45407 (c) Seven thousand five hundred dollars for each
45408 application for authority to acquire a controlling interest in a
45409 state bank or state trust company; however, if more than one
45410 bank or trust company is being acquired in any such application,
45411 the fee shall be increased by \$3,500 for each additional bank or
45412 trust company. However, in no event shall the fee exceed
45413 \$15,000.

45414 (d) Seven thousand five hundred dollars for each
45415 application for conversion of a national bank to a state bank.

45416 (e) One thousand five hundred dollars for each application
45417 to establish a branch by any other state bank or state trust
45418 company that does not qualify for the branch notification
45419 process.

45420 (f) One thousand five hundred dollars for each application
45421 for authority to establish a trust service office of a state
45422 trust company or of a trust department of a state bank or
45423 association, and a like amount for each application by a bank or
45424 association with trust powers which is not a state bank or state
45425 association for authority to establish a trust service office at
45426 a state bank, state association, or state credit union.

45427 (g) Seven thousand five hundred dollars for each
45428 application for a merger or consolidation; however, if three or
45429 more banks or trust companies are involved in any such
45430 application, the fee shall be \$3,500 for each involved
45431 institution. However, in no event shall the fee exceed \$15,000.

45432 (h) Two thousand five hundred dollars to establish a
45433 successor institution.

45434 (i) Seven hundred fifty dollars for each application by a



HB 1803

2003

45435 state bank or trust company not operating in a safe and sound
45436 manner for relocation of its main office.

45437 (j) Two thousand five hundred dollars for each application
45438 for the purchase of assets and the assumption of liabilities.

45439 (3) If, as a result of any application filed with the
45440 office department, the ~~office department~~ determines that an
45441 examination is necessary to assess the financial condition of
45442 any financial institution, the applying financial institution
45443 shall pay to the office department a nonrefundable examination
45444 fee, pursuant to s. 655.045(1).

45445 (4) Each state bank and state trust company shall pay to
45446 the office department \$25 for each "certificate of good
45447 standing" certifying that a state-chartered financial
45448 institution is licensed to conduct business in this state under
45449 the financial institutions codes. All such requests shall be in
45450 writing. The office department shall waive this fee when the
45451 request is by a state or federal regulatory agency or law
45452 enforcement agency.

45453 (5) The amounts of all fees and assessments provided for
45454 in this section shall be deemed to be maximum amounts; and the
45455 commission department has the authority to establish, by rule,
45456 and from time to time to change, fees and assessments in amounts
45457 less than the maximum amounts stated in this section.

45458 Section 1413. Section 658.79, Florida Statutes, is amended
45459 to read:

45460 658.79 Taking possession of insolvent state banks or trust
45461 companies.--Whenever the office department has reason to
45462 conclude, based upon the reports furnished to it by a state bank
45463 or trust company examiner or upon other satisfactory evidence,
45464 that any state bank or trust company:



HB 1803

2003

45465 (1) Is insolvent or imminently insolvent; or
 45466 (2) Is transacting its business in an unsound, unsafe, or
 45467 unauthorized manner such that it is threatened with imminent
 45468 insolvency,

45469
 45470 the office ~~department~~ may, in its discretion, forthwith
 45471 designate and appoint a liquidator or receiver to take charge of
 45472 the assets and affairs of such bank or trust company and require
 45473 of him or her such bond and security as the office ~~department~~
 45474 deems proper, not exceeding double the amount that may come into
 45475 his or her hands. The office ~~department~~ may enlist the services
 45476 of any state or local law enforcement agency in taking
 45477 possession and securing the assets of the bank or trust company.

45478 Section 1414. Section 658.80, Florida Statutes, is amended
 45479 to read:

45480 658.80 Appointment of receiver or liquidator.--

45481 (1) Upon taking possession of a state bank or trust
 45482 company pursuant to s. 658.79, the office ~~department~~ shall
 45483 appoint either a receiver to conserve the assets of the
 45484 institution or a liquidator to liquidate the assets of the
 45485 institution and wind up its affairs.

45486 (2) The Federal Deposit Insurance Corporation or any
 45487 appropriate federal agency shall be appointed by the office
 45488 ~~department~~ as receiver or liquidator of any state bank, the
 45489 deposits of which are to any extent insured by the corporation,
 45490 and which shall have been closed by the office ~~department~~. Upon
 45491 appointment, the corporation may act without bond as receiver or
 45492 liquidator and shall have and possess all the powers and
 45493 privileges provided by the laws of this state with respect to a
 45494 receiver or liquidator, respectively, of such institution, its



HB 1803

2003

45495 depositors and other creditors. If the corporation declines to
45496 accept the tendered appointment, the office ~~department~~ may
45497 appoint and thereafter dismiss or replace such other receiver or
45498 liquidator as deemed necessary or advisable.

45499 Section 1415. Section 658.81, Florida Statutes, is amended
45500 to read:

45501 658.81 Office ~~Department~~ action; notice and court
45502 confirmation.--The office ~~department~~, immediately upon
45503 appointing such liquidator or receiver, shall serve notice upon
45504 any other person having the charge or management of any such
45505 bank or trust company, informing him or her of its action in
45506 appointing such liquidator or receiver and notifying him or her
45507 that the office ~~department~~ will apply on a date named therein,
45508 not to exceed 10 days from the date of service of such notice,
45509 to a circuit judge in the court circuit in which the principal
45510 office of such bank or trust company is located for an order
45511 confirming its action. A copy of such application together with
45512 a notice of hearing thereon shall be served on the person
45513 receiving the above notice prior to the time set for such
45514 hearing. Such proceedings shall be given precedence over other
45515 cases pending in such court and shall in every way be expedited.

45516 Upon the office's ~~department's~~ showing at the hearing on such
45517 application that such bank or trust company is insolvent or
45518 threatened with imminent insolvency, the court shall enter an
45519 order confirming the action of the office ~~department~~ and the
45520 appointment of such liquidator or receiver; otherwise, the court
45521 shall enter an order dismissing the liquidator or receiver, and
45522 such liquidator or receiver shall relinquish his or her control
45523 over the assets and affairs of such bank or trust company.

45524 Section 1416. Subsections (2) and (3) of section 658.82,



HB 1803

2003

45525 Florida Statutes, are amended to read:

45526 658.82 Receiver; powers and duties.--

45527 (2) Any other receiver appointed pursuant to s. 658.80
45528 shall be subject to the supervision of the office ~~department~~ and
45529 shall have the power to:

45530 (a) Take possession of the books, records, and assets of
45531 every description of the bank or trust company and sue for and
45532 collect all debts, dues, and claims belonging to the bank or
45533 trust company;

45534 (b) Operate the business of the bank or trust company
45535 pursuant to the authority granted by its articles of
45536 incorporation and the laws of this state in an effort to manage
45537 and conserve the assets of the bank or trust company and place
45538 such bank or trust company in a sound, safe, and solvent
45539 condition;

45540 (c) Sue for and defend, compromise, and settle all claims
45541 involving the bank or trust company;

45542 (d) Subject to approval by the circuit court, sell any or
45543 all real and personal property of the bank or trust company and
45544 sell or compound all bad or doubtful debts;

45545 (e) Pay all expenses of the receivership, which expenses
45546 shall be a first charge against the assets of the bank or trust
45547 company;

45548 (f) Borrow such sum of money as may be necessary or
45549 expedient to protect and conserve the assets and business of the
45550 bank or trust company and, in connection therewith, to secure
45551 such borrowings by the pledge, hypothecation, or mortgage of the
45552 assets of the bank or trust company; and

45553 (g) If necessary to pay the debts of such bank or trust
45554 company, sue for and enforce the individual liability of the



HB 1803

2003

45555 stockholders.

45556 (3) Within 30 days of her or his appointment, the receiver
45557 shall file a statement of condition of the bank or trust company
45558 with the office department, in addition to such other interim
45559 reports as the office department may require. Upon receipt of
45560 the report of condition, the office department may:

45561 (a) Upon a finding that the bank or trust company is in a
45562 safe, sound, and solvent condition, surrender possession of such
45563 bank or trust company bank to its directors for the purpose of
45564 permitting the bank or trust company to resume business on such
45565 terms and conditions as the office department shall prescribe;

45566 (b) Appoint a liquidator to immediately liquidate the
45567 assets of the bank or trust company and wind up its affairs;

45568 (c) Grant a further period of time to the receiver to
45569 rehabilitate the affairs of the bank or trust company; or

45570 (d) Appoint a new receiver.

45571 Section 1417. Subsections (2) and (3) of section 658.83,
45572 Florida Statutes, are amended to read:

45573 658.83 Liquidator; powers and duties.--

45574 (2) Any other liquidator appointed pursuant to s. 658.80
45575 shall, subject to the supervision of the office department, have
45576 the power to:

45577 (a) Take possession of the books, records, and assets of
45578 every description of the bank or trust company and sue for and
45579 collect all debts, dues, and claims belonging to the bank or
45580 trust company;

45581 (b) Sue for and defend, compromise, and settle all claims
45582 involving the bank or trust company;

45583 (c) Subject to approval by the circuit court, sell any or
45584 all of the real and personal property of the bank or trust



HB 1803

2003

45585 company and sell or compound all bad or doubtful debts;

45586 (d) Pay all expenses incurred in the liquidation process,
45587 which expenses shall be a first charge against the assets of the
45588 bank or trust company and shall be fully paid before any final
45589 distribution or payment of dividends to creditors, shareholders,
45590 or stockholders;

45591 (e) Borrow such sum of money as may be necessary or
45592 expedient in aiding in the liquidation of the bank or trust
45593 company and, in connection therewith, to secure such borrowings
45594 by the pledge, hypothecation, or mortgage of the assets of the
45595 bank or trust company; and

45596 (f) If necessary to pay the debts of such bank or trust
45597 company, sue for and enforce the individual liability of the
45598 stockholders.

45599 (3) Such liquidator shall pay all moneys received to the
45600 Chief Financial Officer ~~Treasurer~~ to be held as a special
45601 deposit for the use and benefit of the creditors subject to the
45602 order of the office ~~department~~ and also shall make reports
45603 quarterly, or when called upon, to the office ~~department~~ of all
45604 her or his acts and proceedings.

45605 Section 1418. Subsection (3) of section 658.84, Florida
45606 Statutes, is amended to read:

45607 658.84 Transfers by banks and other acts in contemplation
45608 of insolvency.--

45609 (3) Except in any action brought by the office ~~department~~,
45610 no attachment, injunction, or execution shall be enforced
45611 against such financial institution or any of its property before
45612 final judgment in any suit, action, or proceeding in any state
45613 or federal court.

45614 Section 1419. Section 658.90, Florida Statutes, is amended



HB 1803

2003

45615 to read:

45616 658.90 Receivers or liquidators under supervision of
45617 office ~~department~~.--The provisions of ss. 658.79-658.96 shall
45618 apply to all receivers or liquidators of any bank or trust
45619 company heretofore appointed by the order of any circuit court,
45620 and all such receivers or liquidators, both those hereunder and
45621 those hereafter appointed by the circuit court, shall at all
45622 times be under the supervision and control of the office
45623 ~~department~~ and subject at all times to summary discharge and
45624 dismissal by it. Any vacancy in such receivership may be filled
45625 by the office ~~department~~ at any time.

45626 Section 1420. Section 658.94, Florida Statutes, is amended
45627 to read:

45628 658.94 Prima facie evidence.--The general ledger, list of
45629 claimants, examiner's final report made at the time of the
45630 failure of the bank or trust company, and such other records of
45631 the office's ~~department's~~ office relating to any closed bank or
45632 trust company, or any duly authenticated copy thereof, shall be
45633 prima facie evidence of the subject matter therein set forth.

45634 Section 1421. Section 658.95, Florida Statutes, is amended
45635 to read:

45636 658.95 Voluntary liquidation.--Any bank or trust company
45637 may go into liquidation and be closed by a vote of its
45638 stockholders owning two-thirds of its stock. Whenever a vote is
45639 taken to go into liquidation, the board of directors shall cause
45640 this fact to be certified to the office ~~department~~ and
45641 publication thereof to be made for a period of 2 months in a
45642 newspaper of general circulation located in the county in which
45643 the bank or trust company is closing up its affairs and
45644 notifying its creditors to present their claims against the bank



HB 1803

2003

45645 or trust company for payment.

45646 Section 1422. Section 658.96, Florida Statutes, is amended
45647 to read:

45648 658.96 Procedure in voluntary liquidation.--When a bank or
45649 trust company decides to go into voluntary liquidation, the
45650 president and cashier, or other appropriate officers, shall,
45651 before beginning publication of the notice required by law,
45652 furnish the office ~~department~~ with a full and complete detailed
45653 statement of the affairs of the bank or trust company and shall
45654 thereafter forward to the office ~~department~~ on the first Monday
45655 in each month a like detailed statement until all of the
45656 liabilities of the bank or trust company shall have been settled
45657 in full, provided that, if the office ~~department~~ is not
45658 satisfied with the report of any bank or trust company intending
45659 to go into voluntary liquidation, or if at any time it is not
45660 satisfied with the progress of such liquidation, it shall have
45661 full authority to proceed under s. 658.80, or otherwise, as the
45662 law directs.

45663 Section 1423. Subsections (3), (5), and (6) of section
45664 658.995, Florida Statutes, are amended to read:

45665 658.995 Credit Card Bank Act.--

45666 (3) Subject to the provisions of this section and to the
45667 approval of the office ~~department~~, any domestic lender, foreign
45668 lender, or business organization may organize, own, and control
45669 a credit card bank on the terms and conditions provided in this
45670 section:

45671 (a) If the credit card bank is to be organized under the
45672 laws of this state, such bank shall be organized as provided in
45673 this section;

45674 (b) In connection with the application to organize or to



HB 1803

2003

45675 control a credit card bank, the applicant shall pay to the
45676 office ~~department~~ a filing fee as provided in s. 658.73 for the
45677 formation of a bank or trust company;

45678 (c) The shares of a credit card bank shall be owned solely
45679 by a domestic lender, a foreign lender, or a business
45680 organization;

45681 (d) The credit card bank shall accept deposits only at a
45682 single location in this state;

45683 (e) The credit card bank shall at all times maintain
45684 capital stock and paid-in surplus as required by regulatory
45685 policies of the commission and office ~~department~~ but in no event
45686 less than \$4 million;

45687 (f) The credit card bank may engage only in the business
45688 of soliciting, processing, and making loans pursuant to credit
45689 card accounts and conducting such other activities as may be
45690 necessarily incident thereto;

45691 (g) The credit card bank may not accept demand deposits or
45692 deposits that the depositor has the ability to withdraw by check
45693 or similar means for payment to third parties or others;

45694 (h) The credit card bank may accept savings or time
45695 deposits of only \$100,000 or more;

45696 (i) The credit card bank must, prior to opening, obtain
45697 and thereafter maintain insurance of its deposits by the Federal
45698 Deposit Insurance Corporation; and

45699 (j) The credit card bank may not engage in the business of
45700 making commercial loans.

45701 (5) All credit card banks organized under the laws of this
45702 state shall be subject to the supervision, regulation, and
45703 examination of the office ~~department~~, and the office ~~department~~
45704 shall have all enforcement powers with respect thereto as are



HB 1803

2003

45705 provided in the financial institutions codes.

45706 (6) The commission may adopt ~~department shall have the~~
 45707 ~~power to promulgate~~ rules and regulations implementing the
 45708 provisions of this section.

45709 Section 1424. Section 660.26, Florida Statutes, is amended
 45710 to read:

45711 660.26 Trust department licensing.--

45712 (1) When authorized by the office ~~department~~ as provided
 45713 in this section, a state bank or association may establish a
 45714 trust department for the purpose of conducting trust business.

45715 (2) A written application for trust powers shall be filed
 45716 with the office ~~department~~ in such form as the commission
 45717 prescribes and containing such information as the commission and
 45718 office ~~department may~~ reasonably require. The application shall
 45719 be accompanied by the required nonrefundable fee.

45720 (3) Upon the filing of an application, the office
 45721 ~~department~~ shall investigate and consider:

45722 (a) The general character and management ability of the
 45723 principal executive officers of the applicant bank or
 45724 association.

45725 (b) The quality of the supervision to be given to the
 45726 fiduciary activities, including the qualifications, experience,
 45727 and character of the proposed principal officers of the trust
 45728 department.

45729 (c) The general condition of the applicant bank or
 45730 association, and the sufficiency of earnings and earning
 45731 prospects of the applicant bank or association, including the
 45732 proposed trust department, to support the anticipated expenses
 45733 and any anticipated operating losses of the trust department
 45734 during its formative or initial years.



HB 1803

2003

45735 (d) Any other matters relevant to the application and the
45736 establishment and operation of the proposed trust department.

45737 (4) Expenses necessarily incurred by the office department
45738 in the conduct of investigations required by this section shall,
45739 in the case of applications which require investigations by the
45740 office department outside the state, be assessed against the
45741 applicant bank or association on an actual-cost-incurred basis
45742 and shall be in addition to other fees required by law. Failure
45743 to promptly reimburse the office department upon its demand
45744 shall be grounds for denial of such application or revocation of
45745 any approval thereof.

45746 (5) The office department shall approve the application if
45747 it finds that:

45748 (a) The general condition of the applicant bank or
45749 association is sufficient to support the proposed trust
45750 department.

45751 (b) The earnings and earning prospects of the applicant
45752 bank or association, including the earning prospects of the
45753 proposed trust department, are sufficient to support the
45754 anticipated expenses and any anticipated operating losses of the
45755 trust department during its formative or initial years.

45756 (c) The capital structure of the bank or association is
45757 adequate to support the trust department.

45758 (d) The proposed trust officers have or will be supplied
45759 with sufficient trust and related investment, financial, and
45760 managerial experience, ability, and standing to operate the
45761 trust department.

45762 (e) Provision has been made for the trust department to
45763 occupy suitable quarters at the location specified in the
45764 application.



HB 1803

2003

45765 (6) If applicable federal law requires the approval of a
45766 federal regulatory agency for the establishment of a trust
45767 department by the applicant bank or association, approval by the
45768 office department, by final order or otherwise, shall be deemed
45769 subject to approval by such federal regulatory agency, and a
45770 final order of denial by such federal regulatory agency will
45771 terminate and revoke the final or other order issued by the
45772 office department approving the application.

45773 (7) Upon approval of an application by the office
45774 ~~department~~ and such federal regulatory agency, if required, the
45775 office department shall issue and deliver to the applicant a
45776 certificate or other document granting trust powers to the
45777 applicant and authorizing it to establish a trust department and
45778 engage in trust business.

45779 Section 1425. Section 660.265, Florida Statutes, is
45780 amended to read:

45781 660.265 Examination fees.--Each state trust company and
45782 each state bank or association exercising trust powers shall pay
45783 to the office department, within 30 days after an a departmental
45784 examination pursuant to s. 655.045, a fee for the costs of the
45785 examination by the office department pursuant to s. 655.045.
45786 For the purposes of this section, the term "costs" means the
45787 salary and travel expenses of field staff which are directly
45788 attributable to its examination of the financial institution and
45789 the travel expenses of any supervisory or support staff required
45790 as a result of examination findings.

45791 Section 1426. Section 660.27, Florida Statutes, is amended
45792 to read:

45793 660.27 Deposit of securities with Chief Financial Officer
45794 ~~Treasurer~~.--



HB 1803

2003

45795 (1) Before transacting any trust business in this state,
45796 every trust company and every state or national bank or state or
45797 federal association having trust powers shall give satisfactory
45798 security by the deposit or pledge of security of the kind or
45799 type provided in this section having at all times a market value
45800 in an amount equal to 25 percent of the issued and outstanding
45801 capital stock of such trust company, bank, or state or federal
45802 stock association or, in the case of a federal mutual
45803 association, an equivalent amount determined by the office
45804 ~~department~~, or the sum of \$25,000, whichever is greater.
45805 However, the value of the security deposited or pledged pursuant
45806 to the provisions of this section shall not be required to
45807 exceed \$500,000. Any notes, mortgages, bonds, or other
45808 securities, other than shares of stock, eligible for investment
45809 by a state bank, state association, or state trust company, or
45810 eligible for investment by fiduciaries, shall be accepted as
45811 satisfactory security for the purposes of this section.

45812 (2) The trust company, bank, or association shall provide
45813 to the Chief Financial Officer ~~Treasurer~~ the following:

45814 (a) Written information which includes full legal name;
45815 federal employer identification number; principal place of
45816 business; amount of capital stock; and amount of required
45817 collateral.

45818 (b) The required information listed in paragraph (a) shall
45819 be provided annually as of September 30 and shall be due
45820 November 15.

45821 (3) The Chief Financial Officer ~~Treasurer~~ shall determine
45822 whether the security deposited or pledged pursuant to this
45823 section, or tendered for such deposit or pledge, is of the kind
45824 or type permitted, and has a market value in the amount



HB 1803

2003

45825 required, by subsection (1). The security required by this
45826 section shall be deposited with or to the credit of, or pledged
45827 to, the Chief Financial Officer ~~Treasurer~~ for the account of
45828 each state or national bank, state or federal association, or
45829 trust company depositing or pledging the same and shall be used,
45830 if at all, by the liquidator of such bank, association, or trust
45831 company with first priority being given to claims on account of
45832 the trust business or fiduciary functions of such bank,
45833 association, or trust company or, prior to liquidation, for the
45834 payment of any judgment or decree which may be rendered against
45835 such bank, association, or trust company in connection with its
45836 trust business or its fiduciary functions if such judgment or
45837 decree is not otherwise paid by, or out of other assets of, such
45838 bank, association, or trust company.

45839 (4) Any security of any kind which has been deposited or
45840 pledged as provided in this section may at any time, by or upon
45841 the direction of such bank, association, or trust company which
45842 deposited or pledged such security, be withdrawn and released
45843 from such pledge provided that simultaneously therewith
45844 satisfactory security as provided in this section, in such
45845 amount, if any, as may be necessary in order to comply with the
45846 requirements of this section, is substituted for the security so
45847 withdrawn and released.

45848 (5) With the approval of the Chief Financial Officer
45849 ~~Treasurer~~, each trust company, bank, or association as pledgor
45850 may deposit eligible collateral with a custodian. This custodian
45851 shall not be affiliated or related to the trust company, bank,
45852 or association. Collateral must be deposited using the
45853 collateral agreements and provisions as set forth in s.
45854 280.041(2) and (3).



HB 1803

2003

45855 Section 1427. Section 660.28, Florida Statutes, is amended
45856 to read:

45857 660.28 Exemption from bond and other security as
45858 fiduciary.--A trust company or trust department maintaining
45859 security with the Chief Financial Officer ~~Treasurer~~ as required
45860 by s. 660.27 shall not be required by the state or any of its
45861 political subdivisions or by a court of this state to furnish
45862 any bond or other security as a condition of, or in connection
45863 with, acting in any fiduciary capacity which such trust company
45864 or trust department is lawfully permitted to accept or assume.

45865 Section 1428. Section 660.33, Florida Statutes, is amended
45866 to read:

45867 660.33 Trust service offices.--

45868 (1) In addition to its principal office and any branch
45869 trust company authorized under s. 660.32, a trust company or a
45870 trust department with its principal place of doing business in
45871 this state may maintain one or more trust service offices at the
45872 location of any bank, association, or credit union which is
45873 organized under the laws of this state or under the laws of the
45874 United States with its principal place of doing business in this
45875 state. However, a trust service office may be established only
45876 after the trust company or the trust department has secured the
45877 consent of a majority of the stockholders or members entitled to
45878 vote on such proposal at a meeting of stockholders or members,
45879 and of a majority of the board of directors, of the bank,
45880 association, or credit union at which a trust service office is
45881 proposed to be maintained, and after a certificate of
45882 authorization has been issued to the trust company or the trust
45883 department by the office ~~department~~.

45884 (2)(a) An application for approval to establish a trust



HB 1803

2003

45885 service office shall be in such form as the commission
45886 prescribes and contain such information as the commission or
45887 office department ~~may~~ reasonably requires ~~require~~ and be
45888 accompanied by the required nonrefundable fee.

45889 (b) The office department shall issue a certificate
45890 approving the establishment of a trust service office by a trust
45891 company or a trust department if the office department
45892 determines that:

45893 1. The trust company or trust department has complied with
45894 the applicable capital requirements;

45895 2. Provision has been made for suitable quarters and
45896 staffing for the trust service office; and

45897 3. If the trust service office is to be established at a
45898 bank or association without existing trust powers or at a credit
45899 union, the establishment of the proposed trust service office
45900 will not unduly injure any existing trust companies or trust
45901 departments in the community where the trust service office is
45902 to be located.

45903 (3) The trust company or trust department shall have the
45904 power to conduct any trust business at a trust service office
45905 which it is permitted to conduct at its principal office unless
45906 limited by the provisions of any agreement between the bank,
45907 association, or credit union and the trust company or trust
45908 department.

45909 (4)(a) Unless an election has been made pursuant to
45910 paragraph (b), when a trust service office is established by a
45911 trust company or a trust department at the location of a bank or
45912 association which has trust powers, the bank or association may
45913 retain and continue to exercise its trust powers following the
45914 establishment of the trust service office.



HB 1803

2003

45915 (b) If the bank or association and the trust company or
45916 trust department so elect in the application for approval to
45917 establish a trust service office at the location of a bank or
45918 association that has trust powers, and if the office ~~department~~
45919 is satisfied that the interests of beneficiaries of the estates,
45920 trusts, and other fiduciary relationships being serviced will be
45921 adequately protected, the office ~~department~~ shall issue an order
45922 authorizing the following:

45923 1. The trust company or trust department, upon complying
45924 with all applicable requirements of law, shall be substituted
45925 for, succeed to, and replace the bank or association as
45926 fiduciary. The trust company or trust department, as the
45927 successor fiduciary, shall thereupon succeed to all the powers,
45928 rights, duties, and privileges of the bank or association as
45929 fiduciary of all such estates, trusts, guardianships, and other
45930 fiduciary relationships in which the bank or association is
45931 serving to which the trust company or trust department shall
45932 have been lawfully substituted.

45933 2. During the time the trust company or trust department
45934 maintains a trust service office at the location of the bank or
45935 association, the trust company or trust department shall be
45936 deemed to be named the fiduciary in all instruments in which the
45937 bank or association is named the fiduciary, even if the bank or
45938 association is not serving as fiduciary at the time the trust
45939 service office is established, in the manner, to the extent, and
45940 with the same effect as though there had been a merger of the
45941 bank and the trust company or trust department.

45942 3. Upon complying with all requirements of law with
45943 respect thereto, the bank or association shall be relieved from
45944 all of its fiduciary duties in connection with all fiduciary



HB 1803

2003

45945 accounts and relationships with respect to which the trust
45946 company or trust department has been substituted as fiduciary or
45947 with respect to which it has resigned and been relieved as
45948 provided by law, and, upon being so relieved of all its
45949 fiduciary duties, the bank or association, although retaining
45950 its trust powers in an inactive status unless it surrenders them
45951 as provided by law, shall not thereafter exercise its trust
45952 powers so long as there is a trust service office transacting
45953 business at the bank or association. The substitution of the
45954 trust company or trust department for the bank or association as
45955 fiduciary shall occur and be effective on the day the trust
45956 company or trust department opens the trust service office for
45957 business, or on such later date as may be specified by court
45958 order, or by any written consent or agreement, which lawfully
45959 effectuates the designation, by substitution or otherwise, of
45960 the trust company or trust department as the fiduciary with
45961 respect to any particular fiduciary account.

45962 (c)1. Anything in this section or any other law to the
45963 contrary notwithstanding and subject to compliance with this
45964 subsection, an affiliated trust company or an affiliated bank's
45965 trust department, if authorized to exercise trust powers in this
45966 state, shall be deemed substituted as fiduciary without further
45967 authorization where the successor has an established trust
45968 service office in the predecessor's principal place of business
45969 or any branch of the predecessor located in this state. The
45970 successor may conduct therein any trust business incidental
45971 thereto that it is otherwise permitted to conduct in this state,
45972 but it may not accept deposits at the offices of the predecessor
45973 bank except as incidental to the trust business.

45974 2. To effect the substitution referred to in subparagraph



HB 1803

2003

45975 1., a predecessor shall enter into an agreement with the
45976 successor that sets forth the fiduciary powers, rights,
45977 privileges, duties, and liabilities of the parties and, more
45978 specifically, those to which the successor will succeed,
45979 including, but not limited to, those described in subparagraph
45980 7. The agreement will be approved by the boards of directors of
45981 the predecessor, successor, and parent corporations. The
45982 agreement shall then be filed with the office ~~department~~. The
45983 effective date of the agreement shall be the date on which the
45984 office ~~department~~ approves the agreement under subparagraph 6.
45985 unless another, later date is specified in the agreement, which
45986 other date shall be no later than 75 days after the date on
45987 which the agreement is filed with the office ~~department~~ under
45988 this subparagraph; however, no such agreement may take effect
45989 without approval by the office ~~department~~.

45990 3.a. Not sooner than 30 days before or later than 30 days
45991 after the date on which the agreement is filed with the office
45992 ~~department~~ under subparagraph 2., the predecessor and successor
45993 shall cause notice of the filing of such agreement with the
45994 office ~~department~~, along with the procedure for objection
45995 thereto as hereinafter provided, to be published in a newspaper
45996 of general circulation in the county in which the predecessor's
45997 principal place of business is located and file a copy of such
45998 written notice in any applicable court-administered fiduciary
45999 proceeding, including, but not limited to, probate and
46000 guardianship proceedings, and additionally, they shall serve
46001 written notice upon the following:

- 46002 (I) Each cofiduciary that serves with the predecessor;
46003 (II) Each surviving grantor of a revocable trust;
46004 (III) Each person who alone or in conjunction with others



HB 1803

2003

46005 has the power to remove the predecessor;

46006 (IV) Each principal for whom the predecessor serves as
 46007 agent or custodian;

46008 (V) Each guardian of the person for whom the predecessor
 46009 serves as guardian of the property for their ward;

46010 (VI) Each beneficiary or the beneficiary's legal or
 46011 natural guardian, when applicable, currently receiving or
 46012 entitled as a matter of right to receive a current mandatory or
 46013 discretionary distribution, as opposed to a remainder
 46014 distribution, of principal or income from a trust, estate, or
 46015 other fund with respect to which a substitution of fiduciary
 46016 under this subsection is to be effected. However, when
 46017 applicable and in lieu thereof, such service will be made upon
 46018 the sole holder or a majority of the coholders of a general or
 46019 limited power of appointment, including one in the form of a
 46020 power of amendment, or revocation, in which case they shall be
 46021 deemed to act for any beneficiary who may take by virtue of the
 46022 exercise or failure to exercise the power;

46023 (VII) Upon any other person or entity required by the
 46024 court in any referenced court-administered fiduciary proceeding;
 46025 and

46026 (VIII) In the case of a trust described in the Internal
 46027 Revenue Code of 1986 s. 401(a) as it may from time to time
 46028 hereafter be amended, upon the employer or employee organization
 46029 or both responsible for the maintenance of such trust.

46030 b. Service of such written notice will not be required
 46031 upon the persons or entities listed in sub-subparagraph a. when
 46032 the documents or other writings that created the fiduciary
 46033 relationship permit a substitution of fiduciaries.

46034 c. Service of written notice shall be made upon the



HB 1803

2003

46035 persons or entities listed in sub-subparagraph a. in the manner
46036 provided for the service of formal notice under the applicable
46037 Florida Probate Rules. Service of written notice by mail shall
46038 be completed upon receipt or refusal of the notice by the
46039 persons or entities listed in sub-subparagraph a. If such
46040 written notice is made by mail or delivery, proof of mailing or
46041 delivery shall be by verified statement of the person mailing or
46042 delivering the written notice, and there shall be attached to
46043 the verified statement the signed receipt, appropriate affidavit
46044 of delivery by the person effecting such delivery, or other
46045 evidence satisfactory to the office ~~department~~ or to a court of
46046 competent jurisdiction that notice was given properly to or
46047 refused by the addressee or agent of the addressee. The
46048 original of such proof shall be filed with the office ~~department~~
46049 with copies to the file or the account maintained by the
46050 predecessor or successor and to the court in any court-
46051 administered fiduciary administration.

46052 4. Within 60 days after the date on which newspaper notice
46053 is published under subparagraph 3., after any date of a signed
46054 or refused receipt pertaining to the written notice by mail
46055 under subparagraph 3., after any date of delivery as set forth
46056 in the affidavit referenced in subparagraph 3., or after the
46057 date on which service is otherwise accomplished, the latest date
46058 being operative, but not thereafter, the persons or entities
46059 listed in subparagraph 3. or the court in a court-administered
46060 fiduciary proceeding on its own motion may object to such
46061 substitution of fiduciaries by serving written notice, executed
46062 by the persons, entities, or court, upon the predecessor,
46063 successor, and office ~~department~~. Such notice shall be served
46064 in the same manner as provided for service of the original



HB 1803

2003

46065 notice upon interested persons or entities in subparagraph 3.
 46066 Execution of such notice shall be in the same manner as is
 46067 required for the execution and recordation of deeds to real
 46068 property in this state except that notice by a court may be
 46069 signed by the judge. If such notice of objection is executed by
 46070 all of the cofiduciaries that serve with the predecessor, by
 46071 each surviving grantor of a revocable trust, by all of the
 46072 persons that have the power to remove the predecessor as
 46073 fiduciary, by all of the principals for whom the predecessor
 46074 serves as agent or custodian, by the guardian of the person for
 46075 whom the predecessor serves as guardian of the property for
 46076 their ward, by all of the beneficiaries currently receiving or
 46077 entitled as a matter of right to receive a current mandatory or
 46078 discretionary distribution, as opposed to a remainder
 46079 distribution, of principal or income, or by the sole holder or a
 46080 majority of the coholders of a general or limited power of
 46081 appointment including one in the form of a power of amendment or
 46082 revocation, the successor will not be substituted for the
 46083 predecessor and the predecessor will remain or be reinstated as
 46084 fiduciary but only as to the fiduciary relationship that is the
 46085 subject of such objection. Reinstatement shall take effect
 46086 immediately upon receipt of such notice by the predecessor,
 46087 successor, and office ~~department~~. If the notice of objection is
 46088 executed by less than all of the persons or entities of any
 46089 category specified in this subparagraph, or if entered by the
 46090 court of a court-administered fiduciary proceeding on its own
 46091 motion, then, with regard to the fiduciary relationship that is
 46092 the subject of such notice of objection, the predecessor and
 46093 successor may elect to do either of the following:

- 46094 a. File a subsequent agreement with the office ~~department~~,



HB 1803

2003

46095 with copies of such agreement to be mailed to all of the
46096 specified persons or entities, which states that the successor
46097 will not be substituted for the predecessor as to that fiduciary
46098 relationship, and such agreement shall cause the predecessor to
46099 remain or be reinstated, instantaneously, as fiduciary in that
46100 fiduciary relationship. The filing of such subsequent agreement
46101 with the office ~~department~~ does not prejudice the predecessor or
46102 the successor from filing another agreement that affects such
46103 fiduciary relationship under subparagraph 2.; or

46104 b. File a petition with the court having jurisdiction of
46105 any court-administered fiduciary proceeding or commence a civil
46106 action in a court of competent jurisdiction as to any other
46107 applicable fiduciary relationship. The court shall then
46108 determine whether such substitution is appropriate and whether
46109 it is in the best interest of those specifically interested in
46110 the premises. The court shall then enter judgment accordingly
46111 and specify the party to serve thereafter as the fiduciary. The
46112 predecessor, the successor, the office ~~department~~, and those for
46113 whom the fiduciary relationship is the subject of the civil
46114 action and upon whom service of written notice was required
46115 under subparagraph 3. shall be necessary parties in any civil
46116 action that concerns an objection to the substitution. Any such
46117 petition or separate civil action must be filed within 60 days
46118 after service of the notice of objection. Failure to do so will
46119 be deemed to be an agreement pursuant to sub-subparagraph a.,
46120 and the alternative provided in sub-subparagraph a. will be
46121 deemed to have been selected automatically.

46122 5. At any time while a civil action is pending pursuant to
46123 sub-subparagraph 4.b., the predecessor and successor may file a
46124 subsequent agreement with the office ~~department~~ in the same



HB 1803

2003

46125 manner set forth under alternative sub-subparagraph 4.a. and
46126 file a copy of the same along with a withdrawal of the petition
46127 or a voluntary dismissal with the court in which the petition
46128 was filed or the civil action is pending. Such filing will have
46129 the same force and effect as set forth under sub-subparagraph
46130 4.a.; however, it shall be without prejudice to the right of the
46131 predecessor or successor to file another agreement that affects
46132 such fiduciary relationship under subparagraph 2.

46133 6. Within 30 days after the date on which a fiduciary
46134 agreement is filed with the office ~~department~~ under subparagraph
46135 2., the office ~~department~~ shall approve the agreement if it
46136 finds both that the successor is:

46137 a. Legally authorized to exercise trust powers in this
46138 state; and

46139 b. Has otherwise met the requirements for the
46140 establishment of a trust service office at the predecessor's
46141 principal place of business or branch.

46142 7. Upon the effective date of an agreement filed under
46143 subparagraph 2. and regardless of any petition filed or any
46144 civil action pending pursuant to subparagraph 4., the successor
46145 will be deemed substituted for the predecessor as fiduciary
46146 without further authorization of any kind such that the
46147 successor shall succeed to and be substituted for the
46148 predecessor as to all fiduciary powers, rights, privileges,
46149 duties, and liabilities of the predecessor in its capacity as
46150 fiduciary for all estate, trust, guardianship, agency, and
46151 custodial accounts and any other fiduciary relationship for
46152 which the predecessor is then, or but for such agreement would
46153 be, serving as fiduciary, except as may be otherwise specified
46154 in such agreement and in any subsequent agreement filed with the



HB 1803

2003

46155 office ~~department~~ under subparagraph 4. or subparagraph 5. The
46156 successor shall also be deemed the fiduciary in all writings,
46157 including, but not limited to, wills, trusts, deeds, policies of
46158 insurance, stock certificates, court orders, and similar
46159 documents and instruments which name or have named the
46160 predecessor as fiduciary and which were signed before or after
46161 the effective date of such agreement except as may be otherwise
46162 specified in such agreement and any subsequent agreement filed
46163 with the office ~~department~~ under subparagraph 4. or subparagraph
46164 5. This section does not absolve or discharge any predecessor
46165 exercising trust powers from liability arising out of any breach
46166 of its fiduciary duties or obligations which occurred before the
46167 effective date of such agreement.

46168 8. As used herein:

46169 a. Trust companies, banks, or associations are
46170 "affiliated" if they are connected through stock ownership with
46171 a common parent corporation that is a registered multibank or
46172 multiassociation holding company and such parent owns directly
46173 stock that possesses at least 80 percent of the total voting
46174 power of the stock of such trust company, bank, or association
46175 and has a value equal to at least 80 percent of the total value
46176 of the stock of such trust company, bank, or association.

46177 b. The term "predecessor" refers to an affiliated trust
46178 company or affiliated bank's or affiliated association's trust
46179 department for the position of which in its trust relations the
46180 successor is substituted.

46181 c. The term "successor" refers to an affiliated trust
46182 company or affiliated bank's or affiliated association's trust
46183 department which is substituted for a predecessor in the
46184 predecessor's trust relationships including all powers, duties,



HB 1803

2003

46185 and responsibilities associated therewith.

46186 (d) When a trust service office is established at a bank
46187 or association that has retained its trust powers in an active
46188 status, the trust company or trust department may at any time be
46189 substituted as fiduciary as provided in paragraph (b) by filing
46190 an election with the office ~~department~~. The election to
46191 substitute the trust company or trust department for the bank or
46192 association as fiduciary must contain the consent of a majority
46193 of the stockholders or members entitled to vote on such proposal
46194 at a meeting of stockholders or members and of a majority of the
46195 board of directors, of the bank or association at which the
46196 trust service office has been established.

46197 (e) This subsection shall not affect any substitution of
46198 fiduciaries made under former s. 659.061(6) prior to May 31,
46199 1976.

46200 (5) Nothing in the financial institutions codes shall be
46201 construed to prohibit a person from serving in a dual capacity
46202 as an officer or director of a bank, association, or credit
46203 union at which a trust service office is located and an officer
46204 or director of the trust company or trust department which has a
46205 trust service office at that bank, association, or credit union.

46206 (6) A trust company or trust department may terminate a
46207 trust service office only with the prior approval of the office
46208 ~~department~~, which shall only grant its approval after being
46209 satisfied that the interests of all beneficiaries of the
46210 estates, trusts, and other fiduciary relationships being
46211 serviced by the trust company or trust department as fiduciary
46212 at that trust service office will be adequately protected. Upon
46213 termination of the trust service office, the trust company or
46214 trust department shall continue to exercise its fiduciary



HB 1803

2003

46215 powers, rights, duties, and privileges as fiduciary of the
46216 estates, trusts, and other fiduciary relationships which, at the
46217 time of such termination, were being serviced at that trust
46218 service office and shall continue to be deemed the named
46219 fiduciary of all instruments naming the bank or association as
46220 fiduciary which became effective and operative prior to the
46221 termination of the trust service office. However, any
46222 beneficiary of an estate or trust being serviced at the trust
46223 service office at the time of the termination of the trust
46224 service office may petition the court of competent jurisdiction
46225 in the county where, at the time of such termination, the trust
46226 service office was located for removal of the trust company or
46227 the trust department as fiduciary and for appointment of a
46228 successor fiduciary. The court shall grant the petition upon
46229 being satisfied that such action is in the best interests of the
46230 beneficiaries of the trust or estate.

46231 (7) A trust service office as provided for in this section
46232 is a special service facility and is not a branch or a branch
46233 office of a trust company or a trust department.

46234 Section 1429. Subsection (2) of section 660.40, Florida
46235 Statutes, is amended to read:

46236 660.40 Self dealing.--

46237 (2) Assets of a fiduciary account held by a trust company
46238 or a trust department shall not be sold or transferred, by loan
46239 or otherwise, to the trust company or the bank or association of
46240 which the trust department is a part or to its directors,
46241 officers, or employees except:

46242 (a) When lawfully authorized by the governing instrument
46243 or by court order;

46244 (b) As provided in ss. 660.42-660.45;



HB 1803

2003

46245 (c) With the approval of, or when required by, the office
 46246 ~~department~~ in order to prevent loss to a fiduciary account in
 46247 any case where the trust company or the trust department has
 46248 incurred a liability in the handling of the assets of the
 46249 fiduciary account.

46250 Section 1430. Section 660.47, Florida Statutes, is amended
 46251 to read:

46252 660.47 Surrender of fiduciary powers.--Any state bank or
 46253 association which has been granted trust powers and which
 46254 desires to surrender such rights shall file with the office
 46255 ~~department~~ a certified copy of the resolution of its board of
 46256 directors signifying such desire. Upon receipt of such
 46257 resolution, the office ~~department~~ shall make an investigation,
 46258 and when it is satisfied that the trust department has been
 46259 discharged from all fiduciary duties which it has undertaken, it
 46260 shall issue a certificate to such bank or association certifying
 46261 that it is no longer authorized to exercise trust powers.

46262 Section 1431. Subsection (1) of section 660.48, Florida
 46263 Statutes, is amended to read:

46264 660.48 Receivership or voluntary liquidation.--

46265 (1) If a liquidator or receiver is appointed for a trust
 46266 company or a state bank or association having a trust
 46267 department, the liquidator or receiver shall, pursuant to the
 46268 instructions of the office ~~department~~ and the orders of any
 46269 court and the federal regulatory agency having jurisdiction,
 46270 proceed to close such fiduciary accounts as can be closed
 46271 promptly and transfer all other fiduciary accounts to substitute
 46272 fiduciaries.

46273 Section 1432. Subsection (1) of section 663.02, Florida
 46274 Statutes, is amended to read:



HB 1803

2003

46275 663.02 Applicability of state banking laws.--
 46276 (1) International banking corporations having offices in
 46277 this state shall be subject to all the provisions of the
 46278 financial institutions codes and chapter 655 as though such
 46279 international banking corporations were state banks, except
 46280 where it may appear, from the context or otherwise, that such
 46281 provisions are clearly applicable only to banks or trust
 46282 companies organized under the laws of this state or the United
 46283 States. Without limiting the foregoing general provisions, it
 46284 is the intent of the Legislature that the following provisions
 46285 shall be applicable to such banks or corporations: s. 655.031,
 46286 relating to administrative enforcement guidelines; s. 655.032,
 46287 relating to investigations, subpoenas, hearings, and witnesses;
 46288 s. 655.0321, relating to hearings, proceedings, and related
 46289 documents and restricted access thereto; s. 655.033, relating to
 46290 cease and desist orders; s. 655.037, relating to removal by the
 46291 office ~~department~~ of an officer, director, committee member,
 46292 employee, or other person; s. 655.041, relating to
 46293 administrative fines and enforcement; and s. 658.49, relating to
 46294 loans by banks not exceeding \$50,000. International banking
 46295 corporations shall not have the powers conferred on domestic
 46296 banks by the provisions of s. 658.60, relating to deposits of
 46297 public funds. International banking corporations shall not be
 46298 subject to the provisions of s. 658.68, relating to liquidity.
 46299 The provisions of chapter 687, relating to interest and usury,
 46300 shall apply to all loans not subject to s. 658.49.
 46301 Section 1433. Subsections (2), (3), and (4) of section
 46302 663.04, Florida Statutes, are amended to read:
 46303 663.04 Requirements for carrying on banking business.--No
 46304 international banking corporation shall transact a banking



HB 1803

2003

46305 business, or maintain in this state any office for carrying on
46306 such business, or any part thereof, unless such corporation has:

46307 (2) Furnished to the office ~~department~~ such proof as to
46308 the nature and character of its business and as to its financial
46309 condition as the commission or office requires ~~department may~~
46310 ~~require~~.

46311 (3) Filed with the office ~~department~~ a certified copy of
46312 that information required to be supplied to the Department of
46313 State by those provisions of chapter 607 which are applicable to
46314 foreign corporations.

46315 (4) Received a license duly issued to it by the office
46316 ~~department~~.

46317 Section 1434. Subsections (1), (2), (3), (4), (5), (6),
46318 and (9) of section 663.05, Florida Statutes, are amended to
46319 read:

46320 663.05 Application for license; approval or disapproval.--

46321 (1) Every international banking corporation, before being
46322 licensed by the office ~~department~~ to maintain any office in this
46323 state, shall subscribe and acknowledge, and submit to the office
46324 ~~department~~, an application which shall contain:

46325 (a) The name of the international banking corporation.

46326 (b) The proposed location by street and post office
46327 address and county where its business is to be transacted in
46328 this state and the name of the person who shall be in charge of
46329 the business and affairs of the office.

46330 (c) The location where its initial registered office will
46331 be located in this state.

46332 (d) The total amount of the capital accounts of the
46333 international banking corporation.

46334 (e) A complete and detailed statement of its financial



HB 1803

2003

46335 condition as of a date within 180 days prior to the date of such
46336 application, except that the office ~~department~~ in its discretion
46337 may, when necessary or expedient, accept such statement of
46338 financial condition as of a date within 240 days prior to the
46339 date of such application. The office ~~department~~ in its
46340 discretion may, when necessary or expedient, require an
46341 independent opinion audit or the equivalent satisfactory to the
46342 office ~~department~~.

46343 (f) A listing of any occasion within the preceding 10-year
46344 period in which either the international banking corporation or
46345 any of its directors, executive officers, or principal
46346 shareholders has been convicted of, or pled guilty or nolo
46347 contendere to, any offense with respect to which the penalties
46348 include the possibility of imprisonment for 1 year or more, or
46349 to any offense involving money laundering or otherwise related
46350 to the operation of a financial institution.

46351 (2) The office ~~department~~ shall disallow any illegally
46352 obtained currency, monetary instruments, funds, or other
46353 financial resources from the capitalization requirements of this
46354 section, and the existence of such illegally obtained resources
46355 shall be grounds for denial of the application for license.

46356 (3) At the time an application is submitted to the office
46357 ~~department~~, the international banking corporation shall also
46358 submit a duly authenticated copy of its articles of
46359 incorporation and a copy of its bylaws, or an equivalent thereof
46360 satisfactory to the office ~~department~~. Such corporation shall
46361 also submit a certificate issued by the banking or supervisory
46362 authority of the country in which the international banking
46363 corporation is chartered stating that the international banking
46364 corporation is duly organized and licensed and lawfully existing



HB 1803

2003

46365 in good standing and listing any instance in which the
46366 international banking corporation has been convicted of, or pled
46367 guilty or nolo contendere to, a violation of any currency
46368 transaction reporting or money laundering law which may exist in
46369 that country.

46370 (4) Application shall be made on a form prescribed by the
46371 commission ~~department~~ and shall contain such information as the
46372 commission or office requires ~~department may require~~.

46373 (5) The office ~~department~~ may, in its discretion, approve
46374 or disapprove the application, but it shall not approve the
46375 application unless, in its opinion, the applicant meets each and
46376 every requirement of this part and any other applicable
46377 provision of the financial institutions codes. The office
46378 ~~department~~ shall approve the application only if it has
46379 determined that the directors, executive officers, and principal
46380 shareholders of the international banking corporation are
46381 qualified by reason of their financial ability, reputation, and
46382 integrity and have sufficient banking and other business
46383 experience to indicate that they will manage and direct the
46384 affairs of the international banking corporation in a safe,
46385 sound, and lawful manner. In the processing of applications,
46386 the time limitations under the Administrative Procedure Act
46387 shall not apply as to approval or disapproval of the
46388 application.

46389 (6) The office ~~department~~ shall not issue a license to an
46390 international banking corporation unless:

46391 (a) It is chartered in a jurisdiction in which any bank
46392 having its principal place of business in this state may
46393 establish similar facilities or exercise similar powers; or

46394 (b) Federal law permits the appropriate federal regulatory



HB 1803

2003

46395 authority to issue a comparable license to the international
46396 banking corporation.

46397 (9) The commission ~~department~~ shall establish, by rule,
46398 the general principles which shall determine the adequacy of
46399 supervision of an international banking corporation's foreign
46400 establishments. These principles shall be based upon the need
46401 for cooperative supervisory efforts and consistent regulatory
46402 guidelines and shall address, at a minimum, the capital
46403 adequacy, asset quality, management, earnings, liquidity,
46404 internal controls, audits, and foreign exchange operations and
46405 positions of the international banking corporation. This
46406 subsection shall not require examination by the home-country
46407 regulatory authorities of any office of an international banking
46408 corporation in this state. The commission ~~department~~ may also
46409 establish, by rule, other standards for approval of an
46410 application for a license as considered necessary to ensure the
46411 safe and sound operations of the international bank office in
46412 this state.

46413 Section 1435. Subsections (2), (3), and (4) of section
46414 663.055, Florida Statutes, are amended to read:

46415 663.055 Capital requirements.--

46416 (2) Notwithstanding the provisions of paragraph (1)(a),
46417 the office ~~department~~ may approve an application for a license
46418 to establish an international bank agency, an international
46419 branch, or an international administrative office if:

46420 (a) The international banking corporation is licensed to
46421 receive deposits from the general public in the country where it
46422 is organized and licensed and to engage in such other activities
46423 as are usual in connection with the business of banking in such
46424 country;



HB 1803

2003

46425 (b) The office ~~department~~ receives a certificate that is
46426 issued by the banking or supervisory authority of the country in
46427 which the international banking corporation is organized and
46428 licensed and states that the international banking corporation
46429 is duly organized and licensed and lawfully existing in good
46430 standing, and is empowered to conduct a banking business; and

46431 (c) The international banking corporation has been in the
46432 business of banking for at least 10 years and is ranked by the
46433 banking or supervisory authority of the country in which it is
46434 organized and licensed as one of the five largest banks in that
46435 country in terms of domestic deposits, as of the date of its
46436 most recent statement of financial condition. However, in no
46437 event shall the office ~~department~~ approve an application under
46438 this subsection for any international banking corporation with
46439 capital accounts of less than \$10 million.

46440 (3) The office ~~department~~ may specify such other
46441 conditions as it determines appropriate, considering the public
46442 interest, the need to maintain a sound and competitive banking
46443 system, and the preservation of an environment conducive to the
46444 conduct of an international banking business in this state. In
46445 translating the capital accounts of an international banking
46446 corporation, the office ~~department~~ may consider monetary
46447 corrections accounts that reflect results consistent with the
46448 requirements of generally accepted accounting principles in the
46449 United States.

46450 (4) For the purpose of this part, the capital accounts of
46451 an international banking corporation shall be determined in
46452 accordance with rules adopted by the commission ~~department~~. In
46453 adopting such rules, the commission ~~department~~ shall consider
46454 similar rules adopted by bank regulatory agencies in the United



HB 1803

2003

46455 States and the need to provide reasonably consistent regulatory
46456 requirements for international banking corporations which will
46457 maintain the safe and sound condition of international banking
46458 corporations doing business in this state.

46459 Section 1436. Subsections (1), (2), (3), and (4) of
46460 section 663.06, Florida Statutes, are amended to read:

46461 663.06 Licenses; permissible activities.--

46462 (1) An international banking corporation licensed to
46463 operate an office in this state may engage in the business
46464 authorized by this part at the office specified in such license
46465 for an indefinite period. An international banking corporation
46466 may operate more than one international bank agency,
46467 international branch, or international representative office,
46468 each at a different place of business, provided that each office
46469 shall be separately licensed. No license to operate an
46470 international bank office is transferable or assignable.
46471 However, the location of an international bank office may be
46472 changed after notification of the office ~~department~~. Every such
46473 license shall be, at all times, conspicuously displayed in the
46474 place of business specified therein.

46475 (2) An international banking corporation which proposes to
46476 terminate the operations of its international bank agency,
46477 international branch, international representative office, or
46478 international administrative office shall surrender its license
46479 to the office ~~department~~ and comply with such procedures as the
46480 commission ~~department~~ may prescribe by rule.

46481 (3) An international bank agency, international branch,
46482 international representative office, or international
46483 administrative office license may be suspended or revoked by the
46484 office ~~department~~, with or without examination, upon its



HB 1803

2003

46485 determination that the international banking corporation does
46486 not meet all requirements for original licensing. The commission
46487 ~~department~~ may by rule prescribe additional conditions or
46488 standards under which the license of an international bank
46489 agency, international branch, international representative
46490 office, or international administrative office may be suspended
46491 or revoked.

46492 (4) In the event any such license is surrendered by the
46493 international banking corporation or is suspended or revoked by
46494 the office ~~department~~, all rights and privileges of the
46495 international banking corporation to transact the business thus
46496 licensed shall cease. The commission ~~department~~ shall, by rule,
46497 prescribe procedures for the surrender of a license and for the
46498 orderly cessation of business by an international banking
46499 corporation in a manner which is not harmful to the interests of
46500 its customers or of the public.

46501 Section 1437. Section 663.061, Florida Statutes, is
46502 amended to read:

46503 663.061 International bank agencies; permissible
46504 activities.--

46505 (1) An international bank agency licensed under this part
46506 may make any loan, extension of credit, or investment which it
46507 could make if incorporated and operating as a bank organized
46508 under the laws of this state. An international bank agency may
46509 act as custodian and may furnish investment management, and
46510 investment advisory services authorized under rules adopted by
46511 the commission ~~department~~, to nonresident entities or persons
46512 whose principal places of business or domicile are outside the
46513 United States and to resident entities or persons with respect
46514 to international or foreign investments. An international



HB 1803

2003

46515 banking corporation which has an international bank agency
46516 licensed under the terms of this part shall be exempt from the
46517 registration requirements of s. 517.12.

46518 (2) An international bank agency may not receive deposits
46519 in this state except:

46520 (a) Deposits from nonresident entities or persons whose
46521 principal places of business or domicile are outside the United
46522 States.

46523 (b) Interbank deposits; interbank borrowing, or similar
46524 interbank obligations.

46525 (c) International banking facility deposits as defined
46526 pursuant to s. 655.071. An international bank agency may
46527 maintain in this state, for the account of others, credit
46528 balances necessarily incidental to, or arising out of, the
46529 exercise of its lawful powers. Such credit balances may be
46530 disbursed by check or other draft; however, the commission
46531 ~~department~~ shall, by rule, provide appropriate limitations upon
46532 third-party disbursements to ensure that credit balances are not
46533 functionally equivalent to demand deposits. In establishing the
46534 limitations, the commission ~~department~~ may provide that such
46535 disbursement may not exceed an average of 20 checks or drafts
46536 per day.

46537 (3) Notwithstanding any provision of this chapter or
46538 chapter 658 to the contrary, an international banking
46539 corporation licensed under this part to operate an international
46540 bank agency may, if authorized by rule of the commission
46541 ~~department~~, make any loan or investment or exercise any power
46542 which it could make or exercise if it were operating in this
46543 state as a federal agency under federal law. The commission
46544 ~~department~~ shall, when adopting ~~promulgating~~ such rules,



HB 1803

2003

46545 consider the public interest and convenience and the need to
46546 maintain a sound and competitive state banking system. Unless
46547 otherwise provided by statute, an international bank agency may
46548 not exercise any powers that a federal agency is not authorized
46549 to exercise.

46550 (4) Notwithstanding the provisions of subsection (1), any
46551 international banking corporation organized and existing under
46552 the laws of any other state and licensed to operate an
46553 international bank agency may engage only in those activities
46554 permissible for an Edge Act corporation organized under s. 25(a)
46555 of the Federal Reserve Act, as amended, 12 U.S.C. ss. 611-632.

46556 (5) With the prior authorization of the office ~~department~~
46557 pursuant to s. 660.26, an international bank agency may accept
46558 appointments as trustee by nonresident persons or entities and
46559 may exercise trust powers with respect to such fiduciary
46560 accounts. Except for the foregoing limitation, the trust
46561 activities of an international bank agency shall be subject to
46562 the same requirements and may be conducted in the same manner as
46563 the trust business of a state trust company or state bank with
46564 trust powers.

46565 Section 1438. Section 663.064, Florida Statutes, is
46566 amended to read:

46567 663.064 International branches; permissible activities;
46568 requirements.--An international banking corporation that meets
46569 the requirements of ss. 663.04 and 663.05 may, with the approval
46570 of the office ~~department~~, establish one or more branches in this
46571 state to the extent permitted to banks from other states. An
46572 international branch shall have the same rights and privileges
46573 as a federally licensed international branch. The operations of
46574 an international branch shall be conducted pursuant to



HB 1803

2003

46575 requirements ~~rules~~ determined by the office ~~department~~ as
 46576 necessary to ensure compliance with the provisions of the
 46577 financial institutions codes, including. ~~These rules shall~~
 46578 ~~include~~ requirements for the maintenance of accounts and records
 46579 separate from those of the international banking corporation of
 46580 which it is a branch. An application to establish an
 46581 international branch shall be made pursuant to s. 658.26.

46582 Section 1439. Section 663.065, Florida Statutes, is
 46583 amended to read:

46584 663.065 State-chartered investment companies; formation;
 46585 permissible activities; restrictions.--

46586 (1) With the approval of the office ~~department~~, a Florida
 46587 corporation may be formed for the purpose of engaging in
 46588 international banking, lending, and other financial activities.

46589 A state-chartered investment company established pursuant to
 46590 this section shall engage directly in only those activities
 46591 permissible for an Edge Act corporation organized under s. 25(a)
 46592 of the Federal Reserve Act, as amended.

46593 (2) Subject to the prior approval of the office ~~department~~
 46594 and to such limitations as the commission prescribes ~~department~~
 46595 ~~shall prescribe~~ by rule, a state-chartered investment company
 46596 may invest in the shares of and may own or control an Edge Act
 46597 corporation or an international banking corporation and may
 46598 establish and operate branches, representative offices, and
 46599 similar banking facilities in foreign countries.

46600 (3) An application for approval to organize a state-
 46601 chartered investment company shall be subject to the provisions
 46602 of chapter 655 relating to the organization of de novo financial
 46603 institutions and to rules adopted by the commission ~~department~~
 46604 as necessary to ensure that the proposed state-chartered



HB 1803

2003

46605 investment company will be operated in a safe and lawful manner,
 46606 except that the applicant is not required to become a member of
 46607 the Federal Reserve System or the Federal Deposit Insurance
 46608 Corporation. State-chartered investment companies shall be
 46609 subject to the examination and supervision of the office
 46610 ~~department~~ and are subject to the financial institutions codes
 46611 to the same extent as international banking corporations
 46612 pursuant to s. 663.02.

46613 Section 1440. Section 663.07, Florida Statutes, is amended
 46614 to read:

46615 663.07 Asset maintenance or capital equivalency.--

46616 (1) Each international bank agency and international
 46617 branch shall:

46618 (a) Maintain with one or more banks in this state, in such
 46619 amounts as the office ~~department~~ specifies, evidence of dollar
 46620 deposits or investment securities of the type that may be held
 46621 by a state bank for its own account pursuant to s. 658.67. The
 46622 aggregate amount of dollar deposits and investment securities
 46623 for an international bank agency or international branch shall,
 46624 at a minimum, equal the greater of:

- 46625 1. Four million dollars; or
- 46626 2. Seven percent of the total liabilities of the
 46627 international bank agency or international branch excluding
 46628 accrued expenses and amounts due and other liabilities to
 46629 affiliated branches, offices, agencies, or entities; or

46630 (b) Maintain other appropriate reserves, taking into
 46631 consideration the nature of the business being conducted by the
 46632 international bank agency or international branch.

46633
 46634 The commission ~~department~~ shall prescribe, by rule, the deposit,



HB 1803

2003

46635 safekeeping, pledge, withdrawal, recordkeeping, and other
 46636 arrangements for funds and securities maintained under this
 46637 subsection. The deposits and securities used to satisfy the
 46638 capital equivalency requirements of this subsection shall be
 46639 held, to the extent feasible, in one or more state or national
 46640 banks located in this state or in a federal reserve bank.

46641 (2) If on the last business day of any month, the monthly
 46642 average capital equivalency ratio is less than 7 percent, the
 46643 international bank agency or international branch shall increase
 46644 its deposits or investment securities with a depository bank
 46645 within 7 days of the end of the month in which the deficiency
 46646 occurred.

46647 (3) In lieu of the requirements of subsection (1), the
 46648 commission ~~department~~ may, by rule, permit an international bank
 46649 agency or international branch to hold, in this state, assets
 46650 which bear such relationships as the commission ~~department~~ shall
 46651 by rule prescribes ~~prescribe~~ to the aggregate liabilities of the
 46652 international bank agency or international branch payable in
 46653 this state or resulting from its operations. The amount of such
 46654 assets shall be equal to at least \$4 million or 107 percent of
 46655 the amount of such liabilities, whichever is greater; however,
 46656 the office ~~department~~ by order may reduce the required amount of
 46657 assets to not less than 100 percent of the amount of such
 46658 liabilities. When issuing any such order, the office ~~department~~
 46659 shall take into account the objective of maintaining a sound
 46660 banking system in this state. The assets shall be maintained as
 46661 cash on hand; as deposits or placements with other banks,
 46662 including the total amount of any reserves deposited at a
 46663 federal reserve bank; as cash items in process of collection; as
 46664 earning assets such as federal funds sold, bonds, notes,



HB 1803

2003

46665 debentures, drafts, bills of exchange, acceptances, loan
46666 participation certificates, or other evidences of indebtedness
46667 payable in the United States or in United States funds or in
46668 funds freely convertible into United States funds; in such other
46669 form as the commission specifies ~~department may specify~~ by rule;
46670 or in any combination of the foregoing.

46671 (4) If on the last business day of any month, the monthly
46672 average asset maintenance ratio is less than 107 percent, the
46673 international bank agency or international branch shall correct
46674 the deficiency by accumulating within the first 7 business days
46675 of the end of the month sufficient eligible assets to increase
46676 the average eligible assets to 107 percent of the average
46677 liabilities requiring cover.

46678 (5) The term "assets" as used in this section excludes
46679 accrued income and amounts due from other offices or branches
46680 of, and wholly owned, except for a nominal number of directors'
46681 shares, subsidiaries of the international banking corporation in
46682 question. The term "liabilities" as used in this section
46683 excludes accrued expenses and amounts due and other liabilities
46684 to branches, offices, agencies, and wholly owned, except for a
46685 nominal number of directors' shares, subsidiaries of the
46686 international banking corporation in question, and such other
46687 liabilities as the commission specifies ~~department may specify~~
46688 by rule. International banking facility deposits, borrowings,
46689 and extensions of credit are excluded from the total liabilities
46690 and total assets of an international bank agency or
46691 international branch unless the office ~~department~~ determines
46692 that inclusion of international banking facility deposits,
46693 borrowings, and extensions of credit is necessary to ensure the
46694 maintenance of a sound financial condition, protect depositors,



HB 1803

2003

46695 creditors, and the public interest, and maintain public
46696 confidence in the business of the international bank agency or
46697 international branch.

46698 (6) For the purposes of this section, the office
46699 ~~department~~ shall value marketable securities at book value;
46700 shall have the right to determine the value of any nonmarketable
46701 bond, note, debenture, draft, bill of exchange, or other
46702 evidence of indebtedness or of any other obligation held by or
46703 owed to the international banking corporation in this state;
46704 and, in determining the amount of assets for the purpose of
46705 computing the above ratio of assets to liabilities, shall have
46706 the power to exclude any particular assets.

46707 (7) Notwithstanding the limitations of s. 658.67, the
46708 commission ~~department~~ may by rule authorize, and may specify
46709 conditions and limits on, the use of securities issued by
46710 foreign governments or government-sponsored entities, or by an
46711 international banking corporation for the purpose of satisfying
46712 the capital equivalency or asset maintenance requirements of
46713 this section. However, any such securities shall be payable in
46714 funds freely convertible into United States funds, and the
46715 amount of such securities deposited or held for the purposes of
46716 this section shall not exceed 25 percent of the required amount.

46717 (8) Regardless of whether an international bank agency or
46718 international branch complies with the requirements of this
46719 section pursuant to subsection(1) or subsection (3), if, by
46720 reason of the existence, or the potential occurrence, of unusual
46721 or extraordinary circumstances, the office ~~department~~ finds it
46722 necessary or desirable for maintaining a sound financial
46723 condition, protecting creditors and the public interest, and
46724 maintaining public confidence in the business of the



HB 1803

2003

46725 international bank agency or international branch it may by
 46726 order require such international bank agency or international
 46727 branch to deposit cash or eligible securities with a bank or
 46728 trust company located in this state, or to hold in this state
 46729 assets acceptable to the office ~~department~~ in an aggregate
 46730 amount that bears such relationship as the office ~~department~~
 46731 prescribes to the aggregate liabilities of the international
 46732 bank agency or international branch.

46733 (9) Each international bank agency shall file such reports
 46734 with the office ~~department~~ as the commission ~~department~~, by
 46735 rule, requires to determine compliance with the provisions of
 46736 this section.

46737 Section 1441. Section 663.08, Florida Statutes, is amended
 46738 to read:

46739 663.08 Certification of capital accounts.--Before opening
 46740 an office in this state, and annually thereafter so long as a
 46741 bank office is maintained in this state, an international
 46742 banking corporation licensed pursuant to ss. 663.01-663.14 shall
 46743 certify to the office ~~department~~ the amount of its capital
 46744 accounts, expressed in the currency of the jurisdiction of its
 46745 incorporation. The dollar equivalent of these amounts, as
 46746 determined by the office ~~department~~, shall be deemed to be the
 46747 amount of its capital accounts.

46748 Section 1442. Subsections (1) and (3) of section 663.083,
 46749 Florida Statutes, are amended to read:

46750 663.083 Lending limits.--

46751 (1) The commission ~~department~~ shall by rule prescribe the
 46752 limits of drafts or bills of exchange which an international
 46753 bank agency or branch may accept relative to the capital
 46754 accounts of the international banking corporation. These limits



HB 1803

2003

46755 shall take into account all transactions which are included and
 46756 excluded in computing the lending limit for acceptances of a
 46757 federal agency in the case of an international bank agency, or a
 46758 federal branch in the case of an international branch, licensed
 46759 under federal banking law.

46760 (3) Any limitation in this section based on the capital
 46761 accounts of an international banking corporation shall refer,
 46762 with respect to an international bank agency or international
 46763 branch in this state, to the dollar equivalent of the capital
 46764 accounts of the international banking corporation, as determined
 46765 by the office ~~department~~. If the international banking
 46766 corporation has more than one international bank agency or
 46767 international branch in this state, the business transacted by
 46768 all such agencies or branches shall be aggregated in determining
 46769 compliance with a limitation or restriction in this section.

46770 Section 1443. Section 663.09, Florida Statutes, is amended
 46771 to read:

46772 663.09 Reports; records.--

46773 (1) Every international banking corporation doing business
 46774 in this state shall, at such times and in such form as the
 46775 commission prescribes ~~department shall prescribe~~, make written
 46776 reports in the English language to the office ~~department~~, under
 46777 the oath of one of its officers, managers, or agents transacting
 46778 business in this state, showing the amount of its assets and
 46779 liabilities and containing such other matters as the commission
 46780 or office requires ~~department shall prescribe~~. An international
 46781 banking corporation that maintains two or more offices may
 46782 consolidate such information in one report unless the office
 46783 ~~department~~ otherwise requires for purposes of its supervision of
 46784 the condition and operations of each such office. The late



HB 1803

2003

46785 filing of such reports shall be subject to the imposition of the
46786 administrative fine prescribed by s. 655.045(2)(b). If any such
46787 international banking corporation shall fail to make any such
46788 report, as directed by the office ~~department~~, or if any such
46789 report shall contain any false statement knowingly made, the
46790 same shall be grounds for revocation of the license of the
46791 international banking corporation.

46792 (2) The international banking corporation of each state-
46793 licensed international bank agency or international branch shall
46794 perform or cause to be performed an audit of such international
46795 bank agency or international branch. The commission ~~department~~
46796 shall, by rule, prescribe the minimum audit procedures including
46797 the audit reporting requirements which would satisfy the
46798 provisions of this subsection.

46799 (3) Each international banking corporation which operates
46800 an office licensed under this part shall cause to be kept, at a
46801 location accepted by the office ~~department~~:

46802 (a) Correct and complete books and records of account of
46803 the business operations transacted by such office. All policies
46804 and procedures governing the operations of such office, as well
46805 as any existing general ledger or subsidiary accounts, shall be
46806 maintained in the English language. The office ~~department~~ may
46807 require that any other document not written in the English
46808 language which the office ~~department~~ deems necessary for the
46809 purposes of its regulatory and supervisory functions be
46810 translated into English at the expense of the international
46811 banking corporation.

46812 (b) Current copies of the charter and bylaws of the
46813 international banking corporation, relative to the operations of
46814 the office, and minutes of the proceedings of its directors,



HB 1803

2003

46815 officers, or committees relative to the business of the office.
46816 Such records shall be kept pursuant to s. 655.91 and shall be
46817 made available to the office ~~department~~, upon request, at any
46818 time during regular business hours of the office. Any failure
46819 to keep such records as aforesaid or any refusal to produce such
46820 records upon request by the office ~~department~~ shall be grounds
46821 for suspension or revocation of any license issued under this
46822 part.

46823 (4) In addition to any other reports it may be required to
46824 make, an international banking corporation which maintains an
46825 international bank agency or international branch in this state
46826 shall make reports to the office ~~department~~ in such form and at
46827 such times as the commission ~~department~~ prescribes by rule
46828 concerning the management, asset quality, capital adequacy, and
46829 liquidity of the international banking corporation.

46830 Section 1444. Subsections (1), (2), and (3) of section
46831 663.10, Florida Statutes, are amended to read:

46832 663.10 Conversion of license.--

46833 (1) An international banking corporation desiring to
46834 convert its existing federal agency or federal branch or Edge
46835 Act corporation into an international bank agency or
46836 international branch, or an Edge Act corporation which desires
46837 to convert to a state-chartered investment company shall submit
46838 to the office ~~department~~ an application, on a form adopted by
46839 the commission and provided by the office ~~the department shall~~
46840 ~~provide~~, accompanied by a filing fee as prescribed by s. 663.12.

46841 An examination and investigation may be conducted to the extent
46842 determined necessary by the office ~~department~~. The cost of any
46843 such examination shall be paid by the applicant.

46844 (2) Nothing in the laws of this state shall restrict the



HB 1803

2003

46845 right of a state-licensed international branch agency,
 46846 international branch, or international representative office or
 46847 a state-chartered investment company to convert to a federal
 46848 license or charter upon compliance with the laws of the United
 46849 States. Upon completion of any such conversion, the state
 46850 license shall be surrendered to the office ~~department~~.

46851 (3) An international banking corporation desiring to
 46852 convert any existing international banking office to an
 46853 international banking office of a different type shall submit to
 46854 the office ~~department~~ an application on a form adopted by the
 46855 commission and provided by the office ~~the department shall~~
 46856 ~~provide~~ which shall be accompanied by all of the information and
 46857 documents that are required of applicants for a license of the
 46858 type being sought together with the filing fee required by s.
 46859 663.12.

46860 Section 1445. Section 663.11, Florida Statutes, is amended
 46861 to read:

46862 663.11 Dissolution.--In the event an international banking
 46863 corporation which is licensed to maintain an office in this
 46864 state is dissolved, or its authority or existence is otherwise
 46865 terminated or canceled in the jurisdiction of its incorporation,
 46866 a certificate of the official who is responsible for records of
 46867 banking corporations of the jurisdiction of incorporation of
 46868 such international banking corporation, attesting to the
 46869 occurrence of any such event, or a certified copy of an order or
 46870 decree of a court of such jurisdiction, directing the
 46871 dissolution of such international banking corporation, the
 46872 termination of its existence, or the cancellation of its
 46873 authority, shall be delivered by the corporation or its
 46874 surviving officers and directors to the office ~~department~~. The



HB 1803

2003

46875 filing of the certificate, order, or decree shall have the same
46876 effect as the revocation of the license of such international
46877 banking corporation as provided in s. 663.06.

46878 Section 1446. Section 663.12, Florida Statutes, is amended
46879 to read:

46880 663.12 Fees; assessments; fines.--

46881 (1) Each application for a license under the provisions of
46882 this part shall be accompanied by a nonrefundable filing fee
46883 payable to the office ~~department~~ in the following amount:

46884 (a) Ten thousand dollars for establishing a state-
46885 chartered investment company.

46886 (b) Ten thousand dollars for establishing an international
46887 bank agency or branch.

46888 (c) Five thousand dollars for establishing an
46889 international administrative office.

46890 (d) Five thousand dollars for establishing an
46891 international representative office.

46892 (e) Two thousand dollars annually for operating an
46893 international representative office or international
46894 administrative office.

46895 (f) An amount equal to the initial filing fee for an
46896 application to convert from one type of license to another. The
46897 commission ~~department~~ may increase the filing fee for any type
46898 of license to an amount established by rule and calculated in a
46899 manner so as to cover the direct and indirect cost of processing
46900 such applications.

46901 (2) Each international bank agency, international branch,
46902 and state-chartered investment company shall pay to the office
46903 ~~department~~ a semiannual assessment, payable on or before January
46904 31 and July 31 of each year, in an amount determined by rule by



HB 1803

2003

46905 the commission ~~department~~ and calculated in a manner so as to
46906 recover the costs of the office ~~department~~ incurred in
46907 connection with the supervision of international banking
46908 activities licensed under this part. These rules shall provide
46909 for uniform rates of assessment for all licenses of the same
46910 type, shall provide for declining rates of assessment in
46911 relation to the total assets of the licensee held in the state,
46912 but shall not, in any event, provide for rates of assessment
46913 which exceed the rate applicable to state banks pursuant to s.
46914 658.73, unless the rate of assessment would result in a
46915 semiannual assessment of less than \$1,000. For the purposes of
46916 this subsection, the total assets of an international bank
46917 agency, international branch, or state-chartered investment
46918 company shall include amounts due the agency or branch or state
46919 investment company from other offices, branches, or subsidiaries
46920 of the international banking corporations or other corporations
46921 of which the agency, branch, or state-chartered investment
46922 company is a part or from entities related to that international
46923 banking corporation.

46924 (3) Each international banking corporation which maintains
46925 an office licensed under the provisions of this part and each
46926 state-chartered investment company shall pay to the office
46927 ~~department~~ examination fees which shall be determined by the
46928 commission ~~department~~ by rule and calculated in a manner so as
46929 to be equal to the actual cost of each examiner's participation
46930 in the examination, as measured by the examiner's pay scale,
46931 plus any other expenses directly incurred in the examination,
46932 but in no event shall such fee be less than \$200 per day for
46933 each examiner participating in the examination.

46934 (4) An international bank agency or international branch



HB 1803

2003

46935 shall pay to the office ~~department~~ a fine if the agency or
 46936 branch fails to correct any asset maintenance or capital
 46937 equivalency deficiency within 7 days following the end of the
 46938 month in which the deficiency occurs. The fine shall be equal to
 46939 the amount of the asset maintenance or capital equivalency
 46940 deficiency at the end of the month in which the deficiency
 46941 occurs, multiplied by 500 basis points above the Federal Reserve
 46942 Board's daily discount rate at the end of the month in which the
 46943 deficiency occurred, for each day of the deficiency. The
 46944 minimum fine shall be \$1,000.

46945 Section 1447. Section 663.13, Florida Statutes, is amended
 46946 to read:

46947 663.13 Rules; exemption from statement of estimated
 46948 regulatory costs requirements.--In addition to any other
 46949 rulemaking authority it has under the financial institutions
 46950 codes, the commission may adopt ~~department is authorized to~~
 46951 ~~promulgate~~ reasonable rules that ~~which~~ it deems advisable for
 46952 the administration of international banking corporations under
 46953 this part, in the interest of protecting depositors, creditors,
 46954 borrowers, or the public interest and in the interest of
 46955 maintaining a sound banking system in this state. Because of the
 46956 difficulty in obtaining economic data with regard to such banks,
 46957 no statement of estimated regulatory costs shall be required in
 46958 connection with these rules.

46959 Section 1448. Section 663.14, Florida Statutes, is amended
 46960 to read:

46961 663.14 Foreign travel expenses.--If domestic or foreign
 46962 travel is deemed necessary by the office ~~department~~ to
 46963 effectuate the purposes of this part, representatives of the
 46964 office ~~department~~ shall be reimbursed for actual, reasonable,



HB 1803

2003

46965 and necessary expenses incurred in such domestic or foreign
46966 travel.

46967 Section 1449. Subsections (2), (7), and (8) of section
46968 663.16, Florida Statutes, are amended to read:

46969 663.16 Definitions; ss. 663.17-663.181.--As used in ss.
46970 663.17-663.181, the term:

46971 (2) "Claims" means debts, obligations, deposits, and other
46972 similar items that the office ~~department~~ takes possession of
46973 pursuant to s. 663.17(1).

46974 (7) "Control" means any person or group of persons acting
46975 in concert, directly or indirectly, owning, controlling, or
46976 holding the power to vote more than 50 percent of the voting
46977 stock of a company, or having the ability in any manner to elect
46978 a majority of directors of a corporation, or otherwise
46979 exercising a controlling influence over the management and
46980 policies of a corporation as determined by the office
46981 ~~department~~.

46982 (8) "Qualified financial contract" means any securities
46983 contract, commodity contract, forward contract, including spot
46984 and forward foreign exchange, repurchase agreement, swap
46985 agreement, or any similar agreement, any option to enter into
46986 any such agreement, including any combination of the foregoing,
46987 and any master agreement for such agreements. Such master
46988 agreement, together with all supplements thereto, shall be
46989 treated as one qualified financial contract, provided that such
46990 contract, option, or agreement, or combination of contracts,
46991 options, or agreements is reflected in the books, accounts, or
46992 records of the international banking corporation or a party
46993 provides evidence of such agreement. The commission ~~department~~
46994 may define, by rule, securities contract, commodity contract,



HB 1803

2003

46995 forward contract, repurchase agreement, or swap agreement, and
 46996 the commission, by rule, or the office, by order, may, ~~by rule~~
 46997 ~~or order,~~ determine any other agreement to be a qualified
 46998 financial contract for the purpose of this subsection. The
 46999 commission ~~department~~ may prescribe such rules relating to
 47000 qualified financial contracts and netting thereof as the
 47001 commission ~~department~~ deems appropriate.

47002 Section 1450. Section 663.17, Florida Statutes, is amended
 47003 to read:

47004 663.17 Liquidation; possession of business and property;
 47005 inventory of assets; wages; depositing collected assets;
 47006 appointing agents; appointment of judges.--

47007 (1) The office ~~department~~ may, at its discretion, take
 47008 possession of the business and property in this state of any
 47009 international banking corporation that has been licensed to
 47010 operate in this state upon finding that the corporation's
 47011 international bank agency operating in this state has violated
 47012 any law, has neglected or refused to comply with the terms of a
 47013 duly issued order of the office ~~department~~, is insolvent or
 47014 imminently insolvent, or is transacting business in an unsound,
 47015 unsafe, or unauthorized manner such that the corporation is
 47016 threatened with imminent insolvency, or that the corporation is
 47017 in liquidation at its domicile or elsewhere. Title to such
 47018 business and property shall vest by operation of law in the
 47019 office ~~department~~ upon taking possession. Thereafter, the office
 47020 ~~department~~ shall liquidate or otherwise deal with such business
 47021 and property in accordance with the provisions of this part,
 47022 chapter 658, and any other provision relating to the liquidation
 47023 of banking corporations. The office ~~department~~ may deal with
 47024 such business and property and prosecute and defend any and all



HB 1803

2003

47025 actions relating to the liquidation. Only the claims of
47026 creditors of the international banking corporation arising out
47027 of transactions those creditors had with the international
47028 banking corporation's international bank agency or agencies
47029 located in this state shall be accepted by the office ~~department~~
47030 for payment out of the business and property which it has taken
47031 possession of in this state. Acceptance or rejection of such
47032 claims by the office ~~department~~ shall not prejudice any
47033 creditor's rights to otherwise share in other assets of the
47034 international banking corporation. The following claims shall
47035 not be accepted by the office ~~department~~ for payment out of the
47036 business and property in the office's ~~department's~~ possession in
47037 this state:

47038 (a) Claims which would not represent an enforceable legal
47039 obligation against an international bank agency if such agency
47040 were a separate and independent legal entity.

47041 (b) Amounts due and other liabilities to other offices,
47042 agencies, and branches of and affiliates of such international
47043 banking corporation.

47044 (2) Whenever all accepted claims, together with interest
47045 on such claims, and the expenses of the liquidation have been
47046 paid in full or properly provided for, the office ~~department~~,
47047 upon the order of a court of competent jurisdiction, shall
47048 transfer the remaining assets to the principal office of such
47049 domiciliary liquidator or receiver of such corporation.
47050 Dividends and other amounts that remain unclaimed or unpaid and
47051 are in the possession of the office ~~department~~ for 6 months
47052 after such transfer shall be deposited by the office ~~department~~
47053 as provided by law.



HB 1803

2003

47055 (3) When the office ~~department~~ takes possession of the
47056 property and business of any international banking corporation,
47057 the office ~~department~~ shall:

47058 (a) Give notice of such fact to all corporations,
47059 unincorporated associations, partnerships, governmental
47060 entities, and other entities and individuals known by the office
47061 ~~department~~ to hold any assets of such corporation. No
47062 corporation, unincorporated association, partnership,
47063 governmental entity, or other entity or individual having notice
47064 or knowledge that the office ~~department~~ has taken possession of
47065 such corporation shall have a lien or charge for any payment,
47066 advance, or clearance thereafter made against any of the assets
47067 of such corporation for liability thereafter incurred.

47068 (b) Upon written demand of the office ~~department~~, any
47069 corporation, unincorporated association, partnership,
47070 governmental entity, or other entity or individual holding
47071 assets of such corporation shall deliver such assets to the
47072 office ~~department~~ and shall be discharged from liability with
47073 respect to any claim upon such assets; provided, such demand
47074 shall not affect the right of a secured creditor with a
47075 perfected security interest, or other valid lien or security
47076 interest enforceable against third parties, to retain
47077 collateral, including any right of such secured creditor under
47078 any security agreement related to a qualified financial contract
47079 to retain collateral and apply such collateral in accordance
47080 with the provisions of the financial institutions codes.

47081 (c) Nothing in paragraphs (a) and (b) shall affect any
47082 right of setoff permitted under applicable law; provided, in
47083 connection with the liquidation of an international bank agency
47084 of any other international banking corporation pursuant to this



HB 1803

2003

47085 part, no entity or individual may set off the business and
 47086 property in this state of an international banking corporation
 47087 being liquidated under this subsection, against the liabilities
 47088 of such corporation other than those that arise out of
 47089 transactions engaged in by such entity or individual with such
 47090 international bank agency. For purposes of this paragraph,
 47091 liabilities shall be deemed to include, in the case of qualified
 47092 financial contracts, the lesser of the two amounts calculated
 47093 with respect to any such qualified financial contract pursuant
 47094 to s. 663.172(3), and this paragraph shall not be deemed to
 47095 authorize setoff except as otherwise permissible under
 47096 applicable law.

47097 (4) Any international banking corporation of which the
 47098 office department ~~has taken possession or which is operating~~
 47099 under restrictions imposed by duly constituted authority may be
 47100 permitted to resume business subject to the office's
 47101 ~~department's~~ discretion and any conditions that ~~which~~ the office
 47102 ~~department~~ may impose.

47103 (5) After the office department ~~takes possession of and~~
 47104 determines to liquidate the property and business of any
 47105 international banking corporation, the office department shall
 47106 make an inventory, in duplicate, of the assets of such
 47107 corporation. One copy of such inventory shall be filed with the
 47108 ~~in an office of the department~~ and one copy shall be filed with
 47109 a court of competent jurisdiction in the county in which the
 47110 principal office of such corporation is located.

47111 (6) Notwithstanding s. 658.84, all wages actually owing to
 47112 the employees of an international banking corporation for
 47113 services rendered within 3 months prior to the date possession
 47114 was taken by the office department, and not exceeding \$2,000 to



HB 1803

2003

47115 each employee, shall be paid prior to the payment of any other
47116 debt or claim, and, in the discretion of the office ~~department~~,
47117 may be paid as soon as practicable after taking possession,
47118 except that at all times the office ~~department~~ shall reserve
47119 such funds as will, in the office's ~~department's~~ opinion, be
47120 sufficient for the expenses of administration.

47121 (7) The office ~~department~~ is authorized, upon taking
47122 possession of any international banking corporation, to
47123 liquidate the affairs of such corporation and to do all acts and
47124 to make such expenditures as in the office's ~~department's~~
47125 judgment are necessary to conserve the assets and business of
47126 the corporation. The office ~~department~~ shall proceed to collect
47127 the debts due to the corporation. The office ~~department~~ may,
47128 upon an order of a court of competent jurisdiction, sell,
47129 assign, compromise, or otherwise dispose of all bad or doubtful
47130 debts held by, and compromise claims against, such corporation,
47131 other than deposit claims, provided, whenever the principal
47132 amount of any such debt or claim owed by or owing to such
47133 corporation does not exceed \$50,000, the office ~~department~~ may
47134 sell, assign, compromise, or otherwise dispose of such debt or
47135 claim upon such terms as the office ~~department~~ may deem to be in
47136 the best interests of such corporation wherever situated. When
47137 the real property of an international banking corporation, to be
47138 disposed of pursuant to this subsection, is located in a county
47139 in this state other than a county in which an application to the
47140 court for leave to dispose is made, the office ~~department~~ shall
47141 file a certified copy of the order of such court authorizing
47142 such disposal in the office of the clerk of the county in which
47143 such real property is located.

47144 (8) Moneys collected by the office ~~department~~ in



HB 1803

2003

47145 liquidating an international banking corporation shall be:

47146 (a) Deposited on demand, time or otherwise, in one or more
47147 banks, associations, or trust companies organized under the laws
47148 of this state and, in the case of insolvency or voluntary or
47149 involuntary liquidation of the depositary, such deposits shall
47150 be entitled to priority of payment equally with any other
47151 priority given under the financial institutions codes;

47152 (b) Deposited on demand, time or otherwise, in one or more
47153 national banks with a principal office located in this state and
47154 with total assets exceeding \$1 billion; or

47155 (c) Invested in obligations of the United States, or
47156 obligation for which the full faith and credit of the United
47157 States is pledged to provide for the payment of interest and
47158 principal.

47159 (9) The office ~~department~~ may appoint one or more persons
47160 as agent or agents to assist in the liquidation of the business
47161 and affairs of any international banking corporation in the
47162 office's ~~department's~~ possession. The office ~~department~~ shall
47163 file a certificate of such appointment in the headquarters of
47164 the office ~~one of the department's offices~~ and shall file a
47165 certified copy of such certificate with a court of competent
47166 jurisdiction in the county in which the principal office of such
47167 corporation is located in this state. The office ~~department~~ may
47168 employ such counsel and expert assistants under such titles that
47169 the office ~~department~~ shall assign to them, and may retain such
47170 officers or employees of such corporation as the office
47171 ~~department~~ deems necessary in the liquidation and distribution
47172 of the corporation's assets. The office ~~department~~ may require
47173 such security as it may deem proper from the agents and
47174 assistants appointed pursuant to the provisions of this



HB 1803

2003

47175 subsection.

47176 (10) When the office ~~department~~ has taken possession of
47177 and is liquidating the business and property in this state of
47178 any international banking corporation under the provisions of
47179 this part, the office ~~department~~ shall be entitled to the
47180 appointment of a single judge to supervise the liquidation in
47181 the judicial circuit in which the principal office of such
47182 corporation is located. Such judge shall have the power to order
47183 expedited or simplified procedures or order a reference whenever
47184 necessary to resolve a matter in such liquidation.

47185 (11) The compensation of agents and any other employees
47186 appointed by the office ~~department~~ to assist in the liquidation
47187 of an international bank agency, the distribution of its assets,
47188 or the expenses of supervision, shall be paid out of the assets
47189 of the agency in the hands of the office ~~department~~. Expenses of
47190 liquidation and approved claims for fees and assessments due the
47191 office ~~department~~ shall be given first priority among unsecured
47192 creditors.

47193 Section 1451. Section 663.171, Florida Statutes, is
47194 amended to read:

47195 663.171 Liquidation; repudiation of contracts.--

47196 (1) Except as otherwise provided in this section, when the
47197 office ~~department~~ has taken possession of the business and
47198 property in this state of an international banking corporation,
47199 the office ~~department~~ may assume or repudiate any contract,
47200 including an unexpired lease, of the corporation:

47201 (a) To which such corporation is a party.

47202 (b) The performance of which the office ~~department~~, in its
47203 discretion, determines to be burdensome.

47204 (c) The repudiation of which the office ~~department~~, in its



HB 1803

2003

47205 discretion, determines will promote the orderly administration
47206 of the corporation's affairs.

47207 (2) After the expiration of 90 days after the date the
47208 office department takes possession of an international banking
47209 corporation, any party to a contract with such corporation may
47210 demand in writing that the office department assume or repudiate
47211 such contract. If the office department has not assumed or
47212 repudiated the contract within 15 calendar days after the date
47213 of receipt of such demand, the affected party may bring an
47214 action in a court of competent jurisdiction in the county in
47215 which the principal office of the corporation is located to
47216 obtain an order requiring the office department to assume or
47217 repudiate the contract. If the office department has not assumed
47218 or repudiated the contract by at least 1 month before the last
47219 date for filing claims against the corporation, such contract
47220 shall be deemed repudiated.

47221 (3) Notwithstanding subsection (2), with respect to an
47222 unexpired lease of the corporation for rental of real property
47223 under which the corporation was a lessee, if the office
47224 ~~department~~ remains in possession of the leasehold, the office
47225 ~~department~~ shall not be required to assume or repudiate such
47226 lease and may continue in possession of such leasehold for the
47227 remainder of the term of the lease in accordance with the terms
47228 of the lease; provided, if the office department later
47229 repudiates the lease before the end of the lease term, any
47230 amounts that may be due the lessor with respect to such lease
47231 shall be calculated as provided by law.

47232 (4) Notwithstanding any other provision of this section
47233 relating to liquidating an international banking corporation,
47234 the office department shall not assume or repudiate any



HB 1803

2003

47235 qualified financial contract that the international bank agency
 47236 entered into which is subject to a multibranch or multiagency
 47237 netting agreement or arrangement that provides for netting
 47238 present or future payment obligations or payment entitlements,
 47239 including termination or closeout values relating to the
 47240 obligations or entitlements, among the parties to the contract
 47241 and agreement or arrangement and the office ~~department~~ may, but
 47242 shall not be required to, assume or repudiate any other
 47243 qualified financial contract an international bank agency
 47244 entered into; provided, upon the repudiation of any qualified
 47245 financial contract or the termination or liquidation of any
 47246 qualified financial contract in accordance with its terms, the
 47247 liability of the office ~~department~~ under such qualified
 47248 financial contract shall be determined in accordance with s.
 47249 663.172.

47250 Section 1452. Section 663.172, Florida Statutes, is
 47251 amended to read:

47252 663.172 Liability on repudiation or termination of
 47253 contracts.--

47254 (1) Except as otherwise provided in this section, upon the
 47255 repudiation or termination of any contract pursuant to s.
 47256 663.171, the liability of the office ~~department~~ shall be limited
 47257 to the actual direct compensatory damages of the parties to the
 47258 contract, determined as of the date the office ~~department~~ took
 47259 possession of the international banking corporation. The office
 47260 ~~department~~ shall not be liable for any future wages other than
 47261 severance payments, to the extent such payments are reasonable
 47262 standards, or for payments for future service, costs of cover,
 47263 or any consequential, punitive, or exemplary damages, damages
 47264 for lost profits or lost opportunity, or damages for pain and



HB 1803

2003

47265 suffering.

47266 (2) Except as otherwise provided in this section, the
47267 liability of the office department, upon the repudiation of any
47268 qualified financial contract or in connection with the
47269 termination or liquidation of any qualified financial contract
47270 in accordance with the terms of such contract, shall be limited
47271 as provided in subsection (1), except compensatory damages shall
47272 be deemed to include normal and reasonable costs of cover or
47273 other reasonable measures of damages used among participants in
47274 the market for qualified financial contract claims, calculated
47275 as of the date of repudiation or the date of the termination of
47276 such qualified financial contract in accordance with the terms
47277 of the contract. Upon the repudiation of any qualified financial
47278 contract or in connection with the termination or liquidation of
47279 any qualified financial contract in accordance with the terms of
47280 such contract, the office department shall be entitled to
47281 damages and such damages shall be paid to the office department
47282 upon written demand from the office department to the other
47283 party or parties to the contract.

47284 (3) In the case of the liquidation of an international
47285 bank agency of an international banking corporation by the
47286 office department, with respect to qualified financial contracts
47287 subject to netting agreements or arrangements that provide for
47288 netting present or future payment obligations or payment
47289 entitlements, including termination or closeout values relating
47290 to the obligations or entitlements, among the parties to the
47291 contracts and agreements or arrangements, the liability of the
47292 office department to any party to any such qualified financial
47293 contract upon the repudiation or in any connection with the
47294 termination or liquidation of such qualified financial contract



HB 1803

2003

47295 in accordance with the terms of such contract shall be limited
 47296 to the lesser of:

47297 (a) The global net payment obligation; or

47298 (b) The branch-to-agency or agency-to-agency net payment
 47299 obligation.

47300 (4) The liability of the office ~~department~~ to a party
 47301 under this section shall be reduced by any amount otherwise paid
 47302 or received by the party with respect to the global net payment
 47303 obligation pursuant to such qualified financial contract which,
 47304 if added to the liability of the office ~~department~~ under
 47305 subsection (1), would exceed the global net payment obligation.
 47306 The liability of the office ~~department~~ under this section to a
 47307 party to a qualified financial contract also shall be reduced by
 47308 the fair market value or the amount of any proceeds of
 47309 collateral that secures and has been applied to satisfy the
 47310 obligations of the international banking corporation to the
 47311 party pursuant to such qualified financial contract. If netting
 47312 under the applicable netting agreement or arrangement results in
 47313 a branch-to-agency net payment entitlement, notwithstanding any
 47314 provision in any such contract that purports to effect a
 47315 forfeiture of such entitlement, the office ~~department~~ may make
 47316 written demand for and shall be entitled to receive from the
 47317 party to such contract an amount not to exceed the lesser of the
 47318 global net payment entitlement or the branch-to-agency net
 47319 payment entitlement.

47320 (5) The liability of a party under this section shall be
 47321 reduced by any amount otherwise paid to or received by the
 47322 office ~~department~~ or any other liquidator or receiver of the
 47323 international banking corporation with respect to the global net
 47324 payment entitlement pursuant to such qualified financial



HB 1803

2003

47325 contract which, if added to the liability of the party under
47326 this section, would exceed the global net payments entitlement.
47327 The liability of a party under this section to the office
47328 ~~department~~ pursuant to such qualified financial contract also
47329 shall be reduced by the fair market value of the amount of any
47330 proceeds of the collateral that secures and has been applied to
47331 satisfy the obligations of the party to the international
47332 banking corporation pursuant to such qualified financial
47333 contract.

47334 Section 1453. Section 663.173, Florida Statutes, is
47335 amended to read:

47336 663.173 Qualified financial contract; net obligation and
47337 net entitlement.--A party to a qualified financial contract with
47338 an international banking corporation, possession of which has
47339 been taken by the office ~~department~~ pursuant to s. 663.17, which
47340 party has a perfected security interest in collateral or other
47341 valid lien or security interest in collateral enforceable
47342 against third parties pursuant to a security arrangement related
47343 to such qualified financial contract, may retain all such
47344 collateral and, upon repudiation or termination of such
47345 qualified financial contract in accordance with the terms of the
47346 contract, may apply such collateral in satisfaction of any
47347 claims secured by the collateral provided the total amount so
47348 applied to such claims shall in no event exceed the global net
47349 payment obligation, if any.

47350 Section 1454. Section 663.174, Florida Statutes, is
47351 amended to read:

47352 663.174 Repudiation; lease, lessee, or lessor; real or
47353 personal property.--

47354 (1) If the office ~~department~~ repudiates a lease of an



HB 1803

2003

47355 international banking corporation, the real or personal property
 47356 under which the corporation was a lessee, the lessor under such
 47357 lease shall be entitled to file a claim with the office
 47358 ~~department~~ for the lesser of:

47359 (a) The amount designated as liquidated damages contained
 47360 in the lease between the corporation and the lessor;

47361 (b) The amount equal to 1 year's rent under the terms of
 47362 the repudiated lease; or

47363 (c) An amount equal to the rent for the remaining term of
 47364 the lease.

47365 (2) If the office ~~department~~ repudiates the lease of an
 47366 international banking corporation for the rental of real
 47367 property under which the corporation was the lessor and the
 47368 lease was not in default at the time of the repudiation, the
 47369 lessee under such lease may:

47370 (a) Treat the lease as terminated by such repudiation and
 47371 vacate the premises; or

47372 (b) Remain in possession of the leasehold interest for the
 47373 balance of the term of the lease, and for any renewal or
 47374 extension of such term that is enforceable by such lessee under
 47375 applicable noninsolvency law, unless the lessee defaults under
 47376 the terms of the lease after the date of such repudiation. If
 47377 the lessee remains in possession of the leasehold interest, the
 47378 lessee shall continue to pay to the office ~~department~~ the
 47379 contractual rent pursuant to the terms of the lease after the
 47380 date of the repudiation of such lease and may offset against
 47381 such rent payment any damages which may accrue due to
 47382 nonperformance of any obligation of the corporation under the
 47383 lease after the date of repudiation.

47384



HB 1803

2003

47385 The office ~~department~~ shall not be liable to the lessee for any
47386 damages arising after such date as a result of the repudiation
47387 other than the amount of any offset allowed under this
47388 paragraph. Nothing in this subsection prohibits the office
47389 ~~department~~ from entering into a new contract with the lessee for
47390 the rental of the leasehold which was the subject of the
47391 repudiated lease.

47392 (3) Except as otherwise provided, notwithstanding any
47393 provision in an unexpired lease or other contract or in
47394 applicable law, a contract or unexpired lease of an
47395 international banking corporation may not be terminated or
47396 modified by any party other than the office ~~department~~ without
47397 the concurrence of the office ~~department~~, and any right or
47398 obligation under such contract or lease may not be terminated or
47399 modified, at any time after the office ~~department~~ has taken
47400 possession, solely pursuant to a provision in such contract or
47401 lease purporting to allow termination or modification upon the
47402 office's ~~department's~~ taking possession or upon the insolvency
47403 or liquidation or deterioration of the financial condition of
47404 the corporation.

47405 (4) Nothing in this section affects the right of a party
47406 to contract with an international banking corporation to seek
47407 performance of such contract or damages under such contract in
47408 any other jurisdiction; provided, the office ~~department~~ shall
47409 not be liable for the performance of such contract or damages
47410 under such contract in any other jurisdiction.

47411 (5) The rights granted in this section are in addition to
47412 any other rights available to the office ~~department~~ under common
47413 law or any other law.

47414 Section 1455. Section 663.175, Florida Statutes, is



HB 1803

2003

47415 amended to read:

47416 663.175 Liquidation; continuation, stay, and injunction.--

47417 (1) Except as provided in this section, the office's
 47418 ~~department's~~ taking of possession of any international banking
 47419 corporation and the liquidation of the corporation shall operate
 47420 as a stay of and as an injunction against, as of the date the
 47421 office ~~department~~ takes possession of the corporation and
 47422 applicable to all persons or entities:

47423 (a) The commencement or continuation, including the
 47424 issuance or employment of process, of a judicial,
 47425 administrative, or other action or proceeding against the
 47426 corporation that was or could have been commenced before the
 47427 taking of possession, or to cover a claim against the
 47428 corporation that arose before the taking of possession.

47429 (b) The enforcement against the corporation, or the
 47430 business and property of the corporation in this state, of a
 47431 judgment obtained before the taking of possession.

47432 (c) Any act to obtain possession of property of the
 47433 corporation or of property from the corporation or to exercise
 47434 control over property of the corporation.

47435 (d) Any act to create, perfect, or enforce any lien
 47436 against property of the corporation.

47437 (e) Any act to create, perfect, or enforce against
 47438 property of the corporation any lien to the extent that such
 47439 lien secures a claim that arose before the taking of possession.

47440 (f) Any act to collect, assess, or recover a claim against
 47441 the corporation and the liquidation of the corporation does not
 47442 operate as a stay of or as an injunction against the claim.

47443 (2) The office's ~~department's~~ taking of possession of an
 47444 international banking corporation and the liquidation of the



HB 1803

2003

47445 corporation does not operate as a stay of or as an injunction
47446 against:

47447 (a)1. The filing of a claim in the liquidation of the
47448 corporation;

47449 2. The making of a demand upon the office ~~department~~ to
47450 assume or repudiate a contract of the corporation;

47451 3. The exercise of any setoff otherwise permissible under
47452 applicable law except limited by s. 663.17;

47453 4. The right of any secured creditor with a perfected
47454 security interest or other valid lien or security interest
47455 enforceable against third parties to retain collateral,
47456 including any right of such secured creditor under any security
47457 agreement related to a qualified financial contract as defined
47458 in s. 663.17 to retain collateral and to apply such collateral
47459 in accordance with s. 663.173;

47460 5. Any automatic termination in accordance with the terms
47461 of any qualified financial contract or any right to cause the
47462 termination or liquidation of any qualified financial contract,
47463 as defined in this part in accordance with the terms of such
47464 contract;

47465 6. Any right to offset or net out any termination value,
47466 payment amount, or other transfer obligation arising under or in
47467 connection with one or more such qualified financial contracts;
47468 or

47469 7. The commencement of an action under s. 663.181 or any
47470 other action relating to the liquidation of the corporation
47471 before the court of competent jurisdiction overseeing the
47472 liquidation of the corporation.

47473 (b) The commencement or continuation of a criminal action
47474 or proceeding against the corporation.



HB 1803

2003

47475 (c) The commencement or continuation of an action or
 47476 proceeding pursuant to a governmental unit's police or
 47477 regulatory power.

47478 (d) The enforcement of a judgment, other than money
 47479 judgment, obtained in an action or proceeding by a governmental
 47480 unit to enforce such governmental unit's police or regulatory
 47481 power.

47482 (e) The issuance to the corporation by a governmental unit
 47483 of a notice of tax deficiency.

47484 (f) The commencement or continuation of a judicial action
 47485 or proceeding by a secured creditor with a perfected security
 47486 interest, or other valid lien or security interest enforceable
 47487 against third parties, including any right of such secured
 47488 creditor under any security arrangement related to a qualified
 47489 financial contract to enforce such interest or lien.

47490 (3) Except as otherwise provided in this section:

47491 (a) The staying or enjoining of an act against property of
 47492 an international banking corporation under this section shall
 47493 continue until such property is no longer the property of the
 47494 office ~~department~~ in possession of the corporation.

47495 (b) The staying or enjoining of any other act under this
 47496 section shall continue until the office ~~department~~ has concluded
 47497 liquidating the corporation.

47498 (4) For good cause shown, on request of a party in
 47499 interest and after notice and hearing, a court of competent
 47500 jurisdiction overseeing the liquidation of an international
 47501 banking corporation may grant relief from a stay or injunction
 47502 provided under this section, including, but not limited to,
 47503 terminating, annulling, modifying, or conditioning such stay or
 47504 injunction.



HB 1803

2003

47505 (5) In the case of any willful violation of a stay or
47506 injunction provided in this section by any person who has
47507 knowledge of the office's ~~department's~~ taking of possession of
47508 an international banking corporation that is the subject of the
47509 stay or injunction, the office ~~department~~ shall recover actual
47510 damages, including costs and fees and, in appropriate
47511 circumstances, may recover punitive damages.

47512 Section 1456. Section 663.176, Florida Statutes, is
47513 amended to read:

47514 663.176 Liquidation; notice of possession.--When the
47515 office ~~department~~ has taken possession of an international
47516 banking corporation and has determined to liquidate the
47517 corporation's affairs, the office ~~department~~ shall notify all
47518 persons who may have claims against the corporation to present
47519 such claims to the office ~~department~~ and make proper proof of
47520 such claims within 4 months after the date of such notice and at
47521 a place specified in the notice; provided, if the office
47522 ~~department~~ finds that a shorter period than 4 months will afford
47523 a reasonable time for presenting claims and making proof of such
47524 claims, the office ~~department~~ may specify such shorter period
47525 which shall in no event be less than 30 days. In any event, the
47526 office ~~department~~ shall specify in such notice the last day for
47527 processing claims and for making proof of such claims. The
47528 office ~~department~~ shall cause such notice to be mailed to all
47529 persons whose names appear as creditors upon the books of the
47530 corporation. Such notice to persons appearing as depositors
47531 shall be mailed to the address appearing upon the deposit
47532 records or ledger of the corporation. The office ~~department~~
47533 shall also cause such notice to be published biweekly in such
47534 newspaper or newspapers as the office ~~department~~ may direct in



HB 1803

2003

47535 the county where the principal office of the corporation in the
 47536 state is located and, in the office's ~~department's~~ discretion,
 47537 elsewhere for publication 3 consecutive months, the first to be
 47538 published more than 90 days before the last day fixed in such
 47539 notice for presenting proof of claims. However, if the notice
 47540 requires claims to be presented within less than 4 months, the
 47541 office ~~department~~ shall cause such notice to be published weekly
 47542 in such newspaper or newspapers as the office ~~department~~ may
 47543 direct for 3 consecutive weeks, the first publication to be
 47544 published more than 21 days before the last day fixed in such
 47545 notice for presenting claims. Such notice shall specify that all
 47546 persons having claims for priority of payment shall make demand
 47547 in writing for priority in the proof of their claims. The office
 47548 ~~department~~ shall have no power to accept any claim presented
 47549 after the date specified in such notice as the last date for
 47550 presenting claims.

47551 Section 1457. Section 663.177, Florida Statutes, is
 47552 amended to read:

47553 663.177 Disposition of property held as bailee or
 47554 depositary; opening of safe-deposit boxes; disposal of
 47555 contents.--

47556 (1) The office ~~department~~ may, after it has taken
 47557 possession of the business and property of an international
 47558 banking corporation, send a written notice by registered mail to
 47559 each person claiming, or appearing upon the books of the
 47560 corporation, to be:

47561 (a) The owner of any personal property in the custody or
 47562 possession of the corporation, as bailee or depositary for hire
 47563 or otherwise, including the contents of any safe, vault, or box
 47564 opened after taking possession of such property for nonpayment



HB 1803

2003

47565 of any rent; or

47566 (b) The lessee of any safe, vault, or box, to such
47567 person's last address appearing on the books of the
47568 international banking corporation or the last known address if
47569 no address appears on such books, notifying such person to
47570 remove all such property or the contents of any such safe,
47571 vault, or box, within a period stated in such notice which
47572 period shall be not less than 60 days after the date of such
47573 notice. The contract of bailment or of deposit for hire, or
47574 lease of safe, vault, or box, if any, between the person to whom
47575 such notice is mailed and the corporation shall cease upon the
47576 date for removal fixed in such notice. Such persons shall have a
47577 claim against the corporation for the amount of unearned rent or
47578 charges, if any, paid by such person from the date fixed in such
47579 notice, if the property or contents are removed on or before
47580 such date, or from the date of actual removal, if the property
47581 or contents are removed after such date.

47582 (2) If such property or contents are not removed, and all
47583 rent or storage and other charges accrued up to that time, if
47584 any, are not paid, within the time fixed by such notice, the
47585 office ~~department~~ may cause such property to be inventoried, or
47586 such safe, vault, or box, or any package, parcel, or receptacle
47587 in the custody or possession of the corporation as bailee or
47588 depository for hire or otherwise, to be opened and the contents,
47589 if any, to be removed and inventoried. Such property or contents
47590 shall be sealed by a notary public in a package distinctly
47591 marked by the office ~~department~~ with the name of the person in
47592 whose name such property or such safe, vault, box, package,
47593 parcel, or receptacle is recorded upon the books of the
47594 corporation, and a copy of such inventory shall be certified and



HB 1803

2003

47595 attached to such package by such notary public. The package
47596 shall be kept in a place that the office ~~department~~ determines
47597 at the expense and risk of the person in whose name it is
47598 recorded until delivered to such person or until sold,
47599 destroyed, or otherwise disposed of. Such package may, pending
47600 final disposition of its contents, be opened by the office
47601 ~~department~~ for inspection or appraisal or to enable the office
47602 ~~department~~ to exercise any powers conferred or duties imposed by
47603 this part. Whenever such package is opened, the office
47604 ~~department~~ shall endorse on the outside of the package the date
47605 of opening and resealing and shall prepare an affidavit which
47606 shall be attached to the package showing the reason for opening
47607 and the articles, if any, removed from the package or placed or
47608 replaced in the package.

47609 (3) At any time prior to the sale, destruction, or other
47610 disposition of the contents of the package, the person in whose
47611 name the package is recorded may require the delivery of the
47612 package upon the payment of all rental or storage charges
47613 accrued, and all other charges or expenses paid or incurred to
47614 the date of delivery with respect to such package or contents of
47615 the package including the cost of inventorying or of opening and
47616 inventorying, the fees of the notary public, the cost of
47617 preparing and mailing the notice, and advertising, if any.

47618 (4) After the expiration of 1 year after the mailing of
47619 the notice required in subsection (1), the office ~~department~~ may
47620 apply to a court of competent jurisdiction for an order
47621 authorizing the office ~~department~~ to sell, destroy, or otherwise
47622 dispose of the contents of such package. Whenever, pursuant to
47623 the provisions of this subsection, the office ~~department~~ is
47624 given the power to sell the contents of any package, such power



HB 1803

2003

47625 to sell shall be deemed a power to sell in satisfaction of a
 47626 lien for nonpayment of rental or storage charges accrued, and
 47627 all other charges and expenses paid or incurred to the date of
 47628 sale with respect to such package and the contents of the
 47629 package, including charges and expenses described in subsection
 47630 (3).

47631 (5) The provisions of this section do not affect or
 47632 preclude any other remedy, by action or otherwise, for the
 47633 enforcement of claims or rights of the office ~~department~~, or of
 47634 an international banking corporation of which the office
 47635 ~~department~~ is in possession, against the person in whose name
 47636 any property or any safe, vault, box, package, parcel, or
 47637 receptacle is recorded, or affect or bar the right of the office
 47638 ~~department~~ or the corporation to recover, before sale, any debt
 47639 or claim due to the office ~~department~~ or the corporation, or,
 47640 after sale, so much of the debt or claim as is not paid by the
 47641 proceeds of the sale.

47642 Section 1458. Section 663.178, Florida Statutes, is
 47643 amended to read:

47644 663.178 Claims; valuation; priority; listing; filing;
 47645 objection; endorsement; adverse interest.--

47646 (1) Proof of claim shall consist of a written statement
 47647 under oath signed by the claimant or his or her attorney in fact
 47648 and shall be in such form as the office ~~department~~ requires.

47649 (2) The office ~~department~~ shall not accept a claim based
 47650 on an agreement with an international banking corporation unless
 47651 the agreement is reflected on the accounts, books, or records of
 47652 the corporation or a creditor provides documentary evidence of
 47653 such agreement. The commission ~~department~~ may adopt any rules
 47654 determined necessary to implement this section.



HB 1803

2003

47655 (3) No claim or account of any secured claimant or
47656 creditor shall be accepted at a sum greater than the difference
47657 between the face value of the claim or account and the value of
47658 the security itself as of the commencement of the liquidation
47659 unless the claimant or creditor, prior to the expiration of the
47660 time fixed by the office ~~department~~ for the presentation of
47661 claims, surrenders his or her security to the office ~~department~~,
47662 in which event the claim or account may be accepted in its full
47663 face amount.

47664 (4) The office ~~department~~ shall not determine priorities
47665 in accepting or rejecting claims and the acceptance by the
47666 office ~~department~~ of a claim in which priority of payment is
47667 demanded shall not entitle the claimant to priority. Accepted
47668 claims in which priority of payment is demanded shall be
47669 presented to a court of competent jurisdiction on notice to the
47670 claimant for determination as to the priority of payment of such
47671 claims. Except as otherwise provided in ss. 663.17-663.181, all
47672 claims entitled to priority of payment shall be paid ratably and
47673 proportionately.

47674 (5) The office ~~department~~ shall prepare in duplicate a
47675 complete list of all claims presented, specifying the name of
47676 the claimant, the nature of the claim, and the amount of such
47677 claim. Such list shall also contain a statement of accounts
47678 payable as shown by the books and records of the corporation and
47679 as to which no claims have been presented, specifying the name
47680 of each person to whom such account appears to be payable, the
47681 nature of the debt, and the amount of such claim. Within 60 days
47682 after the last date fixed in the notice to creditors to present
47683 and make proof of claims, the office ~~department~~ shall file one
47684 copy of such list in one of its offices for public inspection



HB 1803

2003

47685 and shall file one copy with a court of competent jurisdiction
47686 in the county in which the principal office of the corporation
47687 is located.

47688 (6) Within 40 days after the office department has filed
47689 in its headquarters ~~office~~ a copy of the list of claims required
47690 by subsection (5), objections to any claim presented or to any
47691 account appearing on such list may be made by any party
47692 interested by filing such objections with the office department,
47693 in writing, signed by the objector, and verified. Unless the
47694 office department rejects any claim or accounts to which
47695 objections have been filed with it, the office department shall,
47696 within 60 days after the time to file such objections has
47697 expired, apply to a court of competent jurisdiction, upon notice
47698 to the objector, for an order directing the office department as
47699 to the disposition of such claim or account. The court may then
47700 dispose of such objections or may order a reference for that
47701 purpose.

47702 (7) The office department shall, not later than 60 days
47703 after the time has expired to file objections to claims
47704 presented, accept or reject, in whole or in part, every filed
47705 claim, except claims as to which objections are still pending
47706 before a court, and shall accept or reject, in whole or in part,
47707 every account payable as shown by the books and records and as
47708 to which no claim has been presented, except accounts as to
47709 which objections are still pending before a court. Whenever the
47710 office department accepts a portion of a claim or account and
47711 rejects the remainder, the portion accepted and the portion
47712 rejected shall, for the purpose of this section, each be deemed
47713 separate claims or accounts.

47714 (8) Every claim or account payable accepted by the office



HB 1803

2003

47715 ~~department~~ shall be endorsed as "accepted" and be filed so
47716 endorsed. If the office department is unable, from the books,
47717 accounts, or records of an international banking corporation, to
47718 determine the ownership of a claim or account payable or if for
47719 any other reason the office department doubts the validity of
47720 any claim or account payable, the office department shall reject
47721 such claim or account payable and shall endorse the claim or
47722 account payable as "rejected" and file it as so endorsed. The
47723 office department shall mail notice of such acceptance or
47724 rejection within 14 calendar days after the office department
47725 has accepted or rejected all claims filed. If a proof of claim
47726 has been filed, such notice need be mailed only to the address
47727 appearing on such claim and, if no proof of claim has been
47728 filed, the notice need be mailed only to the address appearing
47729 upon the books of the corporation. If the office department is
47730 unable from the proof of claim or the books and records of the
47731 corporation to identify a name or address, such notice of
47732 rejection need not be given.

47733 (9) Within 30 days after the office department has
47734 accepted or rejected all claims filed, and all accounts payable
47735 as shown by the books and records as to which no claims have
47736 been presented, the office department shall make a list of all
47737 such claims and accounts accepted or rejected by the office
47738 ~~department~~ for public inspection and file one copy of such list
47739 with the in-an office of the ~~department~~ and one copy with a
47740 court of competent jurisdiction in the county in which the
47741 principal Florida office of such corporation is located.

47742 (10) When the office department has accepted a filed claim
47743 and has filed such claim, endorsed as "accepted," the claimant,
47744 unless priority of payment has been demanded and such claim is



HB 1803

2003

47745 entitled by law to priority of payment, shall be entitled to
47746 share ratably with other general creditors in the distribution
47747 of the proceeds of the liquidation of the assets of the
47748 international banking corporation; provided, any accepted claim
47749 or claims for taxes owed to any taxing authority shall be paid
47750 in full, to the extent that assets of the corporation are
47751 available, prior to the payment of any other accepted claim
47752 pursuant to this section. If the claimant has demanded priority
47753 of payment, the receipt and acceptance of ratable dividends
47754 shall be without prejudice to the right of such priority of
47755 payment.

47756 (11) Any person who fails to demand in writing priority of
47757 payment as specified in the notice to file claims shall be
47758 deemed to have waived and abandoned any right to such priority
47759 of payment. Any person who fails to demand in writing priority
47760 of payment as provided in this section is not entitled to
47761 maintain any action or proceeding for any priority of payment.
47762 In any action or proceeding for priority of payment, the
47763 claimant shall allege and prove that the claim upon which the
47764 action is instituted was filed and demand for priority of
47765 payment was made in writing.

47766 (12) Within 6 months after the date the office ~~department~~
47767 files the list of claims and accounts payable which are accepted
47768 or rejected by the office ~~department~~, a claimant whose claim has
47769 been filed and has not been accepted by the office ~~department~~,
47770 or any person whose account payable as shown by the books and
47771 records as to which no claim has been presented, has not been
47772 accepted by the office ~~department~~, may institute and maintain an
47773 action against the international banking corporation. Such
47774 action may be maintained only in a court of competent



HB 1803

2003

47775 jurisdiction in the county in which the principal Florida office
47776 of such international banking corporation is located.

47777 (13) A lien shall not attach to any property or assets of
47778 an international banking corporation as a result of any judicial
47779 process after the office ~~department~~ has taken possession of the
47780 assets of the corporation.

47781 (14) No action shall be maintained against an
47782 international banking corporation while the office ~~department~~ is
47783 in possession of the affairs and business of the corporation
47784 unless brought within the period of limitation specified in s.
47785 663.17. In any action instituted against such corporation while
47786 the office ~~department~~ is in possession of the corporation's
47787 property and business, the plaintiff shall be required to allege
47788 and prove that the claim upon which the action is instituted was
47789 filed and that such claim has not been accepted or, in the case
47790 of an action upon an account as to which no claim has been
47791 presented, the plaintiff shall be required to allege and prove
47792 that such account appeared upon the books and records and that
47793 such account has not been accepted.

47794 (15) Notice to the office ~~department~~ of an adverse
47795 interest in a claim or account payable accepted by the office
47796 ~~department~~ to the credit of any person shall not require the
47797 office ~~department~~ to recognize such adverse claimant unless the
47798 adverse claimant also:

47799 (a) Procures a restraining order, injunction, or other
47800 appropriate process against the office ~~department~~ from a court
47801 of competent jurisdiction in a cause instituted by the office
47802 ~~department~~ in which the person to whose credit such claim or
47803 account payable was accepted or his or her executor or
47804 administrator is made a party and served with summons; or



HB 1803

2003

47805 (b) Executes to the office ~~department~~, in a form and with
 47806 sureties acceptable to the office ~~department~~, a bond
 47807 indemnifying the office ~~department~~ from any and all liability,
 47808 loss, damage, cost, and expenses for and on account of the
 47809 payment of dividends.

47810 (16) In any action or proceeding against the office
 47811 ~~department~~ to recover dividends accepted, if there is any person
 47812 who is not a party to the action who makes such a claim, the
 47813 court in which the action or proceeding is pending may, on the
 47814 motion of the office ~~department~~, make an order amending the
 47815 proceedings making such person a party to such action or
 47816 proceeding and the court shall thereafter proceed to determine
 47817 the rights and interests of the parties to such funds. The
 47818 remedy provided in this section is in addition to and not
 47819 exclusive of that provided in any other interpleader.

47820 Section 1459. Section 663.18, Florida Statutes, is amended
 47821 to read:

47822 663.18 Fees.--The office ~~department~~ is not required to pay
 47823 any fee to any clerk, sheriff, register, or other public officer
 47824 for entering, filing, docketing, registering, recording,
 47825 executing, or issuing a copy, transcript, extract, or
 47826 certificate of, or authenticating or exemplifying, any paper,
 47827 record, or instrument pertaining to the exercise by the office
 47828 ~~department~~ of any powers conferred or duties imposed upon the
 47829 office ~~department~~ by the provisions of this part, whether or not
 47830 such paper, record, or instrument is executed by the office
 47831 ~~department~~ and whether or not it is connected with an action.
 47832 The term "action" is construed as including a special proceeding
 47833 in any action.

47834 Section 1460. Section 663.181, Florida Statutes, is



HB 1803

2003

47835 amended to read:

47836 663.181 Manner and time within which taking possession may
47837 be tested.--At any time within 10 days after the office
47838 ~~department~~ has taken possession of the property and business of
47839 an international banking corporation, such corporation may apply
47840 to a court of competent jurisdiction in the county in which its
47841 principal office is located in this state for an order requiring
47842 the office ~~department~~ to show cause why the office ~~department~~
47843 should not be enjoined from continuing such possession. The
47844 court may, upon good cause shown, direct the office ~~department~~
47845 to refrain from such proceedings and to surrender such
47846 possession.

47847 Section 1461. Paragraph (c) of subsection (1) of section
47848 663.301, Florida Statutes, is amended to read:

47849 663.301 Definitions.--

47850 (1) As used in this part:

47851 (c) "Regional development bank" means a for-profit banking
47852 institution:

47853 1. Which is listed in the International Monetary Fund's
47854 Directory of Regional Economic Organizations and
47855 Intergovernmental Commodity and Development Organizations;

47856 2. Which is otherwise afforded special privileges,
47857 including favorable tax treatment, under the laws of the
47858 jurisdiction in which it is organized;

47859 3. Which has as its principal objective the extending of
47860 credit for international development purposes including short-
47861 term financial transactions; and

47862 4. Which has at least 50 percent of its shares of voting
47863 stock owned by central banks or other government-owned financial
47864 institutions from at least five foreign countries and one or



HB 1803

2003

47865 more financing affiliates of the International Bank for
 47866 Reconstruction and Development, or which satisfies such other
 47867 ownership requirements as the commission ~~department~~ may specify
 47868 by rule. When adopting any such rule, the commission ~~department~~
 47869 shall take into account the objective of ensuring the
 47870 multinational control of international development banks.

47871 Section 1462. Paragraph (a) of subsection (1) of section
 47872 663.302, Florida Statutes, is amended to read:

47873 663.302 Applicability of state banking laws.--

47874 (1)(a) International development banks shall be subject to
 47875 the following provisions of chapter 655 as though such
 47876 international development banks were state banks:

- 47877 1. Section 655.005, relating to definitions.
- 47878 2. Section 655.012, relating to general supervisory powers
 47879 of the office ~~department~~.
- 47880 3. Section 655.016, relating to liability.
- 47881 4. Section 655.031, relating to administrative enforcement
 47882 guidelines.
- 47883 5. Section 655.032, relating to investigations; etc.
- 47884 6. Section 655.0321, relating to hearings and proceedings.
- 47885 7. Section 655.033, relating to cease and desist orders.
- 47886 8. Section 655.034, relating to injunctions.
- 47887 9. Section 655.037, relating to removal of financial
 47888 institution-affiliated party.
- 47889 10. Section 655.041, relating to administrative fines.
- 47890 11. Section 655.043, relating to articles of
 47891 incorporation.
- 47892 12. Section 655.044, relating to accounting practices.
- 47893 13. Section 655.045, relating to examinations, reports,
 47894 and internal audits.



HB 1803

2003

47895 14. Section 655.049, relating to deposit of fees and
47896 assessments.

47897 15. Section 655.057, relating to records.

47898 16. Section 655.071, relating to international banking
47899 facilities.

47900 17. Section 655.50, relating to reports of transactions
47901 involving currency.

47902 Section 1463. Section 663.303, Florida Statutes, is
47903 amended to read:

47904 663.303 Creation of an international development bank.--
47905 When authorized by the office ~~department~~ as provided herein, a
47906 corporation may be formed under the laws of this state for the
47907 purpose of becoming an international development bank and
47908 engaging in activities authorized by this part.

47909 Section 1464. Section 663.304, Florida Statutes, is
47910 amended to read:

47911 663.304 Application for authority to organize an
47912 international development bank.--

47913 (1) A written application for authority to organize an
47914 international development bank shall be filed with the office
47915 ~~department~~ by the proposed incorporator and shall include:

47916 (a) The name, residence, and occupation of each
47917 incorporator and proposed director.

47918 (b) The proposed corporate name and evidence of
47919 reservation of the proposed corporate name with the Department
47920 of State.

47921 (c) The total initial capital and the number of shares of
47922 capital stock to be authorized.

47923 (d) The location, by street and post-office address and
47924 county, of the principal office of the proposed international



HB 1803

2003

47925 development bank.

47926 (e) If known, the name and residence of the proposed
47927 president and the proposed chief executive officer, if other
47928 than the proposed president.

47929 (f) Such detailed financial, business, and biographical
47930 information as the commission or office ~~department~~ may
47931 reasonably require for each proposed director and for the
47932 proposed president and the proposed chief executive officer, if
47933 other than the president.

47934 (2) The application shall be in such form as adopted by
47935 the commission and shall contain such additional information as
47936 the commission or office ~~department~~ may require and shall be
47937 accompanied by a nonrefundable filing fee of \$2,500.

47938 Section 1465. Section 663.305, Florida Statutes, is
47939 amended to read:

47940 663.305 Investigation by the office ~~department~~.--Upon the
47941 filing of an application, the office ~~department~~ shall make an
47942 investigation of such matters as it may deem appropriate,
47943 including the character, reputation, financial standing,
47944 business experience, and business qualifications of the proposed
47945 officers and directors.

47946 Section 1466. Section 663.306, Florida Statutes, is
47947 amended to read:

47948 663.306 Decision by office ~~department~~.--The office
47949 ~~department~~ may, in its discretion, approve or disapprove the
47950 application, but it shall not approve the application unless it
47951 finds that:

47952 (1) International business in this state will be promoted
47953 by the establishment of the proposed international development
47954 bank.



HB 1803

2003

47955 (2) The proposed capital structure is adequate, but in no
 47956 case may the paid-in capital stock be:

47957 (a) Less than \$400,000 in the case of an international
 47958 development bank organized under chapter 617 as a corporation
 47959 not for profit; or

47960 (b) The amount required for a state bank in the case of an
 47961 international development bank organized under chapter 607 as a
 47962 corporation for profit.

47963
 47964 The office ~~department~~ may disallow any illegally obtained
 47965 currency, monetary instruments, funds, or other financial
 47966 resources from the capitalization requirements of this section.

47967 (3) The proposed officers and directors have sufficient
 47968 experience, ability, standing, and reputation to indicate
 47969 reasonable promise of successful operation and none of the
 47970 proposed officers or directors have been convicted of, or pled
 47971 guilty or nolo contendere to, a violation of s. 655.50, relating
 47972 to the Florida Control of Money Laundering in Financial
 47973 Institutions Act; chapter 896, relating to offenses related to
 47974 financial transactions; or any similar state or federal law.

47975 (4) Provision has been made for suitable quarters at the
 47976 location designated in the application.

47977 Section 1467. Subsection (2) of section 663.308, Florida
 47978 Statutes, is amended to read:

47979 663.308 Place of transacting business; branches.--

47980 (2) An international development bank may establish
 47981 branches in foreign countries with the approval of the
 47982 appropriate governmental authorities in such foreign countries.

47983 An international development bank shall give the office
 47984 ~~department~~ written notice of its intention to establish a branch



HB 1803

2003

47985 in a foreign country at least 30 days prior to the establishment
 47986 of such branch.

47987 Section 1468. Subsection (1) of section 663.309, Florida
 47988 Statutes, is amended to read:

47989 663.309 Permissible activities; prohibited activities.--

47990 (1) An international development bank shall have the
 47991 authority:

47992 (a) To make loans or otherwise extend credit to foreign
 47993 business enterprises and foreign governments and to issue and
 47994 confirm letters of credit, create bankers acceptances, and
 47995 provide guarantees for the purpose of providing financing to
 47996 foreign business enterprises and foreign governments;

47997 (b) To provide financing in connection with import-export
 47998 transactions to the extent permissible for an Edge Act
 47999 corporation organized under s. 25(a) of the Federal Reserve Act,
 48000 as amended, 12 U.S.C. ss. 611-632;

48001 (c) To invest funds as provided in s. 663.315;

48002 (d) To borrow funds as provided in s. 663.316;

48003 (e) To take deposits from financial institutions, foreign
 48004 not-for-profit foundations, foreign business enterprises, and
 48005 organizations which qualify under s. 501(c) of the Internal
 48006 Revenue Code and which had at the end of their last fiscal year
 48007 no less than \$10 million in assets;

48008 (f) To maintain for the account of others credit balances
 48009 necessarily incidental to, or arising out of, the exercise of
 48010 its lawful powers. Such credit balances may be disbursed by
 48011 check or draft; however, the commission ~~department~~ shall by rule
 48012 provide appropriate limitations upon such disbursements to
 48013 ensure that credit balances are not functionally equivalent to
 48014 demand deposits;



HB 1803

2003

48015 (g) To exercise such other incidental powers as shall be
48016 reasonably necessary to carry out the authority granted in this
48017 part.

48018 Section 1469. Subsection (3) of section 663.311, Florida
48019 Statutes, is amended to read:

48020 663.311 Shares of stock.--

48021 (3) With the approval of the office ~~department~~, an
48022 international development bank may issue less than all of the
48023 number of shares of capital stock authorized by its articles of
48024 incorporation; provided that such authorized but unissued shares
48025 may be issued only to increase the capital of the international
48026 development bank with the approval of the office ~~department~~.

48027 Section 1470. Section 663.312, Florida Statutes, is
48028 amended to read:

48029 663.312 Changes in capital.--

48030 (1) No international development bank shall reduce its
48031 outstanding capital stock without first obtaining the approval
48032 of the office ~~department~~, and such approval shall be withheld if
48033 the reduction would cause the outstanding capital stock to be
48034 less than the minimum required pursuant to s. 663.306(2) or if
48035 the reduction would cause the international development bank's
48036 capital accounts to be less than the minimum required by s.
48037 663.316(2).

48038 (2) An international development bank may, with the
48039 approval of the office ~~department~~, provide for an increase in
48040 its capital.

48041 Section 1471. Subsection (2) of section 663.316, Florida
48042 Statutes, is amended to read:

48043 663.316 Borrowing; capital accounts.--

48044 (2) An international development bank shall have capital



HB 1803

2003

48045 accounts in an amount equal to not less than 8 percent of its
 48046 aggregate deposits. However, the commission ~~department~~ by rule
 48047 may increase the required amount of capital accounts to not more
 48048 than 10 percent of such aggregate deposits. When adopting
 48049 ~~promulgating~~ any such rule, the commission ~~department~~ shall take
 48050 into account the objective of protecting the interests of
 48051 depositors and of maintaining a sound banking system in this
 48052 state.

48053 Section 1472. Section 663.319, Florida Statutes. is
 48054 amended to read:

48055 663.319 Rules; exemption from statement of estimated
 48056 regulatory costs requirements.--In addition to any other
 48057 rulemaking authority it has under the financial institutions
 48058 codes, the commission may adopt ~~department is authorized to~~
 48059 ~~promulgate~~ rules for the administration of regional development
 48060 banks. Because of the difficulty in obtaining economic data
 48061 with regard to such banks, no statement of estimated regulatory
 48062 costs shall be required in connection with these rules.

48063 Section 1473. Subsection (6) of section 665.012, Florida
 48064 Statutes, is amended to read:

48065 665.012 Definitions.--When used in this chapter, the
 48066 following words and phrases have the following meanings, except
 48067 to the extent that any such word or phrase specifically is
 48068 qualified by its context:

48069 (6) "Liquid assets" means:

48070 (a) Cash on hand;

48071 (b) Cash on deposit in federal home loan banks, federal
 48072 reserve banks, state banks performing similar reserve functions,
 48073 or financial depository institutions, which is withdrawable upon
 48074 not more than 30 days' notice and which is not pledged as



HB 1803

2003

48075 security for indebtedness, except that any deposits in a
48076 financial depository institution under the control or in the
48077 possession of any supervisory authority shall not be considered
48078 as liquid assets;

48079 (c) Obligations of, or obligations which are fully
48080 guaranteed as to principal and interest by, the United States or
48081 this state; and

48082 (d) Such other assets as may be approved by the office
48083 ~~department~~ which are accepted as liquid assets for federally
48084 insured associations by the appropriate federal regulatory
48085 agency.

48086 Section 1474. Subsections (4), (24), (35), (38), and (42)
48087 of section 665.013, Florida Statutes, are amended to read:

48088 665.013 Applicability of chapter 658.--The following
48089 sections of chapter 658, relating to banks and trust companies,
48090 are applicable to an association to the same extent as if the
48091 association were a "bank" operating thereunder:

48092 (4) Section 658.20, relating to investigation by office
48093 ~~department~~.

48094 (24) Section 658.43, relating to approval by office
48095 ~~department~~, valuation of assets; emergency action.

48096 (35) Section 658.73, relating to fees and assessments. The
48097 commission ~~department~~ shall, by rule, adopt a separate
48098 semiannual fee and semiannual assessment for associations. In
48099 its determination, the commission ~~department~~ shall consider the
48100 housing finance role of such associations in addition to the
48101 cost of regulation of associations and the collection of fees
48102 from such associations.

48103 (38) Section 658.81, relating to office ~~department~~ action;
48104 notice and court confirmation.



HB 1803

2003

48105 (42) Section 658.90, relating to receivers or liquidators
48106 under supervision of office ~~department~~.

48107 Section 1475. Subsections (1) and (2) of section 665.0315,
48108 Florida Statutes, are amended to read:

48109 665.0315 Reorganization, merger, or consolidation with a
48110 foreign association.--

48111 (1) An association shall have power to reorganize or merge
48112 or consolidate with a foreign association, as defined in s.
48113 665.1001, subject to the approval of the office ~~department~~.

48114 (2) If the resulting or surviving association is to be a
48115 foreign association, the office ~~department~~ shall not approve the
48116 proposed transaction unless:

48117 (a) The laws of the state in which the foreign association
48118 has its principal place of business permit associations in that
48119 state to reorganize, merge, or consolidate with Florida
48120 associations in transactions in which the resulting or surviving
48121 association is a Florida association; and

48122 (b) The constituent Florida association has been in
48123 existence and continuously operating for more than 2 years.

48124 Section 1476. Subsections (1), (2), (3), and (5), of
48125 section 665.033, Florida Statutes, are amended to read:

48126 665.033 Conversion of state or federal mutual association
48127 to capital stock association.--

48128 (1) CONVERSION INTO CAPITAL STOCK ASSOCIATION.--Any state
48129 or federal mutual association may apply to the office ~~department~~
48130 for permission to convert itself into an association operated
48131 under the provisions of this chapter in accordance with the
48132 following procedures:

48133 (a) The board of directors shall approve a plan of
48134 conversion by resolution adopted by a majority vote of all the



HB 1803

2003

48135 directors. The plan shall include, among other terms:

48136 1. Financial statements of the association as of the last
48137 day of the month preceding adoption of the plan.

48138 2. Such financial data as may be required to determine
48139 compliance with applicable regulatory requirements respecting
48140 financial condition.

48141 3. A provision that each savings account holder of the
48142 mutual association will receive a withdrawable account in the
48143 capital stock association equal in amount to his or her
48144 withdrawable account in the mutual association.

48145 4. A provision that each member of record will be entitled
48146 to receive rights to purchase voting common stock.

48147 5. Pro forma financial statements of the association as a
48148 capital stock association, which shall include data required to
48149 determine compliance with applicable regulatory requirements
48150 respecting financial condition.

48151 6. With particularity, the business purpose to be
48152 accomplished by the conversion.

48153 7. Such other information as the commission requires
48154 ~~department may, by rule, require.~~

48155 (b) The plan of conversion shall be executed by a majority
48156 of the board of directors and submitted to the office ~~department~~
48157 for approval prior to any vote on conversion by the members.

48158 (c) The office ~~department~~ may approve or disapprove the
48159 plan in its discretion, but it shall not approve the plan unless
48160 it finds that the association will comply sufficiently with the
48161 requirements of the financial institutions codes after
48162 conversion to entitle it to become an association operating
48163 under the financial institutions codes and the rules of the
48164 commission ~~department~~. The office ~~department~~ may deny any



HB 1803

2003

48165 application from any federal association that is subject to any
48166 cease and desist order or other supervisory restriction or order
48167 imposed by any state or the federal supervisory authority, or
48168 insurer, or guarantor or that has been convicted of, or pled
48169 guilty or nolo contendere to, a violation of s. 655.50, relating
48170 to the Florida Control of Money Laundering in Financial
48171 Institutions Act; chapter 896, relating to offenses related to
48172 financial transactions; or any similar state or federal law.

48173 (d) If the office ~~department~~ approves the plan of
48174 conversion, the question of such conversion may be submitted to
48175 the members at a meeting of voting members called to consider
48176 such action. A vote of 51 percent or more of the total number
48177 of votes eligible to be cast, unless federal law permits a
48178 lesser percentage of votes for a federal mutual association to
48179 convert, in which case that percentage shall control, shall be
48180 required for approval. Notice of the meeting, giving the time,
48181 place, and purpose thereof, together with a proxy statement and
48182 proxy form covering all matters to be brought before the
48183 meeting, shall be mailed at least 30 days prior thereto to the
48184 office ~~department~~ for review and to each voting member at his or
48185 her last address as shown on the books of the association.

48186 (2) MINUTES OF MEETING.--Copies of the minutes of the
48187 meeting of members, verified by the affidavit of the secretary
48188 or assistant secretary of the association, shall be filed with
48189 the office ~~department~~ and with the appropriate federal
48190 regulatory agency, within a reasonable time after the meeting.
48191 When so filed, the verified copies of the minutes are
48192 presumptive evidence of the holding of the meeting and of the
48193 action taken.

48194 (3) FILING OF ARTICLES OF INCORPORATION AND COMMITMENT FOR



HB 1803

2003

48195 INSURANCE OF ACCOUNTS.--The directors of the association shall
 48196 have executed and filed with the office ~~department~~ proposed
 48197 articles of incorporation as provided for in s. 658.23, together
 48198 with the application for conversion and a firm commitment for,
 48199 or evidence of, insurance of deposits and other accounts of a
 48200 withdrawable type. The articles shall contain a statement that
 48201 the association resulted from the conversion of a state or
 48202 federal mutual association to a capital stock association.
 48203 Approval by the office ~~department~~ shall be affixed to the
 48204 articles of incorporation. An authenticated copy of the
 48205 articles of incorporation shall be filed with the Department of
 48206 State and one copy of the articles of incorporation and the
 48207 certificate of incorporation shall be returned to the
 48208 association. The association shall cease to be a mutual
 48209 association at the time and on the date specified in the
 48210 approved articles of incorporation.

48211 (5) FEE.--The application for conversion from a state or
 48212 federal mutual to a state capital stock association shall be
 48213 accompanied by a nonrefundable filing fee of \$7,500.
 48214 Additionally, the office ~~department~~ is authorized to assess any
 48215 association, applying to convert pursuant to this section, a
 48216 nonrefundable examination fee to cover the actual costs of any
 48217 examination required as part of the application process.

48218 Section 1477. Section 665.0335, Florida Statutes, is
 48219 amended to read:

48220 665.0335 Supervisory case; emergency conversion,
 48221 reorganization, merger; consolidation; acquisition of assets.--

48222 (1) The office ~~department~~ may determine that a state or
 48223 federal association is a supervisory case if it finds that:

48224 (a) The association is in an impaired condition; or



HB 1803

2003

48225 (b) The association is in imminent danger of being in an
 48226 impaired condition.

48227
 48228 Any such finding by the office ~~department~~ shall be based upon
 48229 reports furnished to it by a state or federal savings and loan
 48230 association examiner or upon other evidence from which it is
 48231 reasonable to conclude that the association is a supervisory
 48232 case.

48233 (2) Notwithstanding any other provision of this chapter or
 48234 chapter 120, if the office ~~department~~ finds that immediate
 48235 action is necessary to protect the interests of depositors and
 48236 reduce the potential for claims against the insurance fund, or
 48237 in order to prevent the probable failure of a state or federal
 48238 association which is a supervisory case, the office may
 48239 ~~department shall have the power~~, with the concurrence of the
 48240 appropriate federal regulatory agency in the case of any
 48241 association the deposits of which are federally insured, ~~to~~
 48242 issue an emergency order authorizing:

48243 (a) The conversion of such association from a state to a
 48244 federal charter, or vice versa, without change of business form;

48245 (b) The reorganization, merger, or consolidation of such
 48246 state or federal association with another state or federal
 48247 association;

48248 (c) The conversion of such state or federal association
 48249 into a state or federal capital stock association; or

48250 (d) Any state or federal association to acquire the assets
 48251 of, and assume the liabilities of, such failing association.

48252 Section 1478. Paragraphs (a) and (b) of subsection (1),
 48253 subsection (2), paragraph (e) of subsection (4), and paragraphs
 48254 (a) and (c) of subsection (5) of section 665.034, Florida



HB 1803

2003

48255 Statutes, are amended to read:

48256 665.034 Acquisition of assets of or control over an
48257 association.--

48258 (1)(a) In any case in which a person or group of persons
48259 propose to purchase or acquire voting common stock of any
48260 capital stock association, which purchase or acquisition would
48261 cause such person or group of persons to have control, as
48262 defined herein, of that association, such person or group of
48263 persons must first make application to the office ~~department~~ for
48264 a certificate of approval of such purchase or acquisition.

48265 (b) An application for control shall be in such form and
48266 request such information as the commission requires ~~department~~
48267 ~~may, by rule, require.~~

48268 (2) The office ~~department~~ shall issue the certificate of
48269 approval only after it has made an investigation and determined
48270 that:

48271 (a) The proposed new owner or owners of voting capital
48272 stock are qualified by character, experience, and financial
48273 responsibility to control the association in a legal and proper
48274 manner and none of the proposed new owners have been convicted
48275 of, or pled guilty or nolo contendere to, a violation of s.
48276 655.50, relating to the Florida Control of Money Laundering in
48277 Financial Institutions Act; chapter 896, relating to offenses
48278 related to financial transactions; or any similar state or
48279 federal law.

48280 (b) The interests of the public generally will not be
48281 jeopardized by the proposed purchase or acquisition of voting
48282 capital stock.

48283 (4) For purposes of this section, a person or group of
48284 persons shall be deemed to have control of an association if



HB 1803

2003

48285 such person or group of persons:

48286 (e) In any case in which a proposed purchase or
48287 acquisition of voting securities of an association would give
48288 rise to the presumption created under paragraph (d), the person
48289 or group of persons who propose to purchase or acquire the
48290 voting securities shall first give written notice of the
48291 proposal to the office ~~department~~. Such notice may present
48292 information that the proposed purchase or acquisition will not
48293 result in control. The office ~~department~~ shall afford the person
48294 seeking to rebut the presumption an opportunity to present views
48295 in writing or orally before its designated representatives at an
48296 informal conference.

48297 (5)(a) A foreign association, as defined in s. 665.1001,
48298 whether controlled directly or indirectly by another business
48299 organization, may acquire a Florida association, subject to
48300 approval by the office ~~department~~. The office ~~department~~ shall
48301 not approve the proposed acquisition unless:

48302 1. The laws of the state in which the foreign association
48303 has its principal place of business permit associations in that
48304 state to be acquired by Florida associations; and

48305 2. The Florida association which is to be acquired has
48306 been in existence and continuously operating for more than 2
48307 years.

48308
48309 (c) A foreign association which has a subsidiary
48310 association in Florida is authorized to acquire a Florida
48311 association upon approval by the office ~~department~~ pursuant to
48312 the laws and rules which are applicable to the acquisition of a
48313 Florida association by an association having its principal place
48314 of business in this state, but such acquired association shall



HB 1803

2003

48315 not be considered a Florida association for purposes of this
 48316 subsection or s. 665.0315.

48317 Section 1479. Section 665.0345, Florida Statutes, is
 48318 amended to read:

48319 665.0345 Regulatory supervision of foreign associations.--
 48320 The office may ~~department is authorized to~~ enter into
 48321 cooperative agreements with other regulatory agencies to
 48322 facilitate the regulation of foreign associations doing business
 48323 in this state. The office ~~department~~ may accept reports of
 48324 examinations and other records from such other agencies in lieu
 48325 of conducting its own examinations of foreign associations. The
 48326 office ~~department~~ may take any action jointly with other
 48327 regulatory agencies having concurrent jurisdiction over
 48328 associations doing business in this state or may take such
 48329 actions independently in order to carry out its
 48330 responsibilities.

48331 Section 1480. Section 665.0711, Florida Statutes, is
 48332 amended to read:

48333 665.0711 Loans.--As an annual average, based on monthly
 48334 computations, at least 50 percent of assets other than liquid
 48335 assets of an association shall be invested in either real estate
 48336 loans or interests therein on home property or primarily
 48337 residential property for terms not in excess of 40 years or for
 48338 such additional terms as may be provided by rule. Recognizing
 48339 that associations are chartered to serve the convenience and
 48340 needs of the communities in which they are chartered to do
 48341 business, that the convenience and needs of communities include
 48342 the need for credit services as well as deposit services, and
 48343 that associations have a continuing and affirmative obligation
 48344 to help meet the credit needs of the local communities in which



HB 1803

2003

48345 they are chartered, at least 40 percent of the assets required
 48346 to be invested by this section shall be secured by property
 48347 within this state, unless a lower percentage is established by
 48348 the commission or office ~~department~~ pursuant to s. 655.061,
 48349 except that loans insured or guaranteed in whole or in part by
 48350 the United States are not subject to this restriction.

48351 Section 1481. Subsection (3) and paragraph (a) of
 48352 subsection (4) of section 665.1001, Florida Statutes, are
 48353 amended to read:

48354 665.1001 Foreign associations.--

48355 (3) ACTION BY OFFICE ~~DEPARTMENT~~.--The office ~~department~~ is
 48356 authorized, empowered, and directed to obtain an injunction or
 48357 to take any other action necessary to prevent any foreign
 48358 association from doing any business of an association in this
 48359 state.

48360 (4) ACTIVITIES NOT CONSIDERED "DOING BUSINESS."--For the
 48361 purposes of this section and any other law of this state
 48362 prohibiting, limiting, or regulating the doing of business in
 48363 this state by foreign associations or foreign corporations of
 48364 any type, any federal association, the principal office of which
 48365 is located outside this state, and any foreign association which
 48366 is subject to state or federal supervision, or both, which by
 48367 law are subject to periodic examination by such supervisory
 48368 authority and to a requirement of periodic audit, shall not be
 48369 considered to be doing business in this state by reason of
 48370 engaging in any of the following activities:

48371 (a) The purchase, acquisition, holding, sale, assignment,
 48372 transfer, collecting, and enforcement of obligations or any
 48373 interest therein secured by real estate mortgages or other
 48374 instruments in the nature of a mortgage, covering real property



HB 1803

2003

48375 located in this state, or the foreclosure of such instruments,
 48376 or the acquisition of title to such property by foreclosure, or
 48377 otherwise, as a result of default under such instruments, or the
 48378 holding, protection, rental, maintenance, and operation of the
 48379 property so acquired, or the disposition thereof; provided such
 48380 associations shall not hold, own, or operate such property for a
 48381 period exceeding 5 years without securing the approval of the
 48382 office department.

48383 Section 1482. Paragraph (d) of subsection (5) of section
 48384 667.002, Florida Statutes, is amended to read:

48385 667.002 Definitions.--Except to the extent specifically
 48386 qualified by context, when used in this chapter:

48387 (5) "Liquid assets" means:

48388 (d) Such other assets as ~~may be~~ approved by the office
 48389 ~~department~~ which are accepted as liquid assets for federally
 48390 insured savings banks by the appropriate federal regulatory
 48391 agency.

48392 Section 1483. Subsections (4), (26), (40), and (44) of
 48393 section 667.003, Florida Statutes, are amended to read:

48394 667.003 Applicability of chapter 658.--Any state savings
 48395 bank is subject to all the provisions, and entitled to all the
 48396 privileges, of the financial institutions codes except where it
 48397 appears, from the context or otherwise, that such provisions
 48398 clearly apply only to banks or trust companies organized under
 48399 the laws of this state or the United States. Without limiting
 48400 the foregoing general provisions, it is the intent of the
 48401 Legislature that the following provisions apply to a savings
 48402 bank to the same extent as if the savings bank were a "bank"
 48403 operating under such provisions:

48404 (4) Section 658.20, relating to investigation by office



HB 1803

2003

48405 ~~department.~~

48406 (26) Section 658.43, relating to approval by office
 48407 ~~department~~; valuation of assets; emergency action.

48408 (40) Section 658.81, relating to office ~~department~~ action;
 48409 notice and court confirmation.

48410 (44) Section 658.90, relating to receivers or liquidators
 48411 under supervision of office ~~department~~.

48412 Section 1484. Subsections (1) and (2) of section 667.005,
 48413 Florida Statutes, are amended to read:

48414 667.005 Reorganization, merger, or consolidation with a
 48415 foreign savings bank.--

48416 (1) A savings bank shall have the power to reorganize,
 48417 merge, or consolidate with a foreign savings bank, as defined in
 48418 s. 667.013, subject to the approval of the office ~~department~~.

48419 (2) If the resulting or surviving savings bank is to be a
 48420 foreign savings bank, the office ~~department~~ shall not approve
 48421 the proposed transaction unless:

48422 (a) The laws of the state in which the foreign savings
 48423 bank has its principal place of business permit savings banks in
 48424 that state to reorganize, merge, or consolidate with Florida
 48425 savings banks in transactions in which the resulting or
 48426 surviving savings bank is a Florida savings bank.

48427 (b) The constituent Florida savings bank has been in
 48428 existence and continuously operating for more than 2 years.

48429 Section 1485. Subsections (1), (2), (3), and (5) of
 48430 section 667.006, Florida Statutes, are amended to read:

48431 667.006 Conversion of state or federal mutual savings bank
 48432 or state or federal mutual association to capital stock savings
 48433 bank.--

48434 (1) CONVERSION INTO CAPITAL STOCK SAVINGS BANK.--Any state



HB 1803

2003

48435 or federal mutual savings bank or state or federal mutual
48436 association may apply to the office ~~department~~ for permission to
48437 convert itself into a capital stock savings bank operated under
48438 the provisions of this chapter in accordance with the following
48439 procedures:

48440 (a) The board of directors shall approve a plan of
48441 conversion by resolution adopted by a majority vote of all the
48442 directors. The plan shall include, but not be limited to:

48443 1. Financial statements of the savings bank as of the last
48444 day of the month preceding adoption of the plan.

48445 2. Such financial data as may be required to determine
48446 compliance with applicable regulatory requirements respecting
48447 financial condition.

48448 3. A provision that each savings account holder of the
48449 mutual savings bank will receive a withdrawable account in the
48450 capital stock savings bank equal in amount to his or her
48451 withdrawable account in the mutual savings bank.

48452 4. A provision that each member of record will be entitled
48453 to receive rights to purchase voting common stock.

48454 5. Pro forma financial statements of the savings bank as a
48455 capital stock savings bank, which shall include data required to
48456 determine compliance with applicable regulatory requirements
48457 respecting financial condition.

48458 6. With particularity, the business purpose to be
48459 accomplished by the conversion.

48460 7. Such other information as the commission requires
48461 ~~department may require~~ by rule.

48462 (b) The plan of conversion shall be executed by a majority
48463 of the board of directors and submitted to the office ~~department~~
48464 for approval prior to any vote on conversion by the members.



HB 1803

2003

48465 (c) The office ~~department~~ may approve or disapprove the
48466 plan in its discretion, but it shall not approve the plan unless
48467 it finds that the savings bank will comply sufficiently with the
48468 requirements of the financial institutions codes after
48469 conversion to entitle it to become a savings bank operating
48470 under the financial institutions codes and the rules of the
48471 commission ~~department~~. The office ~~department~~ may deny any
48472 application from any federal savings bank that is subject to any
48473 cease and desist order or other supervisory restriction or order
48474 imposed by any state or the federal supervisory authority, or
48475 insurer, or guarantor or that has been convicted of, or pled
48476 guilty or nolo contendere to, a violation of s. 655.50, relating
48477 to the Florida Control of Money Laundering in Financial
48478 Institutions Act; chapter 896, relating to offenses related to
48479 financial transactions; or any similar state or federal law.

48480 (d) If the office ~~department~~ approves the plan of
48481 conversion, the question of such conversion may be submitted to
48482 the members at a meeting of voting members called to consider
48483 such action. A vote of 51 percent or more of the total number of
48484 votes eligible to be cast shall be required for approval, unless
48485 federal law permits a lesser percentage of votes for a federal
48486 mutual savings bank to convert, in which case that percentage
48487 shall control. Notice of the meeting, giving the time, place,
48488 and purpose thereof, together with a proxy statement and proxy
48489 form covering all matters to be brought before the meeting,
48490 shall be mailed at least 30 days prior to the meeting to the
48491 office ~~department~~ for review and to each voting member at his or
48492 her last address as shown on the books of the savings bank.

48493 (2) MINUTES OF MEETING.--Copies of the minutes of the
48494 meeting of members, verified by the affidavit of the secretary



HB 1803

2003

48495 or assistant secretary of the savings bank, shall be filed with
48496 the office ~~department~~ and with the appropriate federal
48497 regulatory agency, within a reasonable time after the meeting.
48498 When so filed, the verified copies of the minutes are
48499 presumptive evidence of the holding of the meeting and of the
48500 action taken.

48501 (3) FILING OF ARTICLES OF INCORPORATION AND COMMITMENT FOR
48502 INSURANCE OF ACCOUNTS.--The directors of the savings bank shall
48503 have executed and filed with the office ~~department~~ proposed
48504 articles of incorporation as provided in s. 658.23, together
48505 with the application for conversion and a firm commitment for,
48506 or evidence of, insurance of deposits and other accounts of a
48507 withdrawable type. The articles shall contain a statement that
48508 the savings bank resulted from the conversion of a state or
48509 federal mutual savings bank to a capital stock savings bank.
48510 Approval by the office ~~department~~ shall be affixed to the
48511 articles of incorporation. A copy of the articles of
48512 incorporation shall be filed with the Department of State, and
48513 one copy of the articles of incorporation and the certificate of
48514 incorporation shall be returned to the savings bank. The savings
48515 bank shall cease to be a mutual savings bank at the time and on
48516 the date specified in the approved articles of incorporation.

48517 (5) FEE.--The application for conversion from a state or
48518 federal mutual to a state capital stock savings bank shall be
48519 accompanied by a nonrefundable filing fee of \$7,500.
48520 Additionally, the office ~~may department is authorized to~~ assess
48521 any savings bank applying to convert pursuant to this section a
48522 nonrefundable examination fee to cover the actual costs of any
48523 examination required as part of the application process.

48524 Section 1486. Section 667.007, Florida Statutes, is



HB 1803

2003

48525 amended to read:

48526 667.007 Supervisory case; emergency conversion,
 48527 reorganization, merger; consolidation; acquisition of assets.--

48528 (1) The office ~~department~~ may determine that a state or
 48529 federal savings bank is a supervisory case if it finds that:

48530 (a) The savings bank is insolvent; or

48531 (b) The savings bank is imminently insolvent.

48532

48533 Any such finding by the office ~~department~~ shall be based upon
 48534 reports furnished to it by a state or federal regulatory agency
 48535 or upon other evidence from which it is reasonable to conclude
 48536 that the savings bank is a supervisory case.

48537 (2) Notwithstanding any other provision of this chapter or
 48538 chapter 120, if the office ~~department~~ finds that immediate
 48539 action is necessary to protect the interests of depositors and
 48540 reduce the potential for claims against the insurance fund, or
 48541 in order to prevent the probable failure of a state or federal
 48542 savings bank which is a supervisory case, the office may
 48543 ~~department shall have the power~~, with the concurrence of the
 48544 appropriate federal regulatory agency in the case of any savings
 48545 bank the deposits of which are federally insured, ~~to~~ issue an
 48546 emergency order authorizing:

48547 (a) The conversion of such savings bank from a state to a
 48548 federal charter, or vice versa, without change of business form;

48549 (b) The reorganization, merger, or consolidation of such
 48550 state or federal savings bank with another state or federal
 48551 savings bank;

48552 (c) The conversion of such state or federal savings bank
 48553 into a state or federal capital stock savings bank; or

48554 (d) Any state or federal savings bank to acquire the



HB 1803

2003

48555 assets of, and assume the liabilities of, such failing savings
48556 bank.

48557 Section 1487. Subsections (1) and (2), paragraph (d) of
48558 subsection (4), and paragraph (a) of subsection (5) of section
48559 667.008, Florida Statutes, are amended to read:

48560 667.008 Acquisition of assets of or control over a savings
48561 bank.--

48562 (1)(a) In any case in which a person or group of persons
48563 proposes to purchase or acquire voting common stock of any
48564 capital stock savings bank, which purchase or acquisition would
48565 cause such person or group of persons to have control, as
48566 defined herein, of that savings bank, such person or group of
48567 persons must first make application to the office ~~department~~ for
48568 a certificate of approval of such purchase or acquisition.

48569 (b) An application for control shall be in such form and
48570 request such information as the commission requires ~~department~~
48571 ~~may require~~ by rule.

48572 (c) The application for control shall be accompanied by a
48573 nonrefundable filing fee of \$7,500; however, if more than one
48574 savings bank is being acquired in any such application, the fee
48575 shall be increased by \$3,000 for each additional savings bank.

48576 (2) The office ~~department~~ shall issue the certificate of
48577 approval only after it has made an investigation and determined
48578 that:

48579 (a) The proposed new owner or owners of voting capital
48580 stock are qualified by character, experience, and financial
48581 responsibility to control the savings bank in a legal and proper
48582 manner and none of the proposed new owners have been convicted
48583 of, or pled guilty or nolo contendere to, a violation of s.
48584 655.50, relating to the Florida Control of Money Laundering in



HB 1803

2003

48585 Financial Institutions Act; chapter 896, relating to offenses
48586 related to financial transactions; or any similar state or
48587 federal law.

48588 (b) The interests of the public generally will not be
48589 jeopardized by the proposed purchase or acquisition of voting
48590 capital stock.

48591 (4) For purposes of this section, a person or group of
48592 persons shall be deemed to have control of a savings bank if
48593 such person or group of persons:

48594 (d) Owns, controls, or has power to vote 10 percent or
48595 more of any class of voting securities of the savings bank, if
48596 no other person or group of persons owns, controls, or has power
48597 to vote a greater proportion of that class of voting securities.

48598 In any case in which a proposed purchase or acquisition of
48599 voting securities of a savings bank would give rise to the
48600 presumption created under this paragraph, the person or group of
48601 persons who proposes to purchase or acquire the voting
48602 securities shall first give written notice of the proposal to
48603 the office department. Such notice may present information that
48604 the proposed purchase or acquisition will not result in control.
48605 The office department shall afford the person seeking to rebut
48606 the presumption an opportunity to present views in writing or
48607 orally before its designated representatives at an informal
48608 conference.

48609 (5)(a) A foreign savings bank, as defined in s. 667.013,
48610 whether controlled directly or indirectly by another business
48611 organization, may acquire a Florida savings bank, subject to
48612 approval by the office department. The office department shall
48613 not approve the proposed acquisition unless:

48614 1. The laws of the state in which the foreign savings bank



HB 1803

2003

48615 has its principal place of business permit savings banks in that
 48616 state to be acquired by Florida savings banks.

48617 2. The Florida savings bank which is to be acquired has
 48618 been in existence and continuously operating for more than 2
 48619 years.

48620 Section 1488. Subsection (2) and paragraph (a) of
 48621 subsection (3) of section 667.013, Florida Statutes, are amended
 48622 to read:

48623 667.013 Foreign savings banks.--

48624 (2) ACTION BY OFFICE ~~DEPARTMENT~~.--The office ~~department~~ is
 48625 authorized, empowered, and directed to obtain an injunction or
 48626 to take any other action necessary to prevent any foreign
 48627 savings bank from unlawfully doing any business of a savings
 48628 bank in this state.

48629 (3) ACTIVITIES NOT CONSIDERED "DOING BUSINESS."--For the
 48630 purposes of this section and any other law of this state
 48631 prohibiting, limiting, or regulating the doing of business in
 48632 this state by foreign savings banks or foreign corporations of
 48633 any type, any federal savings bank, the principal office of
 48634 which is located outside this state, and any foreign savings
 48635 bank which is subject to state or federal supervision, or both,
 48636 which by law are subject to periodic examination by such
 48637 supervisory authority and to a requirement of periodic audit,
 48638 shall not be considered to be doing business in this state by
 48639 reason of engaging in any of the following activities:

48640 (a) The purchase, acquisition, holding, sale, assignment,
 48641 transfer, collecting, and enforcement of obligations or any
 48642 interest therein secured by real estate mortgages or other
 48643 instruments in the nature of a mortgage, covering real property
 48644 located in this state, or the foreclosure of such instruments,



HB 1803

2003

48645 or the acquisition of title to such property by foreclosure, or
 48646 otherwise, as a result of default under such instruments, or the
 48647 holding, protection, rental, maintenance, and operation of the
 48648 property so acquired, or the disposition thereof, provided such
 48649 savings banks shall not hold, own, or operate such property for
 48650 a period exceeding 5 years without securing the approval of the
 48651 office ~~department~~.

48652 Section 1489. Subsection (2) of section 687.13, Florida
 48653 Statutes, is amended to read:

48654 687.13 International transactions.--

48655 (2) The provisions of this chapter shall not apply to any
 48656 international banking facility "deposit," "borrowing," or
 48657 "extension of credit," as those terms are defined by the
 48658 commission ~~Department of Banking and Finance~~ pursuant to s.
 48659 655.071.

48660 Section 1490. Subsection (3) of section 687.14, Florida
 48661 Statutes, is amended, and subsection(6) is added to said
 48662 section, to read:

48663 687.14 Definitions.--As used in this act, unless the
 48664 context otherwise requires:

48665 (3) "Commission" means the Financial Services Commission
 48666 ~~"Department" means the Department of Banking and Finance.~~

48667 (6) "Office" means the Office of Financial Institutions
 48668 and Securities Regulation of the commission.

48669 Section 1491. Subsection (3) of section 687.141, Florida
 48670 Statutes, is amended to read:

48671 687.141 Loan brokers; prohibited acts.--No loan broker
 48672 shall:

48673 (3) Make or use any false or deceptive representation in
 48674 its business dealings or to the office ~~department~~ or conceal a



HB 1803

2003

48675 material fact from the office ~~department~~.

48676 Section 1492. Section 687.143, Florida Statutes, is
48677 amended to read:

48678 687.143 Loan brokers; investigations; cease and desist
48679 orders; administrative fines.--

48680 (1) The office ~~department~~ may investigate the actions of
48681 any person for compliance with this act.

48682 (2) The office ~~department~~ may order a loan broker to cease
48683 and desist whenever the office ~~department~~ determines that the
48684 loan broker has violated or is violating or will violate any
48685 provision of this act, any rule of the commission, ~~or order of~~
48686 ~~promulgated by~~ the office ~~department~~, or any written agreement
48687 entered into with the office ~~department~~.

48688 (3) The office ~~department~~ may impose and collect an
48689 administrative fine against any person found to have violated
48690 any provision of this act, any rule of the commission, ~~or order~~
48691 of promulgated by the office ~~department~~, or any written
48692 agreement entered into with the office ~~department~~ in any amount
48693 not to exceed \$5,000 for each such violation. All fines
48694 collected hereunder shall be deposited in the Bureau ~~Division~~ of
48695 Financial Investigations Administrative Trust Fund.

48696 Section 1493. Section 687.144, Florida Statutes, is
48697 amended to read:

48698 687.144 Investigations; examinations; subpoenas; hearings;
48699 witnesses.--

48700 (1) The office ~~department~~ may make investigations and
48701 examinations upon reasonable suspicion within or outside of this
48702 state as it deems necessary to determine whether a person has
48703 violated or is about to violate any provision of this act or any
48704 rule or order promulgated thereunder.



HB 1803

2003

48705 (2) The office ~~department~~ may gather evidence in the
48706 matter. The office ~~department~~ may administer oaths, examine
48707 witnesses, and issue subpoenas.

48708 (3) Subpoenas for witnesses whose evidence is deemed
48709 material to any investigation or examination may be issued by
48710 the office ~~department~~ under the seal of the office ~~department~~
48711 commanding such witnesses to be or appear before the office
48712 ~~department~~ at a time and place to be therein named and to bring
48713 such books, records, and documents as may be specified or to
48714 submit such books, records, and documents to inspection. Such
48715 subpoenas may be served by an authorized representative of the
48716 office ~~department~~.

48717 (4)(a) In the event of substantial noncompliance with a
48718 subpoena or subpoena duces tecum issued by the office
48719 ~~department~~, the office ~~department~~ may petition the circuit court
48720 of the county in which the person subpoenaed resides or has its
48721 principal place of business for an order requiring the person to
48722 appear and fully comply with the subpoena. The court may grant
48723 injunctive relief restraining the violation of this act and may
48724 grant such other relief, including, but not limited to, the
48725 restraint, by injunction or appointment of a receiver, of any
48726 transfer, pledge, assignment, or other disposition of such
48727 person's assets or any concealment, alteration, destruction, or
48728 other disposition of subpoenaed books, records, or documents, as
48729 the court deems appropriate, until such person has fully
48730 complied with such subpoena or subpoena duces tecum and the
48731 office ~~department~~ has completed its investigation or
48732 examination. The office ~~department~~ is entitled to the summary
48733 procedure provided in s. 51.011, and the court shall advance the
48734 cause on its calendar. Costs incurred by the office ~~department~~



HB 1803

2003

48735 to obtain an order granting, in whole or in part, such petition
48736 for enforcement of a subpoena or subpoena duces tecum shall be
48737 taxed against the subpoenaed person, and failure to comply with
48738 such order shall be a contempt of court.

48739 (b) When it shall appear to the office ~~department~~ that the
48740 compliance with a subpoena or subpoena duces tecum issued by the
48741 office ~~department~~ is essential to an investigation or
48742 examination, the office ~~department~~, in addition to the other
48743 remedies provided for in this act, may, by verified petition
48744 setting forth the facts, apply to the circuit court of the
48745 county in which the subpoenaed person resides or has its
48746 principal place of business for a writ of ne exeat. The court
48747 may thereupon direct the issuance of the writ against the
48748 subpoenaed person requiring sufficient bond conditioned on
48749 compliance with the subpoena or subpoena duces tecum. The court
48750 shall cause to be endorsed on the writ a suitable amount of bond
48751 on payment of which the person named in the writ shall be freed,
48752 having a due regard to the nature of the case.

48753 (5) Witnesses shall be entitled to the same fees and
48754 mileage as they may be entitled by law for attending as
48755 witnesses in the circuit court, except where such examination or
48756 investigation is held at the place of business or residence of
48757 the witness.

48758 (6) The material compiled by the office ~~department~~ in an
48759 investigation or examination under this act is confidential
48760 until the investigation or examination is complete. The
48761 investigation or examination is not deemed complete if the
48762 office ~~department~~ has submitted the material or any part of it
48763 to any law enforcement agency or other regulatory agency for
48764 further investigation or for the filing of a criminal or civil



HB 1803

2003

48765 prosecution and such investigation and prosecution has not been
48766 completed or becomes inactive.

48767 Section 1494. Section 687.145, Florida Statutes, is
48768 amended to read:

48769 687.145 Injunction to restrain violations.--

48770 (1) Whenever the office ~~department~~ determines, from
48771 evidence satisfactory to it, that any person has engaged, is
48772 engaged, or is about to engage in an act or practice
48773 constituting a violation of this act or a rule or order
48774 promulgated thereunder, the office ~~department~~ may bring action
48775 in the name and on behalf of the state against such person and
48776 any other person concerned in or in any way participating in or
48777 about to participate in such practice or engaging therein or
48778 doing any act or acts in furtherance thereof or in violation of
48779 this act to enjoin the person or persons from continuing the
48780 violation or acts in furtherance thereof. In such court
48781 proceedings, the office ~~department~~ may apply for and on due
48782 showing be entitled to have issued, the court's subpoena
48783 requiring the appearance of any defendant and his or her
48784 employees or agents, and the production of documents, books, and
48785 records that may appear necessary for the hearing of such
48786 petition, to testify or give evidence concerning the acts or
48787 conduct or things complained of in such application for
48788 injunction.

48789 (2) In addition to all other means provided by law for the
48790 enforcement of any temporary restraining order, temporary
48791 injunction, or permanent injunction issued in such court
48792 proceedings, the court shall have the power and jurisdiction,
48793 upon application of the office ~~department~~, to impound and to
48794 appoint a receiver or administrator for the property, assets,



HB 1803

2003

48795 and business of the defendant, including, but not limited to,
48796 the books, records, documents, and papers appertaining thereto.

48797 Such receiver or administrator, when appointed and qualified,
48798 shall have all powers and duties as to custody, collection,
48799 administration, winding up, and liquidation of said property and
48800 business as shall from time to time be conferred upon him or her
48801 by the court. In such action, the court may issue orders and
48802 decrees staying all pending suits and enjoining any further
48803 suits affecting the receiver's or administrator's custody or
48804 possession of the said property, assets, and business or, in its
48805 discretion, may, with the consent of the presiding judge of the
48806 circuit, require that all such suits be assigned to the circuit
48807 court judge appointing the said receiver or administrator.

48808 (3) In addition to any other remedies provided by this
48809 act, the office ~~department~~ may apply to the court hearing this
48810 matter for an order of restitution whereby the defendants in
48811 such action shall be ordered to make restitution of those sums
48812 shown by the office ~~department~~ to have been obtained by them in
48813 violation of any of the provisions of this act. Such
48814 restitution shall, at the option of the court, be payable to the
48815 administrator or receiver appointed pursuant to this section or
48816 directly to the persons whose assets were obtained in violation
48817 of this act.

48818 Section 1495. Section 687.148, Florida Statutes, is
48819 amended to read:

48820 687.148 Duties and powers of the commission and office
48821 ~~department~~.--

48822 (1) The office is ~~department shall be~~ responsible for the
48823 administration and enforcement of this act.

48824 (2) The commission ~~department~~ may adopt such rules as it



HB 1803

2003

48825 may deem necessary in the administration of this act and not
 48826 inconsistent therewith.

48827 Section 1496. Paragraphs (b) and (c) of subsection (4) of
 48828 section 697.05, Florida Statutes, are amended to read:

48829 697.05 Balloon mortgages; scope of law; definition;
 48830 requirements as to contents; penalties for violations;
 48831 exemptions.--

48832 (4) This section does not apply to the following:

48833 (b) Any first mortgage, excluding a mortgage in favor of a
 48834 home improvement contractor defined in s. 520.61(13)~~(12)~~ the
 48835 execution of which is required solely by the terms of a home
 48836 improvement contract which is governed by the provisions of ss.
 48837 520.60-520.98;

48838 (c) Any mortgage created for a term of 5 years or more,
 48839 excluding a mortgage in favor of a home improvement contractor
 48840 defined in s. 520.61(13)~~(12)~~ the execution of which is required
 48841 solely by the terms of a home improvement contract which is
 48842 governed by the provisions of ss. 520.60-520.98;

48843 Section 1497. Paragraph (c) of subsection (3) of section
 48844 713.596, Florida Statutes, is amended to read:

48845 713.596 Molder's liens.--

48846 (3) SALE.--

48847 (c)1. The proceeds of the sale must be paid first to any
 48848 holder of a security interest perfected in this state. Any
 48849 excess must be paid to the molder holding the lien created by
 48850 this section. Any remaining amount is to be paid to the
 48851 customer, if the customer's address is known, or to the Chief
 48852 Financial Officer ~~State Treasurer~~ for deposit in the General
 48853 Revenue Fund if the customer's address is unknown to the molder
 48854 at the time of the sale.



HB 1803

2003

48855 2. A sale may not be made under this section if it would
 48856 be in violation of any right of a customer under federal patent
 48857 or copyright law.

48858 Section 1498. Subsection (4) of section 716.02, Florida
 48859 Statutes, is amended to read:

48860 716.02 Escheat of funds in the possession of federal
 48861 agencies.--All property within the provisions of subsections
 48862 (1), (2), (3), (4) and (5), are declared to have escheated, or
 48863 to escheat, including all principal and interest accruing
 48864 thereon, and to have become the property of the state.

48865 (4) In the event any money is due to any resident of this
 48866 state as a refund, rebate or tax rebate from the United States
 48867 Commissioner of Internal Revenue, the United States Treasurer,
 48868 or other governmental agency or department, which said resident
 48869 will, or is likely to have her or his rights to apply for and
 48870 secure such refund or rebate barred by any statute of
 48871 limitations or, in any event, has failed for a period of 1 year
 48872 after said resident could have filed a claim for said refund or
 48873 rebate, the Department of Financial Services ~~Banking and Finance~~
 48874 is hereby appointed agent of such resident to demand, file and
 48875 apply for said refund or rebate, and is hereby appointed to do
 48876 any act which a natural person could do to recover such ~~said~~
 48877 money, and it is hereby declared that when the department files
 48878 such ~~said~~ application or any other proceeding to secure such
 48879 ~~said~~ refund or rebate, its agency is coupled with an interest in
 48880 the money sought and money recovered.

48881 Section 1499. Section 716.03, Florida Statutes, is amended
 48882 to read:

48883 716.03 Department to institute proceedings to recover
 48884 escheated property.--When there exists, or may exist, escheated



HB 1803

2003

48885 funds or property under this chapter, the Department of
 48886 Financial Services ~~Banking and Finance~~ shall demand or institute
 48887 proceedings in the name of the state for an adjudication that an
 48888 escheat to the state of such funds or property has occurred; and
 48889 shall take appropriate action to recover such funds or property.

48890 Section 1500. Section 716.04, Florida Statutes, is amended
 48891 to read:

48892 716.04 Jurisdiction.--Whenever the Department of Financial
 48893 Services ~~Banking and Finance~~ is of the opinion an escheat has
 48894 occurred, or shall occur, of any money or other property
 48895 deposited in the custody of, or under the control of, any court
 48896 of the United States, in and for any district within the state,
 48897 or in the custody of any depository, registry or clerk or other
 48898 officer of such court, or the treasury of the United States, it
 48899 shall cause to be filed a complaint in the Circuit Court of Leon
 48900 County, or in any other court of competent jurisdiction, to
 48901 ascertain if any escheat has occurred, and to cause said court
 48902 to enter a judgment or decree of escheat in favor of the state,
 48903 with costs, disbursements, and attorney fee.

48904 Section 1501. Section 716.05, Florida Statutes, is amended
 48905 to read:

48906 716.05 Money recovered to be paid into State Treasury.--
 48907 When any funds or property which has escheated within the
 48908 meaning of this chapter has been recovered by the Department of
 48909 Financial Services ~~Banking and Finance~~, the department shall
 48910 first pay all costs incident to the collection and recovery of
 48911 such funds or property and shall promptly deposit the remaining
 48912 balance of such funds or property with the Chief Financial
 48913 Officer ~~Treasurer of the state~~, to be distributed in accordance
 48914 with law.



HB 1803

2003

48915 Section 1502. Section 716.06, Florida Statutes, is amended
 48916 to read:

48917 716.06 Public records.--All records in the office of the
 48918 Chief Financial Officer ~~State Treasurer~~ or the Department of
 48919 Financial Services ~~Banking and Finance~~ relating to federal
 48920 funds, pursuant to this chapter, shall be public records.

48921 Section 1503. Section 716.07, Florida Statutes, is amended
 48922 to read:

48923 716.07 Recovery of escheated property by claimant.--

48924 (1) Any person who claims any property, funds, or money
 48925 delivered to the ~~State Treasurer~~ or Chief Financial Officer
 48926 under this chapter, shall, within 5 years from the date of
 48927 receipt of such said property, funds, or money, file a verified
 48928 claim with the Chief Financial Officer ~~State Treasurer~~, setting
 48929 forth the facts upon which such said party claims to be entitled
 48930 to recover such said money or property. ~~The State Treasurer,~~
 48931 ~~within 5 days after receipt of such claim, shall submit said~~
 48932 ~~verified claim or a verified copy thereof, to the Department of~~
 48933 ~~Banking and Finance.~~ All claims made for recovery of property,
 48934 funds, or money, not filed within 5 years from the date that
 48935 such said property, funds, or money is received by the Chief
 48936 Financial Officer ~~State Treasurer~~, shall be forever barred, and
 48937 the Chief Financial Officer ~~Treasurer of the state~~ shall be
 48938 without power to consider or determine any claims so made by any
 48939 claimant after 5 years from the date that the property, funds,
 48940 or money was received by the Chief Financial Officer ~~State~~
 48941 ~~Treasurer.~~

48942 (2) The Chief Financial Officer ~~Comptroller~~ shall approve
 48943 or disapprove the claim. If the claim is approved, the funds,
 48944 money, or property of the claimant, less any expenses and costs



HB 1803

2003

48945 | which shall have been incurred by the state in securing the
 48946 | possession of said property, as provided by this chapter, shall
 48947 | be delivered to the claimant by the Chief Financial Officer
 48948 | ~~State Treasurer~~ upon warrant issued according to law and her or
 48949 | his receipt taken therefor. If the court finds, upon any
 48950 | judicial review, that the claimant is entitled to the property,
 48951 | money, or funds claimed, and shall render judgment in her or his
 48952 | or its favor, declaring that the claimant is entitled to such
 48953 | ~~said~~ property, funds, or money, then upon presentation of said
 48954 | judgment or a certified copy thereof to the Chief Financial
 48955 | Officer ~~State Comptroller~~, the Chief Financial Officer ~~said~~
 48956 | ~~Comptroller~~ shall draw her or his warrant for the amount of
 48957 | money stated in such ~~said~~ judgment, without interest or cost to
 48958 | the state, less any sum paid by the state as costs or expenses
 48959 | in securing possession of such ~~said~~ property, funds, or money.
 48960 | When payment has been made to any claimant, no action thereafter
 48961 | shall be maintained by any other claimant against the state or
 48962 | any officer thereof, for or on account of such ~~said~~ money,
 48963 | property, or funds.

48964 | Section 1504. Subsection (6) of section 717.101, Florida
 48965 | Statutes, is amended to read:

48966 | 717.101 Definitions.--As used in this chapter, unless the
 48967 | context otherwise requires:

48968 | (6) "Department" means the Department of Financial
 48969 | Services ~~Banking and Finance~~.

48970 | Section 1505. Subsection (8) of section 717.117, Florida
 48971 | Statutes, is amended to read:

48972 | 717.117 Report of unclaimed property.--

48973 | (8) Social security numbers and financial account numbers
 48974 | contained in reports required under this section, held by the



HB 1803

2003

48975 department ~~of Banking and Finance~~, are confidential and exempt
48976 from s. 119.07(1) and s. 24(a), Art. I of the State
48977 Constitution. Notwithstanding this exemption, social security
48978 numbers shall be released, for the limited purpose of locating
48979 owners of abandoned or unclaimed property, to an attorney,
48980 Florida-certified public accountant, private investigator who is
48981 duly licensed in this state, or a private investigative agency
48982 licensed under chapter 493 and registered with the department ~~of~~
48983 ~~Banking and Finance~~ under this chapter. This exemption applies
48984 to social security numbers and financial account numbers held by
48985 the department ~~of Banking and Finance~~ before, on, or after the
48986 effective date of this exemption. This subsection is subject to
48987 the Open Government Sunset Review Act of 1995 in accordance with
48988 s. 119.15, and shall stand repealed October 2, 2007, unless
48989 reviewed and saved from repeal through reenactment by the
48990 Legislature.

48991 Section 1506. Subsection (1) of section 717.135, Florida
48992 Statutes, is amended to read:

48993 717.135 Agreement to locate reported property.--

48994 (1) All agreements between an owner's representative and
48995 an owner for compensation to recover or assist in the recovery
48996 of property reported to the department under s. 717.117 shall
48997 either:

48998 (a) Limit the fees for services for each owner contract to
48999 \$25 for all contracts relating to unclaimed property with a
49000 dollar value below \$250. For all contracts relating to unclaimed
49001 property with a dollar value of \$250 and above, fees shall be
49002 limited to 15 percent on property held by the department for 24
49003 months or less and 25 percent on property held by the department
49004 for more than 24 months. Fees for cash accounts shall be based



HB 1803

2003

49005 on the value of the property at the time the agreement for
 49006 recovery is signed by the apparent owner. Fees for accounts
 49007 containing securities or other intangible ownership interests,
 49008 which securities or interests are not converted to cash, shall
 49009 be based on the purchase price of the security as quoted on a
 49010 national exchange or other market on which the ownership
 49011 interest is regularly traded at the time the securities or other
 49012 ownership interest is remitted to the owner or the owner's
 49013 representative. Fees for tangible property or safe-deposit box
 49014 accounts shall be based on the value of the tangible property or
 49015 contents of the safe-deposit box at the time the ownership
 49016 interest is transferred or remitted to the owner or the owner's
 49017 representative; or

49018 (b) Disclose that the property is held by the Department
 49019 of Financial Services ~~Banking and Finance~~ pursuant to this
 49020 chapter, the person or name of the entity that held the property
 49021 prior to the property becoming unclaimed, the date of the
 49022 holder's last contact with the owner, if known, and the
 49023 approximate value of the property, and identify which of the
 49024 following categories of unclaimed property the owner's
 49025 representative is seeking to recover:

- 49026 1. Cash accounts.
- 49027 2. Stale dated checks.
- 49028 3. Life insurance or annuity contract assets.
- 49029 4. Utility deposits.
- 49030 5. Securities or other interests in business associations.
- 49031 6. Wages.
- 49032 7. Accounts receivable.
- 49033 8. Contents of safe-deposit boxes.

49034



HB 1803

2003

49035 However, this section shall not apply to contracts made in
 49036 connection with guardianship proceedings or the probate of an
 49037 estate.

49038 Section 1507. Section 717.138, Florida Statutes, is
 49039 amended to read:

49040 717.138 Rulemaking authority.--The department of ~~Banking~~
 49041 ~~and Finance~~ shall administer and provide for the enforcement of
 49042 this chapter. The department has authority to adopt rules
 49043 pursuant to ss. 120.536(1) and 120.54 to implement the
 49044 provisions of this chapter. The department may adopt rules to
 49045 allow for electronic filing of fees, forms, and reports required
 49046 by this chapter.

49047 Section 1508. Paragraph (d) of subsection (1) of section
 49048 718.501, Florida Statutes, is amended to read:

49049 718.501 Powers and duties of Division of Florida Land
 49050 Sales, Condominiums, and Mobile Homes.--

49051 (1) The Division of Florida Land Sales, Condominiums, and
 49052 Mobile Homes of the Department of Business and Professional
 49053 Regulation, referred to as the "division" in this part, in
 49054 addition to other powers and duties prescribed by chapter 498,
 49055 has the power to enforce and ensure compliance with the
 49056 provisions of this chapter and rules promulgated pursuant hereto
 49057 relating to the development, construction, sale, lease,
 49058 ownership, operation, and management of residential condominium
 49059 units. In performing its duties, the division has the following
 49060 powers and duties:

49061 (d) Notwithstanding any remedies available to unit owners
 49062 and associations, if the division has reasonable cause to
 49063 believe that a violation of any provision of this chapter or
 49064 rule promulgated pursuant hereto has occurred, the division may



HB 1803

2003

49065 institute enforcement proceedings in its own name against any
 49066 developer, association, officer, or member of the board of
 49067 administration, or its assignees or agents, as follows:

49068 1. The division may permit a person whose conduct or
 49069 actions may be under investigation to waive formal proceedings
 49070 and enter into a consent proceeding whereby orders, rules, or
 49071 letters of censure or warning, whether formal or informal, may
 49072 be entered against the person.

49073 2. The division may issue an order requiring the
 49074 developer, association, officer, or member of the board of
 49075 administration, or its assignees or agents, to cease and desist
 49076 from the unlawful practice and take such affirmative action as
 49077 in the judgment of the division will carry out the purposes of
 49078 this chapter. Such affirmative action may include, but is not
 49079 limited to, an order requiring a developer to pay moneys
 49080 determined to be owed to a condominium association.

49081 3. The division may bring an action in circuit court on
 49082 behalf of a class of unit owners, lessees, or purchasers for
 49083 declaratory relief, injunctive relief, or restitution.

49084 4. The division may impose a civil penalty against a
 49085 developer or association, or its assignee or agent, for any
 49086 violation of this chapter or a rule promulgated pursuant hereto.
 49087 The division may impose a civil penalty individually against any
 49088 officer or board member who willfully and knowingly violates a
 49089 provision of this chapter, a rule adopted pursuant hereto, or a
 49090 final order of the division. The term "willfully and knowingly"
 49091 means that the division informed the officer or board member
 49092 that his or her action or intended action violates this chapter,
 49093 a rule adopted under this chapter, or a final order of the
 49094 division and that the officer or board member refused to comply



HB 1803

2003

49095 | with the requirements of this chapter, a rule adopted under this
 49096 | chapter, or a final order of the division. The division, prior
 49097 | to initiating formal agency action under chapter 120, shall
 49098 | afford the officer or board member an opportunity to voluntarily
 49099 | comply with this chapter, a rule adopted under this chapter, or
 49100 | a final order of the division. An officer or board member who
 49101 | complies within 10 days is not subject to a civil penalty. A
 49102 | penalty may be imposed on the basis of each day of continuing
 49103 | violation, but in no event shall the penalty for any offense
 49104 | exceed \$5,000. By January 1, 1998, the division shall adopt, by
 49105 | rule, penalty guidelines applicable to possible violations or to
 49106 | categories of violations of this chapter or rules adopted by the
 49107 | division. The guidelines must specify a meaningful range of
 49108 | civil penalties for each such violation of the statute and rules
 49109 | and must be based upon the harm caused by the violation, the
 49110 | repetition of the violation, and upon such other factors deemed
 49111 | relevant by the division. For example, the division may consider
 49112 | whether the violations were committed by a developer or owner-
 49113 | controlled association, the size of the association, and other
 49114 | factors. The guidelines must designate the possible mitigating
 49115 | or aggravating circumstances that justify a departure from the
 49116 | range of penalties provided by the rules. It is the legislative
 49117 | intent that minor violations be distinguished from those which
 49118 | endanger the health, safety, or welfare of the condominium
 49119 | residents or other persons and that such guidelines provide
 49120 | reasonable and meaningful notice to the public of likely
 49121 | penalties that may be imposed for proscribed conduct. This
 49122 | subsection does not limit the ability of the division to
 49123 | informally dispose of administrative actions or complaints by
 49124 | stipulation, agreed settlement, or consent order. All amounts



HB 1803

2003

49125 collected shall be deposited with the Chief Financial Officer
 49126 ~~Treasurer~~ to the credit of the Division of Florida Land Sales,
 49127 Condominiums, and Mobile Homes Trust Fund. If a developer fails
 49128 to pay the civil penalty, the division shall thereupon issue an
 49129 order directing that such developer cease and desist from
 49130 further operation until such time as the civil penalty is paid
 49131 or may pursue enforcement of the penalty in a court of competent
 49132 jurisdiction. If an association fails to pay the civil penalty,
 49133 the division shall thereupon pursue enforcement in a court of
 49134 competent jurisdiction, and the order imposing the civil penalty
 49135 or the cease and desist order will not become effective until 20
 49136 days after the date of such order. Any action commenced by the
 49137 division shall be brought in the county in which the division
 49138 has its executive offices or in the county where the violation
 49139 occurred.

49140 Section 1509. Paragraph (d) of subsection (1) of section
 49141 719.501, Florida Statutes, is amended to read:

49142 719.501 Powers and duties of Division of Florida Land
 49143 Sales, Condominiums, and Mobile Homes.--

49144 (1) The Division of Florida Land Sales, Condominiums, and
 49145 Mobile Homes of the Department of Business and Professional
 49146 Regulation, referred to as the "division" in this part, in
 49147 addition to other powers and duties prescribed by chapter 498,
 49148 has the power to enforce and ensure compliance with the
 49149 provisions of this chapter and rules promulgated pursuant hereto
 49150 relating to the development, construction, sale, lease,
 49151 ownership, operation, and management of residential cooperative
 49152 units. In performing its duties, the division shall have the
 49153 following powers and duties:

49154 (d) Notwithstanding any remedies available to unit owners



HB 1803

2003

49155 and associations, if the division has reasonable cause to
49156 believe that a violation of any provision of this chapter or
49157 rule promulgated pursuant hereto has occurred, the division may
49158 institute enforcement proceedings in its own name against a
49159 developer, association, officer, or member of the board, or its
49160 assignees or agents, as follows:

49161 1. The division may permit a person whose conduct or
49162 actions may be under investigation to waive formal proceedings
49163 and enter into a consent proceeding whereby orders, rules, or
49164 letters of censure or warning, whether formal or informal, may
49165 be entered against the person.

49166 2. The division may issue an order requiring the
49167 developer, association, officer, or member of the board, or its
49168 assignees or agents, to cease and desist from the unlawful
49169 practice and take such affirmative action as in the judgment of
49170 the division will carry out the purposes of this chapter. Such
49171 affirmative action may include, but is not limited to, an order
49172 requiring a developer to pay moneys determined to be owed to a
49173 condominium association.

49174 3. The division may bring an action in circuit court on
49175 behalf of a class of unit owners, lessees, or purchasers for
49176 declaratory relief, injunctive relief, or restitution.

49177 4. The division may impose a civil penalty against a
49178 developer or association, or its assignees or agents, for any
49179 violation of this chapter or a rule promulgated pursuant hereto.
49180 The division may impose a civil penalty individually against any
49181 officer or board member who willfully and knowingly violates a
49182 provision of this chapter, a rule adopted pursuant to this
49183 chapter, or a final order of the division. The term "willfully
49184 and knowingly" means that the division informed the officer or



HB 1803

2003

49185 board member that his or her action or intended action violates
49186 this chapter, a rule adopted under this chapter, or a final
49187 order of the division, and that the officer or board member
49188 refused to comply with the requirements of this chapter, a rule
49189 adopted under this chapter, or a final order of the division.
49190 The division, prior to initiating formal agency action under
49191 chapter 120, shall afford the officer or board member an
49192 opportunity to voluntarily comply with this chapter, a rule
49193 adopted under this chapter, or a final order of the division. An
49194 officer or board member who complies within 10 days is not
49195 subject to a civil penalty. A penalty may be imposed on the
49196 basis of each day of continuing violation, but in no event shall
49197 the penalty for any offense exceed \$5,000. By January 1, 1998,
49198 the division shall adopt, by rule, penalty guidelines applicable
49199 to possible violations or to categories of violations of this
49200 chapter or rules adopted by the division. The guidelines must
49201 specify a meaningful range of civil penalties for each such
49202 violation of the statute and rules and must be based upon the
49203 harm caused by the violation, the repetition of the violation,
49204 and upon such other factors deemed relevant by the division. For
49205 example, the division may consider whether the violations were
49206 committed by a developer or owner-controlled association, the
49207 size of the association, and other factors. The guidelines must
49208 designate the possible mitigating or aggravating circumstances
49209 that justify a departure from the range of penalties provided by
49210 the rules. It is the legislative intent that minor violations be
49211 distinguished from those which endanger the health, safety, or
49212 welfare of the cooperative residents or other persons and that
49213 such guidelines provide reasonable and meaningful notice to the
49214 public of likely penalties that may be imposed for proscribed



HB 1803

2003

49215 conduct. This subsection does not limit the ability of the
 49216 division to informally dispose of administrative actions or
 49217 complaints by stipulation, agreed settlement, or consent order.
 49218 All amounts collected shall be deposited with the Chief
 49219 Financial Officer ~~Treasurer~~ to the credit of the Division of
 49220 Florida Land Sales, Condominiums, and Mobile Homes Trust Fund.
 49221 If a developer fails to pay the civil penalty, the division
 49222 shall thereupon issue an order directing that such developer
 49223 cease and desist from further operation until such time as the
 49224 civil penalty is paid or may pursue enforcement of the penalty
 49225 in a court of competent jurisdiction. If an association fails to
 49226 pay the civil penalty, the division shall thereupon pursue
 49227 enforcement in a court of competent jurisdiction, and the order
 49228 imposing the civil penalty or the cease and desist order shall
 49229 not become effective until 20 days after the date of such order.
 49230 Any action commenced by the division shall be brought in the
 49231 county in which the division has its executive offices or in the
 49232 county where the violation occurred.

49233 Section 1510. Subsection (3) of section 721.24, Florida
 49234 Statutes, is amended to read:

49235 721.24 Firesafety.--

49236 (3) The Division of State Fire Marshal of the Department
 49237 of Financial Services ~~Insurance~~ may prescribe uniform standards
 49238 for firesafety equipment for timeshare units of timeshare plans
 49239 for which the construction contracts were let before October 1,
 49240 1983. An entire building shall be equipped as outlined, except
 49241 that the approved sprinkler system may be delayed by the
 49242 Division of State Fire Marshal until October 1, 1991, on a
 49243 schedule for complete compliance in accordance with rules
 49244 adopted by the Division of State Fire Marshal, which schedule



HB 1803

2003

49245 shall include a provision for a 1-year extension which may be
49246 granted not more than three times for any individual requesting
49247 an extension. The entire system must be installed and
49248 operational by October 1, 1994. The Division of State Fire
49249 Marshal shall not grant an extension for the approved sprinkler
49250 system unless a written request for the extension and a
49251 construction work schedule is submitted. The Division of State
49252 Fire Marshal may grant an extension upon demonstration that
49253 compliance with this section by the date required would impose
49254 an extreme hardship and a disproportionate financial impact.
49255 Any establishment that has been granted an extension by the
49256 Division of State Fire Marshal shall post, in a conspicuous
49257 place on the premises, a public notice stating that the
49258 establishment has not yet installed the approved sprinkler
49259 system required by law.

49260 Section 1511. Paragraph (e) of subsection (5) of section
49261 721.26, Florida Statutes, is amended to read:

49262 721.26 Regulation by division.--The division has the power
49263 to enforce and ensure compliance with the provisions of this
49264 chapter, except for parts III and IV, using the powers provided
49265 in this chapter, as well as the powers prescribed in chapters
49266 498, 718, and 719. In performing its duties, the division shall
49267 have the following powers and duties:

49268 (5) Notwithstanding any remedies available to purchasers,
49269 if the division has reasonable cause to believe that a violation
49270 of this chapter, or of any division rule or order promulgated or
49271 issued pursuant to this chapter, has occurred, the division may
49272 institute enforcement proceedings in its own name against any
49273 regulated party, as such term is defined in this subsection:

49274 (e)1. The division may impose a penalty against any



HB 1803

2003

49275 regulated party for a violation of this chapter or any rule
49276 adopted thereunder. A penalty may be imposed on the basis of
49277 each day of continuing violation, but in no event may the
49278 penalty for any offense exceed \$10,000. All accounts collected
49279 shall be deposited with the Chief Financial Officer ~~Treasurer~~ to
49280 the credit of the Division of Florida Land Sales, Condominiums,
49281 and Mobile Homes Trust Fund.

49282 2.a. If a regulated party fails to pay a penalty, the
49283 division shall thereupon issue an order directing that such
49284 regulated party cease and desist from further operation until
49285 such time as the penalty is paid; or the division may pursue
49286 enforcement of the penalty in a court of competent jurisdiction.

49287 b. If an association or managing entity fails to pay a
49288 civil penalty, the division may pursue enforcement in a court of
49289 competent jurisdiction.

49290 Section 1512. Paragraph (e) of subsection (5) of section
49291 723.006, Florida Statutes, is amended to read:

49292 723.006 Powers and duties of division.--In performing its
49293 duties, the division has the following powers and duties:

49294 (5) Notwithstanding any remedies available to mobile home
49295 owners, mobile home park owners, and homeowners' associations,
49296 if the division has reasonable cause to believe that a violation
49297 of any provision of this chapter or any rule promulgated
49298 pursuant hereto has occurred, the division may institute
49299 enforcement proceedings in its own name against a developer,
49300 mobile home park owner, or homeowners' association, or its
49301 assignee or agent, as follows:

49302 (e)1. The division may impose a civil penalty against a
49303 mobile home park owner or homeowners' association, or its
49304 assignee or agent, for any violation of this chapter, a properly



HB 1803

2003

49305 promulgated park rule or regulation, or a rule or regulation
 49306 promulgated pursuant hereto. A penalty may be imposed on the
 49307 basis of each separate violation and, if the violation is a
 49308 continuing one, for each day of continuing violation, but in no
 49309 event may the penalty for each separate violation or for each
 49310 day of continuing violation exceed \$5,000. All amounts collected
 49311 shall be deposited with the Chief Financial Officer ~~Treasurer~~ to
 49312 the credit of the Division of Florida Land Sales, Condominiums,
 49313 and Mobile Homes Trust Fund.

49314 2. If a violator fails to pay the civil penalty, the
 49315 division shall thereupon issue an order directing that such
 49316 violator cease and desist from further violation until such time
 49317 as the civil penalty is paid or may pursue enforcement of the
 49318 penalty in a court of competent jurisdiction. If a homeowners'
 49319 association fails to pay the civil penalty, the division shall
 49320 thereupon pursue enforcement in a court of competent
 49321 jurisdiction, and the order imposing the civil penalty or the
 49322 cease and desist order shall not become effective until 20 days
 49323 after the date of such order. Any action commenced by the
 49324 division shall be brought in the county in which the division
 49325 has its executive offices or in which the violation occurred.

49326 Section 1513. Subsections (2) and (3) and paragraph (a) of
 49327 subsection (5) of section 732.107, Florida Statutes, are amended
 49328 to read:

49329 732.107 Escheat.--

49330 (2) Property that escheats shall be sold as provided in
 49331 the Florida Probate Rules and the proceeds paid to the Chief
 49332 Financial Officer ~~Treasurer~~ of the state and deposited in the
 49333 State School Fund.

49334 (3) At any time within 10 years after the payment to the



HB 1803

2003

49335 Chief Financial Officer ~~Treasurer~~, a person claiming to be
 49336 entitled to the proceeds may reopen the administration to assert
 49337 entitlement to the proceeds. If no claim is timely asserted,
 49338 the state's rights to the proceeds shall become absolute.

49339 (5)(a) If a person entitled to the proceeds assigns the
 49340 rights to receive payment to an attorney, Florida-certified
 49341 public accountant, or private investigative agency which is duly
 49342 licensed to do business in this state pursuant to a written
 49343 agreement with that person, the Department of Financial Services
 49344 ~~Banking and Finance~~ is authorized to make distribution in
 49345 accordance with the assignment.

49346 Section 1514. Subsections (1), (2), and (3) and paragraph
 49347 (a) of subsection (5) of section 733.816, Florida Statutes, are
 49348 amended to read:

49349 733.816 Disposition of unclaimed property held by personal
 49350 representatives.--

49351 (1) In all cases in which there is unclaimed property in
 49352 the hands of a personal representative that cannot be
 49353 distributed or paid because of the inability to find the lawful
 49354 owner or because no lawful owner is known or because the lawful
 49355 owner refuses to accept the property after a reasonable attempt
 49356 to distribute it and after notice to that lawful owner, the
 49357 court shall order the personal representative to sell the
 49358 property and deposit the proceeds and cash already in hand,
 49359 after retaining those amounts provided for in subsection (4),
 49360 with the clerk and receive a receipt, and the clerk shall
 49361 deposit the funds in the registry of the court to be disposed of
 49362 as follows:

49363 (a) If the value of the funds is \$500 or less, the clerk
 49364 shall post a notice for 30 days at the courthouse door giving



HB 1803

2003

49365 the amount involved, the name of the personal representative,
 49366 and the other pertinent information that will put interested
 49367 persons on notice.

49368 (b) If the value of the funds is over \$500, the clerk
 49369 shall publish the notice once a month for 2 consecutive months
 49370 in a newspaper of general circulation in the county.

49371
 49372 After the expiration of 6 months from the posting or first
 49373 publication, the clerk shall deposit the funds with the Chief
 49374 Financial Officer ~~State Treasurer~~ after deducting the clerk's
 49375 fees and the costs of publication.

49376 (2) Upon receipt of the funds, the Chief Financial Officer
 49377 ~~State Treasurer~~ shall deposit them to the credit of the State
 49378 School Fund, to become a part of the school fund. All interest
 49379 and all income that may accrue from the money while so deposited
 49380 shall belong to the fund. The funds so deposited shall
 49381 constitute and be a permanent appropriation for payments by the
 49382 Chief Financial Officer ~~State Treasurer~~ in obedience to court
 49383 orders entered as provided by subsection (3).

49384 (3) Within 10 years from the date of deposit with the
 49385 Chief Financial Officer ~~State Treasurer~~, on written petition to
 49386 the court that directed the deposit of the funds and informal
 49387 notice to the Department of Legal Affairs, and after proof of
 49388 entitlement, any person entitled to the funds before or after
 49389 payment to the Chief Financial Officer ~~State Treasurer~~ and
 49390 deposit as provided by subsection (1) may obtain a court order
 49391 directing the payment of the funds to that person. All funds
 49392 deposited with the Chief Financial Officer ~~State Treasurer~~ and
 49393 not claimed within 10 years from the date of deposit shall
 49394 escheat to the state for the benefit of the State School Fund.



HB 1803

2003

49395 (5)(a) If a person entitled to the funds assigns the right
49396 to receive payment or part payment to an attorney or private
49397 investigative agency which is duly licensed to do business in
49398 this state pursuant to a written agreement with that person, the
49399 Department of Financial Services ~~Banking and Finance~~ is
49400 authorized to make distribution in accordance with the
49401 assignment.

49402 Section 1515. Paragraphs (a), (b), and (c) of subsection
49403 (2) of section 744.534, Florida Statutes, are amended to read:

49404 744.534 Disposition of unclaimed funds held by guardian.--

49405 (2)(a) In those cases in which it is appropriate for the
49406 guardianship to terminate pursuant to s. 744.521 and in which
49407 property in the hands of a guardian cannot be distributed to the
49408 ward or the ward's estate solely because the guardian is unable
49409 to locate the ward through diligent search, the court shall
49410 order the guardian of the property to sell the property of the
49411 ward and deposit the proceeds and cash already on hand after
49412 retaining those amounts provided for in paragraph (e) with the
49413 clerk of the court exercising jurisdiction over the guardianship
49414 and receive a receipt. The clerk shall deposit the funds in the
49415 registry of the court, to be disposed of as follows:

49416 1. If the value of the funds is \$50 or less, the clerk
49417 shall post a notice for 30 days at the courthouse door giving
49418 the amount involved, the name of the ward, and other pertinent
49419 information that will put interested persons on notice.

49420 2. If the value of the funds is over \$50, the clerk shall
49421 publish the notice once a month for 2 consecutive months in a
49422 newspaper of general circulation in the county.

49423 3. After the expiration of 6 months from the posting or
49424 first publication, the clerk shall deposit the funds with the



HB 1803

2003

49425 Chief Financial Officer ~~State Treasurer~~ after deducting his or
49426 her fees and the costs of publication.

49427 (b) Upon receipt of the funds, the Chief Financial Officer
49428 ~~State Treasurer~~ shall deposit them to the credit of public
49429 guardianship. All interest and all income that may accrue from
49430 the money while so deposited shall belong to the fund. The
49431 funds so deposited shall constitute and be a permanent
49432 appropriation for payments by the Chief Financial Officer ~~State~~
49433 ~~Treasurer~~ in obedience to court orders entered as provided by
49434 paragraph (c).

49435 (c) Within 5 years from the date of deposit with the Chief
49436 Financial Officer ~~State Treasurer~~, on written petition to the
49437 court that directed the deposit of the funds and informal notice
49438 to the Department of Legal Affairs, and after proof of his or
49439 her right to them, any person entitled to the funds, before or
49440 after payment to the Chief Financial Officer ~~State Treasurer~~ and
49441 deposit as provided for in paragraph (a), may obtain a court
49442 order directing the payment of the funds to him or her. All
49443 funds deposited with the Chief Financial Officer ~~State Treasurer~~
49444 and not claimed within 5 years from the date of deposit shall
49445 escheat to the state to be deposited in the Department of
49446 Elderly Affairs Administrative Trust Fund to be used solely for
49447 the benefit of public guardianship as determined by the
49448 Statewide Public Guardianship Office established in part IX of
49449 this chapter.

49450 Section 1516. Paragraphs (b), (c), (d), (e), and (g) of
49451 subsection (3) of section 766.105, Florida Statutes, are amended
49452 to read:

49453 766.105 Florida Patient's Compensation Fund.--

49454 (3) THE FUND.--



HB 1803

2003

49455 (b) Fund administration and operation.--
49456 1. The fund shall operate subject to the supervision and
49457 approval of a board of governors consisting of a representative
49458 of the insurance industry appointed by the Chief Financial
49459 Officer ~~Insurance Commissioner~~, an attorney appointed by The
49460 Florida Bar, a representative of physicians appointed by the
49461 Florida Medical Association, a representative of physicians'
49462 insurance appointed by the Chief Financial Officer ~~Insurance~~
49463 ~~Commissioner~~, a representative of physicians' self-insurance
49464 appointed by the Chief Financial Officer ~~Insurance Commissioner~~,
49465 two representatives of hospitals appointed by the Florida
49466 Hospital Association, a representative of hospital insurance
49467 appointed by the Chief Financial Officer ~~Insurance Commissioner~~,
49468 a representative of hospital self-insurance appointed by the
49469 Chief Financial Officer ~~Insurance Commissioner~~, a representative
49470 of the osteopathic physicians' or podiatric physicians'
49471 insurance or self-insurance appointed by the Chief Financial
49472 Officer ~~Insurance Commissioner~~, and a representative of the
49473 general public appointed by the Chief Financial Officer
49474 ~~Insurance Commissioner~~. The board of governors shall, during the
49475 first meeting after June 30 of each year, choose one of its
49476 members to serve as chair of the board and another member to
49477 serve as vice chair of the board. The members of the board
49478 shall be appointed to serve terms of 4 years, except that the
49479 initial appointments of a representative of the general public
49480 by the Chief Financial Officer ~~Insurance Commissioner~~, an
49481 attorney by The Florida Bar, a representative of physicians by
49482 the Florida Medical Association, and one of the two
49483 representatives of the Florida Hospital Association shall be for
49484 terms of 3 years; thereafter, such representatives shall be



HB 1803

2003

49485 appointed for terms of 4 years. Subsequent to initial
 49486 appointments for 4-year terms, the representative of the
 49487 osteopathic physicians' or podiatric physicians' insurance or
 49488 self-insurance appointed by the Chief Financial Officer
 49489 ~~Insurance Commissioner~~ and the representative of hospital self-
 49490 insurance appointed by the Chief Financial Officer ~~Insurance~~
 49491 ~~Commissioner~~ shall be appointed for 2-year terms; thereafter,
 49492 such representatives shall be appointed for terms of 4 years.
 49493 Each appointed member may designate in writing to the chair an
 49494 alternate to act in the member's absence or incapacity. A member
 49495 of the board, or the member's alternate, may be reimbursed from
 49496 the assets of the fund for expenses incurred by him or her as a
 49497 member, or alternate member, of the board and for committee
 49498 work, but he or she may not otherwise be compensated by the fund
 49499 for his or her service as a board member or alternate.

49500 2. There shall be no liability on the part of, and no
 49501 cause of action of any nature shall arise against, the fund or
 49502 its agents or employees, professional advisers or consultants,
 49503 members of the board of governors or their alternates, or the
 49504 Department of Financial Services or the Office of Insurance
 49505 Regulation of the Financial Services Commission ~~Insurance~~ or
 49506 their ~~its~~ representatives for any action taken by them in the
 49507 performance of their powers and duties pursuant to this section.

49508 (c) Powers of the fund.--The fund has the power to:

49509 1. Sue and be sued, and appear and defend, in all actions
 49510 and proceedings in its name to the same extent as a natural
 49511 person.

49512 2. Adopt, change, amend, and repeal a plan of operation,
 49513 not inconsistent with law, for the regulation and administration
 49514 of the affairs of the fund. The plan and any changes thereto



HB 1803

2003

49515 shall be filed with the Office of Insurance Regulation of the
 49516 Financial Services Commission ~~Insurance Commissioner~~ and are all
 49517 subject to its ~~his or her~~ approval before implementation by the
 49518 fund. All fund members, board members, and employees shall
 49519 comply with the plan of operation.

49520 3. Have and exercise all powers necessary or convenient to
 49521 effect any or all of the purposes for which the fund is created.

49522 4. Enter into such contracts as are necessary or proper to
 49523 carry out the provisions and purposes of this section.

49524 5. Employ or retain such persons as are necessary to
 49525 perform the administrative and financial transactions and
 49526 responsibilities of the fund and to perform other necessary or
 49527 proper functions unless prohibited by law.

49528 6. Take such legal action as may be necessary to avoid
 49529 payment of improper claims.

49530 7. Indemnify any employee, agent, member of the board of
 49531 governors or his or her alternate, or person acting on behalf of
 49532 the fund in an official capacity, for expenses, including
 49533 attorney's fees, judgments, fines, and amounts paid in
 49534 settlement actually and reasonably incurred by him or her in
 49535 connection with any action, suit, or proceeding, including any
 49536 appeal thereof, arising out of his or her capacity in acting on
 49537 behalf of the fund, if he or she acted in good faith and in a
 49538 manner he or she reasonably believed to be in, or not opposed
 49539 to, the best interests of the fund and, with respect to any
 49540 criminal action or proceeding, he or she had reasonable cause to
 49541 believe his or her conduct was lawful.

49542 (d) Fees and assessments.--Each health care provider, as
 49543 set forth in subsection (2), electing to comply with paragraph
 49544 (2)(b) for a given fiscal year shall pay the fees and any



HB 1803

2003

49545 assessments established under this section relative to such
49546 fiscal year, for deposit into the fund. Those entering the fund
49547 after the fiscal year has begun shall pay a prorated share of
49548 the yearly fees for a prorated membership. Actuarially sound
49549 membership fees payable annually, semiannually, or quarterly
49550 with appropriate service charges shall be established by the
49551 fund before January 1 of each fiscal year, based on the
49552 following considerations:

49553 1. Past and prospective loss and expense experience in
49554 different types of practice and in different geographical areas
49555 within the state;

49556 2. The prior claims experience of the members covered
49557 under the fund; and

49558 3. Risk factors for persons who are retired, semiretired,
49559 or part-time professionals.

49560

49561 Such fees shall be based on not more than three geographical
49562 areas, not necessarily contiguous, with five categories of
49563 practice and with categories which contemplate separate risk
49564 ratings for hospitals, for health maintenance organizations, for
49565 ambulatory surgical facilities, and for other medical
49566 facilities. The fund is authorized to adjust the fees of an
49567 individual member to reflect the claims experience of such
49568 member. Each fiscal year of the fund shall operate
49569 independently of preceding fiscal years. Participants shall only
49570 be liable for assessments for claims from years during which
49571 they were members of the fund; in cases in which a participant
49572 is a member of the fund for less than the total fiscal year, a
49573 member shall be subject to assessments for that year on a pro
49574 rata basis determined by the percentage of participation for the



HB 1803

2003

49575 | year. The fund shall submit to the Office of Insurance
 49576 | Regulation ~~Insurance Commissioner~~ the classifications and
 49577 | membership fees to be charged, and the Office of Insurance
 49578 | Regulation ~~Insurance Commissioner~~ shall review such fees and
 49579 | shall approve them if they comply with all the requirements of
 49580 | this section and fairly reflect the considerations provided for
 49581 | in this section. If the classifications or membership fees do
 49582 | not comply with this section, the Office of Insurance Regulation
 49583 | ~~Insurance Commissioner~~ shall set classifications or membership
 49584 | fees which do comply and which give due recognition to all
 49585 | considerations provided for in this section. Nothing contained
 49586 | herein shall be construed as imposing liability for payment of
 49587 | any part of a fund deficit on the Joint Underwriting Association
 49588 | authorized by s. 627.351(4) or its member insurers. If the fund
 49589 | determines that the amount of money in an account for a given
 49590 | fiscal year is in excess of or not sufficient to satisfy the
 49591 | claims made against the account, the fund shall certify the
 49592 | amount of the projected excess or insufficiency to the Office of
 49593 | Insurance Regulation ~~Insurance Commissioner~~ and request the
 49594 | office ~~Insurance Commissioner~~ to levy an assessment against or
 49595 | refund to all participants in the fund for that fiscal year,
 49596 | prorated, based on the number of days of participation during
 49597 | the year in question. The Office of Insurance Regulation
 49598 | ~~Insurance Commissioner~~ shall approve the request of the fund to
 49599 | refund to, or levy any assessment against, the participants,
 49600 | provided the refund or assessment fairly reflects the same
 49601 | considerations and classifications upon which the membership
 49602 | fees were based. The assessment shall be in an amount sufficient
 49603 | to satisfy reserve requirements for known claims, including
 49604 | expenses to satisfy the claims, made against the account for a



HB 1803

2003

49605 given fiscal year. In any proceeding to challenge the amount of
 49606 the refund or assessment, it is to be presumed that the amount
 49607 of refund or assessment requested by the fund is correct, if the
 49608 fund demonstrates that it has used reasonable claims handling
 49609 and reserving procedures. Additional assessments may be
 49610 certified and levied in accordance with this paragraph as
 49611 necessary for any fiscal year. If a fund member objects to his
 49612 or her assessment, he or she shall, as a condition precedent to
 49613 bringing legal action contesting the assessment, pay the
 49614 assessment, under protest, to the fund. The fund may borrow
 49615 money needed for current operations, if necessary to pay claims
 49616 and related expenses, fees, and costs timely for a given fiscal
 49617 year, from an account for another fiscal year until such time as
 49618 sufficient funds have been obtained through the assessment
 49619 process. Any such money, together with interest at the mean
 49620 interest rate earned on the investment portfolio of the fund,
 49621 shall be repaid from the next assessment for the given fiscal
 49622 year. If any assessments are levied in accordance with this
 49623 subsection as a result of claims in excess of \$500,000 per
 49624 occurrence, and such assessments are a result of the liability
 49625 of certain individuals and entities specified in paragraph
 49626 (2)(e), only hospitals shall be subject to such assessments.
 49627 Before approving the request of the fund to charge membership
 49628 fees, issue refunds, or levy assessments, the Office of
 49629 Insurance Regulation ~~Insurance Commissioner~~ shall publish notice
 49630 of the request in the Florida Administrative Weekly. Pursuant to
 49631 chapter 120, any party substantially affected may request an
 49632 appropriate proceeding. Any petition for such a proceeding shall
 49633 be filed with the Office of Insurance Regulation ~~Department of~~
 49634 ~~Insurance~~ within 21 days after the date of publication of the



HB 1803

2003

49635 notice in the Florida Administrative Weekly.

49636 (e) Fund accounting and audit.--

49637 1. Money shall be withdrawn from the fund only upon a
49638 voucher as authorized by the board of governors.

49639 2. All books, records, and audits of the fund shall be
49640 open for reasonable inspection to the general public, except
49641 that a claim file in possession of the fund, fund members, and
49642 their insurers is confidential and exempt from the provisions of
49643 s. 119.07(1) and s. 24(a), Art. I of the State Constitution
49644 until termination of litigation or settlement of the claim,
49645 although medical records and other portions of the claim file
49646 may remain confidential and exempt as otherwise provided by law.
49647 Any book, record, document, audit, or asset acquired by,
49648 prepared for, or paid for by the fund is subject to the
49649 authority of the board of governors, which shall be responsible
49650 therefor.

49651 3. Persons authorized to receive deposits, issue vouchers,
49652 or withdraw or otherwise disburse any fund moneys shall post a
49653 blanket fidelity bond in an amount reasonably sufficient to
49654 protect fund assets. The cost of such bond shall be paid from
49655 the fund.

49656 4. Annually, the fund shall furnish, upon request, audited
49657 financial reports to any fund participant and to the Office of
49658 Insurance Regulation ~~Department of Insurance~~ and the Joint
49659 Legislative Auditing Committee. The reports shall be prepared in
49660 accordance with accepted accounting procedures and shall include
49661 income and such other information as may be required by the
49662 Office of Insurance Regulation ~~Department of Insurance~~ or the
49663 Joint Legislative Auditing Committee.

49664 5. Any money held in the fund shall be invested in



HB 1803

2003

49665 interest-bearing investments by the board of governors of the
49666 fund as administrator. However, in no case may any such money be
49667 invested in the stock of any insurer participating in the Joint
49668 Underwriting Association authorized by s. 627.351(4) or in the
49669 parent company of, or company owning a controlling interest in,
49670 such insurer. All income derived from such investments shall be
49671 credited to the fund.

49672 6. Any health care provider participating in the fund may
49673 withdraw from such participation only at the end of a fiscal
49674 year; however, such health care provider shall remain subject to
49675 any assessment or any refund pertaining to any year in which
49676 such member participated in the fund.

49677 (g) Risk management program.--The fund shall establish a
49678 risk management program as part of its administrative functions.

49679 All health care providers, as defined in subparagraphs
49680 (1)(b)1., 5., 6., and 7., participating in the fund shall comply
49681 with the provisions of the risk management program established
49682 by the fund. The risk management program shall include the
49683 following components:

49684 1. The investigation and analysis of the frequency and
49685 causes of general categories and specific types of adverse
49686 incidents causing injury to patients;

49687 2. The development of appropriate measures to minimize the
49688 risk of injuries and adverse incidents to patients;

49689 3. The analysis of patient grievances which relate to
49690 patient care and the quality of medical services;

49691 4. The development and implementation of an incident
49692 reporting system based upon the affirmative duty of all health
49693 care providers and all agents and employees of health care
49694 providers and health care facilities to report injuries and



HB 1803

2003

49695 incidents; and

49696 5. Auditing of participating health care providers to
49697 assure compliance with the provisions of the risk management
49698 program.

49699
49700 The fund shall establish a schedule of fee surcharges which it
49701 shall levy upon participating health care providers found to be
49702 in violation of the provisions of the risk management program.
49703 Such schedule shall be subject to approval by the Office of
49704 Insurance Regulation ~~department~~ and shall provide an escalating
49705 scale of surcharges based upon the frequency and severity of the
49706 incidents in violation of the risk management program. No
49707 health care provider shall be required to pay a surcharge if it
49708 has corrected all violations of the provisions of the risk
49709 management program and established an affirmative program to
49710 remain in compliance by the time its next fee or assessment is
49711 due.

49712 Section 1517. Subsection (7) of section 766.1115, Florida
49713 Statutes, is amended to read:

49714 766.1115 Health care providers; creation of agency
49715 relationship with governmental contractors.--

49716 (7) RISK MANAGEMENT REPORT.--The Division of Risk
49717 Management of the Department of Financial Services ~~Insurance~~
49718 shall annually compile a report of all claims statistics for all
49719 entities participating in the risk management program
49720 administered by the division, which shall include the number and
49721 total of all claims pending and paid, and defense and handling
49722 costs associated with all claims brought against contract
49723 providers under this section. This report shall be forwarded to
49724 the department and included in the annual report submitted to



HB 1803

2003

49725 the Legislature pursuant to this section.

49726 Section 1518. Subsections (2) and (5), paragraph (a) of
 49727 subsection (6), subsection (7), and paragraph (c) of subsection
 49728 (9) of section 766.314, Florida Statutes, are amended to read:

49729 766.314 Assessments; plan of operation.--

49730 (2) The assessments and appropriations dedicated to the
 49731 plan shall be administered by the Florida Birth-Related
 49732 Neurological Injury Compensation Association established in s.
 49733 766.315, in accordance with the following requirements:

49734 (a) On or before July 1, 1988, the directors of the
 49735 association shall submit to the Department of Insurance for
 49736 review a plan of operation which shall provide for the efficient
 49737 administration of the plan and for prompt processing of claims
 49738 against and awards made on behalf of the plan. The plan of
 49739 operation shall include provision for:

- 49740 1. Establishment of necessary facilities;
- 49741 2. Management of the funds collected on behalf of the
 49742 plan;
- 49743 3. Processing of claims against the plan;
- 49744 4. Assessment of the persons and entities listed in
 49745 subsections (4) and(5) to pay awards and expenses, which
 49746 assessments shall be on an actuarially sound basis subject to
 49747 the limits set forth in subsections (4) and (5); and
- 49748 5. Any other matters necessary for the efficient operation
 49749 of the birth-related neurological injury compensation plan.

49750 ~~(b) The plan of operation shall be subject to approval by~~
 49751 ~~the Department of Insurance after consultation with~~
 49752 ~~representatives of state agencies which collect revenue pursuant~~
 49753 ~~to this section and interested individuals and organizations.~~

49754 ~~If the Department of Insurance disapproves all or any part of~~



HB 1803

2003

49755 ~~the plan of operation, the directors shall within 30 days submit~~
 49756 ~~for review an appropriate revised plan of operation. If the~~
 49757 ~~directors fail to do so, the Department of Insurance shall~~
 49758 ~~promulgate a plan of operation. The plan of operation approved~~
 49759 ~~or promulgated by the Department of Insurance shall become~~
 49760 ~~effective and operational upon order of the Department of~~
 49761 ~~Insurance.~~

49762 (b)(e) Amendments to the plan of operation may be made by
 49763 the directors of the plan, subject to the approval of the Office
 49764 of Insurance Regulation of the Financial Services Commission
 49765 ~~Department of Insurance.~~

49766 (5)(a) Beginning January 1, 1990, the persons and entities
 49767 listed in paragraphs (4)(b) and (c), except those persons or
 49768 entities who are specifically excluded from said provisions, as
 49769 of the date determined in accordance with the plan of operation,
 49770 taking into account persons licensed subsequent to the payment
 49771 of the initial assessment, shall pay an annual assessment in the
 49772 amount equal to the initial assessments provided in paragraphs
 49773 (4)(b) and (c). On January 1, 1991, and on each January 1
 49774 thereafter, the association shall determine the amount of
 49775 additional assessments necessary pursuant to subsection (7), in
 49776 the manner required by the plan of operation, subject to any
 49777 increase determined to be necessary by the Office of Insurance
 49778 Regulation ~~Department of Insurance~~ pursuant to paragraph (7)(b).

49779 On July 1, 1991, and on each July 1 thereafter, the persons and
 49780 entities listed in paragraphs (4)(b) and(c), except those
 49781 persons or entities who are specifically excluded from said
 49782 provisions, shall pay the additional assessments which were
 49783 determined on January 1. Beginning January 1, 1990, the entities
 49784 listed in paragraph (4)(a), including those licensed on or after



HB 1803

2003

49785 October 1, 1988, shall pay an annual assessment of \$50 per
 49786 infant delivered during the prior calendar year. The additional
 49787 assessments which were determined on January 1, 1991, pursuant
 49788 to the provisions of subsection (7) shall not be due and payable
 49789 by the entities listed in paragraph (4)(a) until July 1.

49790 (b) If the assessments collected pursuant to subsection
 49791 (4) and the appropriation of funds provided by s. 76, chapter
 49792 88-1, Laws of Florida, as amended by s. 41, chapter 88-277, Laws
 49793 of Florida, to the plan from the Insurance ~~Commissioner's~~
 49794 Regulatory Trust Fund are insufficient to maintain the plan on
 49795 an actuarially sound basis, there is hereby appropriated for
 49796 transfer to the association from the Insurance ~~Commissioner's~~
 49797 Regulatory Trust Fund an additional amount of up to \$20 million.

49798 (c)1. Taking into account the assessments collected
 49799 pursuant to subsection(4) and appropriations from the Insurance
 49800 ~~Commissioner's~~ Regulatory Trust Fund, if required to maintain
 49801 the plan on an actuarially sound basis, the Office of Insurance
 49802 Regulation ~~Department of Insurance~~ shall require each entity
 49803 licensed to issue casualty insurance as defined in s.
 49804 624.605(1)(b), (k), and (q) to pay into the association an
 49805 annual assessment in an amount determined by the office
 49806 ~~department~~ pursuant to paragraph (7)(a), in the manner required
 49807 by the plan of operation.

49808 2. All annual assessments shall be made on the basis of
 49809 net direct premiums written for the business activity which
 49810 forms the basis for each such entity's inclusion as a funding
 49811 source for the plan in the state during the prior year ending
 49812 December 31, as reported to the Office of Insurance Regulation
 49813 ~~Department of Insurance~~, and shall be in the proportion that the
 49814 net direct premiums written by each carrier on account of the



HB 1803

2003

49815 business activity forming the basis for its inclusion in the
 49816 plan bears to the aggregate net direct premiums for all such
 49817 business activity written in this state by all such entities.

49818 3. No entity listed in this paragraph shall be
 49819 individually liable for an annual assessment in excess of 0.25
 49820 percent of that entity's net direct premiums written.

49821 4. Casualty insurance carriers shall be entitled to
 49822 recover their initial and annual assessments through a surcharge
 49823 on future policies, a rate increase applicable prospectively, or
 49824 a combination of the two.

49825 (6)(a) The association shall make all assessments required
 49826 by this section, except initial assessments of physicians
 49827 licensed on or after October 1, 1988, which assessments will be
 49828 made by the Department of Business and Professional Regulation,
 49829 and except assessments of casualty insurers pursuant to
 49830 subparagraph (5)(c)1., which assessments will be made by the
 49831 Office of Insurance Regulation ~~Department of Insurance~~.

49832 Beginning October 1, 1989, for any physician licensed between
 49833 October 1 and December 31 of any year, the Department of
 49834 Business and Professional Regulation shall make the initial
 49835 assessment plus the assessment for the following calendar year.
 49836 The Department of Business and Professional Regulation shall
 49837 provide the association, with such frequency as determined to be
 49838 necessary, a listing, in a computer-readable form, of the names
 49839 and addresses of all physicians licensed under chapter 458 or
 49840 chapter 459.

49841 (7)(a) The Office of Insurance Regulation ~~Department of~~
 49842 ~~Insurance~~ shall undertake an actuarial investigation of the
 49843 requirements of the plan based on the plan's experience in the
 49844 first year of operation and any additional relevant information,



HB 1803

2003

49845 including without limitation the assets and liabilities of the
49846 plan. Pursuant to such investigation, the Office of Insurance
49847 Regulation Department ~~of Insurance~~ shall establish the rate of
49848 contribution of the entities listed in paragraph (5)(c) for the
49849 tax year beginning January 1, 1990. Following the initial
49850 valuation, the Office of Insurance Regulation Department ~~of~~
49851 ~~Insurance~~ shall cause an actuarial valuation to be made of the
49852 assets and liabilities of the plan no less frequently than
49853 biennially. Pursuant to the results of such valuations, the
49854 Office of Insurance Regulation Department ~~of Insurance~~ shall
49855 prepare a statement as to the contribution rate applicable to
49856 the entities listed in paragraph(5)(c). However, at no time
49857 shall the rate be greater than 0.25 percent of net direct
49858 premiums written.

49859 (b) If the Office of Insurance Regulation Department ~~of~~
49860 ~~Insurance~~ finds that the plan cannot be maintained on an
49861 actuarially sound basis based on the assessments and
49862 appropriations listed in subsections(4) and (5), the office
49863 ~~department~~ shall increase the assessments specified in
49864 subsection (4) on a proportional basis as needed.

49865 (9)

49866 (c) In the event the total of all current estimates equals
49867 80 percent of the funds on hand and the funds that will become
49868 available to the association within the next 12 months from all
49869 sources described in subsections (4) and(5) and paragraph
49870 (7)(a), the association shall not accept any new claims without
49871 express authority from the Legislature. Nothing herein shall
49872 preclude the association from accepting any claim if the injury
49873 occurred 18 months or more prior to the effective date of this
49874 suspension. Within 30 days of the effective date of this



HB 1803

2003

49875 suspension, the association shall notify the Governor, the
 49876 Speaker of the House of Representatives, the President of the
 49877 Senate, the Office of Insurance Regulation ~~Department of~~
 49878 ~~Insurance~~, the Agency for Health Care Administration, the
 49879 Department of Health, and the Department of Business and
 49880 Professional Regulation of this suspension.

49881 Section 1519. Paragraph (c) of subsection (1), subsection
 49882 (2), and paragraph (d) of subsection (5) of section 766.315,
 49883 Florida Statutes, are amended to read:

49884 766.315 Florida Birth-Related Neurological Injury
 49885 Compensation Association; board of directors.--

49886 (1)

49887 (c) The directors shall be appointed by the Chief
 49888 Financial Officer ~~Insurance Commissioner~~ as follows:

- 49889 1. One citizen representative.
- 49890 2. One representative of participating physicians.
- 49891 3. One representative of hospitals.
- 49892 4. One representative of casualty insurers.
- 49893 5. One representative of physicians other than
 49894 participating physicians.

49895 (2)(a) The Chief Financial Officer ~~Insurance Commissioner~~
 49896 may select the representative of the participating physicians
 49897 from a list of at least three names to be recommended by the
 49898 Florida Obstetric and Gynecologic Society; the representative of
 49899 hospitals from a list of at least three names to be recommended
 49900 by the Florida Hospital Association; the representative of
 49901 casualty insurers from a list of at least three names, one of
 49902 which is recommended by the American Insurance Association, one
 49903 by the Alliance of American Insurers, and one by the National
 49904 Association of Independent Insurers; and the representative of



HB 1803

2003

49905 physicians other than participating physicians from a list of
 49906 three names to be recommended by the Florida Medical Association
 49907 and a list of three names to be recommended by the Florida
 49908 Osteopathic Medical Association. In no case shall the Chief
 49909 Financial Officer ~~Insurance Commissioner~~ be bound to make any
 49910 appointment from among the nominees of such respective
 49911 associations.

49912 (b) The Chief Financial Officer ~~Insurance Commissioner~~
 49913 shall promptly notify the appropriate medical association upon
 49914 the occurrence of any vacancy, and like nominations may be made
 49915 for the filling of the vacancy.

49916 (5)

49917 (d) Annually, the association shall furnish audited
 49918 financial reports to any plan participant upon request, to the
 49919 Office of Insurance Regulation of the Financial Services
 49920 Commission ~~Department of Insurance~~, and to the Joint Legislative
 49921 Auditing Committee. The reports must be prepared in accordance
 49922 with accepted accounting procedures and must include such
 49923 information as may be required by the Office of Insurance
 49924 Regulation ~~Department of Insurance~~ or the Joint Legislative
 49925 Auditing Committee. At any time determined to be necessary, the
 49926 Office of Insurance Regulation ~~Department of Insurance~~ or the
 49927 Joint Legislative Auditing Committee may conduct an audit of the
 49928 plan.

49929 Section 1520. Subsection (3), paragraphs (a) and (d) of
 49930 subsection (6), and subsection (7) of section 768.28, Florida
 49931 Statutes, are amended to read:

49932 768.28 Waiver of sovereign immunity in tort actions;
 49933 recovery limits; limitation on attorney fees; statute of
 49934 limitations; exclusions; indemnification; risk management



HB 1803

2003

49935 | programs.--

49936 | (3) Except for a municipality and the Florida Space
49937 | Authority, the affected agency or subdivision may, at its
49938 | discretion, request the assistance of the Department of
49939 | Financial Services Insurance in the consideration, adjustment,
49940 | and settlement of any claim under this act.

49941 | (6)(a) An action may not be instituted on a claim against
49942 | the state or one of its agencies or subdivisions unless the
49943 | claimant presents the claim in writing to the appropriate
49944 | agency, and also, except as to any claim against a municipality
49945 | or the Florida Space Authority, presents such claim in writing
49946 | to the Department of Financial Services Insurance, within 3
49947 | years after such claim accrues and the Department of Financial
49948 | Services Insurance or the appropriate agency denies the claim in
49949 | writing; except that, if such claim is for contribution pursuant
49950 | to s. 768.31, it must be so presented within 6 months after the
49951 | judgment against the tortfeasor seeking contribution has become
49952 | final by lapse of time for appeal or after appellate review or,
49953 | if there is no such judgment, within 6 months after the
49954 | tortfeasor seeking contribution has either discharged the common
49955 | liability by payment or agreed, while the action is pending
49956 | against her or him, to discharge the common liability.

49957 | (d) For purposes of this section, complete, accurate, and
49958 | timely compliance with the requirements of paragraph (c) shall
49959 | occur prior to settlement payment, close of discovery or
49960 | commencement of trial, whichever is sooner; provided the ability
49961 | to plead setoff is not precluded by the delay. This setoff shall
49962 | apply only against that part of the settlement or judgment
49963 | payable to the claimant, minus claimant's reasonable attorney's
49964 | fees and costs. Incomplete or inaccurate disclosure of unpaid



HB 1803

2003

49965 adjudicated claims due the state, its agency, officer, or
49966 subdivision, may be excused by the court upon a showing by the
49967 preponderance of the evidence of the claimant's lack of
49968 knowledge of an adjudicated claim and reasonable inquiry by, or
49969 on behalf of, the claimant to obtain the information from public
49970 records. Unless the appropriate agency had actual notice of the
49971 information required to be disclosed by paragraph (c) in time to
49972 assert a setoff, an unexcused failure to disclose shall, upon
49973 hearing and order of court, cause the claimant to be liable for
49974 double the original undisclosed judgment and, upon further
49975 motion, the court shall enter judgment for the agency in that
49976 amount. The failure of the Department of Financial Services
49977 ~~Insurance~~ or the appropriate agency to make final disposition of
49978 a claim within 6 months after it is filed shall be deemed a
49979 final denial of the claim for purposes of this section. For
49980 purposes of this subsection, in medical malpractice actions, the
49981 failure of the Department of Financial Services ~~Insurance~~ or the
49982 appropriate agency to make final disposition of a claim within
49983 90 days after it is filed shall be deemed a final denial of the
49984 claim. The provisions of this subsection do not apply to such
49985 claims as may be asserted by counterclaim pursuant to s. 768.14.

49986 (7) In actions brought pursuant to this section, process
49987 shall be served upon the head of the agency concerned and also,
49988 except as to a defendant municipality or the Florida Space
49989 Authority, upon the Department of Financial Services ~~Insurance~~;
49990 and the department or the agency concerned shall have 30 days
49991 within which to plead thereto.

49992 Section 1521. Subsection (5) of section 790.001, Florida
49993 Statutes, is amended to read:

49994 790.001 Definitions.--As used in this chapter, except



HB 1803

2003

49995 | where the context otherwise requires:

49996 | (5) "Explosive" means any chemical compound or mixture
 49997 | that has the property of yielding readily to combustion or
 49998 | oxidation upon application of heat, flame, or shock, including
 49999 | but not limited to dynamite, nitroglycerin, trinitrotoluene, or
 50000 | ammonium nitrate when combined with other ingredients to form an
 50001 | explosive mixture, blasting caps, and detonators; but not
 50002 | including:

50003 | (a) Shotgun shells, cartridges, or ammunition for
 50004 | firearms;

50005 | (b) Fireworks as defined in s. 791.01;

50006 | (c) Smokeless propellant powder or small arms ammunition
 50007 | primers, if possessed, purchased, sold, transported, or used in
 50008 | compliance with s. 552.241;

50009 | (d) Black powder in quantities not to exceed that
 50010 | authorized by chapter 552, or by any rules adopted ~~or~~
 50011 | ~~regulations promulgated~~ thereunder by the Department of
 50012 | Financial Services Insurance, when used for, or intended to be
 50013 | used for, the manufacture of target and sporting ammunition or
 50014 | for use in muzzle-loading flint or percussion weapons.

50015 |
 50016 | The exclusions contained in paragraphs (a)-(d) do not apply to
 50017 | the term "explosive" as used in the definition of "firearm" in
 50018 | subsection (6).

50019 | Section 1522. Section 790.1612, Florida Statutes, is
 50020 | amended to read:

50021 | 790.1612 Authorization for governmental manufacture,
 50022 | possession, and use of destructive devices.--The governing body
 50023 | of any municipality or county and the Division of State Fire
 50024 | Marshal of the Department of Financial Services Insurance have



HB 1803

2003

50025 the power to authorize the manufacture, possession, and use of
 50026 destructive devices as defined in s. 790.001(4).

50027 Section 1523. Subsection (2) of section 791.01, Florida
 50028 Statutes, is amended to read:

50029 791.01 Definitions.--As used in this chapter, the term:

50030 (2) "Division" means the Division of the State Fire
 50031 Marshal of the Department of Financial Services Insurance.

50032 Section 1524. Paragraph (b) of subsection (3) of section
 50033 791.015, Florida Statutes, is amended to read:

50034 791.015 Registration of manufacturers, distributors,
 50035 wholesalers, and retailers of sparklers.--

50036 (3) FEES.--

50037 (b) Revenue from registration fee payments shall be
 50038 deposited in the Insurance ~~Commissioner's~~ Regulatory Trust Fund
 50039 for the purposes of implementing the registration and testing
 50040 provisions of this chapter.

50041 Section 1525. Section 817.16, Florida Statutes, is amended
 50042 to read:

50043 817.16 False reports, etc., by officers of banks, trust
 50044 companies, etc., ~~under supervision of Department of Banking and~~
 50045 ~~Finance~~ with intent to defraud.--Any officer, director, agent or
 50046 clerk of any bank, trust company, building and loan association,
 50047 small loan licensee, credit union, or other corporation under
 50048 the supervision of the Office of Financial Institutions and
 50049 Securities Regulation of the Financial Services Commission or
 50050 formerly the Department of Banking and Finance, who willfully
 50051 and knowingly subscribes or exhibits any false paper with intent
 50052 to deceive any person authorized to examine as to the records of
 50053 such bank, trust company, building and loan association, small
 50054 loan licensee, credit union, or other corporation under the



HB 1803

2003

50055 supervision of the Office of Financial Institution and
 50056 Securities Regulation or formerly the Department of Banking and
 50057 Finance, or willfully and knowingly subscribes to or makes any
 50058 false reports to the Office of Financial Institutions and
 50059 Securities Regulation or subscribed to or made any such false
 50060 report to the Department of Banking and Finance or causes to be
 50061 published any false report, shall be guilty of a felony of the
 50062 third degree, punishable as provided s. 775.082 or s. 775.083.

50063 Section 1526. Paragraph (b) of subsection (1), paragraph
 50064 (b) of subsection (2), and subsection (10) of section 817.234,
 50065 Florida Statutes, are amended to read:

50066 817.234 False and fraudulent insurance claims.--

50067 (1)

50068 (b) All claims and application forms shall contain a
 50069 statement that is approved by the Office of Insurance Regulation
 50070 of the Financial Services Commission which ~~Department of~~
 50071 ~~Insurance that~~ clearly states in substance the following: "Any
 50072 person who knowingly and with intent to injure, defraud, or
 50073 deceive any insurer files a statement of claim or an application
 50074 containing any false, incomplete, or misleading information is
 50075 guilty of a felony of the third degree." This paragraph shall
 50076 not apply to reinsurance contracts, reinsurance agreements, or
 50077 reinsurance claims transactions.

50078 (2)

50079 (b) In addition to any other provision of law, systematic
 50080 upcoding by a provider, as defined in s. 641.19 (14) ~~(15)~~, with
 50081 the intent to obtain reimbursement otherwise not due from an
 50082 insurer is punishable as provided in s. 641.52(5).

50083 (10) As used in this section, the term "insurer" means any
 50084 insurer, health maintenance organization, self-insurer, self-



HB 1803

2003

50085 insurance fund, or other similar entity or person regulated
 50086 under chapter 440 or chapter 641 or by the Office of Insurance
 50087 Regulation Department of Insurance under the Florida Insurance
 50088 Code.

50089 Section 1527. Section 817.2341, Florida Statutes, is
 50090 amended to read:

50091 817.2341 False or misleading statements or supporting
 50092 documents; penalty.--

50093 (1) Any person who willfully files with the department or
 50094 office, or who willfully signs for filing with the department or
 50095 office, a materially false or materially misleading financial
 50096 statement or document in support of such statement required by
 50097 law or rule, with intent to deceive and with knowledge that the
 50098 statement or document is materially false or materially
 50099 misleading, commits a felony of the third degree, punishable as
 50100 provided in s. 775.082, s. 775.083, or s. 775.084.

50101 (2)(a) Any person who makes a false entry of a material
 50102 fact in any book, report, or statement relating to a transaction
 50103 of an insurer or entity organized pursuant to chapter 624 or
 50104 chapter 641, intending to deceive any person about the financial
 50105 condition or solvency of the insurer or entity, commits a felony
 50106 of the third degree, punishable as provided in s. 775.082, s.
 50107 775.083, or s. 775.084.

50108 (b) If the false entry of a material fact is made with the
 50109 intent to deceive any person as to the impairment of capital, as
 50110 defined in s. 631.011(12), of the insurer or entity or is the
 50111 significant cause of the insurer or entity being placed in
 50112 conservation, rehabilitation, or liquidation by a court, the
 50113 person commits a felony of the first degree, punishable as
 50114 provided in s. 775.082, s. 775.083, or s. 775.084.



HB 1803

2003

50115 (3)(a) Any person who knowingly makes a material false
 50116 statement or report to the department or office or any agent of
 50117 the department or office, or knowingly and materially overvalues
 50118 any property in any document or report prepared to be presented
 50119 to the department or office or any agent of the department or
 50120 office, commits a felony of the third degree, punishable as
 50121 provided in s. 775.082, s. 775.083, or s. 775.084.

50122 (b) If the material false statement or report or the
 50123 material overvaluation is made with the intent to deceive any
 50124 person as to the impairment of capital, as defined in s.
 50125 631.011(12), of an insurer or entity organized pursuant to
 50126 chapter 624 or chapter 641, or is the significant cause of the
 50127 insurer or entity being placed in receivership by a court, the
 50128 person commits a felony of the first degree, punishable as
 50129 provided in s. 775.082, s. 775.083, or s. 775.084.

50130 (4) As used in this section, the term:

50131 (a) "Department" means the Department of Financial
 50132 Services.

50133 (b) "Office" means the Office of Insurance Regulation of
 50134 the Financial Services Commission.

50135 Section 1528. Subsection (1) of section 817.50, Florida
 50136 Statutes, is amended to read:

50137 817.50 Fraudulently obtaining goods, services, etc., from
 50138 a health care provider.--

50139 (1) Whoever shall, willfully and with intent to defraud,
 50140 obtain or attempt to obtain goods, products, merchandise, or
 50141 services from any health care provider in this state, as defined
 50142 in s. 641.19 (14)~~(15)~~, commits a misdemeanor of the second
 50143 degree, punishable as provided in s. 775.082 or s. 775.083.

50144 Section 1529. Section 839.06, Florida Statutes, is amended



HB 1803

2003

50145 to read:

50146 839.06 Collectors not to deal in warrants, etc.; removal.-
 50147 -No tax collector of any county shall, either directly or
 50148 indirectly, purchase or receive in exchange any Chief Financial
 50149 Officer's or the former Comptroller's warrants, county orders,
 50150 jurors' certificates or school district orders for a less amount
 50151 than expressed on the face of such orders or demand, and any
 50152 such person so offending shall, for each offense, be deemed
 50153 guilty of a misdemeanor of the first degree, punishable as
 50154 provided in s. 775.083, and be removed from office.

50155 Section 1530. Paragraph (d) of subsection (5) and
 50156 paragraph (c) of subsection (13) of section 849.086, Florida
 50157 Statutes, are amended to read:

50158 849.086 Cardrooms authorized.--

50159 (5) LICENSE REQUIRED; APPLICATION; FEES.--No person may
 50160 operate a cardroom in this state unless such person holds a
 50161 valid cardroom license issued pursuant to this section.

50162 (d) The annual cardroom license fee shall be \$1,000 for
 50163 the first table and \$500 for each additional table to be
 50164 operated at the cardroom. This license fee shall be deposited
 50165 by the division with the Chief Financial Officer ~~Treasurer~~ to
 50166 the credit of the Pari-mutuel Wagering Trust Fund.

50167 (13) TAXES AND OTHER PAYMENTS.--

50168 (c) Payment of the admission tax and gross receipts tax
 50169 imposed by this section shall be paid to the division. The
 50170 division shall deposit these sums with the Chief Financial
 50171 Officer ~~Treasurer~~, one-half being credited to the Pari-mutuel
 50172 Wagering Trust Fund and one-half being credited to the General
 50173 Revenue Fund. The cardroom licensee shall remit to the division
 50174 payment for the admission tax, the gross receipts tax, and the



HB 1803

2003

50175 licensee fees. Such payments shall be remitted to the division
 50176 on the fifth day of each calendar month for taxes and fees
 50177 imposed for the preceding month's cardroom activities.
 50178 Licensees shall file a report under oath by the fifth day of
 50179 each calendar month for all taxes remitted during the preceding
 50180 calendar month. Such report shall, under oath, indicate the
 50181 total of all admissions, the cardroom activities for the
 50182 preceding calendar month, and such other information as may be
 50183 prescribed by the division.

50184 Section 1531. Section 849.33, Florida Statutes, is amended
 50185 to read:

50186 849.33 Judgment and collection of money; execution.--Any
 50187 judgment recovered in such a suit shall adjudge separately the
 50188 amounts recovered for the use of the state, and the plaintiff
 50189 shall not have execution therefor, and such amounts shall not be
 50190 paid to the plaintiff, but shall be payable to the state
 50191 attorney, who shall promptly transmit the sums collected by him
 50192 or her to the Chief Financial Officer ~~State Treasurer~~. The state
 50193 attorney shall diligently seek the collection of such amounts
 50194 and may cause a separate execution to issue for the collection
 50195 thereof.

50196 Section 1532. Subsection (1) of section 860.154, Florida
 50197 Statutes, is amended to read:

50198 860.154 Florida Motor Vehicle Theft Prevention Authority.-
 50199 -

50200 (1) There is ~~hereby~~ established within the Department of
 50201 Legal Affairs the Florida Motor Vehicle Theft Prevention
 50202 Authority, which shall exercise its powers, duties, and
 50203 responsibilities independently of the department. The purposes,
 50204 powers, and duties of the authority shall be vested in and



HB 1803

2003

50205 exercised by a board of directors. There shall be nine members
 50206 of the board, consisting of the Chief Financial Officer
 50207 ~~commissioner of the Department of Insurance~~ or his or her the
 50208 ~~commissioner's~~ designee; the executive director of the
 50209 Department of Highway Safety and Motor Vehicles; the executive
 50210 director of the Department of Law Enforcement; six additional
 50211 members, each of whom shall be appointed by the Attorney
 50212 General: a state attorney or city or county executive, a chief
 50213 executive law enforcement official, a sheriff, one
 50214 representative of companies authorized to sell motor vehicle
 50215 insurance, one representative of insurers authorized to write
 50216 motor vehicle insurance in this state, and one representative of
 50217 purchasers of motor vehicle insurance in this state who is not
 50218 employed by or connected with the business of insurance.

50219 Section 1533. Subsection (7) of section 860.157, Florida
 50220 Statutes, is amended to read:

50221 860.157 Powers and duties of the authority.--The authority
 50222 shall have the following powers, duties, and responsibilities:

50223 (7) To report annually, on or before January 1, to the
 50224 Governor, Attorney General, Chief Financial Officer ~~Insurance~~
 50225 ~~Commissioner~~, President of the Senate, Speaker of the House of
 50226 Representatives, Minority Leader of the House of
 50227 Representatives, Minority Leader of the Senate, and appropriate
 50228 committee chairs in the House of Representatives and the Senate,
 50229 and, upon request, to members of the general public on the
 50230 authority's activities in the preceding year.

50231 Section 1534. Subsections (1) and (2) of section 896.102,
 50232 Florida Statutes, are amended to read:

50233 896.102 Currency more than \$10,000 received in trade or
 50234 business; report required; noncompliance penalties.--



HB 1803

2003

50235 (1) All persons engaged in a trade or business, except for
 50236 those financial institutions that report to the Office of
 50237 Financial Institutions and Securities Regulation ~~Comptroller~~
 50238 pursuant to s. 655.50, who receive more than \$10,000 in
 50239 currency, including foreign currency, in one transaction, or who
 50240 receive this amount through two or more related transactions,
 50241 must complete and file with the Department of Revenue the
 50242 information required pursuant to 26 U.S.C. s. 6050I., concerning
 50243 returns relating to currency received in trade or business. Any
 50244 person who willfully fails to comply with the reporting
 50245 requirements of this subsection is guilty of a misdemeanor of
 50246 the first degree, punishable as provided in s. 775.082, or by a
 50247 fine not exceeding \$250,000 or twice the value of the amount of
 50248 the currency transaction involved, whichever is greater, or by
 50249 both such imprisonment and fine. For a second or subsequent
 50250 conviction of a violation of the provisions of this subsection,
 50251 the maximum fine that may be imposed is \$500,000 or quintuple
 50252 the value of the amount of the currency transaction involved,
 50253 whichever is greater.

50254 (2) The Department of Revenue shall enforce compliance
 50255 with the provisions of subsection (1) and is to be the custodian
 50256 of all information and documents filed pursuant to subsection
 50257 (1). Such information and documents are confidential and exempt
 50258 from the provisions of s. 119.07(1) and s. 24(a), Art. I of the
 50259 State Constitution; however, the department must provide any
 50260 report filed under this section, or information contained
 50261 therein, to federal, state, and local law enforcement and
 50262 prosecutorial agencies, ~~and~~ to the Department of Financial
 50263 Services, and to the Office of Financial Institutions and
 50264 Securities Regulation ~~Banking and Finance~~, and the information



HB 1803

2003

50265 is subject to disclosure pursuant to subpoena as provided in s.
50266 213.053(8).

50267 Section 1535. Subsection (5) of section 896.104, Florida
50268 Statutes, is amended to read:

50269 896.104 Structuring transactions to evade reporting or
50270 registration requirements prohibited.--

50271 (5) INFERENCE.--Proof that a person engaged for monetary
50272 consideration in the business of a funds transmitter as defined
50273 in s. 560.103(10)~~(9)~~ and who is transporting more than \$10,000
50274 in currency, or foreign equivalent, without being registered as
50275 a money transmitter or designated as an authorized vendor under
50276 the provisions of chapter 560, gives rise to an inference that
50277 the transportation was done with knowledge of the registration
50278 requirements of chapter 560 and the reporting requirements of
50279 this chapter.

50280 Section 1536. Subsection (2) of section 903.09, Florida
50281 Statutes, is amended to read:

50282 903.09 Justification of sureties.--

50283 (2) A bond agent, as defined in s. 648.25(2)~~(1)~~, shall
50284 justify her or his suretyship by attaching a copy of the power
50285 of attorney issued by the company to the bond or by attaching to
50286 the bond United States currency, a United States postal money
50287 order, or a cashier's check in the amount of the bond; but the
50288 United States currency, United States postal money order, or
50289 cashier's check cannot be used to secure more than one bond.
50290 Nothing herein shall prohibit two or more qualified sureties
50291 from each posting any portion of a bond amount, and being liable
50292 for only that amount, so long as the total posted by all
50293 cosureties is equal to the amount of bond required.

50294 Section 1537. Section 903.101, Florida Statutes, is



HB 1803

2003

50295 amended to read:

50296 903.101 Sureties; licensed persons; to have equal access.-
 50297 -Subject to rules adopted ~~regulations promulgated~~ by the
 50298 Department of Financial Services and by the Financial Services
 50299 Commission ~~Insurance~~, every surety who meets the requirements of
 50300 ss. 903.05, 903.06, 903.08, and 903.09, and every person who is
 50301 currently licensed by the Department of Financial Services
 50302 ~~Insurance~~ and registered as required by s. 648.42 shall have
 50303 equal access to the jails of this state for the purpose of
 50304 making bonds.

50305 Section 1538. Subsection (1) of section 903.27, Florida
 50306 Statutes, is amended to read:

50307 903.27 Forfeiture to judgment.--

50308 (1) If the forfeiture is not paid or discharged by order
 50309 of a court of competent jurisdiction within 60 days and the bond
 50310 is secured other than by money and bonds authorized in s.
 50311 903.16, the clerk of the circuit court for the county where the
 50312 order was made shall enter a judgment against the surety for the
 50313 amount of the penalty and issue execution. Within 10 days, the
 50314 clerk shall furnish the Department of Financial Services and the
 50315 Office of Insurance Regulation of the Financial Services
 50316 Commission ~~Insurance~~ with a certified copy of the judgment
 50317 docket and shall furnish the surety company at its home office a
 50318 copy of the judgment, which shall include the power of attorney
 50319 number of the bond and the name of the executing agent. If the
 50320 judgment is not paid within 35 days, the clerk shall furnish the
 50321 Department of Financial Services, the Office of Insurance
 50322 Regulation, ~~Insurance~~ and the sheriff of the county in which the
 50323 bond was executed, or the official responsible for operation of
 50324 the county jail, if other than the sheriff, two copies of the



HB 1803

2003

50325 judgment and a certificate stating that the judgment remains
 50326 unsatisfied. When and if the judgment is properly paid or an
 50327 order to vacate the judgment has been entered by a court of
 50328 competent jurisdiction, the clerk shall immediately notify the
 50329 sheriff, or the official responsible for the operation of the
 50330 county jail, if other than the sheriff, and the Department of
 50331 Financial Services and the Office of Insurance Regulation
 50332 ~~Insurance~~, if the department and office had been previously
 50333 notified of nonpayment, of such payment or order to vacate the
 50334 judgment. The clerk shall also immediately prepare and record
 50335 in the public records a satisfaction of the judgment or record
 50336 the order to vacate judgment. If the defendant is returned to
 50337 the county of jurisdiction of the court, whenever a motion to
 50338 set aside the judgment is filed, the operation of this section
 50339 is tolled until the court makes a disposition of the motion.

50340 Section 1539. Paragraph (a) and (b) of subsection (5) of
 50341 section 925.037, Florida Statutes, are amended to read:

50342 925.037 Reimbursement of counties for fees paid to
 50343 appointed counsel; circuit conflict committees.--

50344 (5)(a) The clerk of the circuit court in each county shall
 50345 submit to the Justice Administrative Commission a statement of
 50346 conflict counsel fees at least annually. Such statement shall
 50347 identify total expenditures incurred by the county on fees of
 50348 counsel appointed by the court pursuant to this section where
 50349 such fees are taxed against the county by judgment of the court.
 50350 On the basis of such statement of expenditures, the Justice
 50351 Administrative Commission shall pay state conflict case
 50352 appropriations to the county. The statement of conflict counsel
 50353 fees shall be on a form prescribed by the Justice Administrative
 50354 Commission in consultation with the Legislative Committee on



HB 1803

2003

50355 Intergovernmental Relations and the Chief Financial Officer
 50356 ~~Comptroller~~. Such form also shall provide for the separate
 50357 reporting of total expenditures made by the county on attorney
 50358 fees in cases in which other counsel were appointed by the court
 50359 where the public defender was unable to accept the case as a
 50360 result of a stated lack of resources. To facilitate such
 50361 expenditure identification and reporting, the public defender,
 50362 within 7 days of the appointment of such counsel by the court,
 50363 shall report to the clerk of circuit court case-related
 50364 information sufficient to permit the clerk to identify
 50365 separately county expenditures on fees of such counsel. No
 50366 county shall be required to submit any additional information to
 50367 the commission on an annual or other basis in order to document
 50368 or otherwise verify the expenditure information provided on the
 50369 statement of conflict counsel fees form, except as provided in
 50370 paragraph (c).

50371 (b) Before September 30 of each year, the clerk of the
 50372 circuit court in each county shall submit to the Justice
 50373 Administrative Commission a report of conflict counsel expenses
 50374 and costs for the previous local government fiscal year. Such
 50375 report shall identify expenditures incurred by the county on
 50376 expenses and costs of counsel appointed by the court pursuant to
 50377 this section where such expenses and costs are taxed against the
 50378 county by judgment of the court. Such report of expenditures
 50379 shall be on a form prescribed by the commission in consultation
 50380 with the Legislative Committee on Intergovernmental Relations
 50381 and the Chief Financial Officer ~~Comptroller~~, provided that such
 50382 form shall at a minimum separately identify total county
 50383 expenditures for witness fees and expenses, court reporter fees
 50384 and costs, and defense counsel travel and per diem. Such form



HB 1803

2003

50385 also shall provide for the separate reporting of total county
 50386 expenditures on attorney expenses and costs in cases in which
 50387 other counsel were appointed by the court where the public
 50388 defender was unable to accept the case as a result of a stated
 50389 lack of resources. To facilitate such expenditure identification
 50390 and reporting, the public defender, within 7 days of the
 50391 appointment of such counsel by the court, shall report to the
 50392 clerk of the circuit court case-related information sufficient
 50393 to permit the clerk to identify separately county expenditures
 50394 on expenses and costs of such counsel. No county shall be
 50395 required to submit any additional information to the Justice
 50396 Administrative Commission on an annual or other basis in order
 50397 to document or otherwise verify the expenditure information
 50398 provided on the report of conflict counsel expenses and costs
 50399 form, except as provided in paragraph (c).

50400 Section 1540. Paragraph (b) of subsection (8) of section
 50401 932.7055, Florida Statutes, is amended to read:

50402 932.7055 Disposition of liens and forfeited property.--

50403 (8)

50404 (b) The Department of Law Enforcement shall submit an
 50405 annual report to the criminal justice committees of the House of
 50406 Representatives and of the Senate compiling the information and
 50407 data related in the semiannual reports submitted by the law
 50408 enforcement agencies. The annual report shall also contain a
 50409 list of law enforcement agencies which have failed to meet the
 50410 reporting requirements and a summary of any action which has
 50411 been taken against the noncomplying agency by the Office of the
 50412 Chief Financial Officer ~~Comptroller~~.

50413 Section 1541. Section 932.707, Florida Statutes, is
 50414 amended to read:



HB 1803

2003

50415 932.707 Penalty for noncompliance with reporting
 50416 requirements.--Any seizing agency which fails to comply with the
 50417 reporting requirements as described in s. 932.7055(8)(a), is
 50418 subject to a civil fine of \$5,000 payable to the General Revenue
 50419 Fund. However, such agency will not be subject to the fine if,
 50420 within 60 days of receipt of written notification from the
 50421 Department of Law Enforcement of the noncompliance with the
 50422 reporting requirements of the Florida Contraband Forfeiture Act,
 50423 the agency substantially complies with said requirements. The
 50424 Department of Law Enforcement shall submit any substantial
 50425 noncompliance to the Office of the Chief Financial Officer
 50426 ~~Comptroller~~, which shall be responsible for the enforcement of
 50427 this section.

50428 Section 1542. Subsection (1) of section 938.27, Florida
 50429 Statutes, is amended to read:

50430 938.27 Judgment for costs on conviction.--

50431 (1) In all criminal cases the costs of prosecution,
 50432 including investigative costs incurred by law enforcement
 50433 agencies, by fire departments for arson investigations, and by
 50434 investigations of the ~~Division of Financial Investigations of~~
 50435 ~~the~~ Department of Financial Services or the Office of Financial
 50436 Institutions and Securities Regulation of the Financial Services
 50437 Commission ~~Banking and Finance~~, if requested and documented by
 50438 such agencies, shall be included and entered in the judgment
 50439 rendered against the convicted person.

50440 Section 1543. Section 939.13, Florida Statutes, is amended
 50441 to read:

50442 939.13 Power of Chief Financial Officer ~~Comptroller~~.--The
 50443 Chief Financial Officer ~~Comptroller~~ may audit and approve or
 50444 disapprove any claim or any item thereof against the state for



HB 1803

2003

50445 costs, fees or expenses of criminal cases prosecuted in the name
 50446 of the state, and for which the state is liable, if the Chief
 50447 Financial Officer ~~Comptroller~~ is satisfied that the same is
 50448 legal, just, necessary and correct or otherwise, and may
 50449 prescribe forms and methods for the same. The Chief Financial
 50450 Officer ~~Comptroller~~ shall not dispense with any of the
 50451 requirements of law relative to the auditing and payment of such
 50452 accounts, but may prescribe additional requirements.

50453 Section 1544. Paragraph (h) of subsection (1) of section
 50454 943.031, Florida Statutes, is amended to read:

50455 943.031 Florida Violent Crime and Drug Control Council.--
 50456 The Legislature finds that there is a need to develop and
 50457 implement a statewide strategy to address violent criminal
 50458 activity and drug control efforts by state and local law
 50459 enforcement agencies, including investigations of illicit money
 50460 laundering. In recognition of this need, the Florida Violent
 50461 Crime and Drug Control Council is created within the department.
 50462 The council shall serve in an advisory capacity to the
 50463 department.

50464 (1) MEMBERSHIP.--The council shall consist of 14 members,
 50465 as follows:

50466 (h) The Chief Financial Officer ~~Comptroller~~, or a
 50467 designate.

50468
 50469 The Governor, when making appointments under this subsection,
 50470 must take into consideration representation by geography,
 50471 population, ethnicity, and other relevant factors to ensure that
 50472 the membership of the council is representative of the state at
 50473 large. Designates appearing on behalf of a council member who is
 50474 unable to attend a meeting of the council are empowered to vote



HB 1803

2003

50475 on issues before the council to the same extent the designating
 50476 council member is so empowered.

50477 Section 1545. Subsection (2) of section 943.032, Florida
 50478 Statutes, is amended to read:

50479 943.032 Financial Crime Analysis Center and Financial
 50480 Transaction Database.--

50481 (2) The department shall compile information and data
 50482 available from financial transaction reports required to be
 50483 submitted by state or federal law that are provided to the
 50484 Department of Financial Services, to the Office of Financial
 50485 Institutions and Securities Regulation of the Financial Services
 50486 Commission ~~Banking and Finance~~, to the Department of Revenue, or
 50487 to which the department otherwise has access. Information and
 50488 data so received shall be utilized by the department in the
 50489 Financial Transaction Database. The department shall implement
 50490 a system utilizing the database that allows data review and
 50491 processing to reveal patterns, trends, and correlations that are
 50492 indicative of money laundering or other financial transactions
 50493 indicative of criminal activity. The department shall, in
 50494 consultation with the Department of Financial Services, the
 50495 Office of Financial Institutions and Securities Regulation of
 50496 the Financial Services Commission, ~~Banking and Finance~~ and the
 50497 Department of Revenue, establish the methods and parameters by
 50498 which information and data received by such agencies ~~the~~
 50499 ~~Department of Banking and Finance or the Department of Revenue~~
 50500 are transferred to the department for inclusion in the database.

50501 Information developed in or through the use of the database
 50502 shall be made available to law enforcement agencies and
 50503 prosecutors in this state in a manner defined by the department
 50504 and as allowed by state or federal law or regulation. All



HB 1803

2003

50505 information contained in the database shall be considered
 50506 "active criminal intelligence" or "active criminal investigative
 50507 information" as defined in s. 119.011.

50508 Section 1546. Subsections (3) and (4) of section 944.516,
 50509 Florida Statutes, are amended to read:

50510 944.516 Money or other property received for personal use
 50511 or benefit of inmate; deposit; disposition of unclaimed trust
 50512 funds.--The Department of Corrections shall protect the
 50513 financial interest of the state with respect to claims which the
 50514 state may have against inmates in state institutions under its
 50515 supervision and control and shall administer money and other
 50516 property received for the personal benefit of such inmates. In
 50517 carrying out the provisions of this section, the department may
 50518 delegate any of its enumerated powers and duties affecting
 50519 inmates of an institution to the warden or regional director who
 50520 shall personally, or through designated employees of his or her
 50521 personal staff under his or her direct supervision, exercise
 50522 such powers or perform such duties.

50523 (3) Moneys received by the department in payment of claims
 50524 of the state against inmates shall be transmitted to the Chief
 50525 Financial Officer ~~Treasurer~~ for deposit into the General Revenue
 50526 Fund.

50527 (4) Upon the death of any inmate in an institution
 50528 affected by the provisions of this section, any unclaimed money
 50529 held for the inmate in trust by the department or by the Chief
 50530 Financial Officer ~~Treasurer~~ shall be applied first to the
 50531 payment of any unpaid state claim against the inmate, and any
 50532 balance remaining unclaimed for a period of 1 year shall escheat
 50533 to the state as unclaimed funds held by fiduciaries.

50534 Section 1547. Section 946.33, Florida Statutes, is amended



HB 1803

2003

50535 to read:

50536 946.33 Disbursements from fund.--The funds in the
 50537 Correctional Work Program Trust Fund shall be deposited in the
 50538 State Treasury and paid out only on warrants drawn by the Chief
 50539 Financial Officer ~~Comptroller~~, duly approved by the Department
 50540 of Corrections. The department shall maintain all necessary
 50541 records and accounts relative to such funds.

50542 Section 1548. Subsection (2) of section 946.509, Florida
 50543 Statutes, is amended to read:

50544 946.509 Insurance of property leased or acquired by the
 50545 corporation.--

50546 (2) Coverage under the State Risk Management Trust Fund of
 50547 property leased to or otherwise acquired by the corporation
 50548 shall be secured and maintained through the existing policy and
 50549 account of the Department of Corrections with the Division of
 50550 Risk Management of the Department of Financial Services
 50551 ~~Insurance~~. All matters, including premium calculations,
 50552 assessments and payments, retrospective premium adjustments,
 50553 reporting requirements, and other requirements, concerning
 50554 coverage of such property under the State Risk Management Trust
 50555 Fund shall be conducted as if all such property were owned
 50556 solely by the department. Except as required by chapter 284, if
 50557 the corporation finds that it is more economical to do so, the
 50558 corporation may secure private insurance coverage on all or a
 50559 portion of the activities of or properties used by the
 50560 corporation. If coverage through the State Risk Management Trust
 50561 Fund is not secured, the corporation must present documentation
 50562 of insurance coverage to the Division of Risk Management equal
 50563 to the coverage that could otherwise be provided by the State
 50564 Risk Management Trust Fund.



HB 1803

2003

50565 Section 1549. Section 946.5095, Florida Statutes, is
 50566 amended to read:

50567 946.5095 Elimination of hazardous conditions.--Pursuant to
 50568 the applicable provisions of part I of chapter 284, whenever
 50569 state-insured property leased to or otherwise held by the
 50570 corporation is inspected by the Division of Risk Management of
 50571 the Department of Financial Services and any condition is found
 50572 to exist which, in the opinion of the division, is hazardous
 50573 from the standpoint of destruction by fire or other insurable
 50574 causes, the corporation shall either promptly repair the
 50575 property to eliminate any observed hazard or otherwise promptly
 50576 remove the hazardous condition at its own expense.

50577 Section 1550. Section 946.510, Florida Statutes, is
 50578 amended to read:

50579 946.510 Insurance by Division of Risk Management.--
 50580 Pursuant to the applicable provisions of chapter 284, the
 50581 Division of Risk Management of the Department of Financial
 50582 Services ~~Insurance~~ is authorized to insure the corporation under
 50583 the same general terms and conditions as the Department of
 50584 Corrections was insured by the division prior to the corporation
 50585 leasing the correctional work programs as authorized by this
 50586 chapter.

50587 Section 1551. Section 946.517, Florida Statutes, is
 50588 amended to read:

50589 946.517 Corporation records.--Corporation records are
 50590 public records; however, proprietary confidential business
 50591 information shall be confidential and exempt from the provisions
 50592 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.
 50593 However, the Legislature, the Chief Financial Officer
 50594 ~~Comptroller~~, and the Governor, pursuant to their oversight and



HB 1803

2003

50595 auditing functions, shall have access to all proprietary
 50596 confidential business information upon request and without
 50597 subpoena and shall retain the confidentiality of information so
 50598 received. "Proprietary confidential business information" means
 50599 information regardless of form or characteristics, that is owned
 50600 or controlled by the corporation; is intended to be and is
 50601 treated by the corporation as private and the disclosure of the
 50602 information would cause harm to the corporation's business
 50603 operations; has not been disclosed unless disclosed pursuant to
 50604 a statutory provision, an order of a court or administrative
 50605 body, a legislative proceeding pursuant to s. 5, Art. III of the
 50606 State Constitution, or a private agreement that provides that
 50607 the information may be released to the public; and, which is
 50608 information regarding:

50609 (1) Internal auditing controls and reports of internal
 50610 auditors.

50611 (2) Matters reasonably encompassed in privileged attorney-
 50612 client communications.

50613 (3) Security measures, systems, or procedures.

50614 (4) Information concerning bids or other contractual data,
 50615 banking records, and credit agreements, the disclosure of which
 50616 would impair the efforts of the corporation to contract for
 50617 goods or services on favorable terms.

50618 (5) Information relating to private contractual data, the
 50619 disclosure of which would impair the competitive interest of the
 50620 provider of the information.

50621 (6) Corporate officer, employee personnel, or inmate
 50622 worker information unrelated to compensation, duties,
 50623 qualifications, or responsibilities.

50624 Section 1552. Subsections (1) and (2) of section 946.522,



HB 1803

2003

50625 Florida Statutes, are amended to read:

50626 946.522 Prison Industries Trust Fund.--

50627 (1) The Prison Industries Trust Fund is created, to be
 50628 administered by the Department of Financial Services ~~Banking and~~
 50629 ~~Finance~~. The trust fund shall consist of moneys authorized to be
 50630 deducted pursuant to 18 U.S.C. s. 1761(c) and the applicable
 50631 federal guidelines, to be appropriated by the Legislature, and
 50632 moneys deposited by the corporation authorized under this part
 50633 to manage and operate correctional work programs. The
 50634 appropriated funds shall be used by the corporation for purposes
 50635 of construction or renovation of its facilities or for the
 50636 expansion or establishment of correctional work programs as
 50637 described in this part or for prison industries enhancement
 50638 (PIE) programs as authorized under s. 946.523.

50639 (2) The funds must be deposited in the State Treasury and
 50640 may be paid out only on warrants drawn by the Chief Financial
 50641 Officer ~~Comptroller~~ upon receipt of a corporate resolution that
 50642 has been duly authorized by the board of directors of the
 50643 corporation authorized under this part to manage and operate
 50644 correctional work programs. The corporation shall maintain all
 50645 necessary records and accounts relative to such funds.

50646 Section 1553. Paragraph (f) of subsection (3) of section
 50647 946.525, Florida Statutes, is amended to read:

50648 946.525 Participation by the corporation in the state
 50649 group health insurance and prescription drug programs.--

50650 (3) If the Department of Management Services determines
 50651 that the corporation is eligible to enroll, the corporation must
 50652 agree to the following terms and conditions:

50653 (f) If the corporation fails to make the payments required
 50654 by this section to fully reimburse the state, the Department of



HB 1803

2003

50655 Revenue or the Department of Financial Services ~~Banking and~~
 50656 ~~Finance~~ shall, upon the request of the Department of Management
 50657 Services, deduct the amount owed by the employer from any funds
 50658 to be distributed by it to the corporation. The amounts so
 50659 deducted shall be transferred to the Department of Management
 50660 Services for further distribution to the trust funds in
 50661 accordance with this chapter.

50662 Section 1554. Subsection (1) of section 947.12, Florida
 50663 Statutes, is amended to read:

50664 947.12 Members, employees, expenses.--

50665 (1) The members of the commission and its employees shall
 50666 be reimbursed for travel expenses as provided in s. 112.061. All
 50667 bills for expenses shall be properly receipted, audited, and
 50668 approved and forwarded to the Chief Financial Officer
 50669 ~~Comptroller~~ and shall be paid in a manner and form as the bills
 50670 for the expenses of the several departments of the state
 50671 government are paid. All expenses, including salaries and other
 50672 compensation, shall be paid from the General Revenue Fund and
 50673 within the appropriation as fixed therefor by the Legislature.
 50674 Such expenses shall be paid by the Chief Financial Officer
 50675 ~~Treasurer~~ upon proper warrants ~~issued by the Comptroller of the~~
 50676 ~~state~~, drawn upon vouchers and requisitions approved by the
 50677 commission, ~~and signed by the Comptroller.~~

50678 Section 1555. Subsection (8) of section 950.002, Florida
 50679 Statutes, is amended to read:

50680 950.002 County work camps.--

50681 (8) Pursuant to the applicable provisions of chapter 284,
 50682 the Division of Risk Management of the Department of Financial
 50683 Services ~~Insurance~~ is authorized to insure any county work camp
 50684 facility established pursuant to this act under the same general



HB 1803

2003

50685 terms and conditions as the Department of Corrections is insured
 50686 by the division for any of its comparable work camps.

50687 Section 1556. Paragraph (b) of subsection (1) of section
 50688 957.04, Florida Statutes, is amended to read:

50689 957.04 Contract requirements.--

50690 (1) A contract entered into under this chapter for the
 50691 operation of private correctional facilities shall maximize the
 50692 cost savings of such facilities and shall:

50693 (b) Indemnify the state and the department, including
 50694 their officials and agents, against any and all liability,
 50695 including, but not limited to, civil rights liability. Proof of
 50696 satisfactory insurance is required in an amount to be determined
 50697 by the commission, following consultation with the Division of
 50698 Risk Management of the Department of Financial Services
 50699 ~~Insurance~~. Not less than 30 days prior to the release of each
 50700 request for proposals by the commission, the commission shall
 50701 request the written recommendation of the division regarding
 50702 indemnification of the state and the department under this
 50703 paragraph. Within 15 days after such request, the division
 50704 shall provide a written recommendation to the commission
 50705 regarding the amount and manner of such indemnification. The
 50706 commission shall adopt the division's recommendation unless,
 50707 based on substantial competent evidence, the commission
 50708 determines a different amount and manner of indemnification is
 50709 sufficient.

50710 Section 1557. Paragraph (a) of subsection (6) and
 50711 subsection (8) of section 985.406, Florida Statutes, are amended
 50712 to read:

50713 985.406 Juvenile justice training academies established;
 50714 Juvenile Justice Standards and Training Commission created;



HB 1803

2003

50715 Juvenile Justice Training Trust Fund created.--

50716 (6) SCHOLARSHIPS AND STIPENDS.--

50717 (a) By rule, the commission shall establish criteria to
 50718 award scholarships or stipends to qualified juvenile justice
 50719 personnel who are residents of the state who want to pursue a
 50720 bachelor's or associate in arts degree in juvenile justice or a
 50721 related field. The department shall handle the administration of
 50722 the scholarship or stipend. The Department of Education shall
 50723 handle the notes issued for the payment of the scholarships or
 50724 stipends. All scholarship and stipend awards shall be paid from
 50725 the Juvenile Justice Training Trust Fund upon vouchers approved
 50726 by the Department of Education and properly certified by the
 50727 Chief Financial Officer ~~Comptroller~~. Prior to the award of a
 50728 scholarship or stipend, the juvenile justice employee must agree
 50729 in writing to practice her or his profession in juvenile justice
 50730 or a related field for 1 month for each month of grant or to
 50731 repay the full amount of the scholarship or stipend together
 50732 with interest at the rate of 5 percent per annum over a period
 50733 not to exceed 10 years. Repayment shall be made payable to the
 50734 state for deposit into the Juvenile Justice Training Trust Fund.

50735 (8) PARTICIPATION OF CERTAIN PROGRAMS IN THE STATE RISK
 50736 MANAGEMENT TRUST FUND.--Pursuant to s. 284.30, the Division of
 50737 Risk Management of the Department of Financial Services
 50738 ~~Insurance~~ is authorized to insure a private agency, individual,
 50739 or corporation operating a state-owned training school under a
 50740 contract to carry out the purposes and responsibilities of any
 50741 program of the department. The coverage authorized herein shall
 50742 be under the same general terms and conditions as the department
 50743 is insured for its responsibilities under chapter 284.

50744 Section 1558. Section 985.409, Florida Statutes, is



HB 1803

2003

50745 amended to read:

50746 985.409 Participation of certain programs in the State
 50747 Risk Management Trust Fund.--Pursuant to s. 284.30, the Division
 50748 of Risk Management of the Department of Financial Services
 50749 ~~Insurance~~ is authorized to insure a private agency, individual,
 50750 or corporation operating a state-owned training school under a
 50751 contract to carry out the purposes and responsibilities of any
 50752 program of the department. The coverage authorized herein shall
 50753 be under the same general terms and conditions as the department
 50754 is insured for its responsibilities under chapter 284.

50755 Section 1559. Paragraph (g) of subsection (6) of section
 50756 1000.05, Florida Statutes, is amended to read:

50757 1000.05 Discrimination against students and employees in
 50758 the Florida K-20 public education system prohibited; equality of
 50759 access required.--

50760 (6) The functions of the Office of Equal Educational
 50761 Opportunity of the Department of Education shall include, but
 50762 are not limited to:

50763 (g) Reporting to the Commissioner of Education any
 50764 district school board, community college board of trustees, or
 50765 state university board of trustees found to be out of compliance
 50766 with rules of the State Board of Education adopted as required
 50767 by paragraph (f) or paragraph (3)(d). To penalize the board,
 50768 the State Board of Education shall:

50769 1. Declare the educational agency ineligible for
 50770 competitive state grants.

50771 2. Notwithstanding the provisions of s. 216.192, direct
 50772 the Chief Financial Officer ~~Comptroller~~ to withhold general
 50773 revenue funds sufficient to obtain compliance from the
 50774 educational agency.



HB 1803

2003

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The educational agency shall remain ineligible and the funds shall not be paid until the agency comes into compliance or the State Board of Education approves a plan for compliance.

Section 1560. Paragraph (b) of subsection (4) of section 1001.23, Florida Statutes, is amended to read:

1001.23 Specific powers and duties of the Department of Education.--In addition to all other duties assigned to it by law or by rule of the State Board of Education, the department shall:

(4) After complying with the provisions of s. 257.37, the Department of Education may:

(b) Destroy general correspondence that is over 3 years old; records of bills, accounts, vouchers, and requisitions that are over 5 years old and copies of which have been filed with the Chief Financial Officer ~~Comptroller~~; and other records, papers, and documents over 3 years old that do not serve as part of an agreement or understanding and do not have value as permanent records.

Section 1561. Paragraph (b) of subsection (4) of section 1002.36, Florida Statutes, is amended to read:

1002.36 Florida School for the Deaf and the Blind.--

(4) BOARD OF TRUSTEES.--

(b) The board of trustees shall elect a chair annually. The trustees shall be reimbursed for travel expenses as provided in s. 112.061, the accounts of which shall be paid by the Chief Financial Officer ~~Treasurer~~ upon itemized vouchers duly approved by the chair.

Section 1562. Paragraph (g) of subsection (6) of section 1002.38, Florida Statutes, is amended to read:



HB 1803

2003

50805 1002.38 Opportunity Scholarship Program.--

50806 (6) OPPORTUNITY SCHOLARSHIP FUNDING AND PAYMENT.--

50807 (g) Upon proper documentation reviewed and approved by the
 50808 Department of Education, the Chief Financial Officer ~~Comptroller~~
 50809 shall make opportunity scholarship payments in four equal
 50810 amounts no later than September 1, November 1, February 1, and
 50811 April 1 of each academic year in which the opportunity
 50812 scholarship is in force. The initial payment shall be made after
 50813 Department of Education verification of admission acceptance,
 50814 and subsequent payments shall be made upon verification of
 50815 continued enrollment and attendance at the private school.
 50816 Payment must be by individual warrant made payable to the
 50817 student's parent and mailed by the Department of Education to
 50818 the private school of the parent's choice, and the parent shall
 50819 restrictively endorse the warrant to the private school.

50820 Section 1563. Paragraph (f) of subsection (6) of section
 50821 1002.39, Florida Statutes, is amended to read:

50822 1002.39 The John M. McKay Scholarships for Students with
 50823 Disabilities Program.--There is established a program that is
 50824 separate and distinct from the Opportunity Scholarship Program
 50825 and is named the John M. McKay Scholarships for Students with
 50826 Disabilities Program, pursuant to this section.

50827 (6) SCHOLARSHIP FUNDING AND PAYMENT.--

50828 (f) Upon proper documentation reviewed and approved by the
 50829 Department of Education, the Chief Financial Officer ~~Comptroller~~
 50830 shall make scholarship payments in four equal amounts no later
 50831 than September 1, November 1, February 1, and April 15 of each
 50832 academic year in which the scholarship is in force. The initial
 50833 payment shall be made after Department of Education verification
 50834 of admission acceptance, and subsequent payments shall be made



HB 1803

2003

50835 upon verification of continued enrollment and attendance at the
 50836 private school. Payment must be by individual warrant made
 50837 payable to the student's parent and mailed by the Department of
 50838 Education to the private school of the parent's choice, and the
 50839 parent shall restrictively endorse the warrant to the private
 50840 school for deposit into the account of the private school.

50841 Section 1564. Paragraph (b) of subsection (3) of section
 50842 1003.48, Florida Statutes, is amended to read:

50843 1003.48 Instruction in operation of motor vehicles.--
 50844 (3)

50845 (b) For the purpose of financing the Driver Education
 50846 Program in the secondary schools, there shall be levied an
 50847 additional 50 cents per year to the driver's license fee
 50848 required by s. 322.21. The additional fee shall be promptly
 50849 remitted to the Department of Highway Safety and Motor Vehicles,
 50850 which shall transmit the fee to the Chief Financial Officer
 50851 ~~Treasurer~~ to be deposited in the General Revenue Fund.

50852 Section 1565. Subsection (1) of section 1004.30, Florida
 50853 Statutes, is amended to read:

50854 1004.30 University health services support organization;
 50855 confidentiality of information.--

50856 (1) All meetings of a governing board of a university
 50857 health services support organization and all university health
 50858 services support organization records shall be open and
 50859 available to the public in accordance with s. 286.011 and s.
 50860 24(b), Art. I of the State Constitution and chapter 119 and s.
 50861 24(a), Art. I of the State Constitution, respectively, unless
 50862 made confidential or exempt by law. Records required by the
 50863 Department of Financial Services or the Office of Insurance
 50864 Regulation of the Financial Services Commission ~~Insurance~~ to



HB 1803

2003

50865 discharge their ~~its~~ duties shall be made available to the
50866 department upon request.

50867 Section 1566. Subsection (1) of section 1004.725, Florida
50868 Statutes, is amended to read:

50869 1004.725 Expenditures for self-insurance services; special
50870 account.--

50871 (1) The community college boards of trustees, singly or
50872 collectively, are authorized to contract with an administrator
50873 or service company approved ~~by the Department of Insurance~~
50874 pursuant to chapter 626 to provide self-insurance services,
50875 including, but not limited to, the evaluation, settlement, and
50876 payment of self-insurance claims on behalf of the board of
50877 trustees or a consortium of boards of trustees.

50878 Section 1567. Paragraph (c) of subsection (2) of section
50879 1006.29, Florida Statutes, is amended to read:

50880 1006.29 State instructional materials committees.--

50881 (2)

50882 (c) The district school board shall be reimbursed for the
50883 actual cost of substitute teachers for each workday that a
50884 member of its instructional staff is absent from his or her
50885 assigned duties for the purpose of rendering service to the
50886 state instructional materials committee. In addition, committee
50887 members shall be reimbursed for travel expenses and per diem in
50888 accordance with s. 112.061 for actual service in meetings of
50889 committees called by the commissioner. Payment of such travel
50890 expenses shall be made ~~by the Treasurer~~ from the appropriation
50891 for the administration of the instructional materials program,
50892 on warrants to be drawn by the Chief Financial Officer
50893 ~~Comptroller~~ upon requisition approved by the commissioner.

50894 Section 1568. Subsection (3) of section 1006.33, Florida



HB 1803

2003

50895 Statutes, is amended to read:

50896 1006.33 Bids or proposals; advertisement and its
 50897 contents.--

50898 (3) The department shall require each publisher or
 50899 manufacturer of instructional materials who submits a bid under
 50900 this part to deposit with the department such sum of money or
 50901 certified check as may be determined by the department, the
 50902 amount to be not less than \$500 and not more than \$2,500,
 50903 according to the number of instructional materials covered by
 50904 the bid, which deposit shall be forfeited to the state and
 50905 placed in the General Revenue Fund if the bidder making the
 50906 deposit fails or refuses to execute the contract and bond within
 50907 30 days after receipt of the contract in case his or her bid or
 50908 proposal is accepted. The commissioner shall, upon determining
 50909 that the deposit is correct and proper, transmit the deposit to
 50910 the Chief Financial Officer ~~Treasurer~~, who shall deposit the
 50911 funds for credit to the Textbook Bid Trust Fund and issue his or
 50912 her official receipt.

50913 Section 1569. Subsections (5) and (6) of section 1006.34,
 50914 Florida Statutes, are amended to read:

50915 1006.34 Powers and duties of the commissioner and the
 50916 department in selecting and adopting instructional materials.--

50917 (5) RETURN OF DEPOSITS.--

50918 (a) The successful bidder shall be notified by registered
 50919 mail of the award of contract and shall, within 30 days after
 50920 receipt of the contract, execute the proper contract and post
 50921 the required bond. When the bond and contract have been
 50922 executed, the department shall notify the Chief Financial
 50923 Officer ~~Comptroller~~ and request that a warrant be issued against
 50924 the Textbook Bid Trust Fund payable to the successful bidder in



HB 1803

2003

50925 the amount deposited pursuant to this part. The Chief Financial
 50926 Officer ~~Comptroller~~ shall issue and forward the warrant to the
 50927 department for distribution to the bidder.

50928 (b) At the same time or prior thereto, the department
 50929 shall inform the Chief Financial Officer ~~Comptroller~~ of the
 50930 names of the unsuccessful bidders. Upon receipt of such notice,
 50931 the Chief Financial Officer ~~Comptroller~~ shall issue warrants
 50932 against the Textbook Bid Trust Fund payable to the unsuccessful
 50933 bidders in the amounts deposited pursuant to this part and shall
 50934 forward the warrants to the department for distribution to the
 50935 unsuccessful bidders.

50936 (c) One copy of each contract and an original of each bid,
 50937 whether accepted or rejected, shall be preserved with the
 50938 department for at least 3 years after the termination of the
 50939 contract.

50940 (6) DEPOSITS FORFEITED.--If any successful bidder fails or
 50941 refuses to execute contract and bond within 30 days after
 50942 receipt of the contract, the cash deposit shall be forfeited to
 50943 the state and placed by the Chief Financial Officer ~~Treasurer~~ in
 50944 the General Revenue Fund.

50945 Section 1570. Subsection (3) of section 1006.39, Florida
 50946 Statutes, is amended to read:

50947 1006.39 Production and dissemination of educational
 50948 materials and products by department.--

50949 (3) All proceeds from the sale of educational materials
 50950 and products shall be remitted to the Chief Financial Officer
 50951 ~~Treasurer~~ and shall be kept in a separate fund to be known as
 50952 the "Educational Media and Technology Trust Fund" and, when
 50953 properly budgeted as approved by the Legislature and the
 50954 Executive Office of the Governor, used to pay the cost of



HB 1803

2003

50955 producing and disseminating educational materials and products.

50956 Section 1571. Subsection (4) of section 1008.33, Florida
 50957 Statutes, is amended to read:

50958 1008.33 Authority to enforce public school improvement.--
 50959 It is the intent of the Legislature that all public schools be
 50960 held accountable for students performing at acceptable levels.
 50961 A system of school improvement and accountability that assesses
 50962 student performance by school, identifies schools in which
 50963 students are not making adequate progress toward state
 50964 standards, institutes appropriate measures for enforcing
 50965 improvement, and provides rewards and sanctions based on
 50966 performance shall be the responsibility of the State Board of
 50967 Education.

50968 (4) The State Board of Education may require the
 50969 Department of Education or Chief Financial Officer ~~Comptroller~~
 50970 to withhold any transfer of state funds to the school district
 50971 if, within the timeframe specified in state board action, the
 50972 school district has failed to comply with the action ordered to
 50973 improve the district's low-performing schools. Withholding the
 50974 transfer of funds shall occur only after all other recommended
 50975 actions for school improvement have failed to improve
 50976 performance. The State Board of Education may impose the same
 50977 penalty on any district school board that fails to develop and
 50978 implement a plan for assistance and intervention for low-
 50979 performing schools as specified in s. 1001.42(16)(c).

50980 Section 1572. Subsection (2) of section 1009.265, Florida
 50981 Statutes, is amended to read:

50982 1009.265 State employee fee waivers.--

50983 (2) The Chief Financial Officer ~~Comptroller~~, in
 50984 cooperation with the community colleges and state universities,



HB 1803

2003

50985 shall identify and implement ways to ease the administrative
 50986 burden to community colleges and state universities, including,
 50987 but not limited to, providing easier access to verify state
 50988 employment.

50989 Section 1573. Section 1009.54, Florida Statutes, is
 50990 amended to read:

50991 1009.54 Critical Teacher Shortage Program.--There is
 50992 created the Critical Teacher Shortage Program. Funds
 50993 appropriated by the Legislature for the program shall be
 50994 deposited in the State Student Financial Assistance Trust Fund.
 50995 The Chief Financial Officer ~~Comptroller~~ shall authorize
 50996 expenditures from the trust fund upon receipt of vouchers
 50997 approved by the Department of Education for the critical teacher
 50998 shortage programs established in s. 1009.57, s. 1009.58, or s.
 50999 1009.59. The Chief Financial Officer ~~Comptroller~~ shall also
 51000 authorize expenditures from the trust fund for the "Chappie"
 51001 James Most Promising Teacher Scholarship Loan Program and the
 51002 Critical Teacher Shortage Scholarship Loan Program recipients
 51003 who participated in these programs prior to July 1, 1993,
 51004 provided that such students continue to meet the renewal
 51005 eligibility requirements that were in effect at the time that
 51006 their original awards were made. Students who participated in
 51007 the "Chappie" James Most Promising Teacher Scholarship Loan
 51008 Program prior to July 1, 1993, shall not have their awards
 51009 reduced as a result of the addition of new students to the
 51010 program. All scholarship loan repayments pursuant to s. 1009.57
 51011 shall be deposited into the State Student Financial Assistance
 51012 Trust Fund. Any remaining balance at the end of any fiscal year
 51013 that has been allocated to the program shall remain in the trust
 51014 fund and be available for the individual programs in future



HB 1803

2003

51015 years.

51016 Section 1574. Subsection (4) of section 1009.56, Florida
 51017 Statutes, is amended to read:

51018 1009.56 Seminole and Miccosukee Indian Scholarships.--

51019 (4) The amount of the scholarship shall be determined by
 51020 the Seminole Tribe of Florida or the Miccosukee Tribe of Indians
 51021 of Florida, for its respective applicants, within the amount of
 51022 funds appropriated for this purpose. The amount shall be
 51023 prorated accordingly for part-time students. At the beginning of
 51024 each semester or quarter, the department shall certify the name
 51025 of each scholarship holder eligible to receive funds for that
 51026 registration period to the Chief Financial Officer ~~Comptroller~~,
 51027 who shall draw a warrant in favor of each scholarship recipient.
 51028 Each recipient shall be eligible to have the scholarship renewed
 51029 from year to year, provided all academic and other requirements
 51030 of the college or university and rules established by the State
 51031 Board of Education are met.

51032 Section 1575. Subsection (5) of section 1009.66, Florida
 51033 Statutes, is amended, and effective July 1, 2003, paragraph (b)
 51034 of subsection (7) of said section, as amended by section 3 of
 51035 chapter 2002-400, Laws of Florida, and section 71 of chapter
 51036 2002-402, Laws of Florida, is amended, to read:

51037 1009.66 Nursing Student Loan Forgiveness Program.--

51038 (5) There is created the Nursing Student Loan Forgiveness
 51039 Trust Fund to be administered by the Department of Health
 51040 pursuant to this section and s. 1009.67 and department rules.
 51041 The Chief Financial Officer ~~Comptroller~~ shall authorize
 51042 expenditures from the trust fund upon receipt of vouchers
 51043 approved by the Department of Health. All moneys collected from
 51044 the private health care industry and other private sources for



HB 1803

2003

51045 the purposes of this section shall be deposited into the Nursing
 51046 Student Loan Forgiveness Trust Fund. Any balance in the trust
 51047 fund at the end of any fiscal year shall remain therein and
 51048 shall be available for carrying out the purposes of this section
 51049 and s. 1009.67.

51050 (7)

51051 (b) All Nursing Student Loan Forgiveness Trust Fund moneys
 51052 shall be invested pursuant to s. 17.61 ~~18.125~~. Interest income
 51053 accruing to that portion of the trust fund not matched shall
 51054 increase the total funds available for loan forgiveness and
 51055 scholarships. Pledged contributions shall not be eligible for
 51056 matching prior to the actual collection of the total private
 51057 contribution for the year.

51058 Section 1576. Subsections (2) and (3) of section 1009.72,
 51059 Florida Statutes, are amended to read:

51060 1009.72 Jose Marti Scholarship Challenge Grant Program.--

51061 (2) Funds appropriated by the Legislature for the program
 51062 shall be deposited in the State Student Financial Assistance
 51063 Trust Fund. The Chief Financial Officer ~~Comptroller~~ shall
 51064 authorize expenditures from the trust fund upon receipt of
 51065 vouchers approved by the Department of Education. All moneys
 51066 collected from private sources for the purposes of this section
 51067 shall be deposited into the trust fund. Any balance in the trust
 51068 fund at the end of any fiscal year that has been allocated to
 51069 the program shall remain therein and shall be available for
 51070 carrying out the purposes of the program.

51071 (3) The Legislature shall designate funds to be
 51072 transferred to the trust fund for the program from the General
 51073 Revenue Fund. Such funds shall be divided into challenge grants
 51074 to be administered by the Department of Education. All



HB 1803

2003

51075 appropriated funds deposited into the trust fund for the program
 51076 shall be invested pursuant to the provisions of s. 17.61 ~~18.125~~.
 51077 Interest income accruing to that portion of the funds that are
 51078 allocated to the program in the trust fund and not matched shall
 51079 increase the total funds available for the program.

51080 Section 1577. Subsections (2) and (3) of section 1009.73,
 51081 Florida Statutes, are amended to read:

51082 1009.73 Mary McLeod Bethune Scholarship Program.--

51083 (2) Funds appropriated by the Legislature for the program
 51084 shall be deposited in the State Student Financial Assistance
 51085 Trust Fund. The Chief Financial Officer ~~Comptroller~~ shall
 51086 authorize expenditures from the trust fund upon receipt of
 51087 vouchers approved by the Department of Education. The Department
 51088 of Education shall receive all moneys collected from private
 51089 sources for the purposes of this section and shall deposit such
 51090 moneys into the trust fund. Notwithstanding the provisions of s.
 51091 216.301 and pursuant to s. 216.351, any balance in the trust
 51092 fund at the end of any fiscal year that has been allocated to
 51093 the program shall remain in the trust fund and shall be
 51094 available for carrying out the purposes of the program.

51095 (3) The Legislature shall appropriate moneys to the trust
 51096 fund for the program from the General Revenue Fund. Such moneys
 51097 shall be applied to scholarships to be administered by the
 51098 Department of Education. All moneys deposited into the trust
 51099 fund for the program shall be invested pursuant to the
 51100 provisions of s. 17.61 ~~18.125~~. Interest income accruing to the
 51101 program shall be expended to increase the total moneys available
 51102 for scholarships.

51103 Section 1578. Section 1009.765, Florida Statutes, is
 51104 amended to read:



HB 1803

2003

51105 1009.765 Ethics in Business scholarships for community
 51106 colleges and independent postsecondary educational
 51107 institutions.--When the Department of Insurance or the Office of
 51108 Insurance Regulation of the Financial Services Commission
 51109 receives a \$6 million settlement as specified in the Consent
 51110 Order of the Treasurer and Insurance Commissioner, case number
 51111 18900-96-c, that portion of the \$6 million not used to satisfy
 51112 the requirements of section 18 of the Consent Order must be
 51113 transferred from the Insurance ~~Commissioner's~~ Regulatory Trust
 51114 Fund to the State Student Financial Assistance Trust Fund is
 51115 appropriated from the State Student Financial Assistance Trust
 51116 Fund to provide Ethics in Business scholarships to students
 51117 enrolled in public community colleges and independent
 51118 postsecondary educational institutions eligible to participate
 51119 in the William L. Boyd, IV, Florida Resident Access Grant
 51120 Program under s. 1009.89. The funds shall be allocated to
 51121 institutions for scholarships in the following ratio: Two-thirds
 51122 for community colleges and one-third for eligible independent
 51123 institutions. The Department of Education shall administer the
 51124 scholarship program for students attending community colleges
 51125 and independent institutions. These funds must be allocated to
 51126 institutions that provide an equal amount of matching funds
 51127 generated by private donors for the purpose of providing Ethics
 51128 in Business scholarships. Public funds may not be used to
 51129 provide the match, nor may funds collected for other purposes.
 51130 Notwithstanding any other provision of law, the State Board of
 51131 Administration shall have the authority to invest the funds
 51132 appropriated under this section. The Department of Education may
 51133 adopt rules for administration of the program.

51134 Section 1579. Subsection (8) of section 1009.77, Florida



HB 1803

2003

51135 Statutes, is amended to read:

51136 1009.77 Florida Work Experience Program.--

51137 (8) Funds appropriated by the Legislature for the Florida
 51138 Work Experience Program shall be deposited in the State Student
 51139 Financial Assistance Trust Fund. The Chief Financial Officer
 51140 ~~Comptroller~~ shall authorize expenditures from the trust fund
 51141 upon receipt of vouchers approved by the Department of
 51142 Education. Any balance therein at the end of any fiscal year
 51143 that has been allocated to the program shall remain therein and
 51144 shall be available for carrying out the purposes of the program.

51145 Section 1580. Paragraph (d) of subsection (5) of section
 51146 1009.971, Florida Statutes, is amended to read:

51147 1009.971 Florida Prepaid College Board.--

51148 (5) FLORIDA PREPAID COLLEGE BOARD; CONTRACTUAL SERVICES.--
 51149 The board shall solicit proposals and contract, pursuant to s.
 51150 287.057, for:

51151 (d) Investment managers to provide investment portfolios
 51152 for the prepaid program or the savings program. Investment
 51153 managers shall be limited to authorized insurers as defined in
 51154 s. 624.09, banks as defined in s. 658.12, associations as
 51155 defined in s. 665.012, authorized Securities and Exchange
 51156 Commission investment advisers, and investment companies as
 51157 defined in the Investment Company Act of 1940. All investment
 51158 managers shall have their principal place of business and
 51159 corporate charter located and registered in the United States.
 51160 In addition, each investment manager shall agree to meet the
 51161 obligations of the board to qualified beneficiaries if moneys in
 51162 the fund fail to offset the obligations of the board as a result
 51163 of imprudent investing by such provider. Each authorized insurer
 51164 shall evidence superior performance overall on an acceptable



HB 1803

2003

51165 level of surety in meeting its obligations to its policyholders
 51166 and other contractual obligations. Only qualified public
 51167 depositories approved by the Chief Financial Officer Insurance
 51168 ~~Commissioner and Treasurer~~ shall be eligible for board
 51169 consideration. Each investment company shall provide investment
 51170 plans as specified within the request for proposals.

51171
 51172 The goals of the board in procuring such services shall be to
 51173 provide all purchasers and benefactors with the most secure,
 51174 well-diversified, and beneficially administered prepaid program
 51175 or savings program possible, to allow all qualified firms
 51176 interested in providing such services equal consideration, and
 51177 to provide such services to the state at no cost and to the
 51178 purchasers and benefactors at the lowest cost possible.
 51179 Evaluations of proposals submitted pursuant to this subsection
 51180 shall include, but not be limited to, fees and other costs that
 51181 are charged to purchasers or benefactors that affect account
 51182 values, or that impact the operational costs of the prepaid
 51183 program or the savings program; past experience and past
 51184 performance in providing the required services; financial
 51185 history and current financial strength and capital adequacy to
 51186 provide the required services; and capabilities and experience
 51187 of the proposed personnel that will provide the required
 51188 services.

51189 Section 1581. Subsection (4) of section 1009.972, Florida
 51190 Statutes, is amended to read:

51191 1009.972 Florida Prepaid College Trust Fund.--

51192 (4) Any balance contained within the trust fund, and
 51193 within each fund in the trust fund, at the end of a fiscal year
 51194 shall remain therein and shall be available for carrying out the



HB 1803

2003

51195 purposes of each respective program and the direct-support
 51196 organization established pursuant to s. 1009.983. Moneys
 51197 contained within the trust fund shall be exempt from the
 51198 investment requirements of s. 17.57 ~~18.10~~. All funds deposited
 51199 in the prepaid fund may be invested pursuant to s. 215.47. Any
 51200 funds of a direct-support organization created pursuant to s.
 51201 1009.983 shall be exempt from the provisions of this section.

51202 Section 1582. Subsection (4) of section 1010.56, Florida
 51203 Statutes, is amended to read:

51204 1010.56 Board of Administration to act as fiscal agent in
 51205 issuance and sale of motor vehicle anticipation certificates.--

51206 (4) The proceeds of any sale of original bonds or original
 51207 certificates shall be deposited in the State Treasury to the
 51208 credit of the particular construction account for which the
 51209 original bonds or original certificates were issued and shall be
 51210 under the direct control and supervision of the State Board of
 51211 Education, and withdrawals from such construction accounts shall
 51212 be made only upon warrants signed by the Chief Financial Officer
 51213 ~~Comptroller and drawn upon the Treasurer~~. Such warrants shall be
 51214 issued by the Chief Financial Officer ~~Comptroller~~ only when the
 51215 vouchers requesting such warrants are accompanied by the
 51216 certificates of the State Board of Education to the effect that
 51217 such withdrawals are proper expenditures for the cost of the
 51218 particular construction account against which the requested
 51219 warrants are to be drawn.

51220 Section 1583. Section 1010.74, Florida Statutes, is
 51221 amended to read:

51222 1010.74 Educational Certification and Services Trust
 51223 Fund.--The proceeds from the collection of certification fees,
 51224 fines, penalties, and costs levied pursuant to s. 1012.59 shall



HB 1803

2003

51225 be remitted by the Department of Education to the Chief
 51226 Financial Officer ~~Treasurer~~ for deposit into and disbursed from
 51227 the "Educational Certification and Services Trust Fund" as re-
 51228 created by chapter 99-31, Laws of Florida.

51229 Section 1584. Section 1010.75, Florida Statutes, is
 51230 amended to read:

51231 1010.75 Teacher Certification Examination Trust Fund.--The
 51232 proceeds for the certification examination fee levied pursuant
 51233 to s. 1012.59 shall be remitted by the Department of Education
 51234 to the Chief Financial Officer ~~Treasurer~~ for deposit into and
 51235 disbursed for the "Teacher Certification Examination Trust Fund"
 51236 as re-created by chapter 99-28, Laws of Florida.

51237 Section 1585. Subsection (2) of section 1011.10, Florida
 51238 Statutes, is amended to read:

51239 1011.10 Penalty.--

51240 (2) Each member of any district school board voting to
 51241 incur an indebtedness against the district school funds in
 51242 excess of the expenditure allowed by law, or in excess of any
 51243 appropriation as adopted in the original official budget or
 51244 amendments thereto, or to approve or pay any illegal charge
 51245 against the funds, and any chair of a district school board or
 51246 district school superintendent who signs a warrant for payment
 51247 of any such claim or bill of indebtedness against any of the
 51248 funds shall be personally liable for the amount, and shall be
 51249 guilty of malfeasance in office and subject to removal by the
 51250 Governor. It shall be the duty of the Auditor General, other
 51251 state officials, or independent certified public accountants
 51252 charged by law with the responsibility for auditing school
 51253 accounts, upon discovering any such illegal expenditure or
 51254 expenditures in excess of the appropriations in the budget as



HB 1803

2003

51255 | officially amended, to certify such fact to the Department of
 51256 | Financial Services ~~Banking and Finance~~, which thereupon shall
 51257 | verify such fact and it shall be the duty of the Department of
 51258 | Financial Services ~~Banking and Finance~~ to advise the Department
 51259 | of Legal Affairs thereof, and it shall be the duty of the
 51260 | Department of Legal Affairs to cause to be instituted and
 51261 | prosecuted, either through its office or through any state
 51262 | attorney, proceedings at law or in equity against such member or
 51263 | members of a district school board or district school
 51264 | superintendent. If either of the officers does not institute
 51265 | proceedings within 90 days after the audit has been certified to
 51266 | them by the Department of Financial Services ~~Banking and~~
 51267 | ~~Finance~~, any taxpayer may institute suit in his or her own name
 51268 | on behalf of the district.

51269 | Section 1586. Section 1011.17, Florida Statutes, is
 51270 | amended to read:

51271 | 1011.17 School funds to be paid to Chief Financial Officer
 51272 | ~~Treasurer~~ or into depository.--

51273 | (1) Every tax collector or other person having moneys
 51274 | which by law go to any district school fund shall at least once
 51275 | each month pay the same over to the depository or depositories
 51276 | designated by the district school board for such purpose, and
 51277 | shall provide said board with confirmation of the deposit. Every
 51278 | officer having moneys which by law go to any state school fund
 51279 | shall pay the same to the Chief Financial Officer ~~Treasurer~~ of
 51280 | the state, and the Chief Financial Officer ~~Treasurer~~ shall see
 51281 | that these moneys are deposited to the credit of the proper
 51282 | state school fund.

51283 | (2) The district school board shall have the authority to
 51284 | designate that funds due it be placed for investment for its



HB 1803

2003

51285 account with the State Board of Administration rather than be
 51286 deposited, and said board may direct those persons having moneys
 51287 due it or due any state school fund to pay out such funds to the
 51288 State Board of Administration to make authorized investments for
 51289 its account.

51290 Section 1587. Paragraph (b) of subsection (6) of section
 51291 1011.18, Florida Statutes, is amended to read:

51292 1011.18 School depositories; payments into and withdrawals
 51293 from depositories.--

51294 (6) EXEMPTION FOR SELF-INSURANCE PROGRAMS AND THIRD-PARTY
 51295 ADMINISTERED EMPLOYEES' FRINGE BENEFIT PROGRAMS.--

51296 (b) The district school board may contract with an
 51297 insurance company or professional administrator who holds a
 51298 valid certificate of authority issued by the Office of Insurance
 51299 Regulation of the Financial Services Commission ~~Department of~~
 51300 ~~Insurance~~ to provide any or all services that a third-party
 51301 administrator is authorized by law to perform. Pursuant to such
 51302 contract, the district school board may advance or remit money
 51303 to the administrator to be deposited in a designated special
 51304 checking account for paying claims against the district school
 51305 board under its self-insurance programs, and remitting premiums
 51306 to the providers of insured benefits on behalf of the district
 51307 school board and the participants in such programs, and
 51308 otherwise fulfilling the obligations imposed upon the
 51309 administrator by law and the contractual agreements between the
 51310 district school board and the administrator. The special
 51311 checking account shall be maintained in a designated district
 51312 school depository. The district school board may replenish such
 51313 account as often as necessary upon the presentation by the
 51314 service organization of documentation for claims or premiums due



HB 1803

2003

51315 | paid equal to the amount of the requested reimbursement. Such
 51316 | replenishment shall be made by a warrant signed by the chair of
 51317 | the district school board and countersigned by the district
 51318 | school superintendent. Such replenishment may be made by
 51319 | electronic, telephonic, or other medium, and each transfer shall
 51320 | be confirmed in writing and signed by the district school
 51321 | superintendent or his or her designee. The provisions of strict
 51322 | accountability of all funds and an annual audit by an
 51323 | independent certified public accountant as provided in s.
 51324 | 1001.42(10)(k) shall apply to this subsection.

51325 | Section 1588. Section 1011.4105, Florida Statutes, is
 51326 | amended to read:

51327 | 1011.4105 Transition from state accounting system (FLAIR)
 51328 | to university accounting system.--

51329 | (1) Universities and colleges under the supervision of the
 51330 | State Board of Education shall use the state accounting system
 51331 | (FLAIR) for fiscal year 2002-2003. The universities shall not be
 51332 | required to provide funds to the Department of Financial
 51333 | Services ~~Banking and Finance~~ for the utilization of FLAIR.

51334 | (2) Beginning with the 2003-2004 fiscal year, any
 51335 | university may transition from FLAIR to the university's
 51336 | accounting system.

51337 | (3) To accomplish the transition from FLAIR to a
 51338 | university's accounting system, the university board of trustees
 51339 | must submit to the State Board of Education a plan developed in
 51340 | cooperation with the ~~State Comptroller~~(Chief Financial Officer).
 51341 | The plan must contain the actions the university will take, or
 51342 | has taken, to implement this transition. The plan must provide
 51343 | time lines for completion of actions and the target date the
 51344 | university will have implemented and tested parallel systems



HB 1803

2003

51345 with appropriate audit and internal controls in place that will
 51346 enable the university to satisfactorily and timely perform all
 51347 accounting and reporting functions required by state and federal
 51348 law and rules of the State Board of Education.

51349 (4) When a university is ready to transition from FLAIR to
 51350 its own system, the State Board of Education shall verify that
 51351 the system the university has implemented and tested is adequate
 51352 for the university, the university has appropriate audit and
 51353 internal controls in place, the university has the resources
 51354 required to operate and maintain the system, and that the
 51355 university and the ~~State Comptroller~~ (Chief Financial Officer)
 51356 are prepared to implement the transition. The State Board of
 51357 Education shall submit to the Executive Office of the Governor
 51358 and the chairs of the appropriations committees of the Senate
 51359 and House of Representatives confirmation of this verification
 51360 and the date the transition will be effective. Transition for
 51361 any university shall not take place until after the State Board
 51362 of Education has submitted this confirmation.

51363 (5) The State Board of Education in cooperation with each
 51364 university and the Department of Financial Services ~~Banking and~~
 51365 ~~Finance~~ shall develop a plan and establish the deadline for all
 51366 universities to have completed the transition from FLAIR. The
 51367 board shall submit a copy of this plan to the Executive Office
 51368 of the Governor and the chairs of the appropriations committees
 51369 of the Senate and House of Representatives.

51370 Section 1589. Subsection (2) of section 1011.57, Florida
 51371 Statutes, is amended to read:

51372 1011.57 Florida School for the Deaf and the Blind; board
 51373 of trustees; management flexibility.--

51374 (2) Notwithstanding the provisions of s. 216.181 and



HB 1803

2003

51375 | pursuant to the provisions of s. 216.351, but subject to any
 51376 | requirements imposed in the General Appropriations Act, no lump-
 51377 | sum plan is required to implement the special categories,
 51378 | program categories, or lump-sum appropriations. Upon release of
 51379 | the special categories, program categories, or lump-sum
 51380 | appropriations to the board of trustees, the Chief Financial
 51381 | Officer ~~Comptroller~~, upon the request of the board of trustees,
 51382 | shall transfer or reallocate funds to or among accounts
 51383 | established for disbursement purposes. The board of trustees
 51384 | shall maintain records to account for the original
 51385 | appropriation.

51386 | Section 1590. Subsection (1) of section 1011.94, Florida
 51387 | Statutes, is amended to read:

51388 | 1011.94 Trust Fund for University Major Gifts.--

51389 | (1) There is established a Trust Fund for University Major
 51390 | Gifts. The purpose of the trust fund is to enable each
 51391 | university and New College to provide donors with an incentive
 51392 | in the form of matching grants for donations for the
 51393 | establishment of permanent endowments and sales tax exemption
 51394 | matching funds received pursuant to s. 212.08(5)(j), which must
 51395 | be invested, with the proceeds of the investment used to support
 51396 | libraries and instruction and research programs, as defined by
 51397 | the State Board of Education. All funds appropriated for the
 51398 | challenge grants, new donors, major gifts, sales tax exemption
 51399 | matching funds pursuant to s. 212.08(5)(j), or eminent scholars
 51400 | program must be deposited into the trust fund and invested
 51401 | pursuant to s. 17.61 ~~18.125~~ until the State Board of Education
 51402 | allocates the funds to universities to match private donations.
 51403 | Notwithstanding s. 216.301 and pursuant to s. 216.351, any
 51404 | undisbursed balance remaining in the trust fund and interest



HB 1803

2003

51405 income accruing to the portion of the trust fund which is not
 51406 matched and distributed to universities must remain in the trust
 51407 fund and be used to increase the total funds available for
 51408 challenge grants. Funds deposited in the trust fund for the
 51409 sales tax exemption matching program authorized in s.
 51410 212.08(5)(j), and interest earnings thereon, shall be maintained
 51411 in a separate account within the Trust Fund for University Major
 51412 Gifts, and may be used only to match qualified sales tax
 51413 exemptions that a certified business designates for use by state
 51414 universities and community colleges to support research and
 51415 development projects requested by the certified business. The
 51416 State Board of Education may authorize any university to
 51417 encumber the state matching portion of a challenge grant from
 51418 funds available under s. 1011.45.

51419 Section 1591. Subsection (2) of section 1012.59, Florida
 51420 Statutes, is amended to read:

51421 1012.59 Certification fees.--

51422 (2) The proceeds from the collection of certification
 51423 fees, fines, penalties, and costs levied pursuant to this
 51424 chapter shall be remitted by the Department of Education to the
 51425 Chief Financial Officer ~~Treasurer~~ for deposit into a separate
 51426 fund to be known as the "Educational Certification and Service
 51427 Trust Fund" and disbursed for the payment of expenses incurred
 51428 by the Educational Practices Commission and in the printing of
 51429 forms and bulletins and the issuing of certificates, upon
 51430 vouchers approved by the department.

51431 Section 1592. Subsection (9) of section 1012.79, Florida
 51432 Statutes, is amended to read:

51433 1012.79 Education Practices Commission; organization.--

51434 (9) The commission shall make such expenditures as may be



HB 1803

2003

51435 necessary in exercising its authority and powers and carrying
 51436 out its duties and responsibilities, including expenditures for
 51437 personal services, general counsel or access to counsel, and
 51438 rent at the seat of government and elsewhere; for books of
 51439 reference, periodicals, furniture, equipment, and supplies; and
 51440 for printing and binding. The expenditures of the commission
 51441 shall be subject to the powers and duties of the Department of
 51442 Financial Services ~~Banking and Finance~~ as provided in s. 17.03.

51443 Section 1593. Subsection (3) of section 1013.79, Florida
 51444 Statutes, is amended to read:

51445 1013.79 University Facility Enhancement Challenge Grant
 51446 Program.--

51447 (3) There is established the Alec P. Courtelis Capital
 51448 Facilities Matching Trust Fund for the purpose of providing
 51449 matching funds from private contributions for the development of
 51450 high priority instructional and research-related capital
 51451 facilities, including common areas connecting such facilities,
 51452 within a university. The Legislature shall appropriate funds to
 51453 be transferred to the trust fund. The Public Education Capital
 51454 Outlay and Debt Service Trust Fund, Capital Improvement Trust
 51455 Fund, Division of Sponsored Research Trust Fund, and Contracts
 51456 and Grants Trust Fund shall not be used as the source of the
 51457 state match for private contributions. All appropriated funds
 51458 deposited into the trust fund shall be invested pursuant to the
 51459 provisions of s. 17.61 ~~18.125~~. Interest income accruing to that
 51460 portion of the trust fund shall increase the total funds
 51461 available for the challenge grant program. Interest income
 51462 accruing from the private donations shall be returned to the
 51463 participating foundation upon completion of the project. The



HB 1803

2003

51464 State Board of Education shall administer the trust fund and all
51465 related construction activities.

51466 Section 1594. Paragraph (c) of subsection (7) and
51467 subsection (17) of section 288.99, Florida Statutes, are amended
51468 to read:

51469 288.99 Certified Capital Company Act.--

51470 (7) ANNUAL TAX CREDIT; MAXIMUM AMOUNT; ALLOCATION
51471 PROCESS.--

51472 (c) Each certified capital company must apply to the
51473 office for an allocation of premium tax credits for potential
51474 certified investors on a form developed by the office with the
51475 cooperation of the Department of Revenue. The form shall be
51476 accompanied by an affidavit from each potential certified
51477 investor confirming that the potential certified investor has
51478 agreed to make an investment of certified capital in a certified
51479 capital company up to a specified amount, subject only to the
51480 receipt of a premium tax credit allocation pursuant to this
51481 subsection. No certified capital company shall submit premium
51482 tax allocation claims on behalf of certified investors that in
51483 the aggregate would exceed the total dollar amount set forth in
51484 this subsection ~~appropriated by the Legislature for a the~~
51485 specific program. No allocation shall be made to the potential
51486 investors of a certified capital company under Program Two
51487 unless such certified capital company has filed premium tax
51488 allocation claims of not less than \$15 million in the aggregate.

51489 (17) Notwithstanding the limitations set forth in
51490 paragraph (7)(a), in the first fiscal year in which the total
51491 insurance premium tax collections as determined by the Revenue
51492 Estimating Conference exceed collections for fiscal year 2000-
51493 2001 by more than the total amount of tax credits issued



HB 1803

2003

51494 pursuant to this section which were used by certified investors
51495 in that year, the office shall ~~may~~ allocate to certified
51496 investors in accordance with paragraph (7)(a) tax credits for
51497 Program Two. The department shall establish, by rule, a date and
51498 procedures by which certified capital companies must file
51499 applications for allocations of such additional premium tax
51500 credits, which date shall be no later than 180 days from the
51501 date of determination by the Revenue Estimating Conference. With
51502 respect to new certified capital invested and premium tax
51503 credits earned pursuant to this subsection, the schedule
51504 specified in subparagraphs (5)(a)1.-4. is satisfied by
51505 investments by December 31 of the 2nd, 3rd, 4th, and 5th
51506 calendar year, respectively, after the date established by the
51507 department for applications of additional premium tax credits.
51508 The department shall adopt rules by which an entity not already
51509 certified as a certified capital company may apply for
51510 certification as a certified capital company for participation
51511 in this additional allocation. The insurance premium tax credit
51512 authorized by Program Two may not be used by certified investors
51513 until the annual return due March 1, 2006 ~~2004~~, and ~~may be used~~
51514 ~~on all subsequent returns and estimated payments; however,~~
51515 ~~notwithstanding the provisions of s. 624.5092(2)(b), the~~
51516 ~~installments of taxes due and payable on April 15, 2004, and~~
51517 ~~June 15, 2004, shall be based on the net tax due in 2003 not~~
51518 ~~taking into account credits granted pursuant to this section for~~
51519 ~~Program Two.~~

51520 Section 1595. This act shall not affect the validity of
51521 any administrative or judicial action involving the Department
51522 of Banking and Finance or the Department of Insurance occurring
51523 prior to, or pending on, January 7, 2003, and the Department of



HB 1803

2003

51524 Financial Services or the Financial Services Commission, or the
51525 respective office, shall be substituted as a party in interest
51526 on any such pending action.

51527 Section 1596. Any certificate of authority, license, form,
51528 rate, or other filing or action that was approved or authorized
51529 by the Department of Insurance or the Department of Banking and
51530 Finance, or that was otherwise lawfully in use prior to January
51531 7, 2003, may continue to be used or be effective as originally
51532 authorized or permitted, until the Chief Financial Officer, the
51533 Department of Financial Services, the Financial Services
51534 Commission, or either of the respective offices, otherwise
51535 prescribes.

51536 Section 1597. This act shall not affect the running of any
51537 time period under s. 716.07(1), s. 732.107(3), s. 733.816(3), or
51538 s. 744.534(2)(c), Florida Statutes.

51539 Section 1598. Sections 17.06, 18.03, 18.09, 18.22, 20.12,
51540 20.13, 440.135, 624.4071, 624.463, 627.3516, 627.7825, 657.067,
51541 657.25, 657.251, 657.252, 657.253, 657.254, 657.256, 657.257,
51542 657.258, 657.259, 657.260, 657.261, 657.262, 657.263, 657.264,
51543 657.265, 657.266, 657.267, 657.268, and 657.269, Florida
51544 Statutes, are repealed.

51545 Section 1599. In the event of any conflict between any
51546 provision of this act and any provision of other legislation
51547 enacted during the 2003 Regular Session, the provisions of this
51548 act shall control.

51549 Section 1600. Except as otherwise provided in this act,
51550 this act shall take effect upon becoming a law and shall operate
51551 retroactively to January 7, 2003.