

By Senator Baker

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1                                   A bill to be entitled  
2           An act relating to title insurance; amending s.  
3           20.121, F.S.; creating the Division of Title Insurance  
4           in the Department of Financial Services; creating part  
5           I of ch. 637, F.S.; providing for administration of  
6           title insurance and general provisions; providing a  
7           short title; providing legislative findings, purposes,  
8           and intent; creating the Division of Title Insurance  
9           within the Department of Financial Services; providing  
10          powers and duties; providing for appointment of a  
11          division director; establishing the Bureau of Title  
12          Insurance Premium Rates and Forms and the Bureau of  
13          Title Insurance Licensing and Education within the  
14          division; providing definitions; preempting to the  
15          state the regulation of title insurance, title  
16          insurers, and title insurance agencies; providing for  
17          nonapplication of certain chapters; duplicating in ch.  
18          637, F.S., certain provisions of chs. 624, 625, 626,  
19          and 628, F.S., relating to insurance and making such  
20          provisions applicable to title insurance, title  
21          insurers, title insurance agents, and title insurance  
22          agencies; creating s. 637.10335, F.S.; providing for  
23          civil remedies against title insurers; providing  
24          procedures, requirements, and limitations; providing  
25          for award of damages, court costs, and attorney fees;  
26          prohibiting punitive damages under certain  
27          circumstances; providing construction prohibitions;  
28          preserving certain remedies and causes of action;  
29          creating s. 637.10435, F.S.; providing a Policyholders

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30 Bill of Rights; specifying principles; providing a  
31 construction prohibition; creating s. 637.10445, F.S.;  
32 providing procedures, requirements, and limitations  
33 for documents claimed as trade secrets; creating part  
34 II of ch. 637, F.S.; providing for licensing and  
35 administration of title insurers; duplicating in ch.  
36 637, F.S., and making applicable to title insurers  
37 certain provisions of ch. 624, F.S.; transferring to  
38 ch. 637, F.S., certain provisions of chs. 625 and 627,  
39 F.S., relating to title insurance; creating s.  
40 637.20035, F.S.; providing for structure of title  
41 insurers; creating s. 637.20635, F.S.; prohibiting  
42 title insurers, title insurance agencies, and title  
43 insurance agents from rebating portions of premiums;  
44 providing exceptions; specifying rebate prohibitions;  
45 creating s. 637.2091, F.S.; specifying that title  
46 insurance business in exclusive; creating part III of  
47 ch. 637, F.S.; providing for licensure and  
48 administration of title insurance agents and agencies;  
49 duplicating in ch. 637, F.S., and making applicable to  
50 title insurance agents and agencies certain provisions  
51 of ch. 626, F.S.; transferring to ch. 637, F.S.,  
52 certain provisions of ch. 626, F.S., relating to title  
53 insurance agents and agencies; creating s. 637.30125,  
54 F.S.; providing requirements for agents in charge;  
55 providing for authority, duties, and responsibilities  
56 of agents in charge; transferring regulation,  
57 administration, and enforcement of title insurers from  
58 the Office of Insurance Regulation and the Financial

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59 Services Commission to the Department of Financial  
60 Services and the Division of Title Insurance; deleting  
61 references to the office and commission to conform;  
62 amending ss. 624.5105 and 624.5107, F.S.; including  
63 references to applicable sections of ch. 637, F.S.,  
64 under the community contribution tax credit program  
65 and the child care tax credit program; specifying  
66 rules of the Financial Services Commission and the  
67 Office of Insurance Regulation as rules of the  
68 department; transferring certain powers, duties,  
69 functions, records, personnel, property, and  
70 unexpended balances of appropriations, allocations,  
71 and other funds relating to title insurance to the  
72 department; preserving the validity of certain  
73 judicial and administrative actions relating to title  
74 insurance; providing for transfer of certain orders  
75 relating to title insurance to the department;  
76 requiring the Division of Statutory Revision to assist  
77 substantive legislative committees in developing  
78 conforming legislation; creating s. 689.263, F.S.;  
79 prohibiting title insurance agents or title insurance  
80 agencies from disbursing certain funds under certain  
81 circumstances; providing requirements for a statement  
82 of settlement costs; creating s. 717.1121, F.S.;  
83 providing construction of certain payments from escrow  
84 related to real estate transactions; amending s.  
85 877.101, F.S.; providing an additional prohibition  
86 against transacting escrow business by unauthorized  
87 persons; revising cross-references for purposes of

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88 nonapplication to licensed title insurance agents;  
89 amending ss. 624.5015, 626.241, and 626.331, F.S.;  
90 deleting provisions relating to title insurers;  
91 amending ss. 197.502, 624.501, 624.604, 624.605,  
92 625.031, 626.207, 655.005, 701.041, and 721.05, F.S.;  
93 conforming a cross-reference; repealing s. 624.4031,  
94 F.S., relating to church benefit plans and church  
95 benefits boards; repealing s. 624.608, F.S., relating  
96 to the definition of "title insurance"; repealing s.  
97 626.841, F.S., relating to definitions of "title  
98 insurance agent" and "title insurance agency";  
99 repealing s. 626.8411, F.S., relating to application  
100 of Florida Insurance Code provisions to title  
101 insurance agents or agencies; repealing s. 626.9531,  
102 F.S., relating to identification of insurers, agents,  
103 and insurance contracts; repealing s. 627.7711, F.S.,  
104 relating to definitions; repealing s. 627.776, F.S.,  
105 relating to applicability or inapplicability of  
106 Florida Insurance Code provisions to title insurers;  
107 providing an effective date.

108  
109 Be It Enacted by the Legislature of the State of Florida:

110  
111 Section 1. Paragraph (o) is added to subsection (2) of  
112 section 20.121, Florida Statutes, to read:

113 20.121 Department of Financial Services.—There is created a  
114 Department of Financial Services.

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

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117 (o) The Division of Title Insurance.

118 Section 2. Part I of chapter 637, Florida Statutes,  
119 consisting of sections 637.1001, 637.1002, 637.1003, 637.1004,  
120 637.10045, 637.1005, 637.1006, 637.1007, 637.1008, 637.1009,  
121 637.1011, 637.1012, 637.1013, 637.1014, 637.1015, 637.1016,  
122 637.1017, 637.1018, 637.1019, 637.1021, 637.1022, 637.1023,  
123 637.1024, 637.1025, 637.1026, 637.1027, 637.1028, 637.1029,  
124 637.1031, 637.1032, 637.1033, 637.10335, 637.1034, 637.1035,  
125 637.1036, 637.1037, 637.1038, 637.1039, 637.1041, 637.1042,  
126 637.1043, 637.10435, 637.1044, 637.10445, 637.1045, 637.1046,  
127 637.1047, 637.1048, and 637.1049, is created and entitled  
128 "ADMINISTRATION AND GENERAL PROVISIONS."

129 Section 3. Sections 637.1001, 637.1002, 637.1003, 637.1004,  
130 637.10045, 637.1005, 637.1006, 637.1007, 637.1008, 637.1009,  
131 637.1011, 637.1012, 637.1013, 637.1014, 637.1015, 637.1016,  
132 637.1017, 637.1018, 637.1019, 637.1021, 637.1022, 637.1023,  
133 637.1024, 637.1025, 637.1026, 637.1027, 637.1029, 637.1031,  
134 637.1032, 637.1033, 637.10335, 637.1034, 637.1035, 637.1036,  
135 637.1037, 637.1038, 637.1039, 637.1041, 637.1042, 637.1043,  
136 637.10435, 637.1044, 637.10445, 637.1045, 637.1046, 637.1047,  
137 637.1048, and 637.1049, are created to read:

138 637.1001 Short title.—This chapter may be cited as the  
139 "Florida Title Insurance Act."

140 637.1002 Legislative findings; purpose; intent.—

141 (1) The Legislature finds that a stable and efficient title  
142 insurance delivery system is necessary to promote the economic  
143 wellbeing of the citizens of this state. Title insurance is  
144 essential to ensure homeowners and landowners of the safety of  
145 real property transfers in the state. Lienholders and investors

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146 require the security afforded their business interests accorded  
147 by a financially stable and regulated title insurance industry.  
148 A viable title insurance delivery system requires comprehensive  
149 state oversight, including regulation of title insurers, agents,  
150 and agencies. Accordingly, it is the intent of the Legislature  
151 to establish unitary regulation of the title insurance industry  
152 by the creation of a Division of Title Insurance within the  
153 Department of Financial Services. The division shall have  
154 comprehensive authority to regulate insurer and agent solvency,  
155 education, licensing, and discipline and to establish title  
156 insurance premium rates and forms.

157 (2) The Legislature finds that title insurance is a unique  
158 form of insurance unlike any casualty-based insurance.  
159 Accordingly, a separate and distinct chapter of the Florida  
160 Statutes is deemed appropriate.

161 (3) The Legislature recognizes that the title insurance  
162 industry is founded upon a unique structure that requires title  
163 agents and agencies to determine the insurability of titles,  
164 thereby placing the title insurance agent at the cornerstone of  
165 the delivery system. As such, the solvency and viability of  
166 title insurance agents is essential. Therefore, the Legislature  
167 deems it to be in the public interest to establish title  
168 insurance rates that are adequate and to also establish  
169 parameters for rebating portions of the title insurance premium.

170 637.1003 Division of Title Insurance.-

171 (1) The Division of Title Insurance is created within the  
172 Department of Financial Services. The division shall exercise  
173 all powers and duties with respect to title insurance  
174 regulation, including those exercised by the Office of Insurance

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175 Regulation and the Division of Insurance Agents and Agency  
176 Services of the Department of Financial Services prior to July  
177 1, 2010. The division director shall be appointed by the Chief  
178 Financial Officer and shall have experience, education, and  
179 expertise in the field of title insurance in this state. The  
180 director may also be known as the Florida Title Insurance  
181 Coordinator.

182 (2) The Division of Title Insurance shall consist of:

183 (a) The Bureau of Title Insurance Premium Rates and Forms.

184 (b) The Bureau of Title Insurance Licensing and Education.

185 637.1004 Definitions.—For purposes of this chapter, the  
186 term:

187 (1) "Appointment" means the authority given by an insurer  
188 or employer to a licensee to transact insurance or adjust claims  
189 on behalf of an insurer or employer.

190 (2) "Attorney" as used in this part means an individual  
191 duly admitted to and a member in good standing of The Florida  
192 Bar.

193 (3) "Agent in charge" of a title insurance agency means an  
194 attorney or a licensed and appointed title insurance agent who  
195 is responsible for the overall operation and management of a  
196 title insurance agency location and whose responsibilities  
197 include supervising all individuals within that location. An  
198 attorney or a title insurance agent may be designated as the  
199 agent in charge for only one location of a single title  
200 insurance agency. Each location of a title insurance agency or  
201 insurer at which primary title services as defined in subsection  
202 (18) are performed shall have a separate agent in charge. An  
203 agency that has an attorney that is in charge of the agency

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204 shall designate that attorney to be in charge of only one  
205 location of a single title insurance agency.

206 (4) "Authorized" means provided authority pursuant to a  
207 valid certificate of authority issued by the department to  
208 transact insurance in this state.

209 (5) "Closing services" means services performed by a  
210 licensed title insurer, title insurance agent or agency, or  
211 attorney agent in the agent's or agency's capacity as such,  
212 including, but not limited to, preparing documents necessary to  
213 close the transaction, conducting the closing, or handling the  
214 disbursing of funds related to the closing in a real estate  
215 closing transaction in which a title insurance commitment or  
216 policy is to be issued.

217 (6) "Commercially domiciled insurer" means every foreign or  
218 alien insurer that is authorized to do business in this state  
219 and that, during its 3 preceding fiscal years taken together, or  
220 during any lesser period of time if it has been licensed to  
221 transact its business in this state only for the lesser period  
222 of time, has written an average of 25 percent or more direct  
223 premiums in this state than it has written in its state of  
224 domicile during the same period, and the direct premiums written  
225 constitute more than 55 percent of its total direct premiums  
226 written everywhere in the United States during its 3 preceding  
227 fiscal years taken together, or during any lesser period of time  
228 if it has been authorized to transact its business in this state  
229 only for the lesser period of time, as reported in its most  
230 recent applicable annual or quarterly statements, shall be  
231 deemed a "commercially domiciled insurer" within this state.

232 (7) "Consent" means authorized written agreement to



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233 supervision by the insurer.

234 (8) "Department" means the Department of Financial  
235 Services. The term does not mean the Financial Services  
236 Commission or any office of the Financial Services Commission.

237 (9) "Division" means the Division of Title Insurance of the  
238 department.

239 (10) "Domestic," "foreign," and "alien" mean:

240 (a) A "domestic" insurer is one formed under the laws of  
241 this state.

242 (b) A "foreign" insurer is one formed under the laws of any  
243 state, district, territory, or commonwealth of the United States  
244 other than this state.

245 (c) An "alien" insurer is an insurer other than a domestic  
246 or foreign insurer.

247 (11) "Domicile," except as provided in s. 631.011, means:

248 (a) As to Canadian insurers, Canada and the province under  
249 the laws of which the insurer was formed.

250 (b) As to other alien insurers authorized to transact  
251 insurance in one or more states, the state designated by the  
252 insurer in writing filed with the department at the time of  
253 admission to this state or within 6 months after the effective  
254 date of this chapter, whichever date is the later, and may be  
255 any of the following states:

256 1. That in which the insurer was first authorized to  
257 transact insurance if the insurer is still so authorized.

258 2. That in which is located the insurer's principal place  
259 of business in the United States.

260 3. That in which is held the larger deposit of trustee  
261 assets of the insurer for the protection of its policyholders

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262 and creditors in the United States.

263 If the insurer makes no such designation, its domicile shall be  
264 deemed to be that state in which is located its principal place  
265 of business in the United States.

266 (c) As to alien insurers not authorized to transact  
267 insurance in one or more states, the country under the laws of  
268 which the insurer was formed.

269 (d) As to all other insurers, the state under the laws of  
270 which the insurer was formed.

271 (12) "Exceeded its powers" means the following conditions:

272 (a) The insurer has refused to permit examination by the  
273 department of its books, papers, accounts, records, or business  
274 practices;

275 (b) An insurer organized in this state has unlawfully  
276 removed from this state books, papers, accounts, or records  
277 necessary for an examination of the insurer by the department;

278 (c) The insurer has failed to promptly comply with the  
279 applicable financial reporting statutes and division requests  
280 relating thereto;

281 (d) The insurer has neglected or refused to observe an  
282 order of the department to correct a deficiency in its capital  
283 or surplus; or

284 (e) The insurer has unlawfully or in violation of a  
285 department order:

286 1. Totally reinsured its entire outstanding business; or  
287 2. Merged or consolidated substantially its entire property  
288 or business with another insurer.

289 (13) "Insurer" means and includes every person as defined  
290 in subsection (16) and title insurer as defined in subsection

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291 (23) as limited to any domestic or commercially domiciled  
292 insurer who is doing business as an insurer, or has transacted  
293 insurance in this state, and against whom claims arising from  
294 that transaction may exist now or in the future.

295 (14) "License" means a document issued by the department or  
296 office authorizing a person to be appointed to transact  
297 insurance or adjust claims for the kind, line, or class of  
298 insurance identified in the document.

299 (15) (a) "Managing general agent" means any person managing  
300 all or part of the insurance business of an insurer, including  
301 the management of a separate division, department, or  
302 underwriting office, and acting as an agent for that insurer,  
303 whether known as a managing general agent, manager, or other  
304 similar term, who, with or without authority, separately or  
305 together with affiliates, produces, directly or indirectly, or  
306 underwrites an amount of gross direct written premium equal to  
307 or more than 5 percent of the policyholder surplus as reported  
308 in the last annual statement of the insurer in any single  
309 quarter or year and also does one or more of the following:

- 310 1. Adjusts or pays claims.  
311 2. Negotiates reinsurance on behalf of the insurer.

312 (b) The following persons shall not be considered managing  
313 general agents:

- 314 1. An employee of the insurer.  
315 2. A United States manager of the United States branch of  
316 an alien insurer.  
317 3. An underwriting manager managing all the insurance  
318 operations of the insurer pursuant to a contract who is under  
319 the common control of the insurer subject to regulation and

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320 whose compensation is not based on the volume of premiums  
321 written.

322 4. The attorney in fact authorized by and acting for the  
323 subscribers of a reciprocal insurer under powers of attorney.

324 (16) "Person" means an individual, insurer, company,  
325 association, organization, Lloyds, society, reciprocal insurer  
326 or interinsurance exchange, partnership, syndicate, business  
327 trust, corporation, agent, general agent, broker, service  
328 representative, adjuster, and every legal entity.

329 (17) "Premium" means the charge, as specified by rule of  
330 the department, that is made by a title insurer for a title  
331 insurance policy, including the charge for performance of  
332 primary title services by a title insurer or title insurance  
333 agent or agency, and incurring the risks incident to such  
334 policy, under the several classifications of title insurance  
335 contracts and forms, and upon which charge a premium tax is paid  
336 under s. 624.509. As used in this part or in any other law, with  
337 respect to title insurance, the word "premium" does not include  
338 a commission.

339 (18) "Primary title services" means determining  
340 insurability in accordance with sound underwriting practices  
341 based upon evaluation of a reasonable title search or a search  
342 of the records of a Uniform Commercial Code filing office and  
343 such other information as may be necessary, determination and  
344 clearance of underwriting objections and requirements to  
345 eliminate risk, preparation and issuance of a title insurance  
346 commitment setting forth the requirements to insure, and  
347 preparation and issuance of the policy. Such services do not  
348 include closing services or title searches, for which a separate

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349 charge or separate charges may be made.

350 (19) When used in context signifying a jurisdiction other  
351 than the State of Florida, "state" means any state, district,  
352 territory, or commonwealth of the United States.

353 (20) "Title insurance" means:

354 (a) Insurance of owners of real property or others having  
355 an interest in real property or a contractual interest derived  
356 from real property, or liens or encumbrances on real property,  
357 against loss by encumbrance, or defective titles, or invalidity,  
358 or adverse claim to title; or

359 (b) Insurance of owners and secured parties of the  
360 existence, attachment, perfection, and priority of security  
361 interests in personal property under the Uniform Commercial  
362 Code.

363 (21) "Title insurance agent" means a person appointed in  
364 writing by a title insurer to issue and countersign commitments  
365 or policies of title insurance on the title insurer's behalf.

366 (22) "Title insurance agency" means a business at which an  
367 individual, firm, partnership, corporation, association, or  
368 other entity, other than an employee of the individual, firm,  
369 partnership, corporation, association, or other entity, and  
370 under which a title insurance agent or other employee,  
371 determines insurability in accordance with underwriting rules  
372 and standards prescribed by the title insurer represented by the  
373 title insurance agency and issues and countersigns commitments,  
374 endorsements, or policies of title insurance on behalf of the  
375 appointing title insurer. The term does not include a title  
376 insurer.

377 (23) "Title insurer" means any domestic company organized

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378 and authorized to do business under the provisions of this  
379 chapter, for the purpose of issuing title insurance, or any  
380 insurer organized under the laws of another state, the District  
381 of Columbia, or a foreign country and holding a certificate of  
382 authority to transact business in this state, for the purpose of  
383 issuing title insurance.

384 (24) "Title search" means the compiling of title  
385 information from official or public records.

386 (25) "Transact" means, with respect to insurance and in  
387 addition to other applicable provisions of this chapter:

388 (a) Solicitation or inducement.

389 (b) Preliminary negotiations.

390 (c) Effectuation of a contract of insurance.

391 (d) Transaction of matters subsequent to effectuation of a  
392 contract of insurance and arising out of it.

393 (26) "Unsound condition" means that the department has  
394 determined that one or more of the following conditions exist  
395 with respect to an insurer:

396 (a) The insurer's required surplus, capital, or capital  
397 stock is impaired to an extent prohibited by law;

398 (b) The insurer continues to write new business when it has  
399 not maintained the required surplus or capital stock;

400 (c) The insurer attempts to dissolve or liquidate without  
401 first having made provisions, satisfactory to the department,  
402 for liabilities arising from insurance policies issued by the  
403 insurer; or

404 (d) The insurer meets one or more of the grounds in s.  
405 631.051 for the appointment of the department as receiver.

406 637.10045 Preemption to state.—The regulation of title

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407 insurance, title insurers, and title insurance agencies is  
408 preempted to the state.

409 637.1005 General applicability of other chapters.-

410 (1) The provisions of chapters 624, 626, and 627 do not  
411 apply to title insurers or their agents unless specifically  
412 incorporated by reference and made applicable to this chapter by  
413 a provision of this chapter.

414 (2) The provisions of chapters 625, 628, and 631 apply to  
415 title insurance and for purposes of applying such provisions to  
416 title insurance, the term "department" shall be interpreted to  
417 mean office and the term "Director of the Division of Insurance  
418 Regulation" shall be interpreted to mean the "Florida Title  
419 Insurance Coordinator," "Director of the Division of Title  
420 Insurance," or "division director."

421 637.1006 General powers; duties.-

422 (1) The powers and duties of the Chief Financial Officer  
423 and the department specified in this chapter apply only with  
424 respect to title insurance agents and title insurance agencies.

425 (2) The department shall enforce the provisions of this  
426 chapter and shall execute the duties imposed upon the department  
427 by this chapter, as provided by law.

428 (3) The department shall have the powers and authority  
429 expressly conferred upon it by, or reasonably implied from, the  
430 provisions of this chapter.

431 (4) The department may conduct such investigations of  
432 insurance matters, in addition to investigations expressly  
433 authorized, as it may deem proper to determine whether any  
434 person has violated any provision of this chapter within its  
435 respective regulatory jurisdiction or to secure information

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436 useful in the lawful administration of any such provision. The  
437 cost of such investigations shall be borne by the state.

438 (5) The department may each collect, propose, publish, and  
439 disseminate information relating to the subject matter of any  
440 duties imposed upon it by law.

441 (6) The department shall each have such additional powers  
442 and duties as may be provided by other laws of this state.

443 (7) The department may employ actuaries who shall be at-  
444 will employees and who shall serve at the pleasure of the Chief  
445 Financial Officer, in the case of department employees.  
446 Actuaries employed pursuant to this subsection shall be members  
447 of the Society of Actuaries or the Casualty Actuarial Society  
448 and shall be exempt from the Career Service System established  
449 under chapter 110. The salaries of the actuaries employed  
450 pursuant to this paragraph shall be set in accordance with s.  
451 216.251(2)(a)5. and shall be set at levels which are  
452 commensurate with salary levels paid to actuaries by the  
453 insurance industry.

454 (8) The department shall, within existing resources,  
455 develop and implement an outreach program for the purpose of  
456 encouraging the entry of additional insurers into the Florida  
457 market.

458 (9) Upon receiving service of legal process issued in any  
459 civil action or proceeding in this state against any regulated  
460 person required to appoint the Chief Financial Officer as its  
461 attorney to receive service of all legal process, the Chief  
462 Financial Officer, as attorney, may, in lieu of sending the  
463 process by registered or certified mail, send the process by any  
464 other verifiable means to the person last designated by the



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465 regulated person to receive the process.

466 (10) This section does not limit the authority of the  
467 department and the Division of Insurance Fraud, as specified in  
468 s. 637.1046.

469 (11) The division may enforce violations of the Real Estate  
470 Settlement Procedures Act, 12 U.S.C. ss. 2601 et seq.

471 637.1007 Rules.—

472 (1) The department may adopt rules pursuant to ss.  
473 120.536(1) and 120.54 to implement provisions of this chapter  
474 and interpret the specific powers and duties provided in this  
475 chapter, which rules may:

476 (a) Define the license and appointment requirements for  
477 title insurance agents and agencies.

478 (b) Establish penalty guidelines for enforcing the  
479 requirements of this chapter.

480 (c) Describe the fiduciary responsibilities of title  
481 insurance agents and agencies, including, but not limited to,  
482 duties related to escrow accounts.

483 (d) Identify the responsibilities, duties, and designations  
484 of the agent in charge of the title insurance agency or the  
485 attorney in charge of an attorney-owned title insurance agency.

486 (e) Enable the collection of information from agents and  
487 agencies relating to title insurance business.

488 (f) Set reasonable requirements for the timely recording of  
489 documents and the delivery of final title policies.

490 (g) Establish rules for the protection, calculation, and  
491 timely remittance of premiums that are owed to title insurers.

492 (h) Prohibit the markup of the cost of any third-party  
493 services by the closing agent without adding value.

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494 (2) In addition to any other penalty provided, willful  
495 violation of any such rule shall subject the violator to such  
496 suspension or revocation of certificate of authority or license  
497 as may be applicable under this chapter as for violation of the  
498 provision as to which such rule relates.

499 637.1008 General penalty.—

500 (1) Each willful violation of this chapter or rule of the  
501 department as to which a greater penalty is not provided by  
502 another provision of this chapter or rule of the department or  
503 by other applicable laws of this state is a misdemeanor of the  
504 second degree and is, in addition to any prescribed applicable  
505 denial, suspension, or revocation of certificate of authority,  
506 license, or permit, punishable as provided in s. 775.082 or s.  
507 775.083. Each instance of such violation shall be considered a  
508 separate offense.

509 (2) Each willful violation of an emergency rule or order of  
510 the department by a person who is not licensed, authorized, or  
511 eligible to engage in business in accordance with this chapter  
512 is a felony of the third degree, punishable as provided in s.  
513 775.082, s. 775.083, or s. 775.084. Each instance of such  
514 violation is a separate offense. This subsection does not apply  
515 to licensees or affiliated parties of licensees.

516 637.1009 Enforcement; cease and desist orders; removal of  
517 certain persons; fines.—

518 (1) DEFINITIONS.—For the purposes of this section, the  
519 term:

520 (a) "Affiliated party" means any person who directs or  
521 participates in the conduct of the affairs of a licensee and who  
522 is:

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523 1. A director, officer, employee, trustee, committee  
524 member, or controlling stockholder of a licensee or a subsidiary  
525 or service corporation of the licensee, other than a controlling  
526 stockholder which is a holding company, or an agent of a  
527 licensee or a subsidiary or service corporation of the licensee;

528 2. A person who has filed or is required to file a  
529 statement or any other information required to be filed under s.  
530 628.461 or s. 628.4615;

531 3. A stockholder, other than a stockholder that is a  
532 holding company of the licensee, who participates in the conduct  
533 of the affairs of the licensee; or

534 4. An independent contractor who:

535 a. Renders a written opinion required by the laws of this  
536 state under her or his professional credentials on behalf of the  
537 licensee, which opinion is reasonably relied on by the  
538 department in the performance of its duties; or

539 b. Affirmatively and knowingly conceals facts, through a  
540 written misrepresentation to the department, with knowledge that  
541 such misrepresentation:

542 (I) Constitutes a violation of this chapter or a lawful  
543 rule or order of the department; and

544 (II) Directly and materially endangers the ability of the  
545 licensee to meet its obligations to policyholders.

546  
547 For the purposes of this subparagraph, any representation of  
548 fact made by an independent contractor on behalf of a licensee,  
549 affirmatively communicated as a representation of the licensee  
550 to the independent contractor, shall not be considered a  
551 misrepresentation by the independent contractor.

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552        (b) "Licensee" means a person issued a license or  
553 certificate of authority or approval under this chapter or a  
554 person registered under a provision of this chapter.

555        (2) ENFORCEMENT GENERALLY.—

556        (a) The powers granted by this section to the department  
557 apply only with respect to licensees of the department and their  
558 affiliated parties and to unlicensed persons subject to  
559 regulatory jurisdiction of the department.

560        (b) The department may institute such suits or other legal  
561 proceedings as may be required to enforce any provision of this  
562 chapter within the department's regulatory jurisdiction. If it  
563 appears that any person has violated any provision of this  
564 chapter for which criminal prosecution is provided, the  
565 department shall provide the appropriate state attorney or other  
566 prosecuting agency having jurisdiction with respect to such  
567 prosecution with the relevant information in its possession.

568        (3) CEASE AND DESIST ORDERS.—

569        (a) The department may issue and serve a complaint stating  
570 charges upon any licensee or upon any affiliated party, whenever  
571 the department has reasonable cause to believe that the person  
572 or individual named therein is engaging in or has engaged in  
573 conduct that is:

574            1. An act that demonstrates a lack of fitness or  
575 trustworthiness to engage in the business of insurance, is  
576 hazardous to the insurance buying public, or constitutes  
577 business operations that are a detriment to policyholders,  
578 stockholders, investors, creditors, or the public;

579            2. A violation of any provision of this chapter;

580            3. A violation of any rule of the department;

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581 4. A violation of any order of the department; or

582 5. A breach of any written agreement with the department.

583 (b) The complaint shall contain a statement of facts and  
584 notice of opportunity for a hearing pursuant to ss. 120.569 and  
585 120.57.

586 (c) If no hearing is requested within the time allowed by  
587 ss. 120.569 and 120.57, or if a hearing is held and the  
588 department finds that any of the charges are proven, the  
589 department may enter an order directing the licensee or the  
590 affiliated party named in the complaint to cease and desist from  
591 engaging in the conduct complained of and take corrective action  
592 to remedy the effects of past improper conduct and assure future  
593 compliance.

594 (d) If the licensee or affiliated party named in the order  
595 fails to respond to the complaint within the time allotted by  
596 ss. 120.569 and 120.57, the failure constitutes a default and  
597 justifies the entry of a cease and desist order.

598 (e) A contested or default cease and desist order is  
599 effective when reduced to writing and served upon the licensee  
600 or affiliated party named therein. An uncontested cease and  
601 desist order is effective as agreed.

602 (f) Whenever the department finds that conduct described in  
603 paragraph (a) is likely to cause insolvency, substantial  
604 dissipation or misvaluation of assets or earnings of the  
605 licensee, substantial inability to pay claims on a timely basis,  
606 or substantial prejudice to prospective or existing insureds,  
607 policyholders, subscribers, or the public, it may issue an  
608 emergency cease and desist order requiring the licensee or any  
609 affiliated party to immediately cease and desist from engaging

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610 in the conduct complained of and to take corrective and remedial  
611 action. The emergency order is effective immediately upon  
612 service of a copy of the order upon the licensee or affiliated  
613 party named therein and remains effective for 90 days. If the  
614 department begins nonemergency cease and desist proceedings  
615 under this subsection, the emergency order remains effective  
616 until the conclusion of the proceedings under ss. 120.569 and  
617 120.57.

618 (4) REMOVAL OF AFFILIATED PARTIES.—

619 (a) The department may issue and serve a complaint stating  
620 charges upon any affiliated party and upon the licensee  
621 involved, whenever the department has reason to believe that an  
622 affiliated party is engaging in or has engaged in conduct that  
623 constitutes:

624 1. An act that demonstrates a lack of fitness or  
625 trustworthiness to engage in the business of insurance through  
626 engaging in illegal activity or mismanagement of business  
627 activities;

628 2. A willful violation of any law relating to the business  
629 of insurance; however, if the violation constitutes a  
630 misdemeanor, no complaint shall be served as provided in this  
631 section until the affiliated party is notified in writing of the  
632 matter of the violation and has been afforded a reasonable  
633 period of time, as set forth in the notice, to correct the  
634 violation and has failed to do so;

635 3. A violation of any other law involving fraud or moral  
636 turpitude that constitutes a felony;

637 4. A willful violation of any rule of the department;

638 5. A willful violation of any order of the department;

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639 6. A material misrepresentation of fact, made knowingly and  
640 willfully or made with reckless disregard for the truth of the  
641 matter; or

642 7. An act of commission or omission or a practice which is  
643 a breach of trust or a breach of fiduciary duty.

644 (b) The complaint shall contain a statement of facts and  
645 notice of opportunity for a hearing pursuant to ss. 120.569 and  
646 120.57.

647 (c) If no hearing is requested within the time allotted by  
648 ss. 120.569 and 120.57, or if a hearing is held and the  
649 department finds that any of the charges in the complaint are  
650 proven true and that:

651 1. The licensee has suffered or will likely suffer loss or  
652 other damage;

653 2. The interests of the policyholders, creditors, or public  
654 are, or could be, seriously prejudiced by reason of the  
655 violation or act or breach of fiduciary duty;

656 3. The affiliated party has received financial gain by  
657 reason of the violation, act, or breach of fiduciary duty; or

658 4. The violation, act, or breach of fiduciary duty is one  
659 involving personal dishonesty on the part of the affiliated  
660 party or the conduct jeopardizes or could reasonably be  
661 anticipated to jeopardize the financial soundness of the  
662 licensee,

663  
664 The department may enter an order removing the affiliated party  
665 or restricting or prohibiting participation by the person in the  
666 affairs of that particular licensee or of any other licensee.

667 (d) If the affiliated party fails to respond to the

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668 complaint within the time allotted by ss. 120.569 and 120.57,  
669 the failure constitutes a default and justifies the entry of an  
670 order of removal, suspension, or restriction.

671 (e) A contested or default order of removal, restriction,  
672 or prohibition is effective when reduced to writing and served  
673 on the licensee and the affiliated party. An uncontested order  
674 of removal, restriction, or prohibition is effective as agreed.

675 (f)1. The chief executive officer, or the person holding  
676 the equivalent office, of a licensee shall promptly notify the  
677 department that issued the license if she or he has actual  
678 knowledge that any affiliated party is charged with a felony in  
679 a state or federal court.

680 2. Whenever any affiliated party is charged with a felony  
681 in a state or federal court or with the equivalent of a felony  
682 in the courts of any foreign country with which the United  
683 States maintains diplomatic relations, and the charge alleges  
684 violation of any law involving fraud, theft, or moral turpitude,  
685 the department may enter an emergency order suspending the  
686 affiliated party or restricting or prohibiting participation by  
687 the affiliated party in the affairs of the particular licensee  
688 or of any other licensee upon service of the order upon the  
689 licensee and the affiliated party charged. The order shall  
690 contain notice of opportunity for a hearing pursuant to ss.  
691 120.569 and 120.57, where the affiliated party may request a  
692 postsuspension hearing to show that continued service to or  
693 participation in the affairs of the licensee does not pose a  
694 threat to the interests of the licensee's policyholders or  
695 creditors and does not threaten to impair public confidence in  
696 the licensee. In accordance with applicable rules, the



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697 department shall notify the affiliated party whether the order  
698 suspending or prohibiting the person from participation in the  
699 affairs of a licensee will be rescinded or otherwise modified.  
700 The emergency order remains in effect, unless otherwise modified  
701 by the department, until the criminal charge is disposed of. The  
702 acquittal of the person charged, or the final, unappealed  
703 dismissal of all charges against the person, dissolves the  
704 emergency order, but does not prohibit the department from  
705 instituting proceedings under paragraph (a). If the person  
706 charged is convicted or pleads guilty or nolo contendere,  
707 whether or not an adjudication of guilt is entered by the court,  
708 the emergency order shall become final.

709 (g) Any affiliated party removed from office pursuant to  
710 this section is not eligible for reelection or appointment to  
711 the position or to any other official position in any licensee  
712 in this state except upon the written consent of the department.  
713 Any affiliated party who is removed, restricted, or prohibited  
714 from participation in the affairs of a licensee pursuant to this  
715 section may petition the department for modification or  
716 termination of the removal, restriction, or prohibition.

717 (h) Resignation or termination of an affiliated party does  
718 not affect the department's jurisdiction to proceed under this  
719 subsection.

720 (5) ADMINISTRATIVE FINES; ENFORCEMENT.—

721 (a) The department, in a proceeding initiated pursuant to  
722 chapter 120, impose an administrative fine against any person  
723 found in the proceeding to have violated any provision of this  
724 chapter, a cease and desist order of the department, or any  
725 written agreement with the department. A proceeding may not be

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726 initiated and a fine may not accrue until after the person has  
727 been notified in writing of the nature of the violation and has  
728 been afforded a reasonable period of time, as set forth in the  
729 notice, to correct the violation and has failed to do so.

730 (b) A fine imposed under this subsection may not exceed the  
731 amounts specified in s. 637.2021, per violation.

732 (c) In addition to the imposition of an administrative fine  
733 under this subsection, the department may also suspend or revoke  
734 the license or certificate of authority of the licensee fined  
735 under this subsection.

736 (d) Any administrative fine levied by the department under  
737 this subsection may be enforced by the department by appropriate  
738 proceedings in the circuit court of the county in which the  
739 person resides or in which the principal office of a licensee is  
740 located, or, in the case of a foreign insurer or person not  
741 residing in this state, in Leon County. In any administrative or  
742 judicial proceeding arising under this section, a party may  
743 elect to correct the violation asserted by the department, and,  
744 upon doing so, any fine shall cease to accrue; however, the  
745 election to correct the violation does not render any  
746 administrative or judicial proceeding moot. All fines collected  
747 under this section shall be paid to the Title Insurance  
748 Regulatory Trust Fund.

749 (e) In imposing any administrative penalty or remedy  
750 provided for under this section, the department shall take into  
751 account the appropriateness of the penalty with respect to the  
752 size of the financial resources and the good faith of the person  
753 charged, the gravity of the violation, the history of previous  
754 violations, and other matters as justice may require.

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755       (f) The imposition of an administrative fine under this  
756 subsection may be in addition to any other penalty or  
757 administrative fine authorized under this chapter.

758       (6) ADMINISTRATIVE PROCEDURES.—All administrative  
759 proceedings under subsections (3), (4), and (5) shall be  
760 conducted in accordance with chapter 120. Any service required  
761 or authorized to be made by the department under this chapter  
762 shall be made by certified mail, return receipt requested,  
763 delivered to the addressee only; by personal delivery; or in  
764 accordance with chapter 48. The service provided for herein  
765 shall be effective from the date of delivery.

766       (7) CRIMINAL ENFORCEMENT.—It is unlawful for any affiliated  
767 party who is removed or prohibited from participation in the  
768 affairs of a licensee pursuant to this section, or for any  
769 licensee whose rights or privileges under such license have been  
770 suspended or revoked pursuant to this chapter, to knowingly act  
771 as an affiliated party as defined in this section or to  
772 knowingly transact insurance until expressly authorized to do so  
773 by the department. Such authorization by the department may not  
774 be provided unless the affiliated party or the licensee has made  
775 restitution, if applicable, to all parties damaged by the  
776 actions of the affiliated party or the licensee which served as  
777 the basis for the removal or prohibition of the affiliated party  
778 or the suspension or revocation of the rights and privileges of  
779 the licensee. Any person who violates the provisions of this  
780 subsection commits a felony of the third degree, punishable as  
781 provided in s. 775.082, s. 775.083 or s. 775.084.

782       637.1011 Immunity from civil liability for providing  
783 department with information about condition of insurer.—A

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784 person, other than a person filing a required report or other  
785 required information, who provides the department with  
786 information about the financial condition of an insurer is  
787 immune from civil liability arising out of the provision of the  
788 information unless the person acted with knowledge that the  
789 information was false or with reckless disregard for the truth  
790 or falsity of the information.

791 637.1012 Records; reproductions; destruction.—

792 (1) Except as provided in this section, the department  
793 shall each preserve in permanent form records of its  
794 proceedings, hearings, investigations, and examinations and  
795 shall file such records in its department.

796 (2) The department may photograph, microphotograph, or  
797 reproduce on film, or maintain in an electronic recordkeeping  
798 system, all financial records, financial statements of domestic  
799 insurers, reports of business transacted in this state by  
800 foreign insurers and alien insurers, reports of examination of  
801 domestic insurers, and such other records and documents on file  
802 in the department as the department may in its discretion  
803 select.

804 (3) To facilitate the efficient use of floor space and  
805 filing equipment in its offices, the department may destroy the  
806 following records and documents pursuant to chapter 257:

807 (a) General closed correspondence files over 3 years old.

808 (b) Title insurance and similar license files, over 2 years  
809 old; except that the department shall preserve by reproduction  
810 or otherwise a copy of the original records upon the basis of  
811 which each such licensee qualified for her or his initial  
812 license, except a competency examination, and of any

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813 disciplinary proceeding affecting the licensee.

814 (c) All title insurance agent and similar license files and  
815 records, including original license qualification records and  
816 records of disciplinary proceedings 5 years after a licensee has  
817 ceased to be qualified for a license.

818 (d) Insurer certificate of authority files over 2 years  
819 old, except that the department shall preserve by reproduction  
820 or otherwise a copy of the initial certificate of authority of  
821 each insurer.

822 (e) All documents and records which have been photographed  
823 or otherwise reproduced as provided in subsection (2), if such  
824 reproductions have been filed and an audit of the department has  
825 been completed for the period embracing the dates of such  
826 documents and records.

827 (f) All other records, documents, and files not expressly  
828 provided for in paragraphs (a)-(e).

829 637.1013 Reproductions and certified copies of records as  
830 evidence.—

831 (1) Photographs or microphotographs in the form of film or  
832 prints, or other reproductions from an electronic recordkeeping  
833 system, of documents and records made under s. 637.1012(2), or  
834 made under former s. 624.311(3) before October 1, 1982, shall  
835 have the same force and effect as the originals thereof and  
836 shall be treated as originals for the purpose of their  
837 admissibility in evidence. Duly certified or authenticated  
838 reproductions of such photographs, microphotographs, or other  
839 reproductions from an electronic recordkeeping system shall be  
840 as admissible in evidence as the originals.

841 (2) Upon the request of any person and payment of the

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842 applicable fee, the department shall give a certified copy of  
843 any record in its department which is then subject to public  
844 inspection.

845 (3) Copies of original records or documents in its  
846 department certified by the department shall be received in  
847 evidence in all courts as if they were originals.

848 637.1014 Publications.-

849 (1) As early as reasonably possible, the department shall  
850 annually have printed and made available a statistical report  
851 which must include all of the following information on either a  
852 calendar year or fiscal year basis:

853 (a) The total amount of premiums written and earned for  
854 title insurance.

855 (b) The total amount of losses paid and losses incurred for  
856 title insurance.

857 (c) The ratio of premiums written to losses paid by title  
858 insurance.

859 (d) The ratio of premiums earned to losses incurred by  
860 title insurance.

861 (e) The market share of the 10 largest insurers or insurer  
862 groups of title insurance and of each insurer or insurer group  
863 that has a market share of at least 1 percent of a line of  
864 insurance in this state.

865 (f) The profitability of title insurance.

866 (g) An analysis of the impact of the insurance industry on  
867 the economy of the state.

868 (h) A complaint ratio by line of insurance for the insurers  
869 referred to in paragraph (e), based upon information provided to  
870 the department by the department. The department shall determine

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871 the most appropriate ratio or ratios for quantifying complaints.

872 (i) A summary of the findings of market examinations  
873 performed by the department under s. 637.1018 during the  
874 preceding year.

875 (j) Such other information as the department deems  
876 relevant.

877 (2) The department may prepare and have printed and  
878 published in pamphlet or book form, as needed, questions and  
879 answers for the use of persons applying for an examination for  
880 licensing as title insurance agents.

881 (3) The department shall sell the publications mentioned in  
882 subsections (1) and (2) to purchasers at a price fixed by the  
883 department at not less than the cost of printing and binding  
884 such publications, plus packaging and postage costs for mailing;  
885 except that the department may deliver copies of such  
886 publications free of cost to state agencies and officers;  
887 insurance supervisory authorities of other states and  
888 jurisdictions; institutions of higher learning located in  
889 Florida; the Library of Congress; insurance officers of Naval,  
890 Military, and Air Force bases located in this state; and to  
891 persons serving as advisers to the department in preparation of  
892 the publications.

893 (4) The department may contract with outside vendors, in  
894 accordance with chapter 287, to compile data in an electronic  
895 data processing format that is compatible with the systems of  
896 the department.

897 637.1015 Sale of publications; deposit of proceeds.—The  
898 department shall deposit all moneys received from the sale of  
899 publications under s. 637.1014 in the Title Insurance Regulatory

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900 Trust Fund for the purpose of paying costs for the preparation,  
901 printing, and delivery of the publications required in s.  
902 637.1014(2), packaging and mailing costs, and banking,  
903 accounting, and incidental expenses connected with the sale and  
904 delivery of such publications. All moneys deposited into and all  
905 funds transferred to the Title Insurance Regulatory Trust Fund  
906 are appropriated for such uses and purposes.

907 637.1016 Department; annual report.—

908 (1) As early as reasonably possible, the department shall  
909 annually prepare a report to the Speaker and Minority Leader of  
910 the House of Representatives, the President and Minority Leader  
911 of the Senate, the chairs of the legislative committees with  
912 jurisdiction over matters of insurance, and the Governor  
913 showing, with respect to the preceding calendar year:

914 (a) Names of the authorized insurers transacting insurance  
915 in this state, with abstracts of their financial statements  
916 including assets, liabilities, and net worth.

917 (b) Names of insurers whose business was closed during the  
918 year, the cause thereof, and amounts of assets and liabilities  
919 as ascertainable.

920 (c) Names of insurers against which delinquency or similar  
921 proceedings were instituted, and a concise statement of the  
922 circumstances and results of each such proceeding.

923 (d) The receipts and estimated expenses of the department  
924 for the year.

925 (e) Such other pertinent information and matters as the  
926 department deems to be in the public interest.

927 (f) Annually after each regular session of the Legislature,  
928 a compilation of the laws of this state relating to insurance.



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929 Any such publication may be printed, revised, or reprinted upon  
930 the basis of the original low bid.

931 (g) An analysis and summary report of the state of the  
932 insurance industry in this state evaluated as of the end of the  
933 most recent calendar year.

934 (2) The department shall maintain the following information  
935 and make such information available upon request:

936 (a) Calendar year profitability, including investment  
937 income from loss reserves (Florida and countrywide).

938 (b) Aggregate Florida loss reserves.

939 (c) Premiums written (Florida and countrywide).

940 (d) Premiums earned (Florida and countrywide).

941 (e) Incurred losses (Florida and countrywide).

942 (f) Paid losses (Florida and countrywide).

943 (g) Allocated Florida loss adjustment expenses.

944 (h) Variation of premiums charged by the industry as  
945 compared to rates promulgated by the Insurance Services Office  
946 (Florida and countrywide).

947 (i) An analysis of policy size limits (Florida and  
948 countrywide).

949 (j) Trends; emerging trends as exemplified by the  
950 percentage change in frequency and severity of both paid and  
951 incurred claims, and pure premium (Florida and countrywide).

952 (3) The department may contract with outside vendors, in  
953 accordance with chapter 287, to compile data in an electronic  
954 data processing format that is compatible with the systems of  
955 the department.

956 637.1017 Examination of insurers.—

957 (1) (a) The department shall examine the affairs,

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958 transactions, accounts, records, and assets of each authorized  
959 insurer as to its transactions affecting the insurer as often as  
960 it deems advisable, except as provided in this section. The  
961 examination may include examination of the affairs,  
962 transactions, accounts, and records relating directly or  
963 indirectly to the insurer and of the assets of the insurer's  
964 managing general agents and controlling or controlled person, as  
965 defined in s. 625.012. The examination shall be pursuant to a  
966 written order of the department. Such order shall expire upon  
967 receipt by the department of the written report of the  
968 examination.

969 (b) The department shall examine each insurer according to  
970 accounting procedures designed to fulfill the requirements of  
971 generally accepted insurance accounting principles and practices  
972 and good internal control and in keeping with generally accepted  
973 accounting forms, accounts, records, methods, and practices  
974 relating to insurers. To facilitate uniformity in examinations,  
975 the department may adopt, by rule, the Market Conduct Examiners  
976 Handbook and the Financial Condition Examiners Handbook of the  
977 National Association of Insurance Commissioners, 2002, and may  
978 adopt subsequent amendments thereto, if the examination  
979 methodology remains substantially consistent.

980 (2) (a) Except as provided in paragraph (f), the department  
981 may examine each insurer as often as may be warranted for the  
982 protection of the policyholders and in the public interest, and  
983 shall examine each domestic insurer not less frequently than  
984 once every 5 years. The examination shall cover the preceding 5  
985 fiscal years of the insurer and shall be commenced within 12  
986 months after the end of the most recent fiscal year being

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987 covered by the examination. The examination may cover any period  
988 of the insurer's operations since the last previous examination.  
989 The examination may include examination of events subsequent to  
990 the end of the most recent fiscal year and the events of any  
991 prior period that affect the present financial condition of the  
992 insurer.

993 (b) The department shall examine each insurer applying for  
994 an initial certificate of authority to transact insurance in  
995 this state before granting the initial certificate.

996 (c) In lieu of making its own examination, the department  
997 may accept a full report of the last recent examination of a  
998 foreign insurer, certified to by the insurance supervisory  
999 official of another state.

1000 (d) The examination by the department of an alien insurer  
1001 shall be limited to the alien insurer's insurance transactions  
1002 and affairs in the United States, except as otherwise required  
1003 by the department.

1004 (e) The department shall adopt rules providing that an  
1005 examination under this section may be conducted by independent  
1006 certified public accountants, actuaries, investment specialists,  
1007 information technology specialists, and reinsurance specialists  
1008 meeting criteria specified by rule. The rules shall provide:

1009 1. That the rates charged to the insurer being examined are  
1010 consistent with rates charged by other firms in a similar  
1011 profession and are comparable with the rates charged for  
1012 comparable examinations.

1013 2. That the firm selected by the department to perform the  
1014 examination has no conflicts of interest that might affect its  
1015 ability to independently perform its responsibilities on the

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1016 examination.

1017 3. That the insurer being examined must make payment for  
1018 the examination pursuant to s. 637.1023(1) in accordance with  
1019 the rates and terms established by the department and the firm  
1020 performing the examination.

1021 (f) An examination under this section must be conducted at  
1022 least once every year with respect to a domestic insurer that  
1023 has continuously held a certificate of authority for less than 3  
1024 years. The examination must cover the preceding fiscal year or  
1025 the period since the last examination of the insurer. The  
1026 department may limit the scope of the examination.

1027 637.1018 Market conduct examinations.-

1028 (1) As often as it deems necessary, the department shall  
1029 examine each licensed rating organization, each advisory  
1030 organization, each group, association, carrier, as defined in s.  
1031 440.02, or other organization of insurers which engages in joint  
1032 underwriting or joint reinsurance, and each authorized insurer  
1033 transacting in this state any class of insurance to which the  
1034 provisions of this chapter are applicable. The examination shall  
1035 be for the purpose of ascertaining compliance by the person  
1036 examined with the applicable provisions of this chapter.

1037 (2) In lieu of any such examination, the department may  
1038 accept the report of a similar examination made by the insurance  
1039 supervisory official of another state.

1040 (3) The examination may be conducted by an independent  
1041 professional examiner under contract to the department, in which  
1042 case payment shall be made directly to the contracted examiner  
1043 by the insurer examined in accordance with the rates and terms  
1044 agreed to by the department and the examiner.

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1045       (4) The reasonable cost of the examination shall be paid by  
1046 the person examined, and such person shall be subject, as though  
1047 an insurer, to the provisions of s. 637.1023.

1048       (5) Such examinations shall also be subject to the  
1049 applicable provisions of chapter 440 and ss. 637.1021, 637.1022,  
1050 637.1024, and 637.1025.

1051       637.1019 Investigation of title insurance agents and  
1052 others.—If the department has reason to believe that any title  
1053 insurance agent has violated or is violating any provision of  
1054 this chapter, or upon the written complaint signed by any  
1055 interested person indicating that any such violation may exist:

1056       (1) The department shall conduct such investigation as it  
1057 deems necessary of the accounts, records, documents, and  
1058 transactions pertaining to or affecting the insurance affairs of  
1059 any title insurance agent, title insurance agency, customer  
1060 representative, service representative, or other person subject  
1061 to its jurisdiction.

1062       (2) The department shall conduct such investigation as it  
1063 deems necessary of the accounts, records, documents, and  
1064 transactions pertaining to or affecting the insurance affairs of  
1065 any:

1066       (a) Administrator, service company, or other person subject  
1067 to its jurisdiction.

1068       (b) Person having a contract or power of attorney under  
1069 which she or he enjoys in fact the exclusive or dominant right  
1070 to manage or control an insurer.

1071       (c) Person engaged in or proposing to be engaged in the  
1072 promotion or formation of:

1073       1. A domestic insurer;

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1074 2. An insurance holding corporation; or

1075 3. A corporation to finance a domestic insurer or in the  
1076 production of the domestic insurer's business.

1077 (3) In the investigation by the department of the alleged  
1078 misconduct, the licensee shall, whenever required by the  
1079 department, cause his or her books and records to be open for  
1080 inspection for the purpose of such inquiries.

1081 (4) A complaint against any licensee may be informally  
1082 alleged and need not be in any language necessary to charge a  
1083 crime on an indictment or information.

1084 (5) The expense for any hearings or investigations under  
1085 this section, as well as the fees and mileage of witnesses, may  
1086 be paid out of the appropriate fund.

1087 (6) If the department, after investigation, has reason to  
1088 believe that a licensee may have been found guilty of or pleaded  
1089 guilty or nolo contendere to a felony or a crime related to the  
1090 business of insurance in this or any other state or  
1091 jurisdiction, the department or office may require the licensee  
1092 to file with the department or office a complete set of his or  
1093 her fingerprints, which shall be accompanied by the fingerprint  
1094 processing fee set forth in s. 637.2031. The fingerprints shall  
1095 be taken by an authorized law enforcement agency or other  
1096 department-approved entity.

1097 637.1021 Conduct of examination or investigation; access to  
1098 records; correction of accounts; appraisals.-

1099 (1) The examination or investigation may be conducted by  
1100 the accredited examiners or investigators of the department at  
1101 the offices wherever located of the person being examined or  
1102 investigated and at such other places as may be required for

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1103 determination of matters under examination or investigation. In  
1104 the case of alien insurers, the examination may be so conducted  
1105 in the insurer's offices and places in the United States, except  
1106 as otherwise required by the department.

1107 (2) Every person being examined or investigated, and its  
1108 officers, attorneys, employees, agents, and representatives,  
1109 shall make freely available to the department or its examiners  
1110 or investigators the accounts, records, documents, files,  
1111 information, assets, and matters in their possession or control  
1112 relating to the subject of the examination or investigation. An  
1113 agent who provides other products or services or maintains  
1114 customer information not related to insurance must maintain  
1115 records relating to insurance products and transactions  
1116 separately if necessary to give the department access to such  
1117 records. If records relating to the insurance transactions are  
1118 maintained by an agent on premises owned or operated by a third  
1119 party, the agent and the third party must provide access to the  
1120 records by the department.

1121 (3) If the department finds any accounts or records to be  
1122 inadequate, or inadequately kept or posted, it may employ  
1123 experts to reconstruct, rewrite, post, or balance them at the  
1124 expense of the person being examined if such person has failed  
1125 to maintain, complete, or correct such records or accounting  
1126 after the department has given her or him notice and a  
1127 reasonable opportunity to do so.

1128 (4) If the department deems it necessary to value any asset  
1129 involved in such an examination of an insurer, it may make  
1130 written request of the insurer to designate one or more  
1131 competent appraisers acceptable to the department, who shall

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1132 promptly make an appraisal of the asset and furnish a copy  
1133 thereof to the department. If the insurer fails to designate  
1134 such an appraiser or appraisers within 20 days after the request  
1135 of the department, the department may designate the appraiser or  
1136 appraisers. The reasonable expense of any such appraisal shall  
1137 be a part of the expense of examination, to be borne by the  
1138 insurer.

1139 (5) Neither the department nor any examiner shall remove  
1140 any record, account, document, file, or other property of the  
1141 person being examined from the offices of such person except  
1142 with the written consent of such person given in advance of such  
1143 removal or pursuant to an order of court duly obtained.

1144 (6) Any individual who willfully obstructs the department  
1145 or the examiner in the examinations or investigations authorized  
1146 by this part is guilty of a misdemeanor and upon conviction  
1147 shall be punished as provided in s. 624.15.

1148 (7) The department or its examiners or investigators may  
1149 electronically scan accounts, records, documents, files, and  
1150 information, relating to the subject of the examination or  
1151 investigation, in the possession or control of the person being  
1152 examined or investigated.

1153 637.1022 Examination and investigation reports.-

1154 (1) The department or its examiner shall make a full and  
1155 true written report of each examination. The examination report  
1156 shall contain only information obtained from examination of the  
1157 records, accounts, files, and documents of or relative to the  
1158 insurer examined or from testimony of individuals under oath,  
1159 together with relevant conclusions and recommendations of the  
1160 examiner based thereon. The department shall furnish a copy of



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1161 the examination report to the insurer examined not less than 30  
1162 days prior to filing the examination report in its office. If  
1163 such insurer so requests in writing within such 30-day period,  
1164 the department shall grant a hearing with respect to the  
1165 examination report and shall not so file the examination report  
1166 until after the hearing and after such modifications have been  
1167 made therein as the department deems proper.

1168 (2) The examination report when so filed shall be  
1169 admissible in evidence in any action or proceeding brought by  
1170 the department against the person examined, or against its  
1171 officers, employees, or agents. In all other proceedings, the  
1172 admissibility of the examination report is governed by the  
1173 evidence code. The department or its examiners may at any time  
1174 testify and offer other proper evidence as to information  
1175 secured or matters discovered during the course of an  
1176 examination, whether or not a written report of the examination  
1177 has been either made, furnished, or filed with the department.

1178 (3) After the examination report has been filed pursuant to  
1179 subsection (1), the department may publish the results of any  
1180 such examination in one or more newspapers published in this  
1181 state whenever it deems it to be in the public interest.

1182 (4) After the examination report of an insurer has been  
1183 filed pursuant to subsection (1), an affidavit shall be filed  
1184 with the department, not more than 30 days after the report has  
1185 been filed, on a form furnished by the department and signed by  
1186 the officer of the company in charge of the insurer's business  
1187 in this state, stating that she or he has read the report and  
1188 that the recommendations made in the report will be considered  
1189 within a reasonable time.

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1190 637.1023 Examination expenses.—

1191 (1) Each insurer so examined shall pay to the department  
1192 the expenses of the examination at the rates adopted by the  
1193 department. Such expenses shall include actual travel expenses,  
1194 reasonable living expense allowance, compensation of the  
1195 examiner or other person making the examination, and necessary  
1196 attendant administrative costs of the department directly  
1197 related to the examination. Such travel expense and living  
1198 expense allowance shall be limited to those expenses necessarily  
1199 incurred on account of the examination and shall be paid by the  
1200 examined insurer together with compensation upon presentation by  
1201 the department to such insurer of a detailed account of such  
1202 charges and expenses after a detailed statement has been filed  
1203 by the examiner and approved by the department.

1204 (2) All moneys collected from insurers for examinations  
1205 shall be deposited into the Title Insurance Regulatory Trust  
1206 Fund, and the department may make deposits from time to time  
1207 into such fund from moneys appropriated for the operation of the  
1208 department.

1209 (3) Notwithstanding the provisions of s. 112.061, the  
1210 department may pay to the examiner or person making the  
1211 examination out of such trust fund the actual travel expenses,  
1212 reasonable living expense allowance, and compensation in  
1213 accordance with the statement filed with the department by the  
1214 examiner or other person, as provided in subsection (1) upon  
1215 approval by the department.

1216 (4) When not examining an insurer, the travel expenses, per  
1217 diem, and compensation for the examiners and other persons  
1218 employed to make examinations, if approved, shall be paid out of

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1219 moneys budgeted for such purpose as regular employees,  
1220 reimbursements for such travel expenses and per diem to be at  
1221 rates no more than as provided in s. 112.061.

1222 (5) The department may pay to regular insurance examiners,  
1223 not residents of Leon County, Florida, per diem for periods not  
1224 exceeding 30 days for each such examiner while at the Department  
1225 of Financial Services in Tallahassee, Florida, for the purpose  
1226 of auditing insurers' annual statements. Such expenses shall be  
1227 paid out of moneys budgeted for such purpose, as for regular  
1228 employees at rates provided in s. 112.061.

1229 (6) The provisions of this section shall apply to rate  
1230 analysts and rate examiners in the discharge of their duties  
1231 under s. 637.1018.

1232 637.1024 Witnesses and evidence.-

1233 (1) As to any examination, investigation, or hearing being  
1234 conducted under this chapter, a person designated by the  
1235 department:

1236 (a) May administer oaths, examine and cross-examine  
1237 witnesses, receive oral and documentary evidence.

1238 (b) May subpoena witnesses, compel their attendance and  
1239 testimony, and require by subpoena the production of books,  
1240 papers, records, files, correspondence, documents, or other  
1241 evidence which is relevant to the inquiry.

1242 (2) If any person refuses to comply with any such subpoena  
1243 or to testify as to any matter concerning which she or he may be  
1244 lawfully interrogated, the Circuit Court of Leon County or of  
1245 the county wherein such examination, investigation, or hearing  
1246 is being conducted, or of the county wherein such person  
1247 resides, may, on the application of the department, issue an

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1248 order requiring such person to comply with the subpoena and to  
1249 testify.

1250 (3) Subpoenas shall be served, and proof of such service  
1251 made, in the same manner as if issued by a circuit court.

1252 Witness fees, cost, and reasonable travel expenses, if claimed,  
1253 shall be allowed the same as for testimony in a circuit court.

1254 637.1025 Testimony compelled; immunity from prosecution.—

1255 (1) If any natural person asks to be excused from attending  
1256 or testifying or from producing any books, papers, records,  
1257 contracts, documents, or other evidence in connection with any  
1258 examination, hearing, or investigation being conducted by the  
1259 department or its examiner, on the ground that the testimony or  
1260 evidence required of her or him may tend to incriminate the  
1261 person or subject her or him to a penalty or forfeiture, and  
1262 shall notwithstanding be directed to give such testimony or  
1263 produce such evidence, the person must, if so directed by the  
1264 department and the Department of Legal Affairs, nonetheless  
1265 comply with such direction; but she or he shall not thereafter  
1266 be prosecuted or subjected to any penalty or forfeiture for or  
1267 on account of any transaction, matter, or thing concerning which  
1268 she or he may have so testified or produced evidence; and no  
1269 testimony so given or evidence produced shall be received  
1270 against the person upon any criminal action, investigation, or  
1271 proceeding. However, no such person so testifying shall be  
1272 exempt from prosecution or punishment for any perjury committed  
1273 by her or him in such testimony, and the testimony or evidence  
1274 so given or produced shall be admissible against her or him upon  
1275 any criminal action, investigation, or proceeding concerning  
1276 such perjury. No license or permit conferred or to be conferred

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1277 to such person shall be refused, suspended, or revoked based  
1278 upon the use of such testimony.

1279 (2) Any such individual may execute, acknowledge, and file  
1280 with the department, as appropriate, a statement expressly  
1281 waiving such immunity or privilege in respect to any  
1282 transaction, matter, or thing specified in such statement; and  
1283 thereupon the testimony of such individual or such evidence in  
1284 relation to such transaction, matter, or thing may be received  
1285 or produced before any judge or justice, court, tribunal, grand  
1286 jury, or otherwise; and, if so received or produced, such  
1287 individual shall not be entitled to any immunity or privileges  
1288 on account of any testimony she or he may so give or evidence so  
1289 produced.

1290 637.1026 Hearings.—The department may hold hearings for any  
1291 purpose within the scope of this chapter deemed to be necessary.

1292 637.1027 Authority of Department of Law Enforcement to  
1293 accept fingerprints of, and exchange criminal history records  
1294 with respect to, certain persons.—

1295 (1) The Department of Law Enforcement may accept  
1296 fingerprints of organizers, incorporators, subscribers,  
1297 officers, stockholders, directors, or any other persons  
1298 involved, directly or indirectly, in the organization,  
1299 operation, or management of:

1300 (a) Any insurer or proposed insurer transacting or  
1301 proposing to transact insurance in this state.

1302 (b) Any other entity which is examined or investigated or  
1303 which is eligible to be examined or investigated under the  
1304 provisions of this chapter.

1305 (2) The Department of Law Enforcement may accept

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1306 fingerprints of individuals who apply for a license as a title  
1307 insurance agent, service representative, or managing general  
1308 agent or the fingerprints of the majority owner, sole  
1309 proprietor, partners, officers, and directors of a corporation  
1310 or other legal entity that applies for licensure with the  
1311 department under the provisions of this chapter.

1312 (3) The Department of Law Enforcement may, to the extent  
1313 provided for by federal law, exchange state, multistate, and  
1314 federal criminal history records with the department for the  
1315 purpose of the issuance, denial, suspension, or revocation of a  
1316 certificate of authority, certification, or license to operate  
1317 in this state.

1318 (4) The Department of Law Enforcement may accept  
1319 fingerprints of any other person required by statute or rule to  
1320 submit fingerprints to the department or any applicant or  
1321 licensee regulated by the department who is required to  
1322 demonstrate that he or she has not been convicted of or pled  
1323 guilty or nolo contendere to a felony or a misdemeanor.

1324 (5) The Department of Law Enforcement shall, upon receipt  
1325 of fingerprints from the department, submit the fingerprints to  
1326 the Federal Bureau of Investigation to check federal criminal  
1327 history records.

1328 (6) Statewide criminal records obtained through the  
1329 Department of Law Enforcement, federal criminal records obtained  
1330 through the Federal Bureau of Investigation, and local criminal  
1331 records obtained through local law enforcement agencies shall be  
1332 used by the department for the purpose of issuance, denial,  
1333 suspension, or revocation of certificates of authority,  
1334 certifications, or licenses issued to operate in this state.

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1335       637.1029 Declaration of purpose.—The purpose of ss.  
1336 637.1029-637.1049 is to regulate trade practices relating to the  
1337 business of title insurance in accordance with the intent of  
1338 Congress as expressed in the Act of Congress of March 9, 1945  
1339 (Pub. L. No. 15, 79th Congress), by defining, or providing for  
1340 the determination of, all such practices in this state which  
1341 constitute unfair methods of competition or unfair or deceptive  
1342 acts or practices and by prohibiting the trade practices so  
1343 defined or determined.

1344       637.1031 Definitions.—When used in ss. 637.1029-637.1049,  
1345 the term “insurance policy” or “insurance contract” means a  
1346 written contract of, or a written agreement for or effecting,  
1347 insurance, or the certificate thereof, by whatever name called,  
1348 and includes all clauses, riders, endorsements, and papers which  
1349 are a part thereof.

1350       637.1032 Unfair methods of competition and unfair or  
1351 deceptive acts or practices prohibited; penalties.—

1352       (1) A person may not engage in this state in any trade  
1353 practice which is defined in ss. 637.1029-637.1049 as, or  
1354 determined pursuant to s. 637.1029 or s. 637.1035 to be, an  
1355 unfair method of competition or an unfair or deceptive act or  
1356 practice involving the business of insurance.

1357       (2) Any person who violates any provision of ss. 637.1029-  
1358 637.1049 shall be subject to a fine in an amount not greater  
1359 than \$2,500 for each nonwillful violation and not greater than  
1360 \$20,000 for each willful violation. Fines under this subsection  
1361 may not exceed an aggregate amount of \$10,000 for all nonwillful  
1362 violations arising out of the same action or an aggregate amount  
1363 of \$100,000 for all willful violations arising out of the same

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1364 action. The fines authorized by this subsection may be imposed  
1365 in addition to any other applicable penalty.

1366 637.1033 Unfair methods of competition and unfair or  
1367 deceptive acts or practices defined.—The following are defined  
1368 as unfair methods of competition and unfair or deceptive acts or  
1369 practices:

1370 (1) Misrepresentations and false advertising of insurance  
1371 policies.—Knowingly making, issuing, circulating, or causing to  
1372 be made, issued, or circulated, any estimate, illustration,  
1373 circular, statement, sales presentation, omission, or comparison  
1374 which:

1375 (a) Misrepresents the benefits, advantages, conditions, or  
1376 terms of any insurance policy.

1377 (b) Misrepresents the dividends or share of the surplus to  
1378 be received on any insurance policy.

1379 (c) Makes any false or misleading statements as to the  
1380 dividends or share of surplus previously paid on any insurance  
1381 policy.

1382 (d) Is misleading, or is a misrepresentation, as to the  
1383 financial condition of any person or as to the legal reserve  
1384 system upon which any life insurer operates.

1385 (e) Uses any name or title of any insurance policy or class  
1386 of insurance policies misrepresenting the true nature thereof.

1387 (f) Is a misrepresentation for the purpose of inducing, or  
1388 tending to induce, the lapse, forfeiture, exchange, conversion,  
1389 or surrender of any insurance policy.

1390 (g) Is a misrepresentation for the purpose of effecting a  
1391 pledge or assignment of, or effecting a loan against, any  
1392 insurance policy.



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1393 (h) Misrepresents any insurance policy as being shares of  
1394 stock or misrepresents ownership interest in the company.

1395 (i) Uses any advertisement that would mislead or otherwise  
1396 cause a reasonable person to believe mistakenly that the state  
1397 or the Federal Government is responsible for the insurance sales  
1398 activities of any person or stands behind any person's credit or  
1399 that any person, the state, or the Federal Government guarantees  
1400 any returns on insurance products or is a source of payment of  
1401 any insurance obligation of or sold by any person.

1402 (2) False information and advertising generally.—Knowingly  
1403 making, publishing, disseminating, circulating, or placing  
1404 before the public, or causing, directly or indirectly, to be  
1405 made, published, disseminated, circulated, or placed before the  
1406 public:

1407 (a) In a newspaper, magazine, or other publication;

1408 (b) In the form of a notice, circular, pamphlet, letter, or  
1409 poster;

1410 (c) Over any radio or television station; or

1411 (d) In any other way,

1412  
1413 an advertisement, announcement, or statement containing any  
1414 assertion, representation, or statement with respect to the  
1415 business of insurance, which is untrue, deceptive, or  
1416 misleading.

1417 (3) Defamation.—Knowingly making, publishing,  
1418 disseminating, or circulating, directly or indirectly, or  
1419 aiding, abetting, or encouraging the making, publishing,  
1420 disseminating, or circulating of, any oral or written statement,  
1421 or any pamphlet, circular, article, or literature, which is

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1422 false or maliciously critical of, or derogatory to, any person  
1423 and which is calculated to injure such person.

1424 (4) Boycott, coercion, and intimidation.—Entering into any  
1425 agreement to commit, or by any concerted action committing, any  
1426 act of boycott, coercion, or intimidation resulting in, or  
1427 tending to result in, unreasonable restraint of, or monopoly in,  
1428 the business of insurance.

1429 (5) False statements and entries.—

1430 (a) Knowingly:

1431 1. Filing with any supervisory or other public official;

1432 2. Making, publishing, disseminating, circulating;

1433 3. Delivering to any person;

1434 4. Placing before the public; or

1435 5. Causing, directly or indirectly, to be made, published,  
1436 disseminated, circulated, delivered to any person, or placed  
1437 before the public,

1438  
1439 any false material statement.

1440 (b) Knowingly making any false entry of a material fact in  
1441 any book, report, or statement of any person, or knowingly  
1442 omitting to make a true entry of any material fact pertaining to  
1443 the business of such person in any book, report, or statement of  
1444 such person.

1445 (6) Unlawful rebates.—

1446 (a) Except as otherwise expressly provided by law, or in an  
1447 applicable filing with the department, knowingly:

1448 1. Permitting, or offering to make, or making, any contract  
1449 or agreement as to such contract other than as plainly expressed  
1450 in the insurance contract issued thereon; or

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1451       2. Paying, allowing, or giving, or offering to pay, allow,  
1452 or give, directly or indirectly, as inducement to such insurance  
1453 contract, any unlawful rebate of premiums payable on the  
1454 contract, any special favor or advantage in the dividends or  
1455 other benefits thereon, or any valuable consideration or  
1456 inducement whatever not specified in the contract.

1457       (b)1. A title insurer, or any member, employee, attorney,  
1458 agent, or agency thereof, may not pay, allow, or give, or offer  
1459 to pay, allow, or give, directly or indirectly, as inducement to  
1460 title insurance, or after such insurance has been effected, any  
1461 rebate or abatement of the premium or any other charge or fee,  
1462 or provide any special favor or advantage, or any monetary  
1463 consideration or inducement whatever.

1464       2. Nothing in this paragraph shall be construed as  
1465 prohibiting the payment of fees to attorneys at law duly  
1466 licensed to practice law in the courts of this state, for  
1467 professional services, or as prohibiting the payment of earned  
1468 portions of the premium to duly appointed agents or agencies who  
1469 actually perform services for the title insurer. Nothing in this  
1470 paragraph shall be construed as prohibiting a rebate or  
1471 abatement of an attorney's fee charged for professional  
1472 services, or that portion of the premium that is not required to  
1473 be retained by the insurer pursuant to s. 637.2064(1), or any  
1474 other agent charge or fee to the person responsible for paying  
1475 the premium, charge, or fee.

1476       3. An insured named in a policy, or any other person  
1477 directly or indirectly connected with the transaction involving  
1478 the issuance of such policy, including, but not limited to, any  
1479 mortgage broker, real estate broker, builder, or attorney, any

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1480 employee, agent, agency, or representative thereof, or any other  
1481 person whatsoever, may not knowingly receive or accept, directly  
1482 or indirectly, any rebate or abatement of any portion of the  
1483 title insurance premium or of any other charge or fee or any  
1484 monetary consideration or inducement whatsoever, except as set  
1485 forth in subparagraph 2.; provided, in no event shall any  
1486 portion of the attorney's fee, any portion of the premium that  
1487 is not required to be retained by the insurer pursuant to s.  
1488 637.2064(1), any agent charge or fee, or any other monetary  
1489 consideration or inducement be paid directly or indirectly for  
1490 the referral of title insurance business.

1491 (7) Unfair claim settlement practices.-

1492 (a) Attempting to settle claims on the basis of an  
1493 application, when serving as a binder or intended to become a  
1494 part of the policy, or any other material document which was  
1495 altered without notice to, or knowledge or consent of, the  
1496 insured;

1497 (b) A material misrepresentation made to an insured or any  
1498 other person having an interest in the proceeds payable under  
1499 such contract or policy, for the purpose and with the intent of  
1500 effecting settlement of such claims, loss, or damage under such  
1501 contract or policy on less favorable terms than those provided  
1502 in, and contemplated by, such contract or policy; or

1503 (c) Committing or performing with such frequency as to  
1504 indicate a general business practice any of the following:

1505 1. Failing to adopt and implement standards for the proper  
1506 investigation of claims;

1507 2. Misrepresenting pertinent facts or insurance policy  
1508 provisions relating to coverages at issue;

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1509 3. Failing to acknowledge and act promptly upon  
1510 communications with respect to claims;

1511 4. Denying claims without conducting reasonable  
1512 investigations based upon available information;

1513 5. Failing to affirm or deny full or partial coverage of  
1514 claims, and, as to partial coverage, the dollar amount or extent  
1515 of coverage, or failing to provide a written statement that the  
1516 claim is being investigated, upon the written request of the  
1517 insured within 30 days after proof-of-loss statements have been  
1518 completed;

1519 6. Failing to promptly provide a reasonable explanation in  
1520 writing to the insured of the basis in the insurance policy, in  
1521 relation to the facts or applicable law, for denial of a claim  
1522 or for the offer of a compromise settlement;

1523 7. Failing to promptly notify the insured of any additional  
1524 information necessary for the processing of a claim; or

1525 8. Failing to clearly explain the nature of the requested  
1526 information and the reasons why such information is necessary.

1527 (8) Failure to maintain complaint-handling procedures.—  
1528 Failure of any person to maintain a complete record of all the  
1529 complaints received since the date of the last examination. For  
1530 purposes of this subsection, the term "complaint" means any  
1531 written communication primarily expressing a grievance.

1532 (9) Misrepresentation in insurance applications.—

1533 (a) Knowingly making a false or fraudulent written or oral  
1534 statement or representation on, or relative to, an application  
1535 or negotiation for an insurance policy for the purpose of  
1536 obtaining a fee, commission, money, or other benefit from any  
1537 insurer, agent, broker, or individual.

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1538 (b) Knowingly making a material omission in the comparison  
1539 of a life, health, or Medicare supplement insurance replacement  
1540 policy with the policy it replaces for the purpose of obtaining  
1541 a fee, commission, money, or other benefit from any insurer,  
1542 agent, broker, or individual. For the purposes of this  
1543 paragraph, a material omission includes the failure to advise  
1544 the insured of the existence and operation of a preexisting  
1545 condition clause in the replacement policy.

1546 (10) Advertising gifts permitted.—No provision of  
1547 subsection (6) or subsection (7) shall be deemed to prohibit a  
1548 licensed insurer or its agent from giving to insureds,  
1549 prospective insureds, and others, for the purpose of  
1550 advertising, any article of merchandise having a value of not  
1551 more than \$25.

1552 (11) Illegal dealings in premiums; excess or reduced  
1553 charges for insurance.—

1554 (a) Knowingly collecting any sum as a premium or charge for  
1555 insurance, which is not then provided, or is not in due course  
1556 to be provided, subject to acceptance of the risk by the  
1557 insurer, by an insurance policy issued by an insurer as  
1558 permitted by this chapter.

1559 (b) Knowingly collecting as a premium or charge for  
1560 insurance any sum in excess of or less than the premium or  
1561 charge applicable to such insurance, in accordance with the  
1562 applicable classifications and rates as filed with and approved  
1563 by the department, and as specified in the policy; or, in cases  
1564 when classifications, premiums, or rates are not required by  
1565 this chapter to be so filed and approved, premiums and charges  
1566 collected from a resident of this state in excess of or less

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1567 than those specified in the policy and as fixed by the insurer.

1568 (12) Interlocking ownership and management.—

1569 (a) Any domestic insurer may retain, invest in, or acquire  
1570 the whole or any part of the capital stock of any other insurer  
1571 or insurers, or have a common management with any other insurer  
1572 or insurers, unless such retention, investment, acquisition, or  
1573 common management is inconsistent with any other provision of  
1574 this chapter, or unless by reason thereof the business of such  
1575 insurers with the public is conducted in a manner which  
1576 substantially lessens competition generally in the insurance  
1577 business.

1578 (b) Any person otherwise qualified may be a director of two  
1579 or more domestic insurers which are competitors, unless the  
1580 effect thereof is substantially to lessen competition between  
1581 insurers generally or materially tend to create a monopoly.

1582 (c) Any limitation contained in this subsection does not  
1583 apply to any person who is a director of two or more insurers  
1584 under common control or management.

1585 (13) Soliciting or accepting new or renewal insurance risks  
1586 by insolvent or impaired insurer prohibited; penalty.—

1587 (a) Whether or not delinquency proceedings as to the  
1588 insurer have been or are to be initiated, but while such  
1589 insolvency or impairment exists, a director or officer of an  
1590 insurer, except with the written permission of the department,  
1591 may not authorize or permit the insurer to solicit or accept new  
1592 or renewal insurance risks in this state after such director or  
1593 officer knew, or reasonably should have known, that the insurer  
1594 was insolvent or impaired. The term "impaired" includes  
1595 impairment of capital or surplus, as defined in s. 631.011(12)

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1596 and (13).

1597 (b) Any such director or officer, upon conviction of a  
1598 violation of this subsection, is guilty of a felony of the third  
1599 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
1600 775.084.

1601 (14) Refusal to insure.—In addition to other provisions of  
1602 this chapter, the refusal to insure, or continue to insure, any  
1603 individual or risk solely because of:

1604 (a) Race, color, creed, marital status, sex, or national  
1605 origin;

1606 (b) The residence, age, or lawful occupation of the  
1607 individual or the location of the risk, unless there is a  
1608 reasonable relationship between the residence, age, or lawful  
1609 occupation of the individual or the location of the risk and the  
1610 coverage issued or to be issued; or

1611 (c) The insured's or applicant's failure to agree to place  
1612 collateral business with any insurer.

1613 (15) Sliding.—Sliding is the act or practice of:

1614 (a) Representing to the applicant that a specific ancillary  
1615 coverage or product is required by law in conjunction with the  
1616 purchase of insurance when such coverage or product is not  
1617 required;

1618 (b) Representing to the applicant that a specific ancillary  
1619 coverage or product is included in the policy applied for  
1620 without an additional charge when such charge is required; or

1621 (c) Charging an applicant for a specific ancillary coverage  
1622 or product, in addition to the cost of the insurance coverage  
1623 applied for, without the informed consent of the applicant.

1624 637.10335 Civil remedies against title insurers.—



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1625 (1) (a) Any person may bring a civil action against a title  
1626 insurer when such person is damaged:

1627 1. By a violation by the insurer of s. 637.1033(7), (11),  
1628 or (14); or

1629 2. By the commission of any of the following acts by the  
1630 insurer:

1631 a. Not attempting in good faith to settle claims when,  
1632 under all the circumstances, it could and should have done so  
1633 had it acted fairly and honestly toward its insured and with due  
1634 regard for her or his interests;

1635 b. Making claims payments to insureds or beneficiaries not  
1636 accompanied by a statement setting forth the coverage under  
1637 which payments are being made; or

1638 c. Except as to liability coverages, failing to promptly  
1639 settle claims, when the obligation to settle a claim has become  
1640 reasonably clear, under one portion of the insurance policy  
1641 coverage in order to influence settlements under other portions  
1642 of the insurance policy coverage.

1643 (b) Notwithstanding paragraph (a), a person pursuing a  
1644 remedy under this section need not prove that such act was  
1645 committed or performed with such frequency as to indicate a  
1646 general business practice.

1647 (2) Any party may bring a civil action against an  
1648 unauthorized insurer if such party is damaged by a violation of  
1649 s. 637.1033 by the unauthorized insurer.

1650 (3) (a) As a condition precedent to bringing an action under  
1651 this section, the department and the authorized insurer must  
1652 have been given 60 days' written notice of the violation. If the  
1653 department returns a notice for lack of specificity, the 60-day

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1654 time period shall not begin until a proper notice is filed.

1655 (b) The notice shall be on a form provided by the  
1656 department and shall state with specificity the following  
1657 information, and such other information as the department may  
1658 require:

1659 1. The statutory provision, including the specific language  
1660 of the statute, which the authorized insurer allegedly violated.

1661 2. The facts and circumstances giving rise to the  
1662 violation.

1663 3. The name of any individual involved in the violation.

1664 4. A reference to specific policy language that is relevant  
1665 to the violation, if any. If the person bringing the civil  
1666 action is a third-party claimant, she or he shall not be  
1667 required to reference the specific policy language if the  
1668 authorized insurer has not provided a copy of the policy to the  
1669 third-party claimant pursuant to written request.

1670 5. A statement that the notice is given in order to perfect  
1671 the right to pursue the civil remedy authorized by this section.

1672 (c) Within 20 days after receipt of the notice, the  
1673 department may return any notice that does not provide the  
1674 specific information required by this section, and the  
1675 department shall indicate the specific deficiencies contained in  
1676 the notice. A determination by the department to return a notice  
1677 for lack of specificity shall be exempt from the requirements of  
1678 chapter 120.

1679 (d) An action may not lie if, within 60 days after filing  
1680 notice, the damages are paid or the circumstances giving rise to  
1681 the violation are corrected.

1682 (e) The authorized insurer that is the recipient of a

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1683 notice filed pursuant to this section shall report to the  
1684 department on the disposition of the alleged violation.

1685 (f) The applicable statute of limitations for an action  
1686 under this section shall be tolled for a period of 65 days by  
1687 the mailing of the notice required by this subsection or the  
1688 mailing of a subsequent notice required by this subsection.

1689 (4) Upon adverse adjudication at trial or upon appeal, the  
1690 authorized insurer shall be liable for damages, together with  
1691 court costs and reasonable attorney's fees incurred by the  
1692 plaintiff.

1693 (5) (a) Punitive damages may not be awarded under this  
1694 section unless the acts giving rise to the violation occur with  
1695 such frequency as to indicate a general business practice and  
1696 these acts are:

1697 1. Willful, wanton, and malicious;  
1698 2. In reckless disregard for the rights of any insured; or  
1699 3. In reckless disregard for the rights of a beneficiary  
1700 under a life insurance contract.

1701 (b) Any person who pursues a claim under this subsection  
1702 shall post in advance the costs of discovery. Such costs shall  
1703 be awarded to the authorized insurer if no punitive damages are  
1704 awarded to the plaintiff.

1705 (6) This section shall not be construed to authorize a  
1706 class action suit against an authorized insurer or a civil  
1707 action against the commission, the office, or the department or  
1708 any of their employees, or to create a cause of action when an  
1709 authorized health insurer refuses to pay a claim for  
1710 reimbursement on the ground that the charge for a service was  
1711 unreasonably high or that the service provided was not medically

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1712 necessary.

1713 (7) In the absence of expressed language to the contrary,  
1714 this section shall not be construed to authorize a civil action  
1715 or create a cause of action against an authorized insurer or its  
1716 employees who, in good faith, release information about an  
1717 insured or an insurance policy to a law enforcement agency in  
1718 furtherance of an investigation of a criminal or fraudulent act  
1719 relating to a motor vehicle theft or a motor vehicle insurance  
1720 claim.

1721 (8) The civil remedy specified in this section does not  
1722 preempt any other remedy or cause of action provided pursuant to  
1723 any other statute or pursuant to the common law of this state.  
1724 Any person may obtain a judgment under the common-law remedy of  
1725 bad faith or the remedy provided under this section but is not  
1726 entitled to a judgment under both remedies. This section shall  
1727 not be construed to create a common-law cause of action. The  
1728 damages recoverable pursuant to this section shall include those  
1729 damages that are a reasonably foreseeable result of a specified  
1730 violation of this section by the authorized insurer and may  
1731 include an award or judgment in an amount that exceeds the  
1732 policy limits.

1733 637.1034 Favored title insurance agent or title insurer;  
1734 coercion of debtors.—

1735 (1) A person may not:

1736 (a) Require, as a condition precedent or condition  
1737 subsequent to the lending of money or extension of credit or any  
1738 renewal thereof, that the person to whom such money or credit is  
1739 extended, or whose obligation the creditor is to acquire or  
1740 finance, negotiate any policy or contract of insurance through a

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1741 particular insurer or group of insurers or agent or broker or  
1742 group of agents or brokers.

1743 (b) Reject an insurance policy solely because the policy  
1744 has been issued or underwritten by any person who is not  
1745 associated with a financial institution, or with any subsidiary  
1746 or affiliate thereof, when such insurance is required in  
1747 connection with a loan or extension of credit; or unreasonably  
1748 disapprove the insurance policy provided by a borrower for the  
1749 protection of the property securing the credit or lien. For  
1750 purposes of this paragraph, such disapproval shall be deemed  
1751 unreasonable if it is not based solely on reasonable standards,  
1752 uniformly applied, relating to the extent of coverage required  
1753 by such lender or person extending credit and the financial  
1754 soundness and the services of an insurer. Such standards shall  
1755 not discriminate against any particular type of insurer, nor  
1756 shall such standards call for the disapproval of an insurance  
1757 policy because such policy contains coverage in addition to that  
1758 required.

1759 (c) Require, directly or indirectly, that any borrower,  
1760 mortgagor, purchaser, insurer, broker, or agent pay a separate  
1761 charge in connection with the handling of any insurance policy  
1762 that is required in connection with a loan or other extension of  
1763 credit or the provision of another traditional banking product,  
1764 or pay a separate charge to substitute the insurance policy of  
1765 one insurer for that of another, unless such charge would be  
1766 required if the person were providing the insurance. This  
1767 paragraph does not include the interest which may be charged on  
1768 premium loans or premium advances in accordance with the  
1769 security instrument.

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1770       (d) Use or provide to others insurance information required  
1771 to be disclosed by a customer to a financial institution, or a  
1772 subsidiary or affiliate thereof, in connection with the  
1773 extension of credit for the purpose of soliciting the sale of  
1774 insurance, unless the customer has given express written consent  
1775 or has been given the opportunity to object to such use of the  
1776 information. Insurance information means information concerning  
1777 premiums, terms, and conditions of insurance coverage, insurance  
1778 claims, and insurance history provided by the customer. The  
1779 opportunity to object to the use of insurance information must  
1780 be in writing and must be clearly and conspicuously made.

1781       (2) (a) Any person offering the sale of insurance at the  
1782 time of and in connection with an extension of credit or the  
1783 sale or lease of goods or services shall disclose in writing  
1784 that the choice of an insurance provider will not affect the  
1785 decision regarding the extension of credit or sale or lease of  
1786 goods or services, except that reasonable requirements may be  
1787 imposed pursuant to subsection (1).

1788       (b) Federally insured or state-insured depository  
1789 institutions and credit unions shall make clear and conspicuous  
1790 disclosure in writing prior to the sale of any insurance policy  
1791 that such policy is not a deposit, is not insured by the Federal  
1792 Deposit Insurance Corporation or any other entity, is not  
1793 guaranteed by the insured depository institution or any person  
1794 soliciting the purchase of or selling the policy; that the  
1795 financial institution is not obligated to provide benefits under  
1796 the insurance contract; and, where appropriate, that the policy  
1797 involves investment risk, including potential loss of principal.

1798       (c) All documents constituting policies of insurance shall

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1799 be separate and shall not be combined with or be a part of other  
1800 documents. A person may not include the expense of insurance  
1801 premiums in a primary credit transaction without the express  
1802 written consent of the customer.

1803 (d) A loan officer of a financial institution who is  
1804 involved in the application, solicitation, or closing of a loan  
1805 transaction may not solicit or sell insurance in connection with  
1806 the same loan, but such loan officer may refer the loan customer  
1807 to another insurance agent who is not involved in the  
1808 application, solicitation, or closing of the same loan  
1809 transaction. This paragraph does not apply to an agent located  
1810 on premises having only a single person with lending authority,  
1811 or to a broker or dealer registered under the Federal Securities  
1812 Exchange Act of 1934 in connection with a margin loan secured by  
1813 securities.

1814 (3) A person may not make an extension of credit or the  
1815 sale of any product or service that is the equivalent to an  
1816 extension of credit or lease or sale of property of any kind, or  
1817 furnish any services or fix or vary the consideration for any of  
1818 the foregoing, on the condition or requirement that the customer  
1819 obtain insurance from that person, or a subsidiary or affiliate  
1820 of that person, or a particular insurer, agent, or broker;  
1821 however, this subsection does not prohibit any person from  
1822 engaging in any activity that if done by a financial institution  
1823 would not violate s. 106 of the Bank Holding Company Act  
1824 Amendments of 1970, 12 U.S.C. s. 1972, as interpreted by the  
1825 Board of Governors of the Federal Reserve System.

1826 (4) The department may investigate the affairs of any  
1827 person to whom this section applies to determine whether such

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1828 person has violated this section. If a violation of this section  
1829 is found to have been committed knowingly, the person in  
1830 violation shall be subject to the same procedures and penalties  
1831 as provided in ss. 637.1036, 637.1037, 637.1038 and 637.1039.

1832 637.1035 Power of department.—The department may examine  
1833 and investigate the affairs of every person involved in the  
1834 business of insurance in this state in order to determine  
1835 whether such person has been or is engaged in any unfair method  
1836 of competition or in any unfair or deceptive act or practice  
1837 prohibited by s. 637.1032, and shall each have the powers and  
1838 duties specified in ss. 637.1036-637.1039 in connection  
1839 therewith.

1840 637.1036 Defined practices; hearings, witnesses,  
1841 appearances, production of books and service of process.—

1842 (1) Whenever the department has reason to believe that any  
1843 person has engaged, or is engaging, in this state in any unfair  
1844 method of competition or any unfair or deceptive act or practice  
1845 as defined in s. 637.1033 or s. 637.1034 or is engaging in the  
1846 business of insurance without being properly licensed as  
1847 required by this chapter and that a proceeding by it in respect  
1848 thereto would be to the interest of the public, it shall conduct  
1849 or cause to have conducted a hearing in accordance with chapter  
1850 120.

1851 (2) The department, a duly empowered hearing officer, or an  
1852 administrative law judge shall, during the conduct of such  
1853 hearing, have those powers enumerated in s. 120.569; however,  
1854 the penalties for failure to comply with a subpoena or with an  
1855 order directing discovery shall be limited to a fine not to  
1856 exceed \$1,000 per violation.



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1857       (3) Statements of charges, notices, and orders under this  
1858 act may be served by anyone duly authorized by the department,  
1859 in the manner provided by law for service of process in civil  
1860 actions or by certifying and mailing a copy thereof to the  
1861 person affected by such statement, notice, order, or other  
1862 process at his or her or its residence or principal office or  
1863 place of business. The verified return by the person so serving  
1864 such statement, notice, order, or other process, setting forth  
1865 the manner of the service, shall be proof of the same, and the  
1866 return postcard receipt for such statement, notice, order, or  
1867 other process, certified and mailed as aforesaid, shall be proof  
1868 of service of the same.

1869       637.1037 Cease and desist and penalty orders.—After the  
1870 hearing provided in s. 637.1036, the department shall enter a  
1871 final order in accordance with s. 120.569. If it is determined  
1872 that the person charged has engaged in an unfair or deceptive  
1873 act or practice or the unlawful transaction of insurance, the  
1874 department shall also issue an order requiring the violator to  
1875 cease and desist from engaging in such method of competition,  
1876 act, or practice or the unlawful transaction of insurance.  
1877 Further, if the act or practice is a violation of s. 637.1033 or  
1878 s. 637.1034, the department may, at its discretion, order any  
1879 one or more of the following:

1880       (1) Suspension or revocation of the person's certificate of  
1881 authority, license, or eligibility for any certificate of  
1882 authority or license, if he or she knew, or reasonably should  
1883 have known, he or she was in violation of this chapter.

1884       (2) Such other relief as may be provided in this chapter.

1885       637.1038 Appeals from the department.—Any person subject to

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1886 an order of the department under s. 637.1037 or s. 637.1039 may  
1887 obtain a review of such order by filing an appeal therefrom in  
1888 accordance with the provisions and procedures for appeal from  
1889 the orders of the department in general under s. 120.68.

1890 637.1039 Penalty for violation of cease and desist orders.-  
1891 Any person who violates a cease and desist order of the  
1892 department under s. 637.1037 while such order is in effect,  
1893 after notice and hearing as provided in s. 637.1036, shall be  
1894 subject, at the discretion of the department, to any one or more  
1895 of the following:

1896 (1) A monetary penalty of not more than \$50,000 as to all  
1897 matters determined in such hearing.

1898 (2) Suspension or revocation of such person's certificate  
1899 of authority, license, or eligibility to hold such certificate  
1900 of authority or license.

1901 (3) Such other relief as may be provided in this chapter.

1902 637.1041 Rules.-

1903 (1) The department may, in accordance with chapter 120,  
1904 adopt reasonable rules as are necessary or proper to identify  
1905 specific methods of competition or acts or practices which are  
1906 prohibited by s. 637.1033 or s. 637.1034, but the rules shall  
1907 not enlarge upon or extend the provisions of ss. 637.1033 and  
1908 637.1034.

1909 (2) The department shall, in accordance with chapter 120,  
1910 adopt rules to protect members of the United States Armed Forces  
1911 from dishonest or predatory insurance sales practices by  
1912 insurers and insurance agents. The rules shall identify specific  
1913 false, misleading, deceptive, or unfair methods of competition,  
1914 acts, or practices which are prohibited by s. 637.1033 or s.

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1915 637.1034. The rules shall be based upon model rules or model  
1916 laws adopted by the National Association of Insurance  
1917 Commissioners which identify certain insurance practices  
1918 involving the solicitation or sale of insurance and annuities to  
1919 members of the United States Armed Forces which are false,  
1920 misleading, deceptive, or unfair.

1921 637.1042 Provisions of chapter additional to existing law.-  
1922 The powers vested in the department by this chapter shall be  
1923 additional to any other powers to enforce any penalties, fines,  
1924 or forfeitures authorized by law.

1925 637.1043 Civil liability.-The provisions of this chapter  
1926 are cumulative to rights under the general civil and common law,  
1927 and no action of the department, shall abrogate such rights to  
1928 damages or other relief in any court.

1929 637.10435 Policyholders Bill of Rights.-

1930 (1) The principles expressed in the following statements  
1931 shall serve as standards to be followed by the department,  
1932 commission, and office in exercising their powers and duties, in  
1933 exercising administrative discretion, in dispensing  
1934 administrative interpretations of the law, and in adopting  
1935 rules:

1936 (a) Policyholders have the right to competitive pricing  
1937 practices and marketing methods that enable them to determine  
1938 the best value among comparable policies.

1939 (b) Policyholders have the right to obtain comprehensive  
1940 coverage.

1941 (c) Policyholders have the right to insurance advertising  
1942 and other selling approaches that provide accurate and balanced  
1943 information on the benefits and limitations of a policy.

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1944 (d) Policyholders have a right to an insurance company that  
1945 is financially stable.

1946 (e) Policyholders have the right to be serviced by a  
1947 competent, honest insurance agent or broker.

1948 (f) Policyholders have the right to a readable policy.

1949 (g) Policyholders have the right to an insurance company  
1950 that provides an economic delivery of coverage and that tries to  
1951 prevent losses.

1952 (h) Policyholders have the right to a balanced and positive  
1953 regulation by the department, commission, and office.

1954 (2) This section shall not be construed as creating a civil  
1955 cause of action by any individual policyholder against any  
1956 individual insurer.

1957 637.1044 Privacy.—The department shall adopt rules  
1958 consistent with other provisions of this chapter to govern the  
1959 use of a consumer's nonpublic personal financial and health  
1960 information. These rules must be based on, consistent with, and  
1961 not more restrictive than the Privacy of Consumer Financial and  
1962 Health Information Regulation, adopted September 26, 2000, by  
1963 the National Association of Insurance Commissioners. In  
1964 addition, these rules must be consistent with, and not more  
1965 restrictive than, the standards contained in Title V of the  
1966 Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-102.

1967 637.10445 Trade secret documents.—

1968 (1) If any person who is required to submit documents or  
1969 other information to the department pursuant to this chapter or  
1970 by rule or order of the department claims that such submission  
1971 contains a trade secret, such person may file with the  
1972 department a notice of trade secret as provided in this section.

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1973 Failure to do so constitutes a waiver of any claim by such  
1974 person that the document or information is a trade secret.

1975 (a) Each page of such document or specific portion of a  
1976 document claimed to be a trade secret must be clearly marked  
1977 "trade secret."

1978 (b) All material marked as a trade secret must be separated  
1979 from all non-trade secret material and be submitted in a  
1980 separate envelope clearly marked "trade secret."

1981 (c) In submitting a notice of trade secret to the  
1982 department, the submitting party must include an affidavit  
1983 certifying under oath to the truth of the following statements  
1984 concerning all documents or information that are claimed to be  
1985 trade secrets:

1986 1. [I consider/My company considers] this information a  
1987 trade secret that has value and provides an advantage or an  
1988 opportunity to obtain an advantage over those who do not know or  
1989 use it.

1990 2. [I have/My company has] taken measures to prevent the  
1991 disclosure of the information to anyone other than those who  
1992 have been selected to have access for limited purposes, and [I  
1993 intend/my company intends] to continue to take such measures.

1994 3. The information is not, and has not been, reasonably  
1995 obtainable without [my/our] consent by other persons by use of  
1996 legitimate means.

1997 4. The information is not publicly available elsewhere.

1998 (d) Any data submitted by a title insurance agent or title  
1999 insurer pursuant to s. 637.1014 is presumed to be a trade secret  
2000 under this section whether or not so designated.

2001 (2) If the department receives a public records request for

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2002 a document or information that is marked and certified as a  
2003 trade secret, the department shall promptly notify the person  
2004 that certified the document as a trade secret. The notice shall  
2005 inform such person that he or she or his or her company has 30  
2006 days after receipt of such notice to file an action in circuit  
2007 court seeking a determination whether the document in question  
2008 contains trade secrets and an order barring public disclosure of  
2009 the document. If that person or company files an action within  
2010 30 days after receipt of notice of the public records request,  
2011 the department may not release the documents pending the outcome  
2012 of the legal action. The failure to file an action within 30  
2013 days constitutes a waiver of any claim of confidentiality, and  
2014 the department shall release the document as requested.

2015 (3) The department may disclose a trade secret, together  
2016 with the claim that it is a trade secret, to an officer or  
2017 employee of another governmental agency whose use of the trade  
2018 secret is within the scope of his or her employment.

2019 637.1045 Financial institutions conducting title insurance  
2020 transactions.—A financial institution, as defined in s.  
2021 655.005(1)(g), (h), or (p), may conduct title insurance  
2022 transactions only through Florida-licensed title insurance  
2023 agents representing Florida-authorized title insurers.

2024 637.1046 Investigation by department or Division of  
2025 Insurance Fraud; compliance; immunity; confidential information;  
2026 reports to division; division investigator's power of arrest.—

2027 (1) For the purposes of this section, a person commits a  
2028 "fraudulent insurance act" if the person knowingly and with  
2029 intent to defraud presents, causes to be presented, or prepares  
2030 with knowledge or belief that it will be presented, to or by a

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2031 title insurer or any title insurance agent, any written  
2032 statement as part of, or in support of, an application for the  
2033 issuance of, or the rating of, any insurance policy, or a claim  
2034 for payment or other benefit pursuant to any insurance policy,  
2035 which the person knows to contain materially false information  
2036 concerning any fact material thereto or if the person conceals,  
2037 for the purpose of misleading another, information concerning  
2038 any fact material thereto.

2039 (2) If, by its own inquiries or as a result of complaints,  
2040 the department or its Division of Insurance Fraud has reason to  
2041 believe that a person has engaged in, or is engaging in, a  
2042 fraudulent insurance act, an act or practice that violates s.  
2043 637.1033 or s. 817.234, or an act or practice punishable under  
2044 s. 637.1008, it may administer oaths and affirmations, request  
2045 the attendance of witnesses or proffering of matter, and collect  
2046 evidence. The department shall not compel the attendance of any  
2047 person or matter in any such investigation except pursuant to  
2048 subsection (4).

2049 (3) If matter that the department or its division seeks to  
2050 obtain by request is located outside the state, the person so  
2051 requested may make it available to the division or its  
2052 representative to examine the matter at the place where it is  
2053 located. The division may designate representatives, including  
2054 officials of the state in which the matter is located, to  
2055 inspect the matter on its behalf, and it may respond to similar  
2056 requests from officials of other states.

2057 (4) (a) The department or the division may request that an  
2058 individual who refuses to comply with any such request be  
2059 ordered by the circuit court to provide the testimony or matter.

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2060 The court shall not order such compliance unless the department  
2061 or the division has demonstrated to the satisfaction of the  
2062 court that the testimony of the witness or the matter under  
2063 request has a direct bearing on the department of a fraudulent  
2064 insurance act, on a violation of s. 637.1033 or s. 817.234, or  
2065 on an act or practice punishable under s. 637.1008 or is  
2066 pertinent and necessary to further such investigation.

2067 (b) Except in a prosecution for perjury, an individual who  
2068 complies with a court order to provide testimony or matter after  
2069 asserting a privilege against self-incrimination to which the  
2070 individual is entitled by law may not be subjected to a criminal  
2071 proceeding or to a civil penalty with respect to the act  
2072 concerning which the individual is required to testify or  
2073 produce relevant matter.

2074 (c) In the absence of fraud or bad faith, a person is not  
2075 subject to civil liability for libel, slander, or any other  
2076 relevant tort by virtue of filing reports, without malice, or  
2077 furnishing other information, without malice, required by this  
2078 section or required by the department or division under the  
2079 authority granted in this section, and no civil cause of action  
2080 of any nature shall arise against such person:

2081 1. For any information relating to suspected fraudulent  
2082 insurance acts or persons suspected of engaging in such acts  
2083 furnished to or received from law enforcement officials, their  
2084 agents, or employees;

2085 2. For any information relating to suspected fraudulent  
2086 insurance acts or persons suspected of engaging in such acts  
2087 furnished to or received from other persons subject to the  
2088 provisions of this chapter;



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2089       3. For any such information furnished in reports to the  
2090 department, the division, the National Insurance Crime Bureau,  
2091 the National Association of Insurance Commissioners, or any  
2092 local, state, or federal enforcement officials or their agents  
2093 or employees; or

2094       4. For other actions taken in cooperation with any of the  
2095 agencies or individuals specified in this paragraph in the  
2096 lawful investigation of suspected fraudulent insurance acts.

2097       (d) In addition to the immunity granted in paragraph (c),  
2098 persons identified as designated employees whose  
2099 responsibilities include the investigation and disposition of  
2100 claims relating to suspected fraudulent insurance acts may share  
2101 information relating to persons suspected of committing  
2102 fraudulent insurance acts with other designated employees  
2103 employed by the same or other insurers whose responsibilities  
2104 include the investigation and disposition of claims relating to  
2105 fraudulent insurance acts, provided the department has been  
2106 given written notice of the names and job titles of such  
2107 designated employees prior to such designated employees sharing  
2108 information. Unless the designated employees of the insurer act  
2109 in bad faith or in reckless disregard for the rights of any  
2110 insured, neither the insurer nor its designated employees are  
2111 civilly liable for libel, slander, or any other relevant tort,  
2112 and a civil action does not arise against the insurer or its  
2113 designated employees:

2114       1. For any information related to suspected fraudulent  
2115 insurance acts provided to an insurer; or

2116       2. For any information relating to suspected fraudulent  
2117 insurance acts provided to the National Insurance Crime Bureau

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2118 or the National Association of Insurance Commissioners.

2119  
2120 Provided, however, that the qualified immunity against civil  
2121 liability conferred on any insurer or its designated employees  
2122 shall be forfeited with respect to the exchange or publication  
2123 of any defamatory information with third persons not expressly  
2124 authorized by this paragraph to share in such information.

2125 (e) The Chief Financial Officer and any employee or agent  
2126 of the department, when acting without malice and in the absence  
2127 of fraud or bad faith, is not subject to civil liability for  
2128 libel, slander, or any other relevant tort, and no civil cause  
2129 of action of any nature exists against such person by virtue of  
2130 the execution of official activities or duties of the department  
2131 under this section or by virtue of the publication of any report  
2132 or bulletin related to the official activities or duties of the  
2133 department under this section.

2134 (f) This section does not abrogate or modify in any way any  
2135 common-law or statutory privilege or immunity heretofore enjoyed  
2136 by any person.

2137 (5) Any person, other than an insurer, agent, or other  
2138 person licensed under this chapter, or an employee thereof,  
2139 having knowledge or who believes that a fraudulent insurance act  
2140 or any other act or practice which, upon conviction, constitutes  
2141 a felony or a misdemeanor under this chapter, or under s.  
2142 817.234, is being or has been committed may send to the Division  
2143 of Insurance Fraud a report or information pertinent to such  
2144 knowledge or belief and such additional information relative  
2145 thereto as the department may request. Any professional  
2146 practitioner licensed or regulated by the Department of Business

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2147 and Professional Regulation, except as otherwise provided by  
2148 law, any medical review committee as defined in s. 766.101, any  
2149 title insurer, title insurance agent, or other person licensed  
2150 under this chapter, or an employee thereof, having knowledge or  
2151 who believes that a fraudulent insurance act or any other act or  
2152 practice which, upon conviction, constitutes a felony or a  
2153 misdemeanor under this chapter, or under s. 817.234, is being or  
2154 has been committed shall send to the Division of Insurance Fraud  
2155 a report or information pertinent to such knowledge or belief  
2156 and such additional information relative thereto as the  
2157 department may require. The Division of Insurance Fraud shall  
2158 review such information or reports and select such information  
2159 or reports as, in its judgment, may require further  
2160 investigation. It shall then cause an independent examination of  
2161 the facts surrounding such information or report to be made to  
2162 determine the extent, if any, to which a fraudulent insurance  
2163 act or any other act or practice which, upon conviction,  
2164 constitutes a felony or a misdemeanor under this chapter, or  
2165 under s. 817.234, is being committed. The Division of Insurance  
2166 Fraud shall report any alleged violations of law which its  
2167 investigations disclose to the appropriate licensing agency and  
2168 state attorney or other prosecuting agency having jurisdiction  
2169 with respect to any such violation, as provided in s. 637.302.  
2170 If prosecution by the state attorney or other prosecuting agency  
2171 having jurisdiction with respect to such violation is not begun  
2172 within 60 days of the division's report, the state attorney or  
2173 other prosecuting agency having jurisdiction with respect to  
2174 such violation shall inform the division of the reasons for the  
2175 lack of prosecution.

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2176 (6) Division investigators may make arrests for criminal  
2177 violations established as a result of investigations. Such  
2178 investigators shall also be considered state law enforcement  
2179 officers for all purposes and may execute arrest warrants and  
2180 search warrants; serve subpoenas issued for the examination,  
2181 investigation, and trial of all offenses; and arrest upon  
2182 probable cause without warrant any person found in the act of  
2183 violating any of the provisions of applicable laws.  
2184 Investigators empowered to make arrests under this section shall  
2185 be empowered to bear arms in the performance of their duties. In  
2186 such a situation, the investigator must be certified in  
2187 compliance with the provisions of s. 943.1395 or must meet the  
2188 temporary employment or appointment exemption requirements of s.  
2189 943.131 until certified.

2190 (7) It is unlawful for any person to resist an arrest  
2191 authorized by this section or in any manner to interfere, either  
2192 by abetting or assisting such resistance or otherwise  
2193 interfering, with division investigators in the duties imposed  
2194 upon them by law or department rule.

2195 637.1047 Insurer anti-fraud investigative units; reporting  
2196 requirements; penalties for noncompliance.-

2197 (1) Every insurer admitted to do business in this state who  
2198 in the previous calendar year, at any time during that year, had  
2199 \$10 million or more in direct premiums written shall:

2200 (a) Establish and maintain a unit or division within the  
2201 company to investigate possible fraudulent claims by insureds or  
2202 by persons making claims for services or repairs against  
2203 policies held by insureds; or

2204 (b) Contract with others to investigate possible fraudulent

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2205 claims for services or repairs against policies held by  
2206 insureds.

2207

2208 An insurer subject to this subsection shall file with the  
2209 Division of Insurance Fraud of the department on or before July  
2210 1, 1996, a detailed description of the unit or division  
2211 established pursuant to paragraph (a) or a copy of the contract  
2212 and related documents required by paragraph (b).

2213 (2) Every insurer admitted to do business in this state,  
2214 which in the previous calendar year had less than \$10 million in  
2215 direct premiums written, must adopt an anti-fraud plan and file  
2216 it with the Division of Insurance Fraud of the department on or  
2217 before July 1, 1996. An insurer may, in lieu of adopting and  
2218 filing an anti-fraud plan, comply with the provisions of  
2219 subsection (1).

2220 (3) Each insurers anti-fraud plans shall include:

2221 (a) A description of the insurer's procedures for detecting  
2222 and investigating possible fraudulent insurance acts.

2223 (b) A description of the insurer's procedures for the  
2224 mandatory reporting of possible fraudulent insurance acts to the  
2225 Division of Insurance Fraud of the department.

2226 (c) A description of the insurer's plan for anti-fraud  
2227 education and training of its claims adjusters or other  
2228 personnel.

2229 (d) A written description or chart outlining the  
2230 organizational arrangement of the insurer's anti-fraud personnel  
2231 who are responsible for the investigation and reporting of  
2232 possible fraudulent insurance acts.

2233 (4) Any insurer who obtains a certificate of authority

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2234 after July 1, 1995, shall have 18 months in which to comply with  
2235 the requirements of this section.

2236 (5) For purposes of this section, the term "unit or  
2237 division" includes the assignment of fraud investigation to  
2238 employees whose principal responsibilities are the investigation  
2239 and disposition of claims. If an insurer creates a distinct unit  
2240 or division, hires additional employees, or contracts with  
2241 another entity to fulfill the requirements of this section, the  
2242 additional cost incurred must be included as an administrative  
2243 expense for ratemaking purposes.

2244 (6) If an insurer fails to timely submit a final acceptable  
2245 anti-fraud plan or anti-fraud investigative unit description,  
2246 fails to implement the provisions of a plan or an anti-fraud  
2247 investigative unit description, or otherwise refuses to comply  
2248 with the provisions of this section, the department, may:

2249 (a) Impose an administrative fine of not more than \$2,000  
2250 per day for such failure by an insurer to submit an acceptable  
2251 anti-fraud plan or anti-fraud investigative unit description,  
2252 until the department deems the insurer to be in compliance;

2253 (b) Impose an administrative fine for failure by an insurer  
2254 to implement or follow the provisions of an anti-fraud plan or  
2255 anti-fraud investigative unit description; or

2256 (c) Impose the provisions of both paragraphs (a) and (b).

2257 (7) The department may adopt rules to administer this  
2258 section.

2259 637.1048 Anti-Fraud Reward Program; reporting of title  
2260 insurance fraud.-

2261 (1) The Anti-Fraud Reward Program is hereby established  
2262 within the department, to be funded from the Title Insurance

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2263 Regulatory Trust Fund.

2264 (2) The department may pay rewards of up to \$25,000 to  
2265 persons providing information leading to the arrest and  
2266 conviction of persons committing crimes investigated by the  
2267 Division of Insurance Fraud arising from violations of s.  
2268 440.105, s. 637.1008, s. 637.1033, s. 637.1046, or s. 817.234.

2269 (3) Only a single reward amount may be paid by the  
2270 department for claims arising out of the same transaction or  
2271 occurrence, regardless of the number of persons arrested and  
2272 convicted and the number of persons submitting claims for the  
2273 reward. The reward may be disbursed among more than one person  
2274 in amounts determined by the department.

2275 (4) The department shall adopt rules which set forth the  
2276 application and approval process, including the criteria against  
2277 which claims shall be evaluated, the basis for determining  
2278 specific reward amounts, and the manner in which rewards shall  
2279 be disbursed. Applications for rewards authorized by this  
2280 section must be made pursuant to rules established by the  
2281 department.

2282 (5) Determinations by the department to grant or deny a  
2283 reward under this section shall not be considered agency action  
2284 subject to review under s. 120.569 or s. 120.57.

2285 637.1049 Disposition of revenues; criminal or forfeiture  
2286 proceedings.-

2287 (1) The Division of Insurance Fraud of the Department of  
2288 Financial Services may deposit revenues received as a result of  
2289 criminal proceedings or forfeiture proceedings, other than  
2290 revenues deposited into the Department of Financial Services'  
2291 Federal Law Enforcement Trust Fund under s. 17.43, into the

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2292 Title Insurance Regulatory Trust Fund. Moneys deposited pursuant  
 2293 to this section shall be separately accounted for and shall be  
 2294 used solely for the division to carry out its duties and  
 2295 responsibilities.

2296 (2) Moneys deposited into the Title Insurance Regulatory  
 2297 Trust Fund pursuant to this section shall be appropriated by the  
 2298 Legislature, pursuant to the provisions of chapter 216, for the  
 2299 sole purpose of enabling the division to carry out its duties  
 2300 and responsibilities.

2301 (3) Notwithstanding the provisions of s. 216.301 and  
 2302 pursuant to s. 216.351, any balance of moneys deposited into the  
 2303 Title Insurance Regulatory Trust Fund pursuant to this section  
 2304 remaining at the end of any fiscal year shall remain in the  
 2305 trust fund at the end of that year and shall be available for  
 2306 carrying out the duties and responsibilities of the division.

2307 Section 4. Part II of chapter 637, Florida Statutes,  
 2308 consisting of sections 637.2001, 637.2002, 637.2003, 637.20035,  
 2309 637.2004, 637.2005, 637.2006, 637.2007, 637.20073, 637.20075,  
 2310 637.2008, 637.2009, 637.2011, 637.2012, 637.2013, 637.2014,  
 2311 637.2015, 637.2016, 637.2017, 637.2018, 637.2019, 637.2021,  
 2312 637.2022, 637.2023, 637.2024, 637.2025, 637.2026, 637.2027,  
 2313 637.2028, 637.2029, 637.2031, 637.2032, 637.2033, 637.2034,  
 2314 637.2035, 637.2036, 637.2037, 637.2038, 637.2039, 637.2041,  
 2315 637.2042, 637.2043, 637.2046, 637.2047, 637.2048, 637.20485,  
 2316 637.2049, 637.2051, 637.2052, 637.2053, 637.2054, 637.2055,  
 2317 637.2056, 637.2057, 637.2058, 637.2059, 637.2061, 637.2063,  
 2318 637.20635, 637.2064, 637.2065, 637.2066, 637.2067, 637.2068,  
 2319 637.2069, 637.2071, 637.2072, 637.2073, 637.2074, 637.2075,  
 2320 637.2076, 637.2077, 637.2078, 637.2079, 637.2081, 637.2082,



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2321 637.2083, 637.2084, 637.2085, 637.2086, 637.2087, 637.2088,  
2322 637.2089, and 637.2091, is created and entitled "ADMINISTRATION  
2323 OF TITLE INSURERS."

2324 Section 5. Sections 637.2001, 637.2002, 637.2003,  
2325 637.20035, 637.2004, 637.2005, 637.2006, and 637.2007, Florida  
2326 Statutes, are created to read:

2327 637.2001 Certificate of authority required.-

2328 (1) A person may not act as a title insurer, and a title  
2329 insurer or its agents, attorneys, or representatives may not  
2330 directly or indirectly transact title insurance, in this state  
2331 except as authorized by a subsisting certificate of authority  
2332 issued to the title insurer by the department, except as to such  
2333 transactions as are expressly otherwise provided for in this  
2334 chapter.

2335 (2) A title insurer may not, from offices or by personnel  
2336 or facilities located in this state, solicit title insurance  
2337 applications or otherwise transact title insurance in another  
2338 state or country unless it holds a subsisting certificate of  
2339 authority issued to it by the department authorizing it to  
2340 transact the same kind or kinds of title insurance in this  
2341 state.

2342 (3) This state hereby preempts the field of regulating  
2343 title insurers and their agents and representatives; and a  
2344 county, city, municipality, district, school district, or  
2345 political subdivision may not require of any title insurer,  
2346 title insurance agent, or representative regulated under this  
2347 chapter any authorization, permit, or registration of any kind  
2348 for conducting transactions lawful under the authority granted  
2349 by the state under this chapter.

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2350       (4) (a) Any person who acts as a title insurer, transacts  
2351 title insurance, or otherwise engages in title insurance  
2352 activities in this state without a certificate of authority in  
2353 violation of this section commits a felony of the third degree,  
2354 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2355       (b) However, any person acting as a title insurer without a  
2356 valid certificate of authority who violates this section commits  
2357 insurance fraud, punishable as provided in this paragraph. If  
2358 the amount of any insurance premium collected with respect to  
2359 any violation of this section:

2360           1. Is less than \$20,000, the offender commits a felony of  
2361 the third degree, punishable as provided in s. 775.082, s.  
2362 775.083, or s. 775.084, and the offender shall be sentenced to a  
2363 minimum term of imprisonment of 1 year.

2364           2. Is \$20,000 or more, but less than \$100,000, the offender  
2365 commits a felony of the second degree, punishable as provided in  
2366 s. 775.082, s. 775.083, or s. 775.084, and the offender shall be  
2367 sentenced to a minimum term of imprisonment of 18 months.

2368           3. Is \$100,000 or more, the offender commits a felony of  
2369 the first degree, punishable as provided in s. 775.082, s.  
2370 775.083, or s. 775.084, and the offender shall be sentenced to a  
2371 minimum term of imprisonment of 2 years.

2372       637.2002 Exceptions, certificate of authority required.—A  
2373 certificate of authority shall not be required of a title  
2374 insurer with respect to:

2375           (1) Investigation, settlement, or litigation of claims  
2376 under its policies lawfully written in this state, or  
2377 liquidation of assets and liabilities of the insurer (other than  
2378 collection of new premiums), all as resulting from its former

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2379 authorized operations in this state.

2380 (2) Transactions involving a policy, subsequent to issuance  
2381 thereof, covering only subjects of insurance not resident,  
2382 located, or expressly to be performed in this state at the time  
2383 of issuance, and lawfully solicited, written, or delivered  
2384 outside this state.

2385 (3) Reinsurance, when transacted as authorized under s.  
2386 637.2049.

2387 (4) Investment by a foreign insurer of its funds in real  
2388 estate in this state or in securities secured thereby, if the  
2389 foreign insurer complies with the laws of this state relating  
2390 generally to foreign business corporations.

2391 637.2003 General eligibility of title insurers for  
2392 certificate of authority.—To qualify for and hold authority to  
2393 transact title insurance in this state, a title insurer must be  
2394 otherwise in compliance with this chapter and with its charter  
2395 powers and must be an incorporated stock insurer, an  
2396 incorporated mutual insurer, or a reciprocal insurer, of the  
2397 same general type as may be formed as a domestic insurer under  
2398 this chapter; except that:

2399 (1) A title insurer may not be authorized to transact title  
2400 insurance in this state which does not maintain reserves as  
2401 required by part I of chapter 625 applicable to the kind or  
2402 kinds of insurance transacted by such insurer, wherever  
2403 transacted in the United States, or which transacts insurance in  
2404 the United States on the assessment premium plan, stipulated  
2405 premium plan, cooperative plan, or any similar plan.

2406 (2) A foreign or alien title insurer or exchange may not be  
2407 authorized to transact title insurance in this state unless it

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2408 is otherwise qualified therefor under this chapter and has  
2409 operated satisfactorily for at least 3 years in its state or  
2410 country of domicile; however, the department may waive the 3-  
2411 year requirement if the foreign or alien insurer or exchange:

2412 (a) Has operated successfully and has capital and surplus  
2413 of \$5 million;

2414 (b) Is the wholly owned subsidiary of an insurer which is  
2415 an authorized insurer in this state; or

2416 (c) Is the successor in interest through merger or  
2417 consolidation of an authorized insurer.

2418 (3) (a) The department shall not grant or continue authority  
2419 to transact title insurance in this state as to any title  
2420 insurer the management, officers, or directors of which are  
2421 found by it to be incompetent or untrustworthy; or so lacking in  
2422 insurance company managerial experience as to make the proposed  
2423 operation hazardous to the insurance-buying public; or so  
2424 lacking in insurance experience, ability, and standing as to  
2425 jeopardize the reasonable promise of successful operation; or  
2426 which it has good reason to believe are affiliated directly or  
2427 indirectly through ownership, control, reinsurance transactions,  
2428 or other insurance or business relations, with any person or  
2429 persons whose business operations are or have been marked, to  
2430 the detriment of policyholders or stockholders or investors or  
2431 creditors or of the public, by manipulation of assets, accounts,  
2432 or reinsurance or by bad faith.

2433 (b) The department shall not grant or continue authority to  
2434 transact title insurance in this state as to any title insurer  
2435 if any person, including any subscriber, stockholder, or  
2436 incorporator, who exercises or has the ability to exercise

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2437 effective control of the insurer, or who influences or has the  
2438 ability to influence the transaction of the business of the  
2439 insurer, does not possess the financial standing and business  
2440 experience for the successful operation of the insurer.

2441 (c) The department may deny, suspend, or revoke the  
2442 authority to transact title insurance in this state of any title  
2443 insurer if any person, including any subscriber, stockholder, or  
2444 incorporator, who exercises or has the ability to exercise  
2445 effective control of the insurer, or who influences or has the  
2446 ability to influence the transaction of the business of the  
2447 insurer, has been found guilty of, or has pleaded guilty or nolo  
2448 contendere to, any felony or crime punishable by imprisonment of  
2449 1 year or more under the law of the United States or any state  
2450 thereof or under the law of any other country which involves  
2451 moral turpitude, without regard to whether a judgment of  
2452 conviction has been entered by the court having jurisdiction in  
2453 such case. However, in the case of an insurer operating under a  
2454 subsisting certificate of authority, the insurer shall remove  
2455 any such person immediately upon discovery of the conditions set  
2456 forth in this paragraph when applicable to such person or upon  
2457 the order of the department, and the failure to so act by said  
2458 insurer shall be grounds for revocation or suspension of the  
2459 insurer's certificate of authority.

2460 (d) The department may deny, suspend, or revoke the  
2461 authority of a title insurer to transact title insurance in this  
2462 state if any person, including any subscriber, stockholder, or  
2463 incorporator, who exercises or has the ability to exercise  
2464 effective control of the insurer, or who influences or has the  
2465 ability to influence the transaction of the business of the

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2466 insurer, which person the department has good reason to believe  
2467 is now or was in the past affiliated directly or indirectly,  
2468 through ownership interest of 10 percent or more, control, or  
2469 reinsurance transactions, with any business, corporation, or  
2470 other entity that has been found guilty of or has pleaded guilty  
2471 or nolo contendere to any felony or crime punishable by  
2472 imprisonment for 1 year or more under the laws of the United  
2473 States, any state, or any other country, regardless of  
2474 adjudication. However, in the case of an insurer operating under  
2475 a subsisting certificate of authority, the insurer shall  
2476 immediately remove such person or immediately notify the  
2477 department of such person upon discovery of the conditions set  
2478 forth in this paragraph, either when applicable to such person  
2479 or upon order of the department; the failure to remove such  
2480 person, provide such notice, or comply with such order  
2481 constitutes grounds for suspension or revocation of the  
2482 insurer's certificate of authority.

2483 (4) (a) An authorized title insurer may not act as a  
2484 fronting company for any unauthorized insurer which is not an  
2485 approved reinsurer.

2486 (b) A "fronting company" is an authorized insurer which by  
2487 reinsurance or otherwise generally transfers more than 50  
2488 percent to one unauthorized insurer which does not meet the  
2489 requirements of s. 637.604(3) (a), (b), or (c), or more than 75  
2490 percent to two or more unauthorized insurers which do not meet  
2491 the requirements of s. 637.604(3) (a), (b), or (c), of the entire  
2492 risk of loss on all of the insurance written by it in this  
2493 state, or on one or more lines of insurance, on all of the  
2494 business produced through one or more agents or agencies, or on

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2495 all of the business from a designated geographical territory,  
2496 without obtaining the prior approval of the department.

2497 (c) The department may, in its discretion, approve a  
2498 transfer of risk in excess of the limits in paragraph (b) upon  
2499 presentation of evidence, satisfactory to the department, that  
2500 the transfer would be in the best interests of the financial  
2501 condition of the insurer and in the best interests of the  
2502 policyholders.

2503 (5) A title insurer may not be authorized to transact title  
2504 insurance in this state which, during the 3 years immediately  
2505 preceding its application for a certificate of authority, has  
2506 violated any of the insurance laws of this state and after being  
2507 informed of such violation has failed to correct the same;  
2508 except that, if all other requirements are met, the department  
2509 may nevertheless issue a certificate of authority to such an  
2510 insurer upon the filing by the insurer of a sworn statement of  
2511 all such insurance so written in violation of law, and upon  
2512 payment to the department of a sum of money as additional filing  
2513 fee equivalent to all premium taxes and other state taxes and  
2514 fees as would have been payable by the insurer if such insurance  
2515 had been lawfully written by an authorized insurer under the  
2516 laws of this state. This fee, when collected, shall be deposited  
2517 to the credit of the Title Insurance Regulatory Trust Fund.

2518 (6) Nothing in this chapter shall be deemed to prohibit the  
2519 granting and continuance of a certificate of authority to a  
2520 domestic title insurer organized as a business trust, if the  
2521 declaration of trust of such insurer was filed in the department  
2522 of the Secretary of State prior to January 1, 1959, and if the  
2523 insurer otherwise meets the applicable requirements of this

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2524 chapter. Such an insurer may hereinafter in this chapter be  
2525 referred to as a "business trust insurer."

2526 (7) For the purpose of satisfying the requirements of ss.  
2527 637.2004 and 637.2007, the investment portfolio of an insurer  
2528 applying for an initial certificate of authority to do business  
2529 in this state shall value its bonds and stocks in accordance  
2530 with the provisions of the latest edition of the publication  
2531 "Purposes and Procedures Manual of the NAIC Securities Valuation  
2532 Office" by the National Association of Insurance Commissioners,  
2533 July 1, 2002, and subsequent amendments thereto, if the  
2534 valuation methodology remains substantially unchanged.

2535 637.20035 Structure of title insurers.—Except as to  
2536 domestic business trust title insurers as referred to in s.  
2537 637.2003(6) authorized prior to July 1, 2010, a title insurer  
2538 shall be a stock insurer.

2539 637.2004 Capital funds required; new insurers.—

2540 (1) To receive authority to transact title insurance, an  
2541 insurer applying for its original certificate of authority in  
2542 this state after the effective date of this section shall  
2543 possess surplus as to policyholders not less than the greater of  
2544 \$2.5 million or 10 percent of the insurer's total liabilities;  
2545 however, no insurer shall be required under this subsection to  
2546 have surplus as to policyholders greater than \$100 million.

2547 (2) The requirements of this section shall be based upon  
2548 all the kinds of insurance actually transacted or to be  
2549 transacted by the insurer in any and all areas in which it  
2550 operates, whether or not only a portion of such kinds are to be  
2551 transacted in this state.

2552 (3) As to surplus as to policyholders required for



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2553 qualification to transact one or more kinds of insurance,  
2554 domestic mutual insurers are governed by chapter 628, and  
2555 domestic reciprocal insurers are governed by chapter 629.

2556 (4) For the purposes of this section, liabilities shall not  
2557 include liabilities required under s. 625.041(4). For purposes  
2558 of computing minimum surplus as to policyholders pursuant to s.  
2559 625.305(1), liabilities shall include liabilities required under  
2560 s. 625.041(4).

2561 (5) The provisions of this section, as amended by this act,  
2562 shall apply only to insurers applying for a certificate of  
2563 authority on or after the effective date of this act.

2564 637.2005 Restrictions on insurers that are wholly owned  
2565 subsidiaries of insurers to do business in state.—Effective  
2566 December 31, 2010, and notwithstanding any other provision of  
2567 law:

2568 (1) A new certificate of authority for the transaction of  
2569 title insurance may not be issued to any insurer domiciled in  
2570 this state that is a wholly owned subsidiary of an insurer  
2571 authorized to do business in any other state.

2572 (2) The rate filings of any insurer domiciled in this state  
2573 that is a wholly owned subsidiary of an insurer authorized to do  
2574 business in any other state shall include information relating  
2575 to the profits of the parent company of the insurer domiciled in  
2576 this state.

2577 637.2006 Officers and directors of insolvent insurers.—Any  
2578 person who was an officer or director of an insurer doing  
2579 business in this state and who served in that capacity within  
2580 the 2-year period prior to the date the insurer became  
2581 insolvent, for any insolvency that occurs on or after July 1,

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2582 2002, may not thereafter serve as an officer or director of an  
 2583 insurer authorized in this state unless the officer or director  
 2584 demonstrates that his or her personal actions or omissions were  
 2585 not a significant contributing cause to the insolvency.

2586 637.2007 Surplus as to policyholders required; new and  
 2587 existing insurers.—

2588 (1) To maintain a certificate of authority to transact  
 2589 title insurance, an insurer in this state shall at all times  
 2590 maintain surplus as to policyholders not less than the greater  
 2591 of \$1.5 million or 10 percent of the insurer's total  
 2592 liabilities.

2593 (2) For purposes of this section, liabilities shall not  
 2594 include liabilities required under s. 625.041(4). For purposes  
 2595 of computing minimum surplus as to policyholders pursuant to s.  
 2596 625.305(1), liabilities shall include liabilities required under  
 2597 s. 625.041(4).

2598 (3) An insurer may not be required under this section to  
 2599 have surplus as to policyholders greater than \$100 million.

2600 Section 6. Section 625.330, Florida Statutes, is  
 2601 transferred, renumbered as section 627.20073, Florida Statutes,  
 2602 and amended to read:

2603 637.20073 ~~625.330~~ Special investments by title insurer.—

2604 (1) In addition to other investments eligible under this  
 2605 part, a title insurer may invest and have invested an amount not  
 2606 exceeding the greater of \$300,000 or 50 percent of that part of  
 2607 its surplus as to policyholders which exceeds the minimum  
 2608 surplus required by s. 637.2007 ~~624.408~~ in its abstract plant  
 2609 and equipment, in loans secured by mortgages on abstract plants  
 2610 and equipment, and, with the consent of the office, in stocks of

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2611 abstract companies. If the insurer transacts kinds of insurance  
2612 in addition to title insurance, for the purposes of this section  
2613 its paid-in capital stock shall be prorated between title  
2614 insurance and such other insurances upon the basis of the  
2615 reserves maintained by the insurer for the various kinds of  
2616 insurance; but the capital so assigned to title insurance may  
2617 not shall in any ~~no~~ event be less than \$100,000.

2618 (2) Subsection (1) does not apply to a business trust  
2619 insurer. Such an insurer may invest and have invested not  
2620 exceeding the greater of \$300,000 or 50 percent of its net trust  
2621 fund in excess of the reserve provided for under s. 637.20075  
2622 ~~625.111~~ in abstract plants, stock in abstract companies, or  
2623 corporations controlled by the business trust and created for  
2624 developing and servicing abstract plants.

2625 (3) Investments authorized by this section shall not be  
2626 credited against the insurer's required unearned premium or  
2627 guaranty fund reserve provided for under s. 637.20075 ~~625.111~~.

2628 Section 7. Section 625.111, Florida Statutes, is  
2629 transferred, renumbered as section 637.20075, Florida Statutes,  
2630 and amended to read:

2631 637.20075 ~~625.111~~ Title insurance reserve.-

2632 (1) In addition to an adequate reserve as to outstanding  
2633 losses relating to known claims, as required under s. 625.041, a  
2634 title insurer shall establish, segregate, and maintain a  
2635 guaranty fund or unearned premium reserve as provided in this  
2636 section. The sums required under this section to be reserved for  
2637 unearned premiums on title guarantees and policies at all times  
2638 and for all purposes shall be considered and constitute unearned  
2639 portions of the original premiums and shall be charged as a

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2640 reserve liability of such insurer in determining its financial  
2641 condition. While such sums are so reserved, they shall be  
2642 withdrawn from the use of the insurer for its general purposes,  
2643 impressed with a trust in favor of the holders of title  
2644 guarantees and policies, and held available for reinsurance of  
2645 the title guarantees and policies in the event of the insolvency  
2646 of the insurer. Nothing contained in this section precludes  
2647 ~~shall preclude~~ such insurer from investing such reserve in  
2648 investments authorized by law for such an insurer and the income  
2649 from such invested reserve shall be included in the general  
2650 income of the insurer to be used by such insurer for any lawful  
2651 purpose.

2652 (2)~~(1)~~ For unearned premium reserves established on or  
2653 after July 1, 1999, such unearned premium reserve shall consist  
2654 of not less than an amount equal to the sum of:

2655 (a) A reserve with respect to unearned premiums for  
2656 policies written or title liability assumed in reinsurance  
2657 before July 1, 1999, equal to the reserve established on June  
2658 30, 1999, for those unearned premiums with such reserve being  
2659 subsequently released as provided in subsection (3) ~~(2)~~. For  
2660 domestic title insurers subject to this section, such amounts  
2661 shall be calculated in accordance with provisions of law of this  
2662 state in effect at the time the associated premiums were written  
2663 or assumed and as amended prior to July 1, 1999.

2664 (b) A total amount equal to 30 cents for each \$1,000 of net  
2665 retained liability for policies written or title liability  
2666 assumed in reinsurance on or after July 1, 1999, with such  
2667 reserve being subsequently released as provided in subsection  
2668 (3) ~~(2)~~. For the purpose of calculating this reserve, the total

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2669 of the net retained liability for all simultaneous issue  
2670 policies covering a single risk shall be equal to the liability  
2671 for the policy with the highest limit covering that single risk,  
2672 net of any liability ceded in reinsurance.

2673 (c) An additional amount, if deemed necessary by a  
2674 qualified actuary, which shall be subsequently released as  
2675 provided in subsection (3)~~(2)~~. Using financial results as of  
2676 December 31 of each year, all domestic title insurers shall  
2677 obtain a Statement of Actuarial Opinion from a qualified actuary  
2678 regarding the insurer's loss and loss adjustment expense  
2679 reserves, including reserves for known claims, adverse  
2680 development on known claims, incurred but not reported claims,  
2681 and unallocated loss adjustment expenses. The actuarial opinion  
2682 shall conform to the annual statement instructions for title  
2683 insurers adopted by the National Association of Insurance  
2684 Commissioners and shall include the actuary's professional  
2685 opinion of the insurer's reserves as of the date of the annual  
2686 statement. If the amount of the reserve stated in the opinion  
2687 and displayed in Schedule P of the annual statement for that  
2688 reporting date is greater than the sum of the known claim  
2689 reserve and unearned premium reserve as calculated under this  
2690 section, as of the same reporting date and including any  
2691 previous actuarial provisions added at earlier dates, the  
2692 insurer shall add to the insurer's unearned premium reserve an  
2693 actuarial amount equal to the reserve shown in the actuarial  
2694 opinion, minus the known claim reserve and the unearned premium  
2695 reserve, as of the current reporting date and calculated in  
2696 accordance with this section, but in no event calculated as of  
2697 any date prior to December 31, 1999. The comparison shall be

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2698 made using that line on Schedule P displaying the Total Net Loss  
2699 and Loss Adjustment Expense which is comprised of the Known  
2700 Claim Reserve, and any associated Adverse Development Reserve,  
2701 the reserve for Incurred But Not Reported Losses, and  
2702 Unallocated Loss Adjustment Expenses.

2703 (3)~~(2)~~(a) With respect to the reserve established in  
2704 accordance with paragraph (2)~~(1)~~(a), the domestic title insurer  
2705 shall release the reserve over a period of 20 subsequent years  
2706 as provided in this paragraph. The insurer shall release 30  
2707 percent of the initial aggregate sum during 1999, with one  
2708 quarter of that amount being released on March 31, June 30,  
2709 September 30, and December 31, 1999, with the March 31 and June  
2710 30 releases to be retroactive and reflected on the September 30  
2711 financial statements. Thereafter, the insurer shall release, on  
2712 the same quarterly basis as specified for reserves released  
2713 during 1999, a percentage of the initial aggregate sum as  
2714 follows: 15 percent during calendar year 2000, 10 percent during  
2715 each of calendar years 2001 and 2002, 5 percent during each of  
2716 calendar years 2003 and 2004, 3 percent during each of calendar  
2717 years 2005 and 2006, 2 percent during each of calendar years  
2718 2007-2013, and 1 percent during each of calendar years 2014-  
2719 2018.

2720 (b) With respect to reserves established in accordance with  
2721 paragraph (2)~~(1)~~(b), the unearned premium for policies written  
2722 or title liability assumed during a particular calendar year  
2723 shall be earned, and released from reserve, over a period of 20  
2724 subsequent years as provided in this paragraph. The insurer  
2725 shall release 30 percent of the initial sum during the year next  
2726 succeeding the year the premium was written or assumed, with one

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2727 quarter of that amount being released on March 31, June 30,  
2728 September 30, and December 31 of such year. Thereafter, the  
2729 insurer shall release, on the same quarterly basis as specified  
2730 for reserves released during the year first succeeding the year  
2731 the premium was written or assumed, a percentage of the initial  
2732 sum as follows: 15 percent during the next succeeding year, 10  
2733 percent during each of the next succeeding 2 years, 5 percent  
2734 during each of the next succeeding 2 years, 3 percent during  
2735 each of the next succeeding 2 years, 2 percent during each of  
2736 the next succeeding 7 years, and 1 percent during each of the  
2737 next succeeding 5 years.

2738 (c) With respect to reserves established in accordance with  
2739 paragraph (2)~~(1)~~(c), any additional amount established in any  
2740 calendar year shall be released in the years subsequent to its  
2741 establishment as provided in paragraph (b), with the timing and  
2742 percentage of releases being in all respects identical to those  
2743 of unearned premium reserves that are calculated as provided in  
2744 paragraph (b) and established with regard to premiums written or  
2745 liability assumed in reinsurance in the same year as the year in  
2746 which any additional amount was originally established.

2747 (4)~~(3)~~ At any reporting date, the amount of the required  
2748 releases of existing unearned premium reserves under subsection  
2749 (3)~~(2)~~ shall be calculated and deducted from the total unearned  
2750 premium reserve before any additional amount is established for  
2751 the current calendar year in accordance with the provisions of  
2752 paragraph (2)~~(1)~~(c).

2753 (5)~~(4)~~ As used in this section:

2754 (a) "Net retained liability" means the total liability  
2755 retained by a title insurer for a single risk, after taking into

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2756 account the deduction for ceded liability, if any.

2757 (b) "Qualified actuary" means a person who is, as detailed  
2758 in the National Association of Insurance Commissioners' Annual  
2759 Statement Instructions:

2760 1. A member in good standing of the Casualty Actuarial  
2761 Society;

2762 2. A member in good standing of the American Academy of  
2763 Actuaries who has been approved as qualified for signing  
2764 casualty loss reserve opinions by the Casualty Practice Council  
2765 of the American Academy of Actuaries; or

2766 3. A person who otherwise has competency in loss reserve  
2767 evaluation as demonstrated to the satisfaction of the insurance  
2768 regulatory official of the domiciliary state. In such case, at  
2769 least 90 days prior to the filing of its annual statement, the  
2770 insurer must request approval that the person be deemed  
2771 qualified and that request must be approved or denied. The  
2772 request must include the National Association of Insurance  
2773 Commissioners' Biographical Form and a list of all loss reserve  
2774 opinions issued in the last 3 years by this person.

2775 (c) "Single risk" means the insured amount of any title  
2776 insurance policy, except that where two or more title insurance  
2777 policies are issued simultaneously covering different estates in  
2778 the same real property, "single risk" means the sum of the  
2779 insured amounts of all such title insurance policies. Any title  
2780 insurance policy insuring a mortgage interest, a claim payment  
2781 under which reduces the insured amount of a fee or leasehold  
2782 title insurance policy, shall be excluded in computing the  
2783 amount of a single risk to the extent that the insured amount of  
2784 the mortgage title insurance policy does not exceed the insured



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2785 amount of the fee or leasehold title insurance policy.

2786 Section 8. Sections 637.2008, 637.2009, 637.2011, 637.2012,  
2787 637.2013, 637.2014, 637.2015, 637.2016, 637.2017, 637.2018,  
2788 637.2019, 637.2021, 637.2022, 637.2023, 637.2024, 637.2025,  
2789 637.2026, 637.2027, 637.2028, 637.2029, 637.2031, 637.2032,  
2790 637.2033, 637.2034, 637.2035, 637.2036, 637.2037, 637.2038,  
2791 637.2039, 637.2041, 637.2042, 637.2043, 637.2046, 637.2047, and  
2792 637.2048, Florida Statutes, are created to read:

2793 637.2008 Premiums written; restrictions.—

2794 (1) Whenever a title insurer's ratio of actual or projected  
2795 annual written premiums as adjusted in accordance with  
2796 subsection (4) to current or projected surplus as to  
2797 policyholders as adjusted in accordance with subsection (6)  
2798 exceeds 10 to 1 for gross written premiums or exceeds 4 to 1 for  
2799 net written premiums, the department shall suspend the insurer's  
2800 certificate of authority or establish by order maximum gross or  
2801 net annual premiums to be written by the insurer consistent with  
2802 maintaining the ratios specified herein unless the insurer  
2803 demonstrates to the department's satisfaction that exceeding the  
2804 ratios of this section does not endanger the financial condition  
2805 of the insurer or endanger the interests of the insurer's  
2806 policyholders.

2807 (2) Projected annual net or gross premiums shall be based  
2808 on the actual writings to date for the title insurer's current  
2809 calendar year or the insurer's writings for the previous  
2810 calendar year or both. Ratios shall be computed on an annualized  
2811 basis.

2812 (3) For the purposes of this section, gross premiums  
2813 written means direct premiums written and reinsurance assumed.

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2814 (4) For the purposes of this section, for each calendar  
2815 year premiums shall be calculated as the product of the actual  
2816 or projected premiums and 1.00.

2817 637.2009 Deposit requirement; domestic title insurers and  
2818 foreign title insurers.-

2819 (1) As to domestic title insurers, the department shall not  
2820 issue or permit to exist a certificate of authority unless such  
2821 insurer has deposited and maintains deposited in trust for the  
2822 protection of the insurer's policyholders or its policyholders  
2823 and creditors with the department securities eligible for such  
2824 deposit under s. 625.52, having at all times a value of not less  
2825 than \$100,000.

2826 (2) As to foreign title insurers, the department, upon  
2827 issuing or permitting to exist a certificate of authority, may  
2828 require for good cause a deposit and maintenance of the deposit  
2829 in trust for the protection of the insured's policyholders or  
2830 its policyholders and creditors with the department securities  
2831 eligible for such deposit under s. 625.52, having at all times a  
2832 value of not less than \$100,000 A foreign insurer with surplus  
2833 as to policyholders of more than \$10 million according to its  
2834 latest annual statement shall not be required to make a deposit  
2835 under this subsection.

2836 (3) Whenever the department determines that the financial  
2837 condition of a title insurer has deteriorated or that the  
2838 policyholders' best interests are not being preserved by the  
2839 activities of an insurer, the department may require such  
2840 insurer to deposit and maintain deposited in trust with the  
2841 department for the protection of the insurer's policyholders or  
2842 its policyholders and creditors, for such time as the department

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2843 deems necessary, securities eligible for such deposit under s.  
2844 625.52, having a market value of not less than the amount which  
2845 the department determines is necessary, which amount shall be  
2846 not less than \$100,000, or more than 25 percent of the insurer's  
2847 obligations in this state, as determined from the latest annual  
2848 financial statement of the insured. The deposit required under  
2849 this subsection shall not exceed \$2 million and is in addition  
2850 to any other deposits required of an insurer pursuant to  
2851 subsections (1) and (2) or any other provisions of this chapter.

2852 (4) All such deposits in this state are subject to the  
2853 applicable provisions of part III of chapter 625.

2854 637.2011 Deposit of alien insurers.-

2855 (1) An alien title insurer may not transact insurance in  
2856 this state unless it has and maintains within the United States  
2857 as trust deposits with public officials having supervision over  
2858 insurers, or with trustees, public depositories, or trust  
2859 institutions approved by the department, assets available for  
2860 discharge of its United States insurance obligations, which  
2861 assets shall be in amount not less than the outstanding reserves  
2862 and other liabilities of the insurer arising out of its  
2863 insurance transactions in the United States together with the  
2864 amount of surplus as to policyholders required by s. 637.2007 of  
2865 a domestic stock insurer transacting like kinds of insurance.

2866 (2) Any such deposit made in this state shall be held for  
2867 the protection of the insurer's policyholders or policyholders  
2868 and creditors in the United States and shall be subject to the  
2869 applicable provisions of part III of chapter 625 and chapter  
2870 630.

2871 637.2012 Application for certificate of authority.-

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2872       (1) To apply for a certificate of authority, a title  
2873 insurer shall file its application therefor with the department,  
2874 upon a form adopted by the department and furnished by the  
2875 department, showing its name; location of its home office and,  
2876 if an alien insurer, its principal office in the United States;  
2877 kinds of insurance to be transacted; state or country of  
2878 domicile; and such additional information as the department  
2879 reasonably requires, together with the following documents:

2880       (a) One copy of its corporate charter, articles of  
2881 incorporation, existing and proposed nonfacultative reinsurance  
2882 contracts, declaration of trust, or other charter documents,  
2883 with all amendments thereto, certified by the public official  
2884 with whom the originals are on file in the state or country of  
2885 domicile.

2886       (b) If a mutual insurer, a copy of its bylaws, as amended,  
2887 certified by its secretary or other officer having custody  
2888 thereof.

2889       (c) If a foreign or alien reciprocal insurer, a copy of the  
2890 power of attorney of its attorney in fact and of its  
2891 subscribers' agreement, if any, certified by the attorney in  
2892 fact; and, if a domestic reciprocal insurer, the declaration  
2893 provided for in s. 629.081.

2894       (d) A copy of its financial statement as of December 31  
2895 next preceding, containing information generally included in  
2896 insurer financial statements prepared in accordance with  
2897 generally accepted insurance accounting principles and practices  
2898 and in a form generally utilized by insurers for financial  
2899 statements, sworn to by at least two executive officers of the  
2900 insurer, or certified by the public official having supervision

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2901 of insurance in the insurer's state of domicile or of entry into  
2902 the United States. To facilitate uniformity in financial  
2903 statements, the department may by rule adopt the form for  
2904 financial statements approved by the National Association of  
2905 Insurance Commissioners in 2002, and may adopt subsequent  
2906 amendments thereto if the form remains substantially consistent.

2907 (e) Supplemental quarterly financial statements for each  
2908 calendar quarter since the beginning of the year of its  
2909 application for the certificate of authority, sworn to by at  
2910 least two of its executive officers. To facilitate uniformity in  
2911 financial statements, the department may by rule adopt the form  
2912 for quarterly financial statements approved by the National  
2913 Association of Insurance Commissioners in 2002, and may adopt  
2914 subsequent amendments thereto if the form remains substantially  
2915 consistent.

2916 (f) If a foreign or alien insurer, a copy of the report of  
2917 the most recent examination of the insurer certified by the  
2918 public official having supervision of insurance in its state of  
2919 domicile or of entry into the United States. The end of the most  
2920 recent year covered by the examination must be within the 3-year  
2921 period preceding the date of application. In lieu of the  
2922 certified examination report, the department may accept an  
2923 audited certified public accountant's report prepared on a basis  
2924 consistent with the insurance laws of the insurer's state of  
2925 domicile, certified by the public official having supervision of  
2926 insurance in its state of domicile or of entry into the United  
2927 States.

2928 (g) If a foreign or alien insurer, a certificate of  
2929 compliance from the public official having supervision of

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2930 insurance in its state or country of domicile showing that it is  
2931 duly organized and authorized to transact insurance therein and  
2932 the kinds of insurance it is so authorized to transact.

2933 (h) If a foreign or alien insurer, a certificate of the  
2934 public official having custody of any deposit maintained by the  
2935 insurer in another state in lieu of a deposit or part thereof  
2936 required in this state under s. 637.2009 or s. 637.2011, showing  
2937 the amount of such deposit and the assets or securities of which  
2938 comprised.

2939 (i) If an alien insurer, a copy of the appointment and  
2940 authority of its United States manager, certified by its officer  
2941 having custody of its records.

2942 (2) The application shall be accompanied by the applicable  
2943 fees and license tax as specified in s. 637.2031.

2944 637.2013 Redomestication.—The department shall adopt rules  
2945 establishing procedures and forms for a foreign title insurer to  
2946 apply for a certificate of authority as a domestic title  
2947 insurer.

2948 637.2014 Issuance or refusal of authority.—The fee for  
2949 filing application for a certificate of authority shall not be  
2950 subject to refund. The department shall issue to the applicant  
2951 title insurer a proper certificate of authority if it finds that  
2952 the insurer has met the requirements of this chapter, exclusive  
2953 of the requirements relative to the filing and approval of an  
2954 insurer's policy forms, riders, endorsements, applications, and  
2955 rates. If it does not so find, the department shall issue its  
2956 order refusing the certificate. The certificate, if issued,  
2957 shall specify the kind or kinds and line or lines of insurance  
2958 the insurer is authorized to transact in this state. The

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2959 issuance of a certificate of authority does not signify that an  
2960 insurer has met the requirements of this chapter relative to the  
2961 filing and approval of an insurer's policy forms, riders,  
2962 endorsements, applications, and rates which may be required  
2963 prior to an insurer actually writing any premiums.

2964 637.2015 Ownership of certificate of authority; return.-  
2965 Although issued to the insurer, the certificate of authority is  
2966 at all times the property of this state. Upon any expiration,  
2967 suspension, or termination thereof, the insurer shall promptly  
2968 deliver the certificate of authority to the department.

2969 637.2016 Continuance, expiration, reinstatement, and  
2970 amendment of certificate of authority.-

2971 (1) A certificate of authority issued under this chapter  
2972 shall continue in force as long as the insurer is entitled  
2973 thereto under this chapter and until suspended, revoked, or  
2974 terminated at the request of the insurer; subject, however, to  
2975 continuance of the certificate by the insurer each year by:

2976 (a) Payment prior to June 1 of the annual license tax  
2977 provided for in s. 637.2031(3);

2978 (b) Due filing by the insurer of its annual statement for  
2979 the calendar year preceding as required under s. 637.2024; and

2980 (c) Payment by the insurer of applicable taxes with respect  
2981 to the preceding calendar year as required under this chapter.

2982 (2) If not so continued by the insurer, its certificate of  
2983 authority shall expire at midnight on the May 31 next following  
2984 such failure of the insurer so to continue it in force. The  
2985 department shall promptly notify the insurer of the occurrence  
2986 of any failure resulting in impending expiration of its  
2987 certificate of authority.

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2988       (3) The department may, in its discretion, reinstate a  
2989 certificate of authority which the insurer has inadvertently  
2990 permitted to expire, after the insurer has fully cured all its  
2991 failures which resulted in the expiration, and upon payment by  
2992 the insurer of the fee for reinstatement, in the amount provided  
2993 in s. 637.2031(1)(b). Otherwise, the insurer shall be granted  
2994 another certificate of authority only after filing application  
2995 therefor and meeting all other requirements as for an original  
2996 certificate of authority in this state.

2997       (4) The department may amend a certificate of authority at  
2998 any time to accord with changes in the insurer's charter or  
2999 insuring powers.

3000       637.2017 Suspension, revocation of certificate of authority  
3001 for violations and special grounds.-

3002       (1) The department shall suspend or revoke a title  
3003 insurer's certificate of authority if it finds that the insurer:

3004       (a) Is in unsound financial condition.

3005       (b) Is using such methods and practices in the conduct of  
3006 its business as to render its further transaction of insurance  
3007 in this state hazardous or injurious to its policyholders or to  
3008 the public.

3009       (c) Has failed to pay any final judgment rendered against  
3010 it in this state within 60 days after the judgment became final.

3011       (d) No longer meets the requirements for the authority  
3012 originally granted.

3013       (2) The department may, in its discretion, suspend or  
3014 revoke the certificate of authority of an insurer if it finds  
3015 that the insurer:

3016       (a) Has violated any lawful order or rule of the department



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3017 or any provision of this chapter.

3018 (b) Has refused to be examined or to produce its accounts,  
3019 records, and files for examination, or if any of its officers  
3020 have refused to give information with respect to its affairs or  
3021 to perform any other legal obligation as to such examination,  
3022 when required by the department.

3023 (c) Has for any line, class, or combination thereof, with  
3024 such frequency as to indicate its general business practice in  
3025 this state, without just cause refused to pay proper claims  
3026 arising under its policies, whether any such claim is in favor  
3027 of an insured or is in favor of a third person with respect to  
3028 the liability of an insured to such third person, or without  
3029 just cause compels such insureds or claimants to accept less  
3030 than the amount due them or to employ attorneys or to bring suit  
3031 against the insurer or such an insured to secure full payment or  
3032 settlement of such claims.

3033 (d) Is affiliated with and under the same general  
3034 management or interlocking directorate or ownership as another  
3035 insurer which transacts direct insurance in this state without  
3036 having a certificate of authority therefor, except as permitted  
3037 as to surplus lines insurers under part VIII of chapter 626.

3038 (e) Has been convicted of, or entered a plea of guilty or  
3039 nolo contendere to, a felony relating to the transaction of  
3040 insurance, in this state or in any other state, without regard  
3041 to whether adjudication was withheld.

3042 (f) Has a ratio of net premiums written to surplus as to  
3043 policyholders that exceeds 4 to 1, and the department has reason  
3044 to believe that the financial condition of the insurer endangers  
3045 the interests of the policyholders. The ratio of net premiums

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3046 written to surplus as to policyholders shall be on an annualized  
3047 actual or projected basis. The ratio shall be based on the  
3048 insurer's current calendar year activities and experience to  
3049 date or the insurer's previous calendar year activities and  
3050 experience, or both, and shall be calculated to represent a 12-  
3051 month period. However, the provisions of this paragraph do not  
3052 apply to any insurance or insurer exempted from s. 637.2008.

3053 (g) Is under suspension or revocation in another state.

3054 (3) The insolvency or impairment of an insurer constitutes  
3055 an immediate serious danger to the public health, safety, or  
3056 welfare; and the department may, at its discretion, without  
3057 prior notice and the opportunity for hearing immediately suspend  
3058 the certificate of authority of an insurer upon a determination  
3059 that:

3060 (a) The insurer is impaired or insolvent; or

3061 (b) Receivership, conservatorship, rehabilitation, or other  
3062 delinquency proceedings have been initiated against the insurer  
3063 by the public insurance supervisory official of any state.

3064 637.2018 Order, notice of suspension or revocation of  
3065 certificate of authority; effect; publication.-

3066 (1) Suspension or revocation of a title insurer's  
3067 certificate of authority shall be by the order of the  
3068 department. The department shall promptly also give notice of  
3069 such suspension or revocation to the insurer's agents in this  
3070 state of record. The insurer shall not solicit or write any new  
3071 coverages in this state during the period of any such suspension  
3072 and may renew coverages only upon a finding by the department  
3073 that the insurer is capable of servicing the renewal coverage.  
3074 The insurer shall not solicit or write any new or renewal

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3075 coverages after any such revocation.

3076 (2) In its discretion, the department may cause notice of  
3077 any such suspension or revocation to be published in one or more  
3078 newspapers of general circulation published in this state.

3079 637.2019 Duration of suspension; insurer's obligations  
3080 during suspension period; reinstatement.—

3081 (1) Suspension of a title insurer's certificate of  
3082 authority shall be for:

3083 (a) A fixed period of time not to exceed 2 years; or

3084 (b) Until the occurrence of a specific event necessary for  
3085 remedying the reasons for suspension.

3086  
3087 Such suspension may be modified, rescinded, or reversed.

3088 (2) During the period of suspension, the insurer shall file  
3089 with the department all documents and information and pay all  
3090 license fees and taxes as required under this chapter as if the  
3091 certificate had continued in full force.

3092 (3) If the suspension of the certificate of authority is  
3093 for a fixed period of time and the certificate of authority has  
3094 not been otherwise terminated, upon expiration of the suspension  
3095 period the insurer's certificate of authority shall be  
3096 reinstated unless the department finds that the insurer is not  
3097 in compliance with the requirements of this chapter. The  
3098 department shall promptly notify the insurer of such  
3099 reinstatement, and the insurer shall not consider its  
3100 certificate of authority reinstated until so notified by the  
3101 department. If not reinstated, the certificate of authority  
3102 shall be deemed to have expired as of the end of the suspension  
3103 period or upon failure of the insurer to continue the

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3104 certificate during the suspension period in accordance with  
3105 subsection (2), whichever event first occurs.

3106 (4) If the suspension of the certificate of authority was  
3107 until the occurrence of a specific event or events and the  
3108 certificate of authority has not been otherwise terminated, upon  
3109 the presentation of evidence satisfactory to the department that  
3110 the specific event or events have occurred, the insurer's  
3111 certificate of authority shall be reinstated unless the  
3112 department finds that the insurer is otherwise not in compliance  
3113 with the requirements of this chapter. The department shall  
3114 promptly notify the insurer of such reinstatement, and the  
3115 insurer shall not consider its certificate of authority  
3116 reinstated until so notified by the department. If satisfactory  
3117 evidence as to the occurrence of the specific event or events  
3118 has not been presented to the department within 2 years of the  
3119 date of such suspension, the certificate of authority shall be  
3120 deemed to have expired as of 2 years from the date of suspension  
3121 or upon failure of the insurer to continue the certificate  
3122 during the suspension period in accordance with subsection (2),  
3123 whichever first occurs.

3124 (5) Upon reinstatement of the insurer's certificate of  
3125 authority, the authority of its agents in this state to  
3126 represent the insurer shall likewise reinstate. The department  
3127 shall promptly notify the insurer of such reinstatement.

3128 637.2021 Administrative fine in lieu of suspension or  
3129 revocation.-

3130 (1) If the department finds that one or more grounds exist  
3131 for the discretionary revocation or suspension of a certificate  
3132 of authority issued under this chapter, the department may, in

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3133 lieu of such revocation or suspension, impose a fine upon the  
3134 title insurer.

3135 (2) With respect to any nonwillful violation, such fine  
3136 shall not exceed \$2,500 per violation. In no event shall such  
3137 fine exceed an aggregate amount of \$10,000 for all nonwillful  
3138 violations arising out of the same action. When an insurer  
3139 discovers a nonwillful violation, the insurer shall correct the  
3140 violation and, if restitution is due, make restitution to all  
3141 affected persons. Such restitution shall include interest at 12  
3142 percent per year from either the date of the violation or the  
3143 date of inception of the affected person's policy, at the  
3144 insurer's option. The restitution may be a credit against future  
3145 premiums due provided that the interest shall accumulate until  
3146 the premiums are due. If the amount of restitution due to any  
3147 person is \$50 or more and the insurer wishes to credit it  
3148 against future premiums, it shall notify such person that she or  
3149 he may receive a check instead of a credit. If the credit is on  
3150 a policy which is not renewed, the insurer shall pay the  
3151 restitution to the person to whom it is due.

3152 (3) With respect to any knowing and willful violation of a  
3153 lawful order or rule of the department or a provision of this  
3154 chapter, the department may impose a fine upon the insurer in an  
3155 amount not to exceed \$20,000 for each such violation. In no  
3156 event shall such fine exceed an aggregate amount of \$100,000 for  
3157 all knowing and willful violations arising out of the same  
3158 action. In addition to such fines, such insurer shall make  
3159 restitution when due in accordance with the provisions of  
3160 subsection (2).

3161 (4) The failure of an insurer to make restitution when due

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3162 as required under this section constitutes a willful violation  
3163 of this chapter. However, if an insurer in good faith is  
3164 uncertain as to whether any restitution is due or as to the  
3165 amount of such restitution, it shall promptly notify the  
3166 department of the circumstances; and the failure to make  
3167 restitution pending a determination thereof shall not constitute  
3168 a violation of this chapter.

3169 637.2022 Service of process; appointment of Chief Financial  
3170 Officer as process agent.—

3171 (1) Each licensed title insurer, whether domestic, foreign,  
3172 or alien, shall be deemed to have appointed the Chief Financial  
3173 Officer and her or his successors in the department as its  
3174 attorney to receive service of all legal process issued against  
3175 it in any civil action or proceeding in this state; and process  
3176 so served shall be valid and binding upon the insurer.

3177 (2) Prior to its authorization to transact insurance in  
3178 this state, each insurer shall file with the department  
3179 designation of the name and address of the person to whom  
3180 process against it served upon the Chief Financial Officer is to  
3181 be forwarded. The insurer may change the designation at any time  
3182 by a new filing.

3183 (3) Service of process upon the Chief Financial Officer as  
3184 the insurer's attorney pursuant to such an appointment shall be  
3185 the sole method of service of process upon an authorized  
3186 domestic, foreign, or alien insurer in this state.

3187 637.2023 Serving process.—

3188 (1) Service of process upon the Chief Financial Officer as  
3189 process agent of the title insurer under s. 637.2022 shall be  
3190 made by serving copies in triplicate of the process upon the

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3191 Chief Financial Officer or upon her or his assistant, deputy, or  
3192 other person in charge of her or his office. Upon receiving such  
3193 service, the Chief Financial Officer shall file one copy in her  
3194 or his office, return one copy with her or his admission of  
3195 service, and promptly forward one copy of the process by  
3196 registered or certified mail to the person last designated by  
3197 the insurer to receive the same, as provided under s.  
3198 637.2022(2).

3199 (2) When process is served upon the Chief Financial Officer  
3200 as an insurer's process agent, the insurer shall not be required  
3201 to answer or plead except within 20 days after the date upon  
3202 which the Chief Financial Officer mailed a copy of the process  
3203 served upon her or him as required by subsection (1).

3204 (3) Process served upon the Chief Financial Officer and  
3205 copy thereof forwarded as in this section provided shall for all  
3206 purposes constitute valid and binding service thereof upon the  
3207 insurer.

3208 637.2024 Annual statement and other information.—

3209 (1)(a) Each authorized title insurer shall file with the  
3210 department full and true statements of its financial condition,  
3211 transactions, and affairs. An annual statement covering the  
3212 preceding calendar year shall be filed on or before March 1, and  
3213 quarterly statements covering the periods ending on March 31,  
3214 June 30, and September 30 shall be filed within 45 days after  
3215 each such date. The department may, for good cause, grant an  
3216 extension of time for filing of an annual or quarterly  
3217 statement. The statements shall contain information generally  
3218 included in insurers' financial statements prepared in  
3219 accordance with generally accepted insurance accounting

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3220 principles and practices and in a form generally utilized by  
3221 insurers for financial statements, sworn to by at least two  
3222 executive officers of the insurer or, if a reciprocal insurer,  
3223 by the oath of the attorney in fact or its like officer if a  
3224 corporation. To facilitate uniformity in financial statements  
3225 and to facilitate department analysis, the department may by  
3226 rule adopt the form for financial statements approved by the  
3227 National Association of Insurance Commissioners in 2002, and may  
3228 adopt subsequent amendments thereto if the methodology remains  
3229 substantially consistent, and may by rule require each insurer  
3230 to submit to the department or such organization as the  
3231 department may designate all or part of the information  
3232 contained in the financial statement in a computer-readable form  
3233 compatible with the electronic data processing system specified  
3234 by the department.

3235 (b) The department may by rule require reports or filings  
3236 required under this chapter to be submitted by electronic means  
3237 in a computer-readable form compatible with the electronic data  
3238 processing equipment specified by the department.

3239 (2) The statement of an alien insurer shall be verified by  
3240 the insurer's United States manager or other officer duly  
3241 authorized. It shall be a separate statement, to be known as its  
3242 general statement, of its transactions, assets, and affairs  
3243 within the United States unless the department requires  
3244 otherwise. If the department requires a statement as to the  
3245 insurer's affairs elsewhere, the insurer shall file such  
3246 statement with the department as soon as reasonably possible.

3247 (3) At the time of filing, the insurer shall pay the fee  
3248 for filing its annual statement in the amount specified in s.



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3249 637.2031.

3250 (4) The department may refuse to continue, or may suspend  
3251 or revoke, the certificate of authority of an insurer failing to  
3252 file its annual or quarterly statements and accompanying  
3253 certificates when due.

3254 (5) In addition to information called for and furnished in  
3255 connection with its annual or quarterly statements, an insurer  
3256 shall furnish to the department as soon as reasonably possible  
3257 such information as to its transactions or affairs as the  
3258 department may from time to time request in writing. All such  
3259 information furnished pursuant to the department's request shall  
3260 be verified by the oath of two executive officers of the insurer  
3261 or, if a reciprocal insurer, by the oath of the attorney in fact  
3262 or its like officers if a corporation.

3263 (6) The signatures of all such persons when written on  
3264 annual or quarterly statements or other reports required by this  
3265 section shall be presumed to have been so written by authority  
3266 of the person whose signature is affixed thereon. The affixing  
3267 of any signature by anyone other than the purported signer  
3268 constitutes a felony of the second degree, punishable as  
3269 provided in s. 775.082, s. 775.083, or s. 775.084.

3270 (7) (a) All authorized insurers must have conducted an  
3271 annual audit by an independent certified public accountant and  
3272 must file an audited financial report with the department on or  
3273 before June 1 for the preceding year ending December 31. The  
3274 department may require an insurer to file an audited financial  
3275 report earlier than June 1 upon 90 days' advance notice to the  
3276 insurer. The department may immediately suspend an insurer's  
3277 certificate of authority by order if an insurer's failure to

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3278 file required reports, financial statements, or information  
3279 required by this subsection or rule adopted pursuant thereto  
3280 creates a significant uncertainty as to the insurer's continuing  
3281 eligibility for a certificate of authority.

3282 (b) Any authorized insurer otherwise subject to this  
3283 section having direct premiums written in this state of less  
3284 than \$1 million in any calendar year and fewer than 1,000  
3285 policyholders or certificateholders of directly written policies  
3286 nationwide at the end of such calendar year is exempt from this  
3287 section for such year unless the department makes a specific  
3288 finding that compliance is necessary in order for the department  
3289 to carry out its statutory responsibilities. However, any  
3290 insurer having assumed premiums pursuant to contracts or  
3291 treaties or reinsurance of \$1 million or more is not exempt. Any  
3292 insurer subject to an exemption must submit by March 1 following  
3293 the year to which the exemption applies an affidavit sworn to by  
3294 a responsible officer of the insurer specifying the amount of  
3295 direct premiums written in this state and number of  
3296 policyholders or certificateholders.

3297 (c) The board of directors of an insurer shall hire the  
3298 certified public accountant that prepares the audit required by  
3299 this subsection and the board shall establish an audit committee  
3300 of three or more directors of the insurer or an affiliated  
3301 company. The audit committee shall be responsible for discussing  
3302 audit findings and interacting with the certified public  
3303 accountant with regard to her or his findings. The audit  
3304 committee shall be comprised solely of members who are free from  
3305 any relationship that, in the opinion of its board of directors,  
3306 would interfere with the exercise of independent judgment as a

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3307 committee member. The audit committee shall report to the board  
3308 any findings of adverse financial conditions or significant  
3309 deficiencies in internal controls that have been noted by the  
3310 accountant. The insurer may request the department to waive this  
3311 requirement of the audit committee membership based upon unusual  
3312 hardship to the insurer.

3313 (d) An insurer may not use the same accountant or partner  
3314 of an accounting firm responsible for preparing the report  
3315 required by this subsection for more than 7 consecutive years.  
3316 Following this period, the insurer may not use such accountant  
3317 or partner for a period of 2 years, but may use another  
3318 accountant or partner of the same firm. An insurer may request  
3319 the department to waive this prohibition based upon an unusual  
3320 hardship to the insurer and a determination that the accountant  
3321 is exercising independent judgment that is not unduly influenced  
3322 by the insurer considering such factors as the number of  
3323 partners, expertise of the partners or the number of insurance  
3324 clients of the accounting firm; the premium volume of the  
3325 insurer; and the number of jurisdictions in which the insurer  
3326 transacts business.

3327 (e) The department shall adopt rules to implement this  
3328 subsection, which rules must be in substantial conformity with  
3329 the 1998 Model Rule Requiring Annual Audited Financial Reports  
3330 adopted by the National Association of Insurance Commissioners,  
3331 except where inconsistent with the requirements of this  
3332 subsection. Any exception to, waiver of, or interpretation of  
3333 accounting requirements of the department must be in writing and  
3334 signed by an authorized representative of the department. No  
3335 insurer may raise as a defense in any action, any exception to,

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3336 waiver of, or interpretation of accounting requirements, unless  
3337 previously issued in writing by an authorized representative of  
3338 the department.

3339 637.2025 NAIC filing requirements.-

3340 (1) Each domestic, foreign, and alien title insurer who is  
3341 authorized to transact title insurance in this state shall file  
3342 one extra copy of its annual statement convention blank, along  
3343 with such additional filings as prescribed by the department for  
3344 the preceding year. Such extra copy shall be for the explicit  
3345 purpose of allowing the department to forward it to the National  
3346 Association of Insurance Commissioners.

3347 (2) Coincident with the filing of the documents required in  
3348 subsection (1), each insurer shall pay to the department a  
3349 reasonable fee to cover the costs associated with the filing and  
3350 analysis of the documents by the National Association of  
3351 Insurance Commissioners and the department.

3352 (3) The provisions of this section shall not apply to any  
3353 foreign, domestic, or alien insurer which has filed such  
3354 documents directly with the National Association of Insurance  
3355 Commissioners if the National Association of Insurance  
3356 Commissioners has certified receipt of the required documents to  
3357 the department.

3358 637.2026 Change in controlling interest of foreign or alien  
3359 title insurer; report required.-In the event of a change in the  
3360 controlling capital stock or a change of 50 percent or more of  
3361 the assets of a foreign or alien title insurer, such insurer  
3362 shall report such change in writing to the department within 30  
3363 days of the effective date thereof. The report shall contain the  
3364 name and address of the new owner or owners of the controlling

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3365 stock or assets, the nature and value of the new assets, and  
3366 such other relevant information as the department may reasonably  
3367 require. For the purposes of this section, the term "controlling  
3368 capital stock" means a sufficient number of shares of the issued  
3369 and outstanding capital stock of such insurer or person so as to  
3370 give the owner thereof power to exercise a controlling influence  
3371 over the management or policies of such insurer or person.

3372 637.2027 Withdrawal of title insurer or discontinuance of  
3373 writing insurance.-

3374 (1) Any title insurer desiring to surrender its certificate  
3375 of authority, withdraw from this state, or discontinue the  
3376 writing of title insurance in this state shall give 90 days'  
3377 notice in writing to the department setting forth its reasons  
3378 for such action. Any insurer who does not write any premiums  
3379 within a calendar year shall have title insurance removed from  
3380 its certificate of authority; however, such line of insurance  
3381 shall be restored to the insurer's certificate upon the insurer  
3382 demonstrating that it has available the expertise necessary and  
3383 meets the other requirements of this chapter to write that line  
3384 of insurance.

3385 (2) If the department determines, based upon its review of  
3386 the notice and other required information, that the plan of an  
3387 insurer withdrawing from this state makes adequate provision for  
3388 the satisfaction of the insurer's obligations and is not  
3389 hazardous to policyholders or the public, the department shall  
3390 approve the surrender of the insurer's certificate of authority.  
3391 The department shall, within 45 days from receipt of a complete  
3392 notice and all required or requested additional information,  
3393 approve, disapprove, or approve with conditions the plan

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3394 submitted by the insurer. Failure to timely take action with  
3395 respect to the notice shall be deemed an approval of the  
3396 surrender of the certificate of authority.

3397 (3) Any insurer withdrawing from this state or  
3398 discontinuing the writing of insurance in this state shall  
3399 surrender its certificate of authority.

3400 (4) This section does not apply to insurers during the  
3401 calendar year in which they first receive their certificate of  
3402 authority.

3403 (5) This section does not apply to insurers who have  
3404 discontinued writing in accordance with an order issued by the  
3405 department.

3406 (6) Notwithstanding subsection (5), any insurer desiring to  
3407 surrender its certificate of authority, withdraw from this  
3408 state, or discontinue the writing of insurance in this state is  
3409 expected to have availed itself of all reasonably available  
3410 reinsurance. Reasonably available reinsurance shall include  
3411 unrealized reinsurance, which is defined as reinsurance  
3412 recoverable on known losses incurred and due under valid  
3413 reinsurance contracts that have not been identified in the  
3414 normal course of business and have not been reported in  
3415 financial statements filed with the department. Within 90 days  
3416 after surrendering its certificate of authority, withdrawing  
3417 from this state, or discontinuing the writing of any one or  
3418 multiple kinds or lines of insurance in this state, the insurer  
3419 shall certify to the department that the insurer has engaged an  
3420 independent third party to search for unrealized reinsurance,  
3421 and that the insurer has made all relevant books and records  
3422 available to such third party. The compensation to such third

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3423 party may be a percentage of unrealized reinsurance identified  
3424 and collected.

3425 (7) The department may adopt rules to administer this  
3426 section.

3427 637.2028 Assets of title insurers; reporting requirements.-

3428 (1) As used in this section, the term "material acquisition  
3429 of assets" or "material disposition of assets" means one or more  
3430 transactions occurring during any 30-day period which are  
3431 nonrecurring and not in the ordinary course of business and  
3432 involve more than 5 percent of the reporting title insurer's  
3433 total admitted assets as reported in its most recent statutory  
3434 statement filed with the insurance department of the insurer's  
3435 state of domicile.

3436 (2) Each domestic title insurer shall file a report with  
3437 the department disclosing a material acquisition of assets, a  
3438 material disposition of assets, or a material nonrenewal,  
3439 cancellation, or revision of a ceded reinsurance agreement,  
3440 unless the material acquisition or disposition of assets or the  
3441 material nonrenewal, cancellation, or revision of a ceded  
3442 reinsurance agreement has been submitted to the department for  
3443 review, approval, or informational purposes under another  
3444 section of this chapter or a rule adopted thereunder. A copy of  
3445 the report and each exhibit or other attachment must be filed by  
3446 the insurer with the National Association of Insurance  
3447 Commissioners. The report required in this section is due within  
3448 15 days after the end of the calendar month in which the  
3449 transaction occurs.

3450 (3) An immaterial acquisition or disposition of assets need  
3451 not be reported under this section.

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3452 (4) (a) Acquisitions of assets which are subject to this  
3453 section include each purchase, lease, exchange, merger,  
3454 consolidation, succession, or other acquisition of assets. Asset  
3455 acquisitions for the construction or development of real  
3456 property by or for the reporting insurer and the acquisition of  
3457 construction materials for this purpose are not subject to this  
3458 section.

3459 (b) Dispositions of assets which are subject to this  
3460 section include each sale, lease, exchange, merger,  
3461 consolidation, mortgage, hypothecation, assignment for the  
3462 benefit of a creditor or otherwise, abandonment, destruction, or  
3463 other disposition of assets.

3464 (5) (a) The following information must be disclosed in any  
3465 report of a material acquisition or disposition of assets:

3466 1. The date of the transaction.  
3467 2. The manner of acquisition or disposition.  
3468 3. The description of the assets involved.  
3469 4. The nature and amount of the consideration given or  
3470 received.

3471 5. The purpose of, or reason for, the transaction.  
3472 6. The manner by which the amount of consideration was  
3473 determined.

3474 7. The gain or loss recognized or realized as a result of  
3475 the transaction.

3476 8. The name of the person from whom the assets were  
3477 acquired or to whom they were disposed.

3478 (b) Insurers must report material acquisitions or  
3479 dispositions on a nonconsolidated basis unless the insurer is  
3480 part of a consolidated group of insurers which uses a pooling



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3481 arrangement or a 100-percent reinsurance agreement that affects  
3482 the solvency and integrity of the insurer's reserves and the  
3483 insurer has ceded substantially all of its direct and assumed  
3484 business to the pool. An insurer is deemed to have ceded  
3485 substantially all of its direct and assumed business to a pool  
3486 if the insurer has less than \$1 million in total direct and  
3487 assumed written premiums during a calendar year which are not  
3488 subject to a pooling arrangement and if the net income of the  
3489 business which is not subject to the pooling arrangement  
3490 represents less than 5 percent of the insurer's capital and  
3491 surplus.

3492 (6) (a) The following information must be disclosed in any  
3493 report of a material nonrenewal, cancellation, or revision of a  
3494 ceded reinsurance agreement:

3495 1. The effective date of the nonrenewal, cancellation, or  
3496 revision.

3497 2. The description of the transaction and the  
3498 identification of the initiator of the transaction.

3499 3. The purpose of, or reason for, the transaction.

3500 4. If applicable, the identity of each replacement  
3501 reinsurer.

3502 (b) Insurers shall report the material nonrenewal,  
3503 cancellation, or revision of a ceded reinsurance agreement on a  
3504 nonconsolidated basis unless the insurer is part of a  
3505 consolidated group of insurers which uses a pooling arrangement  
3506 or a 100-percent reinsurance agreement that affects the solvency  
3507 and integrity of the insurer's reserves and the insurer has  
3508 ceded substantially all of its direct and assumed business to  
3509 the pool. An insurer is deemed to have ceded substantially all

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3510 of its direct and assumed business to a pool if the insurer has  
 3511 less than \$1 million in total direct and assumed written  
 3512 premiums during a calendar year which are not subject to a  
 3513 pooling arrangement and if the net income of the business not  
 3514 subject to the pooling arrangement represents less than 5  
 3515 percent of the insurer's capital and surplus.

3516 637.2029 Participation of financial institutions in  
 3517 reinsurance and in insurance exchanges.—Subject to applicable  
 3518 laws relating to financial institutions and to any other  
 3519 applicable provision of this chapter, any financial institution  
 3520 or aggregation of such institutions may own or control, directly  
 3521 or indirectly, any title insurer which is authorized or approved  
 3522 by the department, which insurer transacts only reinsurance in  
 3523 this state and which actively engages in reinsuring risks  
 3524 located in this state. Nothing in this section shall be deemed  
 3525 to prohibit a financial institution from engaging in any  
 3526 presently authorized insurance activity.

3527 637.2031 Filing, license, appointment, and miscellaneous  
 3528 fees.—The department shall collect in advance, and persons so  
 3529 served shall pay to it in advance, fees, licenses, and  
 3530 miscellaneous charges as follows:

- 3531 (1) Certificate of authority of title insurer.
- 3532 (a) Filing application for original certificate of
- 3533 authority or modification thereof as a result of a merger,
- 3534 acquisition, or change of controlling interest due to a sale or
- 3535 exchange of stock, including all documents required to be filed
- 3536 therewith, filing fee.....\$1,500.00
- 3537 (b) Reinstatement fee.....\$50.00
- 3538 (2) Charter documents of insurer.

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- 3539       (a) Filing articles of incorporation or other charter
- 3540 documents, other than at time of application for original
- 3541 certificate of authority, filing fee.....\$10.00
- 3542       (b) Filing amendment to articles of incorporation or
- 3543 charter, other than at time of application for original
- 3544 certificate of authority, filing fee.....\$5.00
- 3545       (c) Filing bylaws, when required, or amendments thereof,
- 3546 filing fee.....\$5.00
- 3547       (3) Annual license tax of insurer, each domestic insurer,
- 3548 foreign insurer, and alien insurer (except that, as to fraternal
- 3549 benefit societies insuring less than 200 members in this state
- 3550 and the members of which as a prerequisite to membership possess
- 3551 a physical handicap or disability, such license tax shall be
- 3552 \$25).....\$1,000.00
- 3553       (4) Statements of insurer, filing (except when filed as
- 3554 part of application for original certificate of authority),
- 3555 filing fees:
- 3556       (a) Annual statement.....\$250.00
- 3557       (b) Quarterly statement.....\$250.00
- 3558       (5) All insurance representatives, application for license,
- 3559 each filing, filing fee.....\$50.00
- 3560       (6) Examination—Fee to cover actual cost of examination.
- 3561       (7) Temporary license and appointment as agent where
- 3562 expressly provided for, rate of fee for each month of the period
- 3563 for which the license and appointment is issued.....\$5.00
- 3564       (8) Issuance, reissuance, reinstatement, modification
- 3565 resulting in a modified license being issued, duplicate copy of
- 3566 any insurance representative license, or an appointment being
- 3567 reinstated.....\$5.00

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3568	<u>(9) Additional appointment continuation fees as prescribed</u>	
3569	<u>in chapter 626.....</u>	<u>\$5.00</u>
3570	<u>(10) Filing application for permit to form insurer as</u>	
3571	<u>referred to in chapter 628, filing fee.....</u>	<u>\$25.00</u>
3572	<u>(11) Annual license fee of rating organization, each</u>	
3573	<u>domestic or foreign organization.....</u>	<u>\$25.00</u>
3574	<u>(12) Miscellaneous services:</u>	
3575	<u>(a) For copies of documents or records on file with the</u>	
3576	<u>department, per page.....</u>	<u>\$.50</u>
3577	<u>(b) For each certificate of the department, under its seal,</u>	
3578	<u>authenticating any document or other instrument (other than a</u>	
3579	<u>license or certificate of authority).....</u>	<u>\$5.00</u>
3580	<u>(c) For preparing lists of agents and other insurance</u>	
3581	<u>representatives, and for other miscellaneous services, such</u>	
3582	<u>reasonable charge as may be fixed by the department.</u>	
3583	<u>(d) For processing requests for approval of continuing</u>	
3584	<u>education courses, processing fee.....</u>	<u>\$100.00</u>
3585	<u>(13) Fingerprinting processing fee—Fee to cover fingerprint</u>	
3586	<u>processing.</u>	
3587	<u>(14) Title insurance agents:</u>	
3588	<u>(a) Agent’s original appointment or biennial renewal or</u>	
3589	<u>continuation thereof, each insurer:</u>	
3590	<u>Appointment fee.....</u>	<u>\$42.00</u>
3591	<u>State tax.....</u>	<u>12.00</u>
3592	<u>County tax.....</u>	<u>6.00</u>
3593	<u>Total.....</u>	<u>\$60.00</u>
3594	<u>(b) Agency original appointment or biennial renewal or</u>	
3595	<u>continuation thereof, each insurer:</u>	
3596	<u>Appointment fee.....</u>	<u>\$42.00</u>

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3597 State tax.....12.00

3598 County tax.....6.00

3599 Total.....\$60.00

3600 (c) Filing for title insurance agent's license:

3601 Application for filing, each filing, filing fee.....\$10.00

3602 (d) Additional appointment continuation fee as prescribed

3603 by s. 637.3015.....\$5.00

3604 (e) Title insurer and title insurance agency administrative  
3605 surcharge:

3606 1. On or before January 30 of each calendar year, each  
3607 title insurer shall pay to the department for each licensed  
3608 title insurance agency appointed by the title insurer and for  
3609 each retail office of the insurer on January 1 of that calendar  
3610 year an administrative surcharge of \$200.00.

3611 2. On or before January 30 of each calendar year, each  
3612 licensed title insurance agency shall remit to the department an  
3613 administrative surcharge of \$200.00.

3614  
3615 The administrative surcharge may be used solely to defray the  
3616 costs to the department in their examination or audit of title  
3617 insurance agencies and retail offices of title insurers and to  
3618 gather title insurance data for statistical purposes to be  
3619 furnished to and used by the department in its regulation of  
3620 title insurance.

3621 (15) Late filing of appointment renewals for agents,  
3622 adjusters, and other insurance representatives, each  
3623 appointment.....\$20.00

3624 637.2032 Advance collection of fees and taxes; title  
3625 insurers not to pay without reimbursement.-

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3626 (1) The department shall collect in advance from the  
3627 applicant or licensee fees and taxes as provided in s. 637.2031.

3628 (2) A title insurer shall not pay directly or indirectly  
3629 without reimbursement from a title insurance agent any  
3630 appointment fee required under this section. The failure of a  
3631 title insurance agent to make reimbursement is not a ground for  
3632 cancellation of the title insurance agent's appointment by the  
3633 title insurer.

3634 637.2033 Service of process fee.—In all instances as  
3635 provided in any section of this chapter and s. 48.151(3) in  
3636 which service of process is authorized to be made upon the Chief  
3637 Financial Officer , the plaintiff shall pay to the department a  
3638 fee of \$15 for such service of process, which fee shall be  
3639 deposited into the Title Insurance Regulatory Trust Fund.

3640 637.2034 Liability for state, county tax.—Each authorized  
3641 title insurer that uses insurance agents in this state shall be  
3642 liable for and shall pay the state and county taxes required  
3643 therefor under s. 637.2031 or s. 637.2035.

3644 637.2035 County tax; determination; additional offices;  
3645 nonresident agents.—

3646 (1) The county tax provided for under s. 637.2031 as to an  
3647 agent shall be paid by each title insurer for each agent only  
3648 for the county where the agent resides, or if such agent's place  
3649 of business is located in a county other than that of her or his  
3650 residence, then for the county wherein is located such place of  
3651 business. If an agent maintains an office or place of business  
3652 in more than one county, the tax shall be paid for her or him by  
3653 each such insurer for each county wherein the agent represents  
3654 such insurer and has a place of business. When under this

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3655 subsection an insurer is required to pay county tax for an agent  
3656 for a county or counties other than the agent's county of  
3657 residence, the insurer shall designate the county or counties  
3658 for which the taxes are paid.

3659 (2) A county tax of \$3 per year shall be paid by each  
3660 insurer for each county in this state in which an agent who  
3661 resides outside of this state represents and engages in person  
3662 in the activities of an agent for the insurer. This provision  
3663 shall not be deemed to authorize any activities by an agent  
3664 which are otherwise prohibited under this chapter.

3665 637.2036 County tax; deposit and remittance.—

3666 (1) The department shall deposit in the Agents County Tax  
3667 Trust Fund all moneys accepted as county tax under this chapter.  
3668 She or he shall keep a separate account for all moneys so  
3669 collected for each county and, after deducting therefrom the  
3670 service charges provided for in s. 215.20, shall remit the  
3671 balance to the counties.

3672 (2) The payment and collection of county tax under this  
3673 chapter shall be in lieu of collection thereof by the respective  
3674 county tax collectors.

3675 (3) The Chief Financial Officer shall annually, as of  
3676 January 1 following the date of collection, and thereafter at  
3677 such other times as she or he may elect, draw her or his  
3678 warrants on the State Treasury payable to the respective  
3679 counties entitled to receive the same for the full net amount of  
3680 such taxes to each county.

3681 637.2037 Municipal tax.—Municipal corporations may require  
3682 a tax of title insurance agents not to exceed 50 percent of the  
3683 state tax specified as to such agents under this chapter, and

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3684 unless otherwise authorized by law. Such a tax may be required  
3685 only by a municipal corporation within the boundaries of which  
3686 is located the agent's business office, or if no such office is  
3687 required under this chapter, by the municipal corporation of the  
3688 agent's place of residence.

3689 637.2038 Insurer's license tax; when payable.—

3690 (1) The title insurer's license tax provided for in s.  
3691 637.2031(3) shall be paid by an insurer newly applying for a  
3692 certificate of authority to transact insurance in this state  
3693 prior to and contingent upon the issuance of its original  
3694 certificate of authority. If the certificate of authority is not  
3695 issued, the license tax payment shall be refunded to the  
3696 insurer. The license tax so paid by a newly authorized insurer  
3697 shall cover the period expiring on the June 1 following the date  
3698 of its original certificate of authority.

3699 (2) Each authorized title insurer shall pay the license tax  
3700 annually on or before June 1.

3701 637.2039 Premium tax; rate and computation.—

3702 (1) In addition to the license taxes provided for in this  
3703 chapter, each title insurer shall also annually, and on or  
3704 before March 1 in each year, pay to the Department of Revenue a  
3705 tax on premiums for title insurance received during the  
3706 preceding calendar year an amount equal to 1.75 percent of the  
3707 gross amount of such receipts on account of all policies and  
3708 covering property, subjects, or risks located, resident, or to  
3709 be performed in this state, omitting premiums on reinsurance  
3710 accepted, and less return premiums or assessments, but without  
3711 deductions:

3712 (a) For reinsurance ceded to other insurers;



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3713       (b) For moneys paid upon surrender of policies or  
3714 certificates for cash surrender value.

3715       (2) Payment by the insurer of the license taxes and premium  
3716 receipts taxes provided for in this chapter is a condition  
3717 precedent to doing business within this state.

3718       (3) Notwithstanding other provisions of law, the  
3719 distribution of the premium tax and any penalties or interest  
3720 collected thereunder shall be made to the General Revenue Fund  
3721 in accordance with rules adopted by the Department of Revenue  
3722 and approved by the Administration Commission.

3723       (4) The income tax imposed under chapter 220 and the  
3724 emergency excise tax imposed under chapter 221 which are paid by  
3725 any insurer shall be credited against, and to the extent thereof  
3726 shall discharge, the liability for tax imposed by this section  
3727 for the annual period in which such tax payments are made. For  
3728 purposes of this subsection, payments of estimated income tax  
3729 under chapter 220 and of estimated emergency excise tax under  
3730 chapter 221 shall be deemed paid at the time the insurer  
3731 actually files its annual returns under chapter 220 or at the  
3732 time such returns are required to be filed, whichever first  
3733 occurs, and not at such earlier time as such payments of  
3734 estimated tax are actually made.

3735       (5) (a) 1. There shall be allowed a credit against the net  
3736 tax imposed by this section equal to 15 percent of the amount  
3737 paid by an insurer in salaries to employees located or based  
3738 within this state and who are covered by the provisions of  
3739 chapter 443.

3740       2. As an alternative to the credit allowed in subparagraph  
3741 1., an affiliated group of corporations which includes at least

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3742 one insurance company writing premiums in this state may elect  
3743 to take a credit against the net tax imposed by this section in  
3744 an amount that may not exceed 15 percent of the salary of the  
3745 employees of the affiliated group of corporations who perform  
3746 insurance-related activities, are located or based within this  
3747 state, and are covered by chapter 443. For purposes of this  
3748 subparagraph, the term "affiliated group of corporations" means  
3749 two or more corporations that are entirely owned directly or  
3750 indirectly by a single corporation and that constitute an  
3751 affiliated group as defined in s. 1504(a) of the Internal  
3752 Revenue Code. The amount of credit allowed under this  
3753 subparagraph is limited to the combined Florida salary tax  
3754 credits allowed for all insurance companies that were members of  
3755 the affiliated group of corporations for the tax year ending  
3756 December 31, 2002, divided by the combined Florida taxable  
3757 premiums written by all insurance companies that were members of  
3758 the affiliated group of corporations for the tax year ending  
3759 December 31, 2002, multiplied by the combined Florida taxable  
3760 premiums of the affiliated group of corporations for the current  
3761 year. An affiliated group of corporations electing this  
3762 alternative calculation method must make such election on or  
3763 before August 1, 2005. The election of this alternative  
3764 calculation method is irrevocable and binding upon successors  
3765 and assigns of the affiliated group of corporations electing  
3766 this alternative. However, if a member of an affiliated group of  
3767 corporations acquires or merges with another insurance company  
3768 after the date of the irrevocable election, the acquired or  
3769 merged company is not entitled to the affiliated group election  
3770 and shall only be entitled to calculate the tax credit under

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3771 subparagraph 1.

3772

3773 In no event shall the salary paid to an employee by an  
3774 affiliated group of corporations be claimed as a credit by more  
3775 than one insurer or be counted more than once in an insurer's  
3776 calculation of the credit as described in subparagraph 1. or  
3777 subparagraph 2. Only the portion of an employee's salary paid  
3778 for the performance of insurance-related activities may be  
3779 included in the calculation of the premium tax credit in this  
3780 subsection.

3781 (b) For purposes of this subsection:

3782 1. The term "salaries" does not include amounts paid as  
3783 commissions.

3784 2. The term "employees" does not include independent  
3785 contractors or any person whose duties require that the person  
3786 hold a valid license under the Florida Insurance Code, except  
3787 adjusters, managing general agents, and service representatives,  
3788 as defined in s. 626.015.

3789 3. The term "net tax" means the tax imposed by this section  
3790 after applying the calculations and credits set forth in  
3791 subsection (4).

3792 4. An affiliated group of corporations that created a  
3793 service company within its affiliated group on July 30, 2002,  
3794 shall allocate the salary of each service company employee  
3795 covered by contracts with affiliated group members to the  
3796 companies for which the employees perform services. The salary  
3797 allocation is based on the amount of time during the tax year  
3798 that the individual employee spends performing services or  
3799 otherwise working for each company over the total amount of time

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3800 the employee spends performing services or otherwise working for  
3801 all companies. The total amount of salary allocated to an  
3802 insurance company within the affiliated group shall be included  
3803 as that insurer's employee salaries for purposes of this  
3804 section.

3805 a. Except as provided in subparagraph (a)2., the term  
3806 "affiliated group of corporations" means two or more  
3807 corporations that are entirely owned by a single corporation and  
3808 that constitute an affiliated group of corporations as defined  
3809 in s. 1504(a) of the Internal Revenue Code.

3810 b. The term "service company" means a separate corporation  
3811 within the affiliated group of corporations whose employees  
3812 provide services to affiliated group members and which are  
3813 treated as service company employees for unemployment  
3814 compensation and common law purposes. The holding company of an  
3815 affiliated group may not qualify as a service company. An  
3816 insurance company may not qualify as a service company.

3817 c. If an insurance company fails to substantiate, whether  
3818 by means of adequate records or otherwise, its eligibility to  
3819 claim the service company exception under this section, or its  
3820 salary allocation under this section, no credit shall be  
3821 allowed.

3822 5. A service company that is a subsidiary of a mutual  
3823 insurance holding company, which mutual insurance holding  
3824 company was in existence on or before January 1, 2000, shall  
3825 allocate the salary of each service company employee covered by  
3826 contracts with members of the mutual insurance holding company  
3827 system to the companies for which the employees perform  
3828 services. The salary allocation is based on the ratio of the

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3829 amount of time during the tax year which the individual employee  
3830 spends performing services or otherwise working for each company  
3831 to the total amount of time the employee spends performing  
3832 services or otherwise working for all companies. The total  
3833 amount of salary allocated to an insurance company within the  
3834 mutual insurance holding company system shall be included as  
3835 that insurer's employee salaries for purposes of this section.  
3836 However, this subparagraph does not apply for any tax year  
3837 unless funds sufficient to offset the anticipated salary credits  
3838 have been appropriated to the General Revenue Fund prior to the  
3839 due date of the final return for that year.

3840 a. The term "mutual insurance holding company system" means  
3841 two or more corporations that are subsidiaries of a mutual  
3842 insurance holding company and in compliance with part IV of  
3843 chapter 628.

3844 b. The term "service company" means a separate corporation  
3845 within the mutual insurance holding company system whose  
3846 employees provide services to other members of the mutual  
3847 insurance holding company system and are treated as service  
3848 company employees for unemployment compensation and common-law  
3849 purposes. The mutual insurance holding company may not qualify  
3850 as a service company.

3851 c. If an insurance company fails to substantiate, whether  
3852 by means of adequate records or otherwise, its eligibility to  
3853 claim the service company exception under this section, or its  
3854 salary allocation under this section, no credit shall be  
3855 allowed.

3856 (c) The department may adopt rules pursuant to ss.  
3857 120.536(1) and 120.54 to administer this subsection.

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3858       (6) (a) The total of the credit granted for the taxes paid  
3859 by the insurer under chapters 220 and 221 and the credit granted  
3860 by subsection (5) shall not exceed 65 percent of the tax due  
3861 under subsection (1) after deducting therefrom the taxes paid by  
3862 the insurer under ss. 175.101 and 185.08 and any assessments  
3863 pursuant to s. 440.51.

3864       (b) To the extent that any credits granted by subsection  
3865 (5) remain as a result of the limitation set forth in paragraph  
3866 (a), such excess credits related to salaries and wages of  
3867 employees whose place of employment is located within an  
3868 enterprise zone created pursuant to chapter 290 may be  
3869 transferred, in an aggregate amount not to exceed 25 percent of  
3870 such excess salary credits, to any insurer that is a member of  
3871 an affiliated group of corporations, as defined in sub-  
3872 subparagraph (5)(b)4.a., that includes the original insurer  
3873 qualifying for the credits under subsection (5). The amount of  
3874 such excess credits to be transferred shall be calculated by  
3875 multiplying the amount of such excess credits by a fraction, the  
3876 numerator of which is the sum of the salaries qualifying for the  
3877 credit allowed by subsection (5) of employees whose place of  
3878 employment is located in an enterprise zone and the denominator  
3879 of which is the sum of the salaries qualifying for the credit  
3880 allowed by subsection (5). Any such transferred credits shall be  
3881 subject to the same provisions and limitations set forth within  
3882 this chapter. The provisions of this paragraph do not apply to  
3883 an affiliated group of corporations that participate in a common  
3884 paymaster arrangement as defined in s. 443.1216.

3885       (7) Credits and deductions against the tax imposed by this  
3886 section shall be taken in the following order: deductions for

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3887 assessments made pursuant to s. 440.51; credits for taxes paid  
3888 under ss. 175.101 and 185.08; credits for income taxes paid  
3889 under chapter 220, the emergency excise tax paid under chapter  
3890 221 and the credit allowed under subsection (5), as these  
3891 credits are limited by subsection (6); all other available  
3892 credits and deductions.

3893 (8) As used in this section, "insurer" includes any entity  
3894 subject to the tax imposed by this section.

3895 637.2041 Retaliatory provision, insurers.-

3896 (1) (a) When by or pursuant to the laws of any other state  
3897 or foreign country any taxes, licenses, and other fees, in the  
3898 aggregate, and any fines, penalties, deposit requirements, or  
3899 other material obligations, prohibitions, or restrictions are or  
3900 would be imposed upon title insurers in this state or upon the  
3901 agents or representatives of such insurers, which are in excess  
3902 of such taxes, licenses, and other fees, in the aggregate, or  
3903 which are in excess of the fines, penalties, deposit  
3904 requirements, or other obligations, prohibitions, or  
3905 restrictions directly imposed upon similar insurers, or upon the  
3906 agents or representatives of such insurers, of such other state  
3907 or country under the statutes of this state, so long as such  
3908 laws of such other state or country continue in force or are so  
3909 applied, the same taxes, licenses, and other fees, in the  
3910 aggregate, or fines, penalties, deposit requirements, or other  
3911 material obligations, prohibitions, or restrictions of whatever  
3912 kind shall be imposed by the Department of Revenue upon the  
3913 insurers, or upon the agents or representatives of such  
3914 insurers, of such other state or country doing business or  
3915 seeking to do business in this state. In determining the taxes

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3916 to be imposed under this section, 80 percent and a portion of  
3917 the remaining 20 percent as provided in paragraph (b) of the  
3918 credit provided by s. 637.2039(5), as limited by s. 637.2039(6)  
3919 and further determined by s. 637.2039(7), shall not be taken  
3920 into consideration.

3921 (b) As used in this subsection, the term "portion of the  
3922 remaining 20 percent" shall be calculated by multiplying the  
3923 remaining 20 percent by a fraction, the numerator of which is  
3924 the sum of the salaries qualifying for the credit allowed by s.  
3925 637.2039(5) of employees whose place of employment is located in  
3926 an enterprise zone created pursuant to chapter 290 and the  
3927 denominator of which is the sum of the salaries qualifying for  
3928 the credit allowed by s. 637.2039(5).

3929 (2) Any tax, license, or other obligation imposed by any  
3930 city, county, or other political subdivision or agency of a  
3931 state, jurisdiction, or foreign country on Florida title  
3932 insurers or their agents or representatives shall be deemed to  
3933 be imposed by such state, jurisdiction, or foreign country  
3934 within the meaning of subsection (1).

3935 (3) This section does not apply as to personal income  
3936 taxes, nor as to sales or use taxes, nor as to ad valorem taxes  
3937 on real or personal property, nor as to reimbursement premiums  
3938 paid to the Florida Hurricane Catastrophe Fund, nor as to  
3939 emergency assessments paid to the Florida Hurricane Catastrophe  
3940 Fund, nor as to special purpose obligations or assessments  
3941 imposed in connection with particular kinds of insurance other  
3942 than property insurance, except that deductions, from premium  
3943 taxes or other taxes otherwise payable, allowed on account of  
3944 real estate or personal property taxes paid shall be taken into



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3945 consideration by the department in determining the propriety and  
3946 extent of retaliatory action under this section.

3947 (4) For the purposes of this section, a "similar insurer"  
3948 is an insurer with identical premiums, personnel, and property  
3949 to that of the alien or foreign insurer's Florida premiums,  
3950 personnel, and property. The similar insurer's premiums,  
3951 personnel, and property shall be used to calculate any taxes,  
3952 licenses, other fees, in the aggregate, or any fines, penalties,  
3953 deposit requirements, or other material obligations,  
3954 prohibitions, or restrictions that are or would be imposed under  
3955 the laws of this state and under the law of the foreign or alien  
3956 insurer's state of domicile.

3957 (5) The excess amount of all fees, licenses, and taxes  
3958 collected by the Department of Revenue under this section over  
3959 the amount of similar fees, licenses, and taxes provided for in  
3960 this part, together with all fines, penalties, or other monetary  
3961 obligations collected under this section exclusive of such fees,  
3962 licenses, and taxes, shall be deposited by the Department of  
3963 Revenue to the credit of the Title Insurance Regulatory Trust  
3964 Fund; provided that such excess amount shall not exceed \$125,000  
3965 for 1992, and for any subsequent year shall not exceed \$125,000  
3966 adjusted annually by the lesser of 20 percent or the growth in  
3967 the total of such excess amount. The remainder of such excess  
3968 amount shall be deposited into the General Revenue Fund.

3969 637.2042 Administration of taxes; payments.-

3970 (1) The Department of Revenue shall administer, audit, and  
3971 enforce the assessment and collection of those taxes to which  
3972 this section is applicable. The department and division may  
3973 share information with the Department of Revenue as necessary to

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3974 verify premium tax or other tax liability arising under such  
3975 taxes and credits which may apply thereto.

3976 (2) (a) Installments of the taxes to which this section is  
3977 applicable shall be due and payable on April 15, June 15, and  
3978 October 15 in each year, based upon the estimated gross amount  
3979 of receipts of insurance premiums or assessments received during  
3980 the immediately preceding calendar quarter. A final payment of  
3981 tax due for the year shall be made at the time the taxpayer  
3982 files her or his return for such year. On or before March 1 in  
3983 each year, an annual return shall be filed showing, by quarters,  
3984 the gross amount of receipts taxable for the preceding year and  
3985 the installment payments made during that year.

3986 (b) Any taxpayer who fails to report and timely pay any  
3987 installment of tax, who estimates any installment of tax to be  
3988 less than 90 percent of the amount finally shown to be due in  
3989 any quarter, or who fails to report and timely pay any tax due  
3990 with the final return is in violation of this section and is  
3991 subject to a penalty of 10 percent on any underpayment of taxes  
3992 or delinquent taxes due and payable for that quarter or on any  
3993 delinquent taxes due and payable with the final return. Any  
3994 taxpayer paying, for each installment required in this section,  
3995 27 percent of the amount of the net tax due as reported on her  
3996 or his return for the preceding year shall not be subject to the  
3997 penalty provided by this section for underpayment of estimated  
3998 taxes.

3999 (c) When any taxpayer fails to pay any amount due under  
4000 this section, or any portion thereof, on or before the day when  
4001 such tax or installment of tax is required by law to be paid,  
4002 there shall be added to the amount due interest at the rate of

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4003 12 percent per year from the date due until paid.

4004 (d) All penalties and interest imposed on those taxes to  
4005 which this section is applicable shall be payable to and  
4006 collectible by the Department of Revenue in the same manner as  
4007 if they were a part of the tax imposed.

4008 (e) The Department of Revenue may settle or compromise any  
4009 such interest or penalties imposed on those taxes to which this  
4010 section is applicable pursuant to s. 213.21.

4011 (3) This section is applicable to taxes imposed by ss.  
4012 629.5100, 637.2039, and 637.2046.

4013 637.2043 Adjustments.—

4014 (1) If a taxpayer is required to amend its corporate income  
4015 tax liability under chapter 220, or the taxpayer receives a  
4016 refund of its workers' compensation administrative assessment  
4017 paid under chapter 440, the taxpayer shall file an amended  
4018 insurance premium tax return not later than 60 days after such  
4019 an occurrence.

4020 (2) If an amended insurance premium tax return is required  
4021 under subsection (1), notwithstanding any other provision of s.  
4022 95.091(3):

4023 (a) A notice of deficiency may be issued at any time within  
4024 3 years after the date the amended insurance premium tax return  
4025 is given; or

4026 (b) If a taxpayer fails to file an amended insurance  
4027 premium tax return, a notice of deficiency may be issued at any  
4028 time.

4029  
4030 The amount of any proposed assessment set forth in such a notice  
4031 of deficiency shall be limited to the amount of any deficiency

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4032 resulting under this chapter from recomputation of the  
4033 taxpayer's insurance premium tax and retaliatory tax for the  
4034 taxable year after giving effect only to the change in corporate  
4035 income tax paid and the change in the amount of the workers'  
4036 compensation administrative assessment paid. Interest in  
4037 accordance with s. 637.2042 is due on the amount of any  
4038 deficiency from the date fixed for filing the original insurance  
4039 premium tax return for the taxable year until the date of  
4040 payment of the deficiency.

4041 (3) If an amended insurance premium tax return is required  
4042 by subsection (1), a claim for refund may be filed within 2  
4043 years after the date on which the amended insurance premium tax  
4044 return was due, regardless of whether such notice was given,  
4045 notwithstanding any other provision of s. 215.26. However, the  
4046 amount recoverable pursuant to such a claim shall be limited to  
4047 the amount of any overpayment resulting under this chapter from  
4048 recomputation of the taxpayer's insurance premium tax and  
4049 retaliatory tax for the taxable year after giving effect only to  
4050 the change in corporate income tax paid and the change in the  
4051 amount of the workers' compensation administrative assessment  
4052 paid.

4053 637.2046 Tax statement; overpayments.-

4054 (1) Tax returns as to taxes mentioned in s. 637.2039 shall  
4055 be made by insurers on forms to be prescribed by the Department  
4056 of Revenue and shall be sworn to by one or more of the executive  
4057 officers or attorney, if a reciprocal insurer, of the insurer  
4058 making the returns.

4059 (2) Notwithstanding the provisions of s. 215.26(1), if any  
4060 insurer makes an overpayment on account of taxes due under s.

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4061 637.2039, a refund of the overpayment of taxes shall be made out  
4062 of the General Revenue Fund. Overpayment of taxes due under s.  
4063 637.2039 shall be refunded no sooner than the first day of the  
4064 state fiscal year following the date the tax was due.

4065 (3) (a) If it appears, upon examination of an insurance  
4066 premium tax return made under this chapter, that an amount of  
4067 insurance premium tax has been paid in excess of the amount due,  
4068 the Department of Revenue may refund the amount of the  
4069 overpayment to the taxpayer by a warrant of the Chief Financial  
4070 Officer. The Department of Revenue may refund the overpayment  
4071 without regard to whether the taxpayer has filed a written claim  
4072 for a refund; however, the Department of Revenue may request  
4073 that the taxpayer file a statement affirming that the taxpayer  
4074 made the overpayment.

4075 (b) Notwithstanding paragraph (a), a refund of the  
4076 insurance premium tax may not be made, and a taxpayer is not  
4077 entitled to bring an action for a refund of the insurance  
4078 premium tax, after the period specified in s. 215.26(2) has  
4079 elapsed.

4080 (c) If a refund issued by the Department of Revenue under  
4081 this subsection is found to exceed the amount of refund legally  
4082 due to the taxpayer, the provisions of s. 637.2042 concerning  
4083 penalties and interest do not apply if the taxpayer reimburses  
4084 the department for any overpayment within 60 days after the  
4085 taxpayer is notified that the overpayment was made.

4086 637.2047 Preemption by state.—

4087 (1) This state hereby preempts the field of imposing  
4088 excise, privilege, franchise, income, license, permit,  
4089 registration, and similar taxes and fees, measured by premiums,

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4090 income, or volume of transactions, upon insurers and their  
4091 agents and other representatives; and a county, city,  
4092 municipality, district, school district, or other political  
4093 subdivision or agency in this state may not impose, levy,  
4094 charge, or require the same, subject however to the provisions  
4095 of subsection (2).

4096 (2) This section shall not be construed to limit or modify  
4097 the power of any incorporated city or town to levy the taxes  
4098 authorized by ss. 175.101 and 185.08 or the power of any special  
4099 fire control district to levy the taxes authorized by s.  
4100 175.101.

4101 637.2048 Deposit of certain tax receipts; refund of  
4102 improper payments.-

4103 (1) The Department of Financial Services shall promptly  
4104 deposit in the State Treasury to the credit of the Title  
4105 Insurance Regulatory Trust Fund all "state tax" portions of  
4106 agents' licenses collected under s. 637.2031. All moneys  
4107 received by the Department of Financial Services or the  
4108 department not in accordance with the provisions of this chapter  
4109 or not in the exact amount as specified by the applicable  
4110 provisions of this chapter shall be returned to the remitter.  
4111 The records of the department shall show the date and reason for  
4112 such return.

4113 (2) The Department of Revenue shall promptly deposit into  
4114 the Department of Revenue Premium Tax Clearing Trust Fund all  
4115 premium taxes collected according to s. 637.2039. Such taxes  
4116 shall be distributed on an estimated basis within 15 days after  
4117 receipt by the Department of Revenue. Such distribution shall be  
4118 adjusted pursuant to an audit by the Department of Revenue.

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4119 Section 9. Section 627.778, Florida Statutes, is  
4120 transferred, renumbered as section 637.20485, Florida Statutes,  
4121 and subsection (2) of that section is amended to read:

4122 637.20485 ~~627.778~~ Limit of risk.—

4123 (2) Surplus as to policyholders shall be determined from  
4124 the last annual statement of the insurer filed under s. 637.2024  
4125 ~~624.424~~.

4126 Section 10. Sections 637.2049, 637.2051, 637.2053,  
4127 637.2054, 637.2055, 637.2056, and 637.2057, Florida Statutes,  
4128 are created to read:

4129 637.2049 Reinsurance.—

4130 (1) The purpose of this section is to protect the interests  
4131 of insureds, claimants, ceding insurers, assuming insurers, and  
4132 the public. It is the intent of the Legislature to ensure  
4133 adequate regulation of insurers and reinsurers and adequate  
4134 protection for those to whom they owe obligations. In  
4135 furtherance of that state interest, the Legislature requires  
4136 that upon the insolvency of a non-United States insurer or  
4137 reinsurer which provides security to fund its United States  
4138 obligations in accordance with this section, such security shall  
4139 be maintained in the United States and claims shall be filed  
4140 with and valued by the state insurance regulator with regulatory  
4141 oversight, and the assets shall be distributed in accordance  
4142 with the insurance laws of the state in which the trust is  
4143 domiciled that are applicable to the liquidation of domestic  
4144 United States insurance companies. The Legislature declares that  
4145 the matters contained in this section are fundamental to the  
4146 business of insurance in accordance with 15 U.S.C. ss. 1011-  
4147 1012.

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4148       (2) Credit for reinsurance must be allowed a ceding insurer  
4149 as either an asset or a deduction from liability on account of  
4150 reinsurance ceded only when the reinsurer meets the requirements  
4151 of paragraph (3) (a), paragraph (3) (b), or paragraph (3) (c).  
4152 Credit must be allowed under paragraph (3) (a) or paragraph  
4153 (3) (b) only for cessions of those kinds or lines of business  
4154 that the assuming insurer is licensed, authorized, or otherwise  
4155 permitted to write or assume in its state of domicile or, in the  
4156 case of a United States branch of an alien assuming insurer, in  
4157 the state through which it is entered and licensed or authorized  
4158 to transact insurance or reinsurance.

4159       (3) (a) Credit must be allowed when the reinsurance is ceded  
4160 to an assuming insurer that is authorized to transact insurance  
4161 or reinsurance in this state.

4162       (b)1. Credit must be allowed when the reinsurance is ceded  
4163 to an assuming insurer that is accredited as a reinsurer in this  
4164 state. An accredited reinsurer is one that:

4165           a. Files with the department evidence of its submission to  
4166 this state's jurisdiction.

4167           b. Submits to this state's authority to examine its books  
4168 and records.

4169           c. Is licensed or authorized to transact insurance or  
4170 reinsurance in at least one state or, in the case of a United  
4171 States branch of an alien assuming insurer, is entered through,  
4172 licensed, or authorized to transact insurance or reinsurance in  
4173 at least one state.

4174           d. Files annually with the department a copy of its annual  
4175 statement filed with the insurance department of its state of  
4176 domicile any quarterly statements if required by its state of



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4177 domicile or such quarterly statements if specifically requested  
4178 by the department, and a copy of its most recent audited  
4179 financial statement.

4180 (I) Maintains a surplus as regards policyholders in an  
4181 amount not less than \$20 million and whose accreditation has not  
4182 been denied by the department within 90 days after its  
4183 submission; or

4184 (II) Maintains a surplus as regards policyholders in an  
4185 amount not less than \$20 million and whose accreditation has  
4186 been approved by the department.

4187 2. The department may deny or revoke an assuming insurer's  
4188 accreditation if the assuming insurer does not submit the  
4189 required documentation pursuant to subparagraph 1., if the  
4190 assuming insurer fails to meet all of the standards required of  
4191 an accredited reinsurer, or if the assuming insurer's  
4192 accreditation would be hazardous to the policyholders of this  
4193 state. In determining whether to deny or revoke accreditation,  
4194 the department may consider the qualifications of the assuming  
4195 insurer with respect to all the following subjects:

4196 a. Its financial stability.

4197 b. The lawfulness and quality of its investments.

4198 c. The competency, character, and integrity of its  
4199 management.

4200 d. The competency, character, and integrity of persons who  
4201 own or have a controlling interest in the assuming insurer.

4202 e. Whether claims under its contracts are promptly and  
4203 fairly adjusted and are promptly and fairly paid in accordance  
4204 with the law and the terms of the contracts.

4205 3. Credit must not be allowed a ceding insurer if the

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4206 assuming insurer's accreditation has been revoked by the  
4207 department after notice and the opportunity for a hearing.

4208 4. The actual costs and expenses incurred by the department  
4209 to review a reinsurer's request for accreditation and subsequent  
4210 reviews must be charged to and collected from the requesting  
4211 reinsurer. If the reinsurer fails to pay the actual costs and  
4212 expenses promptly when due, the department may refuse to  
4213 accredit the reinsurer or may revoke the reinsurer's  
4214 accreditation.

4215 (c)1. Credit must be allowed when the reinsurance is ceded  
4216 to an assuming insurer that maintains a trust fund in a  
4217 qualified United States financial institution, as defined in  
4218 paragraph (5) (b), for the payment of the valid claims of its  
4219 United States ceding insurers and their assigns and successors  
4220 in interest. To enable the department to determine the  
4221 sufficiency of the trust fund, the assuming insurer shall report  
4222 annually to the department information substantially the same as  
4223 that required to be reported on the NAIC Annual Statement form  
4224 by authorized insurers. The assuming insurer shall submit to  
4225 examination of its books and records by the department and bear  
4226 the expense of examination.

4227 2.a. Credit for reinsurance must not be granted under this  
4228 subsection unless the form of the trust and any amendments to  
4229 the trust have been approved by:

4230 (I) The insurance regulator of the state in which the trust  
4231 is domiciled; or

4232 (II) The insurance regulator of another state who, pursuant  
4233 to the terms of the trust instrument, has accepted principal  
4234 regulatory oversight of the trust.

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4235        b. The form of the trust and any trust amendments must be  
4236 filed with the insurance regulator of every state in which the  
4237 ceding insurer beneficiaries of the trust are domiciled. The  
4238 trust instrument must provide that contested claims are valid  
4239 and enforceable upon the final order of any court of competent  
4240 jurisdiction in the United States. The trust must vest legal  
4241 title to its assets in its trustees for the benefit of the  
4242 assuming insurer's United States ceding insurers and their  
4243 assigns and successors in interest. The trust and the assuming  
4244 insurer are subject to examination as determined by the  
4245 insurance regulator.

4246        c. The trust remains in effect for as long as the assuming  
4247 insurer has outstanding obligations due under the reinsurance  
4248 agreements subject to the trust. No later than February 28 of  
4249 each year, the trustee of the trust shall report to the  
4250 insurance regulator in writing the balance of the trust and list  
4251 the trust's investments at the preceding year end, and shall  
4252 certify that the trust will not expire prior to the following  
4253 December 31.

4254        3. The following requirements apply to the following  
4255 categories of assuming insurer:

4256        a. The trust fund for a single assuming insurer consists of  
4257 funds in trust in an amount not less than the assuming insurer's  
4258 liabilities attributable to reinsurance ceded by United States  
4259 ceding insurers, and, in addition, the assuming insurer shall  
4260 maintain a trustee surplus of not less than \$20 million. Not  
4261 less than 50 percent of the funds in the trust covering the  
4262 assuming insurer's liabilities attributable to reinsurance ceded  
4263 by United States ceding insurers and trustee surplus shall

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4264 consist of assets of a quality substantially similar to that  
4265 required in part II of chapter 625. Clean, irrevocable,  
4266 unconditional, and evergreen letters of credit, issued or  
4267 confirmed by a qualified United States financial institution, as  
4268 defined in paragraph (5) (a), effective no later than December 31  
4269 of the year for which the filing is made and in the possession  
4270 of the trust on or before the filing date of its annual  
4271 statement, may be used to fund the remainder of the trust and  
4272 trusteed surplus.

4273 b.(I) In the case of a group including incorporated and  
4274 individual unincorporated underwriters:

4275 (A) For reinsurance ceded under reinsurance agreements with  
4276 an inception, amendment, or renewal date on or after August 1,  
4277 1995, the trust consists of a trusteed account in an amount not  
4278 less than the group's several liabilities attributable to  
4279 business ceded by United States domiciled ceding insurers to any  
4280 member of the group.

4281 (B) For reinsurance ceded under reinsurance agreements with  
4282 an inception date on or before July 31, 1995, and not amended or  
4283 renewed after that date, notwithstanding the other provisions of  
4284 this section, the trust consists of a trusteed account in an  
4285 amount not less than the group's several insurance and  
4286 reinsurance liabilities attributable to business written in the  
4287 United States.

4288 (C) In addition to these trusts, the group shall maintain  
4289 in trust a trusteed surplus of which \$100 million must be held  
4290 jointly for the benefit of the United States domiciled ceding  
4291 insurers of any member of the group for all years of account.

4292 (II) The incorporated members of the group must not be

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4293 engaged in any business other than underwriting of a member of  
4294 the group, and are subject to the same level of regulation and  
4295 solvency control by the group's domiciliary regulator as the  
4296 unincorporated members.

4297 (III) Within 90 days after its financial statements are due  
4298 to be filed with the group's domiciliary regulator, the group  
4299 shall provide to the insurance regulator an annual certification  
4300 by the group's domiciliary regulator of the solvency of each  
4301 underwriter member or, if a certification is unavailable,  
4302 financial statements, prepared by independent public  
4303 accountants, of each underwriter member of the group.

4304 (d) Credit must be allowed when the reinsurance is ceded to  
4305 an assuming insurer not meeting the requirements of paragraph  
4306 (a), paragraph (b), or paragraph (c), but only as to the  
4307 insurance of risks located in jurisdictions in which the  
4308 reinsurance is required to be purchased by a particular entity  
4309 by applicable law or regulation of that jurisdiction.

4310 (e) If the reinsurance is ceded to an assuming insurer not  
4311 meeting the requirements of paragraph (a), paragraph (b),  
4312 paragraph (c), or paragraph (d), the department may allow  
4313 credit, but only if the assuming insurer holds surplus in excess  
4314 of \$100 million and has a secure financial strength rating from  
4315 at least two nationally recognized statistical rating  
4316 organizations deemed acceptable by the department. In  
4317 determining whether credit should be allowed, the department  
4318 shall consider the following:

4319 1. The domiciliary regulatory jurisdiction of the assuming  
4320 insurer.

4321 2. The structure and authority of the domiciliary regulator

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4322 with regard to solvency regulation requirements and the  
4323 financial surveillance of the reinsurer.

4324 3. The substance of financial and operating standards for  
4325 reinsurers in the domiciliary jurisdiction.

4326 4. The form and substance of financial reports required to  
4327 be filed by the reinsurers in the domiciliary jurisdiction or  
4328 other public financial statements filed in accordance with  
4329 generally accepted accounting principles.

4330 5. The domiciliary regulator's willingness to cooperate  
4331 with United States regulators in general and the department in  
4332 particular.

4333 6. The history of performance by reinsurers in the  
4334 domiciliary jurisdiction.

4335 7. Any documented evidence of substantial problems with the  
4336 enforcement of valid United States judgments in the domiciliary  
4337 jurisdiction.

4338 8. Any other matters deemed relevant by the department. The  
4339 department shall give appropriate consideration to insurer group  
4340 ratings that may have been issued. The department may, in lieu  
4341 of granting full credit under this subsection, reduce the amount  
4342 required to be held in trust under paragraph (c).

4343 (f) If the assuming insurer is not authorized or accredited  
4344 to transact insurance or reinsurance in this state pursuant to  
4345 paragraph (a) or paragraph (b), the credit permitted by  
4346 paragraph (c) or paragraph (d) must not be allowed unless the  
4347 assuming insurer agrees in the reinsurance agreements:

4348 1.a. That in the event of the failure of the assuming  
4349 insurer to perform its obligations under the terms of the  
4350 reinsurance agreement, the assuming insurer, at the request of

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4351 the ceding insurer, shall submit to the jurisdiction of any  
4352 court of competent jurisdiction in any state of the United  
4353 States, will comply with all requirements necessary to give the  
4354 court jurisdiction, and will abide by the final decision of the  
4355 court or of any appellate court in the event of an appeal.

4356 b. To designate the Chief Financial Officer, pursuant to s.  
4357 48.151, or a designated attorney as its true and lawful attorney  
4358 upon whom may be served any lawful process in any action, suit,  
4359 or proceeding instituted by or on behalf of the ceding company.

4360 2. This paragraph is not intended to conflict with or  
4361 override the obligation of the parties to a reinsurance  
4362 agreement to arbitrate their disputes, if this obligation is  
4363 created in the agreement.

4364 (g) If the assuming insurer does not meet the requirements  
4365 of paragraph (a) or paragraph (b), the credit permitted by  
4366 paragraph (c) or paragraph (d) is not allowed unless the  
4367 assuming insurer agrees in the trust agreements, in substance,  
4368 to the following conditions:

4369 1. Notwithstanding any other provisions in the trust  
4370 instrument, if the trust fund is inadequate because it contains  
4371 an amount less than the amount required by paragraph (c), or if  
4372 the grantor of the trust has been declared insolvent or placed  
4373 into receivership, rehabilitation, liquidation, or similar  
4374 proceedings under the laws of its state or country of domicile,  
4375 the trustee shall comply with an order of the insurance  
4376 regulator with regulatory oversight over the trust or with an  
4377 order of a United States court of competent jurisdiction  
4378 directing the trustee to transfer to the insurance regulator  
4379 with regulatory oversight all of the assets of the trust fund.

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4380       2. The assets must be distributed by and claims must be  
4381 filed with and valued by the insurance regulator with regulatory  
4382 oversight in accordance with the laws of the state in which the  
4383 trust is domiciled which are applicable to the liquidation of  
4384 domestic insurance companies.

4385       3. If the insurance regulator with regulatory oversight  
4386 determines that the assets of the trust fund or any part thereof  
4387 are not necessary to satisfy the claims of the United States  
4388 ceding insurers of the grantor of the trust, the assets or part  
4389 thereof must be returned by the insurance regulator with  
4390 regulatory oversight to the trustee for distribution in  
4391 accordance with the trust agreement.

4392       4. The grantor shall waive any right otherwise available to  
4393 it under United States law which is inconsistent with this  
4394 provision.

4395       (4) An asset allowed or a deduction from liability taken  
4396 for the reinsurance ceded by an insurer to an assuming insurer  
4397 not meeting the requirements of subsections (2) and (3) is  
4398 allowed in an amount not exceeding the liabilities carried by  
4399 the ceding insurer. The deduction must be in the amount of funds  
4400 held by or on behalf of the ceding insurer, including funds held  
4401 in trust for the ceding insurer, under a reinsurance contract  
4402 with the assuming insurer as security for the payment of  
4403 obligations thereunder, if the security is held in the United  
4404 States subject to withdrawal solely by, and under the exclusive  
4405 control of, the ceding insurer, or, in the case of a trust, held  
4406 in a qualified United States financial institution, as defined  
4407 in paragraph (5) (b). This security may be in the form of:

4408       (a) Cash in United States dollars;



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4409       (b) Securities listed by the Securities Valuation Office of  
4410 the National Association of Insurance Commissioners and  
4411 qualifying as admitted assets pursuant to part II of chapter  
4412 625;

4413       (c) Clean, irrevocable, unconditional letters of credit,  
4414 issued or confirmed by a qualified United States financial  
4415 institution, as defined in paragraph (5) (a), effective no later  
4416 than December 31 of the year for which the filing is made, and  
4417 in the possession of, or in trust for, the ceding company on or  
4418 before the filing date of its annual statement; or

4419       (d) Any other form of security acceptable to the  
4420 department.

4421       (5) (a) For purposes of paragraph (4) (c) regarding letters  
4422 of credit, a "qualified United States financial institution"  
4423 means an institution that:

4424       1. Is organized or, in the case of a United States  
4425 department of a foreign banking organization, is licensed under  
4426 the laws of the United States or any state thereof;

4427       2. Is regulated, supervised, and examined by United States  
4428 or state authorities having regulatory authority over banks and  
4429 trust companies; and

4430       3. Has been determined by either the department or the  
4431 Securities Valuation Office of the National Association of  
4432 Insurance Commissioners to meet such standards of financial  
4433 condition and standing as are considered necessary and  
4434 appropriate to regulate the quality of financial institutions  
4435 whose letters of credit will be acceptable to the department.

4436       (b) For purposes of those provisions of this law which  
4437 specify institutions that are eligible to act as a fiduciary of

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4438 a trust, a "qualified United States financial institution" means  
4439 an institution that is a member of the Federal Reserve System or  
4440 that has been determined by the department to meet the following  
4441 criteria:

4442 1. Is organized or, in the case of a United States branch  
4443 or agency department of a foreign banking organization, is  
4444 licensed under the laws of the United States or any state  
4445 thereof and has been granted authority to operate with fiduciary  
4446 powers; and

4447 2. Is regulated, supervised, and examined by federal or  
4448 state authorities having regulatory authority over banks and  
4449 trust companies.

4450 (6) For the purposes of this section only, the term "ceding  
4451 insurer" includes any health maintenance organization operating  
4452 under a certificate of authority issued under part I of chapter  
4453 641.

4454 (7) After notice and an opportunity for a hearing, the  
4455 department may disallow any credit that it finds would be  
4456 contrary to the proper interests of the policyholders or  
4457 stockholders of a ceding domestic insurer.

4458 (8) Credit must be allowed to any ceding insurer for  
4459 reinsurance otherwise complying with this section only when the  
4460 reinsurance is payable by the assuming insurer on the basis of  
4461 the liability of the ceding insurer under the contract or  
4462 contracts reinsured without diminution because of the insolvency  
4463 of the ceding insurer. Such credit must be allowed to the ceding  
4464 insurer for reinsurance otherwise complying with this section  
4465 only when the reinsurance agreement provides that payments by  
4466 the assuming insurer will be made directly to the ceding insurer

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4467 or its receiver, except when:

4468 (a) The reinsurance contract specifically provides payment  
4469 to the named insured, assignee, or named beneficiary of the  
4470 policy issued by the ceding insurer in the event of the  
4471 insolvency of the ceding insurer; or

4472 (b) The assuming insurer, with the consent of the named  
4473 insured, has assumed the policy obligations of the ceding  
4474 insurer as direct obligations of the assuming insurer in  
4475 substitution for the obligations of the ceding insurer to the  
4476 named insured.

4477 (9) No person, other than the ceding insurer, has any  
4478 rights against the reinsurer which are not specifically set  
4479 forth in the contract of reinsurance or in a specific written,  
4480 signed agreement between the reinsurer and the person.

4481 (10) An authorized insurer may not knowingly accept as  
4482 assuming reinsurer any risk covering subject of insurance which  
4483 is resident, located, or to be performed in this state and which  
4484 is written directly by any insurer not then authorized to  
4485 transact such insurance in this state, other than as to surplus  
4486 lines insurance lawfully written under part VIII of chapter 626.

4487 (11) (a) Any domestic or commercially domiciled insurer  
4488 ceding directly written risks of loss under this section shall,  
4489 within 30 days after receipt of a cover note or similar  
4490 confirmation of coverage, or, without exception, no later than 6  
4491 months after the effective date of the reinsurance treaty, file  
4492 with the department one copy of a summary statement containing  
4493 the following information about each treaty:

4494 1. The contract period.

4495 2. The nature of the reinsured's business.

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4496 3. An indication as to whether the treaty is proportional,  
4497 nonproportional, coinsurance, modified coinsurance, or  
4498 indemnity, as applicable.

4499 4. The ceding company's loss retention per risk.

4500 5. The reinsured limits.

4501 6. Any special contract restrictions.

4502 7. A schedule of reinsurers assuming the risks of loss.

4503 8. An indication as to whether payments to the assuming  
4504 insurer are based on written premiums or earned premiums.

4505 9. Identification of any intermediary or broker used in  
4506 obtaining the reinsurance and the department paid to such  
4507 intermediary or broker if known.

4508 10. Ceding commissions and allowances.

4509 (b) The summary statement must be signed and attested to by  
4510 either the chief executive officer or the chief financial  
4511 officer of the reporting insurer. In addition to the summary  
4512 statement, the department may require the filing of any  
4513 supporting information relating to the ceding of such risks as  
4514 it deems necessary. If the summary statement prepared by the  
4515 ceding insurer discloses that the net effect of a reinsurance  
4516 treaty or treaties, or series of treaties with one or more  
4517 affiliated reinsurers entered into for the purpose of avoiding  
4518 the following threshold amount, at any time results in an  
4519 increase of more than 25 percent to the insurer's surplus as to  
4520 policyholders, then the insurer shall certify in writing to the  
4521 department that the relevant reinsurance treaty or treaties  
4522 comply with the accounting requirements contained in any rule  
4523 adopted by the department under subsection (14). If such  
4524 certificate is filed after the summary statement of such

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4525 reinsurance treaty or treaties, the insurer shall refile the  
4526 summary statement with the certificate. In any event, the  
4527 certificate must state that a copy of the certificate was sent  
4528 to the reinsurer under the reinsurance treaty.

4529 (c) This subsection applies to cessions of directly written  
4530 risk or loss. This subsection does not apply to contracts of  
4531 facultative reinsurance or to any ceding insurer with surplus as  
4532 to policyholders that exceeds \$100 million as of the immediately  
4533 preceding December 31. Additionally, any ceding insurer  
4534 otherwise subject to this section with less than \$500,000 in  
4535 direct premiums written in this state during the preceding  
4536 calendar year or with less than 1,000 policyholders at the end  
4537 of the preceding calendar year is exempt from the requirements  
4538 of this subsection. However, any ceding insurer otherwise  
4539 subject to this section with more than \$250,000 in direct  
4540 premiums written in this state during the preceding calendar  
4541 quarter is not exempt from the requirements of this subsection.

4542 (d) An authorized insurer not otherwise exempt from the  
4543 provisions of this subsection shall provide the information  
4544 required by this subsection with underlying and supporting  
4545 documentation upon written request of the department.

4546 (e) The department may, upon a showing of good cause, waive  
4547 the requirements of this subsection.

4548 (12) If the department finds that a reinsurance agreement  
4549 creates a substantial risk of insolvency to either insurer  
4550 entering into the reinsurance agreement, the department may by  
4551 order require a cancellation of the reinsurance agreement.

4552 (13) No credit shall be allowed for reinsurance with regard  
4553 to which the reinsurance agreement does not create a meaningful

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4554 transfer of risk of loss to the reinsurer.

4555 (14) The department may adopt rules implementing the  
4556 provisions of this section. Rules are authorized to protect the  
4557 interests of insureds, claimants, ceding insurers, assuming  
4558 insurers, and the public. These rules shall be in substantial  
4559 compliance with:

4560 (a) The National Association of Insurance Commissioners  
4561 model regulations relating to credit for reinsurance.

4562 (b) The National Association of Insurance Commissioners  
4563 Accounting Practices and Procedures Manual as of March 2002 and  
4564 subsequent amendments thereto if the methodology remains  
4565 substantially consistent.

4566 (c) The National Association of Insurance Commissioners  
4567 model regulation for Credit for Reinsurance and Life and Health  
4568 Reinsurance Agreements.

4569  
4570 The department may further adopt rules to provide for transition  
4571 from existing requirements for the approval of reinsurers to the  
4572 accreditation of reinsurers pursuant to this section.

4573 637.2051 Notice to comply with written requirements of  
4574 department; noncompliance.-

4575 (1) If the department determines that the conditions set  
4576 forth in subsection (2) exist, the department shall issue an  
4577 order placing the title insurer in administrative supervision,  
4578 setting forth the reasons giving rise to the determination, and  
4579 specifying that the department is applying and effectuating the  
4580 provisions of this chapter. An order issued by the department  
4581 pursuant to this subsection entitles the insurer to request a  
4582 proceeding under ss. 120.569 and 120.57, and such a request

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4583 shall stay the action pending such proceeding.

4584 (2) A title insurer shall be subject to administrative  
4585 supervision by the department if upon examination or at any  
4586 other time the department determines that:

4587 (a) The insurer is in unsound condition;

4588 (b) The insurer's methods or practices render the  
4589 continuance of its business hazardous to the public or to its  
4590 insureds; or

4591 (c) The insurer has exceeded its powers granted under its  
4592 certificate of authority and applicable law.

4593 (3) Within 15 days after receipt of notice of the  
4594 department's determination to proceed under this chapter, an  
4595 insurer shall submit to the department a plan to correct the  
4596 conditions set forth in the notice. For good cause shown, the  
4597 department may extend the 15-day time period for submission of  
4598 the plan. If the department and the insurer agree on a  
4599 corrective plan, a written agreement shall be entered into to  
4600 carry out the plan.

4601 (4) If a title insurer fails to timely submit a plan, the  
4602 department may specify the requirements of a plan to address the  
4603 conditions giving rise to imposition of administrative  
4604 supervision under this chapter. In addition, failure of the  
4605 insurer to timely submit a plan is a violation of the provisions  
4606 of this chapter punishable in accordance with s. 637.2017.

4607 (5) The plan shall address, but shall not be limited to,  
4608 each of the activities of the insurer's business which are set  
4609 forth in s. 637.2053.

4610 (6) Any insurer subject to administrative supervision is  
4611 expected to avail itself of all reasonably available

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4612 reinsurance. Reasonably available reinsurance shall include  
4613 unrealized reinsurance, which is defined as reinsurance  
4614 recoverable on known losses incurred and due under valid  
4615 reinsurance contracts that have not been identified in the  
4616 normal course of business and have not been reported in  
4617 financial statements filed with the department. Within 90 days  
4618 after being placed under administrative supervision, the insurer  
4619 shall certify to the Chief Financial Officer that the insurer  
4620 has engaged an independent third party to search for unrealized  
4621 reinsurance, and that the insurer has made all relevant books  
4622 and records available to the third party. The compensation to  
4623 the third party may be a percentage of unrealized reinsurance  
4624 identified and collected.

4625 (7) If the department and the insurer are unable to agree  
4626 on the provisions of the plan, the department may require the  
4627 insurer to take such corrective action as may be reasonably  
4628 necessary to remove the causes and conditions giving rise to the  
4629 need for administrative supervision.

4630 (8) The insurer shall have 60 days, or a longer period of  
4631 time as designated by the department but not to exceed 120 days,  
4632 after the date of the written agreement or the receipt of the  
4633 department's plan within which to comply with the requirements  
4634 of the department. At the conclusion of the initial period of  
4635 supervision, the department may extend the supervision in  
4636 increments of 60 days or longer, not to exceed 120 days, if  
4637 conditions justifying supervision exist. Each extension of  
4638 supervision shall provide the insurer with a point of entry  
4639 pursuant to chapter 120.

4640 (9) The initiation or pendency of administrative



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4641 proceedings arising from actions taken under this section shall  
4642 not preclude the department from initiating judicial proceedings  
4643 to place an insurer in conservation, rehabilitation, or  
4644 liquidation or initiating other delinquency proceedings however  
4645 designated under the laws of this state.

4646 (10) If it is determined that the conditions giving rise to  
4647 administrative supervision have been remedied so that the  
4648 continuance of its business is no longer hazardous to the public  
4649 or to its insureds, the department shall release the insurer  
4650 from supervision.

4651 (11) The department may adopt rules to define standards of  
4652 hazardous financial condition and corrective action  
4653 substantially similar to that indicated in the National  
4654 Association of Insurance Commissioners' 1997 "Model Regulation  
4655 to Define Standards and Commissioner's Authority for Companies  
4656 Deemed to be in Hazardous Financial Condition," which are  
4657 necessary to implement the provisions of this part.

4658 637.2053 Prohibited acts during period of supervision.—The  
4659 department may provide that the title insurer may not conduct  
4660 the following activities during the period of supervision,  
4661 without prior approval by the department:

4662 (1) Dispose of, convey, or encumber any of its assets or  
4663 its business in force;

4664 (2) Withdraw any of its bank accounts;

4665 (3) Lend any of its funds;

4666 (4) Invest any of its funds;

4667 (5) Transfer any of its property;

4668 (6) Incur any debt, obligation, or liability;

4669 (7) Merge or consolidate with another company;

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4670       (8) Enter into any new reinsurance contract or treaty;  
4671       (9) Terminate, surrender, forfeit, convert, or lapse any  
4672 insurance policy, certificate, or contract of insurance, except  
4673 for nonpayment of premiums due;  
4674       (10) Release, pay, or refund premium deposits, accrued cash  
4675 or loan values, unearned premiums, or other reserves on any  
4676 insurance policy or certificate; or  
4677       (11) Make any material change in management.

4678       637.2054 Review.—During the period of supervision, the  
4679 title insurer may contest an action taken or proposed to be  
4680 taken by the supervisor, specifying the manner wherein the  
4681 action complained of would not result in improving the condition  
4682 of the insurer. Such request shall not stay the action specified  
4683 pending reconsideration of the action by the department. Denial  
4684 of the insurer's request upon reconsideration entitles the  
4685 insurer to request a proceeding under ss. 120.569 and 120.57.

4686       637.2055 Administrative election of proceedings.—If the  
4687 department determines to act under authority of this chapter,  
4688 the sequence of its acts and proceedings shall be as set forth  
4689 herein. However, it is a purpose and substance of this chapter  
4690 to allow the department administrative discretion in the event  
4691 of insurer delinquencies and, in furtherance of that purpose,  
4692 the department may, in respect to insurer delinquencies or  
4693 suspected delinquencies, proceed and administer under the  
4694 provisions of this chapter or any other applicable law, or under  
4695 the provisions of this chapter in conjunction with other  
4696 applicable law, and it is so provided. Nothing contained in this  
4697 part or in any other provision of law shall preclude the  
4698 department from initiating judicial proceedings to place an

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4699 insurer in conservation, rehabilitation, or liquidation  
4700 proceedings or other delinquency proceedings however designated  
4701 under the laws of this state, regardless of whether the  
4702 department has previously initiated administrative supervision  
4703 proceedings under this part against the insurer. The entry of an  
4704 order of seizure, rehabilitation, or liquidation pursuant to  
4705 chapter 631 shall terminate all proceedings pending pursuant to  
4706 this part.

4707 637.2056 Other laws; conflicts; meetings between the  
4708 department and the supervisor.—During the period of  
4709 administrative supervision, the department may meet with a  
4710 supervisor appointed under this chapter and with the attorney or  
4711 other representative of the supervisor and such meetings are  
4712 exempt from the provisions of s. 286.011.

4713 637.2057 Administrative supervision; expenses.—

4714 (1) During the period of supervision the department by  
4715 contract or otherwise may appoint a deputy supervisor to  
4716 supervise the title insurer.

4717 (2) Each insurer which is subject to administrative  
4718 supervision by the department shall pay to the department the  
4719 expenses of its administrative supervision at the rates adopted  
4720 by the department. Expenses shall include actual travel  
4721 expenses, a reasonable living expense allowance, compensation of  
4722 the deputy supervisor or other person employed or appointed by  
4723 the department for purposes of the supervision, and necessary  
4724 attendant administrative costs of the department directly  
4725 related to the supervision. The travel expense and living  
4726 expense allowance shall be limited to those expenses necessarily  
4727 incurred on account of the administrative supervision and shall

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4728 be paid by the insurer together with compensation upon  
4729 presentation by the department to the insurer of a detailed  
4730 account of the charges and expenses after a detailed statement  
4731 has been filed by the deputy supervisor or other person employed  
4732 or appointed by the department and approved by the department.

4733 (3) All moneys collected from insurers for the expenses of  
4734 administrative supervision shall be deposited into the Title  
4735 Insurance Regulatory Trust Fund, and the department is  
4736 authorized to make deposits from time to time into this fund  
4737 from moneys appropriated for the operation of the department.

4738 (4) Notwithstanding the provisions of s. 112.061, the  
4739 department is authorized to pay to the deputy supervisor or  
4740 person employed or appointed by the department for purposes of  
4741 the supervision out of such trust fund the actual travel  
4742 expenses, reasonable living expense allowance, and compensation  
4743 in accordance with the statement filed with the department by  
4744 the deputy supervisor or other person, as provided in subsection  
4745 (2), upon approval by the department.

4746 (5) The department may in whole or in part defer payment of  
4747 expenses due from the insurer pursuant to this section upon a  
4748 showing that payment would adversely impact on the financial  
4749 condition of the insurer and jeopardize its rehabilitation. The  
4750 payment shall be made by the insurer when the condition is  
4751 removed and the payment would no longer jeopardize the insurer's  
4752 financial condition.

4753 Section 11. Section 627.777, Florida Statutes, is  
4754 transferred, renumbered as section 637.2058, Florida Statutes,  
4755 and amended to read:

4756 637.2058 ~~627.777~~ Approval of forms.-

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4757       (1) A title insurer may not issue or agree to issue any  
4758 form of title insurance commitment, title insurance policy,  
4759 other contract of title insurance, or related form until it is  
4760 filed with and approved by the ~~department~~ office. The department  
4761 ~~office~~ may not disapprove a title guarantee or policy form on  
4762 the ground that it has on it a blank form for an attorney's  
4763 opinion on the title.

4764       (2) If a form filed for approval is a form recommended by  
4765 the American Land Title Association at the time of the filing,  
4766 the department shall approve or disapprove the form within 180  
4767 days. If a form filed for approval is a form not recommended by  
4768 the American Land Title Association at the time of the filing,  
4769 the department shall approve or disapprove the form within 1  
4770 year.

4771       (3) At the time of the approval of any form, the department  
4772 shall determine if a rate in effect at that time applies or if  
4773 the coverages require adoption of a rule pursuant to s.  
4774 637.2064.

4775       (4) The department may revoke approval of any form upon 180  
4776 days' notice.

4777       (5) An insurer may not achieve any competitive advantage  
4778 over any other insurer or agent as to forms.

4779       Section 12. Section 627.7773, Florida Statutes, is  
4780 transferred, renumbered as section 637.2059, Florida Statutes,  
4781 and amended to read:

4782       637.2059 ~~627.7773~~ Accounting and auditing of forms by title  
4783 insurers.—

4784       (1) Each title insurer authorized to do business in this  
4785 state shall, at least once during each calendar year, require of

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4786 each of its title insurance agents or agencies accountings of  
4787 all outstanding forms in the agent's or agency's possession of  
4788 the types that are specified in s. 637.2058 ~~627.777~~.

4789 (2) If the department ~~office~~ has reason to believe that an  
4790 audit of outstanding forms should be required of any title  
4791 insurer as to a title insurance agent or agency, the department  
4792 ~~office~~ may require the title insurer to make a special audit of  
4793 the forms. The title insurer shall complete the audit not later  
4794 than 60 days after the request is received from the department  
4795 ~~office~~, and shall report the results of the special audit to the  
4796 department ~~office~~ no later than 90 days after the request is  
4797 received.

4798 Section 13. Section 627.7776, Florida Statutes, is  
4799 transferred, renumbered as section 637.2061, Florida Statutes,  
4800 and subsection (1) of that section is amended to read:

4801 637.2061 ~~627.7776~~ Furnishing of supplies; civil liability.—

4802 (1) A title insurer may not furnish to any person any blank  
4803 forms, applications, stationery, or other supplies to be used in  
4804 soliciting, negotiating, or effecting contracts of title  
4805 insurance on its behalf until that person has received from the  
4806 insurer a contract to act as a title insurance agent or agency  
4807 and has been licensed by the department, if required by s.  
4808 637.3006 ~~626.8417~~.

4809 Section 14. Section 627.780, Florida Statutes, is  
4810 transferred, renumbered as section 637.2063, Florida Statutes,  
4811 and subsection (1) of that section is amended to read:

4812 637.2063 ~~627.780~~ Illegal dealings in premium.—

4813 (1) A person may not knowingly quote, charge, accept,  
4814 collect, or receive a premium for title insurance other than the

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4815 premium adopted by the department ~~commission~~, except as provided  
4816 in s. 637.1033(7)(b). ~~626.9541(1)(h)3.b.~~

4817 Section 15. Section 637.20635, Florida Statutes, is created  
4818 to read:

4819 637.20635 Rebating; when allowed.-

4820 (1) A title insurer, title insurance agency, or title  
4821 insurance agent may not rebate any portion of the premium except  
4822 as follows:

4823 (a) A rebate shall be in accordance with a uniform  
4824 percentage of the premium established by the insurer issuing the  
4825 policy to which the rebate applies. Deviations from the approved  
4826 rebate may not be permitted for any reason, including, but not  
4827 limited to, the amount of the coverage, the insured, any  
4828 geographic limitation within this state, or the type of policy.

4829 (b) Any rebates shall be uniformly applied to all policies  
4830 of whatever kind issued by or on behalf of the insurer. Each  
4831 person responsible for paying the premium must receive the same  
4832 rebate regardless of whether the policy is purchased from a  
4833 title insurance agent or agency, directly from the title  
4834 insurer, or from an affiliated company. For purposes of this  
4835 paragraph, the term "affiliated company" means any company of an  
4836 affiliated group of corporations as defined in s.  
4837 637.2039(5)(a)(2).

4838 (c) The age, sex, place of residence, nationality, ethnic  
4839 origin, marital status, or occupation of the insured may not be  
4840 used in determining the amount of the rebate or whether a rebate  
4841 is available.

4842 (d) The insurer shall file a copy of the uniform rebate  
4843 percentage and its effective date quarterly with the department.

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4844 The insurer may not establish a rebate schedule that has the  
4845 effect of impairing the financial solvency of the insurer or the  
4846 title insurance agent or agency. The insurer must obtain  
4847 department approval of the rebates consistent with s. 637.2064  
4848 prior to their implementation.

4849 (2) A rebate may not be:

4850 (a) Withheld or limited in amount based on factors that are  
4851 unfairly discriminatory.

4852 (b) Given if it is inconsistent with the filed and approved  
4853 uniform rebate percentage.

4854 (c) Granted or refused based upon the purchase or failure  
4855 of the insured to purchase additional services.

4856 Section 16. Section 627.782, Florida Statutes, is  
4857 transferred, renumbered as section 637.2064, Florida Statutes,  
4858 and amended to read:

4859 637.2064 ~~627.782~~ Adoption of rates.—

4860 (1) Subject to the rating provisions of this chapter ~~code~~,  
4861 the department ~~commission~~ must adopt a rule specifying the  
4862 premium to be charged in this state by title insurers for the  
4863 respective types of title insurance contracts and, for policies  
4864 issued through agents or agencies, the percentage of such  
4865 premium required to be retained by the title insurer which shall  
4866 not be less than 30 percent. However, in a transaction subject  
4867 to the Real Estate Settlement Procedures Act of 1974, 12 U.S.C.  
4868 ss. 2601 et seq., as amended, no portion of the premium  
4869 attributable to providing a primary title service shall be paid  
4870 to or retained by any person who does not actually perform or is  
4871 not liable for the performance of such service.

4872 (2) In adopting premium rates, the department ~~commission~~



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4873 must give due consideration to the following:

4874 (a) The title insurers' loss experience and prospective  
4875 loss experience under closing protection letters and policy  
4876 liabilities.

4877 (b) A reasonable margin for underwriting profit and  
4878 contingencies, including contingent liability under s. 637.2075  
4879 ~~627.7865~~, sufficient to allow title insurers, agents, and  
4880 agencies to earn a rate of return on their capital that will  
4881 attract and retain adequate capital investment in the title  
4882 insurance business and maintain an efficient title insurance  
4883 delivery system.

4884 (c) Past expenses and prospective expenses for  
4885 administration and handling of risks.

4886 (d) Liability for defalcation.

4887 (e) Other relevant factors.

4888 (3) Rates may be grouped by classification or schedule and  
4889 may differ as to class of risk assumed.

4890 (4) Rates may not be excessive, inadequate, or unfairly  
4891 discriminatory.

4892 (5) The premium applies to each \$100 of insurance issued to  
4893 an insured.

4894 (6) The premium rates apply throughout this state.

4895 (7) The department ~~commission~~ shall, in accordance with the  
4896 standards provided in subsection (2), review the premium as  
4897 needed, but not less frequently than once every 3 years, and  
4898 shall, based upon the review required by this subsection, revise  
4899 the premium if the results of the review so warrant.

4900 (8) The department ~~commission~~ may, by rule, require  
4901 licensees under this part to annually submit statistical

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4902 information, including loss and expense data, as the department  
4903 determines to be necessary to analyze premium rates, retention  
4904 rates, and the condition of the title insurance industry.

4905 Section 17. Section 627.783, Florida Statutes, is  
4906 transferred, renumbered as section 637.2065, Florida Statutes,  
4907 and amended to read:

4908 637.2065 ~~627.783~~ Rate deviation.—

4909 (1) A title insurer may petition the department ~~office~~ for  
4910 an order authorizing a specific deviation from the adopted  
4911 premium. The petition shall be in writing and sworn to and shall  
4912 set forth allegations of fact upon which the petitioner will  
4913 rely, including the petitioner's reasons for requesting the  
4914 deviation. Any authorized title insurer, agent, or agency may  
4915 join in the petition for like authority to deviate or may file a  
4916 separate petition praying for like authority or opposing the  
4917 deviation. The department ~~office~~ shall rule on all such  
4918 petitions simultaneously.

4919 (2) If, in the judgment of the department ~~office~~, the  
4920 requested deviation is not justified, the department ~~office~~ may  
4921 enter an order denying the petition. An order granting a  
4922 petition constitutes an amendment to the adopted premium as to  
4923 the petitioners named in the order, and is subject to s.  
4924 637.2064 ~~627.782~~.

4925 Section 18. Section 627.7831, Florida Statutes, is  
4926 transferred and renumbered as section 637.2066, Florida  
4927 Statutes.

4928 Section 19. Section 627.784, Florida Statutes, is  
4929 transferred and renumbered as section 637.2067, Florida  
4930 Statutes.

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4931           Section 20. Section 627.7841, Florida Statutes, is  
4932 transferred and renumbered as section 637.2068, Florida  
4933 Statutes.

4934           Section 21. Section 627.7842, Florida Statutes, is  
4935 transferred and renumbered as section 637.2069, Florida  
4936 Statutes.

4937           Section 22. Section 627.7843, Florida Statutes, is  
4938 transferred and renumbered as section 637.2071, Florida  
4939 Statutes.

4940           Section 23. Section 627.7845, Florida Statutes, is  
4941 transferred, renumbered as section 637.2072, Florida Statutes,  
4942 and amended to read:

4943           637.2072 ~~627.7845~~ Determination of insurability required;  
4944 preservation of evidence of title search and examination.-

4945           (1) A title insurer may not issue a title insurance  
4946 commitment, endorsement, or title insurance policy until the  
4947 title insurer has caused to be made a determination of  
4948 insurability based upon the evaluation of a reasonable title  
4949 search or a search of the records of a Uniform Commercial Code  
4950 filing office, as applicable, has examined such other  
4951 information as may be necessary, and has caused to be made a  
4952 determination of insurability of title or the existence,  
4953 attachments, perfection, and priority of a Uniform Commercial  
4954 Code security interest, including endorsement coverages, in  
4955 accordance with sound underwriting practices.

4956           (2) The title insurer shall cause the evidence of the  
4957 determination of insurability and the reasonable title search or  
4958 search of the records of a Uniform Commercial Code filing office  
4959 to be preserved and retained in its files or in the files of its

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4960 title insurance agent or agency for a period of not less than 7  
4961 years after the title insurance commitment, title insurance  
4962 policy, or guarantee of title was issued. The title insurer or  
4963 agent or agency must produce the evidence required to be  
4964 maintained by this subsection at its offices upon the demand of  
4965 the department ~~office~~. Instead of retaining the original  
4966 evidence, the title insurer or the title insurance agent or  
4967 agency may, in the regular course of business, establish a  
4968 system under which all or part of the evidence is recorded,  
4969 copied, or reproduced by any photographic, photostatic,  
4970 microfilm, microcard, miniature photographic, or other process  
4971 which accurately reproduces or forms a durable medium for  
4972 reproducing the original.

4973 (3) The title insurer or its agent or agency must maintain  
4974 a record of the actual premium charged for issuance of the  
4975 policy and any endorsements in its files for a period of not  
4976 less than 7 years. The title insurer, agent, or agency must  
4977 produce the record at its office upon demand of the department  
4978 ~~office~~.

4979 (4) This section does not apply to an insurer assuming no  
4980 primary liability in a contract of reinsurance or to an insurer  
4981 acting as a coinsurer if any other coinsuring insurer has  
4982 complied with this section.

4983 Section 24. Section 627.785, Florida Statutes, is  
4984 transferred and renumbered as section 637.2073, Florida  
4985 Statutes.

4986 Section 25. Section 627.786, Florida Statutes, is  
4987 transferred, renumbered as section 637.2074, Florida Statutes,  
4988 and subsection (3) of that section is amended to read:

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4989        637.2074 ~~627.786~~ Transaction of title insurance and any  
4990 other kind of insurance prohibited.—

4991            (3) Subsection (1) does not preclude a title insurer from  
4992 providing instruments to any prospective insured, in the form  
4993 and content approved by the department ~~office~~, under which the  
4994 title insurer assumes liability for loss due to the fraud of,  
4995 dishonesty of, misappropriation of funds by, or failure to  
4996 comply with written closing instructions by, its contract  
4997 agents, agencies, or approved attorneys in connection with a  
4998 real property transaction for which the title insurer is to  
4999 issue a title insurance policy.

5000            Section 26. Section 627.7865, Florida Statutes, is  
5001 transferred, renumbered as section 637.2075, Florida Statutes,  
5002 and amended to read:

5003            637.2075 ~~627.7865~~ Title insurer assessments.—As a condition  
5004 of doing business in this state, each title insurer shall be  
5005 liable for an assessment to pay all unpaid title insurance  
5006 claims on real property in this state for any title insurer  
5007 which is liquidated with unpaid outstanding claims. The  
5008 department ~~office~~ shall assess all title insurers on a pro rata  
5009 basis determined by their writings in this state for amounts  
5010 necessary to pay the claims. A title insurer is not required to  
5011 pay an amount in excess of one-tenth of its surplus as to  
5012 policyholders.

5013            Section 27. Section 627.791, Florida Statutes, is  
5014 transferred, renumbered as section 637.2076, Florida Statutes,  
5015 and amended to read:

5016            637.2076 ~~627.791~~ Penalties against title insurers for  
5017 violations by persons or entities not licensed.—A title insurer

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5018 is subject to the penalties in ss. 637.2017(2) and 637.2021  
5019 ~~624.418(2)~~ and ~~624.4211~~ for any violation of a lawful order or  
5020 rule of the department ~~office or commission~~, or for any  
5021 violation of this chapter ~~code~~, committed by:

5022 (1) A person, firm, association, corporation, cooperative,  
5023 joint-stock company, or other legal entity not licensed under  
5024 this part when issuing and countersigning commitments or  
5025 policies of title insurance on behalf of the title insurer.

5026 (2) An attorney when issuing and countersigning commitments  
5027 or policies of title insurance on behalf of the title insurer.

5028 Section 28. Section 627.792, Florida Statutes, is  
5029 transferred, renumbered as section 637.2077, Florida Statutes,  
5030 and amended to read:

5031 637.2077 ~~627.792~~ Liability of title insurers for  
5032 defalcation by title insurance agents or agencies.—A title  
5033 insurer is liable for the defalcation, conversion, or  
5034 misappropriation by a licensed title insurance agent or agency  
5035 of funds held in trust by the agent or agency pursuant to s.  
5036 637.3029 ~~626.8473~~. If the agent or agency is an agent or agency  
5037 for two or more title insurers, any liability shall be borne by  
5038 the title insurer upon which a title insurance commitment or  
5039 policy was issued prior to the illegal act. If no commitment or  
5040 policy was issued, each title insurer represented by the agent  
5041 or agency at the time of the illegal act shares in the liability  
5042 in the same proportion that the premium remitted to it by the  
5043 agent or agency during the 1-year period before the illegal act  
5044 bears to the total premium remitted to all title insurers by the  
5045 agent or agency during the same time period.

5046 Section 29. Section 627.793, Florida Statutes, is

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5047 transferred, renumbered as section 637.2078, Florida Statutes,  
5048 and amended to read:

5049 637.2078 ~~627.793~~ Rulemaking authority.—The department  
5050 ~~commission~~ may adopt rules implementing the provisions of this  
5051 chapter part.

5052 Section 30. Section 627.796, Florida Statutes, is  
5053 transferred and renumbered as section 637.2079, Florida  
5054 Statutes.

5055 Section 31. Section 627.797, Florida Statutes, is  
5056 transferred, renumbered as section 637.2081, Florida Statutes,  
5057 and subsection (1) of that section is amended to read:

5058 637.2081 ~~627.797~~ Exempt title insurance agent list.—

5059 (1) Every insurer shall file with the department a list  
5060 containing the name and address of each appointed agent who is  
5061 exempt from licensure under s. 637.3006(4) ~~626.8417(4)~~ and who  
5062 issues or countersigns binders, commitments, title insurance  
5063 policies, or guarantees of title.

5064 Section 32. Section 627.798, Florida Statutes, is  
5065 transferred, renumbered as section 637.2082, Florida Statutes,  
5066 and amended to read:

5067 637.2082 ~~627.798~~ Rulemaking authority.—The department may  
5068 ~~commission shall by rule~~ adopt rules implementing the provisions  
5069 ~~of this part a form to be used to provide notice to a purchaser-~~  
5070 ~~mortgagor that the purchaser-mortgagor is not protected by the~~  
5071 ~~title policy of the mortgagee.~~

5072 Section 33. Sections 637.2083, 637.2084, 637.2085,  
5073 637.2086, 637.2087, 637.2088, 637.2089, and 637.2091, Florida  
5074 Statutes, are created to read:

5075 637.2083 Assets not allowed.—In addition to assets

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5076 impliedly excluded by the provisions of s. 625.012, the  
5077 following expressly shall not be allowed as assets in any  
5078 determination of the financial condition of a title insurer:

5079 (1) Trade names, patents, agreements not to compete, and  
5080 other like intangible assets.

5081 (2) Advances (other than policy loans) to officers and  
5082 directors, whether secured or not, and advances to employees,  
5083 agents, and other persons on personal security only.

5084 (3) Stock of such insurer, owned by it, or any material  
5085 equity therein or loans secured thereby, or any material  
5086 proportionate interest in such stock acquired or held through  
5087 the ownership by such insurer of an interest in another firm,  
5088 corporation, or business unit.

5089 (4) Furniture, fixtures, furnishings, safes, vehicles,  
5090 libraries, stationery, literature, and supplies, other than data  
5091 processing and accounting systems authorized under s.  
5092 625.012(11), except in the case of title insurers such materials  
5093 and plants as the insurer is expressly authorized to invest in  
5094 under s. 637.20073 and except, in the case of any insurer, such  
5095 personal property as the insurer is permitted to hold pursuant  
5096 to part II of this chapter, or which is acquired through  
5097 foreclosure of chattel mortgages acquired pursuant to s.  
5098 625.329, or which is reasonably necessary for the maintenance  
5099 and operation of real estate lawfully acquired and held by the  
5100 insurer other than real estate used by it for home office,  
5101 branch office, and similar purposes.

5102 (5) The amount, if any, by which the aggregate book value  
5103 of investments as carried in the ledger assets of the insurer  
5104 exceeds the aggregate value thereof as determined under this



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5106 (6) Bonds, notes, or other evidences of indebtedness which  
5107 are secured by mortgages or deeds of trust which are in default.

5108 (7) Prepaid and deferred expenses.

5109 637.2084 Power to contract; purchase of title insurance by  
5110 or for minor.—

5111 (1) Any person of competent legal capacity may contract for  
5112 title insurance.

5113 (2) Any minor of the age of 15 years or more, as determined  
5114 by the nearest birthday, may, notwithstanding his or her  
5115 minority, contract for title insurance on his or her own  
5116 property.

5117 (3) If any minor mentioned in subsection (2) is possessed  
5118 of an estate that is being administered by a guardian or  
5119 curator, such contract shall not be binding upon such estate as  
5120 to payment of premiums, except as and when consented to by the  
5121 guardian or curator and approved by the probate court of the  
5122 county in which the administration of the estate is pending; and  
5123 such consent and approval shall be required as to each premium  
5124 payment.

5125 637.2085 Charter, bylaw provisions.—A title insurance  
5126 policy may not contain any provision purporting to make any  
5127 portion of the charter, bylaws, or other constituent document of  
5128 the title insurer a part of the contract unless such portion is  
5129 set forth in full in the policy. Any policy provision in  
5130 violation of this section is invalid.

5131 637.2086 Execution of policies.—

5132 (1) Every title insurance policy shall be executed in the  
5133 name of and on behalf of the insurer by its officer, attorney in

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5134 fact, employee, or representative duly authorized by the title  
5135 insurer.

5136 (2) A facsimile signature of any such executing individual  
5137 may be used in lieu of an original signature.

5138 (3) A title insurance contract that is otherwise valid may  
5139 not be rendered invalid by reason of the apparent execution  
5140 thereof on behalf of the title insurer by the imprinted  
5141 facsimile signature of an individual not authorized so to  
5142 execute as of the date of the policy.

5143 637.2087 Construction of policies.—

5144 (1) Every title insurance contract shall be construed  
5145 according to the entirety of its terms and conditions as set  
5146 forth in the policy and as amplified, extended, or modified by  
5147 any application therefor or any rider or endorsement thereto.

5148 (2) If a title insurer or licensee advertises title  
5149 insurance policy in a language other than English, the  
5150 advertisements shall not be construed to modify or change the  
5151 insurance policy written in English. The advertisement must  
5152 disclose that the policy written in English controls in the  
5153 event of a dispute and that statements contained in the  
5154 advertisement do not necessarily, as a result of possible  
5155 linguistic differences, reflect the contents of the policy  
5156 written in English. Nothing in this subsection shall affect the  
5157 provisions of s. 637.1033 relating to misrepresentations and  
5158 false advertising of insurance policies.

5159 637.2088 Payment of judgment by title insurer; penalty for  
5160 failure.—

5161 (1) Every judgment or decree for the recovery of money  
5162 entered in any of the courts of this state against any

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5163 authorized title insurer shall be fully satisfied within 60 days  
5164 after the entry thereof or, in the case of an appeal from such  
5165 judgment or decree, within 60 days after the affirmance of the  
5166 same by the appellate court.

5167 (2) If the judgment or decree is not satisfied as required  
5168 under subsection (1), and proof of such failure to satisfy is  
5169 made by filing with the department a certified transcript of the  
5170 docket of the judgment or decree together with a certificate by  
5171 the clerk of the court wherein the judgment or decree was  
5172 entered that the judgment or decree remains unsatisfied, in  
5173 whole or in part, after the time aforesaid, the department shall  
5174 forthwith revoke the title insurer's certificate of authority.  
5175 The department shall not issue to such insurer any new  
5176 certificate of authority until the judgment or decree is wholly  
5177 paid and satisfied and proof thereof filed with the department  
5178 under the official certificate of the clerk of the court wherein  
5179 the judgment was recovered, showing that the same is satisfied  
5180 of record, and until the expenses and fees incurred in the case  
5181 are also paid by the insurer.

5182 637.2089 Attorney's fee.—

5183 (1) Upon the rendition of a judgment or decree by any of  
5184 the courts of this state against a title insurer and in favor of  
5185 any named or omnibus insured or the named beneficiary under a  
5186 policy or contract executed by the title insurer, the trial  
5187 court or, in the event of an appeal in which the insured or  
5188 beneficiary prevails, the appellate court shall adjudge or  
5189 decree against the title insurer and in favor of the insured or  
5190 beneficiary a reasonable sum as fees or compensation for the  
5191 insured's or beneficiary's attorney prosecuting the suit in

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5192 which the recovery is had.

5193 (2) When so awarded, compensation or fees of the attorney  
5194 shall be included in the judgment or decree rendered in the  
5195 case.

5196 637.2091 Title insurance business exclusive.—

5197 (1) A domestic title insurer may not engage directly or  
5198 indirectly in any business other than the title insurance  
5199 business and business activities reasonably and necessarily  
5200 incidental to such title insurance business.

5201 (2) Notwithstanding subsection (1), a title insurer may  
5202 engage in business as an escrow agent, and any title insurer may  
5203 also engage in the business of making, acquiring, selling,  
5204 dealing in, and servicing of real estate mortgage loans and  
5205 loans incidental thereto.

5206 (3) A business trust whose declaration of trust was filed  
5207 with the Secretary of State prior to January 1, 1959, and which,  
5208 at the time of the adoption of the Florida Insurance Code, held  
5209 a certificate of authority as a title insurer may qualify as an  
5210 insurer for lawyers' professional liability insurance by  
5211 complying with the applicable provisions of the code.

5212 Section 34. Part III of chapter 637, Florida Statutes,  
5213 consisting of sections 637.3001, 637.3002, 637.3003, 637.30041,  
5214 637.30042, 637.30043, 637.30044, 637.30045, 637.30046,  
5215 637.30047, 637.30048, 637.30049, 637.3005, 637.3006, 637.3007,  
5216 637.3008, 637.3009, 637.30093, 637.30094, 637.30095, 637.30096,  
5217 637.30097, 637.3011, 637.3012, 637.30125, 637.3013, 637.30133,  
5218 637.30135, 637.3014, 637.30142, 637.30143, 637.30144, 637.30145,  
5219 637.30146, 637.30147, 637.3015, 637.3016, 637.3017, 637.3018,  
5220 637.3019, 637.3021, 637.3022, 637.3023, 637.3024, 637.3025,

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5221 637.3026, 637.3027, 637.3028, 637.3029, and 637.30295, is  
5222 created and entitled "TITLE INSURANCE AGENT AND AGENCY LICENSING  
5223 AND ADMINISTRATION."

5224 Section 35. Section 626.8412, Florida Statutes, is  
5225 transferred, renumbered as section 637.3001, Florida Statutes,  
5226 and amended to read:

5227 637.3001 ~~626.8412~~ License and appointments required.—

5228 (1) Except as otherwise provided in this part:

5229 (a) Title insurance business may be conducted ~~sole~~ only by  
5230 a title insurer or a licensed title insurance agent employed by  
5231 a licensed and appointed title insurance agency ~~or employed by a~~  
5232 ~~title insurer.~~

5233 (b) A title insurance agent may not provide ~~sell~~ a title  
5234 insurance policy for ~~issued by~~ an insurer for which the agent  
5235 and agency does not hold a current appointment.

5236 (2) Except as otherwise provided in this part, a person,  
5237 other than a title insurance agency or an employee of a title  
5238 insurance agency, may not perform any of the functions of a  
5239 title insurance agency without a title insurance agency license.

5240 (3) Each title insurance agency shall annually remit the  
5241 administrative surcharge required in s. 637.2031(14)(e) prior to  
5242 January 30 of each year.

5243 (a) Noncompliance with the payment of the fees as required  
5244 in s. 637.2031(14)(e) shall result in the immediate suspension  
5245 of the title insurance agency's appointments to represent an  
5246 insurer.

5247 (b) Absent other cause for suspension, the appointments of  
5248 a title insurance agency may be reinstated upon receipt of the  
5249 amount due for the administrative surcharge plus any penalties

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5250 imposed.

5251 (c) A penalty may be imposed to reinstate the appointments  
 5252 of an agency.

5253 Section 36. Section 626.8413, Florida Statutes, is  
 5254 transferred, renumbered as section 637.3002, Florida Statutes,  
 5255 and amended to read:

5256 637.3002 ~~626.8413~~ Title insurance agents; certain names  
 5257 prohibited. ~~After October 1, 1985,~~ A title insurance agent ~~as~~  
 5258 ~~defined in s. 626.841~~ shall not adopt a name which contains the  
 5259 words "title insurance," "title guaranty," or "title guarantee,"  
 5260 unless such words are followed by the word "agent" or "agency"  
 5261 in the same size and type as the words preceding them. This  
 5262 section does not apply to a title insurer acting as an agent for  
 5263 another title insurer.

5264 Section 37. Sections 637.3003, 637.30041, 637.30042,  
 5265 637.30043, 637.30044, 637.30045, 637.30046, 637.30047,  
 5266 637.30048, and 637.30049, Florida Statutes, are created to read:

5267 637.3003 Firm, corporate, and business names; officers;  
 5268 associates; notice of changes.-

5269 (1) Any licensed title agent doing business under a firm or  
 5270 corporate name or under any business name other than his or her  
 5271 own individual name shall, within 30 days after the initial  
 5272 transaction of insurance under such business name, file with the  
 5273 department, on forms adopted and furnished by the department, a  
 5274 written statement of the firm, corporate, or business name being  
 5275 used, the address of any office or offices or places of business  
 5276 making use of such name, and the name and social security number  
 5277 of each officer and director of the corporation and of each  
 5278 individual associated in such firm or corporation as to the

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5279 insurance transactions of such firm or corporation or in the use  
5280 of such business name.

5281 (2) In the event of any change of such name, a change of  
5282 any of the officers or directors, a change of any of such  
5283 addresses, or a change in the personnel associated with such  
5284 firm or corporation, written notice of such change shall be  
5285 filed with the department within 30 days by or on behalf of  
5286 those licensees terminating any such firm, corporation, or  
5287 business name or continuing to operate under such name.

5288 (3) Within 30 days after a change, any licensed title  
5289 insurance agency shall notify the department of any change in  
5290 the information contained in the application filed pursuant to  
5291 s. 637.3007.

5292 637.30041 Insurance agency names; disapproval.—The  
5293 department may disapprove the use of any true or fictitious  
5294 name, other than the bona fide natural name of an individual, by  
5295 any title insurance agency on any of the following grounds:

5296 (1) The name interferes with or is too similar to a name  
5297 already filed and in use by another title insurance agency or  
5298 title insurer.

5299 (2) The use of the name may mislead the public in any  
5300 respect.

5301 (3) The name states or implies that the title insurance  
5302 agency is an insurer, motor club, hospital service plan, state  
5303 or federal agency, charitable organization, or entity that  
5304 primarily provides advice and counsel rather than sells or  
5305 solicits title insurance, or is entitled to engage in title  
5306 insurance activities not permitted under licenses held or  
5307 applied for. This subsection does not prohibit the use of the

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5308 word "state" or "states" in the name of the agency. The use of  
5309 the word "state" or "states" in the name of an agency does not  
5310 imply that the agency is a state agency.

5311 637.30042 Examination requirement; exemptions.—The  
5312 department may not issue any license as a title insurance agent  
5313 to any individual who has not qualified for, taken, and passed  
5314 to the satisfaction of the department a written examination of  
5315 the scope prescribed in s. 637.30044.

5316 637.30043 Eligibility; application for examination.—

5317 (1) A person may not be permitted to take an examination  
5318 for license until his or her application for examination or  
5319 application for the license has been approved and the required  
5320 fees have been received by the department or a person designated  
5321 by the department to administer the examination.

5322 (2) A person required to take an examination for a license  
5323 may be permitted to take an examination prior to submitting an  
5324 application for licensure pursuant to s. 637.3006 by submitting  
5325 an application for examination through the department's Internet  
5326 website. In the application, the applicant shall set forth:

5327 (a) His or her full name, age, social security number,  
5328 residence address, business address, and mailing address.

5329 (b) The type of license that the applicant intends to apply  
5330 for.

5331 (c) The name of any required pre-licensing course he or she  
5332 has completed or is in the process of completing.

5333 (d) The method by which the applicant intends to qualify  
5334 for the type of license if other than by completing a pre-  
5335 licensing course.

5336 (e) The applicant's gender.



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- 5337       (f) The applicant's native language.
- 5338       (g) The highest level of education achieved by the  
5339 applicant.
- 5340       (h) The applicant's race or ethnicity. However, the  
5341 application must contain a statement that an applicant is not  
5342 required to disclose his or her race or ethnicity, gender, or  
5343 native language, that he or she will not be penalized for not  
5344 making such disclosure, and that the department will use this  
5345 information exclusively for research and statistical purposes  
5346 and to improve the quality and fairness of the examinations.
- 5347       (3) Each application shall be accompanied by payment of the  
5348 applicable examination fee.
- 5349       637.30044 Scope of examination.—
- 5350       (1) Each examination for a license as a title insurance  
5351 agent, shall be of such scope as is deemed by the department to  
5352 be reasonably necessary to test the applicant's ability and  
5353 competence and knowledge of title insurance and real property  
5354 transactions of the duties and responsibilities of such a  
5355 licensee, and of the pertinent provisions of the laws of this  
5356 state.
- 5357       (2) Examinations must cover title insurance, abstracting,  
5358 title searches, examination of title, closing procedures, and  
5359 escrow handling.
- 5360       (3) This section applies to any person who submits an  
5361 application for license and to any person who submits an  
5362 application for examination prior to filing an application for  
5363 license.
- 5364       637.30045 Time and place of examination; notice.—
- 5365       (1) The department or a person designated by the department

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5366 shall mail written notice of the time and place of the  
5367 examination to each applicant for examination and each applicant  
5368 for license required to take an examination who is eligible to  
5369 take the examination as of the examination date. The notice  
5370 shall be mailed, postage prepaid, and addressed to the applicant  
5371 at his or her address shown on the application for license or at  
5372 such other address as requested by the applicant in writing  
5373 filed with the department prior to the mailing of the notice.  
5374 Notice shall be deemed given when mailed.

5375 (2) The examination shall be held in an adequate and  
5376 designated examination center in this state.

5377 (3) The department shall make an examination available to  
5378 the applicant, to be taken as soon as reasonably possible after  
5379 the applicant is eligible to take the examination. Any  
5380 examination required under this part shall be available in this  
5381 state at a designated examination center.

5382 637.30046 Conduct of examination.-

5383 (1) The applicant for license or the applicant for  
5384 examination shall appear in person and personally take the  
5385 examination for license at the time and place specified by the  
5386 department or by a person designated by the department.

5387 (2) The examination shall be conducted by an employee of  
5388 the department or a person designated by the department for that  
5389 purpose.

5390 (3) The questions propounded shall be as prepared by the  
5391 department, or by a person designated by the department for that  
5392 purpose, consistent with the applicable provisions of this code.

5393 (4) All examinations shall be given and graded in a fair  
5394 and impartial manner and without unfair discrimination in favor

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5395 of or against any particular applicant.

5396 637.30047 Printing of examinations or related materials to  
5397 preserve examination security.—A contract let for the  
5398 development, administration, or grading of examinations or  
5399 related materials by the department pursuant to the agent,  
5400 customer representative, or adjuster licensing and examination  
5401 provisions of this code may include the printing or furnishing  
5402 of such examinations or related materials in order to preserve  
5403 security. Any such contract shall be let as a contract for a  
5404 contractual service pursuant to s. 287.057.

5405 637.30048 Examination fee; determination, refund.—

5406 (1) Prior to being permitted to take an examination, each  
5407 applicant who is subject to examination shall pay an examination  
5408 fee to the department or a person designated by the department.  
5409 A separate and additional examination fee shall be payable for  
5410 each separate class of license applied for, notwithstanding that  
5411 all such examinations are taken on the same date and at the same  
5412 place.

5413 (2) The fee for examination is not refundable.

5414 637.30049 Reexamination.—

5415 (1) Any applicant for license or applicant for examination  
5416 who has taken an examination and failed to make a passing grade,  
5417 or failed to appear for the examination or to take or complete  
5418 the examination at the time and place specified in the notice of  
5419 the department, may take additional examinations after filing  
5420 with the department an application for reexamination together  
5421 with applicable fees. The failure of an applicant to pass an  
5422 examination or the failure to appear for the examination or to  
5423 take or complete the examination does not preclude the applicant

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5424 from taking subsequent examinations.

5425 (2) The department may require any individual whose license  
5426 as an agent has expired or has been suspended to pass an  
5427 examination prior to reinstating or relicensing the individual  
5428 as to any class of license. The examination fee shall be paid as  
5429 to each examination.

5430 Section 38. Section 626.8414, Florida Statutes, is  
5431 transferred and renumbered as section 637.3005, Florida  
5432 Statutes.

5433 Section 39. Section 626.8417, Florida Statutes, is  
5434 transferred, renumbered as section 637.3006, Florida Statutes,  
5435 and subsections (1) and (3) of that section are amended to read:  
5436 637.3006 ~~626.8417~~ Title insurance agent licensure;  
5437 exemptions.-

5438 (1) A person may not act as or hold himself or herself out  
5439 to be a title insurance agent ~~as defined in s. 626.841~~ until a  
5440 valid title insurance agent's license has been issued to that  
5441 person by the department.

5442 (3) The department shall not grant or issue a license as  
5443 title agent to any individual found by it to be untrustworthy or  
5444 incompetent, who does not meet the qualifications for  
5445 examination specified in s. 637.3005 ~~626.8414~~, or who does not  
5446 meet the following qualifications:

5447 (a) Within the 4 years immediately preceding the date of  
5448 the application for license, the applicant must have completed a  
5449 40-hour classroom course in title insurance, 3 hours of which  
5450 shall be on the subject matter of ethics, as approved by the  
5451 department, or must have had at least 12 months of experience in  
5452 responsible title insurance duties, while working in the title

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5453 insurance business as a substantially full-time, bona fide  
5454 employee of a title agency, title agent, title insurer, or  
5455 attorney who conducts real estate closing transactions and  
5456 issues title insurance policies but who is exempt from licensure  
5457 pursuant to paragraph (4) (a). If an applicant's qualifications  
5458 are based upon the periods of employment at responsible title  
5459 insurance duties, the applicant must submit, with the  
5460 application for license on a form prescribed by the department,  
5461 the affidavit of the applicant and of the employer setting forth  
5462 the period of such employment, that the employment was  
5463 substantially full time, and giving a brief abstract of the  
5464 nature of the duties performed by the applicant.

5465 (b) The applicant must have passed an ~~any~~ examination for  
5466 licensure ~~required under s. 626.221~~.

5467 Section 40. Section 626.8418, Florida Statutes, is  
5468 transferred, renumbered as section 637.3007, Florida Statutes,  
5469 and subsection (1) of that section is amended to read:

5470 637.3007 ~~626.8418~~ Application for title insurance agency  
5471 license.—Prior to doing business in this state as a title  
5472 insurance agency, a title insurance agency must meet all of the  
5473 following requirements:

5474 (1) The applicant must file with the department an  
5475 application for a license as a title insurance agency, on  
5476 printed forms furnished by the department, that includes all of  
5477 the following:

5478 (a) The name of each majority owner, partner, officer, and  
5479 director of the agency.

5480 (b) The residence address of each person required to be  
5481 listed under paragraph (a).

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5482 (c) The name of the agency and its principal business  
5483 address.

5484 (d) The location of each title insurance agency ~~office~~ and  
5485 the name under which each title insurance agency ~~office~~ conducts  
5486 or will conduct business.

5487 (e) The name of each title insurance agent to be in full-  
5488 time charge of a title insurance ~~an~~ agency ~~office~~ and  
5489 specification of which title insurance agency ~~office~~.

5490 (f) Such additional information as the department requires  
5491 by rule to ascertain the trustworthiness and competence of  
5492 persons required to be listed on the application and to  
5493 ascertain that such persons meet the requirements of this  
5494 chapter ~~code~~.

5495 Section 41. Section 626.8419, Florida Statutes, is  
5496 transferred and renumbered as section 637.3008, Florida  
5497 Statutes.

5498 Section 42. Section 626.842, Florida Statutes, is  
5499 transferred and renumbered as section 637.3009, Florida  
5500 Statutes.

5501 Section 43. Sections 637.30093, 637.30094, 637.30095,  
5502 637.30096, and 637.30097, Florida Statutes, are created to read:  
5503 637.30093 Continuing education required; application;  
5504 exceptions; requirements; penalties.-

5505 (1) The purpose of this section is to establish  
5506 requirements and standards for continuing education courses for  
5507 persons licensed to solicit or sell title insurance in this  
5508 state.

5509 (2) (a) Each person subject to the provisions of this  
5510 section must complete a minimum of 10 hours of continuing

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5511 education courses every 2 years in title insurance courses  
5512 approved by this state. Each person subject to the provisions of  
5513 this section must complete, as part of his or her required  
5514 number of continuing education hours, 2 hours of continuing  
5515 education, approved by the department, every 2 years on the  
5516 subject matter of ethics, rules, or state and federal regulatory  
5517 compliance matters relating to title insurance and closing  
5518 services.

5519 (b) Any person who holds a license as a title agent must  
5520 complete 10 hours of continuing education courses every 2 years.

5521 (c) Except as provided in paragraph (d), compliance with  
5522 continuing education requirements is a condition precedent to  
5523 the issuance, continuation, reinstatement, or renewal of any  
5524 appointment subject to this chapter.

5525 (d) A person teaching any approved course of instruction or  
5526 lecturing at any approved seminar and attending the entire  
5527 course or seminar shall qualify for the same number of classroom  
5528 hours as would be granted to a person taking and successfully  
5529 completing such course, seminar, or program. Credit shall be  
5530 limited to the number of hours actually taught unless a person  
5531 attends the entire course or seminar. Any person who is an  
5532 official of or employed by any governmental entity in this state  
5533 and serves as a professor, instructor, or in any other position  
5534 or office the duties and responsibilities of which are  
5535 determined by the department to require monitoring and review of  
5536 insurance laws or insurance regulations and practices shall be  
5537 exempt from this section.

5538 (e) Excess classroom hours accumulated during any  
5539 compliance period may be carried forward to the next compliance

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5540 period.

5541 (f) For good cause shown, the department may grant an  
5542 extension of time during which the requirements imposed by this  
5543 section may be completed, but such extension of time may not  
5544 exceed 1 year.

5545 (3) The following courses may be completed in order to meet  
5546 the continuing education course requirements:

5547 (a) In the case of title agents, completion of the  
5548 Certified Land Closer (CLC) professional designation program and  
5549 receipt of the designation: 24 hours.

5550 (b) In the case of title agents, completion of the  
5551 Certified Land Searcher (CLS) professional designation program  
5552 and receipt of the designation: 24 hours.

5553 (c) Any insurance-related course that is approved by the  
5554 department and taught by an accredited college or university per  
5555 credit hour granted: 12 hours.

5556 (d) Any course, including courses relating to agency  
5557 management or errors and omissions, developed or sponsored by  
5558 any authorized insurer or recognized agents' association or  
5559 insurance trade association or any independent study program of  
5560 instruction, subject to approval by the department, qualifies  
5561 for the equivalency of the number of classroom hours assigned to  
5562 such course by the department. However, unless otherwise  
5563 provided in this section, continuing education course hours may  
5564 not be credited toward meeting the requirements of this section  
5565 unless the course is provided by classroom instruction or  
5566 results in a monitored examination.

5567 (e) A monitored examination is not required for:

5568 1. An independent study program of instruction presented



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5569 through interactive, online technology that the department  
5570 determines has sufficient internal testing to validate the  
5571 student's full comprehension of the materials presented; or

5572 2. An independent study program of instruction presented on  
5573 paper or in printed material that imposes a final closed book  
5574 examination that meets the requirements of the department's rule  
5575 for self-study courses. The examination may be taken without a  
5576 proctor provided the student presents to the provider a sworn  
5577 affidavit certifying that the student did not consult any  
5578 written materials or receive outside assistance of any kind or  
5579 from any person, directly or indirectly, while taking the  
5580 examination. If the student is an employee of an agency or  
5581 corporate entity, the student's supervisor or a manager or owner  
5582 of the agency or corporate entity must also sign the sworn  
5583 affidavit. If the student is self-employed, a sole proprietor,  
5584 or a partner, or if the examination is administered online, the  
5585 sworn affidavit must also be signed by a disinterested third  
5586 party. The sworn affidavit must be received by the approved  
5587 provider prior to reporting continuing education credits to the  
5588 department.

5589 (f) Each person or entity sponsoring a course for  
5590 continuing education credit shall furnish, within 30 days after  
5591 completion of the course, in a form satisfactory to the  
5592 department or its designee, a written and certified roster  
5593 showing the name and license number of all persons successfully  
5594 completing such course and requesting credit, accompanied by the  
5595 required fee.

5596 (4) The department shall refuse to renew the appointment of  
5597 any agent who has not had his or her continuing education

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5598 requirements certified unless the agent has been granted an  
5599 extension by the department. The department may not issue a new  
5600 appointment of the same or similar type, with any insurer, to an  
5601 agent who was denied a renewal appointment for failure to  
5602 complete continuing education as required until the agent  
5603 completes his or her continuing education requirement.

5604 (5) An 11-member continuing education advisory board is  
5605 created, to be appointed by the Chief Financial Officer.  
5606 Appointments shall be for terms of 4 years. The purpose of the  
5607 board is to advise the department in determining standards by  
5608 which courses may be evaluated and categorized as basic,  
5609 intermediate, or advanced. The board shall submit to the  
5610 department recommendations of changes needed in such criteria  
5611 not less frequently than every 2 years. The department shall  
5612 require all approved course providers to submit courses for  
5613 approval to the department using the criteria. All materials,  
5614 brochures, and advertisements related to the approved courses  
5615 must specify the level assigned to the course.

5616 (6) The department may contract services relative to the  
5617 administration of the continuing education program to a private  
5618 entity. The contract shall be procured as a contract for a  
5619 contractual service pursuant to s. 287.057.

5620 637.30094 Regulation of continuing education for licensees,  
5621 course providers, instructors, school officials, and monitor  
5622 groups.-

5623 (1) Continuing education course providers, instructors,  
5624 school officials, and monitor groups must be approved by the  
5625 department before offering continuing education courses pursuant  
5626 to s. 637.30093.

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5627       (2) The department shall adopt rules establishing standards  
5628 for the approval, regulation, and operation of the continuing  
5629 education programs and for the discipline of licensees, course  
5630 providers, instructors, school officials, and monitor groups.  
5631 The standards must be designed to ensure that such course  
5632 providers, instructors, school officials, and monitor groups  
5633 have the knowledge, competence, and integrity to fulfill the  
5634 educational objectives of s. 637.30093.

5635       (3) The department shall adopt rules establishing a process  
5636 by which compliance with the continuing education requirements  
5637 of s. 637.30093 can be determined, establishing a continuing  
5638 education compliance period for licensees, and specifying forms  
5639 necessary to implement such a process.

5640       637.30095 Regulation of course providers, instructors,  
5641 school officials, and monitor groups involved in prelicensure  
5642 education for insurance agents and other licensees.-

5643       (1) Any course provider, instructor, school official, or  
5644 monitor group must be approved by and registered with the  
5645 department before offering prelicensure education courses for  
5646 insurance agents and other licensees.

5647       (2) The department shall adopt rules establishing standards  
5648 for the approval, registration, discipline, or removal from  
5649 registration of course providers, instructors, school officials,  
5650 and monitor groups. The standards must be designed to ensure  
5651 that such persons have the knowledge, competence, and integrity  
5652 to fulfill the educational objectives of the pre-licensure  
5653 requirements of this chapter and chapter 648 and to ensure that  
5654 insurance agents and licensees are competent to engage in the  
5655 activities authorized under the license.

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5656       (3) The department shall adopt rules to establish a process  
5657 for determining compliance with the prelicensure requirements of  
5658 this chapter and chapter 648. The department shall adopt rules  
5659 prescribing the forms necessary to administer the prelicensure  
5660 requirements.

5661       637.30096 Examination results; denial, issuance of  
5662 license.—

5663       (1) Within 30 days after the applicant has completed any  
5664 examination required under s. 637.30042, the department or its  
5665 designee shall provide a score report and, if the applicant has  
5666 received a passing grade, the department shall within such  
5667 period notify the applicant and issue and transmit the license  
5668 to which such examination related. If the applicant did not make  
5669 a passing grade on the examination for a particular license, the  
5670 department or its designee shall within such period provide  
5671 notice to the applicant to that effect and of the denial of the  
5672 license. For an applicant who has completed the examination and  
5673 received a passing grade prior to submitting the license  
5674 application, the department shall promptly issue the license  
5675 applied for as soon as the department approves the application.

5676       (2) A passing grade on an examination is valid for a period  
5677 of 1 year. The department may not issue a license to an  
5678 applicant based upon an examination taken more than 1 year prior  
5679 to the date an application for a license is filed.

5680       637.30097 Form and contents of licenses in general.—Each  
5681 license issued by the department shall be in such form as the  
5682 department may designate and must contain the licensee's name,  
5683 the licensee's personal identification number, the date of  
5684 issuance, and any other information the department deems

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5685 necessary to fully identify the licensee and the authority being  
5686 granted. The department may by rule require photographs of  
5687 applicants as a part of the licensing process.

5688 Section 44. Section 626.84201, Florida Statutes, is  
5689 transferred, renumbered as section 637.3011, Florida Statutes,  
5690 and amended to read:

5691 637.3011 ~~626.84201~~ Nonresident title insurance agents.—  
5692 Notwithstanding s. 637.3005(2) ~~626.8414(2)~~, the department, upon  
5693 application and payment of the fees specified in s. 637.2031  
5694 ~~624.501~~, may issue a license as a nonresident title insurance  
5695 agent to an individual not a resident of this state in the same  
5696 manner applicable to the licensure of nonresident general lines  
5697 agents under the provisions of s. 626.741, provided the  
5698 individual passes the examination for licensure required under  
5699 s. 637.30042 ~~626.221~~. Nonresident title insurance agents  
5700 licensed pursuant to this section must complete the continuing  
5701 education requirements of s. 637.30093 ~~626.2815~~ in the same  
5702 manner as resident title insurance agents. Sections 626.742 and  
5703 626.743 apply to nonresident title insurance agents.

5704 Section 45. Section 626.8421, Florida Statutes, is  
5705 transferred, renumbered as section 637.3012, Florida Statutes,  
5706 and amended to read:

5707 637.3012 ~~626.8421~~ Number of appointments permitted or  
5708 required.—A title agent shall be required to have a separate  
5709 appointment as to each insurer by which he or she is appointed  
5710 as agent. As a part of each appointment there shall be a  
5711 certified statement or affidavit of an appropriate officer or  
5712 official of the appointing insurer stating that to the best of  
5713 the insurer's knowledge and belief the applicant, or its

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5714 principals in the case of a corporation or other legal entity,  
5715 has met the requirements of s. 637.3006 ~~626.8417~~.

5716 Section 46. Section 637.30125, Florida Statutes, is created  
5717 to read:

5718 637.30125 Agent in charge.-

5719 (1) Each location of a title insurance agency or insurer at  
5720 which primary title services as defined in s. 637.1004 are  
5721 performed shall have a separate agent in charge. The failure to  
5722 designate an agent in charge on a form prescribed by the  
5723 department, within 10 working days after an agency's inception  
5724 or a change of the agent in charge, is a violation of this  
5725 chapter, punishable as provided in s. 637.3018.

5726 (2) The agent in charge shall accept and be responsible for  
5727 the overall operation and management of a title agency location.  
5728 The agent in charge's responsibilities may include, but shall  
5729 not be limited to, hiring and supervising all individuals within  
5730 the location, whether the individuals deal with the public in  
5731 the solicitation or negotiation of title insurance contracts or  
5732 in the collection or accounting of moneys.

5733 (3) An individual must be physically located on a full-time  
5734 basis in the same agency office in order to be the agent in  
5735 charge of that agency office, and an individual may be  
5736 designated as the agent in charge for only one licensed agency  
5737 at a single physical location.

5738 (4) The department may suspend or revoke the license of the  
5739 owner, operator, and agent in charge if a title insurance agency  
5740 employs, contracts with, or uses the services of a person who  
5741 has had a license denied or whose license is currently suspended  
5742 or revoked. However, a person who has been denied a license for

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5743 failure to pass a required examination may be employed to  
5744 perform clerical or administrative functions for which licensure  
5745 is not required.

5746 (5) An agency that has an attorney that is in charge of the  
5747 agency shall designate that attorney to be in charge of only one  
5748 location of a single licensed title agency.

5749 (6) The department may adopt rules pursuant to ss.  
5750 120.536(1) and 120.54 to implement this section and interpret  
5751 the duties and responsibilities of the agent in charge or the  
5752 attorney in charge of a licensed title insurance agency.

5753 Section 47. Section 626.8423, Florida Statutes, is  
5754 transferred and renumbered as section 637.3013, Florida  
5755 Statutes.

5756 Section 48. Section 637.30133, Florida Statutes, is created  
5757 to read:

5758 637.30133 Consumer protections.—To transact title  
5759 insurance, title insurance agents shall comply with consumer  
5760 protection laws, including the following, as applicable:

5761 (1) Continuing education requirements for resident and  
5762 nonresident agents, as required in s. 637.30093.

5763 (2) Fingerprinting requirements for resident and  
5764 nonresident agents, as required under s. 626.171 or s.  
5765 637.30135.

5766 (3) Fingerprinting following a department investigation  
5767 under s. 637.1019.

5768 (4) The submission of credit and character reports, as  
5769 required by s. 626.171 or s. 626.521.

5770 (5) Qualifications for licensure as an agent in s. 626.731,  
5771 s. 626.741, s. 626.785, s. 626.831, s. 626.835, or s. 6378.2077.

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5772 (6) Examination requirements in s. 626.741, s. 626.835,  
5773 637.2077, or s. 637.30042.

5774 (7) Required licensure or registration of insurance  
5775 agencies under s. 626.112.

5776 (8) Requirements for licensure of resident and nonresident  
5777 agents in s. 626.112, s. 626.321, s. 626.731, s. 626.741, s.  
5778 626.785, s. 626.831, s. 626.835, s. 626.927, or s. 637.2077.

5779 (9) Any other licensing requirement, restriction, or  
5780 prohibition designated a consumer protection by the Chief  
5781 Financial Officer, but not inconsistent with the requirements of  
5782 Subtitle C of the Gramm-Leach-Bliley Act, 15 U.S.C.A. ss. 6751  
5783 et seq.

5784 Section 49. Section 637.30135, Florida Statutes, is created  
5785 to read:

5786 637.30135 Fingerprinting requirements.—If there is a change  
5787 in ownership or control of any entity licensed under this  
5788 chapter, or if a new partner, officer, or director is employed  
5789 or appointed, a set of fingerprints of the new owner, partner,  
5790 officer, or director must be filed with the department or office  
5791 within 30 days after the change. The acquisition of 10 percent  
5792 or more of the voting securities of a licensed entity is  
5793 considered a change of ownership or control. The fingerprints  
5794 must be taken by a law enforcement agency or other department-  
5795 approved entity and be accompanied by the fingerprint processing  
5796 fee in s. 637.2031.

5797 Section 50. Section 626.8427, Florida Statutes, is  
5798 transferred and renumbered as section 637.3014, Florida  
5799 Statutes.

5800 Section 51. Sections 637.30142, 637.30143, 637.30144,



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5801 637.30145, 637.30146, and 637.30147, Florida Statutes, are  
5802 created to read:

5803 637.30142 Payment of fees, taxes for appointment period  
5804 without appointment.-

5805 (1) All initial appointments shall be submitted to the  
5806 department on a monthly basis no later than 45 days after the  
5807 date of appointment and shall become effective on the date  
5808 requested on the appointment form.

5809 (2) Upon application and qualification for an initial or  
5810 renewal appointment and such investigation as the department may  
5811 make, if it appears to the department that an individual who was  
5812 formerly licensed or is currently licensed but not properly  
5813 appointed to represent an insurer or employer and who has been  
5814 actively engaged or is currently actively engaged as such an  
5815 appointee, but without being appointed as required, the  
5816 department, if it finds that such failure to be appointed was an  
5817 inadvertent error on the part of the insurer or employer so  
5818 represented, may issue or authorize the issuance of the  
5819 appointment as applied for but subject to the condition that,  
5820 before the appointment is issued, all fees and taxes which would  
5821 have been due had the applicant been so appointed during such  
5822 current and prior periods, with applicable fees pursuant to s.  
5823 637.2031 for such current and prior periods of appointment,  
5824 shall be paid to the department.

5825 (3) (a) Failure to notify the department within the required  
5826 time period shall result in the appointing entity being assessed  
5827 a delinquent fee of \$250 per appointee. Delinquent fees shall be  
5828 paid by the appointing entity and may not be charged to the  
5829 appointee.

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5830       (b) Failure to timely renew an appointment by an appointing  
5831 entity prior to the expiration date of the appointment shall  
5832 result in the appointing entity being assessed late filing,  
5833 continuation, and reinstatement fees as prescribed in s.  
5834 637.2031. Such fees shall be paid by the appointing entity and  
5835 may not be charged back to the appointee.

5836       637.30143 License or appointment; transferability.—A  
5837 license or appointment issued under this part is valid only as  
5838 to the person named and is not transferable to any other person.  
5839 A licensee or appointee may not allow any other person to  
5840 transact insurance by using the license or appointment issued to  
5841 such licensee or appointee.

5842       637.30144 Termination of appointment.—

5843       (1) Subject to an appointee's contract rights, an  
5844 appointing entity may terminate its appointment of any appointee  
5845 at any time. Except when termination is upon a ground which  
5846 would subject the appointee to suspension or revocation of his  
5847 or her license and appointment under s. 637.3017 or s. 637.3018,  
5848 and except as provided by contract between the appointing entity  
5849 and the appointee, the appointing entity shall give to the  
5850 appointee at least 60 days' advance written notice of its  
5851 intention to terminate such appointment by delivery of such  
5852 notice to the appointee in person or by mailing the notice,  
5853 postage prepaid, addressed to the appointee at his or her last  
5854 address of record with the appointing entity. Notice so mailed  
5855 shall be deemed to have been given when deposited in a United  
5856 States Postal Service mail depository.

5857       (2) Within 30 days after terminating the appointment of an  
5858 appointee, other than as to an appointment terminated by the

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5859 appointing entity's failure to continue or renew the  
5860 appointment, the appointing entity shall file with the  
5861 department a written notice of the termination, together with a  
5862 statement that the appointing entity has given the appointee  
5863 notice of the termination as provided in subsection (1) and  
5864 shall file with the department the reasons and facts involved in  
5865 such termination as required under s. 637.30145.

5866 (3) Upon termination of the appointment of an appointee by  
5867 failure to renew or continue the appointment, the appointing  
5868 entity shall:

5869 (a) File with the department the information required under  
5870 s. 637.30145.

5871 (b) Subject to the exceptions provided under subsection  
5872 (1), continue the outstanding contracts transacted by an agent  
5873 until the expiration date or anniversary date when the policy is  
5874 a continuous policy with no expiration date. This paragraph  
5875 shall not be construed to prohibit the cancellation of such  
5876 contracts when not otherwise prohibited by law.

5877 (4) An appointee may terminate the appointment at any time  
5878 by giving written or electronic notice of such termination to  
5879 the appointing entity, department, or person designated by the  
5880 department to administer the appointment process. The department  
5881 shall immediately terminate the appointment and notify the  
5882 appointing entity of such termination. Such termination shall be  
5883 subject to the appointee's contract rights, if any.

5884 (5) Upon receiving a notice of termination, the department  
5885 or person designated by the department to administer the  
5886 appointment process shall terminate the appointment.

5887 637.30145 Reasons for termination.-

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5888       (1) Any insurer terminating the appointment of an agent or  
5889 managing general agent, whether such termination is by direct  
5890 action of the appointing insurer, agent, or employer or by  
5891 failure to renew or continue the appointment, shall file with  
5892 the department or office a statement of the reasons, if any, for  
5893 such termination and the facts relative to such termination. In  
5894 the case of a termination of the appointment of an agent, such  
5895 information may be filed by the insurer or by the general agent  
5896 of the insurer.

5897       (2) In the case of terminations by failure to renew or  
5898 continue the appointment, the information required under  
5899 subsection (1) shall be filed with the department or office  
5900 within 30 days after the date notice of intention not to renew  
5901 or continue was filed with the department or office as required  
5902 by this chapter. In all other cases, the information required  
5903 under subsection (1) shall be filed with the department or  
5904 office within 10 days after notice of the termination was filed  
5905 with the department or office.

5906       637.30146 Delinquent agencies; notice of trusteeship.-If  
5907 any agent or agency becomes delinquent for 90 days in payment of  
5908 accounts owing to the insurer or insurers represented by the  
5909 agent or agency and a trusteeship or similar arrangement for the  
5910 administration of the affairs of the agent or agency is  
5911 instituted, the insurer or insurers involved in such trusteeship  
5912 or arrangement shall immediately give written notice of such  
5913 trusteeship or arrangement to the department. The notice shall  
5914 state the name and address of each such agent, the circumstances  
5915 and estimated amount of delinquency, and such other information  
5916 as the insurer deems pertinent or as the department may

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5917 reasonably require.

5918 637.30147 Procedure for refusal, suspension, or revocation  
5919 of license.—If any licensee is convicted of a violation of this  
5920 code or a felony, the licenses and appointments of such person  
5921 shall be immediately revoked by the department. The licensee may  
5922 subsequently request a hearing pursuant to ss. 120.569 and  
5923 120.57, and the department shall expedite any such requested  
5924 hearing. The sole issue at such hearing shall be whether the  
5925 revocation should be rescinded because such person was not in  
5926 fact convicted of a violation of this code or a felony.

5927 Section 52. Section 626.843, Florida Statutes, is  
5928 transferred, renumbered as section 637.3015, Florida Statutes,  
5929 and amended to read:

5930 637.3015 ~~626.843~~ Renewal, continuation, reinstatement,  
5931 termination of title insurance agent's appointment.—

5932 (1) The appointment of a title insurance agent shall  
5933 continue in force until suspended, revoked, or otherwise  
5934 terminated, but subject to a renewed request filed by the  
5935 insurer every 24 months after the original issue date of the  
5936 appointment, accompanied by payment of the renewal appointment  
5937 fee and taxes as prescribed in s. 637.2031 ~~624.501~~.

5938 (2) (a) Renewal of an appointment that is received by the  
5939 department or person designated by the department to administer  
5940 the appointment process prior to the expiration of an  
5941 appointment in the licensee's birth month or license issue date,  
5942 whichever applies, may be renewed by the department without  
5943 penalty and shall be effective as of the first day of the month  
5944 succeeding the month in which the appointment would have  
5945 expired.

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5946       (b) Renewal of an appointment that is received by the  
5947 department or person designated by the department to administer  
5948 the appointment process after the renewal date may be accepted  
5949 and effectuated by the department in its discretion if the  
5950 appointment, late filing, continuation, and reinstatement fee  
5951 accompanies the renewal request pursuant to s. 637.2031. Late  
5952 filing fees shall be paid by the appointing entity and may not  
5953 be charged to the appointee ~~Title insurance agent appointments~~  
5954 ~~shall be renewed pursuant to s. 626.381 for insurance~~  
5955 ~~representatives in general.~~

5956       (3) The appointment issued shall remain in effect for so  
5957 long as the appointment represented thereby continues in force  
5958 as provided in this section.

5959       Section 53. Section 626.8433, Florida Statutes, is  
5960 transferred and renumbered as section 637.3016, Florida  
5961 Statutes.

5962       Section 54. Section 626.8437, Florida Statutes, is  
5963 transferred, renumbered as section 637.3017, Florida Statutes,  
5964 and amended to read:

5965       637.3017 ~~626.8437~~ Grounds for denial, suspension,  
5966 revocation, or refusal to renew license or appointment.—

5967       (1) The department shall deny, suspend, revoke, or refuse  
5968 to renew or continue the license or appointment of any title  
5969 insurance agent or agency, and it shall suspend or revoke the  
5970 eligibility to hold a license or appointment of such person, if  
5971 it finds that as to the applicant, licensee, appointee, or any  
5972 principal thereof, any one or more of the following grounds  
5973 exist:

5974       (a) ~~(1)~~ Lack of one or more of the qualifications for the

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5975 license or appointment as specified in ss. 637.3006, 637.3007,  
5976 and 637.3008 ~~626.8417, 626.8418, and 626.8419.~~

5977 (b)~~(2)~~ Material misstatement, misrepresentation, or fraud  
5978 in obtaining, or attempting to obtain, the license or  
5979 appointment.

5980 (c)~~(3)~~ Willful misrepresentation of any title insurance  
5981 policy, guarantee of title, binder, or commitment, or willful  
5982 deception with regard to any such policy, guarantee, binder, or  
5983 commitment, done either in person or by any form of  
5984 dissemination of information or advertising.

5985 (d)~~(4)~~ Demonstrated lack of fitness or trustworthiness to  
5986 represent a title insurer in the issuance of its commitments,  
5987 binders, policies of title insurance, or guarantees of title.

5988 (e)~~(5)~~ Demonstrated lack of reasonably adequate knowledge  
5989 and technical competence to engage in the transactions  
5990 authorized by the license or appointment.

5991 (f)~~(6)~~ Fraudulent or dishonest practices in the conduct of  
5992 business under the license or appointment.

5993 (g)~~(7)~~ Misappropriation, conversion, or unlawful  
5994 withholding of moneys belonging to title insurers or insureds or  
5995 others and received in conduct of business under the license or  
5996 appointment.

5997 (h)~~(8)~~ Unlawful rebating, or attempting to unlawfully  
5998 rebate, or unlawfully dividing, or offering to unlawfully  
5999 divide, title insurance premiums, fees, or charges with another,  
6000 as prohibited by s. 637.1033(7)(b). ~~626.9541(1)(h)3.~~

6001 (i)~~(9)~~ Willful failure to comply with, or willful violation  
6002 of, any proper order or rule of the department or willful  
6003 violation of any provision of this act.

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6004        (j)~~(10)~~ The licensee if an individual, or the partners if a  
6005 partnership, or owner if a sole proprietorship, or the officers  
6006 if a corporation, having been found guilty of or having pleaded  
6007 guilty or nolo contendere to a felony or a crime punishable by  
6008 imprisonment of 1 year or more under the law of the United  
6009 States or of any state or under the law of any other country  
6010 which involves moral turpitude, without regard to whether a  
6011 judgment of conviction has been entered by the court having  
6012 jurisdiction of such cases.

6013        (k) Failure to timely submit data as required by the  
6014 department.

6015        (2) Upon receipt of an information or indictment, the  
6016 department shall immediately temporarily suspend any license or  
6017 appointment issued under this chapter when the licensee has been  
6018 convicted of an insurance or financial-related felony or a crime  
6019 involving moral turpitude or a crime punishable by imprisonment  
6020 of 1 year or more under the law of any state, territory, or  
6021 country. Such suspension shall continue if the licensee has been  
6022 found guilty of, or has pleaded guilty or no contest to, the  
6023 crime, whether or not a judgment or conviction has been entered,  
6024 during a pending appeal. A person may not affect any additional  
6025 insurance after suspension of his or her license or appointment.  
6026 However, he or she may service the policies effected prior to  
6027 such suspension.

6028        Section 55. Section 626.844, Florida Statutes, is  
6029 transferred, renumbered as section 637.3018, Florida Statutes,  
6030 and amended to read:

6031        637.3018 ~~626.844~~ Grounds for discretionary refusal,  
6032 suspension, or revocation of license or appointment.—The



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6033 department may, in its discretion, deny, suspend, revoke, or  
6034 refuse to renew or continue the license or appointment of any  
6035 title insurance agent or agency, and it may suspend or revoke  
6036 the eligibility to hold a license or appointment of any such  
6037 title insurance agent or agency if it finds that as to the  
6038 applicant or licensee or appointee, or any principal thereof,  
6039 any one or more of the following grounds exist under  
6040 circumstances for which such denial, suspension, revocation, or  
6041 refusal is not mandatory under s. 637.3017 ~~626.8437~~:

6042 (1) Any cause for which issuance of the license or  
6043 appointment could have been refused had it then existed and been  
6044 known to the department.

6045 (2) Violation of any provision of this act in the course of  
6046 dealing under the license or appointment.

6047 (3) Violation of any lawful order or rule of the  
6048 department.

6049 (4) Failure or refusal upon demand to pay over to any title  
6050 insurer that the appointee represents or has represented any  
6051 money coming into the hands of such appointee and belonging to  
6052 the title insurer.

6053 (5) Engaging in unfair methods of competition or in unfair  
6054 or deceptive acts or practices in the conduct of business, as  
6055 prohibited under part IX of this chapter, or having otherwise  
6056 shown himself or herself to be a source of injury or loss to the  
6057 public or to be detrimental to the public interest.

6058 (6) The licensee if an individual, or the partners if a  
6059 partnership, or owner if a sole proprietorship, or the officers  
6060 if a corporation, having been found guilty of or having pleaded  
6061 guilty or nolo contendere to a felony or a crime punishable by

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6062 imprisonment of 1 year or more under the law of the United  
6063 States or of any state or under the law of any other country,  
6064 without regard to whether a judgment of conviction has been  
6065 entered by the court having jurisdiction of such cases.

6066 (7) Failure or refusal upon demand by any title insurer  
6067 that the appointee represents or has represented to pay any  
6068 money coming into the hands of such appointee and belonging to  
6069 the title insurer.

6070 (8) Failure to maintain the insurer's portion of the  
6071 premium in escrow.

6072 (9) Fraud, misrepresentation, or deceit in any title  
6073 insurance transaction.

6074 (10) Failure to comply with s. 637.3029.

6075 (11) Failure to account or deliver to any person any  
6076 property that has come into the agency's hands and that is not  
6077 the agency's property or that the agency is not in law or equity  
6078 entitled to retain, under the circumstances and at the time that  
6079 has been agreed upon or is required by law or, in the absence of  
6080 a fixed time, upon demand of the person entitled to such  
6081 accounting and delivery absent a good faith dispute, lack of  
6082 mutual instructions, or doubt about entitlement thereto.

6083 (12) Failure to disburse escrow funds in accordance with  
6084 agreements signed by the seller and the buyer absent a good  
6085 faith dispute or lack of mutual instructions from the buyer and  
6086 seller about entitlement thereto.

6087 (13) Acting as or holding himself or herself out to be a  
6088 title insurance agent or title insurance agency without a  
6089 current, active license issued by the Department of Financial  
6090 Services.

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6091       (14) Providing a closing protection letter, title insurance  
6092 commitment, or title insurance policy for an insurer that the  
6093 licensee is not actively appointed to represent.

6094       (15) Failure to maintain, preserve, and keep available for  
6095 examination all books, accounts, or other documents required by  
6096 ss. 637.30044-637.3015 and s. 637.3029 and the rules of the  
6097 department.

6098       (16) Failure to allow an investigation or examination of  
6099 books and records by the department.

6100       (17) Adding any amount to the charges of other providers of  
6101 service in a real estate transaction without adding value to the  
6102 services provided.

6103       (18) Failure to timely deliver the property deed, mortgage,  
6104 and other documents related to a closing transaction with the  
6105 appropriate recording authority.

6106       (19) Failure to timely deliver the escrow funds to the  
6107 appropriate entity or to the state if the owner is unable to be  
6108 located pursuant to chapter 717.

6109       Section 56. Section 626.8443, Florida Statutes, is  
6110 transferred, renumbered as section 637.3019, Florida Statutes,  
6111 and subsection (4) of that section is amended to read:

6112       637.3019 ~~626.8443~~ Duration of suspension or revocation.—

6113       (4) During the period of suspension or after revocation of  
6114 the license and appointment, the former licensee shall not  
6115 engage in or attempt to profess to engage in any transaction or  
6116 business for which a license or appointment is required under  
6117 this chapter ~~code~~ or directly or indirectly own, control, or be  
6118 employed in any manner by any title insurance agent or title  
6119 insurance agency ~~or adjuster or adjusting firm.~~

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6120           Section 57. Section 626.8447, Florida Statutes, is  
6121 transferred and renumbered as section 637.3021, Florida  
6122 Statutes.

6123           Section 58. Section 626.845, Florida Statutes, is  
6124 transferred and renumbered as section 637.3022, Florida  
6125 Statutes.

6126           Section 59. Section 626.8453, Florida Statutes, is  
6127 transferred, renumbered as section 637.3023, Florida Statutes,  
6128 and amended to read:

6129           637.3023 ~~626.8453~~ Penalty for violation.—A person who  
6130 knowingly makes a false or otherwise fraudulent application for  
6131 a license or appointment under this act, or who knowingly  
6132 violates any provision of s. 637.2032 ~~624.5015~~, ss. 637.3006-  
6133 637.3029 ~~626.8417-626.847~~, or s. 637.2076 ~~627.791~~, in addition  
6134 to any applicable denial, suspension, revocation, or refusal to  
6135 renew or continue any license or appointment, commits a  
6136 misdemeanor of the second degree, punishable as provided in s.  
6137 775.082 or s. 775.083. Each instance of violation shall be  
6138 considered a separate offense.

6139           Section 60. Section 626.8457, Florida Statutes, is  
6140 transferred and renumbered as section 637.3024, Florida  
6141 Statutes.

6142           Section 61. Section 626.846, Florida Statutes, is  
6143 transferred, renumbered as section 637.3025, Florida Statutes,  
6144 and subsection (1) of that section is amended to read:

6145           637.3025 ~~626.846~~ Probation.—

6146           (1) If the department finds that one or more grounds exist  
6147 for the suspension of, revocation of, or refusal to renew or  
6148 continue any license or appointment issued under this act, the

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6149 department may, except when an administrative fine is not  
 6150 permissible under s. 637.3024 ~~626.8457~~ or when such suspension,  
 6151 revocation, or refusal is mandatory, in lieu of such suspension,  
 6152 revocation, or refusal, or in connection with any administrative  
 6153 monetary penalty imposed under s. 637.3024 ~~626.8457~~, place the  
 6154 offending licensee or appointee on probation for a period not to  
 6155 exceed 2 years, as specified by the department in its order.

6156 Section 62. Section 626.8463, Florida Statutes, is  
 6157 transferred, renumbered as section 637.3026, Florida Statutes,  
 6158 and subsection (1) of that section is amended to read:

6159 637.3026 ~~626.8463~~ Witnesses and evidence.—

6160 (1) As to the subject of any examination, investigation, or  
 6161 hearing being conducted by him or her under s. 637.2032, s.  
 6162 637.2076, or ~~624.5015~~, ss. 637.3006-637.3029 ~~626.8417-626.847~~,  
 6163 ~~or s. 627.791~~, an examiner appointed by the department ~~or office~~  
 6164 may administer oaths, examine and cross-examine witnesses, and  
 6165 receive oral and documentary evidence and shall have the power  
 6166 to subpoena witnesses, compel their attendance and testimony,  
 6167 and require by subpoena the production of books, papers,  
 6168 records, files, correspondence, documents, or other evidence  
 6169 which the examiner deems relevant to the inquiry.

6170 Section 63. Section 626.8467, Florida Statutes, is  
 6171 transferred, renumbered as section 637.3027, Florida Statutes,  
 6172 and amended to read:

6173 637.3027 ~~626.8467~~ Testimony compelled; immunity from  
 6174 prosecution.—

6175 (1) If a person asks to be excused from attending or  
 6176 testifying or from producing any books, papers, records,  
 6177 contracts, documents, or other evidence in connection with any

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6178 examination, hearing, or investigation being conducted under s.  
 6179 637.2032, s. 637.2076, or 624.5015, ss. 637.3006-637.3029  
 6180 ~~626.8417-626.847, or s. 627.791~~ by the department ~~or office~~ or  
 6181 its examiner on the ground that the testimony or evidence  
 6182 required of the person may tend to incriminate him or her or  
 6183 subject him or her to a penalty or forfeiture and  
 6184 notwithstanding is directed to give such testimony or produce  
 6185 such evidence, the person must, if so directed by the Department  
 6186 of Financial Services and the Department of Legal Affairs or by  
 6187 the department ~~office~~ and the Department of Legal Affairs,  
 6188 nonetheless comply with such direction, but he or she shall not  
 6189 thereafter be prosecuted or subjected to any penalty or  
 6190 forfeiture for or on account of any transaction, matter, or  
 6191 thing concerning which he or she may have so testified or  
 6192 produced evidence, and no testimony so given or evidence  
 6193 produced shall be received against the person upon any criminal  
 6194 action, investigation, or proceeding. However, a person so  
 6195 testifying shall not be exempt from prosecution or punishment  
 6196 for any perjury committed by him or her in such testimony, and  
 6197 the testimony or evidence so given or produced shall be  
 6198 admissible against him or her upon any criminal action,  
 6199 investigation, or proceeding concerning such perjury; and such  
 6200 person shall not be exempt from the refusal, suspension, or  
 6201 revocation of any license or appointment, permission, or  
 6202 authority conferred or to be conferred pursuant to s. 637.2032,  
 6203 s. 637.2076, or 624.5015, ss. 637.3006-637.3029 ~~626.8417-~~  
 6204 ~~626.847, or s. 627.791.~~

6205 (2) Any such person may execute, acknowledge, and file with  
 6206 the department ~~of Financial Services or the office~~, as

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6207 ~~appropriate,~~ a statement expressly waiving such immunity or  
 6208 privilege with respect to any transaction, matter, or thing  
 6209 specified in the statement, and thereupon the testimony of such  
 6210 person or such evidence in relation to such transaction, matter,  
 6211 or thing may be received or produced before any judge or  
 6212 justice, court, tribunal, or grand jury or otherwise and, if so  
 6213 received or produced, such person shall not be entitled to any  
 6214 immunity or privilege on account of any testimony he or she may  
 6215 so give or evidence so produced.

6216 Section 64. Section 626.847, Florida Statutes, is  
 6217 transferred, renumbered as section 637.3028, Florida Statutes,  
 6218 and amended to read:

6219 637.3028 ~~626.847~~ Penalty for refusal to testify.—A person  
 6220 who refuses or fails, without lawful cause, to testify relative  
 6221 to the affairs of any title insurer or other person when  
 6222 subpoenaed under s. 637.3026 ~~626.8463~~ and requested by the  
 6223 department ~~or office~~ to so testify is guilty of a misdemeanor of  
 6224 the second degree and, upon conviction, is punishable as  
 6225 provided in s. 775.082 or s. 775.083.

6226 Section 65. Section 626.8473, Florida Statutes, is  
 6227 transferred, renumbered as section 637.3029, Florida Statutes,  
 6228 and subsections (1) and (6) of that section are amended to read:

6229 637.3029 ~~626.8473~~ Escrow; trust fund.—

6230 (1) A title insurance agent may engage in business as an  
 6231 escrow agent as to funds received from others to be subsequently  
 6232 disbursed by the title insurance agent in connection with real  
 6233 estate closing transactions involving the issuance of title  
 6234 insurance binders, commitments, policies of title insurance, or  
 6235 guarantees of title, provided that a licensed and appointed

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6236 title insurance agent complies with the requirements of s.  
 6237 637.3006 ~~626.8417~~, including such requirements added after the  
 6238 initial licensure of the agent.

6239 (6) In the event that the department adopts ~~promulgates~~  
 6240 rules necessary to implement the requirements of this section  
 6241 pursuant to s. 637.1007 ~~624.308~~, the department shall consider  
 6242 reasonable standards necessary for the protection of funds held  
 6243 in trust, including, but not limited to, standards for  
 6244 accounting of funds, standards for receipt and disbursement of  
 6245 funds, and protection for the person or persons to whom the  
 6246 funds are to be disbursed.

6247 Section 66. Section 637.30295, Florida Statutes, is created  
 6248 to read:

6249 637.30295 Collection of title insurance information.—Each  
 6250 title insurance agency licensed to do business in this state and  
 6251 each insurer doing direct, retail, or affiliated business in  
 6252 this state shall maintain and submit information, including  
 6253 revenue, loss, and expense data, as the department determines to  
 6254 be necessary to assist in the analysis of title insurance  
 6255 premium rates, title search costs, and the condition of the  
 6256 title insurance industry in this state. This information must be  
 6257 transmitted to the department no later than March 31 of each  
 6258 year following the reporting year. The department shall adopt  
 6259 rules to assist in the collection and analysis of the data from  
 6260 the title insurance industry.

6261 Section 67. Paragraphs (a), (e), and (f) of subsection (1)  
 6262 of section 624.5105, Florida Statutes, are amended to read:

6263 624.5105 Community contribution tax credit; authorization;  
 6264 limitations; eligibility and application requirements;



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6265 administration; definitions; expiration.—

6266 (1) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS.—

6267 (a) There shall be allowed a credit of 50 percent of a  
6268 community contribution against any tax due for a calendar year  
6269 under s. 624.509, ~~or~~ s. 624.510, or s. 637.2039.

6270 (e) If the credit granted pursuant to this section is not  
6271 fully used in any one year because of insufficient tax liability  
6272 on the part of the insurer, the unused amount may be carried  
6273 forward for a period not to exceed 5 years. The carryover credit  
6274 may be used in a subsequent year when the tax imposed by s.  
6275 624.509, ~~or~~ s. 624.510, or 637.2039 for such year exceeds the  
6276 credit under this section for such year.

6277 (f) An insurer that claims a credit against premium-tax  
6278 liability earned by making a community contribution under this  
6279 section need not pay any additional retaliatory tax levied under  
6280 s. 624.5091 or s. 637.2041 as a result of claiming such a  
6281 credit. Section 624.5091 or s. 637.2041 does not limit such a  
6282 credit in any manner.

6283 Section 68. Subsection (1) of section 624.5107, Florida  
6284 Statutes, is amended to read:

6285 624.5107 Child care tax credits.—

6286 (1) If the credit granted under this section is not fully  
6287 used in any one year because of insufficient tax liability on  
6288 the part of the insurer, the unused amount may be carried  
6289 forward for a period not to exceed 5 years. The carryover credit  
6290 may be used in a subsequent year when the tax imposed by s.  
6291 624.509, ~~or~~ s. 624.510, or s. 637.2039 for that year exceeds the  
6292 credit for which the insurer is eligible in that year under this  
6293 section.

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6294           Section 69. Transfers; rules; powers; regulatory authority;  
6295 orders.—

6296           (1) Effective July 1, 2010, the rules of the Financial  
6297 Services Commission and the Office of Insurance Regulation with  
6298 respect to the regulation of title insurance shall become the  
6299 rules of the Department of Financial Services and shall remain  
6300 in effect until specifically amended or repealed in the manner  
6301 provided by law.

6302           (2) (a) All of the statutory powers, duties and functions,  
6303 records, personnel, property, and unexpended balances of  
6304 appropriations, allocations, or other funds for the  
6305 administration of chapter 624, Florida Statutes, related to  
6306 title insurance, shall be transferred by a type two transfer, as  
6307 defined in s. 20.06(2), Florida Statutes, from the Financial  
6308 Services Commission and the Office of Insurance Regulation to  
6309 the Department of Financial Services.

6310           (b) All of the statutory powers, duties and functions,  
6311 records, personnel, property, and unexpended balances of  
6312 appropriations, allocations, or other funds for the  
6313 administration of chapter 626, Florida Statutes, related to  
6314 title insurance, shall be transferred by a type two transfer, as  
6315 defined in s. 20.06(2), Florida Statutes, from the Financial  
6316 Services Commission and the Office of Insurance Regulation to  
6317 the Department of Financial Services.

6318           (c) All of the statutory powers, duties and functions,  
6319 records, personnel, property, and unexpended balances of  
6320 appropriations, allocations, or other funds for the  
6321 administration of chapter 627, Florida Statutes, related to  
6322 title insurance, shall be transferred by a type two transfer, as

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6323 defined in s. 20.06(2), Florida Statutes, from the Financial  
6324 Services Commission and the Office of Insurance Regulation to  
6325 the Department of Financial Services.

6326 (3) (a) The transfer of regulatory authority under chapter  
6327 624, Florida Statutes, provided by this act shall not affect the  
6328 validity of any judicial or administrative action relating to  
6329 title insurance pending as of 11:59 p.m. on the day before the  
6330 effective date of this act, to which action the Financial  
6331 Services Commission or the Office of Insurance Regulation are at  
6332 that time parties, and the Department of Financial Services  
6333 shall be substituted as a party in interest in any such action.

6334 (b) The transfer of regulatory authority under chapter 626,  
6335 Florida Statutes, provided by this act shall not affect the  
6336 validity of any judicial or administrative action relating to  
6337 title insurance pending as of 11:59 p.m. on the day before the  
6338 effective date of this act, to which action the Financial  
6339 Services Commission or the Office of Insurance Regulation are at  
6340 that time parties, and the Department of Financial Services  
6341 shall be substituted as a party in interest in any such action.

6342 (c) The transfer of regulatory authority under chapter 627,  
6343 Florida Statutes, provided by this act shall not affect the  
6344 validity of any judicial or administrative action relating to  
6345 title insurance pending as of 11:59 p.m. on the day before the  
6346 effective date of this act, to which action the Financial  
6347 Services Commission or the Office of Insurance Regulation are at  
6348 that time parties, and the Department of Financial Services  
6349 shall be substituted as a party in interest in any such action.

6350 (4) (a) All lawful orders issued by the Financial Services  
6351 Commission or the Office of Insurance Regulation implementing or

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6352 enforcing or otherwise in regard to any provision of chapter  
6353 624, Florida Statutes, relating to title insurance, issued prior  
6354 to the effective date of this act, shall remain in effect and be  
6355 enforceable after the effective date of this act, unless  
6356 thereafter modified in accordance with law.

6357 (b) All lawful orders issued by the Financial Services  
6358 Commission or the Office of Insurance Regulation, implementing  
6359 or enforcing or otherwise in regard to any provision of chapter  
6360 626, Florida Statutes, relating to title insurance, issued prior  
6361 to the effective date of this act, shall remain in effect and be  
6362 enforceable after the effective date of this act, unless  
6363 thereafter modified in accordance with law.

6364 (c) All lawful orders issued by the Financial Services  
6365 Commission or the Office of Insurance Regulation, implementing  
6366 or enforcing or otherwise in regard to any provision of chapter  
6367 627, Florida Statutes, relating to title insurance, issued prior  
6368 to the effective date of this act, shall remain in effect and be  
6369 enforceable after the effective date of this act, unless  
6370 thereafter modified in accordance with law.

6371 Section 70. The Legislature recognizes that there is a need  
6372 to conform the Florida Statutes to the policy decisions  
6373 reflected in the provisions of this act. The Division of  
6374 Statutory Revision is directed to provide the relevant  
6375 substantive committees of the Senate and the House of  
6376 Representatives with assistance, upon request, to enable such  
6377 committees to prepare draft legislation to conform the Florida  
6378 Statutes to the provisions of this act.

6379 Section 71. Section 689.263, Florida Statutes, is created  
6380 to read:

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6381       689.263 Sale of residential property; settlement statement  
6382 requirements.—A title insurance agent or title insurance agency  
6383 may not disburse funds pursuant to a completed purchase and sale  
6384 of residential real property without requiring a statement of  
6385 settlement costs meeting the following requirements:

6386       (1) The settlement statement must be executed by the buyer  
6387 and the seller.

6388       (2) If a title insurance premium is to be disbursed, the  
6389 title insurer and the title insurance agent or title insurance  
6390 agency, if any, must be disclosed.

6391       (3) A copy of the executed settlement statement must be  
6392 delivered to the buyer and the seller.

6393       Section 72. Section 717.1121, Florida Statutes, is created  
6394 to read:

6395       717.1121 Payments from escrow related to real estate  
6396 transactions.—All funds held as part of a real estate  
6397 transaction, including any outstanding payments for amounts to  
6398 be paid as listed on the settlement statement form by any title  
6399 insurance agency, title insurer, savings and loan association,  
6400 bank, trust company, other financial institution, attorney firm,  
6401 real estate broker, or similar institution, are considered  
6402 unclaimed if the owner of those funds has not claimed the money  
6403 within 2 years after the closing performed under the real estate  
6404 transaction.

6405       Section 73. Subsection (1) and paragraph (d) of subsection  
6406 (2) of section 877.101, Florida Statutes, are amended to read:

6407       877.101 Escrow business by unauthorized persons; use of  
6408 name.—

6409       (1) Except as provided in subsection (2), in connection

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6410 with the purchase and sale of real property, a person may not:

6411 (a) Transact business under any name or title that contains

6412 the word "escrow" or words of similar import; ~~or~~

6413 (b)1. Use any name, word, sign, symbol, or device in any

6414 context or in any manner; or

6415 2. Circulate or use any letterhead, billhead, circular,

6416 paper, or writing of any kind or otherwise advertise or

6417 represent in any manner

6418

6419 that indicates or reasonably implies that the business being

6420 conducted or advertised is the kind or character of business

6421 transacted that is regulated by this state as an escrow agent;

6422 or

6423 (c) Engage in business as an escrow agent as to funds

6424 received from others to be subsequently disbursed in connection

6425 with real estate closing transactions.

6426 (2) This section does not apply to:

6427 (d) A title insurance agent who is licensed pursuant to s.

6428 637.3006 ~~626.8417~~, a title insurance agency that is licensed

6429 pursuant to s. 637.3007 ~~626.8418~~, or a title insurer who is

6430 authorized to transact business in this state pursuant to s.

6431 637.2001 ~~624.401~~.

6432 Section 74. Section 624.5015, Florida Statutes, is amended

6433 to read:

6434 624.5015 Advance collection of fees and taxes; ~~title~~

6435 ~~insurers not to pay without reimbursement.~~

6436 ~~(1)~~ The department or the office shall collect in advance

6437 from the applicant or licensee fees and taxes as provided in s.

6438 624.501.

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6439           ~~(2) A title insurer shall not pay directly or indirectly~~  
 6440 ~~without reimbursement from a title insurance agent any~~  
 6441 ~~appointment fee required under this section. The failure of a~~  
 6442 ~~title insurance agent to make reimbursement is not a ground for~~  
 6443 ~~cancellation of the title insurance agent's appointment by the~~  
 6444 ~~title insurer.~~

6445           Section 75. Subsections (7), (8), and (9) of section  
 6446 626.241, Florida Statutes, are amended to read:

6447           626.241 Scope of examination.—

6448           ~~(7) Examinations given applicants for licensure as title~~  
 6449 ~~agents must cover title insurance, abstracting, title searches,~~  
 6450 ~~examination of title, closing procedures, and escrow handling.~~

6451           (7)~~(8)~~ An examination for licensure as a personal lines  
 6452 agent shall consist of 100 questions and shall be limited in  
 6453 scope to the kinds of business transacted under such license.

6454           (8)~~(9)~~ This section applies to any person who submits an  
 6455 application for license and to any person who submits an  
 6456 application for examination prior to filing an application for  
 6457 license.

6458           Section 76. Subsection (5) of section 626.331, Florida  
 6459 Statutes, is amended to read:

6460           626.331 Number of appointments permitted or required.—

6461           ~~(5) A title agent or title agency license must be limited~~  
 6462 ~~to selling title insurance only for the appointing title insurer~~  
 6463 ~~or insurers.~~

6464           Section 77. Paragraph (a) of subsection (5) of section  
 6465 197.502, Florida Statutes, is amended to read:

6466           197.502 Application for obtaining tax deed by holder of tax  
 6467 sale certificate; fees.—

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6468 (5) (a) The tax collector may contract with a title company  
6469 or an abstract company at a reasonable fee to provide the  
6470 minimum information required in subsection (4), consistent with  
6471 rules adopted by the department. If additional information is  
6472 required, the tax collector must make a written request to the  
6473 title or abstract company stating the additional requirements.  
6474 The tax collector may select any title or abstract company,  
6475 regardless of its location, as long as the fee is reasonable,  
6476 the minimum information is submitted, and the title or abstract  
6477 company is authorized to do business in this state. The tax  
6478 collector may advertise and accept bids for the title or  
6479 abstract company if he or she considers it appropriate to do so.

6480 1. The ownership and encumbrance report must be printed or  
6481 typed on stationery or other paper showing a letterhead of the  
6482 person, firm, or company that makes the search, and the  
6483 signature of the person who makes the search or of an officer of  
6484 the firm must be attached. The tax collector is not liable for  
6485 payment to the firm unless these requirements are met.

6486 2. The tax collector may not accept or pay for any title  
6487 search or abstract if no financial responsibility is assumed for  
6488 the search. However, reasonable restrictions as to the liability  
6489 or responsibility of the title or abstract company are  
6490 acceptable. Notwithstanding s. 637.2071(3) ~~627.7843(3)~~, the tax  
6491 collector may contract for higher maximum liability limits.

6492 3. In order to establish uniform prices for ownership and  
6493 encumbrance reports within the county, the tax collector shall  
6494 ensure that the contract for ownership and encumbrance reports  
6495 include all requests for title searches or abstracts for a given  
6496 period of time.



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6497 Section 78. Paragraph (d) of subsection (27) of section  
6498 624.501, Florida Statutes, is amended to read:

6499 624.501 Filing, license, appointment, and miscellaneous  
6500 fees.—The department, commission, or office, as appropriate,  
6501 shall collect in advance, and persons so served shall pay to it  
6502 in advance, fees, licenses, and miscellaneous charges as  
6503 follows:

6504 (27) Title insurance agents:

6505 (d) Additional appointment continuation fee as prescribed  
6506 by s. 637.3015 ~~626.843~~.....\$5.00

6507 Section 79. Section 624.604, Florida Statutes, is amended  
6508 to read:

6509 624.604 "Property insurance" defined.—"Property insurance"  
6510 is insurance on real or personal property of every kind and of  
6511 every interest therein, whether on land, water, or in the air,  
6512 against loss or damage from any and all hazard or cause, and  
6513 against loss consequential upon such loss or damage, other than  
6514 noncontractual legal liability for any such loss or damage.  
6515 Property insurance may contain a provision for accidental death  
6516 or injury as part of a multiple peril homeowner's policy. Such  
6517 insurance, which is incidental to the property insurance, is not  
6518 subject to the provisions of this code applicable to life or  
6519 health insurance. Property insurance does not include title  
6520 insurance, as defined in s. 637.1004 ~~624.608~~.

6521 Section 80. Paragraph (r) of subsection (1) of section  
6522 624.605, Florida Statutes, is amended to read:

6523 624.605 "Casualty insurance" defined.—

6524 (1) "Casualty insurance" includes:

6525 (r) *Insurance for debt cancellation products*.—Insurance

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6526 that a creditor may purchase against the risk of financial loss  
6527 from the use of debt cancellation products with consumer loans  
6528 or leases or retail installment contracts. Insurance for debt  
6529 cancellation products is not liability insurance but shall be  
6530 considered credit insurance only for the purposes of s.  
6531 631.52(4).

6532 1. For purposes of this paragraph, the term "debt  
6533 cancellation products" means loan, lease, or retail installment  
6534 contract terms, or modifications to loan, lease, or retail  
6535 installment contracts, under which a creditor agrees to cancel  
6536 or suspend all or part of a customer's obligation to make  
6537 payments upon the occurrence of specified events and includes,  
6538 but is not limited to, debt cancellation contracts, debt  
6539 suspension agreements, and guaranteed asset protection  
6540 contracts. However, the term "debt cancellation products" does  
6541 not include title insurance as defined in s. 637.1004 ~~624.608~~.

6542 2. Debt cancellation products may be offered by financial  
6543 institutions, as defined in s. 655.005(1)(h), insured depository  
6544 institutions as defined in 12 U.S.C. s. 1813(c), and  
6545 subsidiaries of such institutions, as provided in the financial  
6546 institutions codes; by sellers as defined in s. 721.05, or by  
6547 the parents, subsidiaries, or affiliated entities of sellers, in  
6548 connection with the sale of timeshare interests; or by other  
6549 business entities as may be specifically authorized by law, and  
6550 such products shall not constitute insurance for purposes of the  
6551 Florida Insurance Code.

6552 Section 81. Subsection (4) of section 625.031, Florida  
6553 Statutes, is amended to read:

6554 625.031 Assets not allowed.—In addition to assets impliedly

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6555 excluded by the provisions of s. 625.012, the following  
6556 expressly shall not be allowed as assets in any determination of  
6557 the financial condition of an insurer:

6558 (4) Furniture, fixtures, furnishings, safes, vehicles,  
6559 libraries, stationery, literature, and supplies, other than data  
6560 processing and accounting systems authorized under s.  
6561 625.012(11), except in the case of title insurers such materials  
6562 and plants as the insurer is expressly authorized to invest in  
6563 under s. 637.20073 ~~625.330~~ and except, in the case of any  
6564 insurer, such personal property as the insurer is permitted to  
6565 hold pursuant to part II of this chapter, or which is acquired  
6566 through foreclosure of chattel mortgages acquired pursuant to s.  
6567 625.329, or which is reasonably necessary for the maintenance  
6568 and operation of real estate lawfully acquired and held by the  
6569 insurer other than real estate used by it for home office,  
6570 branch office, and similar purposes.

6571 Section 82. Section 626.207, Florida Statutes, is amended  
6572 to read:

6573 626.207 Department rulemaking authority; waiting periods  
6574 for applicants; penalties against licensees.—

6575 (1) The department shall adopt rules establishing specific  
6576 waiting periods for applicants to become eligible for licensure  
6577 following denial, suspension, or revocation pursuant to s.  
6578 626.611, s. 626.621, ~~s. 626.8437, s. 626.844~~, s. 626.935, s.  
6579 634.181, s. 634.191, s. 634.320, s. 634.321, s. 634.422, s.  
6580 634.423, s. 637.3017, s. 637.3018, s. 642.041, or s. 642.043.  
6581 The purpose of the waiting periods is to provide sufficient time  
6582 to demonstrate reformation of character and rehabilitation. The  
6583 waiting periods shall vary based on the type of conduct and the

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6584 length of time since the conduct occurred and shall also be  
6585 based on the probability that the propensity to commit illegal  
6586 conduct has been overcome. The waiting periods may be adjusted  
6587 based on aggravating and mitigating factors established by rule  
6588 and consistent with this purpose.

6589 (2) The department shall adopt rules establishing specific  
6590 penalties against licensees for violations of s. 626.611, s.  
6591 ~~626.621, s. 626.8437, s. 626.844~~, s. 626.935, s. 634.181, s.  
6592 634.191, s. 634.320, s. 634.321, s. 634.422, s. 634.423, s.  
6593 637.3017, s. 637.3018, s. 642.041, or s. 642.043. The purpose of  
6594 the revocation or suspension is to provide a sufficient penalty  
6595 to deter future violations of the Florida Insurance Code. The  
6596 imposition of a revocation or the length of suspension shall be  
6597 based on the type of conduct and the probability that the  
6598 propensity to commit further illegal conduct has been overcome  
6599 at the time of eligibility for relicensure. The revocation or  
6600 the length of suspension may be adjusted based on aggravating or  
6601 mitigating factors, established by rule and consistent with this  
6602 purpose.

6603 Section 83. Paragraph (t) of subsection (1) of section  
6604 655.005, Florida Statutes, is amended to read:

6605 655.005 Definitions.—

6606 (1) As used in the financial institutions codes, unless the  
6607 context otherwise requires, the term:

6608 (t) "Debt cancellation products" means loan, lease, or  
6609 retail installment contract terms, or modifications or addenda  
6610 to loan, lease, or retail installment contracts, under which a  
6611 creditor agrees to cancel or suspend all or part of a customer's  
6612 obligation to make payments upon the occurrence of specified

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6613 events and includes, but is not limited to, debt cancellation  
6614 contracts, debt suspension agreements, and guaranteed asset  
6615 protection contracts offered by financial institutions, insured  
6616 depository institutions as defined in 12 U.S.C. s. 1813(c), and  
6617 subsidiaries of such institutions. However, the term "debt  
6618 cancellation products" does not include title insurance as  
6619 defined in s. 637.1004 ~~624.608~~.

6620 Section 84. Paragraph (d) of subsection (6) of section  
6621 701.041, Florida Statutes, is amended to read:

6622 701.041 Title insurer; mortgage release certificate.—

6623 (6) LIABILITY OF TITLE INSURER AND TITLE INSURANCE AGENT.—

6624 (d) Liability of a title insurer pursuant to this section  
6625 shall be considered to be a title insurance claim on real  
6626 property in this state pursuant to s. 637.2075 ~~627.7865~~.

6627 Section 85. Paragraph (d) of subsection (14) of section  
6628 721.05, Florida Statutes, is amended to read:

6629 721.05 Definitions.—As used in this chapter, the term:

6630 (14) "Escrow agent" includes only:

6631 (d) A title insurance agent that is licensed pursuant to s.  
6632 637.3006 ~~626.8417~~, a title insurance agency that is licensed  
6633 pursuant to s. 637.3007 ~~626.8418~~, or a title insurer authorized  
6634 to transact business in this state pursuant to s. 637.2001  
6635 ~~624.401~~.

6636 Section 86. Sections 624.4031, 624.608, 626.841, 626.8411,  
6637 626.9531, 627.7711, and 627.776, Florida Statutes, are repealed.

6638 Section 87. This act shall take effect July 1, 2010.