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1                   A bill to be entitled  
2     An act relating to insurance; amending s. 30.2905,  
3     F.S.; providing for interpretation of provisions  
4     relating to workers' compensation benefits for certain  
5     services performed by off-duty deputy sheriffs;  
6     authorizing sheriffs to include certain proportionate  
7     costs of workers' compensation premiums for off-duty  
8     deputy sheriffs providing certain services; amending  
9     s. 112.18, F.S.; providing conditions under which a  
10    law enforcement officer, correctional officer, or  
11    correctional probation officer who suffers from a  
12    specified medical condition and has materially  
13    departed from the prescribed treatment for that  
14    condition shall lose a specified presumption for  
15    workers' compensation claims made on or after a  
16    specified date; defining the term "prescribed course  
17    of treatment"; providing for independent medical  
18    examinations in certain situations; providing that  
19    only claims made before or within a specified period  
20    after leaving employment are eligible for a specified  
21    presumption; creating s. 624.46223, F.S.; prohibiting  
22    an association, fund, or pool created for the purpose  
23    of forming or managing a risk management mechanism or  
24    providing self-insurance for a public entity from  
25    requiring its members to give more than 60 days'  
26    notice of the member's intention to withdraw from the  
27    association, fund, or pool; amending s. 627.062, F.S.;  
28    exempting certain categories or types of insurance and  
29    types of commercial lines risks from certain rate

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30 requirements; requiring that insurers or rating  
31 organizations establish and use rates, rating  
32 schedules, or rating manuals allowing for a reasonable  
33 rate of return on certain insurance and risks;  
34 requiring that an insurer notify the Office of  
35 Insurance Regulation of any changes to rates for  
36 certain insurance and risks; requiring that such  
37 notice contain certain information; requiring that an  
38 insurer maintain certain information; providing that  
39 such information is subject to examination by the  
40 office; requiring that the office consider certain  
41 rate factors and standards when examining such  
42 information for the purpose of determining whether the  
43 rate is excessive, inadequate, or unfairly  
44 discriminatory; requiring that a rating organization  
45 provide notice to the office of any changes to loss  
46 cost for certain types of insurance within a specified  
47 period after such change; providing requirements for  
48 such notification; requiring that a rating  
49 organization maintain certain information; providing  
50 that such information is subject to examination by the  
51 office; requiring that specified rate factors and  
52 standards be used in such examination; authorizing the  
53 office, when reviewing a rate, to require that an  
54 insurer provide certain information at the insurer's  
55 expense; amending s. 627.0651, F.S.; exempting  
56 commercial motor vehicle insurance from certain motor  
57 vehicle insurance rate requirements; prohibiting  
58 certain insurance rates from being excessive,

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59 inadequate, or unfairly discriminatory; requiring that  
60 insurers or rating organizations establish and use  
61 rates, rating schedules, or rating manuals allowing  
62 for a reasonable rate of return on certain insurance  
63 and risks; requiring that an insurer notify the office  
64 of any changes to rates for certain insurance and  
65 risks; requiring that such notice contain certain  
66 information; requiring that an insurer maintain  
67 certain information; providing that such information  
68 is subject to examination by the office; requiring  
69 that the office consider certain rate factors and  
70 standards when examining such information for the  
71 purpose of determining whether the rate is excessive,  
72 inadequate, or unfairly discriminatory; requiring that  
73 a rating organization provide notice to the office of  
74 any changes to loss cost for certain types of  
75 insurance within a specified period after such change;  
76 providing requirements for such notification;  
77 requiring that a rating organization maintain certain  
78 information; providing that such information is  
79 subject to examination by the office; requiring that  
80 specified rate factors and standards be used in such  
81 examination; authorizing the office, when reviewing a  
82 rate, to require that an insurer provide certain  
83 information at the insurer's expense; amending s.  
84 626.9541, F.S.; prohibiting construction to prevent a  
85 Medicare supplement insurer from granting a premium  
86 credit to insureds under certain circumstances;  
87 amending s. 627.6741, F.S.; specifying absence of a

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88 prohibition against certain Medicare supplement policy  
89 insurers from entering into agreements through a  
90 network with certain facilities; specifying absence of  
91 a requirement to file certain contracts with the  
92 Office of Insurance Regulation; amending s. 627.6745,  
93 F.S.; requiring certain insurers to factor certain  
94 deductibles and premium credits into loss-ratio  
95 calculation and policy premiums; amending s. 628.4615,  
96 F.S., relating to specialty insurers; conforming a  
97 cross-reference; amending s. 634.011, F.S.; revising  
98 the definition of the term "motor vehicle service  
99 agreement"; amending s. 634.031, F.S.; providing  
100 penalties for certain licensure violations; amending  
101 s. 634.041, F.S., relating to qualifications for  
102 licensure; conforming cross-references; amending s.  
103 634.095, F.S.; prohibiting service agreement companies  
104 from issuing certain deceptive advertisements,  
105 operating without a subsisting license, or remitting  
106 premiums to a person other than the obligated service  
107 agreement company; amending s. 634.121, F.S.; deleting  
108 a requirement that certain service agreement forms be  
109 approved by the Office of Insurance Regulation of the  
110 Financial Services Commission; requiring the service  
111 agreements to include certain written disclosures;  
112 amending s. 634.1213, F.S.; authorizing the office to  
113 order a service agreement company to stop using forms  
114 that do not comply with specified requirements;  
115 amending s. 634.137, F.S.; deleting a schedule for the  
116 submissions of certain reports; amending s. 634.141,

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117 F.S.; providing guidelines for the office to use in  
118 determining whether to examine a company; amending s.  
119 634.1815, F.S.; requiring certain rebates to be  
120 approved by the company issuing a service agreement;  
121 amending s. 634.282, F.S.; clarifying provisions  
122 relating to the refund of excess premiums or charges;  
123 requiring that a consumer receive a sample copy of the  
124 service agreement prior to the sale of a service  
125 agreement; amending s. 634.301, F.S.; revising certain  
126 definitions relating home warranties; amending s.  
127 634.303, F.S.; providing that it is a first-degree  
128 misdemeanor for a person without a subsisting license  
129 to provide or offer to provide home warranties;  
130 amending s. 634.308, F.S.; providing an exception to  
131 certain grounds for licensure suspension or  
132 revocation; amending s. 634.312, F.S.; deleting a  
133 requirement that certain home warranty agreement forms  
134 be approved by the office; requiring the home warranty  
135 contracts to include certain written disclosures;  
136 amending s. 634.3123, F.S.; authorizing the office to  
137 order a home warranty association to stop using forms  
138 that do not comply with specified requirements;  
139 amending s. 634.314, F.S.; providing guidelines for  
140 the office to use in determining whether to examine an  
141 association; amending s. 634.3205, F.S.; requiring  
142 certain rebates to be approved by the association  
143 issuing a service agreement; amending s. 634.336,  
144 F.S.; requiring that a consumer receive a sample copy  
145 of the service agreement prior to the sale of a

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146 service agreement; amending s. 634.344, F.S.;

147 prohibiting certain coercive actions relating to the

148 sale of a home warranty in connection with the lending

149 of money; amending s. 634.401, F.S.; redefining the

150 term "indemnify"; amending s. 634.403, F.S.; providing

151 that it is a first-degree misdemeanor for a person

152 without a subsisting license to provide or offer to

153 provide service warranties; amending s. 634.406, F.S.,

154 relating to financial requirements; conforming a

155 cross-reference; amending s. 634.414, F.S.; deleting a

156 requirement that certain service warranty forms be

157 approved by the office; deleting certain requirements

158 relating to the display of the issuing association's

159 name on literature; requiring the service warranty

160 contracts to include certain written disclosures;

161 amending s. 634.4145, F.S.; authorizing the office to

162 order a service warranty association to stop using

163 forms that do not comply with specified requirements;

164 amending s. 634.415, F.S.; deleting a requirement that

165 associations file certain quarterly statements and

166 special reports; amending s. 634.416, F.S.; providing

167 guidelines for the office to use in determining

168 whether to examine an service warranty association;

169 amending s. 634.4225, F.S.; requiring certain rebates

170 to be approved by the association issuing a service

171 warranty; amending s. 634.436, F.S.; requiring that a

172 consumer receive a sample copy of the service

173 agreement prior to the sale of a service agreement;

174 amending s. 634.136, F.S.; deleting certain provisions

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175 requiring records to be maintained by motor vehicle  
176 service contract companies; amending s. 634.313, F.S.;  
177 deleting certain requirements for reports relating to  
178 taxes on premiums; repealing ss. 634.1216 and  
179 634.3126, F.S., relating to required rate filings;  
180 providing a short title; amending s. 624.310, F.S.;  
181 expanding the definition of "affiliated party" to  
182 include certain third-party marketers; creating s.  
183 624.46223, F.S.; prohibiting a self-insurance  
184 association, fund, or pool from requiring its members  
185 to provide more than a specified maximum period of  
186 notice of any member's intent to withdraw; amending s.  
187 626.221, F.S.; expanding the list of individuals who  
188 are exempt from the requirement to pass an examination  
189 before being issued a license as an agent, customer  
190 representative, or adjuster; amending s. 626.025,  
191 F.S.; including family members of insurance agents in  
192 a prohibition related to the transaction of life  
193 insurance; amending s. 626.2815, F.S.; providing an  
194 exemption from certain continuing education  
195 requirements to certain agents; authorizing the  
196 department to take certain action in applying such  
197 exemption; amending s. 626.621, F.S.; expanding  
198 grounds for discretionary refusal, suspension, or  
199 revocation of certain licenses; amending s. 626.641,  
200 F.S.; prohibiting the Department of Financial Services  
201 from issuing certain licenses in certain  
202 circumstances; amending s. 626.798, F.S.; prohibiting  
203 a family member of a life insurance agent from being a

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204 beneficiary of certain policies; prohibiting an agent  
205 or a family member of such agent from being designated  
206 as a trustee or guardian or being granted power of  
207 attorney unless he or she is a family member of the  
208 policy owner or insured, or is a bank or trust company  
209 duly authorized to act as a fiduciary; amending s.  
210 626.9521, F.S.; increasing the administrative fine  
211 that may be imposed for each willful violation of the  
212 offenses of twisting and churning; increasing the  
213 administrative fine that may be imposed for each  
214 willful violation of the offense of submitting  
215 fraudulent signatures on an application or policy-  
216 related document; requiring that a licensee make a  
217 reasonable effort to ascertain a customer's age at the  
218 time of completion of an insurance application;  
219 authorizing the use of video depositions in certain  
220 circumstances; amending s. 626.99, F.S.; requiring  
221 that the buyer's guide for fixed annuities be in the  
222 form provided by the National Association of Insurance  
223 Commissioners Annuity Disclosure Model Regulation;  
224 authorizing the use of a policy summary for variable  
225 annuities until the NAIC or the department develops a  
226 buyer's guide; extending the unconditional refund  
227 period for fixed annuity contracts and variable or  
228 market value annuity contracts for customers 65 years  
229 of age or older; requiring that the unconditional  
230 refund amount for a variable or market value annuity  
231 contract be equal to the cash surrender value provided  
232 in the contract, plus any fees or charges deducted



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233 from the premiums or imposed under the contract;  
234 providing for applicability of certain provisions;  
235 requiring that an insurer provide a prospective  
236 purchaser of an annuity policy with a buyer's guide to  
237 annuities; requiring that such buyer's guide contain  
238 certain information; requiring that an insurer attach  
239 a cover page to an annuity policy informing the  
240 purchaser of the unconditional refund period;  
241 requiring that the cover page provide other specified  
242 information; amending s. 627.4554, F.S.; defining the  
243 term "accredited investor"; authorizing the Department  
244 of Financial Services to order an insurance agent to  
245 pay monetary restitution to a senior consumer under  
246 certain circumstances; limiting the amount of such  
247 restitution; prohibiting an annuity contract issued to  
248 a senior consumer from containing a surrender or  
249 deferred sales charge for withdrawal of funds from an  
250 annuity in excess of a specified maximum amount;  
251 providing for the periodic reduction of such charge;  
252 providing effective dates.

253  
254 Be It Enacted by the Legislature of the State of Florida:

255  
256 Section 1. Subsection (2) of section 30.2905, Florida  
257 Statutes, is amended to read:

258 30.2905 Program to contract for employment of off-duty  
259 deputies for security services.—

260 (2) (a) Any such public or private employer of a deputy  
261 sheriff shall be responsible for the acts or omissions of the

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262 deputy sheriff while performing services for that employer while  
263 off duty, including workers' compensation benefits.

264 (b) However, for the workers' compensation purposes of this  
265 section:7

266 1. A deputy sheriff so employed who sustains an injury  
267 while enforcing the criminal, traffic, or penal laws of this  
268 state shall be regarded as working on duty.

269 2. The term "enforcing the criminal, traffic, or penal laws  
270 of this state" shall be interpreted to include, but is not  
271 limited to, providing security, patrol, or traffic direction for  
272 a private or public employer.

273 3. A sheriff may include the sheriff's proportionate costs  
274 of workers' compensation premiums for the off-duty deputy  
275 sheriffs providing such services.

276 Section 2. Section 112.18, Florida Statutes, is amended to  
277 read:

278 112.18 Firefighters and law enforcement or correctional  
279 officers; special provisions relative to disability.-

280 (1) (a) Any condition or impairment of health of any Florida  
281 state, municipal, county, port authority, special tax district,  
282 or fire control district firefighter or any law enforcement  
283 officer, ~~or~~ correctional officer, or correctional probation  
284 officer as defined in s. 943.10(1), (2), or (3) caused by  
285 tuberculosis, heart disease, or hypertension resulting in total  
286 or partial disability or death shall be presumed to have been  
287 accidental and to have been suffered in the line of duty unless  
288 the contrary be shown by competent evidence. However, any such  
289 firefighter or law enforcement officer must ~~shall~~ have  
290 successfully passed a physical examination upon entering into

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291 any such service as a firefighter or law enforcement officer,  
292 which examination failed to reveal any evidence of any such  
293 condition. Such presumption does ~~shall~~ not apply to benefits  
294 payable under or granted in a policy of life insurance or  
295 disability insurance, unless the insurer and insured have  
296 negotiated for such additional benefits to be included in the  
297 policy contract.

298 (b)1. For any workers' compensation claim filed under this  
299 section and chapter 440 occurring on or after July 1, 2010, a  
300 law enforcement officer, correctional officer, or correctional  
301 probation officer as defined in s. 943.10(1), (2), or (3)  
302 suffering from tuberculosis, heart disease, or hypertension is  
303 presumed not to have incurred such disease in the line of duty  
304 as provided in this section if the law enforcement officer,  
305 correctional officer, or correctional probation officer:

306 a. Departed in a material fashion from the prescribed  
307 course of treatment of his or her personal physician and the  
308 departure is demonstrated to have resulted in a significant  
309 aggravation of the tuberculosis, heart disease, or hypertension  
310 resulting in disability or increasing the disability or need for  
311 medical treatment; or

312 b. Was previously compensated pursuant to this section and  
313 chapter 440 for tuberculosis, heart disease, or hypertension and  
314 thereafter sustains and reports a new compensable workers'  
315 compensation claim under this section and chapter 440, and the  
316 law enforcement officer, correctional officer, or correctional  
317 probation officer has departed in a material fashion from the  
318 prescribed course of treatment of an authorized physician for  
319 the preexisting workers' compensation claim and the departure is

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320 demonstrated to have resulted in a significant aggravation of  
321 the tuberculosis, heart disease, or hypertension resulting in  
322 disability or increasing the disability or need for medical  
323 treatment.

324 2. As used in this paragraph, "prescribed course of  
325 treatment" means prescribed medical courses of action and  
326 prescribed medicines for the specific disease or diseases  
327 claimed and as documented in the prescribing physician's medical  
328 records.

329 3. If there is a dispute as to the appropriateness of the  
330 course of treatment prescribed by a physician under sub-  
331 subparagraph 1.a. or sub-subparagraph 1.b. or whether a  
332 departure in a material fashion from the prescribed course of  
333 treatment is demonstrated to have resulted in a significant  
334 aggravation of the tuberculosis, heart disease, or hypertension  
335 resulting in disability or increasing the disability or need for  
336 medical treatment, the law enforcement officer, correctional  
337 officer, or correctional probation officer is entitled to seek  
338 an independent medical examination pursuant to s. 440.13(5).

339 4. A law enforcement officer, correctional officer, or  
340 correctional probation officer is not entitled to the  
341 presumption provided in this section unless a claim for benefits  
342 is made prior to or within 180 days after leaving the employment  
343 of the employing agency.

344 (2) This section authorizes each governmental entity  
345 specified in subsection (1) shall be construed to authorize the  
346 above governmental entities to negotiate policy contracts for  
347 life and disability insurance to include accidental death  
348 benefits or double indemnity coverage which shall include the

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349 presumption that any condition or impairment of health of any  
350 firefighter, law enforcement officer, or correctional officer  
351 caused by tuberculosis, heart disease, or hypertension resulting  
352 in total or partial disability or death was accidental and  
353 suffered in the line of duty, unless the contrary be shown by  
354 competent evidence.

355 Section 3. Section 624.46223, Florida Statutes, is created  
356 to read:

357 624.46223 Notice of intent to withdraw.—An association,  
358 fund, or pool authorized under Florida law and created for the  
359 purpose of forming or managing a risk management mechanism or  
360 providing self-insurance for a public entity in this state may  
361 not require its members, as a prerequisite for withdrawing from  
362 the association, fund, or pool, to give more than 60 days'  
363 notice of the member's intention to withdraw from the  
364 association, fund, or pool.

365 Section 4. Paragraph (d) is added to subsection (3) of  
366 section 627.062, Florida Statutes, to read:

367 627.062 Rate standards.—

368 (3)

369 (d)1. The following categories or kinds of insurance and  
370 types of commercial lines risks are not subject to paragraph  
371 (2) (a) or paragraph (2) (f):

372 a. Excess or umbrella.

373 b. Surety and fidelity.

374 c. Boiler and machinery and leakage and fire extinguishing  
375 equipment.

376 d. Errors and omissions.

377 e. Directors and officers, employment practices, and

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378 management liability.

379 f. Intellectual property and patent infringement liability.

380 g. Advertising injury and Internet liability insurance.

381 h. Property risks rated under a highly protected risks  
382 rating plan.

383 i. Any other commercial lines categories or kinds of  
384 insurance or types of commercial lines risks that the office  
385 determines should not be subject to paragraph (2) (a) or  
386 paragraph (2) (f) because of the existence of a competitive  
387 market for such insurance, similarity of such insurance to other  
388 categories or kinds of insurance not subject to paragraph (2) (a)  
389 or paragraph (2) (f), or to improve the general operational  
390 efficiency of the office.

391 2. Insurers or rating organizations shall establish and use  
392 rates, rating schedules, or rating manuals to allow the insurer  
393 a reasonable rate of return on insurance and risks described in  
394 subparagraph 1. which are written in this state.

395 3. An insurer must notify the office of any changes to  
396 rates for insurance and risks described in subparagraph 1. no  
397 later than 30 days after the effective date of the change. The  
398 notice must include the name of the insurer, the type or kind of  
399 insurance subject to rate change, total premium written during  
400 the immediately preceding year by the insurer for the type or  
401 kind of insurance subject to the rate change, and the average  
402 statewide percentage change in rates. Underwriting files,  
403 premiums, losses, and expense statistics with regard to  
404 insurance and risks described in subparagraph 1. written by an  
405 insurer shall be maintained by the insurer and subject to  
406 examination by the office. Upon examination, the office shall,

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407 in accordance with generally accepted and reasonable actuarial  
408 techniques, consider the rate factors in paragraphs (2) (b), (c),  
409 and (d) and the standards in paragraph (2) (e) to determine if  
410 the rate is excessive, inadequate, or unfairly discriminatory.

411 4. A rating organization must notify the office of any  
412 changes to loss cost for insurance and risks described in  
413 subparagraph 1. no later than 30 days after the effective date  
414 of the change. The notice must include the name of the rating  
415 organization, the type or kind of insurance subject to a loss  
416 cost change, loss costs during the immediately preceding year  
417 for the type or kind of insurance subject to the loss cost  
418 change, and the average statewide percentage change in loss  
419 cost. Loss and exposure statistics with regard to risks  
420 applicable to loss costs for a rating organization not subject  
421 to paragraph (2) (a) or paragraph (2) (f) shall be maintained by  
422 the rating organization and are subject to examination by the  
423 office. Upon examination, the office shall, in accordance with  
424 generally accepted and reasonable actuarial techniques, consider  
425 the rate factors in paragraphs (2) (b)-(d) and the standards in  
426 paragraph (2) (e) to determine if the rate is excessive,  
427 inadequate, or unfairly discriminatory.

428 5. In reviewing a rate, the office may require the insurer  
429 to provide at the insurer's expense all information necessary to  
430 evaluate the condition of the company and the reasonableness of  
431 the rate according to the applicable criteria described in this  
432 section.

433 Section 5. Subsection (14) is added to section 627.0651,  
434 Florida Statutes, to read:

435 627.0651 Making and use of rates for motor vehicle

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436 insurance.—

437 (14) (a) Commercial motor vehicle insurance covering a fleet  
438 of 20 or more self-propelled vehicles is not subject to  
439 subsection (1), subsection (2), or subsection (9) or s.  
440 627.0645.

441 (b) The rates for insurance described in this subsection  
442 may not be excessive, inadequate, or unfairly discriminatory.

443 (c) Insurers shall establish and use rates, rating  
444 schedules, or rating manuals to allow the insurer a reasonable  
445 rate of return on commercial motor vehicle insurance written in  
446 this state covering a fleet of 20 or more self-propelled  
447 vehicles.

448 (d) An insurer must notify the office of any changes to  
449 rates for type of insurance described in this subsection no  
450 later than 30 days after the effective date of the change. The  
451 notice shall include the name of the insurer, the type or kind  
452 of insurance subject to rate change, total premium written  
453 during the immediately preceding year by the insurer for the  
454 type or kind of insurance subject to the rate change, and the  
455 average statewide percentage change in rates. Underwriting  
456 files, premiums, losses, and expense statistics for the type of  
457 insurance described in this subsection shall be maintained by  
458 the insurer and subject to examination by the office. Upon  
459 examination, the office shall, in accordance with generally  
460 accepted and reasonable actuarial techniques, consider the  
461 factors in paragraphs (2) (a)-(1) and apply subsections (3)-(8)  
462 to determine if the rate is excessive, inadequate, or unfairly  
463 discriminatory.

464 (e) A rating organization must notify the office of any



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465 changes to loss cost for the type of insurance described in this  
466 subsection no later than 30 days after the effective date of the  
467 change. The notice shall include the name of the rating  
468 organization, the type or kind of insurance subject to a loss  
469 cost change, loss costs during the immediately preceding year  
470 for the type or kind of insurance subject to the loss cost  
471 change, and the average statewide percentage change in loss  
472 cost. Loss and exposure statistics with regard to risks  
473 applicable to loss costs for a rating organization not subject  
474 to subsection (1), subsection (2), or subsection (9) shall be  
475 maintained by the rating organization and are subject to  
476 examination by the office. Upon examination, the office shall,  
477 in accordance with generally accepted and reasonable actuarial  
478 techniques, consider the rate factors in paragraphs (2) (a)-(1)  
479 and apply subsections (3)-(8) to determine if the rate is  
480 excessive, inadequate, or unfairly discriminatory.

481 (f) In reviewing the rate, the office may require the  
482 insurer to provide at the insurer's expense all information  
483 necessary to evaluate the condition of the company and the  
484 reasonableness of the rate according to the applicable criteria  
485 described herein.

486 Section 6. Subsection (3) is added to section 626.9541,  
487 Florida Statutes, to read:

488 626.9541 Unfair methods of competition and unfair or  
489 deceptive acts or practices defined.—

490 (3) INPATIENT FACILITY NETWORK.—This section may not be  
491 construed to prohibit a Medicare supplement insurer from  
492 granting a premium credit to insureds for using an in-network  
493 inpatient facility.

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494 Section 7. Subsection (6) is added to section 627.6741,  
495 Florida Statutes, to read:

496 627.6741 Issuance, cancellation, nonrenewal, and  
497 replacement.—

498 (6) An insurer offering a Medicare supplement policy under  
499 this part is not prohibited from entering into an agreement  
500 through a network with inpatient facilities that agree to waive  
501 the Medicare Part A deductible in whole or in part. An insurer  
502 is not required to file a copy of the network agreement with,  
503 and such network agreements are not subject to approval of, the  
504 office.

505 Section 8. Subsection (8) is added to section 627.6745,  
506 Florida Statutes, to read:

507 627.6745 Loss ratio standards; public rate hearings.—

508 (8) For an insurer that enters into a network agreement  
509 pursuant to s. 627.6741(6), the waiver of the Medicare Part A  
510 deductible and premium credit shall be factored into the  
511 insurer's loss-ratio calculation and policy premium.

512 Section 9. Effective upon this act becoming a law,  
513 paragraph (b) of subsection (1) of section 628.4615, Florida  
514 Statutes, is amended to read:

515 628.4615 Specialty insurers; acquisition of controlling  
516 stock, ownership interest, assets, or control; merger or  
517 consolidation.—

518 (1) For the purposes of this section, the term "specialty  
519 insurer" means any person holding a license or certificate of  
520 authority as:

521 (b) A home warranty association authorized to issue "home  
522 warranties" as those terms are defined in s. 634.301~~(3) and (4)~~;

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523 Section 10. Effective upon this act becoming a law,  
524 subsection (8) of section 634.011, Florida Statutes, is amended  
525 to read:

526 634.011 Definitions.—As used in this part, the term:

527 (8) "Motor vehicle service agreement" or "service  
528 agreement" means any contract or agreement indemnifying the  
529 service agreement holder for the motor vehicle listed on the  
530 service agreement and arising out of the ownership, operation,  
531 and use of the motor vehicle against loss caused by failure of  
532 any mechanical or other component part, or any mechanical or  
533 other component part that does not function as it was originally  
534 intended; however, nothing in this part shall prohibit or affect  
535 the giving, free of charge, of the usual performance guarantees  
536 by manufacturers or dealers in connection with the sale of motor  
537 vehicles. Transactions exempt under s. 624.125 are expressly  
538 excluded from this definition and are exempt from the provisions  
539 of this part. Service agreements that are sold to persons other  
540 than consumers and that cover motor vehicles used for commercial  
541 purposes are excluded from this definition and are exempt from  
542 regulation under the Florida Insurance Code. The term "motor  
543 vehicle service agreement" includes any contract or agreement  
544 that provides:

545 (a) For the coverage or protection defined in this  
546 subsection and which is issued or provided in conjunction with  
547 an additive product applied to the motor vehicle that is the  
548 subject of such contract or agreement;

549 (b) For payment of vehicle protection expenses.

550 1.a. "Vehicle protection expenses" means a preestablished  
551 flat amount payable for the loss of or damage to a vehicle or

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552 expenses incurred by the service agreement holder for loss or  
553 damage to a covered vehicle, including, but not limited to,  
554 applicable deductibles under a motor vehicle insurance policy;  
555 temporary vehicle rental expenses; expenses for a replacement  
556 vehicle that is at least the same year, make, and model of the  
557 stolen motor vehicle; sales taxes or registration fees for a  
558 replacement vehicle that is at least the same year, make, and  
559 model of the stolen vehicle; or other incidental expenses  
560 specified in the agreement.

561 b. "Vehicle protection product" means a product or system  
562 installed or applied to a motor vehicle or designed to prevent  
563 the theft of the motor vehicle or assist in the recovery of the  
564 stolen motor vehicle.

565 2. Vehicle protection expenses shall be payable in the  
566 event of loss or damage to the vehicle as a result of the  
567 failure of the vehicle protection product to prevent the theft  
568 of the motor vehicle or to assist in the recovery of the stolen  
569 motor vehicle. Vehicle protection expenses covered under the  
570 agreement shall be clearly stated in the service agreement form,  
571 unless the agreement provides for the payment of a  
572 preestablished flat amount, in which case the service agreement  
573 form shall clearly identify such amount.

574 3. Motor vehicle service agreements providing for the  
575 payment of vehicle protection expenses shall either:

576 a. Reimburse a service agreement holder for the following  
577 expenses, at a minimum: deductibles applicable to comprehensive  
578 coverage under the service agreement holder's motor vehicle  
579 insurance policy; temporary vehicle rental expenses; sales taxes  
580 and registration fees on a replacement vehicle that is at least

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581 the same year, make, and model of the stolen motor vehicle; and  
582 the difference between the benefits paid to the service  
583 agreement holder for the stolen vehicle under the service  
584 agreement holder's comprehensive coverage and the actual cost of  
585 a replacement vehicle that is at least the same year, make, and  
586 model of the stolen motor vehicle; or

587 b. Pay a preestablished flat amount to the service  
588 agreement holder.

589

590 Payments shall not duplicate any benefits or expenses paid to  
591 the service agreement holder by the insurer providing  
592 comprehensive coverage under a motor vehicle insurance policy  
593 covering the stolen motor vehicle; however, the payment of  
594 vehicle protection expenses at a preestablished flat amount of  
595 \$5,000 or less does not duplicate any benefits or expenses  
596 payable under any comprehensive motor vehicle insurance policy;  
597 or

598 (c)1. For the payment for paintless dent-removal services  
599 provided by a company whose primary business is providing such  
600 services.

601 2. "Paintless dent-removal" means the process of removing  
602 dents, dings, and creases, including hail damage, from a vehicle  
603 without affecting the existing paint finish, but does not  
604 include services that involve the replacement of vehicle body  
605 panels or sanding, bonding, or painting.

606 Section 11. Effective upon this act becoming a law,  
607 subsection (7) is added to section 634.031, Florida Statutes, to  
608 read:

609 634.031 License required.—

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610 (7) Any person who violates this section commits, in  
611 addition to any other violation, a misdemeanor of the first  
612 degree, punishable as provided in s. 775.082 or s. 775.083.

613 Section 12. Effective upon this act becoming a law,  
614 paragraph (b) of subsection (8) and paragraph (b) of subsection  
615 (11) of section 634.041, Florida Statutes, are amended to read:

616 634.041 Qualifications for license.—To qualify for and hold  
617 a license to issue service agreements in this state, a service  
618 agreement company must be in compliance with this part, with  
619 applicable rules of the commission, with related sections of the  
620 Florida Insurance Code, and with its charter powers and must  
621 comply with the following:

622 (8)

623 (b) A service agreement company does not have to establish  
624 and maintain an unearned premium reserve if it purchases and  
625 maintains contractual liability insurance in accordance with the  
626 following:

627 1. The insurance covers 100 percent of its claim exposure  
628 and is obtained from an insurer approved by the office which  
629 holds a certificate of authority to do business within this  
630 state.

631 2. If the service agreement company does not meet its  
632 contractual obligations, the contractual liability insurance  
633 policy binds its issuer to pay or cause to be paid to the  
634 service agreement holder all legitimate claims and cancellation  
635 refunds for all service agreements issued by the service  
636 agreement company while the policy was in effect. This  
637 requirement also applies to those service agreements for which  
638 no premium has been remitted to the insurer.

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639           3. If the issuer of the contractual liability policy is  
640 fulfilling the service agreements covered by the contractual  
641 liability policy and the service agreement holder cancels the  
642 service agreement, the issuer must make a full refund of  
643 unearned premium to the consumer, subject to the cancellation  
644 fee provisions of s. 634.121(3)~~(5)~~. The sales representative and  
645 agent must refund to the contractual liability policy issuer  
646 their unearned pro rata commission.

647           4. The policy may not be canceled, terminated, or  
648 nonrenewed by the insurer or the service agreement company  
649 unless a 90-day written notice thereof has been given to the  
650 office by the insurer before the date of the cancellation,  
651 termination, or nonrenewal.

652           5. The service agreement company must provide the office  
653 with the claims statistics.

654  
655 All funds or premiums remitted to an insurer by a motor vehicle  
656 service agreement company under this part shall remain in the  
657 care, custody, and control of the insurer and shall be counted  
658 as an asset of the insurer; provided, however, this requirement  
659 does not apply when the insurer and the motor vehicle service  
660 agreement company are affiliated companies and members of an  
661 insurance holding company system. If the motor vehicle service  
662 agreement company chooses to comply with this paragraph but also  
663 maintains a reserve to pay claims, such reserve shall only be  
664 considered an asset of the covered motor vehicle service  
665 agreement company and may not be simultaneously counted as an  
666 asset of any other entity.

667           (11)

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668 (b) Notwithstanding any other requirement of this part, a  
669 service agreement company maintaining an unearned premium  
670 reserve on all service agreements in accordance with paragraph  
671 (8) (a) may offer service agreements providing vehicle protection  
672 expenses if it maintains contractual liability insurance only on  
673 all service agreements providing vehicle protection expenses and  
674 continues to maintain the 50-percent reserve for all service  
675 agreements not providing vehicle protection expenses. A service  
676 agreement company maintaining contractual liability insurance  
677 for all service agreements providing vehicle protection expenses  
678 and the 50-percent reserve for all other service agreements  
679 must, in the service agreement register as required under s.  
680 634.136~~(2)(4)~~, distinguish between insured service agreements  
681 providing vehicle protection expenses and service agreements not  
682 providing vehicle protection expenses.

683 Section 13. Effective upon this act becoming a law,  
684 paragraph (d) is added to subsection (3) of section 634.095,  
685 Florida Statutes, and subsection (7) is added to that section,  
686 to read:

687 634.095 Prohibited acts.—Any service agreement company or  
688 salesperson that engages in one or more of the following acts  
689 is, in addition to any applicable denial, suspension,  
690 revocation, or refusal to renew or continue any appointment or  
691 license, guilty of a misdemeanor of the second degree,  
692 punishable as provided in s. 775.082 or s. 775.083:

693 (3) Issuing or causing to be issued any advertisement  
694 which:

695 (d) Is false, deceptive, or misleading with respect to:

696 1. The service agreement company's affiliation with a motor



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697 vehicle manufacturer;

698 2. The service agreement company's possession of  
699 information regarding a motor vehicle owner's current motor  
700 vehicle manufacturer's original equipment warranty;

701 3. The expiration of a motor vehicle owner's current motor  
702 vehicle manufacturer's original equipment warranty; or

703 4. Any requirement that the motor vehicle owner register  
704 for a new motor vehicle service agreement with the company in  
705 order to maintain coverage under the current motor vehicle  
706 service agreement or manufacturer's original equipment warranty.

707 (7) Remitting premiums received on motor vehicle service  
708 agreements sold to any person other than the licensed service  
709 agreement company that is obligated to perform under such  
710 agreement, if the agreement between such company and the  
711 salesperson requires that premiums be submitted directly to the  
712 service agreement company.

713 Section 14. Effective upon this act becoming a law, section  
714 634.121, Florida Statutes, is amended to read:

715 634.121 ~~Filing of Forms, required procedures, provisions.-~~

716 ~~(1) A service agreement form or related form may not be~~  
717 ~~issued or used in this state unless it has been filed with and~~  
718 ~~approved by the office. Upon application for a license, the~~  
719 ~~office shall require the applicant to submit for approval each~~  
720 ~~brochure, pamphlet, circular, form letter, advertisement, or~~  
721 ~~other sales literature or advertising communication addressed or~~  
722 ~~intended for distribution. The office shall disapprove any~~  
723 ~~document which is untrue, deceptive, or misleading or which~~  
724 ~~contains misrepresentations or omissions of material facts.~~

725 ~~(a) After an application has been approved, a licensee is~~

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726 ~~not required to submit brochures or advertisement to the office~~  
727 ~~for approval; however, a licensee may not have published, and a~~  
728 ~~person may not publish, any brochure or advertisement which is~~  
729 ~~untrue, deceptive, or misleading or which contains~~  
730 ~~misrepresentations or omissions of material fact.~~

731 ~~(b) For purposes of this section, brochures and advertising~~  
732 ~~includes, but is not limited to, any report, circular, public~~  
733 ~~announcement, certificate, or other printed matter or~~  
734 ~~advertising material which is designed or used to solicit or~~  
735 ~~induce any persons to enter into any motor vehicle service~~  
736 ~~agreement.~~

737 ~~(c) The office shall disapprove any service agreement form~~  
738 ~~providing vehicle protection expenses which does not clearly~~  
739 ~~indicate either the method for calculating the benefit to be~~  
740 ~~paid or provided to the service agreement holder or the~~  
741 ~~preestablished flat amount payable pursuant to the terms of the~~  
742 ~~service agreement. All service agreement forms providing vehicle~~  
743 ~~protection expenses shall clearly indicate the term of the~~  
744 ~~service agreement, whether new or used cars are eligible for the~~  
745 ~~vehicle protection product, and that the service agreement~~  
746 ~~holder may not make any claim against the Florida Insurance~~  
747 ~~Guarantee Association for vehicle protection expenses. The~~  
748 ~~service agreement shall be provided to a service agreement~~  
749 ~~holder on a form that provides only vehicle protection expenses.~~  
750 ~~A service agreement form providing vehicle protection expenses~~  
751 ~~must state that the service agreement holder must have in force~~  
752 ~~at the time of loss comprehensive motor vehicle insurance~~  
753 ~~coverage as a condition precedent to requesting payment of~~  
754 ~~vehicle protection expenses.~~

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755       ~~(2) Every filing required under this section must be made~~  
756 ~~not less than 30 days in advance of issuance or use. At the~~  
757 ~~expiration of 30 days from the date of filing, a form so filed~~  
758 ~~becomes approved unless prior thereto it has been affirmatively~~  
759 ~~disapproved by written notice of the office. The office may~~  
760 ~~extend by not more than an additional 15 days the period within~~  
761 ~~which it may affirmatively approve or disapprove any form by~~  
762 ~~giving notice of extension before the expiration of the initial~~  
763 ~~30-day period. At the expiration of any period as so extended~~  
764 ~~and in the absence of prior affirmative disapproval, the form~~  
765 ~~becomes approved.~~

766       (1)~~(3)~~ Before the sale of any service agreement, written  
767 notice must be given to the prospective purchaser by the service  
768 agreement company or its agent or salesperson, ~~on an office-~~  
769 ~~approved form,~~ that purchase of the service agreement is not  
770 required in order to purchase or obtain financing for a motor  
771 vehicle.

772       (2)~~(4)~~ All motor vehicle service agreements are assignable  
773 in a consumer transaction and must contain a statement in  
774 conspicuous, boldfaced type, informing the purchaser of the  
775 service agreement of her or his right to assign it to a  
776 subsequent retail purchaser of the motor vehicle covered by the  
777 service agreement and all conditions on such right of transfer.  
778 The assignment must occur within a period of time specified in  
779 the agreement, which period may not expire earlier than 15 days  
780 after the date of the sale or transfer of the motor vehicle. The  
781 service agreement company may charge an assignment fee not to  
782 exceed \$40.

783       (3)~~(5)~~(a) Each service agreement must contain a

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784 cancellation provision. Any service agreement is cancelable by  
785 the purchaser within 60 days after purchase. The refund must be  
786 100 percent of the gross premium paid, less any claims paid on  
787 the agreement. A reasonable administrative fee may be charged  
788 not to exceed 5 percent of the gross premium paid by the  
789 agreement holder.

790 (b) After the service agreement has been in effect for 60  
791 days, it may not be canceled by the insurer or service agreement  
792 company unless:

793 1. There has been a material misrepresentation or fraud at  
794 the time of sale of the service agreement;

795 2. The agreement holder has failed to maintain the motor  
796 vehicle as prescribed by the manufacturer;

797 3. The odometer has been tampered with or disabled and the  
798 agreement holder has failed to repair the odometer; or

799 4. For nonpayment of premium by the agreement holder, in  
800 which case the service agreement company shall provide the  
801 agreement holder notice of cancellation by certified mail.

802

803 If the service agreement is canceled by the insurer or service  
804 agreement company, the return of premium must not be less than  
805 100 percent of the paid unearned pro rata premium, less any  
806 claims paid on the agreement. If, after 60 days, the service  
807 agreement is canceled by the service agreement holder, the  
808 insurer or service agreement company shall return directly to  
809 the agreement holder not less than 90 percent of the unearned  
810 pro rata premium, less any claims paid on the agreement. The  
811 service agreement company remains responsible for full refunds  
812 to the consumer on canceled service agreements. However, the

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813 salesperson and agent are responsible for the refund of the  
814 unearned pro rata commission. A service agreement company may  
815 effectuate refunds through the issuing salesperson or agent.

816 (4)~~(6)~~ If the service agreement is canceled, pursuant to an  
817 order of liquidation, the salesperson or agent is responsible  
818 for refunding, and must refund, to the receiver the unearned pro  
819 rata commission.

820 (5)~~(7)~~ If a service agreement company violates any lawful  
821 order of the office or fails to meet its contractual obligations  
822 under this part, upon notice from the office, the sales  
823 representative or agent must refund to the service agreement  
824 holder the unearned pro rata commission, unless the sales  
825 representative or agent has made other arrangements,  
826 satisfactory to the office, with the service agreement holder.

827 (6)~~(8)~~ Each service agreement, which includes a copy of the  
828 application form, must be mailed or delivered to the agreement  
829 holder within 45 days after the date of purchase.

830 (7)~~(9)~~ Each service agreement form must contain in  
831 conspicuous, boldfaced type any statement or clause that places  
832 restrictions or limitations on the benefits offered or disclose  
833 such restrictions or limitations in regular type in a section of  
834 the service agreement containing a conspicuous, boldfaced type  
835 heading.

836 (8)~~(10)~~ If an insurer or service agreement company intends  
837 to use or require the use of remanufactured or used replacement  
838 parts, each service agreement form as well as all service  
839 agreement brochures must contain in conspicuous, boldfaced type  
840 a statement to that effect.

841 (9)~~(11)~~ Each service agreement form as well as all service

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842 agreement company sales brochures must clearly identify the  
843 name, address, and Florida license number of the licensed  
844 insurer or service agreement company.

845 (10)~~(12)~~ If a service agreement contains a rental car  
846 provision, it must disclose the terms and conditions of this  
847 benefit in conspicuous, boldfaced type or disclose such  
848 restrictions or limitations in regular type in a section of the  
849 service agreement containing a conspicuous, boldfaced type  
850 heading.

851 (11) By July 1, 2011, each service agreement sold in this  
852 state must be accompanied by a written disclosure to the  
853 consumer that the rate charged for the service agreement is not  
854 subject to regulation by the office. A service agreement company  
855 may comply with this requirement by including such disclosure in  
856 its service agreement form or in a separate written notice  
857 provided to the consumer at the time of sale.

858 Section 15. Effective upon this act becoming a law, section  
859 634.1213, Florida Statutes, is amended to read:

860 634.1213 Noncompliant forms ~~Grounds for disapproval.~~—The  
861 office may order a service agreement company to stop using  
862 ~~disapprove~~ any service agreement form that ~~or service agreement~~  
863 ~~company sales brochures filed under s. 634.121, or withdraw any~~  
864 ~~previous approval thereof, if the form or brochure:~~

865 (1) Is in any respect in violation of or does not comply  
866 with this part, any applicable provision of the Florida  
867 Insurance Code, or any applicable rule of the office ~~commission.~~

868 (2) Contains or incorporates by reference when such  
869 incorporation is otherwise permissible, any inconsistent,  
870 ambiguous, or misleading clauses, or exceptions and conditions

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871 which deceptively affect the risk purported to be assumed in the  
872 general coverage of the service agreement.

873 (3) Has any title, heading, or other indication of its  
874 provisions which is misleading.

875 (4) Is printed or otherwise reproduced in such manner as to  
876 render any material provision of the form substantially  
877 illegible.

878 (5) Contains any provision which is unfair or inequitable  
879 or which encourages misrepresentation.

880 (6) Contains any provision which makes it difficult to  
881 determine the actual insurer or service agreement company  
882 issuing the form.

883 (7) Contains any provision for reducing claim payments due  
884 to depreciation of parts, except for marine engines.

885 Section 16. Effective upon this act becoming a law,  
886 subsection (1) of section 634.137, Florida Statutes, is amended  
887 to read:

888 634.137 Financial and statistical reporting requirements.—

889 (1) By March 1 of each year, each service agreement company  
890 shall submit to the office annual financial reports on forms  
891 prescribed by the commission and furnished by the office ~~as~~  
892 ~~follows:~~

893 ~~(a) Reports for a period ending December 31 are due by~~  
894 ~~March 1.~~

895 ~~(b) Reports for a period ending March 31 are due by May 15.~~

896 ~~(c) Reports for a period ending June 30 are due by August~~  
897 ~~15.~~

898 ~~(d) Reports for a period ending September 30 are due by~~  
899 ~~November 15.~~

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900 Section 17. Effective upon this act becoming a law, section  
901 634.141, Florida Statutes, is amended to read:

902 634.141 Examination of companies.—

903 (1) Motor vehicle service agreement companies licensed  
904 under this part may ~~shall~~ be subject to periodic examination by  
905 the office in the same manner and subject to the same terms and  
906 conditions as applies to insurers under part II of chapter 624.  
907 The commission may by rule establish provisions whereby a  
908 company may be exempted from examination.

909 (2) The office shall determine whether to conduct an  
910 examination of a company by considering:

911 (a) The amount of time that the company has been  
912 continuously licensed and operating under the same management  
913 and control.

914 (b) The company's history of compliance with applicable  
915 law.

916 (c) The number of consumer complaints against the company.

917 (d) The financial condition of the company, demonstrated by  
918 the financial reports submitted pursuant to s. 634.137.

919 Section 18. Effective upon this act becoming a law,  
920 paragraph (b) of subsection (1) of section 634.1815, Florida  
921 Statutes, is amended to read:

922 634.1815 Rebating; when allowed.—

923 (1) No salesperson shall rebate any portion of his or her  
924 commission except as follows:

925 (b) The rebate shall be in accordance with a rebating  
926 schedule filed with and approved by the ~~salesperson with the~~  
927 service agreement company issuing the service agreement to which  
928 the rebate applies. The service agreement company shall maintain



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929 a copy of all rebating schedules for a period of 3 years.

930 Section 19. Effective upon this act becoming a law,  
931 subsection (13) of section 634.282, Florida Statutes, is  
932 amended, and subsection (17) is added to that section, to read:

933 634.282 Unfair methods of competition and unfair or  
934 deceptive acts or practices defined.—The following methods,  
935 acts, or practices are defined as unfair methods of competition  
936 and unfair or deceptive acts or practices:

937 (13) ILLEGAL DEALINGS IN PREMIUMS; EXCESS OR REDUCED  
938 CHARGES FOR MOTOR VEHICLE SERVICE AGREEMENTS.—

939 (a) Knowingly collecting any sum as a premium or charge for  
940 a motor vehicle service agreement, which is not then provided,  
941 or is not in due course to be provided, subject to acceptance of  
942 the risk by a service agreement company or an insurer, by a  
943 motor vehicle service agreement issued by a service agreement  
944 company or an insurer as permitted by this part.

945 (b) Knowingly collecting as a premium or charge for a motor  
946 vehicle service agreement any sum in excess of or less than the  
947 premium or charge applicable to such motor vehicle service  
948 agreement, ~~in accordance with the applicable classifications and~~  
949 ~~rates as filed with the office, and~~ as specified in the motor  
950 vehicle service agreement. However, there is no violation of  
951 this subsection if excess premiums or charges are refunded to  
952 the service agreement holder within 45 days after receipt of the  
953 agreement by the service agreement company or if the licensed  
954 sales representative's commission is reduced by the amount of  
955 any premium undercharge.

956 (17) FAILURE TO PROVIDE TERMS AND CONDITIONS PRIOR TO  
957 SALE.—Failing to provide a consumer with a complete sample copy

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958 of the terms and conditions of the service agreement prior to  
959 the time of sale upon a request for the same by the consumer. A  
960 service agreement company may comply with this subsection by  
961 providing the consumer with a sample copy of the terms and  
962 conditions of the service agreement or by directing the consumer  
963 to a website that displays a complete sample of the terms and  
964 conditions of the service agreement.

965

966 No provision of this section shall be deemed to prohibit a  
967 service agreement company or a licensed insurer from giving to  
968 service agreement holders, prospective service agreement  
969 holders, and others for the purpose of advertising, any article  
970 of merchandise having a value of not more than \$25.

971 Section 20. Effective upon this act becoming a law, section  
972 634.301, Florida Statutes, as amended by section 1 of chapter  
973 2007-235, Laws of Florida, is amended to read:

974 634.301 Definitions.—As used in this part, the term:

975 (1) "Gross written premiums" means the total amount of  
976 premiums, paid for the entire period of the home warranty,  
977 inclusive of commissions, for which the association is obligated  
978 under home warranties issued.

979 ~~(2) "Home improvement" means major remodeling, enclosure of~~  
980 ~~a garage, addition of a room, addition of a pool, and other like~~  
981 ~~items that add value to the residential property. The term does~~  
982 ~~not include normal maintenance for items such as painting,~~  
983 ~~reroofing, and other like items subject to normal wear and tear.~~

984 (2)(3) "Home warranty" or "warranty" means any contract or  
985 agreement÷

986 ~~(a) Offered in connection with the sale of residential~~

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987 ~~property;~~

988 ~~(b) Offered in connection with a loan of \$5,000 or more~~  
989 ~~which is secured by residential property that is the subject of~~  
990 ~~the warranty, but not in connection with the sale of such~~  
991 ~~property;~~

992 ~~(c) Offered in connection with a home improvement of \$7,500~~  
993 ~~or more for residential property that is the subject of the~~  
994 ~~warranty, but not in connection with the sale of such property;~~  
995 ~~or~~

996 ~~(d) Offered in connection with a home inspection service as~~  
997 ~~defined under s. 468.8311(4) or a mold assessment as defined~~  
998 ~~under s. 468.8411(3);~~

999  
1000 whereby a person undertakes to indemnify the warranty holder  
1001 against the cost of repair or replacement, or actually furnishes  
1002 repair or replacement, of any structural component or appliance  
1003 of a home, necessitated by wear and tear or an inherent defect  
1004 of any such structural component or appliance or necessitated by  
1005 the failure of an inspection to detect the likelihood of any  
1006 such loss. However, this part does not prohibit the giving of  
1007 usual performance guarantees by either the builder of a home or  
1008 the manufacturer or seller of an appliance, as long as no  
1009 identifiable charge is made for such guarantee. This part does  
1010 not permit the provision of indemnification against  
1011 consequential damages arising from the failure of any structural  
1012 component or appliance of a home, which practice constitutes the  
1013 transaction of insurance subject to all requirements of the  
1014 insurance code. This part does not apply to service contracts  
1015 entered into between consumers and nonprofit organizations or

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1016 cooperatives the members of which consist of condominium  
1017 associations and condominium owners and which perform repairs  
1018 and maintenance for appliances or maintenance of the residential  
1019 property. This part does not apply to a contract or agreement  
1020 offered ~~in connection with a sale of residential property~~ by a  
1021 warranty association in compliance with part III, provided such  
1022 contract or agreement only relates to the systems and appliances  
1023 of the covered residential property and does not cover any  
1024 structural component of the residential property.

1025 (3)~~(4)~~ "Home warranty association" means any corporation or  
1026 any other organization, other than an authorized insurer,  
1027 issuing home warranties.

1028 (4)~~(5)~~ "Impaired" means having liabilities in excess of  
1029 assets.

1030 (5)~~(6)~~ "Insolvent" means the inability of a corporation to  
1031 pay its debts as they become due in the usual course of its  
1032 business.

1033 (6)~~(7)~~ "Insurance code" means the Florida Insurance Code.

1034 (7)~~(8)~~ "Insurer" means any property or casualty insurer  
1035 duly authorized to transact such business in this state.

1036 (8)~~(9)~~ "Listing period" means the period of time  
1037 residential property is listed for sale with a licensed real  
1038 estate broker, beginning on the date the residence is first  
1039 listed for sale and ending on either the date the sale of the  
1040 residence is closed, the date the residence is taken off the  
1041 market, or the date the listing contract with the real estate  
1042 broker expires.

1043 (9)~~(10)~~ "Net assets" means the amount by which the total  
1044 statutory assets of an association exceed the total liabilities

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1045 of the association.

1046 (10)~~(11)~~ "Person" includes an individual, company,  
1047 corporation, association, insurer, agent, and every other legal  
1048 entity.

1049 (11)~~(12)~~ "Premium" means the total consideration received,  
1050 or to be received, by an insurer or home warranty association  
1051 for or related to the issuance and delivery of any binder or  
1052 warranty, including any charges designated as assessments or  
1053 fees for policies, surveys, inspections, or service or any other  
1054 charges.

1055 (12)~~(13)~~ "Sales representative" means any person with whom  
1056 an insurer or home inspection or warranty association has a  
1057 contract and who is utilized by such insurer or association for  
1058 the purpose of selling or issuing home warranties. The term  
1059 includes all employees of an insurer or association engaged  
1060 directly in the sale or issuance of home warranties.

1061 (13)~~(14)~~ "Structural component" means the roof, plumbing  
1062 system, electrical system, foundation, basement, walls,  
1063 ceilings, or floors of a home.

1064 Section 21. Effective upon this act becoming a law,  
1065 subsection (4) is added to section 634.303, Florida Statutes, to  
1066 read:

1067 634.303 License required.—

1068 (4) Any person who provides, offers to provide, or holds  
1069 oneself out as providing or offering to provide home warranties  
1070 in this state or from this state without holding a subsisting  
1071 license commits, in addition to any other violation, a  
1072 misdemeanor of the first degree, punishable as provided in s.  
1073 775.082 or s. 775.083.

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1074 Section 22. Effective upon this act becoming a law,  
1075 paragraph (f) of subsection (2) of section 634.308, Florida  
1076 Statutes, is amended to read:

1077 634.308 Grounds for suspension or revocation of license.—

1078 (2) The license of any home warranty association shall be  
1079 suspended, revoked, or not renewed if it is determined that such  
1080 association:

1081 (f) Has issued warranty contracts which renewal contracts  
1082 provide that the cost of renewal exceeds the then-current cost  
1083 for new warranty contracts, unless the increase is supported by  
1084 the claims history or claims cost data, or impose a fee for  
1085 inspection of the premises.

1086 Section 23. Effective upon this act becoming a law, section  
1087 634.312, Florida Statutes, is amended to read:

1088 634.312 Forms; required provisions and procedures Filing;  
1089 ~~approval of forms.~~—

1090 ~~(1) No warranty form or related form shall be issued or~~  
1091 ~~used in this state unless it has been filed with and approved by~~  
1092 ~~the office. Also upon application for a license, the office~~  
1093 ~~shall require the applicant to submit for approval each~~  
1094 ~~brochure, pamphlet, circular, form letter, advertisement, or~~  
1095 ~~other sales literature or advertising communication addressed or~~  
1096 ~~intended for distribution. Approval of the application~~  
1097 ~~constitutes approval of such documents, unless the applicant has~~  
1098 ~~consented otherwise in writing. The office shall disapprove any~~  
1099 ~~document which is untrue, deceptive, or misleading or which~~  
1100 ~~contains misrepresentations or omissions of material facts.~~

1101 ~~(a) After an application has been approved, a licensee is~~  
1102 ~~not required to submit brochures or advertisement to the office~~

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1103 ~~for approval; however, a licensee may not have published, and a~~  
1104 ~~person may not publish, any brochure or advertisement which is~~  
1105 ~~untrue, deceptive, or misleading or which contains~~  
1106 ~~misrepresentations or omissions of material fact.~~

1107 ~~(b) For purposes of this section, brochures and advertising~~  
1108 ~~includes, but is not limited to, any report, circular, public~~  
1109 ~~announcement, certificate, or other printed matter or~~  
1110 ~~advertising material which is designed or used to solicit or~~  
1111 ~~induce any persons to enter into any home warranty agreement.~~

1112 ~~(2) Every such filing shall be made not less than 30 days~~  
1113 ~~in advance of issuance or use. At the expiration of 30 days from~~  
1114 ~~date of filing, a form so filed shall be deemed approved unless~~  
1115 ~~prior thereto it has been affirmatively approved or disapproved~~  
1116 ~~by written order of the office.~~

1117 ~~(3) The office shall not approve any such form that imposes~~  
1118 ~~a fee for inspection of the premises.~~

1119 (1)~~(4)~~ All home warranty contracts are assignable in a  
1120 consumer transaction and must contain a statement informing the  
1121 purchaser of the home warranty of her or his right to assign it,  
1122 at least within 15 days from the date the home is sold or  
1123 transferred, to a subsequent retail purchaser of the home  
1124 covered by the home warranty and all conditions on such right of  
1125 transfer. The home warranty company may charge an assignment fee  
1126 not to exceed \$40. Home warranty assignments include, but are  
1127 not limited to, the assignment from a home builder who purchased  
1128 the home warranty to a subsequent home purchaser.

1129 (2)~~(5)~~ Subject to the insurer's or home warranty  
1130 association's requirement as to payment of premium, every home  
1131 warranty shall be mailed or delivered to the warranty holder not

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1132 later than 45 days after the effectuation of coverage, and the  
1133 application is part of the warranty contract document.

1134 (3)~~(6)~~ All home warranty contracts must state in  
1135 conspicuous, boldfaced type that the home warranty may not  
1136 provide listing period coverage free of charge.

1137 (4)~~(7)~~ All home warranty contracts must disclose any  
1138 exclusions, restrictions, or limitations on the benefits offered  
1139 or the coverage provided by the home warranty contract in  
1140 boldfaced type, and must contain, in boldfaced type, a statement  
1141 on the front page of the contract substantially similar to the  
1142 following: "Certain items and events are not covered by this  
1143 contract. Please refer to the exclusions listed on page .... of  
1144 this document."

1145 (5)~~(8)~~ Each home warranty contract shall contain a  
1146 cancellation provision. Any home warranty agreement may be  
1147 canceled by the purchaser within 10 days after purchase. The  
1148 refund must be 100 percent of the gross premium paid, less any  
1149 claims paid on the agreement. A reasonable administrative fee  
1150 may be charged, not to exceed 5 percent of the gross premium  
1151 paid by the warranty agreement holder. After the home warranty  
1152 agreement has been in effect for 10 days, if the contract is  
1153 canceled by the warranty holder, a return of premium shall be  
1154 based upon 90 percent of unearned pro rata premium less any  
1155 claims that have been paid. If the contract is canceled by the  
1156 association for any reason other than for fraud or  
1157 misrepresentation, a return of premium shall be based upon 100  
1158 percent of unearned pro rata premium, less any claims paid on  
1159 the agreement.

1160 (6) By July 1, 2011, each home warranty contract sold in



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1161 this state must be accompanied by a written disclosure to the  
1162 consumer that the rate charged for the contract is not subject  
1163 to regulation by the office. A home warranty association may  
1164 comply with this requirement by including such disclosure in its  
1165 home warranty contract form or in a separate written notice  
1166 provided to the consumer at the time of sale.

1167 Section 24. Effective upon this act becoming a law, section  
1168 634.3123, Florida Statutes, is amended to read:

1169 634.3123 Noncompliant ~~Grounds for disapproval of forms.~~—The  
1170 office may order a home warranty association to stop using any  
1171 contract shall disapprove any form that filed under s. 634.312  
1172 ~~or withdraw any previous approval if the form:~~

1173 (1) Is in violation of or does not comply with this part.

1174 (2) Contains or incorporates by reference, when such  
1175 incorporation is otherwise permissible, any inconsistent,  
1176 ambiguous, or misleading clauses or exceptions or conditions  
1177 which deceptively affect the risk purported to be assumed in the  
1178 general coverage of the contract.

1179 (3) Has any title, heading, or other indication of its  
1180 provisions which is misleading.

1181 (4) Is printed or otherwise reproduced in such a manner as  
1182 to render any material provision of the form illegible.

1183 (5) Provides that the cost of renewal exceeds the then-  
1184 current cost for new warranty contracts, unless the increase is  
1185 supported by the claims history or claims cost data, or impose a  
1186 fee for inspection of the premises.

1187 Section 25. Effective upon this act becoming a law, section  
1188 634.314, Florida Statutes, is amended to read:

1189 634.314 Examination of associations.—

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1190       (1) Home warranty associations licensed under this part may  
1191 ~~shall~~ be subject to periodic examinations by the office, in the  
1192 same manner and subject to the same terms and conditions as  
1193 apply to insurers under part II of chapter 624 of the insurance  
1194 code.

1195       (2) The office shall determine whether to conduct an  
1196 examination of a home warranty association by considering:

1197       (a) The amount of time that the association has been  
1198 continuously licensed and operating under the same management  
1199 and control.

1200       (b) The association's history of compliance with applicable  
1201 law.

1202       (c) The number of consumer complaints against the  
1203 association.

1204       (d) The financial condition of the association,  
1205 demonstrated by the financial reports submitted pursuant to s.  
1206 634.313.

1207       Section 26. Effective upon this act becoming a law,  
1208 paragraph (b) of subsection (1) of section 634.3205, Florida  
1209 Statutes, is amended to read:

1210       634.3205 Rebating; when allowed.—

1211       (1) No sales representative shall rebate any portion of his  
1212 or her commission except as follows:

1213       (b) The rebate shall be in accordance with a rebating  
1214 schedule filed with and approved by the ~~sales representative~~  
1215 ~~with the~~ home warranty association issuing the home warranty to  
1216 which the rebate applies. The home warranty association shall  
1217 maintain a copy of all rebating schedules for a period of 3  
1218 years.

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1219 Section 27. Effective upon this act becoming a law,  
1220 subsection (8) of section 634.336, Florida Statutes, is amended,  
1221 and subsection (9) is added to that section, to read:

1222 634.336 Unfair methods of competition and unfair or  
1223 deceptive acts or practices defined.—The following methods,  
1224 acts, or practices are defined as unfair methods of competition  
1225 and unfair or deceptive acts or practices:

1226 (8) COERCION OF DEBTORS.—When a home warranty is sold ~~as~~  
1227 ~~authorized by s. 634.301(3)(b):~~

1228 (a) Requiring, as a condition precedent or condition  
1229 subsequent to the lending of the money or the extension of the  
1230 credit or any renewal thereof, that the person to whom such  
1231 credit is extended purchase a home warranty; or

1232 (b) Failing to provide the advice required by s. 634.344.

1233 (9) FAILURE TO PROVIDE TERMS AND CONDITIONS PRIOR TO SALE.—  
1234 Failing to provide a consumer with a complete sample copy of the  
1235 terms and conditions of the home warranty contract prior to the  
1236 time of sale upon a request for the same by the consumer. A home  
1237 warranty association may comply with this subsection by  
1238 providing the consumer with a sample copy of the terms and  
1239 conditions of the home warranty contract or by directing the  
1240 consumer to a website that displays a complete sample of the  
1241 terms and conditions of the contract.

1242 Section 28. Effective upon this act becoming a law, section  
1243 634.344, Florida Statutes, is amended to read:

1244 634.344 Coercion of debtor prohibited.—

1245 (1) When a home warranty is sold in connection with the  
1246 lending of money ~~as authorized by s. 634.301(3)(b)~~, a ~~no~~ person  
1247 may not require, as a condition precedent or condition

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1248 subsequent to the lending of the money or the extension of the  
1249 credit or any renewal thereof, that the person to whom such  
1250 money or credit is extended purchase a home warranty.

1251 (2) When a home warranty is purchased in connection with  
1252 the lending of money ~~as authorized by s. 634.301(3)(b)~~, the  
1253 insurer or home warranty association or the sales representative  
1254 of the insurer or home warranty association shall advise the  
1255 borrower or purchaser in writing that Florida law prohibits the  
1256 lender from requiring the purchase of a home warranty as a  
1257 condition precedent or condition subsequent to the making of the  
1258 loan.

1259 Section 29. Effective upon this act becoming a law,  
1260 subsection (5) of section 634.401, Florida Statutes, is amended  
1261 to read:

1262 634.401 Definitions.—As used in this part, the term:

1263 (5) "Indemnify" means to undertake repair or replacement of  
1264 a consumer product, or pay compensation for such repair or  
1265 replacement by cash, check, store credit, gift card, or other  
1266 similar means, in return for the payment of a segregated  
1267 premium, when such consumer product suffers operational failure.

1268 Section 30. Effective upon this act becoming a law,  
1269 subsection (5) is added to section 634.403, Florida Statutes, to  
1270 read:

1271 634.403 License required.—

1272 (5) Any person who provides, offers to provide, or holds  
1273 oneself out as providing or offering to provide a service  
1274 warranty in this state or from this state without holding a  
1275 subsisting license commits, in addition to any other violation,  
1276 a misdemeanor of the first degree, punishable as provided in s.

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1277 775.082 or s. 775.083.

1278 Section 31. Effective upon this act becoming a law,  
1279 paragraph (e) of subsection (3) of section 634.406, Florida  
1280 Statutes, is amended to read:

1281 634.406 Financial requirements.—

1282 (3) An association will not be required to establish an  
1283 unearned premium reserve if it has purchased contractual  
1284 liability insurance which demonstrates to the satisfaction of  
1285 the office that 100 percent of its claim exposure is covered by  
1286 such policy. The contractual liability insurance shall be  
1287 obtained from an insurer that holds a certificate of authority  
1288 to do business within the state. For the purposes of this  
1289 subsection, the contractual liability policy shall contain the  
1290 following provisions:

1291 (e) In the event the issuer of the contractual liability  
1292 policy is fulfilling the service warranty covered by policy and  
1293 in the event the service warranty holder cancels the service  
1294 warranty, it is the responsibility of the contractual liability  
1295 policy issuer to effectuate a full refund of unearned premium to  
1296 the consumer. This refund shall be subject to the cancellation  
1297 fee provisions of s. 634.414~~(3)~~. The salesperson or agent shall  
1298 refund to the contractual liability policy issuer the unearned  
1299 pro rata commission.

1300 Section 32. Effective upon this act becoming a law, section  
1301 634.414, Florida Statutes, is amended to read:

1302 634.414 Forms; required provisions ~~Filing; approval of~~  
1303 ~~forms.~~—

1304 ~~(1) No service warranty form or related form shall be~~  
1305 ~~issued or used in this state unless it has been filed with and~~

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1306 approved by the office. Upon application for a license, the  
1307 office shall require the applicant to submit for approval each  
1308 brochure, pamphlet, circular, form letter, advertisement, or  
1309 other sales literature or advertising communication addressed or  
1310 intended for distribution. The office shall disapprove any  
1311 document which is untrue, deceptive, or misleading or which  
1312 contains misrepresentations or omissions of material facts.

1313 (a) After an application has been approved, a licensee is  
1314 not required to submit brochures or advertisement to the office  
1315 for approval; however, a licensee may not have published, and a  
1316 person may not publish, any brochure or advertisement which is  
1317 untrue, deceptive, or misleading or which contains  
1318 misrepresentations or omissions of material fact.

1319 (b) For purposes of this section, brochures and advertising  
1320 includes, but is not limited to, any report, circular, public  
1321 announcement, certificate, or other printed matter or  
1322 advertising material which is designed or used to solicit or  
1323 induce any persons to enter into any service warranty agreement.

1324 (2) Each filing shall be made not less than 30 days in  
1325 advance of its issuance or use. At the expiration of 30 days  
1326 from date of filing, a form so filed shall be deemed approved  
1327 unless prior thereto it has been affirmatively disapproved by  
1328 written order of the office.

1329 (1)~~(3)~~ Each service warranty contract shall contain a  
1330 cancellation provision. If ~~In the event~~ the contract is canceled  
1331 by the warranty holder, return of premium shall be based upon no  
1332 less than 90 percent of unearned pro rata premium less any  
1333 claims that have been paid or less the cost of repairs made on  
1334 behalf of the warranty holder. If ~~In the event~~ the contract is

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1335 canceled by the association, return of premium shall be based  
1336 upon 100 percent of unearned pro rata premium, less any claims  
1337 paid or the cost of repairs made on behalf of the warranty  
1338 holder.

1339 (2) By July 1, 2011, each service warranty contract sold in  
1340 this state must be accompanied by a written disclosure to the  
1341 consumer that the rate charged for the contract is not subject  
1342 to regulation by the office. A service warranty association may  
1343 comply with this requirement by including such disclosure in its  
1344 service warranty contract form or in a separate written notice  
1345 provided to the consumer at the time of sale.

1346 ~~(4) The name of the service warranty association issuing~~  
1347 ~~the contract must be more prominent than any other company name~~  
1348 ~~or program name on the service warranty form or sales brochure.~~

1349 Section 33. Effective upon this act becoming a law, section  
1350 634.4145, Florida Statutes, is amended to read:

1351 634.4145 Noncompliant Grounds for disapproval of forms.—The  
1352 office may order a service warranty association to stop using  
1353 any contract shall disapprove any form that filed under s.  
1354 ~~634.414 if the form:~~

1355 (1) Violates this part;

1356 (2) Is misleading in any respect;

1357 (3) Is reproduced so that any material provision is  
1358 substantially illegible; or

1359 (4) Contains provisions which are unfair or inequitable or  
1360 which encourage misrepresentation.

1361 Section 34. Effective upon this act becoming a law, section  
1362 634.415, Florida Statutes, is amended to read:

1363 634.415 Tax on premiums; annual statement; reports~~;~~

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1364 ~~quarterly statements.-~~

1365 (1) In addition to the license fees provided in this part  
1366 for service warranty associations and license taxes as provided  
1367 in the insurance code as to insurers, each such association and  
1368 insurer shall, annually on or before March 1, file with the  
1369 office its annual statement, in the form prescribed by the  
1370 commission, showing all premiums or assessments received by it  
1371 in connection with the issuance of service warranties in this  
1372 state during the preceding calendar year and using accounting  
1373 principles which will enable the office to ascertain whether the  
1374 financial requirements set forth in s. 634.406 have been  
1375 satisfied.

1376 (2) The gross amount of premiums and assessments is subject  
1377 to the sales tax imposed by s. 212.0506.

1378 (3) The office may levy a fine of up to \$100 a day for each  
1379 day an association neglects to file the annual statement in the  
1380 form and within the time provided by this part. The amount of  
1381 the fine shall be established by rules adopted by the  
1382 commission. The office shall deposit all sums collected by it  
1383 under this section to the credit of the Insurance Regulatory  
1384 Trust Fund.

1385 ~~(4) In addition to an annual statement, the office may~~  
1386 ~~require of licensees, under oath and in the form prescribed by~~  
1387 ~~it, quarterly statements or special reports which it deems~~  
1388 ~~necessary to the proper supervision of licensees under this~~  
1389 ~~part. For manufacturers as defined in s. 634.401, the office~~  
1390 ~~shall require only the annual audited financial statements of~~  
1391 ~~the warranty operations and corporate reports as filed by the~~  
1392 ~~manufacturer with the Securities and Exchange Commission,~~



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1393 ~~provided that the office may require additional reporting by~~  
1394 ~~manufacturers upon a showing by the office that annual reporting~~  
1395 ~~is insufficient to protect the interest of purchasers of service~~  
1396 ~~warranty agreements in this state or fails to provide sufficient~~  
1397 ~~proof of the financial status required by this part.~~

1398 (4)~~(5)~~ The office may suspend or revoke the license of a  
1399 service warranty association failing to file its annual  
1400 statement ~~or quarterly report~~ when due.

1401 (5)~~(6)~~ The commission may by rule require each service  
1402 warranty association to submit to the office, as the commission  
1403 may designate, all or part of the information contained in the  
1404 financial statements and reports required by this section in a  
1405 computer-readable form compatible with the electronic data  
1406 processing system specified by the office.

1407 Section 35. Effective upon this act becoming a law, section  
1408 634.416, Florida Statutes, is amended to read:

1409 634.416 Examination of associations.—

1410 (1) (a) Service warranty associations licensed under this  
1411 part ~~may be~~ ~~are~~ subject to periodic examination by the office,  
1412 in the same manner and subject to the same terms and conditions  
1413 that apply to insurers under part II of chapter 624.

1414 (b) The office shall determine whether to conduct an  
1415 examination of a service warranty association by considering:

1416 1. The amount of time that the association has been  
1417 continuously licensed and operating under the same management  
1418 and control.

1419 2. The association's history of compliance with applicable  
1420 law.

1421 3. The number of consumer complaints against the

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1422 association.

1423 4. The financial condition of the association, demonstrated  
1424 by the financial reports submitted pursuant to s. 634.313.

1425 (2) ~~However,~~ The rate charged a service warranty  
1426 association by the office for examination may be adjusted to  
1427 reflect the amount collected for the Form 10-K filing fee as  
1428 provided in this section.

1429 (3) On or before May 1 of each year, an association may  
1430 submit to the office the Form 10-K, as filed with the United  
1431 States Securities and Exchange Commission pursuant to the  
1432 Securities Exchange Act of 1934, as amended. Upon receipt and  
1433 review of the most current Form 10-K, the office may waive the  
1434 examination requirement; if the office determines not to waive  
1435 the examination, such examination will be limited to that  
1436 examination necessary to ensure compliance with this part. The  
1437 Form 10-K shall be accompanied by a filing fee of \$2,000 to be  
1438 deposited into the Insurance Regulatory Trust Fund.

1439 (4) ~~(2)~~ The office is not required to examine an association  
1440 that has less than \$20,000 in gross written premiums as  
1441 reflected in its most recent annual statement. The office may  
1442 examine such an association if it has reason to believe that the  
1443 association may be in violation of this part or is otherwise in  
1444 an unsound financial condition. If the office examines an  
1445 association that has less than \$20,000 in gross written  
1446 premiums, the examination fee may not exceed 5 percent of the  
1447 gross written premiums of the association.

1448 Section 36. Effective upon this act becoming a law,  
1449 paragraph (b) of subsection (1) of section 634.4225, Florida  
1450 Statutes, is amended to read:

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1451 634.4225 Rebating; when allowed.—

1452 (1) No sales representative shall rebate any portion of his  
1453 or her commission except as follows:

1454 (b) The rebate shall be in accordance with a rebating  
1455 schedule filed with and approved by the ~~sales representative~~  
1456 ~~with the~~ association issuing the service warranty to which the  
1457 rebate applies. The association shall maintain a copy of all  
1458 rebating schedules for a period of 3 years.

1459 Section 37. Effective upon this act becoming a law,  
1460 subsection (9) is added to section 634.436, Florida Statutes, to  
1461 read:

1462 634.436 Unfair methods of competition and unfair or  
1463 deceptive acts or practices defined.—The following methods,  
1464 acts, or practices are defined as unfair methods of competition  
1465 and unfair or deceptive acts or practices:

1466 (9) FAILURE TO PROVIDE TERMS AND CONDITIONS PRIOR TO SALE.—  
1467 Failing to provide a consumer with a complete sample copy of the  
1468 terms and conditions of the service warranty prior to before the  
1469 time of sale upon a request for the same by the consumer. A  
1470 service warranty association may comply with this subsection by  
1471 providing the consumer with a sample copy of the terms and  
1472 conditions of the warranty contract or by directing the consumer  
1473 to a website that displays a complete sample of the terms and  
1474 conditions of the contract.

1475 Section 38. Effective upon this act becoming a law,  
1476 subsections (2), (3), (4), and (5) of section 634.136, Florida  
1477 Statutes, are amended to read:

1478 634.136 Office records required.—Each licensed motor  
1479 vehicle service contract company, as a minimum requirement for

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1480 permanent office records, shall maintain:

1481 ~~(2) Memorandum journals showing the blank service agreement~~  
1482 ~~forms issued to the company salespersons and recording the~~  
1483 ~~delivery of the forms to the dealer.~~

1484 ~~(3) Memorandum journals showing the service contract forms~~  
1485 ~~received by the motor vehicle dealers and indicating the~~  
1486 ~~disposition of the forms by the dealer.~~

1487 (2)~~(4)~~ A detailed service agreement register, in numerical  
1488 order by service agreement number, of agreements in force, which  
1489 register shall include the following information: service  
1490 agreement number, date of issue, issuing dealer, name of  
1491 agreement holder, whether the agreement is covered by  
1492 contractual liability insurance or the unearned premium reserve  
1493 account, description of motor vehicle, service agreement period  
1494 and mileage, gross premium, commission to salespersons,  
1495 commission to dealer, and net premium.

1496 (3)~~(5)~~ A detailed claims register, in numerical order by  
1497 service agreement number, which register shall include the  
1498 following information: service agreement number, date of issue,  
1499 date of claim, type of claim, issuing dealer, amount of claim,  
1500 date claim paid, and, if applicable, disposition other than  
1501 payment and reason therefor.

1502 Section 39. Effective upon this act becoming a law,  
1503 subsections (4) and (5) of section 634.313, Florida Statutes,  
1504 are amended to read:

1505 634.313 Tax on premiums; annual statement; reports.—

1506 ~~(4) In addition to an annual statement, the office may~~  
1507 ~~require of licensees, under oath and in the form prescribed by~~  
1508 ~~it, such additional regular or special reports as it may deem~~

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1509 ~~necessary to the proper supervision of licensees under this~~  
1510 ~~part.~~

1511 (4)~~(5)~~ The commission may by rule require each home  
1512 warranty association to submit to the office, as the commission  
1513 may designate, all or part of the information contained in the  
1514 financial reports required by this section in a computer-  
1515 readable form compatible with the electronic data processing  
1516 system specified by the office.

1517 Section 40. Effective upon this act becoming a law,  
1518 sections 634.1216 and 634.3126, Florida Statutes, are repealed.

1519 Section 41. This act may be cited as the "Safeguard Our  
1520 Seniors Act."

1521 Section 42. Paragraph (a) of subsection (1) of section  
1522 624.310, Florida Statutes, is amended to read:

1523 624.310 Enforcement; cease and desist orders; removal of  
1524 certain persons; fines.—

1525 (1) DEFINITIONS.—For the purposes of this section, the  
1526 term:

1527 (a) "Affiliated party" means any person who directs or  
1528 participates in the conduct of the affairs of a licensee and who  
1529 is:

1530 1. A director, officer, employee, trustee, committee  
1531 member, or controlling stockholder of a licensee or a subsidiary  
1532 or service corporation of the licensee, other than a controlling  
1533 stockholder which is a holding company, or an agent of a  
1534 licensee or a subsidiary or service corporation of the licensee;

1535 2. A person who has filed or is required to file a  
1536 statement or any other information required to be filed under s.  
1537 628.461 or s. 628.4615;

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1538 3. A stockholder, other than a stockholder that is a  
1539 holding company of the licensee, who participates in the conduct  
1540 of the affairs of the licensee; ~~or~~

1541 4. An independent contractor who:

1542 a. Renders a written opinion required by the laws of this  
1543 state under her or his professional credentials on behalf of the  
1544 licensee, which opinion is reasonably relied on by the  
1545 department or office in the performance of its duties; or

1546 b. Affirmatively and knowingly conceals facts, through a  
1547 written misrepresentation to the department or office, with  
1548 knowledge that such misrepresentation:

1549 (I) Constitutes a violation of the insurance code or a  
1550 lawful rule or order of the department, commission, or office;  
1551 and

1552 (II) Directly and materially endangers the ability of the  
1553 licensee to meet its obligations to policyholders; or-

1554 5. A third-party marketer who aids or abets a licensee in a  
1555 violation of the insurance code relating to the sale of an  
1556 annuity to a person 65 years of age or older.

1557  
1558 For the purposes of this subparagraph, any representation of  
1559 fact made by an independent contractor on behalf of a licensee,  
1560 affirmatively communicated as a representation of the licensee  
1561 to the independent contractor, shall not be considered a  
1562 misrepresentation by the independent contractor.

1563 Section 43. Section 624.46223, Florida Statutes, is created  
1564 to read:

1565 624.46223 Notice of intent to withdraw.—Any association,  
1566 fund, or pool authorized by state law and created for the

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1567 purpose of forming a risk-management mechanism or providing self  
1568 insurance for public entities in this state may not require its  
1569 members to provide more than 45 days' notice of the member's  
1570 intention to withdraw as a prerequisite for withdrawing from the  
1571 association, fund, or pool.

1572 Section 44. Paragraph (j) of subsection (2) of section  
1573 626.221, Florida Statutes, is amended to read:

1574 626.221 Examination requirement; exemptions.—

1575 (2) However, no such examination shall be necessary in any  
1576 of the following cases:

1577 (j) An applicant for license as a customer representative  
1578 who has earned the designation of Accredited Advisor in  
1579 Insurance (AAI) from the Insurance Institute of America, the  
1580 designation of Certified Insurance Counselor (CIC) from the  
1581 Society of Certified Insurance Service Counselors, the  
1582 designation of Accredited Customer Service Representative (ACSR)  
1583 from the Independent Insurance Agents of America, the  
1584 designation of Certified Professional Service Representative  
1585 (CPSR) from the National Foundation for Certified Professional  
1586 Service Representatives, the designation of Certified Insurance  
1587 Service Representative (CISR) from the Society of Certified  
1588 Insurance Service Representatives, or the designation of  
1589 Certified Insurance Representative (CIR) from the National  
1590 Association of Christian Catastrophe Insurance Adjusters. Also,  
1591 an applicant for license as a customer representative who has  
1592 earned an associate degree or bachelor's degree from an  
1593 accredited college or university with at least 9 academic hours  
1594 of property and casualty insurance curriculum, or the  
1595 equivalent, or has earned the designation of Certified Customer

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1596 Service Representative (CCSR) from the Florida Association of  
1597 Insurance Agents, or the designation of Registered Customer  
1598 Service Representative (RCSR) from a regionally accredited  
1599 postsecondary institution in this state, or the designation of  
1600 Professional Customer Service Representative (PCSR) from the  
1601 Professional Career Institute, whose curriculum has been  
1602 approved by the department and whose curriculum includes  
1603 comprehensive analysis of basic property and casualty lines of  
1604 insurance and testing at least equal to that of standard  
1605 department testing for the customer representative license. The  
1606 department shall adopt rules establishing standards for the  
1607 approval of curriculum.

1608 Section 45. Subsection (13) of section 626.025, Florida  
1609 Statutes, is amended to read:

1610 626.025 Consumer protections.—To transact insurance, agents  
1611 shall comply with consumer protection laws, including the  
1612 following, as applicable:

1613 (13) The prohibition against the designation of a life  
1614 insurance agent or his or her family member as the beneficiary  
1615 of life insurance policy sold to an individual other than a  
1616 family member under s. 626.798.

1617 Section 46. Paragraph (k) of subsection (3) of section  
1618 626.2815, Florida Statutes, is amended to read:

1619 626.2815 Continuing education required; application;  
1620 exceptions; requirements; penalties.—

1621 (3)

1622 (k) Any person who holds a license to solicit or sell life  
1623 insurance in this state must complete a minimum of 3 hours in  
1624 continuing education, approved by the department, on the subject



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1625 of suitability in annuity and life insurance transactions. This  
1626 requirement does not apply to an agent who does not have any  
1627 active life insurance or annuity contracts. In applying this  
1628 exemption, the department may require the filing of a  
1629 certification attesting that the agent has not sold life  
1630 insurance or annuities during the continuing education  
1631 compliance cycle in question and does not have any active life  
1632 insurance or annuity contracts. A licensee may use the hours  
1633 obtained under this paragraph to satisfy the requirement for  
1634 continuing education in ethics under paragraph (a).

1635 Section 47. Subsection (13) is added to section 626.621,  
1636 Florida Statutes, to read:

1637 626.621 Grounds for discretionary refusal, suspension, or  
1638 revocation of agent's, adjuster's, customer representative's,  
1639 service representative's, or managing general agent's license or  
1640 appointment.—The department may, in its discretion, deny an  
1641 application for, suspend, revoke, or refuse to renew or continue  
1642 the license or appointment of any applicant, agent, adjuster,  
1643 customer representative, service representative, or managing  
1644 general agent, and it may suspend or revoke the eligibility to  
1645 hold a license or appointment of any such person, if it finds  
1646 that as to the applicant, licensee, or appointee any one or more  
1647 of the following applicable grounds exist under circumstances  
1648 for which such denial, suspension, revocation, or refusal is not  
1649 mandatory under s. 626.611:

1650 (13) Has been the subject of or has had a license, permit,  
1651 appointment, registration, or other authority to conduct  
1652 business subject to any decision, finding, injunction,  
1653 suspension, prohibition, revocation, denial, judgment, final

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1654 agency action, or administrative order by any court of competent  
1655 jurisdiction, administrative law proceeding, state agency,  
1656 federal agency, national securities, commodities, or option  
1657 exchange, or national securities, commodities, or option  
1658 association involving a violation of any federal or state  
1659 securities or commodities law or any rule or regulation adopted  
1660 thereunder, or a violation of any rule or regulation of any  
1661 national securities, commodities, or options exchange or  
1662 national securities, commodities, or options association.

1663 Section 48. Subsection (3) of section 626.641, Florida  
1664 Statutes, is amended to read:

1665 626.641 Duration of suspension or revocation.—

1666 (3) (a) If any of an individual's licenses as an agent or  
1667 customer representative, or the eligibility to hold such license  
1668 or licenses has same, as to the same individual have been  
1669 revoked at two separate times, the department may shall not  
1670 thereafter grant or issue any license under this code as to such  
1671 individual.

1672 (b) If a license as an agent or customer representative or  
1673 the eligibility to hold such a license has been revoked  
1674 resulting from the solicitation or sale of an insurance product  
1675 to a person 65 years of age or older, the department may not  
1676 thereafter grant or issue any license under this code to such  
1677 individual.

1678 Section 49. Section 626.798, Florida Statutes, is amended  
1679 to read:

1680 626.798 Life agent as beneficiary; prohibition.—No life  
1681 agent shall, with respect to the placement of life insurance  
1682 coverage with a life insurer covering the life of a person who

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1683 is not a family member of the agent, handle in his or her  
1684 capacity as a life agent the placement of such coverage when the  
1685 agent placing the coverage or a family member of such agent  
1686 ~~receives a commission therefor and~~ is the named beneficiary  
1687 under the life insurance policy, unless the life agent or family  
1688 member has an insurable interest in the life of such person.  
1689 However, the agent or a family member of such agent may not be  
1690 designated as a trustee or guardian or be granted power of  
1691 attorney unless he or she is a family member of the policy owner  
1692 or insured, or is a bank or trust company duly authorized to act  
1693 as a fiduciary. For the purposes of this section, the phrase  
1694 "not a family member," with respect to a life agent, means an  
1695 individual who is not related to the life agent as father,  
1696 mother, son, daughter, brother, sister, grandfather,  
1697 grandmother, uncle, aunt, first cousin, nephew, niece, husband,  
1698 wife, father-in-law, mother-in-law, brother-in-law, sister-in-  
1699 law, stepfather, stepmother, stepson, stepdaughter, stepbrother,  
1700 stepsister, half brother, or half sister. For the purposes of  
1701 this section, the term "insurable interest" means that the life  
1702 agent has an actual, lawful, and substantial economic interest  
1703 in the safety and preservation of the life of the insured or a  
1704 reasonable expectation of benefit or advantage from the  
1705 continued life of the insured.

1706 Section 50. Paragraphs (a) and (b) of subsection (3) of  
1707 section 626.9521, Florida Statutes, are amended, and subsections  
1708 (4) and (5) are added to that section, to read:

1709 626.9521 Unfair methods of competition and unfair or  
1710 deceptive acts or practices prohibited; penalties.—

1711 (3) (a) If a person violates s. 626.9541(1) (1), the offense

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1712 known as "twisting," or violates s. 626.9541(1)(aa), the offense  
1713 known as "churning," the person commits a misdemeanor of the  
1714 first degree, punishable as provided in s. 775.082, and an  
1715 administrative fine not greater than \$5,000 shall be imposed for  
1716 each nonwillful violation or an administrative fine not greater  
1717 than \$75,000 ~~\$40,000~~ shall be imposed for each willful  
1718 violation. To impose an administrative fine for a willful  
1719 violation ~~criminal penalties~~ under this paragraph, the practice  
1720 of "churning" or "twisting" must involve fraudulent conduct.

1721 (b) If a person violates s. 626.9541(1)(ee) by willfully  
1722 submitting fraudulent signatures on an application or policy-  
1723 related document, the person commits a felony of the third  
1724 degree, punishable as provided in s. 775.082, and an  
1725 administrative fine not greater than \$5,000 shall be imposed for  
1726 each nonwillful violation or an administrative fine not greater  
1727 than \$75,000 ~~\$40,000~~ shall be imposed for each willful  
1728 violation.

1729 (4) A licensee must make all reasonable efforts to  
1730 ascertain the consumer's age at the time an insurance  
1731 application is completed.

1732 (5) If a consumer who is a senior citizen is a victim, a  
1733 video deposition of the victim may be used for any purpose in  
1734 any administrative proceeding conducted pursuant to chapter 120  
1735 if all parties are given proper notice of the deposition in  
1736 accordance with the Florida Rules of Civil Procedure.

1737 Section 51. Subsection (4) of section 626.99, Florida  
1738 Statutes, is amended to read:

1739 626.99 Life insurance solicitation.—

1740 (4) DISCLOSURE REQUIREMENTS.—

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1741 (a) The insurer shall provide to each prospective purchaser  
1742 a buyer's guide and a policy summary prior to accepting the  
1743 applicant's initial premium or premium deposit, unless the  
1744 policy for which application is made provides an unconditional  
1745 refund for a period of at least 14 days, or unless the policy  
1746 summary contains an offer of such an unconditional refund. 7 In  
1747 these instances, ~~which event~~ the buyer's guide and policy  
1748 summary must be delivered with the policy or prior to delivery  
1749 of the policy.

1750 (b) With respect to fixed and variable annuities, ~~the~~  
1751 ~~insurer shall provide to each prospective purchaser a buyer's~~  
1752 ~~guide to annuities and a contract summary as provided in the~~  
1753 ~~National Association of Insurance Commissioners (NAIC) Model~~  
1754 ~~Annuity and Deposit Fund Regulation and the policy must provide~~  
1755 ~~an unconditional refund for a period of at least 14 days. For~~  
1756 ~~fixed annuities, the buyer's guide shall be in the form as~~  
1757 ~~provided by the National Association of Insurance Commissioners~~  
1758 ~~(NAIC) Annuity Disclosure Model Regulation, until such time as a~~  
1759 ~~buyer's guide is developed by the department, at which time the~~  
1760 ~~department guide must be used. For variable annuities, a policy~~  
1761 ~~summary may be used, which may be contained in a prospectus,~~  
1762 ~~until such time as a buyer's guide is developed by NAIC or the~~  
1763 ~~department, at which time one of those guides must be used. If~~  
1764 ~~the prospective owner of an annuity contract is 65 years of age~~  
1765 ~~or older:~~

1766 1. An unconditional refund of premiums paid for a fixed  
1767 annuity contract, including any contract fees or charges, must  
1768 be available for a period of 21 days; and

1769 2. An unconditional refund for variable or market value

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1770 annuity contracts must be available for a period of 21 days. The  
1771 unconditional refund shall be equal to the cash surrender value  
1772 provided in the annuity contract, plus any fees or charges  
1773 deducted from the premiums or imposed under the contract. This  
1774 subparagraph does not apply if the prospective owner is an  
1775 accredited investor, as defined in Regulation D as adopted by  
1776 the United States Securities and Exchange Commission.

1777 (c) The insurer shall attach a cover page to any annuity  
1778 policy informing the purchaser of the unconditional refund  
1779 period prescribed in paragraph (b). The cover page must also  
1780 provide contact information for the issuing company and the  
1781 selling agent, the department's toll-free help line, and any  
1782 other information required by the department by rule. The cover  
1783 page is part of the policy and is subject to review by the  
1784 office pursuant to s. 627.410.

1785 (d)~~(b)~~ The insurer shall provide a buyer's guide and a  
1786 policy summary to any prospective purchaser upon request.

1787 Section 52. Subsections (3) and (5) of section 627.4554,  
1788 Florida Statutes, as amended by section 9 of chapter 2008-237,  
1789 Laws of Florida, are amended, present subsection (9) of that  
1790 section is renumbered as subsection (10), and a new subsection  
1791 (9) is added to that section, to read:

1792 627.4554 Annuity investments by seniors.—

1793 (3) DEFINITIONS.—For purposes of this section, the term:

1794 (a) "Annuity contract" means a fixed annuity, equity  
1795 indexed annuity, fixed equity indexed annuity, or variable  
1796 annuity that is individually solicited, whether the product is  
1797 classified as an individual annuity or a group annuity.

1798 (b) "Accredited investor" means any person who comes within

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1799 any of the following categories, or who the issuer reasonably  
1800 believes comes within any of the following categories, at the  
1801 time of the sale of an annuity to that person:

1802 1. The person's net worth or joint net worth with his or  
1803 her spouse, at the time of the purchase, exceeds \$1 million; or

1804 2. The person had an individual income in excess of  
1805 \$200,000 in each of the 2 most recent years, or joint income  
1806 with his or her spouse in excess of \$300,000 in each of those  
1807 years, and has a reasonable expectation of reaching the same  
1808 income level in the current year.

1809 (c) ~~(b)~~ "Recommendation" means advice provided by an  
1810 insurance agent, or an insurer if no insurance agent is  
1811 involved, to an individual senior consumer which results in a  
1812 purchase or exchange of an annuity in accordance with that  
1813 advice.

1814 (d) ~~(e)~~ "Senior consumer" means a person 65 years of age or  
1815 older. In the event of a joint purchase by more than one party,  
1816 a purchaser is considered to be a senior consumer if any of the  
1817 parties is age 65 or older.

1818 (5) MITIGATION OF RESPONSIBILITY.—

1819 (a) The office may order an insurer to take reasonably  
1820 appropriate corrective action, including rescission of the  
1821 policy or contract and a full refund of the premiums paid or the  
1822 accumulation value, whichever is greater, for any senior  
1823 consumer harmed by a violation of this section by the insurer or  
1824 the insurer's insurance agent.

1825 (b) The department may order:

1826 1. An insurance agent to take reasonably appropriate  
1827 corrective action, including monetary restitution of penalties

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1828 or fees incurred by the senior consumer, for any senior consumer  
1829 harmed by a violation of this section by the insurance agent.

1830 2. A managing general agency or insurance agency that  
1831 employs or contracts with an insurance agent to sell or solicit  
1832 the sale of annuities to senior consumers to take reasonably  
1833 appropriate corrective action for any senior consumer harmed by  
1834 a violation of this section by the insurance agent.

1835 (c) The department shall, in addition to any other penalty  
1836 authorized under chapter 626, order an insurance agent to pay  
1837 restitution to any senior consumer who has been deprived of  
1838 money by the agent's misappropriation, conversion, or unlawful  
1839 withholding of monies belonging to the senior consumer in the  
1840 course of a transaction involving annuities. The amount of  
1841 restitution required to be paid pursuant to this paragraph may  
1842 not exceed the amount misappropriated, converted, or unlawfully  
1843 withheld. This paragraph does not limit or restrict a person's  
1844 right to seek other remedies as provided by law.

1845 (d)~~(e)~~ Any applicable penalty under the Florida Insurance  
1846 Code for a violation of paragraph (4) (a), paragraph (4) (b), or  
1847 subparagraph (4) (c)2. may be reduced or eliminated, according to  
1848 a schedule adopted by the office or the department, as  
1849 appropriate, if corrective action for the senior consumer was  
1850 taken promptly after a violation was discovered.

1851 (9) PROHIBITED CHARGES.—An annuity contract issued to a  
1852 senior consumer may not contain a surrender or deferred sales  
1853 charge for a withdrawal of money from an annuity exceeding 10  
1854 percent of the amount withdrawn. The charge shall be reduced so  
1855 that no surrender or deferred sales charge exists after the end  
1856 of the 10th policy year or 10 years after the premium is paid,



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1857 whichever is later. This subsection does not apply to annuities  
1858 purchased by an accredited investor or to those annuities  
1859 specified in paragraph (7) (b).

1860 Section 53. Except as otherwise expressly provided in this  
1861 act and except for this section, which shall take effect  
1862 becoming a law, this act shall take effect January 1, 2011.