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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/19/2014	.	
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The Committee on Banking and Insurance (Richter) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraphs (a) and (c) of subsection (6) and subsections (7) and (8) of section 624.501, Florida Statutes, are amended to read:

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

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in advance, fees, licenses, and miscellaneous charges as follows:

(6) Insurance representatives, property, marine, casualty, and surety insurance.

(a) Agent's original appointment and biennial renewal or continuation thereof, each insurer or unaffiliated agent making an appointment:

Appointment fee.....$42.00
State tax.....12.00
County tax.....6.00
Total.....$60.00

(c) Nonresident agent's original appointment and biennial renewal or continuation thereof, appointment fee, each insurer or unaffiliated agent making an appointment.....$60.00

(7) Life insurance agents.

(a) Agent's original appointment and biennial renewal or continuation thereof, each insurer or unaffiliated agent making an appointment:

Appointment fee.....$42.00
State tax.....12.00
County tax.....6.00
Total.....$60.00

(b) Nonresident agent's original appointment and biennial renewal or continuation thereof, appointment fee, each insurer or unaffiliated agent making an appointment.....$60.00

(8) Health insurance agents.

(a) Agent's original appointment and biennial renewal or continuation thereof, each insurer or unaffiliated agent making an appointment:

Appointment fee.....$42.00
State tax.....12.00
County tax.....6.00
Total.....$60.00

(b) Nonresident agent's original appointment and biennial renewal or continuation thereof, appointment fee, each insurer or unaffiliated agent making an appointment.....$60.00

Section 2. Present subsection (18) of section 626.015, Florida Statutes, is renumbered as subsection (19), and a new subsection (18) is added to that section, to read:

626.015 Definitions.—As used in this part:

(18) "Unaffiliated insurance agent" means a licensed insurance agent, except a limited lines agent, who is self-appointed and who practices as an independent consultant in the business of analyzing or abstracting insurance policies, providing insurance advice or counseling, or making specific recommendations or comparisons of insurance products for a fee established in advance by written contract signed by the parties. An unaffiliated insurance agent may not be affiliated with an insurer, insurer-appointed insurance agent, or insurance agency contracted with or employing insurer-appointed insurance agents.

Section 3. Effective January 1, 2015, section 626.0428, Florida Statutes, is amended to read:

626.0428 Agency personnel powers, duties, and limitations.—

(1) An individual employed by an agent or agency on salary who devotes full time to clerical work, with incidental taking of insurance applications or quoting or receiving premiums on incoming inquiries in the office of the agent or agency, is not

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deemed to be an agent or customer representative if his or her compensation does not include in whole or in part any commissions on such business and is not related to the production of applications, insurance, or premiums.

(2) An employee or authorized representative located at a designated branch of an agent or agency may not bind insurance coverage unless licensed and appointed as an agent or customer representative.

(3) An employee or authorized representative of an agent or agency may not initiate contact with any person for the purpose of soliciting insurance unless licensed and appointed as an agent or customer representative. As to title insurance, an employee of an agent or agency may not initiate contact with any individual proposed insured for the purpose of soliciting title insurance unless licensed as a title insurance agent or exempt from such licensure pursuant to s. 626.8417(4).

(4)(a) Each place of business established by an agent or agency, firm, corporation, or association must be in the active full-time charge of a licensed and appointed agent holding the required agent licenses to transact the lines of insurance being handled at the location.

(b) Notwithstanding paragraph (a), the licensed agent in charge of an insurance agency may also be the agent in charge of additional branch office locations of the agency if insurance activities requiring licensure as an insurance agent do not occur at any location when an agent is not physically present and unlicensed employees at the location do not engage in insurance activities requiring licensure as an insurance agent or customer representative.

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(c) An insurance agency and each branch place of business of an insurance agency shall designate an agent in charge and file the name and license number of the agent in charge and the physical address of the insurance agency location with the department and the department's website. The designation of the agent in charge may be changed at the option of the agency. A change of the designated agent in charge is effective upon notice to the department. Notice to the department must be provided within 30 days after such change.

(d) An insurance agency location may not conduct the business of insurance unless an agent in charge is designated by and providing services to the agency at all times. If the agent in charge designated with the department ends his or her affiliation with the agency for any reason and the agency fails to designate another agent in charge within 30 days as provided in paragraph (c) and such failure continues for 90 days, the agency license automatically expires on the 91st day after the last date of employment of the last designated agent in charge.

(e) For purposes of this subsection, an "agent in charge" is the licensed and appointed agent responsible for the supervision of all individuals within an insurance agency location, regardless of whether the agent in charge handles a specific transaction or deals with the general public in the solicitation or negotiation of insurance contracts or the collection or accounting of money.

(f) An agent in charge of an insurance agency is accountable for the wrongful acts, misconduct, or violations of this code committed by the licensee or by any person under his or her supervision while acting on behalf of the agency.

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However, an agent in charge is not criminally liable for any act unless the agent in charge personally committed the act or knew or should have known of the act and of the facts constituting a violation of this code.

Section 4. Paragraph (b) of subsection (1) and subsection (7) of section 626.112, Florida Statutes, is amended to read:

626.112 License and appointment required; agents, customer representatives, adjusters, insurance agencies, service representatives, managing general agents.—

(1)

(b) Except as provided in subsection (6) or in applicable department rules, and in addition to other conduct described in this chapter with respect to particular types of agents, a license as an insurance agent, service representative, customer representative, or limited customer representative is required in order to engage in the solicitation of insurance. Effective October 1, 2014, limited customer representative licenses may not be issued. For purposes of this requirement, as applicable to ~~any of~~ the license types described in this section, the solicitation of insurance is the attempt to persuade any person to purchase an insurance product by:

1. Describing the benefits or terms of insurance coverage, including premiums or rates of return;

2. Distributing an invitation to contract to prospective purchasers;

3. Making general or specific recommendations as to insurance products;

4. Completing orders or applications for insurance products;

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5. Comparing insurance products, advising as to insurance matters, or interpreting policies or coverages; or

6. Offering or attempting to negotiate on behalf of another person a viatical settlement contract as defined in s. 626.9911.

However, an employee leasing company licensed under ~~pursuant to~~ chapter 468 which is seeking to enter into a contract with an employer that identifies products and services offered to employees may deliver proposals for the purchase of employee leasing services to prospective clients of the employee leasing company setting forth the terms and conditions of doing business; classify employees as permitted by s. 468.529; collect information from prospective clients and other sources as necessary to perform due diligence on the prospective client and to prepare a proposal for services; provide and receive enrollment forms, plans, and other documents; and discuss or explain in general terms the conditions, limitations, options, or exclusions of insurance benefit plans available to the client or employees of the employee leasing company were the client to contract with the employee leasing company. Any advertising materials or other documents describing specific insurance coverages must identify and be from a licensed insurer or its licensed agent or a licensed and appointed agent employed by the employee leasing company. The employee leasing company may not advise or inform the prospective business client or individual employees of specific coverage provisions, exclusions, or limitations of particular plans. As to clients for which the employee leasing company is providing services pursuant to s. 468.525(4), the employee leasing company may engage in

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activities permitted by ss. 626.7315, 626.7845, and 626.8305, subject to the restrictions specified in those sections. If a prospective client requests more specific information concerning the insurance provided by the employee leasing company, the employee leasing company must refer the prospective business client to the insurer or its licensed agent or to a licensed and appointed agent employed by the employee leasing company.

Section 5. Effective January 1, 2015, subsection (7) of section 626.112, Florida Statutes, is amended to read:

626.112 License and appointment required; agents, customer representatives, adjusters, insurance agencies, service representatives, managing general agents.—

(7)(a) An ~~Effective October 1, 2006, no~~ individual, firm, partnership, corporation, association, or ~~any~~ other entity may not ~~shall~~ act in its own name or under a trade name, directly or indirectly, as an insurance agency~~,~~ unless it possesses ~~complies with s. 626.172 with respect to possessing~~ an insurance agency license issued pursuant to s. 626.172 for each place of business at which it engages in ~~any~~ activity that ~~which~~ may be performed only by a licensed insurance agent. However, an insurance agency that is owned and operated by a single licensed agent conducting business in his or her individual name and not employing or otherwise using the services of or appointing other licensees is exempt from the agency licensing requirements of this subsection.

(b) A branch place of business which is established by a licensed agency is considered a branch agency and is not required to be licensed if it transacts business under the same name and federal tax identification number as the licensed

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agency, has designated a licensed agent in charge of the location as required by s. 626.0428, and has submitted the address and telephone number of the location to the department for inclusion in the licensing record of the licensed agency within 30 days after insurance transactions begin at the location ~~Each agency engaged in business in this state before January 1, 2003, which is wholly owned by insurance agents currently licensed and appointed under this chapter, each incorporated agency whose voting shares are traded on a securities exchange, each agency designated and subject to supervision and inspection as a branch office under the rules of the National Association of Securities Dealers, and each agency whose primary function is offering insurance as a service or member benefit to members of a nonprofit corporation may file an application for registration in lieu of licensure in accordance with s. 626.172(3). Each agency engaged in business before October 1, 2006, shall file an application for licensure or registration on or before October 1, 2006~~.

(c)~~1.~~ If an agency is required to be licensed but fails to file an application for licensure in accordance with this section, the department shall impose on the agency an administrative penalty ~~in an amount~~ of up to $10,000.

~~2. If an agency is eligible for registration but fails to file an application for registration or an application for licensure in accordance with this section, the department shall impose on the agency an administrative penalty in an amount of up to $5,000.~~

(d)~~(b)~~ Effective October 1, 2015, the department must automatically convert the registration of an approved ~~a~~

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registered insurance agency to ~~shall, as a condition precedent to continuing business, obtain~~ an insurance agency license ~~if the department finds that, with respect to any majority owner, partner, manager, director, officer, or other person who manages or controls the agency, any person has:~~

~~1. Been found guilty of, or has pleaded guilty or nolo contendere to, a felony in this state or any other state relating to the business of insurance or to an insurance agency, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of the cases~~.

~~2. Employed any individual in a managerial capacity or in a capacity dealing with the public who is under an order of revocation or suspension issued by the department. An insurance agency may request, on forms prescribed by the department, verification of any person's license status. If a request is mailed within 5 working days after an employee is hired, and the employee's license is currently suspended or revoked, the agency shall not be required to obtain a license, if the unlicensed person's employment is immediately terminated.~~

~~3. Operated the agency or permitted the agency to be operated in violation of s. 626.747.~~

~~4. With such frequency as to have made the operation of the agency hazardous to the insurance-buying public or other persons:~~

~~a. Solicited or handled controlled business. This subparagraph shall not prohibit the licensing of any lending or financing institution or creditor, with respect to insurance only, under credit life or disability insurance policies of borrowers from the institutions, which policies are subject to~~

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~~part IX of chapter 627.~~

~~b. Misappropriated, converted, or unlawfully withheld moneys belonging to insurers, insureds, beneficiaries, or others and received in the conduct of business under the license.~~

~~c. Unlawfully rebated, attempted to unlawfully rebate, or unlawfully divided or offered to divide commissions with another.~~

~~d. Misrepresented any insurance policy or annuity contract, or used deception with regard to any policy or contract, done either in person or by any form of dissemination of information or advertising.~~

~~e. Violated any provision of this code or any other law applicable to the business of insurance in the course of dealing under the license.~~

~~f. Violated any lawful order or rule of the department.~~

~~g. Failed or refused, upon demand, to pay over to any insurer he or she represents or has represented any money coming into his or her hands belonging to the insurer.~~

~~h. Violated the provision against twisting as defined in s. 626.9541(1)(l).~~

~~i. In the conduct of business, engaged in unfair methods of competition or in unfair or deceptive acts or practices, as prohibited under part IX of this chapter.~~

~~j. Willfully overinsured any property insurance risk.~~

~~k. Engaged in fraudulent or dishonest practices in the conduct of business arising out of activities related to insurance or the insurance agency.~~

~~l. Demonstrated lack of fitness or trustworthiness to engage in the business of insurance arising out of activities~~

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~~related to insurance or the insurance agency.~~

~~m. Authorized or knowingly allowed individuals to transact insurance who were not then licensed as required by this code.~~

~~5. Knowingly employed any person who within the preceding 3 years has had his or her relationship with an agency terminated in accordance with paragraph (d).~~

~~6. Willfully circumvented the requirements or prohibitions of this code.~~

Section 6. Subsections (2), (3), and (4) of section 626.172, Florida Statutes, are amended to read:

626.172 Application for insurance agency license.—

(2) An application for an insurance agency license must ~~shall~~ be signed by an individual required to be listed in the application under paragraph (a) ~~the owner or owners of the agency. If the agency is incorporated, the application shall be signed by the president and secretary of the corporation~~. An insurance agency may allow a third party to complete, submit, and sign an application on the insurance agency's behalf, but the insurance agency is responsible for ensuring that the information on the application is true and correct and is accountable for any misstatements or misrepresentations. The application for an insurance agency license must ~~shall~~ include:

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

(b) The residence address of each person required to be

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listed in the application under paragraph (a).

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

(d) The name, physical address, e-mail address, and telephone number ~~location~~ of each branch agency and the date that the branch location begins transacting insurance ~~office and the name under which each agency office conducts or will conduct business~~.

(e) The name of each agent to be in full-time charge of an agency office and specification of which office, including branch locations.

(f) The fingerprints of each of the following:

1. A sole proprietor;

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

~~3. Each owner of an unincorporated agency;~~

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

~~5. The president, senior vice presidents, treasurer, secretary, and directors of the agency; and~~

~~6. Any other person who directs or participates in the management or control of the agency, whether through the ownership of voting securities, by contract, or otherwise~~.

Fingerprints must be taken by a law enforcement agency or other

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entity approved by the department and must be accompanied by the fingerprint processing fee specified in s. 624.501. Fingerprints must ~~shall~~ be processed in accordance with s. 624.34. However, fingerprints need not be filed for an ~~any~~ individual who is currently licensed and appointed under this chapter. This paragraph does not apply to corporations whose voting shares are traded on a securities exchange.

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

(3)~~(h) Beginning October 1, 2005,~~ The department must ~~shall~~ accept the uniform application for nonresident agency licensure. The department may adopt by rule revised versions of the uniform application.

~~(3) The department shall issue a registration as an insurance agency to any agency that files a written application with the department and qualifies for registration. The application for registration shall require the agency to provide the same information required for an agency licensed under subsection (2), the agent identification number for each owner who is a licensed agent, proof that the agency qualifies for registration as provided in s. 626.112(7), and any other additional information that the department determines is necessary in order to demonstrate that the agency qualifies for registration. The application must be signed by the owner or~~

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~~owners of the agency. If the agency is incorporated, the application must be signed by the president and the secretary of the corporation. An agent who owns the agency need not file fingerprints with the department if the agent obtained a license under this chapter and the license is currently valid.~~

~~(a) If an application for registration is denied, the agency must file an application for licensure no later than 30 days after the date of the denial of registration.~~

~~(b) A registered insurance agency must file an application for licensure no later than 30 days after the date that any person who is not a licensed and appointed agent in this state acquires any ownership interest in the agency. If an agency fails to file an application for licensure in compliance with this paragraph, the department shall impose an administrative penalty in an amount of up to $5,000 on the agency.~~

~~(c) Sections 626.6115 and 626.6215 do not apply to agencies registered under this subsection.~~

(4) The department must ~~shall~~ issue a license ~~or registration~~ to each agency upon approval of the application, and each agency location must ~~shall~~ display the license ~~or registration~~ prominently in a manner that makes it clearly visible to any customer or potential customer who enters the agency location.

Section 7. Present subsection (6) of section 626.311, Florida Statutes, is redesignated as subsection (7), and a new subsection (6) is added to that section, to read:

626.311 Scope of license.—

(6) An agent who appoints his or her license as an unaffiliated insurance agent may not hold an appointment from an

insurer for any license he or she holds; transact, solicit, or service an insurance contract on behalf of an insurer; interfere with commissions received or to be received by an insurer-appointed insurance agent or an insurance agency contracted with or employing insurer-appointed insurance agents; or receive compensation or any other thing of value from an insurer, an insurer-appointed insurance agent, or an insurance agency contracted with or employing insurer-appointed insurance agents for any transaction or referral occurring after the date of appointment as an unaffiliated insurance agent. An unaffiliated insurance agent may continue to receive commissions on sales that occurred before the date of appointment as an unaffiliated insurance agent if the receipt of such commissions is disclosed when making recommendations or evaluating products for a client that involve products of the entity from which the commissions are received.

Section 8. Paragraph (d) of subsection (1) of section 626.321, Florida Statutes, is amended to read:

626.321 Limited licenses.—

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

(d) *Motor vehicle rental insurance.*—

1. License covering only insurance of the risks set forth in this paragraph when offered, sold, or solicited with and incidental to the rental or lease of a motor vehicle and which applies only to the motor vehicle that is the subject of the lease or rental agreement and the occupants of the motor

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vehicle:

a. Excess motor vehicle liability insurance providing coverage in excess of the standard liability limits provided by the lessor in the lessor's lease to a person renting or leasing a motor vehicle from the licensee's employer for liability arising in connection with the negligent operation of the leased or rented motor vehicle.

b. Insurance covering the liability of the lessee to the lessor for damage to the leased or rented motor vehicle.

c. Insurance covering the loss of or damage to baggage, personal effects, or travel documents of a person renting or leasing a motor vehicle.

d. Insurance covering accidental personal injury or death of the lessee and any passenger who is riding or driving with the covered lessee in the leased or rented motor vehicle.

2. Insurance under a motor vehicle rental insurance license may be issued only if the lease or rental agreement is for up to ~~no more than~~ 60 days, the lessee is not provided coverage for more than 60 consecutive days per lease period, and the lessee is given written notice that his or her personal insurance policy providing coverage on an owned motor vehicle may provide coverage of such risks and that the purchase of the insurance is not required in connection with the lease or rental of a motor vehicle. If the lease is extended beyond 60 days, the coverage may be extended ~~one time~~ only once for up to ~~a period not to exceed an additional~~ 60 days. Insurance may be provided to the lessee as an additional insured on a policy issued to the licensee's employer.

3. The license may be issued only to the full-time salaried

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employee of a licensed general lines agent or to a business entity that offers motor vehicles for rent or lease if insurance sales activities authorized by the license are in connection with and incidental to the rental or lease of a motor vehicle.

a. A license issued to a business entity that offers motor vehicles for rent or lease encompasses each office, branch office, employee, authorized representative located at a designated branch, or place of business making use of the entity's business name in order to offer, solicit, and sell insurance pursuant to this paragraph.

b. The application for licensure must list the name, address, and phone number for each office, branch office, or place of business which ~~that~~ is to be covered by the license. The licensee shall notify the department of the name, address, and phone number of any new location that is to be covered by the license before the new office, branch office, or place of business engages in the sale of insurance pursuant to this paragraph. The licensee must notify the department within 30 days after closing or terminating an office, branch office, or place of business. Upon receipt of the notice, the department shall delete the office, branch office, or place of business from the license.

c. A licensed and appointed entity is directly responsible and accountable for all acts of the licensee's employees.

Section 9. Effective January, 1, 2015, section 626.382, Florida Statutes, is amended to read:

626.382 Continuation, expiration of license; insurance agencies.—The license of an ~~any~~ insurance agency ~~shall be issued for a period of 3 years and~~ shall continue in force until

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canceled, suspended, or revoked~~,~~ or until it is otherwise terminated or becomes expired by operation of law. ~~A license may be renewed by submitting a renewal request to the department on a form adopted by department rule.~~

Section 10. Section 626.601, Florida Statutes, is amended to read:

626.601 Improper conduct; investigation ~~inquiry~~; fingerprinting.—

(1) The department or office may, upon its own motion or upon a written complaint signed by an ~~any~~ interested person and filed with the department or office, inquire into the ~~any~~ alleged improper conduct of any licensed, approved, or certified licensee, insurance agency, agent, adjuster, service representative, managing general agent, customer representative, title insurance agent, title insurance agency, mediator, neutral evaluator, navigator, continuing education course provider, instructor, school official, or monitor group under this code. The department or office may thereafter initiate an investigation of ~~any~~ such individual or entity ~~licensee~~ if it has reasonable cause to believe that the individual or entity ~~licensee~~ has violated any provision of the insurance code. During the course of its investigation, the department or office shall contact the individual or entity ~~licensee~~ being investigated unless it determines that contacting such individual or entity ~~person~~ could jeopardize the successful completion of the investigation or cause injury to the public.

(2) In the investigation by the department or office of the alleged misconduct, the individual or entity ~~licensee~~ shall, if ~~whenever so~~ required by the department or office, open the

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individual's or entity's ~~cause his or her~~ books and records ~~to be open~~ for inspection for the purpose of such investigation ~~inquiries~~.

(3) ~~The~~ Complaints against an individual or entity ~~any licensee~~ may be informally alleged and are not required to include ~~need not be in any such~~ language ~~as is~~ necessary to charge a crime on an indictment or information.

(4) The expense for any hearings or investigations conducted pursuant to this section ~~under this law~~, as well as the fees and mileage of witnesses, may be paid out of the appropriate fund.

(5) If the department or office, after investigation, has reason to believe that an individual ~~a licensee~~ may have been found guilty of or pleaded guilty or nolo contendere to a felony or a crime related to the business of insurance in this or any other state or jurisdiction, the department or office may require the individual ~~licensee~~ to file with the department or office a complete set of his or her fingerprints, ~~which shall be~~ accompanied by the fingerprint processing fee set forth in s. 624.501. The fingerprints shall be taken by an authorized law enforcement agency or other department-approved entity.

(6) The complaint and any information obtained pursuant to the investigation by the department or office are confidential and ~~are~~ exempt from ~~the provisions of~~ s. 119.07~~,~~ unless the department or office files a formal administrative complaint, emergency order, or consent order against the individual or entity ~~licensee~~. ~~Nothing in~~ This subsection does not ~~shall be construed to~~ prevent the department or office from disclosing the complaint or such information as it deems necessary to

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conduct the investigation, to update the complainant as to the status and outcome of the complaint, or to share such information with any law enforcement agency or other regulatory body.

Section 11. Effective January 1, 2015, section 626.747, Florida Statutes, is repealed.

Section 12. Effective January 1, 2015, subsection (1) of section 626.8411, Florida Statutes, is amended to read:

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

(1) The following provisions ~~of part II~~ applicable to general lines agents or agencies also apply to title insurance agents or agencies:

(a) Section 626.734, relating to liability of certain agents.

(b) Section 626.0428(4)(a) and (b) ~~626.747~~, relating to branch agencies.

(c) Section 626.749, relating to place of business in residence.

(d) Section 626.753, relating to sharing of commissions.

(e) Section 626.754, relating to rights of agent following termination of appointment.

Section 13. Subsections (14) and (18) of section 626.854, Florida Statutes, are amended to read:

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

~~(14) A company employee adjuster, independent adjuster,~~

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~~attorney, investigator, or other persons acting on behalf of an insurer that needs access to an insured or claimant or to the insured property that is the subject of a claim must provide at least 48 hours' notice to the insured or claimant, public adjuster, or legal representative before scheduling a meeting with the claimant or an onsite inspection of the insured property. The insured or claimant may deny access to the property if the notice has not been provided. The insured or claimant may waive the 48-hour notice.~~

(17) ~~(18) The provisions of~~ Subsections (5)-(16) ~~(5)-(17)~~ apply only to residential property insurance policies and condominium unit owner policies as defined in s. 718.111(11).

Section 14. Paragraph (c) of subsection (2) and subsection (3) of section 626.8805, Florida Statutes, are amended to read:

626.8805 Certificate of authority to act as administrator.—

(2) The administrator shall file with the office an application for a certificate of authority upon a form to be adopted by the commission and furnished by the office, which application shall include or have attached the following information and documents:

(c) The names, addresses, official positions, and professional qualifications of the individuals employed or retained by the administrator who are responsible for the conduct of the affairs of the administrator, including all members of the board of directors, board of trustees, executive committee, or other governing board or committee, and the principal officers in the case of a corporation or~~,~~ the partners or members in the case of a partnership or association~~, and any other person who exercises control or influence over the affairs~~

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of the administrator.

(3) The applicant shall make available for inspection by the office copies of all contracts relating to services provided by the administrator to ~~with~~ insurers or other persons using ~~utilizing~~ the services of the administrator.

Section 15. Subsections (1) and (3) of section 626.8817, Florida Statutes, are amended to read:

626.8817 Responsibilities of insurance company with respect to administration of coverage insured.—

(1) If an insurer uses the services of an administrator, the insurer is responsible for determining the benefits, premium rates, underwriting criteria, and claims payment procedures applicable to the coverage and for securing reinsurance, if any. The rules pertaining to these matters shall be provided, in writing, by the insurer or its designee to the administrator. The responsibilities of the administrator as to any of these matters shall be set forth in a ~~the~~ written agreement binding upon ~~between~~ the administrator and the insurer.

(3) If ~~In cases in which~~ an administrator administers benefits for more than 100 certificateholders on behalf of an insurer, the insurer shall, at least semiannually, conduct a review of the operations of the administrator. At least one such review must be an onsite audit of the operations of the administrator. The insurer may contract with a qualified third party to conduct such review.

Section 16. Subsections (1) and (4) of section 626.882, Florida Statutes, are amended to read:

626.882 Agreement between administrator and insurer; required provisions; maintenance of records.—

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(1) A ~~No~~ person may not act as an administrator without a written agreement, as required under s. 626.8817, which specifies the rights, duties, and obligations of the ~~between such person as~~ administrator and ~~an~~ insurer.

(4) If a policy is issued to a trustee or trustees, a copy of the trust agreement and any amendments to that agreement shall be furnished to the insurer or its designee by the administrator and shall be retained as part of the official records of both the administrator and the insurer for the duration of the policy and for 5 years thereafter.

Section 17. Subsections (3), (4), and (5) of section 626.883, Florida Statutes, are amended to read:

626.883 Administrator as intermediary; collections held in fiduciary capacity; establishment of account; disbursement; payments on behalf of insurer.—

(3) If charges or premiums deposited in a fiduciary account have been collected on behalf of or for more than one insurer, the administrator shall keep records clearly recording the deposits in and withdrawals from such account on behalf of or for each insurer. The administrator shall, upon request of an insurer or its designee, furnish such insurer or designee with copies of records pertaining to deposits and withdrawals on behalf of or for such insurer.

(4) The administrator may not pay any claim by withdrawals from a fiduciary account. Withdrawals from such account shall be made as provided in the written agreement required under ss. 626.8817 and 626.882 ~~between the administrator and the insurer~~ for any of the following:

(a) Remittance to an insurer entitled to such remittance.

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(b) Deposit in an account maintained in the name of such insurer.

(c) Transfer to and deposit in a claims-paying account, with claims to be paid as provided by such insurer.

(d) Payment to a group policyholder for remittance to the insurer entitled to such remittance.

(e) Payment to the administrator of the commission, fees, or charges of the administrator.

(f) Remittance of return premium to the person or persons entitled to such ~~return~~ premium.

(5) All claims paid by the administrator from funds collected on behalf of the insurer shall be paid only on drafts of, and as authorized by, such insurer or its designee.

Section 18. Subsection (3) of section 626.884, Florida Statutes, is amended to read:

626.884 Maintenance of records by administrator; access; confidentiality.—

(3) The insurer shall retain the right of continuing access to books and records maintained by the administrator sufficient to permit the insurer to fulfill all of its contractual obligations to insured persons, subject to any restrictions in the written agreement pertaining to ~~between the insurer and the administrator on~~ the proprietary rights of the parties in such books and records.

Section 19. Subsections (1) and (2) of section 626.89, Florida Statutes, are amended to read:

626.89 Annual financial statement and filing fee; notice of change of ownership.—

(1) Each authorized administrator shall annually file with

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the office a full and true statement of its financial condition, transactions, and affairs within 3 months after the end of the administrator's fiscal year~~. The statement shall be filed annually on or before March 1~~ or within such extension of time ~~therefor~~ as the office for good cause may have granted. The statement must ~~and shall~~ be for the preceding fiscal ~~calendar~~ year and must~~. The statement shall~~ be in such form and contain such matters as the commission prescribes and must ~~shall~~ be verified by at least two officers of the ~~such~~ administrator. ~~An administrator whose sole stockholder is an association representing health care providers which is not an affiliate of an insurer, an administrator of a pooled governmental self-insurance program, or an administrator that is a university may submit the preceding fiscal year's statement within 2 months after its fiscal year end.~~

(2) Each authorized administrator shall also file an audited financial statement performed by an independent certified public accountant. The audited financial statement shall be filed with the office within 5 months after the end of the administrator's fiscal year and be ~~on or before June 1~~ for the preceding fiscal ~~calendar~~ year ~~ending December 31~~. ~~An administrator whose sole stockholder is an association representing health care providers which is not an affiliate of an insurer, an administrator of a pooled governmental self-insurance program, or an administrator that is a university may submit the preceding fiscal year's audited financial statement within 5 months after the end of its fiscal year.~~ An audited financial statement prepared on a consolidated basis must include a columnar consolidating or combining worksheet that

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must be filed with the statement and must comply with the following:

(a) Amounts shown on the consolidated audited financial statement must be shown on the worksheet;

(b) Amounts for each entity must be stated separately; and

(c) Explanations of consolidating and eliminating entries must be included.

Section 20. Section 626.931, Florida Statutes, is amended to read:

626.931 ~~Agent affidavit and~~ Insurer reporting requirements.—

~~(1) Each surplus lines agent shall on or before the 45th day following each calendar quarter file with the Florida Surplus Lines Service Office an affidavit, on forms as prescribed and furnished by the Florida Surplus Lines Service Office, stating that all surplus lines insurance transacted by him or her during such calendar quarter has been submitted to the Florida Surplus Lines Service Office as required.~~

~~(2) The affidavit of the surplus lines agent shall include efforts made to place coverages with authorized insurers and the results thereof.~~

(1)~~(3)~~ Each foreign insurer accepting premiums shall, on or before the end of the month following each calendar quarter, file with the Florida Surplus Lines Service Office a verified report of all surplus lines insurance transacted by such insurer for insurance risks located in this state during the ~~such~~ calendar quarter.

(2)~~(4)~~ Each alien insurer accepting premiums shall, on or before June 30 of each year, file with the Florida Surplus Lines

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Service Office a verified report of all surplus lines insurance transacted by such insurer for insurance risks located in this state during the preceding calendar year.

(3) ~~(5)~~ The department may waive the filing requirements described in subsections (1) ~~(3)~~ and (2) ~~(4)~~.

(4) ~~(6)~~ Each insurer's report and supporting information shall be in a computer-readable format as determined by the Florida Surplus Lines Service Office or ~~shall~~ be submitted on forms prescribed by the Florida Surplus Lines Service Office and ~~shall~~ show for each applicable agent:

(a) A listing of all policies, certificates, cover notes, or other forms of confirmation of insurance coverage or any substitutions thereof or endorsements thereto and the identifying number; and

(b) Any additional information required by the department or Florida Surplus Lines Service Office.

Section 21. Paragraph (a) of subsection (2) of section 626.932, Florida Statutes, is amended to read:

626.932 Surplus lines tax.—

(2)(a) The surplus lines agent shall make payable to the department the tax related to each calendar quarter's business as reported to the Florida Surplus Lines Service Office~~,~~ and remit the tax to the Florida Surplus Lines Service Office on or before the 45th day after each calendar quarter ~~at the same time as provided for the filing of the quarterly affidavit, under s. 626.931~~. The Florida Surplus Lines Service Office shall forward to the department the taxes and any interest collected pursuant to paragraph (b)~~,~~ within 10 days after ~~of~~ receipt.

Section 22. Subsection (1) of section 626.935, Florida

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Statutes, is amended to read:

626.935 Suspension, revocation, or refusal of surplus lines agent's license.—

(1) The department shall deny an application for, suspend, revoke, or refuse to renew the appointment of a surplus lines agent and all other licenses and appointments held by the licensee under this code~~,~~ on any of the following grounds:

(a) Removal of the licensee's office from the licensee's state of residence.

(b) Removal of the accounts and records of his or her surplus lines business from this state or the licensee's state of residence during the period when such accounts and records are required to be maintained under s. 626.930.

(c) Closure of the licensee's office for more than 30 consecutive days.

~~(d) Failure to make and file his or her affidavit or reports when due as required by s. 626.931.~~

(d)~~(e)~~ Failure to pay the tax or service fee on surplus lines premiums~~,~~ as provided in the Surplus Lines Law.

(e)~~(f)~~ Suspension, revocation, or refusal to renew or continue the license or appointment as a general lines agent, service representative, or managing general agent.

(f)~~(g)~~ Lack of qualifications as for an original surplus lines agent's license.

(g)~~(h)~~ Violation of this Surplus Lines Law.

(h)~~(i)~~ ~~For~~ Any other applicable cause for which the license of a general lines agent could be suspended, revoked, or refused under s. 626.611 or s. 626.621.

Section 23. Subsection (1) of section 626.936, Florida

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Statutes, is amended to read:

626.936 Failure to file reports or pay tax or service fee; administrative penalty.—

(1) A ~~Any~~ licensed surplus lines agent who neglects to file a report ~~or an affidavit~~ in the form and within the time required under ~~or provided for in~~ the Surplus Lines Law may be fined up to $50 per day for each day the neglect continues, beginning the day after the report ~~or affidavit~~ was due until the date the report ~~or affidavit~~ is received. All sums collected under this section shall be deposited into the Insurance Regulatory Trust Fund.

Section 24. Paragraph (q) of subsection (1) of section 626.9541, Florida Statutes, is amended to read:

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

(1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS.—The following are defined as unfair methods of competition and unfair or deceptive acts or practices:

(q) *Certain insurance transactions through credit card facilities prohibited.*—

1. Except as provided in subparagraph 3., no person shall knowingly solicit or negotiate ~~any~~ insurance; seek or accept applications for insurance; issue or deliver any policy; receive, collect, or transmit premiums, to or for an ~~any~~ insurer; or otherwise transact insurance in this state, or relative to a subject of insurance resident, located, or to be performed in this state, through the arrangement or facilities of a credit card facility or organization, for the purpose of insuring credit card holders or prospective credit card holders.

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The term "credit card holder" as used in this paragraph means a ~~any~~ person who may pay the charge for purchases or other transactions through the credit card facility or organization, whose credit with such facility or organization is evidenced by a credit card identifying such person as being one whose charges the credit card facility or organization will pay, and who is identified as such upon the credit card ~~either~~ by name, account number, symbol, insignia, or ~~any~~ other method or device of identification. This subparagraph does not apply as to health insurance or to credit life, credit disability, or credit property insurance.

2. If ~~Whenever~~ any person does or performs in this state any of the acts in violation of subparagraph 1. for or on behalf of an ~~any~~ insurer or credit card facility, such insurer or credit card facility shall be deemed ~~held~~ to be doing business in this state and, if an insurer, shall be subject to the same state, county, and municipal taxes as insurers that have been legally qualified and admitted to do business in this state by agents or otherwise are subject, the same to be assessed and collected against such insurers; and such person so doing or performing any of such acts is ~~shall be~~ personally liable for all such taxes.

3. A licensed agent or insurer may solicit or negotiate ~~any~~ insurance; seek or accept applications for insurance; issue or deliver any policy; receive, collect, or transmit premiums, to or for an ~~any~~ insurer; or otherwise transact insurance in this state, or relative to a subject of insurance resident, located, or to be performed in this state, through the arrangement or facilities of a credit card facility or organization, for the

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purpose of insuring credit card holders or prospective credit card holders if:

a. The insurance or policy which is the subject of the transaction is noncancelable by any person other than the named insured, the policyholder, or the insurer;

~~b. Any refund of unearned premium is made directly to the credit card holder;~~ and

b.~~c.~~ The credit card transaction is authorized by the signature of the credit card holder or other person authorized to sign on the credit card account.

The conditions enumerated in sub-subparagraphs a. and b. ~~a.-c.~~ do not apply to health insurance or to credit life, credit disability, or credit property insurance; and sub-subparagraph b. ~~c.~~ does not apply to property and casualty insurance if ~~so long as~~ the transaction is authorized by the insured.

4. No person may use or disclose information resulting from the use of a credit card in conjunction with the purchase of insurance if~~, when~~ such information is to the advantage of the ~~such~~ credit card facility or an insurance agent, or is to the detriment of the insured or any other insurance agent; except that this provision does not prohibit a credit card facility from using or disclosing such information in a ~~any~~ judicial proceeding or consistent with applicable law on credit reporting.

5. ~~No~~ Such insurance may not ~~shall~~ be sold through a credit card facility in conjunction with membership in any automobile club. The term "automobile club" means a legal entity that ~~which~~, in consideration of dues, assessments, or periodic

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payments of money, promises its members or subscribers to assist them in matters relating to the ownership, operation, use, or maintenance of a motor vehicle; however, the term ~~definition of automobile clubs~~ does not include persons, associations, or corporations that ~~which~~ are organized and operated solely for the purpose of conducting, sponsoring, or sanctioning motor vehicle races, exhibitions, or contests upon racetracks, or upon race courses established and marked as such for the duration of such particular event. The words "motor vehicle" used herein shall be the same as defined in chapter 320.

Section 25. Paragraph (b) of subsection (2) of section 627.062, Florida Statutes, is amended to read:

627.062 Rate standards.—

(2) As to all such classes of insurance:

(b) Upon receiving a rate filing, the office shall review the filing to determine whether the ~~if a~~ rate is excessive, inadequate, or unfairly discriminatory. In making that determination, the office shall, in accordance with generally accepted and reasonable actuarial techniques, consider the following factors:

1. Past and prospective loss experience within and without this state.

2. Past and prospective expenses.

3. The degree of competition among insurers for the risk insured.

4. Investment income reasonably expected by the insurer, consistent with the insurer's investment practices, from investable premiums anticipated in the filing, plus any other expected income from currently invested assets representing the

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amount expected on unearned premium reserves and loss reserves. The commission may adopt rules using reasonable techniques of actuarial science and economics to specify the manner in which insurers calculate investment income attributable to classes of insurance written in this state and the manner in which investment income is used to calculate insurance rates. Such manner must contemplate allowances for an underwriting profit factor and full consideration of investment income that ~~which~~ produce a reasonable rate of return; however, investment income from invested surplus may not be considered.

5. The reasonableness of the judgment reflected in the filing.

6. Dividends, savings, or unabsorbed premium deposits allowed or returned to Florida policyholders, members, or subscribers.

7. The adequacy of loss reserves.

8. The cost of reinsurance. The office may not disapprove a rate as excessive solely due to the insurer's ~~insurer~~ having obtained catastrophic reinsurance to cover the insurer's estimated 250-year probable maximum loss or any lower level of loss.

9. Trend factors, including trends in actual losses per insured unit for the insurer making the filing.

10. Conflagration and catastrophe hazards, if applicable.

11. Projected hurricane losses, if applicable, which must be estimated using a model or method, or a straight average of model results or output ranges, which are independently found to be acceptable or reliable by the Florida Commission on Hurricane Loss Projection Methodology~~,~~ and as further provided in s.

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627.0628.

12. A reasonable margin for underwriting profit and contingencies.

13. The cost of medical services, if applicable.

14. Other relevant factors that affect the frequency or severity of claims or expenses.

Section 26. Paragraph (d) of subsection (3) of section 627.0628, Florida Statutes, is amended to read:

627.0628 Florida Commission on Hurricane Loss Projection Methodology; public records exemption; public meetings exemption.—

(3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—

(d) With respect to a rate filing under s. 627.062, an insurer shall employ and may not modify or adjust actuarial methods, principles, standards, models, or output ranges found by the commission to be accurate or reliable in determining hurricane loss factors for use in a rate filing under s. 627.062. An insurer shall employ and may not modify or adjust models found by the commission to be accurate or reliable in determining probable maximum loss levels pursuant to paragraph (b) with respect to a rate filing under s. 627.062 made more than 180 ~~60~~ days after the commission has made such findings. This paragraph does not prohibit an insurer from using a straight average of model results or output ranges or using straight averages for the purposes of a rate filing under s. 627.062.

Section 27. Subsection (8) of section 627.0651, Florida Statutes, is amended to read:

627.0651 Making and use of rates for motor vehicle

insurance.—

(8) Rates are not unfairly discriminatory if averaged broadly among members of a group; nor are rates unfairly discriminatory even though they are lower than rates for nonmembers of the group. However, such rates are unfairly discriminatory if they are not actuarially measurable and credible and sufficiently related to actual or expected loss and expense experience of the group so as to ensure ~~assure~~ that nonmembers of the group are not unfairly discriminated against. Use of a single United States Postal Service zip code as a rating territory shall be deemed unfairly discriminatory unless filed pursuant to paragraph (1)(a) and such rating territory incorporates sufficient actual or expected loss and loss adjustment expense experience so as to be actuarially measurable and credible.

Section 28. Present subsections (2) through (4) of section 627.072, Florida Statutes, are redesignated as subsections (3) through (5), respectively, and a new subsection (2) is added to that section, to read:

627.072 Making and use of rates.—

(2) A retrospective rating plan may contain a provision that allows for the negotiation of premium between the employer and the insurer for employers having exposure in more than one state, an estimated annual standard premium in this state of $175,000, and an estimated annual countrywide standard premium of $1 million or more for workers' compensation.

Section 29. Subsection (2) of section 627.281, Florida Statutes, is amended to read:

627.281 Appeal from rating organization; workers'

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compensation and employer's liability insurance filings.—

(2) If the ~~such~~ appeal is based on ~~upon~~ the failure of the rating organization to make a filing on behalf of a ~~such~~ member or subscriber which is based on a system of expense provisions which ~~differs~~, in accordance with the right granted in s. 627.072(3) ~~627.072(2)~~, differs from the system of expense provisions included in a filing made by the rating organization, the office shall, if it grants the appeal, order the rating organization to make the requested filing for use by the appellant. In deciding such appeal, the office shall apply the applicable standards set forth in ss. 627.062 and 627.072.

Section 30. Paragraph (h) of subsection (5) of section 627.311, Florida Statutes, is amended to read:

627.311 Joint underwriters and joint reinsurers; public records and public meetings exemptions.—

(5)

(h) Any premium or assessments collected by the plan in excess of the amount necessary to fund projected ultimate incurred losses and expenses of the plan and not paid to insureds of the plan in conjunction with loss prevention or dividend programs shall be retained by the plan for future use. Any state funds received by the plan in excess of the amount necessary to fund deficits in subplan D or any tier shall be returned to the state. Any dividend payable to a former insured of the plan may be retained by the plan for future use upon such terms as set forth in the declaration of dividend.

Section 31. Subsection (9) of section 627.3518, Florida Statutes, is amended to read:

627.3518 Citizens Property Insurance Corporation

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policyholder eligibility clearinghouse program.—The purpose of this section is to provide a framework for the corporation to implement a clearinghouse program by January 1, 2014.

(9) The 45-day notice of nonrenewal requirement set forth in s. 627.4133(2)(b)5. ~~627.4133(2)(b)4.b.~~ applies when a policy is nonrenewed by the corporation because the risk has received an offer of coverage pursuant to this section which renders the risk ineligible for coverage by the corporation.

Section 32. Section 627.3519, Florida Statutes, is repealed.

Section 33. Section 627.409, Florida Statutes, is amended to read:

627.409 Representations in applications; warranties.—

(1) Any statement or description made by or on behalf of an insured or annuitant in an application for an insurance policy or annuity contract, or in negotiations for a policy or contract, is a representation and ~~is~~ not a warranty. Except as provided in subsection (3), a misrepresentation, omission, concealment of fact, or incorrect statement may prevent recovery under the contract or policy only if any of the following apply:

(a) The misrepresentation, omission, concealment, or statement is fraudulent or is material ~~either~~ to the acceptance of the risk or to the hazard assumed by the insurer.

(b) If the true facts had been known to the insurer pursuant to a policy requirement or other requirement, the insurer in good faith would not have issued the policy or contract, would not have issued it at the same premium rate, would not have issued a policy or contract in as large an amount, or would not have provided coverage with respect to the

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hazard resulting in the loss.

(2) A breach or violation by the insured of a ~~any~~ warranty, condition, or provision of a ~~any~~ wet marine or transportation insurance policy, contract of insurance, endorsement, or application ~~therefor~~ does not void the policy or contract, or constitute a defense to a loss thereon, unless such breach or violation increased the hazard by any means within the control of the insured.

(3) For residential property insurance, if a policy or contract is in effect for more than 90 days, a claim filed by the insured may not be denied based on credit information available in public records.

Section 34. Paragraph (b) of subsection (2) of section 627.4133, Florida Statutes, is amended to read:

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

(2) With respect to a ~~any~~ personal lines or commercial residential property insurance policy, including a~~, but not limited to, any~~ homeowner's, mobile home owner's, farmowner's, condominium association, condominium unit owner's, apartment building, or other policy covering a residential structure or its contents:

(b) The insurer shall give the first-named insured written notice of nonrenewal, cancellation, or termination at least 120 ~~100~~ days before the effective date of the nonrenewal, cancellation, or termination. ~~However, the insurer shall give at least 100 days' written notice, or written notice by June 1, whichever is earlier, for any nonrenewal, cancellation, or termination that would be effective between June 1 and November~~

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~~30.~~ The notice must include the reason or reasons for the nonrenewal, cancellation, or termination, except that:

~~1. The insurer shall give the first-named insured written notice of nonrenewal, cancellation, or termination at least 120 days prior to the effective date of the nonrenewal, cancellation, or termination for a first-named insured whose residential structure has been insured by that insurer or an affiliated insurer for at least a 5-year period immediately prior to the date of the written notice.~~

1.~~2.~~ If cancellation is for nonpayment of premium, at least 10 days' written notice of cancellation accompanied by the reason therefor must be given. As used in this subparagraph, the term "nonpayment of premium" means failure of the named insured to discharge when due her or his obligations for paying the premium ~~in connection with the payment of premiums~~ on a policy or an ~~any~~ installment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit, or failure to maintain membership in an organization if such membership is a condition precedent to insurance coverage. The term also means the failure of a financial institution to honor an insurance applicant's check after delivery to a licensed agent for payment of a premium, even if the agent has previously delivered or transferred the premium to the insurer. If a dishonored check represents the initial premium payment, the contract and all contractual obligations are void ab initio unless the nonpayment is cured within the earlier of 5 days after actual notice by certified mail is received by the applicant or 15 days after notice is sent to the applicant by certified mail or registered

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mail.~~, and~~ If the contract is void, any premium received by the insurer from a third party must be refunded to that party in full.

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

3. After the policy has been in effect for 90 days, the insurer may not cancel the policy unless there has been a material misstatement, a nonpayment of premium, a failure to comply with underwriting requirements established by the insurer within 90 days after the date of effectuation of coverage, or a substantial change in the risk covered by the policy or the cancellation is for all insureds under such policies for a class of insureds. This subparagraph does not apply to individually rated risks having a policy term of less than 90 days.

4. After a policy or contract has been in effect for 90 days, the insurer may not cancel or terminate the policy or contract based on credit information available in public records. ~~The requirement for providing written notice by June 1 of any nonrenewal that would be effective between June 1 and November 30 does not apply to the following situations, but the insurer remains subject to the requirement to provide such notice at least 100 days before the effective date of nonrenewal:~~

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~~a. A policy that is nonrenewed due to a revision in the coverage for sinkhole losses and catastrophic ground cover collapse pursuant to s. 627.706.~~

5.~~b.~~ A policy that is nonrenewed by Citizens Property Insurance Corporation, pursuant to s. 627.351(6), for a policy that has been assumed by an authorized insurer offering replacement coverage to the policyholder is exempt from the notice requirements of paragraph (a) and this paragraph. In such cases, the corporation must give the named insured written notice of nonrenewal at least 45 days before the effective date of the nonrenewal.

~~After the policy has been in effect for 90 days, the policy may not be canceled by the insurer unless there has been a material misstatement, a nonpayment of premium, a failure to comply with underwriting requirements established by the insurer within 90 days after the date of effectuation of coverage, or a substantial change in the risk covered by the policy or if the cancellation is for all insureds under such policies for a given class of insureds. This paragraph does not apply to individually rated risks having a policy term of less than 90 days.~~

6.~~5.~~ Notwithstanding any other ~~provision of~~ law, an insurer may cancel or nonrenew a property insurance policy after at least 45 days' notice if the office finds that the early cancellation of some or all of the insurer's policies is necessary to protect the best interests of the public or policyholders and the office approves the insurer's plan for early cancellation or nonrenewal of some or all of its policies. The office may base such finding upon the financial condition of

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the insurer, lack of adequate reinsurance coverage for hurricane risk, or other relevant factors. The office may condition its finding on the consent of the insurer to be placed under administrative supervision pursuant to s. 624.81 or to the appointment of a receiver under chapter 631.

7.~~6.~~ A policy covering both a home and a motor vehicle may be nonrenewed for any reason applicable to ~~either~~ the property or motor vehicle insurance after providing 90 days' notice.

Section 35. Subsection (1) of section 627.4137, Florida Statutes, is amended to read:

627.4137 Disclosure of certain information required.—

(1) Each insurer that provides ~~which does~~ or may provide liability insurance coverage to pay all or a portion of a ~~any~~ claim that ~~which~~ might be made shall ~~provide~~, within 30 days after ~~of~~ the written request of the claimant, provide a statement, under oath, of a corporate officer or the insurer's claims manager, ~~or~~ superintendent, or licensed company adjuster setting forth the following information with regard to each known policy of insurance, including excess or umbrella insurance:

(a) The name of the insurer.

(b) The name of each insured.

(c) The limits of the liability coverage.

(d) A statement of any policy or coverage defense that the ~~which such~~ insurer reasonably believes is available to the ~~such~~ insurer at the time of filing such statement.

(e) A copy of the policy.

~~In addition,~~ The insured, or her or his insurance agent, upon

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written request of the claimant or the claimant's attorney, shall also disclose the name and coverage of each known insurer to the claimant and ~~shall~~ forward the ~~such~~ request for information ~~as~~ required by this subsection to all affected insurers. The insurer shall ~~then~~ supply the required information ~~required in this subsection~~ to the claimant within 30 days after ~~of~~ receipt of such request.

Section 36. Subsection (1) of section 627.421, Florida Statutes, is amended to read:

627.421 Delivery of policy.—

(1) Subject to the insurer's requirement as to payment of premium, every policy shall be mailed, delivered, or electronically transmitted to the insured or to the person entitled thereto within ~~not later than~~ 60 days after the effectuation of coverage. Notwithstanding any other provision of law, an insurer may allow a policyholder of personal lines insurance to affirmatively elect delivery of the policy documents, including policies, endorsements, notices, or other documents, by electronic means in lieu of delivery by mail. Electronic transmission of a policy for commercial risks, including, but not limited to, workers' compensation and employers' liability, commercial automobile liability, commercial automobile physical damage, commercial lines residential property, commercial nonresidential property, farm owners' insurance, and the types of commercial lines risks set forth in s. 627.062(3)(d), constitute ~~shall constitute~~ delivery to the insured or to the person entitled to delivery, unless the insured or the person entitled to delivery communicates to the insurer in writing or electronically that he or she does not

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agree to delivery by electronic means. Electronic transmission must ~~shall~~ include a notice to the insured or to the person entitled to delivery of a policy of his or her right to receive the policy via United States mail rather than via electronic transmission. A paper copy of the policy shall be provided to the insured or to the person entitled to delivery at his or her request.

Section 37. Subsection (2) of section 627.43141, Florida Statutes, is amended to read:

627.43141 Notice of change in policy terms.—

(2) A renewal policy may contain a change in policy terms. If a renewal policy contains ~~does contain~~ such change, the insurer must give the named insured written notice of the change, which may ~~must~~ be enclosed along with the written notice of renewal premium required by ss. 627.4133 and 627.728 or be sent in a separate notice that complies with the nonrenewal mailing time requirement for that particular line of business. The insurer must also provide a sample copy of the notice to the insured's insurance agent before or at the same time that notice is given to the insured. Such notice shall be entitled "Notice of Change in Policy Terms."

Section 38. Section 627.4553, Florida Statutes, is created to read:

627.4553 Recommendations to surrender.—If an insurance agent recommends the surrender of an annuity or life insurance policy containing a cash value and is not recommending that the proceeds from the surrender be used to fund or purchase another annuity or life insurance policy, before execution of the surrender, the insurance agent, or the insurance company if no

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agent is involved, shall provide, on a form adopted by rule by the department, information concerning the annuity or policy to be surrendered, including the amount of any surrender charge, the loss of any minimum interest rate guarantees, the amount of any tax consequences resulting from the surrender, the amount of any forfeited death benefit, and the value of any other investment performance guarantees being forfeited as a result of the surrender. This section also applies to a person performing insurance agent activities pursuant to an exemption from licensure under this part.

Section 39. Paragraph (b) of subsection (4) of section 627.7015, Florida Statutes, is amended to read:

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

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

(b) Qualifications, denial of application, suspension, revocation of approval, and other penalties for ~~of~~ mediators as provided in s. 627.745 and in the Florida Rules for ~~of~~ Certified and Court-Appointed ~~Court Appointed~~ Mediators~~, and for such other individuals as are qualified by education, training, or experience as the department determines to be appropriate~~.

Section 40. Section 627.70151, Florida Statutes, is created to read:

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627.70151 Appraisal; conflicts of interest.—An insurer that offers residential coverage, as defined in s. 627.4025, or a policyholder that uses an appraisal clause in the property insurance contract to establish a process for estimating or evaluating the amount of the loss through the use of an impartial umpire may challenge the umpire's impartiality and disqualify the proposed umpire only if:

(1) A familial relationship within the third degree exists between the umpire and a party or a representative of a party;

(2) The umpire has previously represented a party or a representative of a party in a professional capacity in the same or a substantially related matter;

(3) The umpire has represented another person in a professional capacity on the same or a substantially related matter, which includes the claim, same property, or an adjacent property and that other person's interests are materially adverse to the interests of any party; or

(4) The umpire has worked as an employer or employee of a party within the preceding 5 years.

Section 41. Paragraph (c) of subsection (2) of section 627.706, Florida Statutes, is amended to read:

627.706 Sinkhole insurance; catastrophic ground cover collapse; definitions.—

(2) As used in ss. 627.706-627.7074, and as used in connection with any policy providing coverage for a catastrophic ground cover collapse or for sinkhole losses, the term:

(c) "Neutral evaluator" means a professional engineer or a professional geologist who has completed a course of study in alternative dispute resolution designed or approved by the

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department for use in the neutral evaluation process, ~~and~~ who is determined by the department to be fair and impartial, and who is not otherwise ineligible for certification as provided in s. 627.7074.

Section 42. Subsections (3), (7), and (18) of section 627.7074, Florida Statutes, are amended to read:

627.7074 Alternative procedure for resolution of disputed sinkhole insurance claims.—

(3) Following the receipt of the report required ~~provided~~ under s. 627.7073 or the denial of a claim for a sinkhole loss, the insurer shall notify the policyholder of his or her right to participate in the neutral evaluation program under this section if coverage is available under the policy and the claim was submitted within the timeframe provided in s. 627.706(5). Neutral evaluation supersedes the alternative dispute resolution process under s. 627.7015 but does not invalidate the appraisal clause of the insurance policy. The insurer shall provide to the policyholder the consumer information pamphlet prepared by the department pursuant to subsection (1) electronically or by United States mail.

(7) Upon receipt of a request for neutral evaluation, the department shall provide the parties a list of certified neutral evaluators. The department shall allow the parties to submit requests for disqualifying ~~to disqualify~~ evaluators on the list for cause.

(a) The department shall disqualify neutral evaluators for cause based only on any of the following grounds:

1. A familial relationship exists between the neutral evaluator and either party or a representative of either party

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within the third degree.

2. The proposed neutral evaluator has, in a professional capacity, previously represented either party or a representative of either party, in the same or a substantially related matter.

3. The proposed neutral evaluator has, in a professional capacity, represented another person in the same or a substantially related matter and that person’s interests are materially adverse to the interests of the parties. The term “substantially related matter” means participation by the neutral evaluator on the same claim, property, or adjacent property.

4. The proposed neutral evaluator has, within the preceding 5 years, worked as an employer or employee of a ~~any~~ party to the case.

(b) The department shall deny an application, or suspend or revoke the certification, of a neutral evaluator to serve in the neutral evaluator capacity if the department finds that one or more of the following grounds exist:

1. Lack of one or more of the qualifications for certification specified in this section.

2. Material misstatement, misrepresentation, or fraud in obtaining or attempting to obtain the certification.

3. Demonstrated lack of fitness or trustworthiness to act as a neutral evaluator.

4. Fraudulent or dishonest practices in the conduct of an evaluation or in the conduct of business in the financial services industry.

5. Violation of any provision of this code or of a lawful

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order or rule of the department or aiding, instructing, or encouraging another party to commit such violation.

(c) ~~(b)~~ The parties shall appoint a neutral evaluator from the department list and promptly inform the department. If the parties cannot agree to a neutral evaluator within 14 business days, the department shall appoint a neutral evaluator from the list of certified neutral evaluators. The department shall allow each party to disqualify two neutral evaluators without cause. Upon selection or appointment, the department shall promptly refer the request to the neutral evaluator.

(d) ~~(c)~~ Within 14 business days after the referral, the neutral evaluator shall notify the policyholder and the insurer of the date, time, and place of the neutral evaluation conference. The conference may be held by telephone, if feasible and desirable. The neutral evaluator shall make reasonable efforts to hold the conference within 90 days after the receipt of the request by the department. Failure of the neutral evaluator to hold the conference within 90 days does not invalidate either party's right to neutral evaluation or to a neutral evaluation conference held outside this timeframe.

(18) The department shall adopt rules of procedure for the neutral evaluation process and for certifying, denying or suspending the certification of, and revoking certification as, a neutral evaluator.

Section 43. Subsection (8) of section 627.711, Florida Statutes, is amended to read:

627.711 Notice of premium discounts for hurricane loss mitigation; uniform mitigation verification inspection form.—

(8) At its expense, the insurer may require that a uniform

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mitigation verification form provided by a policyholder, a policyholder's agent, or an authorized mitigation inspector or inspection company be independently verified by an inspector, an inspection company, or an independent third-party quality assurance provider that ~~which~~ possesses a quality assurance program before accepting the uniform mitigation verification form as valid. The insurer may exempt from additional independent verification any uniform mitigation verification form provided by a policyholder, a policyholder's agent, an authorized mitigation inspector, or an inspection company that possesses a quality assurance program that meets the standards established by the insurer. A uniform mitigation verification form provided by a policyholder, a policyholder's agent, an authorized mitigation inspector, or an inspection company to Citizens Property Insurance Corporation is not subject to additional verification, and the property is not subject to reinspection by the corporation, absent material changes to the structure for the term stated on the form if the form signed by a qualified inspector was submitted to, reviewed, and verified by a quality assurance program approved by the corporation before submission to the corporation.

Section 44. Subsections (1), (2), and (3) of section 627.7283, Florida Statutes, are amended to read:

627.7283 Cancellation; return of premium.—

(1) If the insured cancels a policy of motor vehicle insurance, the insurer must mail or electronically transfer the unearned portion of any premium paid within 30 days after the effective date of the policy cancellation or receipt of notice or request for cancellation, whichever is later. This

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requirement applies to a cancellation initiated by an insured for any reason.

(2) If an insurer cancels a policy of motor vehicle insurance, the insurer must mail or electronically transfer the unearned premium portion of any premium within 15 days after the effective date of the policy cancellation.

(3) If the unearned premium is not mailed or electronically transferred within the applicable period, the insurer must pay to the insured 8 percent interest on the amount due. If the unearned premium is not mailed or electronically transferred within 45 days after the applicable period, the insured may bring an action against the insurer pursuant to s. 624.155.

Section 45. Paragraph (a) of subsection (5) of section 627.736, Florida Statutes, is amended to read:

627.736 Required personal injury protection benefits; exclusions; priority; claims.—

(5) CHARGES FOR TREATMENT OF INJURED PERSONS.—

(a) A physician, hospital, clinic, or other person or institution lawfully rendering treatment to an injured person for a bodily injury covered by personal injury protection insurance may charge the insurer and injured party only a reasonable amount pursuant to this section for the services and supplies rendered, and the insurer providing such coverage may directly pay ~~for~~ such charges ~~directly~~ to the ~~such~~ person or institution lawfully rendering ~~such~~ treatment if the insured receiving such treatment or his or her guardian has countersigned the properly completed invoice, bill, or claim form approved by the office upon which such charges are to be paid ~~for~~ as having actually been rendered, to the best knowledge

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of the insured or his or her guardian. However, such a charge may not exceed the amount the person or institution customarily charges for like services or supplies. In determining whether a charge for a particular service, treatment, or otherwise is reasonable, consideration may be given to evidence of usual and customary charges and payments accepted by the provider involved in the dispute, reimbursement levels in the community and various federal and state medical fee schedules applicable to motor vehicle and other insurance coverages, and other information relevant to the reasonableness of the reimbursement ~~for the service, treatment, or supply~~.

1. The insurer may limit reimbursement to 80 percent of the following schedule of maximum charges:

a. For emergency transport and treatment by providers licensed under chapter 401, 200 percent of Medicare.

b. For emergency services and care provided by a hospital licensed under chapter 395, 75 percent of the hospital's usual and customary charges.

c. For emergency services and care as defined by s. 395.002 provided in a facility licensed under chapter 395 rendered by a physician or dentist, and related hospital inpatient services rendered by a physician or dentist, the usual and customary charges in the community.

d. For hospital inpatient services, other than emergency services and care, 200 percent of the Medicare Part A prospective payment applicable to the specific hospital providing the inpatient services.

e. For hospital outpatient services, other than emergency services and care, 200 percent of the Medicare Part A Ambulatory

Payment Classification for the specific hospital providing the outpatient services.

f. For all other medical services, supplies, and care, 200 percent of the allowable amount under:

(I) The participating physicians fee schedule of Medicare Part B, except as provided in sub-sub-subparagraphs (II) and (III).

(II) Medicare Part B, in the case of services, supplies, and care provided by ambulatory surgical centers and clinical laboratories.

(III) The Durable Medical Equipment Prosthetics/Orthotics and Supplies fee schedule of Medicare Part B, in the case of durable medical equipment.

However, if such services, supplies, or care is not reimbursable under Medicare Part B, as provided in this sub-subparagraph, the insurer may limit reimbursement to 80 percent of the maximum reimbursable allowance under workers' compensation, as determined under s. 440.13 and rules adopted thereunder which are in effect at the time such services, supplies, or care is provided. Services, supplies, or care that is not reimbursable under Medicare or workers' compensation is not required to be reimbursed by the insurer.

2. For purposes of subparagraph 1., the applicable fee schedule or payment limitation under Medicare is the fee schedule or payment limitation in effect on March 1 of the year in which the services, supplies, or care is rendered and for the area in which such services, supplies, or care is rendered, and the applicable fee schedule or payment limitation applies from

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March 1 until the last day of February ~~throughout the remainder~~ of the following ~~that~~ year, notwithstanding any subsequent change made to the fee schedule or payment limitation, except that it may not be less than the allowable amount under the applicable schedule of Medicare Part B for 2007 for medical services, supplies, and care subject to Medicare Part B.

3. Subparagraph 1. does not allow the insurer to apply a ~~any~~ limitation on the number of treatments or other utilization limits that apply under Medicare or workers' compensation. An insurer that applies the allowable payment limitations of subparagraph 1. must reimburse a provider who lawfully provided care or treatment under the scope of his or her license, regardless of whether such provider is entitled to reimbursement under Medicare due to restrictions or limitations on the types or discipline of health care providers who may be reimbursed for particular procedures or procedure codes. However, subparagraph 1. does not prohibit an insurer from using the Medicare coding policies and payment methodologies of the federal Centers for Medicare and Medicaid Services, including applicable modifiers, to determine the appropriate amount of reimbursement for medical services, supplies, or care if the coding policy or payment methodology does not constitute a utilization limit.

4. If an insurer limits payment as authorized by subparagraph 1., the person providing such services, supplies, or care may not bill or attempt to collect from the insured any amount in excess of such limits, except for amounts that are not covered by the insured's personal injury protection coverage due to the coinsurance amount or maximum policy limits.

5. ~~Effective July 1, 2012,~~ An insurer may limit payment as

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authorized by this paragraph only if the insurance policy includes a notice at the time of issuance or renewal that the insurer may limit payment pursuant to the schedule of charges specified in this paragraph. A policy form approved by the office satisfies this requirement. If a provider submits a charge for an amount less than the amount allowed under subparagraph 1., the insurer may pay the amount of the charge submitted.

Section 46. Subsection (1) and paragraphs (a) and (b) of subsection (2) of section 627.744, Florida Statutes, are amended to read:

627.744 Required preinsurance inspection of private passenger motor vehicles.—

(1) A private passenger motor vehicle insurance policy providing physical damage coverage, including collision or comprehensive coverage, may not be issued in this state unless the insurer has inspected the motor vehicle in accordance with this section. Physical damage coverage on a motor vehicle may not be suspended during the term of the policy due to the applicant's failure to provide required documents. However, payment of a claim may be conditioned upon the insurer's receipt of the required documents, and physical damage loss occurring after the effective date of coverage is not payable until the documents are provided to the insurer.

(2) This section does not apply:

(a) To a policy for a policyholder who has been insured for 2 years or longer, without interruption, under a private passenger motor vehicle policy that ~~which~~ provides physical damage coverage for any vehicle~~,~~ if the agent of the insurer

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verifies the previous coverage.

(b) To a new, unused motor vehicle purchased or leased from a licensed motor vehicle dealer or leasing company~~,~~ if the insurer is provided with:

1. A bill of sale, ~~or~~ buyer's order, or lease agreement that ~~which~~ contains a full description of the motor vehicle~~,~~ ~~including all options and accessories~~; or

2. A copy of the title or registration that ~~which~~ establishes transfer of ownership from the dealer or leasing company to the customer and a copy of the window sticker ~~or the dealer invoice showing the itemized options and equipment and the total retail price of the vehicle~~.

~~For the purposes of this paragraph, the physical damage coverage on the motor vehicle may not be suspended during the term of the policy due to the applicant's failure to provide the required documents. However, payment of a claim is conditioned upon the receipt by the insurer of the required documents, and no physical damage loss occurring after the effective date of the coverage is payable until the documents are provided to the insurer.~~

Section 47. Paragraph (b) of subsection (3) of section 627.745, Florida Statutes, is amended, present subsections (4) and (5) of that section are redesignated as subsections (5) and (6), respectively, and a new subsection (4) is added to that section, to read:

627.745 Mediation of claims.—

(3)

(b) To qualify for approval as a mediator, an individual ~~a~~

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~~person~~ must meet one of the following qualifications:

1. Possess an active certification as a Florida Supreme Court certified circuit court mediator. A circuit court mediator whose certification is in a lapsed, suspended, or decertified status is not eligible to participate in the program ~~a masters or doctorate degree in psychology, counseling, business, accounting, or economics, be a member of The Florida Bar, be licensed as a certified public accountant, or demonstrate that the applicant for approval has been actively engaged as a qualified mediator for at least 4 years prior to July 1, 1990~~.

2. Be an approved department mediator as of July 1, 2014, and have conducted at least one mediation on behalf of the department within the 4 years ~~immediately~~ preceding that ~~the~~ date ~~the application for approval is filed with the department, have completed a minimum of a 40-hour training program approved by the department and successfully passed a final examination included in the training program and approved by the department~~. ~~The training program shall include and address all of the following:~~

~~a. Mediation theory.~~

~~b. Mediation process and techniques.~~

~~c. Standards of conduct for mediators.~~

~~d. Conflict management and intervention skills.~~

~~e. Insurance nomenclature.~~

(4) The department shall deny an application, or suspend or revoke its approval of a mediator or certification of a neutral evaluator to serve in such capacity, if the department finds that any of the following grounds exist:

(a) Lack of one or more of the qualifications for approval

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or certification specified in this section.

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

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

(d) Fraudulent or dishonest practices in the conduct of mediation or neutral evaluation or in the conduct of business in the financial services industry.

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

The department may adopt rules to administer this subsection.

Section 48. Paragraph (a) of subsection (1) of section 627.778, Florida Statutes, is amended to read:

627.778 Limit of risk.—

(1)(a) A title insurer may not issue a ~~any~~ contract of title insurance~~, either~~ as a primary insurer or as a coinsurer or reinsurer, upon an estate, lien, or interest in property located in this state unless:

1. The contract shows on its face the dollar amount of the risk assumed; and

2. The dollar amount of the risk assumed does not exceed 50 percent of the sum of surplus with respect to policyholders, plus the statutory premium reserve less the title insurer's investment in title plants as shown in the most recent annual

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statement of the title insurer on file with the office ~~one-half of its surplus as to policyholders, unless the excess is simultaneously reinsured in one or more approved insurers~~.

Section 49. Subsection (8) of section 627.782, Florida Statutes, is amended to read:

627.782 Adoption of rates.—

(8) Each title insurance agency and insurer licensed to do business in this state and each insurer's direct or retail business in this state shall maintain and submit information, including revenue, loss, and expense data, as the office determines necessary to assist in the analysis of title insurance premium rates, title search costs, and the condition of the title insurance industry in this state. This information must be transmitted to the office annually by May ~~March~~ 31 of the year after the reporting year. The commission shall adopt rules regarding the collection and analysis of the data from the title insurance industry.

Section 50. Subsection (4) of section 627.841, Florida Statutes, is amended to read:

627.841 Delinquency, collection, cancellation, and payment ~~check~~ return charge ~~charges~~; attorney ~~attorney's~~ fees.—

(4) If ~~In the event that~~ a payment is made to a premium finance company by debit, credit, electronic funds transfer, check, or draft and such payment ~~the instrument~~ is returned, declined, or cannot be processed due to ~~because of~~ insufficient funds ~~to pay it~~, the premium finance company may, if the premium finance agreement so provides, impose a return payment charge of $15.

Section 51. Subsections (1), (3), (10), and (12) of section

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628.461, Florida Statutes, are amended to read:

628.461 Acquisition of controlling stock.—

(1) A person may not, individually or in conjunction with an ~~any~~ affiliated person of such person, acquire directly or indirectly, conclude a tender offer or exchange offer for, enter into any agreement to exchange securities for, or otherwise finally acquire 10 ~~5~~ percent or more of the outstanding voting securities of a domestic stock insurer or of a controlling company~~,~~ unless:

(a) The person or affiliated person has filed with the office and sent to the insurer and controlling company a letter of notification regarding the transaction or proposed transaction within ~~no later than~~ 5 days after any form of tender offer or exchange offer is proposed~~,~~ or within ~~no later than~~ 5 days after the acquisition of the securities if no tender offer or exchange offer is involved. The notification must be provided on forms prescribed by the commission containing information determined necessary to understand the transaction and identify all purchasers and owners involved;

(b) The person or affiliated person has filed with the office a statement as specified in subsection (3). The statement must be completed and filed within 30 days after:

1. Any definitive acquisition agreement is entered;

2. Any form of tender offer or exchange offer is proposed; or

3. The acquisition of the securities~~,~~ if no definitive acquisition agreement, tender offer, or exchange offer is involved; and

(c) The office has approved the tender or exchange offer,

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or acquisition if no tender offer or exchange offer is involved, and approval is in effect.

~~In lieu of a filing as required under this subsection, a party acquiring less than 10 percent of the outstanding voting securities of an insurer may file a disclaimer of affiliation and control. The disclaimer shall fully disclose all material relationships and basis for affiliation between the person and the insurer as well as the basis for disclaiming the affiliation and control. After a disclaimer has been filed, the insurer shall be relieved of any duty to register or report under this section which may arise out of the insurer's relationship with the person unless and until the office disallows the disclaimer. The office shall disallow a disclaimer only after furnishing all parties in interest with notice and opportunity to be heard and after making specific findings of fact to support the disallowance.~~ A filing as required under this subsection must be made as to any acquisition that equals or exceeds 10 percent of the outstanding voting securities.

(3) The statement to be filed with the office under subsection (1) and furnished to the insurer and controlling company must ~~shall~~ contain the following information and any additional information ~~as~~ the office deems necessary to determine the character, experience, ability, and other qualifications of the person or affiliated person of such person for the protection of the policyholders and shareholders of the insurer and the public:

(a) The identity of, and the background information specified in subsection (4) on, each natural person by whom, or

on whose behalf, the acquisition is to be made; and, if the acquisition is to be made by, or on behalf of, a corporation, association, or trust, as to the corporation, association, or trust and as to any person who ~~controls either~~ directly or indirectly controls the corporation, association, or trust, the identity of, and the background information specified in subsection (4) on, each director, officer, trustee, or other natural person performing duties similar to those of a director, officer, or trustee for the corporation, association, or trust;

(b) The source and amount of the funds or other consideration used, or to be used, in making the acquisition;

(c) Any plans or proposals that ~~which~~ such persons may have made to liquidate such insurer, to sell any of its assets or merge or consolidate it with any person, or to make any other major change in its business or corporate structure or management; and any plans or proposals that which such persons may have made to liquidate any controlling company of such insurer, to sell any of its assets or merge or consolidate it with any person, or to make any other major change in its business or corporate structure or management;

(d) The number of shares or other securities which the person or affiliated person of such person proposes to acquire, the terms of the proposed acquisition, and the manner in which the securities are to be acquired; and

(e) Information as to any contract, arrangement, or understanding with any party with respect to any of the securities of the insurer or controlling company, including, but not limited to, information relating to the transfer of any of the securities, option arrangements, puts or calls, or the

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giving or withholding of proxies, which information names the party with whom the contract, arrangement, or understanding has been entered into and gives the details thereof.

(10) Upon notification to the office by the domestic stock insurer or a controlling company that any person or any affiliated person of such person has acquired 10 ~~5~~ percent or more of the outstanding voting securities of the domestic stock insurer or controlling company without complying with ~~the provisions of~~ this section, the office shall order that the person and any affiliated person of such person cease acquisition of any further securities of the domestic stock insurer or controlling company; however, the person or any affiliated person of such person may request a proceeding, which ~~proceeding~~ shall be convened within 7 days after the rendering of the order for the sole purpose of determining whether the person, individually or in connection with an ~~any~~ affiliated person of such person, has acquired 10 ~~5~~ percent or more of the outstanding voting securities of a domestic stock insurer or controlling company. Upon the failure of the person or affiliated person to request a hearing within 7 days, or upon a determination at a hearing convened pursuant to this subsection that the person or affiliated person has acquired voting securities of a domestic stock insurer or controlling company in violation of this section, the office may order the person and affiliated person to divest themselves of any voting securities so acquired.

(12) ~~(a)~~ A presumption of control may be rebutted by filing a disclaimer of control. A person may file a disclaimer of control with the office. The disclaimer must fully disclose all

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material relationships and bases for affiliation between the person and the insurer as well as the basis for disclaiming the affiliation. The disclaimer of control shall be filed on a form prescribed by the office, or a person or acquiring party may file with the office a copy of a Schedule 13G on file with the Securities and Exchange Commission pursuant to Rule 13d-1(b) or Rule 13d-1(c) under the Securities Exchange Act of 1934, as amended. After a disclaimer is filed, the insurer is relieved of any duty to register or report under this section which may arise out of the insurer's relationship with the person, unless the office disallows the disclaimer. ~~For the purpose of this section, the term "affiliated person" of another person means:~~

~~1. The spouse of such other person;~~

~~2. The parents of such other person and their lineal descendants and the parents of such other person's spouse and their lineal descendants;~~

~~3. Any person who directly or indirectly owns or controls, or holds with power to vote, 5 percent or more of the outstanding voting securities of such other person;~~

~~4. Any person 5 percent or more of the outstanding voting securities of which are directly or indirectly owned or controlled, or held with power to vote, by such other person;~~

~~5. Any person or group of persons who directly or indirectly control, are controlled by, or are under common control with such other person;~~

~~6. Any officer, director, partner, copartner, or employee of such other person;~~

~~7. If such other person is an investment company, any investment adviser of such company or any member of an advisory~~

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~~board of such company;~~

~~8. If such other person is an unincorporated investment company not having a board of directors, the depositor of such company; or~~

~~9. Any person who has entered into an agreement, written or unwritten, to act in concert with such other person in acquiring or limiting the disposition of securities of a domestic stock insurer or controlling company.~~

~~(b) For the purposes of this section, the term "controlling company" means any corporation, trust, or association owning, directly or indirectly, 25 percent or more of the voting securities of one or more domestic stock insurance companies.~~

Section 52. Subsection (11) of section 631.717, Florida Statutes, is amended to read:

631.717 Powers and duties of the association.—

(11) The association is ~~shall~~ not ~~be~~ liable for any civil action under s. 624.155 arising from any acts alleged to have been committed by a member insurer before ~~prior to~~ its liquidation. ~~This subsection does not affect the association's obligation to pay valid insurance policy or contract claims if warranted after its independent de novo review of the policies, contracts, and claims presented to it, whether domestic or foreign, after a Florida domestic rehabilitation or a liquidation.~~

Section 53. Section 631.737, Florida Statutes, is amended to read:

631.737 Rescission and review generally.—The association shall review claims and matters regarding covered policies based upon the record available to it on and after the date of

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liquidation. Notwithstanding any other provision of this part, in order to allow for orderly claims administration by the association, entry of a liquidation order by a court of competent jurisdiction tolls ~~shall be deemed to toll~~ for 1 year any rescission or noncontestable period allowed by the contract, the policy, or by law. The association's obligation is to pay any valid insurance policy or contract claims, if warranted, after its independent de novo review of the policies, contracts, and claims presented to it, whether domestic or foreign, after a rehabilitation or a liquidation.

Section 54. Subsections (6) and (7) of section 634.406, Florida Statutes, are amended to read:

634.406 Financial requirements.—

(6) An association that ~~which~~ holds a license under this part ~~and which does not hold any other license under this chapter~~ may allow its premiums for service warranties written under this part to exceed the ratio to net assets limitations of this section if the association meets all of the following conditions:

(a) Maintains net assets of at least $750,000.

(b) Uses ~~Utilizes~~ a contractual liability insurance policy approved by the office that: ~~which~~

1. Reimburses the service warranty association for 100 percent of its claims liability and is issued by an insurer that maintains a policyholder surplus of at least $100 million; or

2. Complies with subsection (3) and is issued by an insurer that maintains a policyholder surplus of at least $200 million.

(c) The insurer issuing the contractual liability insurance policy:

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~~1. Maintains a policyholder surplus of at least $100 million.~~

1.~~2.~~ Is rated "A" or higher by A.M. Best Company or an equivalent rating by another national rating service acceptable to the office.

~~3. Is in no way affiliated with the warranty association.~~

2.~~4.~~ In conjunction with the warranty association's filing of the quarterly and annual reports, provides, on a form prescribed by the commission, a statement certifying the gross written premiums in force reported by the warranty association and a statement that all of the warranty association's gross written premium in force is covered under the contractual liability policy, regardless of whether ~~or not~~ it has been reported.

~~(7) A contractual liability policy must insure 100 percent of an association's claims exposure under all of the association's service warranty contracts, wherever written, unless all of the following are satisfied:~~

~~(a) The contractual liability policy contains a clause that specifically names the service warranty contract holders as sole beneficiaries of the contractual liability policy and claims are paid directly to the person making a claim under the contract;~~

~~(b) The contractual liability policy meets all other requirements of this part, including subsection (3) of this section, which are not inconsistent with this subsection;~~

~~(c) The association has been in existence for at least 5 years or the association is a wholly owned subsidiary of a corporation that has been in existence and has been licensed as a service warranty association in the state for at least 5~~

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~~years, and:~~

~~1. Is listed and traded on a recognized stock exchange; is listed in NASDAQ (National Association of Security Dealers Automated Quotation system) and publicly traded in the over-the-counter securities market; is required to file either of Form 10-K, Form 100, or Form 20-C with the United States Securities and Exchange Commission; or has American Depository Receipts listed on a recognized stock exchange and publicly traded or is the wholly owned subsidiary of a corporation that is listed and traded on a recognized stock exchange; is listed in NASDAQ (National Association of Security Dealers Automated Quotation system) and publicly traded in the over-the-counter securities market; is required to file Form 10-K, Form 100, or Form 20-G with the United States Securities and Exchange Commission; or has American Depository Receipts listed on a recognized stock exchange and is publicly traded;~~

~~2. Maintains outstanding debt obligations, if any, rated in the top four rating categories by a recognized rating service;~~

~~3. Has and maintains at all times a minimum net worth of not less than $10 million as evidenced by audited financial statements prepared by an independent certified public accountant in accordance with generally accepted accounting principles and submitted to the office annually; and~~

~~4. Is authorized to do business in this state; and~~

~~(d) The insurer issuing the contractual liability policy:~~

~~1. Maintains and has maintained for the preceding 5 years, policyholder surplus of at least $100 million and is rated "A" or higher by A.M. Best Company or has an equivalent rating by another rating company acceptable to the office;~~

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~~2. Holds a certificate of authority to do business in this state and is approved to write this type of coverage; and~~

~~3. Acknowledges to the office quarterly that it insures all of the association's claims exposure under contracts delivered in this state.~~

~~If all the preceding conditions are satisfied, then the scope of coverage under a contractual liability policy shall not be required to exceed an association's claims exposure under service warranty contracts delivered in this state.~~

Section 55. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2014.

========== T I T L E A M E N D M E N T ==========

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to insurance; amending s. 624.501, F.S.; revising original appointment and renewal fees related to certain insurance representatives; amending s. 626.015, F.S.; defining the term "unaffiliated insurance agent"; amending s. 626.0428, F.S.; requiring a branch place of business to have an agent in charge; authorizing an agent to be in charge of more than one branch office under certain circumstances; providing requirements relating to the designation of an agent in charge; prohibiting an insurance agency from conducting insurance business at

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a location without a designated agent in charge; providing that the agent in charge is accountable for misconduct and violations committed by the licensee and any person under his or her supervision; amending s. 626.112, F.S.; prohibiting limited customer representative licenses from being issued after a specified date; providing licensure exemptions that allow specified individuals or entities to conduct insurance business at specified locations under certain circumstances; revising licensure requirements and penalties with respect to registered insurance agencies; providing that the registration of an approved registered insurance agency automatically converts to an insurance agency license on a specified date; amending s. 626.172, F.S.; revising requirements relating to applications for insurance agency licenses; conforming provisions to changes made by the act; amending s. 626.311, F.S.; limiting the types of business that may be transacted by certain agents; amending s. 626.321, F.S.; providing that a limited license to offer motor vehicle rental insurance issued to a business that rents or leases motor vehicles encompasses the employees of such business; amending s. 626.382, F.S.; providing that an insurance agency license continues in force until canceled, suspended, revoked, terminated, or expired; amending s. 626.601, F.S.; revising terminology relating to investigations conducted by the Department of Financial Services and the Office of Insurance Regulation with respect to

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individuals and entities involved in the insurance industry; revising a confidentiality provision; repealing s. 626.747, F.S., relating to branch agencies, agents in charge, and the payment of additional county tax under certain circumstances; amending s. 626.8411, F.S.; conforming a cross-reference; amending s. 626.854, F.S.; deleting the requirement that a 48 hours' notice be provided before scheduling an onsite inspection of insured property; conforming a cross-reference; amending s. 626.8805, F.S.; revising insurance administrator application requirements; amending s. 626.8817, F.S.; authorizing an insurer's designee to provide certain coverage information to an insurance administrator; authorizing an insurer to subcontract the review of an insurance administrator; amending s. 626.882, F.S.; prohibiting a person from acting as an insurance administrator without a specific written agreement; amending s. 626.883, F.S.; requiring an insurance administrator to furnish fiduciary account records to an insurer; requiring administrator withdrawals from a fiduciary account to be made according to a specific written agreement; providing that an insurer's designee may authorize payment of claims; amending s. 626.884, F.S.; revising an insurer's right of access to certain administrator records; amending s. 626.89, F.S.; revising the deadline for filing certain financial statements; deleting provisions allowing an extension for administrator to submit certain financial

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statements; amending s. 626.931, F.S.; deleting provisions requiring a surplus lines agent to file a quarterly affidavit with the Florida Surplus Lines Service Office; amending s. 626.932, F.S.; revising the due date of surplus lines tax; amending ss. 626.935 and 626.936, F.S.; conforming provisions to changes made by the act; amending s. 626.9541, F.S.; revising provisions for unfair methods of competition and unfair or deceptive acts relating to conducting certain insurance transactions through credit card facilities; conforming cross-references; amending s. 627.062, F.S.; authorizing the Office of Insurance Regulation to use a straight average of model results or output ranges to estimate hurricane losses when determining whether the rates in a rate filing are excessive, inadequate, or unfairly discriminatory; amending s. 627.0628, F.S.; increasing the length of time during which an insurer must adhere to certain findings made by the Commission on Hurricane Loss Projection Methodology with respect to certain methods, principles, standards, models, or output ranges used in a rate filing; providing that the requirement to adhere to such findings does not limit an insurer from using straight averages of model results or output ranges under specified circumstances; amending s. 627.0651, F.S.; revising provisions for making and use of rates for motor vehicle insurance; amending s. 627.072, F.S.; authorizing retrospective rating plans relating to

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workers' compensation and employer's liability insurance to allow negotiations between certain employers and insurers with respect to rating factors used to calculate premiums; amending ss. 627.281, F.S.; conforming a cross-reference; amending s. 627.311, F.S.; providing that certain dividends may be retained by the joint underwriting plan for future use; amending s. 627.3518, F.S.; conforming a cross-reference; repealing s. 627.3519, F.S., relating to an annual report on the aggregate report of maximum losses of the Florida Hurricane Catastrophe Fund and Citizens Property Insurance Corporation; amending s. 627.409, F.S.; providing that a claim for residential property insurance may not be denied based on certain credit information; amending s. 627.4133, F.S.; extending the period for prior notice required with respect to the nonrenewal, cancellation, or termination of certain insurance policies; deleting certain provisions that require extended periods of prior notice with respect to the nonrenewal, cancellation, or termination of certain insurance policies; prohibiting the cancellation of certain policies that have been in effect for a specified amount of time, except under certain circumstances; prohibiting the cancellation of a policy or contract that has been in effect for a specified amount of time based on certain credit information; amending s. 627.4137, F.S.; adding licensed company adjusters to the list of persons who may respond to a claimant's

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written request for information relating to liability insurance coverage; amending s. 627.421, F.S.; authorizing a policyholder of personal lines insurance to affirmatively elect delivery of policy documents by electronic means; amending s. 627.43141, F.S.; authorizing a notice of change in policy terms to be sent in a separate mailing to an insured under certain circumstances; requiring an insurer to provide such notice to the insured's insurance agent; creating s. 627.4553, F.S.; providing requirements for the recommendation to surrender an annuity or life insurance policy; amending s. 627.7015, F.S.; revising the rulemaking authority of the department with respect to qualifications and specified types of penalties covered under the property insurance mediation program; creating s. 627.70151, F.S.; providing criteria for an insurer or policyholder to challenge the impartiality of a loss appraisal umpire for purposes of disqualifying such umpire; amending s. 627.706, F.S.; revising the definition of the term "neutral evaluator"; amending s. 627.7074, F.S.; revising notification requirements for participation in the neutral evaluation program; providing grounds for the department to deny an application, or suspend or revoke certification, of a neutral evaluator; requiring the department to adopt rules relating to certification of neutral evaluators; amending s. 627.711, F.S.; revising verification requirements for uniform mitigation verification forms; amending s.

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627.7283, F.S.; providing for the electronic transfer of unearned premiums returned when a policy is cancelled; amending s. 627.736, F.S.; revising the time period for applicability of certain Medicare fee schedules or payment limitations; amending s. 627.744, F.S.; revising preinsurance inspection requirements for private passenger motor vehicles; amending s. 627.745, F.S.; revising qualifications for approval as a mediator by the department; providing grounds for the department to deny an application, or suspend or revoke approval of a mediator or certification of a neutral evaluator; authorizing the department to adopt rules; amending s. 627.778, F.S.; revising provisions relating to risk limits on title insurance contracts; amending s. 627.782, F.S.; revising the date by which title insurance agencies and certain insurers must annually submit specified information to the Office of Insurance Regulation; amending s. 627.841, F.S.; providing that an insurance premium finance company may impose a charge for payments returned, declined, or unable to be processed due to insufficient funds; amending s. 628.461, F.S.; revising filing requirements relating to the acquisition of controlling stock; revising the amount of outstanding voting securities of a domestic stock insurer or a controlling company that a person is prohibited from acquiring unless certain requirements have been met; prohibiting persons acquiring a certain percentage of voting securities from acquiring certain securities;

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providing that a presumption of control may be rebutted by filing a disclaimer of control; deleting a definition; amending ss. 631.717 and 631.734, F.S.; transferring a provision relating to the obligations of the Florida Life and Health Insurance Guaranty Association; amending s. 634.406, F.S.; revising criteria authorizing premiums of certain service warranty associations to exceed their specified net assets limitations; revising requirements relating to contractual liability policies that insure warranty associations; providing effective dates.