

## Committee Substitute for Senate Bill No. 2478

An act relating to rulemaking authority of state agencies (RAB); amending s. 386.205, F.S.; authorizing state agencies to adopt rules to designate smoking areas; amending s. 554.115, F.S.; providing additional circumstances under which the Department of Insurance may suspend or revoke a certificate of compliance to operate a boiler; requiring that certain violations be reported to the state attorney; providing for administrative actions; creating s. 624.4135, F.S.; requiring that the department adopt rules governing applications by foreign insurers for a certificate of authority as a domestic insurer; amending s. 625.305, F.S.; establishing limitations relating to certain investments by domestic life insurers; creating s. 625.765, F.S.; exempting specified transactions from requirements that a domestic stock insurer file statements and recover certain profits; creating s. 626.2817, F.S.; providing for the regulation of course providers, instructors, and other groups involved in precicensure education for insurance agents and other licensees; amending s. 626.7353, F.S.; requiring that the Department of Insurance adopt rules governing the appointment of customer representatives; amending s. 627.062, F.S.; providing for the availability of water supplies to be considered by insurers or rating organizations in establishing rates; amending s. 627.429, F.S.; providing that certain limitations on the use of medical tests for human immunodeficiency virus infection and acquired immune deficiency syndrome apply to insurance provided by prepaid limited health organizations; amending s. 627.481, F.S.; requiring that the department adopt rules governing certain annuity agreements; creating s. 627.7276, F.S.; providing notice requirements for motor vehicle policies that do not provide coverage for bodily injury and property damage liability; amending s. 627.7282, F.S.; authorizing the Department of Insurance to adopt rules governing the format of the notice of additional premiums; creating s. 627.796, F.S.; requiring that a title insurer obtain a minimum amount of errors and omissions coverage for persons performing title searches; creating s. 627.797, F.S.; requiring that insurers file with the department a list of agents who are exempt from licensure; creating s. 627.798, F.S.; requiring that the Department of Insurance adopt forms for notifying the mortgagor of certain provisions in a title policy; amending ss. 627.8405, 627.848, F.S.; requiring that the Department of Insurance adopt forms for disclosing coverages financed with personal injury protection and for cancelling certain policies; creating s. 627.955, F.S.; prohibiting certain deductibles that are applicable to the insured group as a whole; amending s. 635.071, F.S.; prohibiting insurance on mortgages that are offered for sale based on certain advertisements; amending s. 648.4425, F.S.; requiring the Department of Insurance to prescribe forms for use by bail bond agents in issuing bonds; amending s. 791.015, F.S.; authorizing the State Fire Marshal to adopt by rule registration forms for manufacturers, distributors, wholesalers, and retailers of sparklers; providing an effective date.

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

Section 1. Subsection (6) is added to section 386.205, Florida Statutes, to read:

386.205 Designation of smoking areas.—

(6) Each state agency may adopt rules for administering this section which take into consideration the provisions of this part.

Section 2. Section 554.115, Florida Statutes, is amended to read:

554.115 Disciplinary proceedings.—

(1) The department may suspend or revoke a certificate of compliance upon proof that:

- (a) The certificate has been obtained by fraud or misrepresentation;
- (b) The boiler for which the certificate was issued cannot be operated safely; or

(c) The person who received the certificate willfully or deliberately violated the State Boiler Code or ss. 554.1011-554.115 or any rule adopted pursuant to ss. 554.1011-554.115.

(2) The department may suspend or revoke a certificate of competency upon proof that:

- (a) The certificate was obtained by fraud or misrepresentation; or
- (b) The inspector to whom the certificate was issued is no longer qualified under ss. 554.1011-554.115 to inspect boilers; or;

(c) The inspector:

1. Operated a boiler at a public assembly location without a valid certificate of compliance for that boiler;

2. Gave false or forged information to the department or to another boiler inspector for the purpose of obtaining a certificate of compliance;

3. Used a certificate of compliance for any boiler other than the boiler for which it was issued;

4. Operated a boiler for which the certificate of compliance has been suspended or revoked or has expired;

5. Inspected any boiler regulated under ss. 554.1011-554.115 without having obtained a valid certificate of competency;

6. Operated a boiler that is in an unsafe condition; or

7. Operated a boiler in a manner that is contrary to the requirements of this chapter or any rule adopted under this chapter.

(3) Each suspension of a certificate of compliance or certificate of competency shall continue in effect until all violations have been corrected and, for boiler safety violations, until the boiler has been inspected and shown to be in a safe condition.

(4) A person in violation of this section who does not have a valid certificate of competency shall be reported by the chief inspector to the appropriate state attorney.

(5) A person in violation of this section who has a valid certificate of competency is subject to administrative action by the chief inspector.

(6) A revocation of a certificate of competency is permanent and a revoked certificate of competency may not be reinstated or a new certificate of competency issued to the same person. A suspension of a certificate of competency continues in effect until all violations have been corrected. A suspension of a certificate of compliance for any boiler safety violation continues in effect until the boiler has been inspected by an authorized inspector and shown to be in safe working condition.

Section 3. Section 624.4135, Florida Statutes, is created to read:

624.4135 Redomestication.—The department shall adopt rules establishing procedures and forms for a foreign insurer to apply for a certificate of authority as a domestic insurer.

Section 4. Subsection (11) is added to section 625.305, Florida Statutes, to read:

625.305 Diversification.—

(11) Every domestic life insurance company that issues variable annuity contracts may invest and reinvest amounts received in connection with such variable contracts in common stocks, subject to the following limitations:

(a) All common stock investments must be in stock that is listed or admitted to trading on a securities exchange located in the United States, or which is publicly held and has been traded in the “over the counter market” for not less than one year preceding the date of purchase and for which stock market quotations have been readily available for that one year period.

(b) A domestic life insurance company that issues variable annuity contracts may not invest more than five percent of all of the amounts received in connection with such contracts in the securities of one corporation or insurer.

(c) A domestic life insurance company that issues variable annuity contracts may not, as a result of investing any funds received in connection with such contracts, beneficially own or hold, together with the investments permitted under s. 625.305(2)(a), more than fifteen percent of the outstanding securities of any corporation or issuer. Any foreign life insurance company that issues variable annuity contracts in this state and which invests the

funds received in connection with such contracts in accordance with the laws of its state of domicile, is in compliance with this section.

(d) A domestic life insurance company may not invest in the common stock of any corporation if such investment creates a conflict of interest between officers and directors of the investing company and those of the corporation whose stock is purchased.

Section 5. Section 625.765, Florida Statutes, is created to read:

625.765 Exemptions from ss. 625.75 and 625.76.—The department may adopt by rule exemptions from ss. 625.75 and 625.76 for transactions that are not subject to s. 628.461 and that are the result of proceedings in probate, incompetency, or bankruptcy; sales of securities by odd-lot securities dealers; small transactions by gift which do not exceed \$3,000 over any 6-month period; transactions that are effected in connection with the distribution of a substantial block of securities; acquisitions of shares of stock and stock options under a stock bonus plan, stock option plan, or similar plan; securities acquired by redeeming other securities by an insurer; consolidations or mergers of insurers that hold over 85 percent of the companies being merged or consolidated; acquisitions or dispositions of an equity security involved in the deposit of the security under, or the withdrawal of the security from, a voting trust or deposit agreement; and conversions of an insurer's equity securities into another equity security of the same insurer. The department may limit by rule the scope of exemptions and provide conditions for exemptions as necessary to maintain the purpose and intent of ss. 625.75 and 625.76 and prevent the circumvention of ss. 625.75 and 625.76.

Section 6. Section 626.2817, Florida Statutes, is created to read:

626.2817 Regulation of course providers, instructors, school officials, and monitor groups involved in precicensure education for insurance agents and other licensees.—

(1) Any course provider, instructor, school official, or monitor group must be approved by and registered with the department before offering precicensure education courses for insurance agents and other licensees.

(2) The department shall adopt rules establishing standards for the approval, registration, discipline, or removal from registration of course providers, instructors, school officials, and monitor groups. The standards must be designed to ensure that such persons have the knowledge, competence, and integrity to fulfill the educational objectives of the precicensure requirements of this chapter and chapter 648 and to assure that insurance agents and licensees are competent to engage in the activities authorized under the license.

(3) The department shall adopt rules to establish a process for determining compliance with the precicensure requirements of this chapter and chapter 648 and shall establish a precicensure cycle for insurance agents and other licensees. The department shall adopt rules prescribing the forms necessary to administer the precicensure requirements.

Section 7. Subsection (3) is added to section 626.7353, Florida Statutes, to read:

626.7353 Appointment of customer representatives.—

(3) The department shall prescribe by rule forms to administer this section.

Section 8. Paragraph (c) 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:

(c) In the case of fire insurance rates, consideration shall be given to the availability of water supplies and the experience of the fire insurance business during a period of not less than the most recent 5-year period for which such experience is available.

The provisions of this subsection shall not apply to workers' compensation and employer's liability insurance and to motor vehicle insurance.

Section 9. Paragraph (a) of subsection (2) of section 627.429, Florida Statutes, is amended to read:

627.429 Medical tests for human immunodeficiency virus infection and acquired immune deficiency syndrome for insurance purposes.—

(2) SCOPE.—

(a) This section applies to all insurance policies, and the underwriting thereof, which are issued in this state or are issued outside this state pursuant to s. 627.5515 or s. 627.6515 covering residents of this state; to prepaid limited health organizations; and to multiple-employer welfare arrangements defined in s. 624.437. For the purposes of this section, "insurer" includes authorized multiple-employer welfare arrangements.

Section 10. Subsection (11) is added to section 627.481, Florida Statutes, to read:

627.481 Requirements for certain annuity agreements.—

(11) The department shall adopt rules and forms for the filing of annual statements and agreements pertaining to donor annuity organizations.

Section 11. Section 627.7276, Florida Statutes, is created to read:

627.7276 Notice of limited coverage.—

(1) An automobile policy that does not contain coverage for bodily injury and property damage must be clearly stamped or printed to the effect that such coverage is not included in the policy in the following manner:

“THIS POLICY DOES NOT PROVIDE BODILY INJURY AND PROPERTY DAMAGE LIABILITY INSURANCE OR ANY OTHER COVERAGE FOR WHICH A SPECIFIC PREMIUM CHARGE IS NOT MADE, AND DOES NOT COMPLY WITH ANY FINANCIAL RESPONSIBILITY LAW.”

(2) This legend must appear on the policy declaration page and on the filing back of the policy and be printed in a contrasting color from that used on the policy and in type larger than the largest type used in the text thereof, as an overprint or by a rubber-stamp impression.

Section 12. Subsection (5) is added to section 627.7282, Florida Statutes, to read:

627.7282 Notice of additional premium; cancellation upon nonpayment.—

(5) The department may adopt rules prescribing the format of the notice.

Section 13. Section 627.796, Florida Statutes, is created to read:

627.796 Errors and omissions policy requirements.—A title insurance policy may not be issued from a search performed by any person other than a title insurance agent, or an employee of a title insurer or title insurance agency, unless that person has in effect an errors and omissions policy that has minimum coverage limits of \$250,000 and a deductible that does not exceed \$10,000.

Section 14. Section 627.797, Florida Statutes, is created to read:

627.797 Exempt agent list.—

(1) Every insurer shall file with the department a list containing the name and address of each appointed agent who is exempt from licensure under s. 626.8417(4) and who issues or countersigns binders, commitments, title insurance policies, or guarantees of title.

(2) Each month thereafter, the insurer shall report to the department the name and address of any nonlicensed agent whose appointment is granted or terminated.

Section 15. Section 627.798, Florida Statutes, is created to read:

627.798 Rulemaking authority.—The department shall by rule adopt a form to be used to provide notice to a purchaser-mortgagor that the purchaser-mortgagor is not protected by the title policy of the mortgagee.

Section 16. Section 627.8405, Florida Statutes, is amended to read:

627.8405 Prohibited acts; financing companies.—No premium finance company shall, in a premium finance agreement or other agreement, finance the cost of or otherwise provide for the collection or remittance of dues, assessments, fees, or other periodic payments of money for the cost of:

(1) A membership in an automobile club. The term “automobile club” means a legal entity which, in consideration of dues, assessments, or periodic 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, this definition of “automobile club” does not include persons, associations, or corporations which are organized and operated solely for the purpose of conducting, sponsoring, or sanctioning motor vehicle races, exhibitions, or contests upon racetracks, or upon racecourses established and marked as such for the duration of such particular events. The words “motor vehicle” used herein have the same meaning as defined in chapter 320.

(2) An accidental death and dismemberment policy sold in combination with a personal injury protection and property damage only policy.

(3) Any product not regulated under the provisions of this insurance code.

This section also applies to premium financing by any insurance agent or insurance company under part XVI. The department shall ~~adopt~~ promulgate rules to assure disclosure, at the time of sale, of coverages financed with personal injury protection and shall prescribe the form of such disclosure.

Section 17. Subsection (3) is added to section 627.848, Florida Statutes, to read:

627.848 Cancellation of insurance contract upon default.—

(3) The department shall adopt a standard cancellation notice for use by premium finance companies in canceling insurance policies. The department shall specify the color of the notice so as to promote usability and standardization.

Section 18. Section 627.955, Florida Statutes, is created to read:

627.955 Limitation on deductibles.—A purchasing group may not purchase insurance that provides for a deductible or self-insured retention that is applicable to the group as a whole. However, coverage may provide for a deductible or self-insured retention that is applicable to individual members.

Section 19. Subsection (3) is added to section 635.071, Florida Statutes, to read:

635.071 Filings, approval of forms; rate filings.—

(3) An insurer may not insure mortgages that are offered for sale to the public by advertisement, whether in newspapers, brochures, direct mailings, or similar media, if the advertisement expressly or impliedly represents or stresses that the worth, value, or safety of the mortgage investment arises by virtue of the proposed mortgage guaranty insurance rather than by virtue of the safety inherent in the value of the underlying security as it relates to the face value of the mortgage debt, or if the advertisement

stresses the fact that the mortgage guaranty insurance is regulated by an agency of the state or Federal Government.

Section 20. Section 648.4425, Florida Statutes, is amended to read:

648.4425 Notice.—

(1) Upon issuing a bond, the bail bond agent shall provide to the principal and, if applicable, to the party rendering collateral or indemnifying the principal an informational notice which shall include:

~~(a)~~(1) A statement noting with particularity the restrictions, if any, placed on the principal as a condition of the bond;

~~(b)~~(2) A statement of the bail bond agent's powers relating to the cancellation of the bond and recommitment of the principal; and

~~(c)~~(3) The name, address, and telephone number of the department for complaints or inquiries.

(2) The department shall prescribe forms to administer this section.

Section 21. Subsection (4) is added to section 791.015, Florida Statutes, to read:

791.015 Registration of manufacturers, distributors, wholesalers, and retailers of sparklers.—

(4) RULES.—The State Fire Marshal may adopt rules prescribing registration forms required by this section.

Section 22. This act shall take effect July 1, 2000.

Approved by the Governor June 26, 2000.

Filed in Office Secretary of State June 26, 2000.