

Committee Substitute for Senate Bill No. 2588

An act relating to insurance; amending s. 624.425, F.S.; deleting a resident agent requirement for certain property, casualty, and surety insurers; amending s. 624.426, F.S.; conforming provisions; amending s. 624.428, F.S.; providing that an insurer must deliver certain policies through a resident or nonresident agent; amending s. 626.025, F.S.; requiring surplus lines agents to comply with consumer protection laws; deleting provisions prohibiting certain actions by nonresident agents, to conform; amending s. 626.741, F.S.; deleting a prohibition against nonresident general lines agents having offices in this state; conforming provisions; amending s. 626.752, F.S.; conforming provisions; amending s. 626.753, F.S.; conforming provisions; repealing s. 626.792(3), F.S.; deleting a prohibition against nonresident life insurance agents having offices in this state; repealing s. 626.835(3), F.S.; deleting a prohibition against nonresident health insurance agents having offices in this state; creating s. 626.9272, F.S.; providing requirements for the licensure of nonresident surplus lines agents; amending s. 626.929, F.S.; conforming provisions; amending s. 626.933, F.S.; allowing the department to authorize the Florida Surplus Lines Service Office to file suit on its behalf; amending s. 626.930, F.S.; conforming provisions; amending s. 626.935, F.S.; providing additional grounds for discipline of licensees; amending s. 626.2815, F.S.; deleting certain minimum continuing education requirements; amending s. 626.015, F.S.; defining the term "personal lines agent"; amending s. 626.022, F.S.; providing for application; amending s. 626.241, F.S.; limiting the scope of personal lines agent examinations; amending s. 626.311, F.S.; limiting the types of business that may be transacted by personal lines agents; amending s. 626.727, F.S.; providing that certain provisions apply to personal lines agents; amending s. 626.732, F.S.; revising certain education and experience requirements for personal lines agents; amending s. 626.747, F.S.; requiring branch agencies to have certain licensed agents at each location; amending s. 627.351, F.S.; providing that certain employees of the Citizens' Property Insurance Corporation need not be licensed as agents; providing that the act does not require the Department of Financial Services to begin issuing certain licenses by the effective date of the act, under specified conditions; amending s. 626.321, F.S.; limiting the types of business that may be transacted by personal lines agents; amending s. 627.0915, F.S.; providing for notice by insurers to employers of the availability of premium discounts where drug free workplace programs are used; authorizing the Financial Services Commission to adopt rules; amending s. 628.709, F.S.; revising membership criteria for mutual insurance holding companies relating to policyholders of subsidiary insurance companies; amending s. 631.021, F.S.; authorizing certain domiciliary courts to exercise exclusive jurisdiction over certain persons under certain circumstances; specifying the Circuit Court of Leon County as having exclusive jurisdiction over certain proceedings and claims; amending

s. 631.041, F.S.; entitling the estates of certain injured insurers to actual damages; authorizing a receivership court to impose additional sanctions; amending s. 631.0515, F.S.; subjecting certain managing general agents or holding companies to court jurisdiction under certain circumstances; amending s. 631.141, F.S.; specifying certain expenses as administrative and recoverable by a receiver in certain proceedings; amending s. 631.205, F.S.; specifying that entry of certain orders does not constitute anticipatory breach of certain contracts or serve as grounds for certain adverse contract actions by a reinsurer; creating s. 631.206, F.S.; voiding certain contractual arbitration provisions by insurers in receivership; specifying a replacement arbitration provision; amending s. 631.261, F.S.; voiding certain transfers or liens made by certain persons prior to certain delinquency proceedings; specifying a criterion for making certain transfers; amending ss. 631.262 and 631.263, F.S.; specifying a criterion for making certain transfers; amending ss. 631.54 and 631.904, F.S.; revising the definition of covered claim; excluding certain claims rejected by another state's guaranty fund under certain circumstances; providing an exception; denying member insurers any right to indemnification or contribution sought through third parties; creating s. 634.1815, F.S.; providing conditions under which a salesperson of a motor vehicle service agreement company may rebate his or her commission; creating s. 634.3205, F.S.; providing conditions under which a sales representative of a home warranty association may rebate his or her commission; amending s. 634.406, F.S.; providing conditions under which a service warranty association is exempt from certain premium reserve and liability insurance requirements and may allow premiums to exceed certain limits; creating s. 634.4225, F.S.; providing conditions under which a sales representative of a service warranty association may rebate his or her commission; amending s. 627.4133, F.S.; providing for an effective date of certain policy cancellations by insureds; amending s. 626.641, F.S.; requiring continuing education courses for reinstatement of a license, appointment, or eligibility after a second suspension; providing duties of the Department of Financial Services or the Office of Insurance Regulation of the Financial Services Commission; reenacting s. 626.935(4)(a), F.S., relating to the suspension, revocation, or refusal of a surplus lines agent's license, to incorporate the amendment to s. 626.641, F.S., in a reference thereto; providing an effective date.

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

Section 1. Section 624.425, Florida Statutes, is amended to read:

624.425 ~~Resident Agent and~~ countersignature required, property, casualty, surety insurance.—

(1) Except as stated in s. 624.426, no authorized property, casualty, or surety insurer shall assume direct liability as to a subject of insurance resident, located, or to be performed in this state unless the policy or contract of insurance is issued by or through, and is countersigned by, ~~an a local~~

~~producing agent who is a resident of this state, regularly commissioned and licensed currently as an agent and appointed as an agent for the insurer under this code. If two or more authorized insurers issue a single policy of insurance against legal liability for loss or damage to person or property caused by the nuclear energy hazard, or a single policy insuring against loss or damage to property by radioactive contamination, whether or not also insuring against one or more other perils proper to insure against in this state, such policy if otherwise lawful may be countersigned on behalf of all of the insurers by a licensed and appointed resident agent of any insurer appearing thereon. The producing ~~Such~~ agent shall receive on each policy or contract the full and usual commission allowed and paid by the insurer to its agents on business written or transacted by them for the insurer.~~

(2) If any subject of insurance referred to in subsection (1) is insured under a policy, or contract, or certificate of renewal or continuation thereof, issued in another state and covering also property and risks outside this state, a certificate evidencing such insurance as to subjects located, resident, or to be performed in this state, shall be issued by or through and shall be countersigned by the insurer's commissioned and appointed ~~local~~ producing agent ~~resident in this state in the same manner and subject to the same conditions as is provided in subsection (1) as to policies and contracts; except that the compensation to be paid to the agent may relate only to the Florida portion of the insurance risks represented by such policy or contract.~~

(3) An agent shall not sign or countersign in blank any policy to be issued outside her or his office, or countersign in blank any countersignature endorsement therefor, or certificate issued thereunder. An agent may give a written power of attorney to the issuing insurance company to countersign such documents by imprinting her or his name, or the name of the agency or other entity with which the agent may be sharing commission pursuant to s. 626.753(1)(a) and (2), thereon in lieu of manually countersigning such documents; but an agent shall not give a power of attorney to any other person to countersign any such document in her or his name unless the person so authorized is directly employed by the agent and by no other person, and is so employed in the office of the agent.

(4) This section shall not be deemed to prohibit insurers from using salaried licensed and appointed agents for the production and servicing of business in this state and the issuance and countersignature by such agents of insurance policies or contracts, when required under subsection (1), and without payment of commission therefor.

(5) This section shall not be deemed to prohibit an insurer from authorizing an agent who is not regularly commissioned and appointed currently as an agent of the insurer from countersigning a policy or contract of insurance issued pursuant to the provisions of ss. 627.311 and 627.351. This section does not apply to reissuance of insurance policies or endorsements thereto which are part of a mass reissuance of such policies or endorsements and do not involve a change of premium or payment of agent's commissions.

Section 2. Section 624.426, Florida Statutes, is amended to read:

624.426 Exceptions to ~~resident agent and~~ countersignature law.—Section 624.425 does not apply to:

- (1) Contracts of reinsurance.
- (2) Policies of insurance on the rolling stock of railroad companies doing a general freight and passenger business.
- (3) United States Customs surety bonds that are issued by a corporate surety approved by the United States Department of Treasury and that name the United States as the beneficiary.
- (4) Policies of insurance issued by insurers whose agents represent only one company or group of companies under common ownership if a company within one group is transferring policies to another company within the same group and the agent of record remains the same.
- (5) Policies of insurance issued by insurers whose agents represent, as to property, casualty, and surety insurance, only one company or group of companies under common ownership ~~and for which a Florida resident agent is the agent of record~~ and the application has been lawfully submitted to the insurer.

Section 3. Section 624.428, Florida Statutes, is amended to read:

624.428 Licensed agent law, life and health insurances.—

(1) No ~~life~~ insurer shall deliver or issue for delivery in this state any policy of life insurance, master group life insurance contract, master credit life policy or agreement, annuity contract, or contract or policy of health insurance, unless the application for such policy or contract is taken by, and the delivery of such policy or contract is made through, a resident or nonresident ~~an~~ insurance agent of the insurer duly licensed and appointed under the law of this state, who shall receive the usual commission due to an agent from such insurer.

(2) Each such insurer shall maintain a licensed and appointed resident or nonresident agent at all times for the purpose of and through whom policies or contracts issued or delivered in this state shall be serviced.

(3) This section does not apply to policies of insurance or annuity contracts on nonresidents which are applied for outside, and delivered in, the state or to reissuance of insurance policies or endorsements thereto which are part of a mass reissuance of such policies or endorsements and do not involve a change of premium or payment of agent's commissions.

Section 4. Subsections (8) and (9) of section 626.025, Florida Statutes, are amended and present subsections (10) through (16) of that section are redesignated as subsections (9) through (15), respectively, to read:

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

(8) Requirements for licensure of resident and nonresident agents in s. 626.112, s. 626.321, s. 626.731, s. 626.741, s. 626.785, s. 626.792, s. 626.831, ~~or s. 626.835, or s. 626.927.~~

~~(9) The prohibition against nonresident agents having a place of business in the state, a pecuniary interest in an insurance business in the state, or a financial interest in an insurance agency in the state, under s. 626.741, s. 626.792, or s. 626.835.~~

Section 5. Section 626.741, Florida Statutes, is amended to read:

626.741 Nonresident agents; licensing and restrictions.—

(1) The department may, upon written application and the payment of the fees as specified in s. 624.501, issue a license as:

(a) A nonresident general lines agent to an individual licensed in his or her home state as a resident agent for the same line of authority as a Florida resident general lines agent and otherwise qualified therefor under the laws of this state, but who is not a resident of this state, if by the laws of the individual's home state, residents of this state may be licensed in a similar manner as a nonresident agent of his or her home state.

(b) A customer representative to an individual otherwise qualified therefor, who is not a resident of this state, but is a resident of a state sharing a common boundary with this state.

(2) The department may enter into reciprocal agreements with the appropriate official of any other state waiving the written examination of any applicant resident in that other state if:

(a) In the applicant's home state, a resident of this state is privileged to procure a general lines agent's license upon compliance with the conditions specified in subsection (1) and without discrimination as to fees or otherwise in favor of the residents of the individual's home state.

(b) The appropriate official of the individual's home state certifies that the applicant holds a currently valid license as a resident agent in his or her home state for the same line of authority as a general lines agent in this state.

(c) The applicant satisfies the examination requirement under s. 626.221, or qualifies for an exemption thereunder.

(3) The department shall not, however, issue any license and appointment to any ~~nonresident who has an office or place of business in this state, or who has any direct or indirect pecuniary interest in any insurance agent or insurance agency licensed as a resident of this state; nor to any individual who does not, at the time of issuance and throughout the existence of the Florida license, hold a license as agent or broker issued by his or her home state; nor to any individual who is employed by any insurer as a service representative or who is a managing general agent in any state, whether or not also licensed in another state as an agent or broker.~~ The foregoing

requirement to hold a similar license in the applicant's home state does not apply to customer representatives unless the home state licenses residents of that state in a similar manner. ~~The prohibition against having an office or place of business in this state does not apply to customer representatives who are required to conduct business solely within the confines of the office of a licensed and appointed Florida resident general lines agent in this state. The authority of such nonresident license is limited to the specific lines of authority granted in the license issued by the agent's home state and further limited to the specific lines authorized under the nonresident license issued by this state. The department shall have discretion to refuse to issue any license or appointment to a nonresident when it has reason to believe that the applicant by ruse or subterfuge is attempting to avoid the intent and prohibitions contained in this subsection or to believe that any of the grounds exist as for suspension, denial, or revocation of license as set forth in ss. 626.611 and 626.621.~~

~~(4) Such a nonresident shall not directly or indirectly solicit, negotiate, or effect insurance contracts in this state unless accompanied by a countersigning agent, resident in this state, on such risk.~~

~~(5)(a) All insurance policies as defined in s. 627.402, written under the nonresident agent's license, including those written or issued pursuant to the Surplus Lines Law, part VIII, on risks or property located in this state must be countersigned by a local agent resident of this state; and it shall be the duty and responsibility of the nonresident agent, and, if called upon to do so by the countersigning agent, of the insurer likewise, to assure that such resident local agent receives the same commission as allowed by the home state of the nonresident agent, but in no event shall the resident local agent receive, accept, or retain less than 50 percent of the usual Florida local agent's commission or 50 percent of the nonresident agent's commission, whichever is less, on policies of insurance covering property as defined in s. 624.604 and insurance covering in whole or in part real property and tangible personal property, including property floater policies. On all other policies of insurance, including insurance covering motor vehicles, plate glass, burglary, robbery, theft, larceny, boiler and machinery, workers' compensation, fidelity and surety, bodily injury liability, and property damage liability, in no event shall he or she receive, accept, or retain less than 25 percent of the usual Florida local agent's commission or 25 percent of the nonresident agent's commission, whichever is less.~~

~~(b) The provisions of this subsection, with respect to resident agent countersignature commission, shall not be applicable to any contracts of insurance purchased by a person whose premiums for insurance in the preceding year of such purchase exceeded \$250,000 in the aggregate. Nothing herein is intended to preclude the negotiation and payment of a commission to the countersigning agent to compensate him or her for services performed or to be performed.~~

~~(4)(6) Any individual who holds a Florida nonresident agent's license, upon becoming a resident of this state may, for a period not to exceed 90 days, continue to transact insurance in this state under the nonresident license and appointment. Such individual must make application for resi-~~

dent licensure and must become licensed as a resident agent within 90 days of becoming a resident of this state.

(5)(7) Upon becoming a resident of this state, an individual who holds a Florida nonresident agent's license is no longer eligible for licensure as a nonresident agent if such individual fails to make application for a resident license and become licensed as a resident agent within 90 days. His or her license and any appointments shall be canceled immediately. He or she may apply for a resident license pursuant to s. 626.731.

(6)(8) Except as provided in this section and ss. 626.742 and 626.743, nonresident agents shall be subject to the same requirements as apply to agents resident in this state. However, nonresident agents are not required to maintain an insurance agency in this state. If a nonresident agent does maintain or have a financial interest in an insurance agency in this state, the agency is subject to the same requirements that apply to agencies of resident agents in this state.

(7)(9) If available, the department shall verify the nonresident applicant's licensing status through the Producer Database maintained by the National Association of Insurance Commissioners, its affiliates, or subsidiaries.

Section 6. Paragraph (a) of subsection (3) of section 626.752, Florida Statutes, is amended to read:

626.752 Exchange of business.—

(3)(a) An insurer may furnish to ~~resident Florida~~ general lines agents who are not appointed by the insurer its forms, coverage documents, binders, applications, and other incidental supplies only for the purposes set forth in this section and only to the extent necessary to facilitate the writing of exchange of business pursuant to this section. The insurer shall assign a unique brokering agent's register number to each agent not appointed with the insurer but furnished with the insurer's forms, coverage documents, binders, applications, and other incidental supplies.

Section 7. Subsections (1) and (3) of section 626.753, Florida Statutes, are amended to read:

626.753 Sharing commissions; penalty.—

(1)(a) An agent may divide or share in commissions only with other agents appointed and licensed to write the same kind or kinds of insurance.

~~(b) A resident agent and a nonresident agent, subject to the provisions of s. 626.741, may divide among themselves commissions as to kinds of insurance for which both are appointed and licensed.~~

(b)(e) This section shall not be construed to prevent the payment or receipt of renewal commissions or other deferred commissions or pensions to or by any person solely because such person has ceased to hold a license to act as an insurance agent, and shall not prevent the payment of renewal

commissions or other deferred commissions to any incorporated insurance agency solely because any of its stockholders has ceased to hold a license to act as an insurance agent.

(3) A ~~resident~~ general lines agent may share commissions derived from the sale of crop hail or multiple-peril crop insurance with a production credit association organized under 12 U.S.C.A. ss. 2071-2077 or a federal land bank association organized under U.S.C.A. ss. 2091-2098 if the association has specifically approved the insurance activity by its employees. The amount of commission to be shared shall be determined by the general lines agent and the company paying the commission.

Section 8. Subsection (3) of section 626.792, Florida Statutes, is repealed.

Section 9. Subsection (3) of section 626.835, Florida Statutes, is repealed.

Section 10. Section 626.9272, Florida Statutes, is created to read:

626.9272 Licensing of nonresident surplus lines agents.—

(1) The department may, upon written application and the payment of the fees specified in s. 624.501, issue a nonresident surplus lines agent license to a nonresident individual licensed in his or her home state as a resident general lines and a resident surplus lines agent and otherwise qualified under the laws of this state if, under the laws of the individual's home state, residents of this state may be licensed in a similar manner as a nonresident surplus lines agent in that state.

(2) The department may not issue a license unless the applicant satisfies the same licensing requirements under s. 626.927 as required of a resident surplus lines agent. The department may refuse to issue such license or appointment when it has reason to believe that any of the grounds exist for denial, suspension, or revocation of a license as set forth in ss. 626.611 and 626.621.

(3) The authority of a nonresident license is limited to the specific lines of authority granted in the license issued by the agent's home state and the lines authorized under the nonresident license by this state.

(4) Any individual who holds a nonresident agent's license, upon becoming a resident of this state may, for a period not to exceed 90 days, operate under the nonresident license and appointment, but must become licensed as a resident agent within that time to continue transacting business in this state after the 90-day period.

(5) Except as provided in this section, nonresident surplus lines agents are subject to the requirements that apply to resident surplus lines agents in this state, including ss. 626.913-626.937.

(6) If available, the department shall verify a nonresident applicant's licensing status through the producer database maintained by the National Association of Insurance Commissioners, its affiliates, or subsidiaries.

Section 11. Subsection (1) of section 626.929, Florida Statutes, is amended to read:

626.929 Origination, acceptance, placement of surplus lines business.—

(1) A ~~resident~~ general lines agent while licensed and appointed as a surplus lines agent under this part may originate surplus lines business and may accept surplus lines business from any other originating Florida-licensed general lines agent appointed and licensed as to the kinds of insurance involved and may compensate such agent therefor.

Section 12. Subsection (1) of section 626.930, Florida Statutes, is amended to read:

626.930 Records of surplus lines agent.—

(1) Each surplus lines agent shall keep in his or her office in this state, or in the agent's state of residence for a nonresident who does not have an office in this state, a full and true record for a period of 5 years of each surplus lines contract, including applications and all certificates, cover notes, and other forms of confirmation of insurance coverage and any substitutions thereof or endorsements thereto relative to said contract procured by the agent and showing such of the following items as may be applicable:

- (a) Amount of the insurance and perils insured against;
- (b) Brief general description of property insured and where located;
- (c) Gross premium charged;
- (d) Return premium paid, if any;
- (e) Rate of premium charged upon the several items of property;
- (f) Effective date of the contract, and the terms thereof;
- (g) Name and post office address of the insured;
- (h) Name and home-office address of the insurer;
- (i) Amount collected from the insured; and
- (j) Other information as may be required by the department.

Section 13. Section 626.933, Florida Statutes, is amended to read:

626.933 Collection of tax and service fee.—If the tax or service fee payable by a surplus lines agent under this Surplus Lines Law is not so paid within the time prescribed, the same shall be recoverable in a suit brought by the department against the surplus lines agent and the surety or sureties on the bond filed by the surplus lines agent under s. 626.928. The department may authorize the Florida Surplus Lines Service Office to file suit on its behalf. All costs and expenses incurred in a suit brought by the office which are not recoverable from the agent or surety shall be borne by the office.

Section 14. Subsection (1) of section 626.935, Florida 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, upon 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 a period of 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.
- (e) Failure to pay the tax or service fee on surplus lines premiums, as provided for in this Surplus Lines Law.
- (f) Failure to maintain the bond as required by s. 626.928.
- (g) Suspension, revocation, or refusal to renew or continue the license or appointment as a general lines agent, service representative, or managing general agent.
- (h) Lack of qualifications as for an original surplus lines agent's license.
- (i) Violation of this Surplus Lines Law.
- (j) 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. 616.621.

Section 15. Paragraph (a) of subsection (3) of section 626.2815, Florida Statutes, is amended to read:

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

(3)(a) Each person subject to the provisions of this section must, except as set forth in paragraphs (b) and (c), complete a minimum of 24 hours of continuing education courses every 2 years in basic or higher-level courses prescribed by this section or in other courses approved by the department. Each person subject to the provisions of this section must complete, as part of his or her required number of continuing education hours, 3 hours of continuing education, approved by the department, every 2 years on the subject matter of ethics ~~and a minimum of 2 hours of continuing education,~~

~~approved by the department, every 2 years on the subject matter of unauthorized entities engaging in the business of insurance. The scope of the topic of unauthorized entities shall include the Florida Nonprofit Multiple Employer Welfare Arrangement Act and the Employee Retirement Income Security Act, 29 U.S.C. ss. 1001 et seq., as it relates to the provision of health insurance by employers to their employees and the regulation thereof.~~

Section 16. Present subsections (15) through (17) of section 626.015, Florida Statutes, are redesignated as subsections (16) through (18), respectively, and a new subsection (15) is added to that section to read:

626.015 Definitions.—As used in this part:

(15) “Personal lines agent” means a general lines agent who is limited to transacting business related to property and casualty insurance sold to individuals and families for noncommercial purposes.

Section 17. Subsection (3) is added to section 626.022, Florida Statutes, to read:

626.022 Scope of part.—

(3) Provisions of this part that apply to general lines agents and applicants also apply to personal lines agents and applicants, except where otherwise provided.

Section 18. Subsection (8) is added to section 626.241, Florida Statutes, to read:

626.241 Scope of examination.—

(8) An examination for licensure as a personal lines agent shall consist of 100 questions and shall be limited in scope to the kinds of business transacted under such license.

Section 19. Subsection (1) of section 626.311, Florida Statutes, is amended to read:

626.311 Scope of license.—

(1) Except as to personal lines agents and limited licenses, the applicant for license as a general lines agent or customer representative shall qualify for all property, marine, casualty, and surety lines except bail bonds which require a separate license under chapter 648. The license of a general lines agent may also cover health insurance if health insurance is included in the agent’s appointment by an insurer as to which the licensee is also appointed as agent for property or casualty or surety insurance. The license of a customer representative shall provide, in substance, that it covers all of such classes of insurance that his or her appointing general lines agent or agency is currently so authorized to transact under the general lines agent’s license and appointments. No such license shall be issued limited to particular classes of insurance except for bail bonds which require a separate license under chapter 648 or for personal lines agents. Personal lines agents are

limited to transacting business related to property and casualty insurance sold to individuals and families for noncommercial purposes.

Section 20. Section 626.727, Florida Statutes, is amended to read:

626.727 Scope of this part.—This part applies only to general lines agents, customer representatives, service representatives, and managing general agents, all as defined in s. 626.015. Provisions of this part which apply to general lines agents and applicants also apply to personal lines agents and applicants, except where otherwise provided.

Section 21. Subsection (1) of section 626.732, Florida Statutes, is amended to read:

626.732 Requirement as to knowledge, experience, or instruction.—

(1) Except as provided in subsection (3), no applicant for a license as a general lines agent or personal lines agent, except for a chartered property and casualty underwriter (CPCU), other than as to a limited license as to baggage and motor vehicle excess liability insurance, credit property insurance, credit insurance, in-transit and storage personal property insurance, or communications equipment property insurance or communication equipment inland marine insurance, shall be qualified or licensed unless within the 4 years immediately preceding the date the application for license is filed with the department the applicant has:

(a) Taught or successfully completed classroom courses in insurance, 3 hours of which shall be on the subject matter of ethics, satisfactory to the department at a school, college, or extension division thereof, approved by the department. To qualify for licensure as a personal lines agent, the applicant must complete a total of 52 hours of classroom courses in insurance;

(b) Completed a correspondence course in insurance, 3 hours of which shall be on the subject matter of ethics, satisfactory to the department and regularly offered by accredited institutions of higher learning in this state and, except if he or she is applying for a limited license under s. 626.321, for licensure as a general lines agent, has had at least 6 months of responsible insurance duties as a substantially full-time bona fide employee in all lines of property and casualty insurance set forth in the definition of general lines agent under s. 626.015 or, for licensure as a personal lines agent, has completed at least 3 months in responsible insurance duties as a substantially full-time employee in property and casualty insurance sold to individuals and families for noncommercial purposes;

(c) For licensure as a general lines agent, completed at least 1 year in responsible insurance duties as a substantially full-time bona fide employee in all lines of property and casualty insurance, exclusive of aviation and wet marine and transportation insurances but not exclusive of boats of less than 36 feet in length or aircraft not held out for hire, as set forth in the definition of a general lines agent under s. 626.015, without the education requirement mentioned in paragraph (a) or paragraph (b) or, for licensure as a personal lines agent, has completed at least 6 months in responsible insurance duties as a substantially full-time employee in property and casualty insurance

sold to individuals and families for noncommercial purposes without the education requirement in paragraph (a) or paragraph(b); or

(d)1. For licensure as a general lines agent, completed at least 1 year of responsible insurance duties as a licensed and appointed customer representative or limited customer representative in commercial or personal lines of property and casualty insurance and 40 hours of classroom courses approved by the department covering the areas of property, casualty, surety, health, and marine insurance; or

2. For licensure as a personal lines agent, completed at least 6 months of responsible duties as a licensed and appointed customer representative or limited customer representative in property and casualty insurance sold to individuals and families for noncommercial purposes and 20 hours of classroom courses approved by the department which are related to property and casualty insurance sold to individuals and families for noncommercial purposes;

(e)1.2. For licensure as a general lines agent, completed at least 1 year of responsible insurance duties as a licensed and appointed service representative in either commercial or personal lines of property and casualty insurance and 80 hours of classroom courses approved by the department covering the areas of property, casualty, surety, health, and marine insurance; or-

2. For licensure as a personal lines agent, completed at least 6 months of responsible insurance duties as a licensed and appointed service representative in property and casualty insurance sold to individuals and families for noncommercial purposes and 40 hours of classroom courses approved by the department related to property and casualty insurance sold to individuals and families for noncommercial purposes; or

(f) For licensure as a personal lines agent, completed at least 3 years of responsible duties as a licensed and appointed customer representative in property and casualty insurance sold to individuals and families for noncommercial purposes.

Section 22. The Department of Financial Services does not have to begin issuing licenses to personal lines agents on the effective date of this act if the department has not completed the process of incorporating necessary procedures for issuing personal lines licenses into its licensing systems.

Section 23. Subsection (1) of section 626.747, Florida Statutes, is amended to read:

626.747 Branch agencies.—

(1) Each branch place of business established by an agent or agency, firm, corporation, or association shall be in the active full-time charge of a licensed general lines agent who is appointed to represent one or more insurers. Any agent or agency, firm, corporation, or association which has established one or more branch places of business shall be required to have at least one licensed general lines agent who is appointed to represent one

or more insurers at each location of the agency including its headquarters location.

Section 24. Paragraph (r) is added to subsection (6) of section 627.351, Florida Statutes, to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(r) A salaried employee of the corporation who performs policy administration services subsequent to the effectuation of a corporation policy is not required to be licensed as an agent under the provisions of s. 626.112.

Section 25. Paragraphs (c) and (d) of subsection (1) of section 626.321, Florida Statutes, are amended to read:

626.321 Limited licenses.—

(1) The department shall issue to a qualified individual, or a qualified individual or entity under paragraphs (c), (d), (e), and (i), a license as agent authorized to transact a limited class of business in any of the following categories:

(c) Personal accident insurance.—License covering only policies of personal accident insurance covering the risks of travel, except as provided in subparagraph 2. The license may be issued only:

1. To a full-time salaried employee of a common carrier or a full-time salaried employee or owner of a transportation ticket agency and may authorize the sale of such ticket policies only in connection with the sale of transportation tickets, or to the full-time salaried employee of such an agent. No such policy shall be for a duration of more than 48 hours or for the duration of a specified one-way trip or round trip.

2. To a full-time salaried employee of a business which offers motor vehicles for rent or lease, or to a business entity office of a business which offers motor vehicles for rent or lease ~~if insurance sales activities authorized by the license are limited to full-time salaried employees~~. A business office licensed or a person licensed pursuant to this subparagraph may, as an agent of an insurer, transact insurance that provides coverage for accidental personal injury or death of the lessee and any passenger who is riding or driving with the covered lessee in the rental motor vehicle if the lease or rental agreement is for not more than 30 days, or if the lessee is not provided coverage for more than 30 consecutive days per lease period; however, if the lease is extended beyond 30 days, the coverage may be extended one time only for a period not to exceed an additional 30 days.

(d) Baggage and motor vehicle excess liability insurance.—

1. License covering only insurance of personal effects except as provided in subparagraph 2. The license may be issued only:

a. To a full-time salaried employee of a common carrier or a full-time salaried employee or owner of a transportation ticket agency, which person is engaged in the sale or handling of transportation of baggage and personal effects of travelers, and may authorize the sale of such insurance only in connection with such transportation; or

b. ~~To the full-time salaried employee of a licensed general lines agent, a full-time salaried employee of a business which offers motor vehicles for rent or lease, or to a business office of a business entity that which offers motor vehicles for rent or lease if insurance sales activities authorized by the license are in connection with and incidental to the rental of a motor vehicle limited to full-time salaried employees. An entity applying for a license under this sub-subparagraph:~~

(I) Is required to submit only one application for a license under s. 626.171. The requirements of s. 626.171(5) shall apply only to the officers and directors of the entity submitting the application.

(II) Is required to obtain a license for each office, branch office, or place of business making use of the entity's business name by applying to the department for the license on a simplified application form developed by rule of the department for this purpose.

(III) Is required to pay the applicable fees for a license as prescribed in s. 624.501, be appointed under s. 626.112, and pay the prescribed appointment fee under s. 624.501. A licensed and appointed entity shall be directly responsible and accountable for all acts of the licensee's employees.

The purchaser of baggage insurance shall be provided written information disclosing that the insured's homeowner's policy may provide coverage for loss of personal effects and that the purchase of such insurance is not required in connection with the purchase of tickets or in connection with the lease or rental of a motor vehicle.

2. ~~A business entity that office licensed pursuant to subparagraph 1., or a person licensed pursuant to subparagraph 1. who is a full-time salaried employee of a business which offers motor vehicles for rent or lease, may include lessees under a master contract providing coverage to the lessor or may transact excess motor vehicle liability insurance providing coverage in excess of the standard liability limits provided by the lessor in its 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, provided that the lease or rental agreement is for not more than 30 days; that the lessee is not provided coverage for more than 30 consecutive days per lease period, and, if the lease is extended beyond 30 days, the coverage may be extended one time only for a period not to exceed an additional 30 days; that the lessee is given written notice that his or her personal insurance policy providing coverage on an owned motor vehicle may provide additional excess coverage; and that the purchase of the insurance is not required in connection with the lease or rental of a motor vehicle. The excess liability insurance may be provided to the lessee as an additional insured on a policy issued to the licensee's employer.~~

3. ~~A business entity that office licensed pursuant to subparagraph 1., or a person licensed pursuant to subparagraph 1. who is a full-time salaried employee of a business which offers motor vehicles for rent or lease, may, as an agent of an insurer, transact insurance that provides coverage for the liability of the lessee to the lessor for damage to the leased or rented motor vehicle if:~~

a. The lease or rental agreement is for not more than 30 days; or the lessee is not provided coverage for more than 30 consecutive days per lease period, but, if the lease is extended beyond 30 days, the coverage may be extended one time only for a period not to exceed an additional 30 days;

b. The lessee is given written notice that his or her personal insurance policy that provides coverage on an owned motor vehicle may provide such coverage with or without a deductible; and

c. The purchase of the insurance is not required in connection with the lease or rental of a motor vehicle.

Section 26. Section 627.0915, Florida Statutes, is amended to read:

627.0915 Rate filings; workers' compensation, drug-free workplace, and safe employers.—

(1) ~~The office shall approve rating plans for workers' compensation and employer's liability insurance that give specific identifiable consideration in the setting of rates to employers that either implement a drug-free workplace program pursuant to s. 440.102 and rules adopted under such section by the commission or implement a safety program pursuant to provisions of the rating plan or implement both a drug-free workplace program and a safety program. The plans must be actuarially sound and must state the savings anticipated to result from such drug-testing and safety programs.~~

(2) An insurer offering a rate plan approved under this section shall notify the employer at the time of the initial quote for the policy and at the time of each renewal of the policy of the availability of the premium discount where a drug free workplace plan is used by the employer pursuant to s. 440.102 and rules adopted under such section. The Financial Services Commission may adopt rules to implement the provisions of this subsection.

Section 27. Subsection (2) of section 628.709, Florida Statutes, is amended to read:

628.709 Formation of a mutual insurance holding company.—

(2) All of the initial shares of the capital stock of the insurance company which reorganized as a subsidiary insurance company shall be issued either to the mutual insurance holding company, or to an intermediate holding company which is wholly owned by the mutual insurance holding company. This restriction does not preclude the subsequent issuance of additional shares of stock by the subsidiary insurance company so long as the mutual insurance holding company at all times owns directly or through one or more intermediate holding companies, a majority of the voting shares of the capital stock of the subsidiary insurance company. The membership interests of

the policyholders of the subsidiary insurance company shall become membership interests in the mutual insurance holding company. Policyholders of the subsidiary insurance company which was formerly the mutual insurer shall be members of the mutual insurance holding company in accordance with the articles of incorporation and bylaws of the mutual insurance holding company. At the time of formation, policyholders of any other subsidiary insurance company of the mutual insurance holding company shall not be members of the mutual insurance holding company unless:

(a) They are policyholders of a subsidiary which was a mutual insurer which merged with the holding company pursuant to s. 628.715; or

(b) They are policyholders of an affiliated stock insurance company, provided such policyholders were members of the mutual insurance company at the time the mutual insurance company policies were assumed by the affiliated stock insurance company and the assumption occurred in connection with the conversion.

Subsequent to formation, membership shall be governed by s. 628.727.

Section 28. Subsection (6) is added to section 631.021, Florida Statutes, to read:

631.021 Jurisdiction of delinquency proceeding; venue; change of venue; exclusiveness of remedy; appeal.—

(6) The domiciliary court acquiring jurisdiction over persons subject to this chapter may exercise exclusive jurisdiction to the exclusion of all other courts, except as limited by the provisions of this chapter. Upon the issuance of an order of conservation, rehabilitation, or liquidation, the Circuit Court of Leon County shall have exclusive jurisdiction with respect to assets or property of any insurer subject to such proceedings and claims against said insurer's assets or property.

Section 29. Subsection (6) is added to section 631.041, Florida Statutes, to read:

631.041 Automatic stay; relief from stay; injunctions.—

(6) The estate of an insurer in rehabilitation or liquidation which is injured by any willful violation of an applicable stay or injunction shall be entitled to actual damages, including costs and attorney's fees, and, in appropriate circumstances, the receivership court may impose additional sanctions.

Section 30. Section 631.0515, Florida Statutes, is amended to read:

631.0515 Appointment of receiver; insurance holding company.—A delinquency proceeding pursuant to this chapter constitutes the sole and exclusive method of dissolving, liquidating, rehabilitating, reorganizing, conserving, or appointing a receiver of a Florida corporation which is not insolvent as defined by s. 607.01401(16); which through its shareholders, board of directors, or governing body is deadlocked in the management of its

affairs; and which directly or indirectly owns all of the stock of a Florida domestic insurer. The department may petition for an order directing it to rehabilitate such corporation if the interests of policyholders or the public will be harmed as a result of the deadlock. The department shall use due diligence to resolve the deadlock. Whether or not the department petitions for an order, the circuit court shall not have jurisdiction pursuant to s. 607.271, s. 607.274, or s. 607.277 to dissolve, liquidate, or appoint receivers with respect to, a Florida corporation which directly or indirectly owns all of the stock of a Florida domestic insurer and which is not insolvent as defined by s. 607.01401(16). However, a managing general agent or holding company with a controlling interest in a domestic insurer in this state is subject to jurisdiction of the court under the provisions of s. 631.025.

Section 31. Paragraph (a) of subsection (7) of section 631.141, Florida Statutes, is amended to read:

631.141 Conduct of delinquency proceeding; domestic and alien insurers.—

(7)(a) In connection with a delinquency proceeding, the department may appoint one or more special agents to act for it, and it may employ such counsel, clerks, and assistants as it deems necessary. The compensation of the special agents, counsel, clerks, or assistants and all expenses of taking possession of the insurer and of conducting the proceeding shall be fixed by the receiver, subject to the approval of the court, and shall be paid out of the funds or assets of the insurer. Such expenses are administrative expenses and are recoverable by the receiver in any actions in which the receiver is authorized or entitled to recover its administrative expenses. Within the limits of duties imposed upon them, special agents shall possess all the powers given to and, in the exercise of those powers, shall be subject to all duties imposed upon the receiver with respect to such proceeding.

Section 32. Section 631.205, Florida Statutes, is amended to read:

631.205 Reinsurance proceeds.—All reinsurance proceeds payable under a contract of reinsurance to which the insolvent insurer is a party are to be paid directly to the domiciliary receiver as general assets of the receivership estate unless the reinsurance contract contains a clause which specifically names the insolvent insurer's insured as a direct beneficiary of the reinsurance contract. The entry of an order of conservation, rehabilitation, or liquidation shall not be deemed an anticipatory breach of any reinsurance contract, nor shall insolvency or notice of insolvency be grounds for retroactive revocation or retroactive cancellation of any reinsurance contracts by the reinsurer.

Section 33. Section 631.206, Florida Statutes, is created to read:

631.206 Arbitration.—If an insurer in receivership has entered into an agreement containing an arbitration provision for resolution of disputes, that provision is void and shall be replaced by operation of law with the following provision:

Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration pursuant to the American

Arbitration Association Commercial Arbitration Rules and chapter 682, Florida Statutes, and judgment on the award rendered by the arbitrators shall be entered by the receivership court. Venue shall be in Leon County, Florida. Disputes shall be submitted to a panel of three arbitrators, one to be chosen by each party and the third by the two so chosen. Arbitrators shall be selected from a list of potential qualified arbitrators with 10 years' experience involving the insurance industry. If the parties do not agree upon the qualifications of a mediator, each party shall select its mediator from a list of potential mediators approved by the receivership court.

Section 34. Subsection (1) of section 631.261, Florida Statutes, is amended, and subsection (4) is added to said section, to read:

631.261 Voidable transfers.—

(1)(a) Any transfer of, or lien upon, the property of an insurer or affiliate which is made or created within 4 months prior to the commencement of any delinquency proceeding under this chapter ~~which gives with the intent of giving to any creditor of the insurer a preference or enables of enabling the creditor to obtain a greater percentage of her or his debt than any other creditor of the same class, and which is accepted by such creditor having reasonable cause to believe that such preference will occur,~~ shall be voidable.

(b) Any transfer of, or lien upon, the property of an insurer or affiliate which is made or created between 4 months and 1 year prior to the commencement of any delinquency proceeding under this chapter is void if such transfer or lien inured to the benefit of a director, officer, employee, stockholder, member, subscriber, affiliate, managing general agent, or insider or any relative of any director, officer, employee, stockholder, member, subscriber, affiliate, managing general agent, or insider.

(4) For purposes of this section, a transfer is not made or created until the insurer or affiliate has acquired rights in the property transferred.

Section 35. Subsection (2) of section 631.262, Florida Statutes, is amended to read:

631.262 Transfers prior to petition.—

(2) Transfers shall be deemed to have been made or suffered, or obligations incurred, when perfected according to the following criteria:

(a) A transfer of property other than real property shall be deemed to be made or suffered when it becomes so far perfected that no subsequent lien obtainable by legal or equitable proceedings on a simple contract could become superior to the rights of the transferee.;

(b) A transfer of real property shall be deemed to be made or suffered when it becomes so far perfected that no subsequent bona fide purchaser from the insurer could obtain rights superior to the rights of the transferee.;

(c) A transfer which creates an equitable lien shall not be deemed to be perfected if there are available means by which a legal lien could be created.;

(d) Any transfer not perfected prior to the filing of a petition in a delinquency proceeding shall be deemed to be made immediately before the filing of a successful petition.;

(e) For the purposes of this section, a transfer is not made until the insurer or affiliate has acquired rights in the property transferred.

~~(f)(e)~~ Paragraphs ~~(a)-(e)~~ ~~(a)-(d)~~ apply whether or not there are or were creditors who might have obtained any liens or persons who might have become bona fide purchasers.

Section 36. Subsection (6) is added to section 631.263, Florida Statutes, to read:

631.263 Transfers after petition.—

(6) For the purposes of this section, a transfer is not made until the insurer or affiliate has acquired rights in the property transferred.

Section 37. Subsection (3) of section 631.54, Florida Statutes, is amended to read:

631.54 Definitions.—As used in this part:

(3) “Covered claim” means an unpaid claim, including one of unearned premiums, which arises out of, and is within the coverage, and not in excess of, the applicable limits of an insurance policy to which this part applies, issued by an insurer, if such insurer becomes an insolvent insurer ~~after October 1, 1970,~~ and the claimant or insured is a resident of this state at the time of the insured event or the property from which the claim arises is permanently located in this state. “Covered claim” shall not include:

(a) Any amount due any reinsurer, insurer, insurance pool, or underwriting association, sought directly or indirectly through a third party, as subrogation, contribution, indemnification, or otherwise; or

(b) Any claim that would otherwise be a covered claim under this part that has been rejected by any other state guaranty fund on the grounds that an insured’s net worth is greater than that allowed under that state’s guaranty law. Member insurers shall have no right of subrogation, contribution, indemnification, or otherwise, sought directly or indirectly through a third party, against the insured of any insolvent member.

Section 38. Subsection (2) of section 631.904, Florida Statutes, is amended to read:

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

(2) “Covered claim” means an unpaid claim, including a claim for return of unearned premiums, which arises out of, is within the coverage of, and is not in excess of the applicable limits of, an insurance policy to which this part applies, which policy was issued by an insurer and which claim is made on behalf of a claimant or insured who was a resident of this state at the time of the injury. The term “covered claim” does not include any amount sought

as a return of premium under any retrospective rating plan; any amount due any reinsurer, insurer, insurance pool, or underwriting association, as subrogation recoveries or otherwise; any claim that would otherwise be a covered claim that has been rejected by any other state guaranty fund on the grounds that the insured's net worth is greater than that allowed under that state's guaranty fund or liquidation law, except this exclusion from the definition of covered claim shall not apply to employers who, prior to April 30, 2004, entered into an agreement with the corporation preserving the employer's right to seek coverage of claims rejected by another state's guaranty fund; or any return of premium resulting from a policy that was not in force on the date of the final order of liquidation. Member insurers have no right of subrogation against the insured of any insolvent insurer. This provision shall be applied retroactively to cover claims of an insolvent self-insurance fund resulting from accidents or losses incurred prior to January 1, 1994, regardless of the date the petition in circuit court was filed alleging insolvency and the date the court entered an order appointing a receiver.

Section 39. Section 634.1815, Florida Statutes, is created to read:

634.1815 Rebating; when allowed.—

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

(a) The rebate shall be available to all consumers in the same actuarial class.

(b) The rebate shall be in accordance with a rebating schedule filed by the salesperson with the service agreement company issuing the service agreement to which the rebate applies. The service agreement company shall maintain a copy of all rebating schedules for a period of 3 years.

(c) The rebating schedule shall be uniformly applied so all consumers who purchase the same service agreement through the salesperson for the same coverage shall receive the same percentage rebate.

(d) The rebate schedule shall be prominently displayed in public view in the salesperson's place of business, and a copy shall be made available to consumers on request at no charge.

(e) The age, sex, place of residence, race, nationality, ethnic origin, marital status, or occupation of the consumer shall not be used in determining the percentage of the rebate or whether a rebate is available.

(2) No rebate shall be withheld or limited in amount based on factors which are unfairly discriminatory.

(3) No rebate shall be given which is not reflected on the rebate schedule.

(4) No rebate shall be refused or granted based upon the purchase of or failure to purchase collateral business.

Section 40. Section 634.3205, Florida Statutes, is created to read:

634.3205 Rebating; when allowed.—

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

(a) The rebate shall be available to all consumers in the same actuarial class.

(b) The rebate shall be in accordance with a rebating schedule filed by the sales representative with the home warranty association issuing the home warranty to which the rebate applies. The home warranty association shall maintain a copy of all rebating schedules for a period of 3 years.

(c) The rebating schedule shall be uniformly applied so all consumers who purchase the same home warranty through the sales representative for the same coverage shall receive the same percentage rebate.

(d) The rebate schedule shall be prominently displayed in public view in the sales representative's place of business, and a copy shall be made available to consumers on request at no charge.

(e) The age, sex, place of residence, race, nationality, ethnic origin, marital status, or occupation of the consumer shall not be used in determining the percentage of the rebate or whether a rebate is available.

(2) No rebate shall be withheld or limited in amount based on factors which are unfairly discriminatory.

(3) No rebate shall be given which is not reflected on the rebate schedule.

(4) No rebate shall be refused or granted based upon the purchase of or failure to purchase collateral business.

Section 41. Subsection (8) is added to section 634.406, Florida Statutes, to read:

634.406 Financial requirements.—

(8) An association licensed under this part and holding no other license under part I or part II of this chapter is not required to establish an unearned premium reserve or maintain contractual liability insurance and may allow its premiums to exceed the ratio to net assets limitation of this section if the association complies with the following:

(a) The association or, if the association is a direct or indirect wholly owned subsidiary of a parent corporation, its parent corporation has, and maintains at all times, a minimum net worth of at least \$100 million and provides the office with the following:

1. A copy of the association's annual audited financial statements or the audited consolidated financial statements of the association's parent corporation, prepared by an independent certified public accountant in accordance with generally accepted accounting principles, which clearly demonstrate the net worth of the association or its parent corporation to be \$100

million and a quarterly written certification to the office that such entity continues to maintain the net worth required under this paragraph.

2. The association's, or its parent corporation's, Form 10K, Form 10Q, or Form 20F as filed with the United States Securities and Exchange Commission or such other documents required to be filed with a recognized stock exchange, which shall be provided on a quarterly and annual basis within 10 days after the last date each such report must be filed with the Securities and Exchange Commission, the National Association of Security Dealers Automated Quotation system, or other recognized stock exchange.

Failure to timely file the documents required under this paragraph may, at the discretion of the office, subject the association to suspension or revocation of its license under this part. An association or parent corporation demonstrating compliance with subparagraph 1. and subparagraph 2. must maintain outstanding debt obligations, if any, rated in the top four rating categories by a recognized rating service.

(b) If the net worth of a parent corporation is used to satisfy the net worth provisions of paragraph (a), the following provisions must be met:

1. The parent corporation must guarantee all service warranty obligations of the association, wherever written, on a form approved in advance by the office. No cancellation, termination, or modification of the guarantee shall become effective unless the parent corporation provides the office written notice at least 90 days before the effective date of the cancellation, termination, or modification and the office approves the request in writing. Prior to the effective date of cancellation, termination, or modification of the guarantee, the association must demonstrate to the satisfaction of the office compliance with all applicable provisions of this part, including whether the association will meet the requirements of this section by the purchase of contractual liability insurance, establishing required reserves, or other method allowed under this section. If the association or parent corporation does not demonstrate to the satisfaction of the office compliance with all applicable provisions of this part, it shall immediately cease writing new and renewal business upon the effective date of the cancellation, termination, or modification.

2. The association must maintain at all times net assets of at least \$750,000.

Section 42. Section 634.4225, Florida Statutes, is created to read:

634.4225 Rebating; when allowed.—

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

(a) The rebate shall be available to all consumers in the same actuarial class.

(b) The rebate shall be in accordance with a rebating schedule filed by the sales representative with the association issuing the service warranty

to which the rebate applies. The association shall maintain a copy of all rebating schedules for a period of 3 years.

(c) The rebating schedule shall be uniformly applied so all consumers who purchase the same service warranty through the sales representative for the same coverage shall receive the same percentage rebate.

(d) The rebate schedule shall be prominently displayed in public view in the sales representative's place of business, and a copy shall be made available to consumers on request at no charge.

(e) The age, sex, place of residence, race, nationality, ethnic origin, marital status, or occupation of the consumer shall not be used in determining the percentage of the rebate or whether a rebate is available.

(2) No rebate shall be withheld or limited in amount based on factors which are unfairly discriminatory.

(3) No rebate shall be given which is not reflected on the rebate schedule.

(4) No rebate shall be refused or granted based upon the purchase of or failure to purchase collateral business.

Section 43. Subsection (4) is added to section 627.4133, Florida Statutes, to read:

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

(4) Notwithstanding the provisions of s. 440.42(3), if cancellation of a policy providing coverage for workers' compensation and employer's liability insurance is requested by the insured, such cancellation shall be effective on the date the carrier sends the notice of cancellation to the insured.

Section 44. Subsection (1) of section 626.641, Florida Statutes, is amended to read:

626.641 Duration of suspension or revocation.—

(1) The department or office shall, in its order suspending a license or appointment or in its order suspending the eligibility of a person to hold or apply for such license or appointment, specify the period during which the suspension is to be in effect; but such period shall not exceed 2 years. The license, appointment, or eligibility shall remain suspended during the period so specified, subject, however, to any rescission or modification of the order by the department or office, or modification or reversal thereof by the court, prior to expiration of the suspension period. A license, appointment, or eligibility which has been suspended shall not be reinstated except upon request for such reinstatement and, in the case of a second suspension, completion of continuing education courses prescribed and approved by the department or office; but the department or office shall not grant such reinstatement if it finds that the circumstance or circumstances for which the license, appointment, or eligibility was suspended still exist or are likely to recur.

Section 45. For the purpose of incorporating the amendment to section 626.641, Florida Statutes, in a reference thereto, paragraph (a) of subsection (4) of section 626.935, Florida Statutes, is reenacted to read:

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

(4) The following sections also apply, to the extent so applicable, as to surplus lines agents:

(a) Section 626.641.

Section 46. This act shall take effect July 1, 2004.

Approved by the Governor June 24, 2004.

Filed in Office Secretary of State June 24, 2004.