

**AGENDA**  
**FINANCIAL SERVICES COMMISSION**  
Office of Insurance Regulation  
Materials Available on the Web at:  
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**June 8, 2010**

**MEMBERS**  
Governor Charlie Crist  
Attorney General Bill McCollum  
Chief Financial Officer Alex Sink  
Commissioner Charles Bronson

**Contact: Monte Stevens**  
**(850-413-2571)**

9:00 A. M.  
LL-03, The Capitol  
Tallahassee, Florida

<b>ITEM</b>	<b>SUBJECT</b>	<b>RECOMMENDATION</b>
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1. Minutes of the Financial Services Commission for March 9, 2010 and March 23, 2010.

**(ATTACHMENT 1)**

**FOR APPROVAL**

2. Request for Approval for Adoption of Amendments to Proposed Rule 69O-157.302,.303,.304; Long Term Care, New Business Rates

Section 627.9407(7)(c), F.S., regarding long-term care insurance, requires that any premium increase for *existing* consumers not result in a cost that exceeds the premium charged on a newly issued policy.

The paragraph further provides that if the insurer is not issuing new coverage, the new business rate shall be as published by the Office, at the rate representing the new business rate of insurers representing 80% of the carriers currently offering policies with similar coverage, as determined by the prior calendar year earned premium.

In simple terms, every year the Office does a survey of companies issuing new long-term care policies and determines the "new business rate" categorized by geographical area, and type of long-term care policy.

This item pertains to Facility Only Rates, Home Health Care Only Rates, and Comprehensive Only Rates, respectively, and requests amendments to publish the new business rates that will be effective for 2010.

**(ATTACHMENT 2)**

**APPROVAL FOR FINAL ADOPTION**

3. Request for Approval for Publication of Amendments to Proposed Rule 69O-137.001; Annual and Quarterly Financial Reporting Requirements

Section 624.424, Florida Statutes, requires insurers to file quarterly and annual financial reports with the Office. The statute further provides that to facilitate state to state uniformity, the Commission may adopt the financial statements adopted by the National Association of Insurance Commissioners (NAIC). The Commission does this every year. This rule adopts the 2010 versions of the manuals.

**(ATTACHMENT 3)**

**APPROVAL FOR PUBLICATION**

4. Request for Approval for Publication of Amendments to Proposed Rule 69O-138.001; NAIC Financial Condition Examiners Handbook

Section 624.316, Florida Statutes, requires the Office to examine insurers' financial condition using generally accepted accounting procedures. This statute also allows the Office to adopt the NAIC Financial Condition Examiners Handbook to facilitate these exams. By adopting the newest version of the handbook, this rule ensures that the procedures used by the Office to examine insurers are the current generally accepted accounting practices.

**(ATTACHMENT 4)**

**APPROVAL FOR PUBLICATION**

5. Request for Approval for Publication of Amendments to Proposed Rule 69O-200.004,.005,.006,.009,.014,.015,.016; Motor Vehicle Manufacturers

In 2008, the Legislature created a new category of Motor Vehicle Service Agreement Companies called "Motor Vehicle Manufacturers." These amendments address the legislative mandate to modify the rules to incorporate this new category. Additional changes are made to clarify existing language.

**(ATTACHMENT 5)**

**APPROVAL FOR PUBLICATION**

6. Request for Approval for Publication of Amendments to Proposed Rule 69O-167.024; Rate Filings for Inland Marine Insurance

The Legislature changed the numbering within section 627.021. Consequently, this rule needs to be changed to reflect the renumbering. There is no substantive change in the proposed rule.

**(ATTACHMENT 6)**

**APPROVAL FOR PUBLICATION**

**Minutes of the Financial Services Commission  
March 9, 2010**

***Members***

Charlie Crist, Governor  
Alex Sink, Chief Financial Officer  
Bill McCollum, Attorney General  
Charles Bronson, Agriculture  
Commissioner

Presented by: Kevin McCarty  
Cabinet Meeting Room, Lower Level, The  
Capitol  
Tallahassee, Florida 32399

**Item 1: Request for Approval for Adoption Minutes of the Financial Services Commission for January 26, 2010.**

Upon motion by Agriculture Commissioner Charles Bronson and seconded by Attorney General Bill McCollum, the item was approved.

**Item 2: Request for Approval for Adoption of Amendments to Proposed Rule 69O - 170.0155: Form OIR-B1-1802**

Upon motion by Attorney General Bill McCollum and seconded by Agriculture Commissioner Charles Bronson, the item was approved.

**Item 3: Request for Approval for Adoption of Amendments to Proposed Rule 69O- 170.0155, Form OIR-B1-1655**

Upon motion by Chief Financial Officer Alex Sink and seconded by Agriculture Commissioner Charles Bronson, the item was approved.

**Minutes of the Financial Services Commission  
March 23, 2010**

<i>Members</i> Charlie Crist, Governor Alex Sink, Chief Financial Officer Bill McCollum, Attorney General Charles Bronson, Agriculture Commissioner	Presented by: Kevin McCarty Cabinet Meeting Room, Lower Level, The Capitol Tallahassee, Florida 32399
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**Item 1: Request for Approval for Publication of Proposed Rule 69O-149.303; Cover  
Florida Plan Disclosure Form**

Upon motion by Attorney General Bill McCollum and seconded by Agriculture Commissioner Charles Bronson, the item was approved.

**Item 2: Update on Florida's Property Insurance Marketplace**

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**M E M O R A N D U M**

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**DATE:** April 27, 2010  
**TO:** Kevin M. McCarty, Commissioner, Office of Insurance Regulation  
**THROUGH:** Steven H. Parton, General Counsel *SHP*  
**FROM:** Dennis Threadgill  
Bob Prentiss  
**SUBJECT:** Cabinet Agenda for May 25, 2010  
Request for Final Approval to Adopt Amendments to  
Rule 69O-157.302,.303,.304  
Assmt. 44306

The Office of Insurance Regulation requests that these proposed rule amendments be presented to the Cabinet aides on or before May 19, 2010 and to the Financial Services Commission on May 25, 2010, with a request for Final Approval to Adopt the proposed rules. A notice of the Commission Final Rule Hearing will be published in the *Florida Administrative Weekly* on May 7, 2010.

The notice of proposed rulemaking was published on February 19, 2010 in Volume 36, No. 07, of the *Florida Administrative Weekly*. The hearing was not requested, therefore, the hearing was not held.

Section 627.9407(7)(c), Florida Statutes, regarding long-term care insurance, provides that any premium increase for existing insureds shall not result in a premium that exceeds the premium charged on a newly issued policy. This puts limits on how high the premium for existing customers can rise; they cannot be higher than rates charged for new policies.

The paragraph further provides that if the insurer is not issuing new coverage, the new business rate shall be as published by the Office, at the rate representing the new business rate of insurers representing 80 % of the carriers currently offering policies with similar coverage, as determined by the prior calendar year earned premium.

In simple terms, every year the Office does a survey of insurers issuing new policies, and comes up with the "new business rate", broken down by geographical area, and type of long-term care insurance.

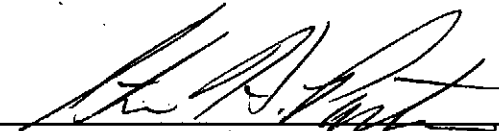
Rules 69O-157.302,.303, and .304, F.A.C., pertaining to Facility Only Rates, Home Health Care Only Rates, and Comprehensive Only Rates, respectively, are being amended to publish the new business rates that will be effective for 2010.

Sections 627.9408(1), 627.9407(7), F.S., provide rulemaking authority and laws implemented for this rule.

The Legal Services Office has communicated with the Joint Administrative Procedures Committee, and ascertained that their review of the rules has been completed.

Amanda Hunter is the attorney handling this rule. Attached are: 1) the proposed rule(s); 2) any incorporated materials, such as forms; 3) copies of the rulemaking statutory authority and law implemented.

Approved for signature:

  
Steven H. Parton, General Counsel

Approved for submission to Financial Services  
Commission:

  
Kevin M. McCarty, Commissioner  
Office of Insurance Regulation

**690-157.302 Facility Only Rates.**

(1) The following maximum new business rates are effective for 2009~~10~~ rate increase filings and for 2040~~11~~ rate filings until new rates are published: These annual rates are appropriate for:

- (a) Tax qualified policies;
- (b) A benefit of \$100/day;
- (c) An elimination period of 90 days.
- (d) Policies offering Restoration of Benefits, and

(e) Sales in Hillsborough County. For all other counties, the rate from this table should be adjusted by the insurer's current area factor applicable in that county relative to the insurer's area factor in Hillsborough County.

(f) Insurers who did not use area factors in the closed blocks for which a rate change is being requested may calculate the new business rate as a weighted average of the Hillsborough and the South Florida area factors, where the weights used are in-force premium by county. For the purposes of this calculation, the South Florida area factors are those that apply in Broward, Duval Miami-Dade and Palm Beach county. The South Florida area factor is equal to 1.00.

**(2) Facility Only Rates:**

Issue Age	3-Yr Benefit Period	5-Yr. Benefit Period	Unlimited Benefit Period
30	\$244.38	\$296.71	\$324.72
31	\$245.76	\$299.01	\$324.72
32	\$247.18	\$301.32	\$324.72
33	\$248.61	\$303.70	\$324.72
34	\$250.08	\$306.08	\$324.72
35	\$274.33	\$339.84	\$393.60
36	\$275.92	\$342.43	\$393.60
37	\$277.56	\$345.02	\$393.60
38	\$279.19	\$347.65	\$393.60
39	\$280.87	\$350.32	\$393.60
40	\$305.37	\$378.71	\$447.72
41	\$307.09	\$381.46	\$447.72
42	\$308.81	\$384.30	\$447.72
43	\$310.57	\$387.18	\$447.72
44	\$312.37	\$390.10	\$447.72
45	\$362.59	\$455.72	\$575.64
46	\$365.02	\$459.37	\$575.64
47	\$367.49	\$463.12	\$575.64
48	\$370.01	\$466.94	\$575.64
49	\$372.56	\$470.84	\$575.64
50	\$392.25	\$497.62	\$629.76
51	\$403.43	\$510.23	\$649.44
52	\$411.81	\$525.78	\$669.12
53	\$431.63	\$549.95	\$713.40
54	\$454.37	\$579.89	\$762.60
55	\$477.16	\$607.08	\$816.72
56	\$511.89	\$650.81	\$870.84
57	\$547.50	\$695.62	\$934.80
58	\$589.72	\$747.22	\$1,008.60
59	\$632.91	\$805.76	\$1,087.32
60	\$682.93	\$865.57	\$1,170.96
61	\$734.08	\$932.48	\$1,264.44
62	\$789.34	\$1,000.87	\$1,362.84
63	\$859.63	\$1,093.53	\$1,485.84
64	\$937.93	\$1,192.11	\$1,613.76
65	\$1,017.65	\$1,289.90	\$1,756.44
66	\$1,105.08	\$1,399.93	\$1,913.88
67	\$1,200.43	\$1,521.37	\$2,081.16
68	\$1,320.99	\$1,677.23	\$2,322.24

69	\$1,471.97	\$1,856.70	\$2,583.00
70	\$1,637.36	\$2,071.79	\$2,878.20
71	\$1,842.51	\$2,312.52	\$3,207.84
72	\$2,059.81	\$2,579.92	\$3,576.84
73	\$2,274.97	\$2,868.25	\$3,936.00
74	\$2,502.28	\$3,190.21	\$4,334.52
75	\$2,767.75	\$3,547.64	\$4,777.32
76	\$3,074.08	\$3,942.45	\$5,259.40
77	\$3,415.26	\$4,385.38	\$5,790.76
78	\$3,796.56	\$4,872.71	\$6,435.28
79	\$4,215.98	\$5,416.32	\$7,153.60
80	\$4,683.37	\$6,020.61	\$7,950.64
81	\$5,205.93	\$6,725.28	\$8,836.24
82	\$5,782.36	\$7,499.43	\$9,820.24
83	\$6,313.69	\$8,190.73	\$10,622.20
84	\$6,890.31	\$8,918.80	\$11,488.12
85	\$8,214.34	\$10,442.14	\$12,427.84
86	\$8,930.08	\$11,338.00	\$13,446.28
87	\$9,702.70	\$12,319.18	\$14,543.44
88	\$10,546.42	\$13,380.94	\$15,734.00
89	\$11,461.24	\$14,532.68	\$17,018.12

Issue Age	3-Yr Benefit Period	5-Yr. Benefit Period	Unlimited Benefit Period
30	<u>\$228.66</u>	<u>\$275.22</u>	<u>\$324.72</u>
31	<u>\$229.22</u>	<u>\$276.15</u>	<u>\$324.72</u>
32	<u>\$229.80</u>	<u>\$277.08</u>	<u>\$324.72</u>
33	<u>\$230.37</u>	<u>\$278.04</u>	<u>\$324.72</u>
34	<u>\$230.96</u>	<u>\$279.01</u>	<u>\$324.72</u>
35	<u>\$263.37</u>	<u>\$323.73</u>	<u>\$393.60</u>
36	<u>\$264.01</u>	<u>\$324.77</u>	<u>\$393.60</u>
37	<u>\$264.67</u>	<u>\$325.82</u>	<u>\$393.60</u>
38	<u>\$265.33</u>	<u>\$326.88</u>	<u>\$393.60</u>
39	<u>\$266.01</u>	<u>\$327.96</u>	<u>\$393.60</u>
40	<u>\$298.51</u>	<u>\$364.86</u>	<u>\$447.72</u>
41	<u>\$299.21</u>	<u>\$365.97</u>	<u>\$447.72</u>
42	<u>\$299.90</u>	<u>\$367.12</u>	<u>\$447.72</u>
43	<u>\$300.61</u>	<u>\$368.28</u>	<u>\$447.72</u>
44	<u>\$301.34</u>	<u>\$369.45</u>	<u>\$447.72</u>
45	<u>\$369.67</u>	<u>\$458.14</u>	<u>\$575.64</u>
46	<u>\$370.65</u>	<u>\$459.62</u>	<u>\$575.64</u>
47	<u>\$371.65</u>	<u>\$461.13</u>	<u>\$575.64</u>
48	<u>\$372.66</u>	<u>\$462.67</u>	<u>\$575.64</u>
49	<u>\$373.70</u>	<u>\$464.24</u>	<u>\$575.64</u>
50	<u>\$398.60</u>	<u>\$497.67</u>	<u>\$629.76</u>
51	<u>\$411.60</u>	<u>\$511.24</u>	<u>\$649.44</u>
52	<u>\$420.64</u>	<u>\$528.82</u>	<u>\$669.12</u>
53	<u>\$445.60</u>	<u>\$558.37</u>	<u>\$713.40</u>
54	<u>\$474.57</u>	<u>\$595.90</u>	<u>\$762.60</u>
55	<u>\$503.55</u>	<u>\$629.49</u>	<u>\$816.72</u>
56	<u>\$540.19</u>	<u>\$675.41</u>	<u>\$870.84</u>
57	<u>\$577.18</u>	<u>\$721.76</u>	<u>\$934.80</u>
58	<u>\$622.49</u>	<u>\$776.52</u>	<u>\$1,008.60</u>
59	<u>\$668.19</u>	<u>\$839.72</u>	<u>\$1,087.32</u>
60	<u>\$722.30</u>	<u>\$903.44</u>	<u>\$1,170.96</u>
61	<u>\$776.87</u>	<u>\$975.68</u>	<u>\$1,264.44</u>
62	<u>\$835.93</u>	<u>\$1,048.51</u>	<u>\$1,362.84</u>

63	\$909.53	\$1,145.28	\$1,485.84
64	\$992.02	\$1,247.26	\$1,613.76
65	\$1,077.91	\$1,354.58	\$1,756.44
66	\$1,172.56	\$1,472.49	\$1,913.88
67	\$1,276.07	\$1,603.49	\$2,081.16
68	\$1,412.37	\$1,779.48	\$2,322.24
69	\$1,575.08	\$1,979.13	\$2,583.00
70	\$1,754.91	\$2,207.30	\$2,878.20
71	\$1,962.10	\$2,462.77	\$3,207.84
72	\$2,188.32	\$2,745.97	\$3,576.84
73	\$2,413.69	\$3,040.44	\$3,936.00
74	\$2,658.09	\$3,368.27	\$4,334.52
75	\$2,934.86	\$3,730.21	\$4,777.32
76	\$3,245.07	\$4,127.01	\$5,259.40
77	\$3,589.14	\$4,571.51	\$5,790.76
78	\$4,000.29	\$5,093.26	\$6,435.28
79	\$4,452.28	\$5,677.36	\$7,153.60
80	\$4,957.50	\$6,328.35	\$7,950.64
81	\$5,524.62	\$7,065.07	\$8,836.24
82	\$6,150.23	\$7,883.56	\$9,820.24
83	\$6,698.27	\$8,583.79	\$10,622.20
84	\$7,290.02	\$9,332.78	\$11,488.12
85	\$8,214.34	\$10,442.14	\$12,427.84
86	\$8,930.08	\$11,338.00	\$13,446.28
87	\$9,702.70	\$12,319.18	\$14,543.44
88	\$10,546.42	\$13,380.94	\$15,734.00
89	\$11,461.24	\$14,532.68	\$17,018.12

Rulemaking Authority 627.9408(1) FS. Law Implemented 627.9407(7) FS. History--New 11-1-07, Amended 5-31-09.

**690-157.303 Home Health Care Only Rates.**

(1) The following maximum new business rates are effective for 2009~~10~~ rate increase filings and for 2010~~11~~ rate filings until new rates are published. These annual rates are appropriate for:

- (a) Tax qualified policies;
- (b) A benefit of \$100/day;
- (c) An elimination period of 0 days;
- (d) Policies offering Restoration of Benefits, and
- (e) Sales in Hillsborough County. For all other counties, the rate from this table should be adjusted by the insurer's current area factor applicable in that county relative to the insurer's area factor in Hillsborough County.

(f) Insurers who did not use area factors in the closed blocks for which a rate change is being requested may calculate the new business rate as a weighted average of the Hillsborough and the South Florida area factors, where the weights used are in-force premium by county. For the purposes of this calculation, the South Florida area factors are those that apply in Broward, ~~Duval~~ Miami-Dade and Palm Beach county. The South Florida area factor is equal to ~~1.30~~ 1.34.

**(2) Home Health Care Only Rates:**

Issue Age	3-Yr Benefit Period	5-Yr. Benefit Period	Unlimited Benefit Period
30	\$272.61	\$315.91	\$353.52
31	\$272.61	\$315.91	\$353.52
32	\$272.61	\$315.91	\$353.52
33	\$272.61	\$315.91	\$353.52
34	\$272.61	\$315.91	\$353.52
35	\$292.22	\$341.82	\$391.06
36	\$292.22	\$341.82	\$391.06
37	\$292.22	\$341.82	\$391.06
38	\$292.22	\$341.82	\$391.06

39	\$292.22	\$341.82	\$391.06
40	\$324.90	\$380.85	\$434.82
41	\$324.90	\$380.85	\$434.82
42	\$324.90	\$380.85	\$434.82
43	\$324.90	\$380.85	\$434.82
44	\$324.90	\$380.85	\$434.82
45	\$370.83	\$445.80	\$509.73
46	\$370.83	\$445.80	\$509.73
47	\$370.83	\$445.80	\$509.73
48	\$370.83	\$445.80	\$509.73
49	\$370.83	\$445.80	\$509.73
50	\$421.10	\$505.80	\$580.43
51	\$434.17	\$525.23	\$599.12
52	\$453.78	\$538.19	\$624.11
53	\$466.85	\$564.09	\$649.11
54	\$486.64	\$583.70	\$674.02
55	\$531.60	\$638.59	\$728.08
56	\$558.45	\$665.26	\$770.08
57	\$592.02	\$702.21	\$812.26
58	\$632.66	\$752.71	\$867.74
59	\$673.29	\$799.76	\$923.39
60	\$710.48	\$856.73	\$978.95
61	\$757.65	\$907.40	\$1,037.12
62	\$805.00	\$960.84	\$1,098.99
63	\$869.58	\$1,045.35	\$1,187.81
64	\$937.24	\$1,129.94	\$1,286.48
65	\$1,015.07	\$1,221.01	\$1,381.53
66	\$1,092.89	\$1,308.46	\$1,482.81
67	\$1,170.63	\$1,406.00	\$1,590.31
68	\$1,268.77	\$1,523.75	\$1,714.91
69	\$1,373.54	\$1,651.59	\$1,852.13
70	\$1,484.75	\$1,782.46	\$1,995.50
71	\$1,602.50	\$1,923.26	\$2,145.09
72	\$1,720.25	\$2,067.09	\$2,307.23
73	\$1,849.76	\$2,216.67	\$2,457.18
74	\$1,979.08	\$2,369.96	\$2,613.54
75	\$2,118.57	\$2,532.58	\$2,779.57
76	\$2,261.06	\$2,698.82	\$2,948.38
77	\$2,403.54	\$2,867.92	\$3,123.33
78	\$2,587.37	\$3,079.04	\$3,330.88
79	\$2,771.21	\$3,293.78	\$3,544.75
80	\$2,968.20	\$3,511.28	\$3,754.99
81	\$3,171.73	\$3,745.54	\$3,981.31
82	\$3,381.79	\$3,982.57	\$4,213.86
83	\$3,595.48	\$4,223.98	\$4,447.43
84	\$3,819.42	\$4,471.88	\$4,697.07
85	\$4,052.80	\$4,729.19	\$4,943.09
86	\$4,296.34	\$4,996.60	\$5,205.36
87	\$4,542.80	\$5,270.49	\$5,470.06
88	\$4,921.25	\$5,687.82	\$5,849.84
89	\$5,302.62	\$6,111.55	\$6,235.76

Issue Age	3-Yr Benefit Period	5-Yr. Benefit Period	Unlimited Benefit Period
<u>30</u>	<u>\$300.45</u>	<u>\$352.73</u>	<u>\$389.82</u>
<u>31</u>	<u>\$300.45</u>	<u>\$352.73</u>	<u>\$389.82</u>
<u>32</u>	<u>\$300.45</u>	<u>\$352.73</u>	<u>\$389.82</u>

<u>33</u>	<u>\$300.45</u>	<u>\$352.73</u>	<u>\$389.82</u>
<u>34</u>	<u>\$300.45</u>	<u>\$352.73</u>	<u>\$389.82</u>
<u>35</u>	<u>\$317.66</u>	<u>\$375.46</u>	<u>\$422.76</u>
<u>36</u>	<u>\$317.66</u>	<u>\$375.46</u>	<u>\$422.76</u>
<u>37</u>	<u>\$317.66</u>	<u>\$375.46</u>	<u>\$422.76</u>
<u>38</u>	<u>\$317.66</u>	<u>\$375.46</u>	<u>\$422.76</u>
<u>39</u>	<u>\$317.66</u>	<u>\$375.46</u>	<u>\$422.76</u>
<u>40</u>	<u>\$346.34</u>	<u>\$409.72</u>	<u>\$461.16</u>
<u>41</u>	<u>\$346.34</u>	<u>\$409.72</u>	<u>\$461.16</u>
<u>42</u>	<u>\$346.34</u>	<u>\$409.72</u>	<u>\$461.16</u>
<u>43</u>	<u>\$346.34</u>	<u>\$409.72</u>	<u>\$461.16</u>
<u>44</u>	<u>\$346.34</u>	<u>\$409.72</u>	<u>\$461.16</u>
<u>45</u>	<u>\$386.64</u>	<u>\$466.71</u>	<u>\$526.90</u>
<u>46</u>	<u>\$386.64</u>	<u>\$466.71</u>	<u>\$526.90</u>
<u>47</u>	<u>\$386.64</u>	<u>\$466.71</u>	<u>\$526.90</u>
<u>48</u>	<u>\$386.64</u>	<u>\$466.71</u>	<u>\$526.90</u>
<u>49</u>	<u>\$386.64</u>	<u>\$466.71</u>	<u>\$526.90</u>
<u>50</u>	<u>\$436.88</u>	<u>\$527.53</u>	<u>\$597.11</u>
<u>51</u>	<u>\$448.35</u>	<u>\$544.59</u>	<u>\$613.51</u>
<u>52</u>	<u>\$465.56</u>	<u>\$555.95</u>	<u>\$635.44</u>
<u>53</u>	<u>\$477.03</u>	<u>\$578.69</u>	<u>\$657.38</u>
<u>54</u>	<u>\$494.39</u>	<u>\$595.90</u>	<u>\$679.24</u>
<u>55</u>	<u>\$548.14</u>	<u>\$660.38</u>	<u>\$743.00</u>
<u>56</u>	<u>\$575.78</u>	<u>\$687.87</u>	<u>\$785.99</u>
<u>57</u>	<u>\$609.32</u>	<u>\$726.42</u>	<u>\$829.12</u>
<u>58</u>	<u>\$653.14</u>	<u>\$780.94</u>	<u>\$888.01</u>
<u>59</u>	<u>\$696.96</u>	<u>\$830.39</u>	<u>\$947.05</u>
<u>60</u>	<u>\$735.72</u>	<u>\$890.59</u>	<u>\$1,006.01</u>
<u>61</u>	<u>\$785.28</u>	<u>\$945.26</u>	<u>\$1,065.22</u>
<u>62</u>	<u>\$834.99</u>	<u>\$1,000.32</u>	<u>\$1,129.72</u>
<u>63</u>	<u>\$905.94</u>	<u>\$1,092.84</u>	<u>\$1,226.03</u>
<u>64</u>	<u>\$977.57</u>	<u>\$1,185.44</u>	<u>\$1,333.02</u>
<u>65</u>	<u>\$1,060.15</u>	<u>\$1,283.72</u>	<u>\$1,434.80</u>
<u>66</u>	<u>\$1,142.73</u>	<u>\$1,376.79</u>	<u>\$1,542.04</u>
<u>67</u>	<u>\$1,225.23</u>	<u>\$1,480.75</u>	<u>\$1,654.74</u>
<u>68</u>	<u>\$1,329.72</u>	<u>\$1,606.53</u>	<u>\$1,788.57</u>
<u>69</u>	<u>\$1,440.02</u>	<u>\$1,743.20</u>	<u>\$1,933.48</u>
<u>70</u>	<u>\$1,555.98</u>	<u>\$1,880.50</u>	<u>\$2,083.78</u>
<u>71</u>	<u>\$1,677.68</u>	<u>\$2,028.54</u>	<u>\$2,239.54</u>
<u>72</u>	<u>\$1,799.38</u>	<u>\$2,177.21</u>	<u>\$2,406.31</u>
<u>73</u>	<u>\$1,941.59</u>	<u>\$2,345.20</u>	<u>\$2,576.68</u>
<u>74</u>	<u>\$2,083.65</u>	<u>\$2,518.49</u>	<u>\$2,752.65</u>
<u>75</u>	<u>\$2,236.67</u>	<u>\$2,697.93</u>	<u>\$2,939.17</u>
<u>76</u>	<u>\$2,390.27</u>	<u>\$2,882.58</u>	<u>\$3,126.07</u>
<u>77</u>	<u>\$2,543.88</u>	<u>\$3,067.70</u>	<u>\$3,318.37</u>
<u>78</u>	<u>\$2,746.01</u>	<u>\$3,306.02</u>	<u>\$3,557.64</u>
<u>79</u>	<u>\$2,948.15</u>	<u>\$3,549.56</u>	<u>\$3,802.46</u>
<u>80</u>	<u>\$3,161.83</u>	<u>\$3,793.49</u>	<u>\$4,042.05</u>
<u>81</u>	<u>\$3,381.25</u>	<u>\$4,054.16</u>	<u>\$4,297.79</u>
<u>82</u>	<u>\$3,606.40</u>	<u>\$4,315.21</u>	<u>\$4,559.00</u>
<u>83</u>	<u>\$3,836.78</u>	<u>\$4,586.24</u>	<u>\$4,825.18</u>
<u>84</u>	<u>\$4,078.18</u>	<u>\$4,862.95</u>	<u>\$5,107.51</u>
<u>85</u>	<u>\$4,325.84</u>	<u>\$5,145.89</u>	<u>\$5,384.62</u>
<u>86</u>	<u>\$4,584.46</u>	<u>\$5,439.74</u>	<u>\$5,678.03</u>
<u>87</u>	<u>\$4,843.59</u>	<u>\$5,739.26</u>	<u>\$5,971.53</u>
<u>88</u>	<u>\$5,281.80</u>	<u>\$6,238.12</u>	<u>\$6,427.23</u>

89\$5,720.53\$6,742.59\$6,888.32

Rulemaking Authority 627.9408(1) FS. Law Implemented 627.9407(7) FS. History—New 11-1-07, Amended 5-31-09.

**690-157.304 Comprehensive Only Rates.**

(1) The following maximum new business rates are effective for 2009~~10~~ rate increase filings and for 2010~~11~~ rate filings until new rates are published. These annual rates are appropriate for:

(a) Tax qualified policies;

(b) A benefit of \$100/day;

(c) An elimination period of 90 days;

(d) Policies offering Restoration of Benefits, and

(e) Sales in Hillsborough County. For all other counties, the rate from this table should be adjusted by the insurer's current area factor applicable in that county relative to the insurer's area factor in Hillsborough County.

(f) Insurers who did not use area factors in the closed blocks for which a rate change is being requested may calculate the new business rate as a weighted average of the Hillsborough and the South Florida area factors, where the weights used are in-force premium by county. For the purposes of this calculation, the South Florida area factors are those that apply in Broward, ~~Duval~~ Miami-Dade and Palm Beach county. The South Florida area factor is equal to 1.00.

(2) Comprehensive Only Rates:

Issue Age	3-Yr Benefit Period	5-Yr. Benefit Period	Unlimited Benefit Period
30	\$356.29	\$454.14	\$622.87
31	\$357.87	\$456.21	\$625.56
32	\$359.50	\$458.88	\$628.85
33	\$361.17	\$470.16	\$640.99
34	\$371.48	\$472.96	\$644.48
35	\$394.20	\$488.52	\$681.96
36	\$396.05	\$500.51	\$694.85
37	\$398.42	\$503.55	\$699.14
38	\$400.41	\$507.18	\$703.57
39	\$411.53	\$510.43	\$708.14
40	\$425.67	\$546.94	\$744.90
41	\$431.46	\$553.40	\$754.41
42	\$435.96	\$558.44	\$761.15
43	\$440.16	\$563.69	\$777.40
44	\$453.08	\$569.55	\$785.18
45	\$462.69	\$600.10	\$811.36
46	\$476.62	\$604.61	\$827.36
47	\$481.31	\$609.99	\$834.12
48	\$487.16	\$617.01	\$843.22
49	\$501.72	\$624.68	\$872.16
50	\$510.28	\$643.51	\$885.02
51	\$530.60	\$665.25	\$910.57
52	\$547.56	\$693.85	\$941.52
53	\$565.67	\$712.92	\$972.94
54	\$584.47	\$743.02	\$1,005.11
55	\$604.14	\$754.11	\$1,038.38
56	\$644.88	\$809.63	\$1,098.41
57	\$679.14	\$865.06	\$1,168.20
58	\$724.11	\$932.83	\$1,241.76
59	\$760.97	\$982.81	\$1,327.49
60	\$817.49	\$1,054.33	\$1,406.23

61	\$883.47	\$1,136.02	\$1,518.87
62	\$954.83	\$1,213.95	\$1,634.80
63	\$1,029.20	\$1,304.31	\$1,763.51
64	\$1,101.86	\$1,392.44	\$1,889.04
65	\$1,189.14	\$1,489.02	\$2,039.15
66	\$1,303.22	\$1,638.22	\$2,242.87
67	\$1,439.64	\$1,819.93	\$2,472.25
68	\$1,586.10	\$1,997.01	\$2,717.22
69	\$1,726.79	\$2,189.76	\$2,977.95
70	\$1,882.16	\$2,399.49	\$3,258.58
71	\$2,122.56	\$2,689.46	\$3,650.61
72	\$2,380.33	\$3,011.03	\$4,078.34
73	\$2,643.96	\$3,334.39	\$4,516.90
74	\$2,925.10	\$3,689.09	\$4,989.64
75	\$3,233.67	\$4,080.01	\$5,495.62
76	\$3,622.71	\$4,564.96	\$6,160.74
77	\$4,043.45	\$5,116.80	\$6,891.93
78	\$4,467.54	\$5,674.34	\$7,616.29
79	\$4,913.66	\$6,236.42	\$8,355.38
80	\$5,365.77	\$7,657.61	\$10,904.13
81	\$5,851.19	\$8,314.46	\$11,818.20
82	\$6,360.85	\$9,038.95	\$12,820.94
83	\$6,954.06	\$9,851.27	\$13,927.26
84	\$7,579.36	\$10,744.46	\$15,117.75
85	\$9,393.68	\$11,738.30	\$16,454.06
86	\$10,622.25	\$13,240.69	\$17,976.84
87	\$11,550.00	\$14,432.21	\$19,582.64
88	\$12,554.44	\$15,692.91	\$21,291.57
89	\$13,619.15	\$17,034.25	\$23,112.87

Issue Age	3-Yr Benefit Period	5-Yr. Benefit Period	Unlimited Benefit Period
<u>30</u>	<u>\$338.04</u>	<u>\$424.62</u>	<u>\$551.77</u>
<u>31</u>	<u>\$339.55</u>	<u>\$426.64</u>	<u>\$553.82</u>
<u>32</u>	<u>\$341.12</u>	<u>\$438.88</u>	<u>\$556.47</u>
<u>33</u>	<u>\$352.01</u>	<u>\$441.06</u>	<u>\$559.25</u>
<u>34</u>	<u>\$353.68</u>	<u>\$443.59</u>	<u>\$562.12</u>
<u>35</u>	<u>\$372.21</u>	<u>\$466.26</u>	<u>\$609.39</u>
<u>36</u>	<u>\$373.99</u>	<u>\$468.92</u>	<u>\$613.04</u>
<u>37</u>	<u>\$376.10</u>	<u>\$471.68</u>	<u>\$616.87</u>
<u>38</u>	<u>\$387.27</u>	<u>\$474.83</u>	<u>\$620.85</u>
<u>39</u>	<u>\$389.53</u>	<u>\$487.62</u>	<u>\$625.03</u>
<u>40</u>	<u>\$401.94</u>	<u>\$511.06</u>	<u>\$666.22</u>
<u>41</u>	<u>\$406.86</u>	<u>\$516.21</u>	<u>\$677.58</u>
<u>42</u>	<u>\$410.98</u>	<u>\$520.70</u>	<u>\$686.36</u>
<u>43</u>	<u>\$424.26</u>	<u>\$525.26</u>	<u>\$696.61</u>
<u>44</u>	<u>\$428.32</u>	<u>\$540.20</u>	<u>\$706.05</u>
<u>45</u>	<u>\$435.39</u>	<u>\$555.82</u>	<u>\$737.53</u>
<u>46</u>	<u>\$447.54</u>	<u>\$560.69</u>	<u>\$749.12</u>
<u>47</u>	<u>\$452.53</u>	<u>\$566.29</u>	<u>\$760.44</u>

<u>48</u>	<u>\$467.40</u>	<u>\$572.59</u>	<u>\$773.49</u>
<u>49</u>	<u>\$473.01</u>	<u>\$589.03</u>	<u>\$798.54</u>
<u>50</u>	<u>\$479.26</u>	<u>\$595.61</u>	<u>\$813.68</u>
<u>51</u>	<u>\$505.23</u>	<u>\$623.11</u>	<u>\$835.17</u>
<u>52</u>	<u>\$513.39</u>	<u>\$649.76</u>	<u>\$864.38</u>
<u>53</u>	<u>\$538.24</u>	<u>\$668.55</u>	<u>\$893.83</u>
<u>54</u>	<u>\$556.76</u>	<u>\$686.10</u>	<u>\$923.80</u>
<u>55</u>	<u>\$576.17</u>	<u>\$705.82</u>	<u>\$953.92</u>
<u>56</u>	<u>\$613.07</u>	<u>\$763.28</u>	<u>\$1,013.97</u>
<u>57</u>	<u>\$644.96</u>	<u>\$814.10</u>	<u>\$1,077.32</u>
<u>58</u>	<u>\$685.09</u>	<u>\$865.63</u>	<u>\$1,142.80</u>
<u>59</u>	<u>\$727.89</u>	<u>\$918.63</u>	<u>\$1,225.21</u>
<u>60</u>	<u>\$770.32</u>	<u>\$982.63</u>	<u>\$1,295.72</u>
<u>61</u>	<u>\$837.63</u>	<u>\$1,054.63</u>	<u>\$1,407.63</u>
<u>62</u>	<u>\$902.26</u>	<u>\$1,125.02</u>	<u>\$1,517.18</u>
<u>63</u>	<u>\$970.76</u>	<u>\$1,216.48</u>	<u>\$1,641.04</u>
<u>64</u>	<u>\$1,037.79</u>	<u>\$1,289.00</u>	<u>\$1,754.64</u>
<u>65</u>	<u>\$1,115.07</u>	<u>\$1,381.69</u>	<u>\$1,897.16</u>
<u>66</u>	<u>\$1,227.95</u>	<u>\$1,534.96</u>	<u>\$2,109.14</u>
<u>67</u>	<u>\$1,363.32</u>	<u>\$1,701.42</u>	<u>\$2,340.31</u>
<u>68</u>	<u>\$1,500.23</u>	<u>\$1,865.03</u>	<u>\$2,577.06</u>
<u>69</u>	<u>\$1,633.30</u>	<u>\$2,052.92</u>	<u>\$2,819.57</u>
<u>70</u>	<u>\$1,789.01</u>	<u>\$2,248.85</u>	<u>\$3,075.07</u>
<u>71</u>	<u>\$2,018.76</u>	<u>\$2,528.81</u>	<u>\$3,470.22</u>
<u>72</u>	<u>\$2,256.08</u>	<u>\$2,812.66</u>	<u>\$3,900.29</u>
<u>73</u>	<u>\$2,512.25</u>	<u>\$3,130.51</u>	<u>\$4,333.65</u>
<u>74</u>	<u>\$2,787.33</u>	<u>\$3,470.24</u>	<u>\$4,800.53</u>
<u>75</u>	<u>\$3,076.60</u>	<u>\$3,832.91</u>	<u>\$5,298.58</u>
<u>76</u>	<u>\$3,443.00</u>	<u>\$4,280.81</u>	<u>\$5,959.12</u>
<u>77</u>	<u>\$3,835.70</u>	<u>\$4,784.33</u>	<u>\$6,705.56</u>
<u>78</u>	<u>\$4,226.95</u>	<u>\$5,296.16</u>	<u>\$7,436.47</u>
<u>79</u>	<u>\$4,655.32</u>	<u>\$5,816.66</u>	<u>\$8,167.71</u>
<u>80</u>	<u>\$5,033.64</u>	<u>\$6,283.38</u>	<u>\$9,137.19</u>
<u>81</u>	<u>\$5,957.64</u>	<u>\$7,384.25</u>	<u>\$9,856.49</u>
<u>82</u>	<u>\$6,462.62</u>	<u>\$8,016.60</u>	<u>\$10,649.85</u>
<u>83</u>	<u>\$7,047.04</u>	<u>\$8,737.67</u>	<u>\$11,569.42</u>
<u>84</u>	<u>\$7,672.15</u>	<u>\$9,524.34</u>	<u>\$12,583.26</u>
<u>85</u>	<u>\$8,275.28</u>	<u>\$10,351.15</u>	<u>\$13,731.52</u>
<u>86</u>	<u>\$9,225.98</u>	<u>\$11,509.12</u>	<u>\$15,353.86</u>
<u>87</u>	<u>\$9,960.46</u>	<u>\$12,463.27</u>	<u>\$16,617.84</u>
<u>88</u>	<u>\$10,770.06</u>	<u>\$13,480.85</u>	<u>\$17,971.04</u>
<u>89</u>	<u>\$11,635.34</u>	<u>\$14,571.84</u>	<u>\$19,424.16</u>

Rulemaking Authority 627.9408(1) FS. Law Implemented 627.9407(7) FS. History—New 11-1-07, Amended 5-31-09.

**627.9408 Rules.--**

- (1) The commission may adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this part.

**627.9407 Disclosure, advertising, and performance standards for long-term care insurance.--**

**(7) RATE STRUCTURE.--**

- (a) A long-term care insurance policy may not be issued if the premiums to be charged are calculated to increase based solely on the age of the insured.
- (b) Any long-term care insurance policy or certificate issued or renewed, at the option of the policyholder or certificateholder, shall make available to the insured the contingent benefit upon lapse as provided in the Long-Term Care Insurance Model Regulation adopted by the National Association of Insurance Commissioners in the second quarter of the year 2000.
- (c) Any premium increase for existing insureds shall not result in a premium charged to the insureds that would exceed the premium charged on a newly issued insurance policy, except to reflect benefit differences. If the insurer is not currently issuing new coverage, the new business rate shall be as published by the office at the rate representing the new business rate of insurers representing 80 percent of the carriers currently issuing policies with similar coverage as determined by the prior calendar year earned premium.
- (d) Compliance with the pooling provisions of s. 627.410(6)(e)3. shall be determined by pooling the experience of all affiliated insurers.

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**M E M O R A N D U M**

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**DATE:** May 25, 2010  
**TO:** Kevin M. McCarty, Commissioner, Office of Insurance Regulation  
**THROUGH:** Steven H. Parton, General Counsel  
**FROM:** Dennis Threadgill  
Bob Prentiss  
**SUBJECT:** Cabinet Agenda for May 11, 2010  
Request for Approval to Publish Amendments to  
Rule 69O-137.001  
Assmt. # 44308

The Office of Insurance Regulation requests that these proposed rule amendments be presented to the Cabinet aides on or before May 5, 2010 and to the Financial Services Commission on May 11, 2010, with a request to approve for publication the proposed rules.

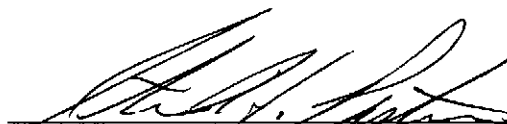
Section 624.424, Florida Statutes, requires insurers to file quarterly and annual financial reports with the Office of Insurance Regulation. The statute further provides that to facilitate state to state uniformity, the Commission may adopt the financial statements adopted by the NAIC. The Commission does this every year. This rule adopts the 2010 versions of the manuals.

Sections 624.308(1), 624.424(1), F.S., provide rulemaking authority and laws implemented for this rule.

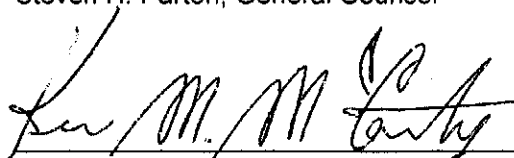
Stacy Wilhite is the attorney handling this rule. Attached are: 1) the proposed rule(s), 2) any incorporated materials, such as forms; and 3) copies of the rulemaking statutory authority and law implemented.

Approved for signature:

Approved for signature:

  
Steven H. Parton, General Counsel

Approved for submission to Financial Services  
Commission:

  
Kevin M. McCarty, Commissioner  
Office of Insurance Regulation

THE FULL TEXT OF THE PROPOSED RULE IS:

69O-137.001 Annual and Quarterly Reporting Requirements.

(1) through (3) No change

(4) Manuals Adopted

(a) Annual statements shall be prepared in accordance with the following manuals, which are hereby adopted and incorporated by reference:

1. The NAIC's Annual Statement Instructions, Property and Casualty, 2010 ~~2009~~;
2. The NAIC's Annual Statement Instructions, Life, Accident and Health, 2010 ~~2009~~;
3. The NAIC's Annual Statement Instructions, Health, 2010 ~~2009~~;
4. The NAIC's Annual Statement Instructions, Title, 2010 ~~2009~~; and
5. The NAIC's Accounting Practices and Procedures Manual, as of March 2010 ~~2009~~.

(b) Quarterly statements shall be prepared in accordance with the following manuals, which are hereby adopted and incorporated by reference:

1. The NAIC's Quarterly Statement Instructions, Property and Casualty, 2010 ~~2009~~;
2. The NAIC's Quarterly Statement Instructions, Life, Accident and Health, 2010 ~~2009~~;
3. The NAIC's Quarterly Statement Instructions, Health, 2010 ~~2009~~;
4. The NAIC's Quarterly Statement Instructions, Title, 2010 ~~2009~~; and

5. The NAIC's Accounting Practices and Procedures Manual, as of March 2010  
2009.

(c) No change

Rulemaking Specific Authority: 624.308(1), 624.424(1), F.S. Law implemented:

624.424(1), F.S. History--New 3-31-92, Amended 8-24-93, 4-9-95, 4-9-97, 4-4-99, 11-  
30-99, 2-11-01, 4-5-01, 12-4-01, 12-25-01, 8-18-02, 7-27-03, Formerly 4-137.001,  
Amended 1-6-05, 9-15-05, 1-25-07, 3-16-08, 3-4-09, 1-4-10, \_\_\_\_\_.

**624.308 Rules.--**

- (1) The department and the commission may each adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law conferring duties upon the department or the commission, respectively.

**624.424 Annual statement and other information.--**

- (1)(a) Each authorized insurer shall file with the office full and true statements of its financial condition, transactions, and affairs. An annual statement covering the preceding calendar year shall be filed on or before March 1, and quarterly statements covering the periods ending on March 31, June 30, and September 30 shall be filed within 45 days after each such date. The office may, for good cause, grant an extension of time for filing of an annual or quarterly statement. The statements shall contain information generally included in insurers' financial statements prepared in accordance with generally accepted insurance accounting principles and practices and in a form generally utilized by insurers for financial statements, sworn to by at least two executive officers of the insurer or, if a reciprocal insurer, by the oath of the attorney in fact or its like officer if a corporation. To facilitate uniformity in financial statements and to facilitate office analysis, the commission may by rule adopt the form for financial statements approved by the National Association of Insurance Commissioners in 2002, and may adopt subsequent amendments thereto if the methodology remains substantially consistent, and may by rule require each insurer to submit to the office or such organization as the office may designate all or part of the information contained in the financial statement in a computer-readable form compatible with the electronic data processing system specified by the office.
- (b) Each insurer's annual statement must contain a statement of opinion on loss and loss adjustment expense reserves made by a member of the American Academy of Actuaries or by a qualified loss reserve specialist, under criteria established by rule of the commission. In adopting the rule, the commission must consider any criteria established by the National Association of Insurance Commissioners. The office may require semiannual updates of the annual statement of opinion as to a particular insurer if the office has reasonable cause to believe that such reserves are understated to the extent of materially misstating the financial position of the insurer. Workpapers in support of the statement of opinion must be provided to the office upon request. This paragraph does not apply to life insurance or title insurance.
- (c) The commission may by rule require reports or filings required under the insurance code to be submitted by electronic means in a computer-readable form compatible with the electronic data processing equipment specified by the commission.

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**M E M O R A N D U M**

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**DATE:** May 25, 2010  
**TO:** Kevin M. McCarty, Commissioner, Office of Insurance Regulation  
**THROUGH:** Steven H. Parton, General Counsel  
**FROM:** Dennis Threadgill  
Bob Prentiss  
**SUBJECT:** Cabinet Agenda for May 11, 2010  
Request for Approval to Publish Amendments to  
Rule 69O-138.001  
Assmt. # 44309

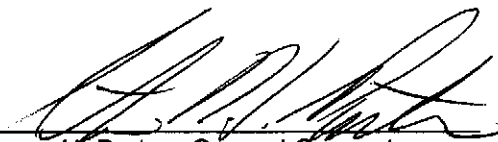
The Office of Insurance Regulation requests that these proposed rule amendments be presented to the Cabinet aides on or before May 5, 2010 and to the Financial Services Commission on May 11, 2010, with a request to approve for publication the proposed rules.

Section 624.316, Florida Statutes, requires the Office to examine insurers' financial condition using generally accepted accounting procedures. This statute also allows the Office to adopt the NAIC Financial Condition Examiners Handbook to facilitate these exams. By adopting the newest version of the handbook, this rule ensures that the procedures used by the Office to examine insurers are the current generally accepted accounting practices.

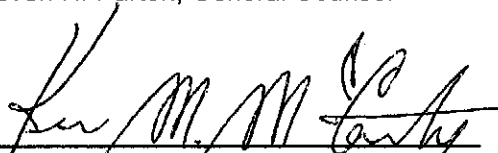
Sections 624.308(1), 624.316(1)(c), F.S., provide rulemaking authority and laws implemented for this rule.

Stacy Wilhite is the attorney handling this rule. Attached are: 1) the proposed rule(s), 2) any incorporated materials, such as forms; and 3) copies of the rulemaking statutory authority and law implemented.

Approved for signature:

  
Steven H. Parton, General Counsel

Approved for submission to Financial Services  
Commission:

  
Kevin M. McCarty, Commissioner  
Office of Insurance Regulation

THE FULL TEXT OF THE PROPOSED RULE IS:

69O-138.001 NAIC Financial Condition Examiners Handbook Adopted.

(1)(~~a~~) ~~The National Association of Insurance Commissioners Financial Condition Examiners Handbook (2006) is hereby adopted and incorporated by reference.~~

(~~b~~) The National Association of Insurance Commissioners Financial Condition Examiners Handbook 2010 ~~2009~~ is hereby adopted and incorporated by reference.

(2) – (3) No change.

Rulemaking Specific Authority 624.308(1), 624.316(1)(c) FS. Law Implemented

624.316(1)(c) FS. History—New 3-30-92, Amended 4-9-97, 4-4-99, 11-30-99, 2-11-01, 12-25-01, 8-18-02, 7-27-03, Formerly 4-138.001, Amended 1-6-05, 9-15-05, 1-25-07, 3-16-08, 3-4-09, 1-4-10, \_\_\_\_\_.

**624.308 Rules.--**

- (1) The department and the commission may each adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law conferring duties upon the department or the commission, respectively.

**624.316 Examination of insurers.—**

- (1)(c) The office shall examine each insurer according to accounting procedures designed to fulfill the requirements of generally accepted insurance accounting principles and practices and good internal control and in keeping with generally accepted accounting forms, accounts, records, methods, and practices relating to insurers. To facilitate uniformity in examinations, the commission may adopt, by rule, the Market Conduct Examiners Handbook and the Financial Condition Examiners Handbook of the National Association of Insurance Commissioners, 2002, and may adopt subsequent amendments thereto, if the examination methodology remains substantially consistent.

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**M E M O R A N D U M**

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**DATE:** May 25, 2010  
**TO:** Kevin M. McCarty, Commissioner, Office of Insurance Regulation  
**THROUGH:** Steven H. Parton, General Counsel  
**FROM:** Dennis Threadgill  
Bob Prentiss  
**SUBJECT:** Cabinet Agenda for May 11, 2010  
Request for Approval to Publish Amendments to  
Rule 69O-200.004,.005,.006,.009,.014,.015,.016  
Assmt. # 44287

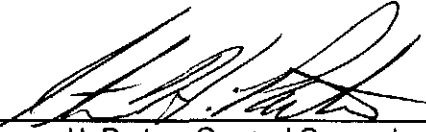
The Office of Insurance Regulation requests that these proposed rule amendments be presented to the Cabinet aides on or before May 5, 2010 and to the Financial Services Commission on May 11, 2010, with a request to approve for publication the proposed rules.

In 2008, the Legislature created a new category of Motor Vehicle Service Agreement Companies: "Motor Vehicle Manufacturers." These amendments address the legislative mandate to modify the rules to incorporate this new category. Additional changes are made to clarify existing language.

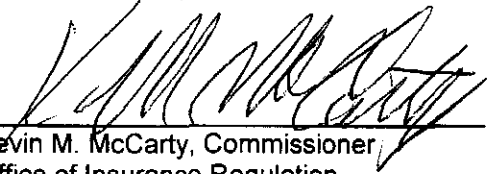
Sections 634.021, 634.031, 634.041, 634.121, 634.1213, 634.1216, 634.061, 634.252, 634.041(12), 637.137(6), F.S., provide rulemaking authority and laws implemented for this rule.

Marc Ito is the attorney handling this rule. Attached are: 1) the proposed rule(s), 2) any incorporated materials, such as forms; and 3) copies of the rulemaking statutory authority and law implemented.

Approved for signature:

  
Steven H. Parton, General Counsel

Approved for submission to Financial Services  
Commission:

  
Kevin M. McCarty, Commissioner  
Office of Insurance Regulation

**69O-200.001 Purpose and Scope.**

The purpose of this rule chapter is to implement the provisions of Part I, Chapter 634, Florida Statutes, to regulate the issuance of a license and the operation of Motor Vehicle Service Agreement Companies as provided therein.

*Rulemaking Specific Authority 634.021 FS. Law Implemented 624.307(1), 634, Part I FS. History—New 6-25-90, Formerly 4-114.001, 4-200.001.*

**69O-200.002 Definitions.**

“Unearned Gross Written Premium” means that portion of the gross written premium which has not been amortized or earned on a straight pro rata basis.

*Rulemaking Specific Authority 634.021 FS. Law Implemented 634.011 FS. History—New 5-26-93, Formerly 4-200.002.*

**69O-200.003 Licensing of Companies that Administer and Market Service Agreements.**

(1) Companies that administer service agreements as defined in subsection (2) or market service agreements must obtain a license as a service agreement company under Chapter 634, Part I, Florida Statutes, and are subject to all applicable regulatory requirements of Chapter 634, Part I, Florida Statutes.

(2) An administering company is a company, other than an authorized property and casualty insurer, that performs substantially all of the claims adjusting and adjudication functions; performs substantially all of the functions of processing premium dollars and applications; or performs substantially all of the bookkeeping and accounting functions, computer processing, and other administrative functions on behalf of a service agreement company.

(3) The licensing provisions of Section 634.031, Florida Statutes, do not apply to companies which are “running off” service agreements for an authorized property and casualty insurer which is fulfilling its responsibility under a contractual liability insurance policy.

*Rulemaking Specific Authority 634.021 FS. Law Implemented 634.031, 634.041 FS. History—New 5-26-93, Formerly 4-200.003.*

**69O-200.004 Qualification to Obtain and Hold a License.**

(1) An applicant must submit legible fingerprint cards, investigative background checks and biographical statements on Form OIR-CI-1423422, incorporated by reference in Rule 69O-200.015, F.A.C., for the following:

(a) Officers, directors, and stockholders holding 10% or more of the outstanding voting stock of the applicant and of any company or entity which has control over the applicant;

(b) Officers and directors of the applicant and of any company or entity having which has control over the applicant; and,

(c) Partners, members, stockholders and other individuals holding a voting interest of 10% or more in any greater shares of outstanding stock of the applicant and any company or entity having direct or indirect which has control over the applicant.

(2) An applicant that is a motor vehicle manufacturer, as defined in Section 634.011(7), Florida Statutes, must submit legible fingerprint cards, investigative background checks and biographical statements on Form OIR-CI-1423 for all officers and directors of the applicant only.

~~(3)~~(2) Subsequent to the date of licensure, individuals who become associated with the motor vehicle service agreement company in any of the above capacities shall submit the information required in subsection (1) above; however, those individuals who become associated with an agreement company which:

(a) Manufacturers motor vehicles;

(b) Demonstrates it has they have a gap-net worth in excess of \$100,000,000, as reported under generally accepted accounting principles (GAAP);

(c) Annually files with the Office a 10K Report; and,

(d) Annually notifies the Office in writing of any changes in officers (Executive Vice Presidents and above) and directors of the agreement company, shall be exempt from the requirements of subsection (1).

(4) Individuals named as officers or directors of a motor vehicle manufacturer licensee must within 30 days submit legible fingerprint cards, investigative background checks and biographical statements on Form OIR-C1-1423 for those officers and directors directly overseeing the Florida service contract operations.

(5) In addition to background requirements for newly associated individuals, as noted in paragraphs (1) through (4) above, an acquisition filing pursuant to Section 628.4615, Florida Statutes, may require updates of previously filed background documentation.

(6)(3) Motor vehicle service agreement companies are required to notify the office department in writing within 15 days of any change in the corporate name, business name, address or phone number of the company.

(7)(4) The Office may, at its discretion, waive any of the above provisions if the applicant or licensee can satisfy the Office that the documents are not required in determining if the individual(s) in question can manage the company and its affairs and is competent and trustworthy. The following criteria will be considered by the Office in making this determination:

- (a) The financial condition of the applicant or licensee;
- (b) The financial condition of the companies having control over the applicant or licensee;
- (c) The history and structure of the companies;
- (d) The A.M. Best rating of all insurance companies involved; and,
- (e) The position held by the individual(s) in question.

(8) Subsequent to the date of licensure, a motor vehicle service agreement company may submit in writing a request to the Office that, for future reporting and compliance requirements, it be recognized as a motor vehicle manufacturer as defined in Section 634.011(7). Such request must provide documentation necessary to support to the satisfaction of the Office that the licensee meets that definition.

*Rulemaking Specific Authority 634.021 FS. Law Implemented 634.041 FS. History--New 5-26-93, Formerly 4-200.004.*

#### **69O-200.005 Use of the Statutory Deposit.**

The deposit required under Section 634.052, Florida Statutes, may be used in the funding of the 15+0% reserve deposit required under Section 634.041(8)(a)(3)(12), Florida Statutes.

*Rulemaking Specific Authority 634.021 FS. Law Implemented 634.052 FS. History--New 5-26-93, Formerly 4-200.005.*

#### **69O-200.006 Contractual Liability Insurers.**

(1) The insurer issuing a contractual liability policy shall, prior to approval by the Office be a property and casualty insurer with a Florida certificate of authority which indicates it may write "other liability insurance" or "auto warranties."

(2) All insurers issuing contractual liability policies to motor vehicle service agreement companies must, at a minimum, use policy provisions providing policyholder protection substantially equivalent to and not materially in conflict with that provided in the sample contractual liability policy Form OIR-969, incorporated by reference in Rule 69O-200.015, F.A.C. A policy is in violation of this subsection only if it is in violation of a statute or rule.

*Rulemaking Specific Authority 634.021 FS. Law Implemented 634.041 FS. History--New 5-26-93, Formerly 4-200.006.*

#### **69O-200.009 Form Filings.**

(1) The name of the motor vehicle service agreement company must be stated, with sufficient prominence and placement to clearly identify the service agreement company that is obligated on the agreement, on any service agreement form.

(2) Every service agreement issued in this state shall contain at least the following:

- (a) A space for the selling price;
- (b) A space for the purchaser's signature;
- (c) A space for identifying the salesman licensed under Section 634.171, F.S.;
- (d) A space for an unique identifying number;
- (e) A space for an issue and expiration date; and
- (f) A space for the name and address of purchaser.

- (f) A space for the name and address of purchaser.

*Rulemaking Specific Authority 634.021 634.121 FS. Law Implemented 634.121 634.021 FS. History—New 5-26-93, Formerly 4-200.009.*

#### **69O-200.011 Disapproval of Forms.**

A form will be disapproved if:

- (1) It does not meet the minimum requirements set forth in Rule 69O-200.009, F.A.C.; and/or
- (2) Contains names, telephone numbers, or other language which makes it difficult for the service agreement-buying public to determine which company actually has issued and is liable for the service agreement. This may include, but is not limited to, the following:
  - (a) Prominent use of trade names; and
  - (b) The repeated use of names, addresses or telephone numbers other than those of the licensed company.

*Rulemaking Specific Authority 634.021 FS. Law Implemented 634.1213 FS. History—New 5-26-93, Formerly 4-200.011.*

#### **69O-200.013 Rate Filings.**

- (1) The rating manuals that shall be filed with the Office shall include a copy of all rates to be charged the consumer and service agreement forms (with the Office's approval stamp affixed) currently in use.
- (2) It shall be the company's responsibility to continually update their rating manuals.

*Rulemaking Specific Authority 634.021 FS. Law Implemented 634.1216 FS. History—New 5-26-93, Formerly 4-200.013.*

#### **69O-200.014 Exemption From Financial Examination.**

- (1) The Office may, upon receipt of a written request, grant an exemption from the financial examination required by Section 634.141, Florida Statutes.
- (2) A company applying for exemption must first submit documentation that demonstrates that the company:
  - (a) Has a statutory net worth in excess of \$500 million;
  - (b) Has been licensed as a motor vehicle service agreement company for more than 6 years;
  - (c) Is publicly traded on the New York Stock Exchange;
  - (d) Files an annual report on the Office's form on or before March 1 of each year; and
  - (e) Files with the Office its current Form 10K and 10Q, within 30 days of filing with the Securities and Exchange Commission;
- (f) Annually by On or before March 1, 1993 and in three year intervals thereafter, files a written request for the exemption. This request for exemption shall be accompanied by an exemption fee of \$2000 to be deposited into the Chief Financial Officer's Regulatory Trust Fund.
- (3) Motor vehicle manufacturers, as defined in Section 634.011(7), Florida Statutes, must only comply with (2)(f) above to apply for exemption from examination.

*Rulemaking Specific Authority 634.021 FS. Law Implemented 634.141 634.1216 FS. History—New 5-26-93, Formerly 4-200.014.*

#### **69O-200.015 Forms Incorporated by Reference.**

- (1) The following forms are incorporated into this rule chapter by reference to implement the provisions of Chapter 634, Part 1, Florida Statutes:

Title	Form Number
(a) Application Cover Letter	OIR-CI-982 (02/92)
(b) Application Instructions	OIR-CI -994 (02/92)
(c) Application Checklist	OIR-CI -993 (02/92)
(d) Invoice	OIR-CI -990 (02/92)
(e) Fingerprint Fee Invoice	OIR-CI -903 (09/91)
(f) Application for License as a Motor Vehicle Service Agreement Company	OIR-CI -469 (02/92)
(g) Consent to Service of Process	OIR-CI -144 (11/90)
(h) Resolution Form	OIR-CI -514 (11/90)

(i) Statement of Acquisition	OIR-CI -448 (05/89)
(j) Sample Contractual Liability Policy	OIR-CI -969 (08/92)
(k) Instructions for Deposit	OIR-CI -992 (05/94)
(l) List of Salesman	OIR-CI -995 (02/92)
(m) Management Information	OIR-CI -844 (10/91)
(n) Stockholder Listing	OIR-CI -973 (10/91)
(o) Biographical Statement	OIR-CI -1423422 (09/08)(11/90)
<del>(p) Abbreviated Biographical</del>	<del>OIR-CI -449 (01/91)</del>
<del>(p)(q)</del> Release of Information	OIR-CI -450 (08/92)
<del>(q)(r)</del> Equifax Instructions	OIR-CI -934 (10/91)
<del>(r)(s)</del> Fingerprint Instructions	OIR-CI -938 (04/91)
<del>(s)(t)</del> Annual Statement	OIR-A3 -467 (01/92)
<del>(t)(u)</del> Quarterly Report	OIR-A3 -466 (02/87)
<u>(u) Application for License - Motor Vehicle Service Agreement Company - Manufacturer</u>	<u>OIR-A3-1983 (02/09)</u>
<u>(v) Annual Report for Motor Vehicle Manufacturers</u>	<u>OIR-A3-1984 (01/10)</u>
<u>(w) Application for Exemption from Field Examination</u>	<u>OIR-A3-1985 (01/10)</u>
<u>(x) Application for License Continuance – Motor Vehicle Service Agreement Company</u>	<u>OIR-A3-2019 (01/10)</u>

(2) These forms are effective on the dates referenced above. Copies of the forms may be obtained from the Office of Insurance Regulation, Bureau of Specialty Insurers, Larson Building, Tallahassee, FL 32399-0300.

*Rulemaking Specific Authority 634.021 FS. Law Implemented 634.041, 634.061, 634.161, 634.252 FS. History—New 6-25-90, Formerly 4-114.015, Amended 5-26-93, 6-6-94, Formerly 4-200.015.*



**Office of Insurance Regulation**  
***Specialty Product Administration***

Licensee: \_\_\_\_\_  
\_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
City, State Zip \_\_\_\_\_  
\_\_\_\_\_

APPLICATION for LICENSE  
CONTINUANCE

MOTOR VEHICLE SERVICE  
AGREEMENT COMPANY

For the period: 03/01/20 \_\_ \_\_ to 02/2 \_\_/20 \_\_ \_\_

Federal Employer ID Number: \_\_\_\_\_  
FL Company Code: \_\_\_\_\_

Due by March 1

IN COMPLIANCE WITH THE LAWS OF FLORIDA, THE ABOVE NAMED DOES HEREBY APPLY FOR RENEWAL OF ITS MOTOR VEHICLE SERVICE AGREEMENT COMPANY LICENSE AUTHORIZING THE AFORESAID TO PERFORM SUCH DUTIES IN THIS STATE PURSUANT TO THE LAWS OF FLORIDA.

\_\_\_\_\_  
President's Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Secretary's Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Treasurer's Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**INSTRUCTIONS:**

1. If you wish to renew, complete and sign this application, detach it from this report and forward it along with your remittance in the amount of \$100.00 made payable to the **Florida Department of Financial Services**.
2. The application and remittance must be sent to:

Florida Department of Financial Services  
Revenue Processing Section  
Post Office Box 6100  
Tallahassee, Florida 32314-6100

3. The renewal application and remittance must be received on or before March 1.

AMOUNT	TYPE	CLASS	FEE	TR ACCT
\$100.00	10	33	L	3002



Office of Insurance Regulation  
Specialty Product Administration

Licensee: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State Zip \_\_\_\_\_

APPLICATION for EXEMPTION  
FROM FIELD EXAMINATION

MOTOR VEHICLE SERVICE  
AGREEMENT COMPANY  
or MANUFACTURER

Federal Employer ID Number: \_\_\_\_\_  
FL Company Code: \_\_\_\_\_

For the period: 03/01/20 \_\_\_\_ to 02/2 \_\_\_\_/20 \_\_\_\_

Due by March 1

PURSUANT TO SECTION 690-200.014, FLORIDA ADMINISTRATIVE CODE, THE ABOVE NAMED DOES  
HEREBY APPLY FOR EXEMPTION FROM THE FIELD EXAMINATION REQUIRED BY SECTION 634.141,  
FLORIDA STATUTES. THE LICENSEE CERTIFIES COMPLIANCE WITH THE REQUIREMENTS OF  
SECTION 690-200.014, FLORIDA ADMINISTRATIVE CODE.

\_\_\_\_\_  
President's Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Secretary's Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Treasurer's Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

INSTRUCTIONS:

1. If you wish to renew, complete and sign this application, detach it from this report and forward it along with your remittance in the amount of \$2,000.00 made payable to the **Florida Department of Financial Services**.
2. The application and remittance must be sent to:

Florida Department of Financial Services  
Revenue Processing Section  
Post Office Box 6100  
Tallahassee, Florida 32314-6100

3. The application for exemption and remittance must be received on or before March 1.

AMOUNT	TYPE	CLASS	FEE	TR ACCT
\$2,000.00	10	38	F	3001



## **OFFICE OF INSURANCE REGULATION**

### ***Company Admissions***

#### **APPLICATION FOR LICENSE MOTOR VEHICLE SERVICE AGREEMENT COMPANY - MANUFACTURER**

This package is designed to assist individuals in preparing the application with all the information required by statute and to facilitate expeditious processing of the application by this Office. This package includes five (5) categories of information:

Section I	-	Application Fees and Form
Section II	-	Legal
Section III	-	Financial
Section IV	-	Management
Section V	-	Forms and Rates

Each of these sections is processed by different business units of the Office. It is extremely important that the application be completed in its entirety in the format specified.

**PLEASE NOTE: THE COMPLETED CHECK LIST MUST BE SUBMITTED WITH THE APPLICATION PACKAGE.**

You are required to have your forms and rates approved as a condition precedent to receiving a license. All forms submitted must be either printer's proofs or actual forms with the name and address of the applicant company imprinted or typed thereon.

The completed application package may be mailed to:

Office of Insurance Regulation  
Company Admissions  
200 East Gaines Street, Larson Building  
Tallahassee, FL 32399-0332

**In order for a submission to be considered a complete application, all required information must be included in the filing. Filings that do not include all required information will be disapproved or returned.**

**APPLICATION FOR LICENSE  
MOTOR VEHICLE SERVICE AGREEMENT COMPANY - MANUFACTURER**

**INSTRUCTIONS  
SECTION I - APPLICATION FEES AND FORM**

**Section I-1**    Application Fee

Applicants must pay an application filing fee of \$100. This fee is due and payable at the time of filing the application for licensure.

Secure your check to the INVOICE (included in this package) and send to:

Florida Department of Financial Services  
Bureau of Financial Services  
Post Office Box 6100  
Tallahassee, FL 32314-6100

Submit a COPY OF THE INVOICE and a COPY OF THE CHECK with your application filing. This procedure will expedite the processing of your application and assure a timely recording of the fee.

**Section I-2**    Fingerprint Fee

Applicants are required to prepay electronically for the processing of the fingerprint cards required in section IV-5. Please see form OIR-C1-938 for instructions. The fingerprint cards are to be submitted with the application filing.

Place a copy of your on-line payment confirmation along with the fingerprint cards in the management section (IV-5).

NOTE: Florida residents have the option of having their fingerprints digitally scanned rather than providing paper fingerprint cards. Please see form OIR-C1-938 for instructions.

**NOTE: Individuals who are non-U.S. citizens with no social security number should continue to submit payment of fingerprint fees per instructions in form OIR-C1-903.**

**Section I-3**    Application for License to Conduct Business in the State of Florida (Motor Vehicle Service Agreement Company) (Official Form)

Complete this form and have it signed by the President and Secretary of the company. An original signature and corporate seal are required on the application form submitted to the Office.

**APPLICATION FOR LICENSE  
MOTOR VEHICLE SERVICE AGREEMENT COMPANY - MANUFACTURER**

**INSTRUCTIONS  
SECTION II - LEGAL**

**Section II-1**    Organizational Documents

Include in this section a certified copy of the applicant's organizational documents, including articles of incorporation, articles of association, partnership agreement, trust agreement, or other similar documents, together with all amendments to such documents. They must be certified by the state of domicile. The certification letter must be an original, recently certified by the state of domicile public official having custody of the original certificate.

**Section II-2**    Certificate of Status from State of Domicile

Provide an original Certificate of Status obtained from the applicant's state of domicile public records custodian, generally the Secretary of State. This certificate should document that the applicant is duly organized and that all state taxes have been paid. The certificate must show good standing, be sealed by the state, and be a recently prepared document.

**Section II-3**    Bylaws, Rules, Regulations, or Similar Documents

Submit copies of all of the applicant's bylaws, rules, regulations, or similar documents regulating the conduct of the applicant's internal affairs. Corporate bylaws must be recently sealed, signed, and dated by the Secretary of the applicant or their equivalents, if another type of entity.

**Section II-2**    Certificate of Status from Florida Secretary of State

Foreign corporations are required to secure through the Florida Secretary of State authorization to do business in Florida. If you have questions concerning filing with the Florida Secretary of State, please contact their Division of Corporations at (850) 245-6053. The original certificate must be forwarded to the Office of Insurance Regulation as part of this application as proof of authorization.

**Section II-4**    Fictitious Name Filing

If the applicant plans to utilize a fictitious name, provide documentation of compliance with the fictitious name states of this state. Contact the Florida Secretary of State at (850) 245-6058 for assistance in complying with this requirement.

**Section II-5**    Service of Process Consent and Agreement (Official Form)

The Service of Process Consent and Agreement form (attached). NO signatures other than those of the President or Chief Executive Officer and the Secretary, or their equivalents, will be accepted, and the signatures must be under corporate seal.

**APPLICATION FOR LICENSE  
MOTOR VEHICLE SERVICE AGREEMENT COMPANY - MANUFACTURER**

**INSTRUCTIONS  
SECTION III - FINANCIAL**

**Section III-1** Financial Information

The applicant must submit a report providing information as to service agreements issued nationally and in Florida over the past 3 years. This report should be certified as true and correct by two officers and may not be more than twelve (12) months old. Additionally, a 3-year projection as to the volume of expected sales of service agreements, nationally and in Florida, should be submitted. All information should be reported both by Number of Contracts and by Dollar Volume of Gross Written Premium.

**Section III-2** Qualifications to File as Manufacturer:

Provide a statement indicating the category under which the Applicant qualifies as a Motor Vehicle Manufacturer.

- A. Manufactures or produces motor vehicles and sells motor vehicles under its own name or label; or,
- B. Is a subsidiary of an entity that manufactures or produces motor vehicles; or,
- C. Is a corporation that owns 100 percent of an entity that manufactures or produces motor vehicles.

**Section III-3** Plan of Operations

Provide a clear description of the proposed operations of the applicant and the goals it seeks to achieve. To fulfill this requirement, the plan of operations must consist of the following information:

- A. History: Prepare a brief history of the company, including any changes of ownership or changes in operations. Indicate any actions taken by governmental agencies that have or had jurisdiction over the company.
- B. Management: Applicant is to provide its service agreement experience in the areas of marketing, claims handling, accounting and investments.
- C. Products: Applicant should give a description of each product it plans to market and sell.
- D. Marketing and Growth: Applicant should furnish a plan of marketing including methods, rates, commissions, projected growth pattern and other pertinent information effecting marketing plans.

**Section III-4** States Where Applicant is Currently Doing Business

Provide a list of states in which it or affiliated companies conduct service agreement business.

**Section III-5** Alphabetical List of Proposed Sales Representatives (Official Form Enclosed)

The applicant should complete the attached form relating to proposed sales representatives. It is understood that many applicants do not have a complete sales force in place; however, this information should be provided to the best of your ability. Information on the licensing of salesmen may be obtained from the Bureau of Licensing by calling (850) 413-5376.

**APPLICATION FOR LICENSE  
MOTOR VEHICLE SERVICE AGREEMENT COMPANY - MANUFACTURER**

**INSTRUCTIONS  
SECTION IV - MANAGEMENT**

**ANY NAMES REQUESTED IN THIS SECTION SHOULD INCLUDE COMPLETE FIRST, MIDDLE AND LAST NAMES.**

**Section IV-1**     List of All Officers, Directors and Shareholders

- A. List on the enclosed form, all Officers, Directors, and Shareholders (10% or more), the names of each officer, director, and person having direct or indirect control of the organization, including officers and directors up through the ultimate parent corporation or holding company. Use a separate form for each company.

Include on this form the names of each shareholder owning ten percent (10%) or more of any class of any outstanding stock of the organization, including shareholder owning ten percent (10%) or more up through the ultimate parent corporation, together with the percentage, number of shares, and class of shares held by each shareholder. If any 10% or greater owner is an entity other than a natural person, please list the owners, officers, directors, and managing members of this entity on the referenced forms. Use a separate form for each company.

- B. If the applicant is a subsidiary of a parent or holding company, provide an organization chart showing the relationship of all related corporations.
- C. Full names, including middle names, must be listed. Please state if a middle name does not exist.

**Section IV-2**     Biographical Statement for Officers, Directors and Shareholders

Provide a biographical affidavit (Form OIR-C1-1423) for each officer and director of the applicant. All questions must be answered.

The requirement for the affiant's social security number as part of the Biographical Affidavit is mandatory. However, pursuant to sections 119.0721(5), Florida Statutes, social security numbers collected by an agency are confidential and exempt from section 119.07(1), Florida Statutes, and section 24(a), Art. I of the State Constitution and must be segregated on a separate page. Therefore, instead of including the SSN on page 6 of the NAIC form, please include the affiant's name and social security number on a separate page and attach it to the Biographical Affidavit. Also please stamp CONFIDENTIAL at the top and bottom of the separate page.

Section 119.071(5), Florida Statutes, gives authority for any agency to collect security numbers if imperative for the performance of that agency's duties and responsibilities as prescribed by law. Limited collection of social security numbers is imperative for the Office of Insurance Regulation. The duties of the Office of Insurance Regulation in background investigation are extensive in order to insure that the owners, management, officers, and directors of any insurer are competent and trustworthy, possess financial standing and business experience, and have not been found guilty of, or not pleaded guilty or nolo contendere to, any felony or crime punishable by imprisonment of one year.

### **Section IV-3** Investigative Background Reports

An investigative background report must be provided for each person listed on the applicant's management information form. Background reports must be submitted by the selected background investigator vendor directly to the Office prior to or contemporaneously with the submission of the application filing. Please refer to form OIR-C1-905 for instructions.

### **Section IV-4** Fingerprint Cards

Fingerprint cards must be completed for each officer and director of the applicant. The cards will be furnished by the Office upon request. **No cards other than those furnished by the Office will be accepted.** The cards must be completed at a law enforcement agency and returned to this Office for processing. Please refer to form OIR-C1-938 for instructions.

Due to the length of time required by law enforcement agencies to process fingerprint cards, it is suggested that the cards be ordered immediately so they may be submitted before or with the application.

Please place the completed fingerprint cards in this section.

Note: Florida residents have the option of having their fingerprints digitally scanned rather than providing paper fingerprint cards and fees as noted above. Please refer to form OIR-C1-938 for instructions.

**APPLICATION FOR LICENSE  
MOTOR VEHICLE SERVICE AGREEMENT COMPANY - MANUFACTURER**

**INSTRUCTIONS  
SECTION V - FORMS AND RATES**

**NOTE: THE COMPANY IS CAUTIONED NOT TO WRITE BUSINESS USING UNAPPROVED FORMS OR RATES.**

**Section V-1 Forms**

Submit a copy of all proposed forms, related forms and sales brochures. The service agreements and applications for service agreements should be serially pre-numbered and contain spaces for the selling price; the name of the issuing salesman; the date of issuance; the selling price paid by the consumer; the contract period (in time and mileage); and the name, address and phone number of the contract holder.

**Section V-2 Rates**

Submit a copy of all rates to be charged, rating schedules or rating manuals. **Please note that all service agreements must be sold at the approved rates.**

**Section V-3 Commission Structure**

Submit a complete breakdown of your proposed commission structure. This breakdown should include but not be limited to: salesmen, agents, insurers and licensed administrators. **In Florida, you may not use a third party administrator unless that administrator is licensed under Chapter 634, Part I, Florida Statutes.**

**APPLICATION FOR LICENSE  
MOTOR VEHICLE SERVICE AGREEMENT COMPANY - MANUFACTURER**

**CHECK LIST  
SECTION I - APPLICATION FEES AND FORM**

Company Name: \_\_\_\_\_

<u>Item #</u>	<u>Completion Check List</u>
1. Specialty insurer application fee paid .....	<input type="checkbox"/>
(a) Copy of invoice included (Official Form) .....	<input type="checkbox"/>
(b) Copy of check .....	<input type="checkbox"/>
(c) Copies placed as top documents in application .....	<input type="checkbox"/>
(d) Original mailed to Bureau of Financial Services .....	<input type="checkbox"/>
2. Fingerprint fees paid electronically.....	<input type="checkbox"/>
(a) Copy of on-line payment confirmation .....	<input type="checkbox"/>
Or, if applicable	
(b) Copy of form OIR-C1-903 (Invoice) included .....	<input type="checkbox"/>
(c) Copy of check included .....	<input type="checkbox"/>
(d) Originals mailed to Bureau of Financial Services .....	<input type="checkbox"/>
3. Company completed application for license (Official Form) .....	<input type="checkbox"/>
(a) All blanks completed .....	<input type="checkbox"/>
(b) Sealed by company .....	<input type="checkbox"/>
(c) Signed by President (original signature) .....	<input type="checkbox"/>

**APPLICATION FOR LICENSE  
MOTOR VEHICLE SERVICE AGREEMENT COMPANY - MANUFACTURER**

**CHECK LIST  
SECTION II - LEGAL**

Company Name: \_\_\_\_\_

<u>Item #</u>		<u>Completion Check List</u>
1.	Organizational Documents .....	<input type="checkbox"/>
	(a) Original certification by State of Domicile .....	<input type="checkbox"/>
	(b) Any and all amendments attached .....	<input type="checkbox"/>
2.	Certificate of Status from State of Domicile .....	<input type="checkbox"/>
	(a) Good standing indicated .....	<input type="checkbox"/>
	(b) Sealed by State .....	<input type="checkbox"/>
	(c) Signed by Secretary of State .....	<input type="checkbox"/>
3.	Company By-Laws (or similar documents) .....	<input type="checkbox"/>
	(a) Signed and dated by corporate secretary .....	<input type="checkbox"/>
	(b) Sealed by the company (corporate seal) .....	<input type="checkbox"/>
4.	Fictitious Name Certificate (if applicable) .....	<input type="checkbox"/>
	Original .....	<input type="checkbox"/>
5.	Consent and Agreement - Service of Process (Official Form) .....	<input type="checkbox"/>
	(a) Signed and dated as required .....	<input type="checkbox"/>
	(b) Sealed by company (corporate seal) .....	<input type="checkbox"/>
	(c) Original with all blanks completed .....	<input type="checkbox"/>

**APPLICATION FOR LICENSE  
MOTOR VEHICLE SERVICE AGREEMENT COMPANY - MANUFACTURER**

**CHECK LIST  
SECTION II - LEGAL**

Company Name: \_\_\_\_\_

<u>Item #</u>		<u>Completion Check List</u>
6.	Certificate of Status from State of Domicile.....	<input type="checkbox"/>
(a)	Good standing indicated.....	<input type="checkbox"/>
(b)	Sealed by State.....	<input type="checkbox"/>
(c)	Signed by Secretary of State.....	<input type="checkbox"/>
(d)	Original.....	<input type="checkbox"/>

**APPLICATION FOR LICENSE  
MOTOR VEHICLE SERVICE AGREEMENT COMPANY - MANUFACTURER**

**CHECK LIST  
SECTION III - FINANCIAL**

Company Name: \_\_\_\_\_

<u>Item #</u>		<u>Completion Check List</u>
1.	<i>Financial statements</i>	
	(a) <i>A report both by number of contracts and by dollar volume of gross written premium issued nationally and in Florida over the past 3 years .....</i>	<input type="checkbox"/>
	(b) <i>Verified under oath by at least two of the principal officers .....</i>	<input type="checkbox"/>
	(c) <i>Not over 12 months old .....</i>	<input type="checkbox"/>
	(d) <i>A 3-year projection as to the volume of expected sales of service agreements, nationally and in Florida.....</i>	<input type="checkbox"/>
2.	<i>Qualifications as Manufacturer</i>	
	(a) <i>Manufacturers or produces motor vehicles under its own name; or .....</i>	<input type="checkbox"/>
	(b) <i>Is a subsidiary of an entity that manufactures or produces motor vehicles; or .....</i>	<input type="checkbox"/>
	(c) <i>Is a corporation that owns 100% of an entity that manufactures or produces motor vehicles .....</i>	<input type="checkbox"/>
3.	<i>Plan of Operations</i>	
	(a) <i>History .....</i>	<input type="checkbox"/>
	<i>List of controlling or controlled companies .....</i>	<input type="checkbox"/>
	<i>List of d/b/a's, trade names, or fictitious names .....</i>	<input type="checkbox"/>
	(b) <i>Management .....</i>	<input type="checkbox"/>

**CHECK LIST  
SECTION III - FINANCIAL**

Company Name: \_\_\_\_\_

<u>Item #</u>	<u>Completion Check List</u>
(c) Products .....	<input type="checkbox"/>
(d) Marketing & Growth .....	<input type="checkbox"/>
4. List of states in which the applicant is active .....	<input type="checkbox"/>
5. List of sales representatives (Official Form) .....	<input type="checkbox"/>

**APPLICATION FOR LICENSE  
MOTOR VEHICLE SERVICE AGREEMENT COMPANY - MANUFACTURER**

**CHECK LIST  
SECTION IV - MANAGEMENT**

Company Name: \_\_\_\_\_

<u>Item #</u>	<u>Completion Check List</u>
1. Listing of officers, directors, controlling individuals and shareholders.....	<input type="checkbox"/>
(a) Separate listing of all officers and directors controlling individuals, and shareholders including percentage held and number and Class of shares for the company and its parents and/or holding Companies (Official Form) .....	<input type="checkbox"/>
(b) If parent indicated, organization chart .....	<input type="checkbox"/>
(d) Full names and titles listed (including full middle name or indication If one does not exist) .....	<input type="checkbox"/>
2. Biographical Statement and Affidavit for each individual listed on Applicant's Management Information Form (Official Form) .....	<input type="checkbox"/>
For each form:	
(a) All blanks completed .....	<input type="checkbox"/>
(b) Contains original signature .....	<input type="checkbox"/>
(c) Notarized .....	<input type="checkbox"/>
(e) Full name given (including full middle name or indication if one does not exist) .....	<input type="checkbox"/>
(e) Submitted an original of each affidavit .....	<input type="checkbox"/>
(f) Provide Social Security Number on separate page .....	<input type="checkbox"/>

Item #

Completion  
Check List

3. Investigative Background Report for each individual listed on Applicant's  
Management Information Form ..... ☐

4. Fingerprint cards enclosed for each person listed on Applicant's  
Management Information Form ..... ☐

For each card:

(a) Card obtained from Office of Insurance Regulation..... ☐

(b) Card contains original signature ..... ☐

(c) No erasures on or alteration of card ..... ☐

(d) All blanks completed ..... ☐

**APPLICATION FOR LICENSE  
MOTOR VEHICLE SERVICE AGREEMENT COMPANY - MANUFACTURER**

**CHECK LIST  
SECTION V - FORMS AND RATES**

Company Name: \_\_\_\_\_

<u>Item #</u>		<u>Completion Check List</u>
1.	Forms and sales brochures .....	<input type="checkbox"/>
	(a) Complete copy(ies) .....	<input type="checkbox"/>
	(b) Serially pre-numbered .....	<input type="checkbox"/>
	(c) Spaces for .....	
	(1) Selling price .....	<input type="checkbox"/>
	(2) Name of issuing salesman .....	<input type="checkbox"/>
	(3) Date of issuance .....	<input type="checkbox"/>
	(4) Selling price <u>paid</u> by consumer .....	<input type="checkbox"/>
	(5) Contract period .....	<input type="checkbox"/>
	(6) Contract holder's name, address, and phone number .....	<input type="checkbox"/>
2.	Rates to be charged .....	
	Complete copy(ies) .....	<input type="checkbox"/>
3.	Proposed commission structure .....	<input type="checkbox"/>

## CHECKLIST VERIFICATION

The undersigned says that he/she is a senior officer having personal knowledge of the application submitted to the Florida Office of Insurance Regulation in connection with licensure sought by \_\_\_\_\_ that he/she has read said

(Entity Name)

application, that he/she knows the contents thereof and verifies that the items indicated in the application checklist have been submitted with the application, that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument, the applicant on behalf which the person acted, executed the instrument.

I understand that whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duties is guilty of a misdemeanor of the second degree, pursuant to Section 837.06, Florida Statutes.

Dated \_\_\_\_\_

(Give full and exact name of Applicant)

\_\_\_\_\_  
Signature of President, Secretary, or Treasurer

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Title

**APPLICATION FOR LICENSE  
MOTOR VEHICLE SERVICE AGREEMENT COMPANY - MANUFACTURER**

\_\_\_\_\_, 20\_\_\_\_

TO THE DIRECTOR OF INSURANCE REGULATION,  
TALLAHASSEE, FLORIDA

SIR: The \_\_\_\_\_  
(Give name of company in full)

Federal Identification Number: \_\_\_\_\_

Of (Home Office Address) \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: (    ) \_\_\_\_\_ Fax (    ) \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

through its duly authorized officers, hereby applies for license authorizing and empowering the company aforesaid to transact motor vehicle service agreement business in the State of Florida as a manufacturer, under the laws thereof and do hereby affirm that all of the responses, information, exhibits, and documentary evidence submitted in support of this application are true and correct.

By: \_\_\_\_\_  
President or Chief Executive Officer

(Corporate Seal)

Attest: \_\_\_\_\_  
Secretary

Name of Attorney or Principal filing this application:

\_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: (    ) \_\_\_\_\_ Fax: (    ) \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

## INVOICE

### MOTOR VEHICLE SERVICE AGREEMENT COMPANY - MANUFACTURER REQUEST FOR PAYMENT OF APPLICATION FEES

NAME OF COMPANY: \_\_\_\_\_

FEIN: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY, STATE & ZIP CODE: \_\_\_\_\_

ADDRESS (IF DIFFERENT FROM COMPANY ADDRESS)

\_\_\_\_\_  
(CITY)

\_\_\_\_\_  
(STATE)

\_\_\_\_\_  
(ZIP CODE)

In reference to the submission by the above-referenced insurer's application to do business in Florida, it is necessary for you to return this form with the proper payment.

#### PLEASE NOTE:

1. Send a check in the proper amount made payable to the Florida Department of Financial Services and **mail the check and invoice only** to the Florida Department of Financial Services, Bureau of Financial Services, PO Box 6100, Tallahassee, Florida 32314-6100.
2. Send a **copy** of the **check** and a **copy** of the **invoice** along with the completed application package to the Office of Insurance Regulation, Applications Coordination Section, 200 East Gaines Street, Larson Building, Tallahassee, Florida 32399-0332.

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RECEIPT NUMBER	AMOUNT	TYPE	CLASS	FUND	ACCT	SOURCE
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	\$100	10	33	3	00	2
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**Office of Insurance Regulation**  
*Specialty Product Administration*

**FLORIDA**  
**COMPANY CODE:**  
65 \_\_\_\_\_

**FEDERAL EMPLOYER**  
**IDENTIFICATION NUMBER:**  
\_\_\_\_\_ - \_\_\_\_\_

**REPORT FOR**  
**MOTOR VEHICLE MANUFACTURER**

---

**(NAME OF THE MOTOR VEHICLE MANUFACTURER)**

**TO THE**  
**OFFICE OF INSURANCE REGULATION**  
**OF THE**  
**STATE OF FLORIDA**

Specialty Product Administration  
200 East Gaines Street  
Tallahassee, FL 32399 - 0331

**FOR THE YEAR ENDED**

\_\_\_\_\_, 20 \_\_\_\_

## GENERAL INFORMATION AND INSTRUCTIONS

1. This report must be filed electronically through the Regulatory Electronic Filing System (REFS). Paper reports are not accepted as complying with the filing requirement.
2. Either Adobe Reader 7.0.5 or higher, or Adobe Acrobat Standard/Professional 7.0.5 or higher is required to properly complete the filing. Further information is available at the following link:  
[http://www.flair.com/pdf/REFS\\_Adobe\\_LiveCycle\\_Instructions\\_r.pdf](http://www.flair.com/pdf/REFS_Adobe_LiveCycle_Instructions_r.pdf)
3. A session key was assigned when you downloaded this report. This session key has an expiration date and time. **Any data that is not saved or submitted prior the expiration time will be lost.**
4. Please complete:
  - a. The **Invoice** (Form OIR-A3-467LR), attach a check for the filing fee of \$100, and mail to the address shown on the **Invoice**. The payment must be received by the Office of Insurance Regulation no later than March 1. A copy of the invoice and check must be attached to this filing.
  - b. The **Request for Exemption from Examination** (Form OIR-A3-1985), attach a check for the filing fee of \$2,000 and mail to the address shown on the **Invoice**. The payment must be received by the Office of Insurance Regulation no later than March 1. A copy of the invoice and check must be attached to this filing.
5. Two boxes are shown in the upper right hand corner of each report page. Clicking on the box beside "Highlight Fields" shades all places in which data may be entered. Clicking on the box beside "Highlight Required Fields" shades those areas where data must be entered to submit the form, based on previous entries on the form.
6. Please enter all numeric fields with numbers only. Commas, dashes, dollar signs, are not permitted.
7. Unanswered questions and blank lines on schedules will not be accepted. If no answers or entries are to be made, enter "0" on all lines asking for a numeric response and "None" or "N/A" on all lines requesting a non-numeric response.
8. If additional explanations, supporting statements or schedules are added or are necessary, the additions should be properly cross-referenced to the applicable report item. This additional information should be in electronic format (i.e. Word, Excel, PDF, etc) or, if in paper format, scanned in as a PDF, and should be uploaded and attached to the filing as the appropriate Component Named document or as a Miscellaneous Document. If posted as Miscellaneous Document, be sure to assign a descriptive Name to the document.
9. "Save" and "submit" buttons are provided on the last page of this report. Pressing the "s" key while pressing the "ALT" key will display the last page. Clicking the "Save" button will save the data to our website, but not to your computer. **It is strongly recommended that you save your data periodically as you fill in this form.** Confirmation messages are sent when data is successfully saved or submitted.
10. Saving or submitting causes data to be verified for completeness, and you will be notified if errors have occurred. Validation errors must be corrected in order to submit the data. Once the data is successfully submitted, changes or **additions must be made by amending the online filing.**
11. Please print, sign, notarize and scan the STATEMENT page (see next page); then upload the PDF version of the signed/notarized page as the **Signed Jurat Page.**

Company Name: \_\_\_\_\_

Period Ending: \_\_\_\_\_

Please see #11 of the Instructions Page.

Company Name: \_\_\_\_\_  
Company FEIN: \_\_\_\_\_ Florida Company Code: \_\_\_\_\_ Period Ending Date: \_\_\_\_\_  
State and Date of Incorporation/Organization: \_\_\_\_\_ (State/Prov): \_\_\_\_\_ (Date): \_\_\_\_\_  
Date Licensed by the Office of Insurance Regulation: \_\_\_\_\_ (Date): \_\_\_\_\_  
Date Commenced Business: \_\_\_\_\_ (Date): \_\_\_\_\_

**Address of Home Office:**

Street: \_\_\_\_\_  
City: \_\_\_\_\_ State/Prov: \_\_\_\_\_ Zip/Postal Code: \_\_\_\_\_  
Phone: \_\_\_\_\_ Ext: \_\_\_\_\_ Fax: \_\_\_\_\_

**Address of Main Administrative Office:**

Street: \_\_\_\_\_  
City: \_\_\_\_\_ State/Prov: \_\_\_\_\_ Zip/Postal Code: \_\_\_\_\_  
Phone: \_\_\_\_\_ Ext: \_\_\_\_\_ Fax: \_\_\_\_\_

**Mailing Address:**

Street: \_\_\_\_\_  
City: \_\_\_\_\_ State/Prov: \_\_\_\_\_ Zip/Postal Code: \_\_\_\_\_  
Phone: \_\_\_\_\_ Ext: \_\_\_\_\_ Fax: \_\_\_\_\_

**Records Location (if different than Main Office):**

Street: \_\_\_\_\_  
City: \_\_\_\_\_ State/Prov: \_\_\_\_\_ Zip/Postal Code: \_\_\_\_\_

**Address of Principle Florida Office:**

Street: \_\_\_\_\_  
City: \_\_\_\_\_ State/Prov: \_\_\_\_\_ Zip/Postal Code: \_\_\_\_\_  
Phone: \_\_\_\_\_ Ext: \_\_\_\_\_ Fax: \_\_\_\_\_

**Website:** \_\_\_\_\_

Type of entity (check one) ☐ Corporation – For profit ☐ Sole proprietorship  
☐ Corporation – Not for profit ☐ Limited liability company  
☐ Partnership ☐ Other:

Contact Name: \_\_\_\_\_  
Contact Title: \_\_\_\_\_  
Phone: \_\_\_\_\_ Ext: \_\_\_\_\_ Fax: \_\_\_\_\_  
Email Address: \_\_\_\_\_

**OFFICERS / DIRECTORS / MEMBERS**

Show full name (initials not acceptable)

Chief Executive Officer \_\_\_\_\_  
President \_\_\_\_\_  
Vice President \_\_\_\_\_  
Secretary \_\_\_\_\_  
Treasurer / Chief Financial Officer \_\_\_\_\_  
Chairman of the Board \_\_\_\_\_

Directors / Members

STATE OF: \_\_\_\_\_

COUNTY OF: \_\_\_\_\_

\_\_\_\_\_, President, \_\_\_\_\_, Secretary  
and \_\_\_\_\_, Chief Financial Officer (or corresponding person having charge of the  
Financial records of the licensee, of the \_\_\_\_\_ being duly sworn  
each for himself or herself deposes and says that they are the above-described officers of the said licensee, and that on the reporting period stated  
above, all of the herein assets were the absolute property of the said licensee, free and clear from any liens or claims thereon, except as herein stated  
and that this report, together with related exhibits, schedules and explanations therein contained, annexed or referred to is a full and true statement of  
assets and liabilities and of the condition and affairs of the said licensee as of the reporting period stated above, and of its income and deductions for the  
period reported.  
Subscribed and Sworn to before me this

\_\_\_\_\_, day of \_\_\_\_\_, 20\_\_\_\_\_, \_\_\_\_\_ President/Owner  
Notary Public: \_\_\_\_\_  
\_\_\_\_\_, Secretary  
Commissioner Number: \_\_\_\_\_  
\_\_\_\_\_, Treasurer/CFO  
Expiration Date: \_\_\_\_\_

Company Name:

Period Ending:

**EXHIBIT I****Recap of FLORIDA Premium Written for the 12 Months Ending \_\_/\_\_/\_\_**

	1-Year or Less Contracts	2-Year Contracts	3-Year Contracts	4-Year Contracts	Others (5-Year or Longer)	Totals
Gross Written Premium Current Year	\$	\$	\$	\$	\$	\$
Less Cancellations and Refunds	( )	( )	( )	( )	( )	( )
Totals	\$	\$	\$	\$	\$	\$

**EXHIBIT II****Recap of FLORIDA In-Force Premiums**

	Number Of Warranties	Premium Received and Outstanding	Unearned Premium Reserve (UPR)	Amount of Premium Covered By CLP
In-Force end of prior year		\$	\$	\$
Audit adjustments to prior year				
Issued during the year				
Cancelled during the year	( )	( )	( )	( )
Expired during the year	( )	( )	( )	( )
Earned during the year			( )	
In-force end of current year		\$	\$	\$

## Motor Vehicle Manufacturer Interrogatories

(Licensee's Name) - Interrogatories - (Year)A

Line No.	Interrogatory Description (All responses must be either "Yes" or "No")	Memo Trigger			Doc Type Trigger			Document Type
		Yes	No	NA	Yes	No	NA	
1	Since the last Annual Report has there been any change in the corporate/organizational structure (Organizational Chart) in which the Licensee operates? If "YES", indicate the changes from prior submissions with a number sign [#] on the Organizational Chart.							
2	Has any change been made since the last reporting date in the Licensee's origination documents (e.g. charter, articles of incorporation, bylaws, contracts with subscribers, etc.)? If "YES", attach current copies of the documents.				X			(Organizational Documents)
3	Have any legal actions been taken against the Licensee during the period covered by this report? If "YES", provide all documentation related to the legal actions taken against the Licensee.				X			(Legal Actions Documentation)
4	Have all forms currently being used been filed with and approved by the OIR?							
5	Have all rates been filed with the OIR?							
6	Does the Licensee rely on a contractual liability insurance policy with an authorized insurer?							
7	Is the Licensee (or its parent) a publicly traded entity?							
8	Has the Licensee sold or transferred any of its Florida contracts to another entity? If "YES", give specifics.	X						
9	Does the Licensee have any other licenses issued by the OIR? If "YES", state which licenses.	X						
10	Are the Licensee's current activities and policies in compliance with Florida and Federal Authorities' current guidance regarding TERRORISM?							

**SAVE/SUBMIT PAGE**

**Save** -Use this button to save your data to our server. It is strongly recommended that you save your data periodically as you fill in this form. You can still save your data even if you have validation errors appear below.

**Submit Final** -Use this button if you have entered all the required information and want to submit this data to our server. If you have validation errors, they must be corrected before being able to submit the form data. **Once you successfully submit the form data, you can no longer make changes.**

The session key will expire on: Eastern Time



**634.021 Powers of department, commission, and office; rules.**--The office shall administer this act and the commission may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this act related to motor vehicle service agreement companies and motor vehicle service agreements. The department shall administer this act and may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of this act related to sales representatives.

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

(1) Any service agreement company applying for a license must be a solvent corporation formed under the laws of this state or of another state or district of the United States and must meet minimum requirements under this section.

(2) The service agreement company must furnish the office with evidence satisfactory to the office that the management of the company is competent and trustworthy and can successfully and lawfully manage its affairs.

(3) The service agreement company must make the deposit required under s. 634.052.

(4) A service agreement company may not be licensed to transact service agreement business in this state unless it maintains the required reserves and the required ratio of liquid assets to the required reserves.

(5) A service agreement company may not be licensed to transact service agreement business in this state if, during the 3 years immediately preceding its application for a license, it has violated any requirement of this part or a rule adopted thereunder.

(6) In order to obtain or maintain a license, a service agreement company must have and maintain minimum net assets of \$500,000. However, a service agreement company that maintains a gross written premium of less than \$750,000 at all times, that has been licensed in Florida for more than 5 years, and that has never had an administrative complaint filed by the office against its operations under this part may reach this net asset requirement in equal increments over a 5-year period beginning on October 1, 1991.

(7) All assets used to maintain the minimum net asset requirement must be maintained in the United States.

(8)(a) A service agreement company must establish and maintain an unearned premium reserve in accordance with the following:

1. It must consist of unencumbered assets equal to a minimum of 50 percent of the unearned gross written premium on each service agreement and must amortize this reserve pro rata over the duration of the service agreement. Such assets must be held in the form of cash or invested in securities for investment under ss. 625.301-625.340.

2. In addition to the net asset requirements set forth in subsection (6), a company utilizing the 50-percent reserve must not allow its ratio of gross written premium in force to net assets to exceed 10 to 1. For companies that have utilized both contractual liability insurance and the 50-percent reserve, this ratio must be calculated based only on that portion of gross written premium in force which is covered by the 50-percent reserve.

3. A company that uses an unearned premium reserve must deposit with the department securities of the type eligible for deposit by insurers under s. 625.52 equal to 15 percent of the unearned premium reserve. This reserve deposit may be included as an asset for calculating the requirement of subparagraph 1. A request for release of the reserve deposit may be made quarterly only after the office has approved the company's current quarterly or annual financial statement and a statement sworn to by two officers of the company, verifying that the release will not reduce the reserve deposit to less than 15 percent of the unearned premium reserve.

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

1. The insurance covers 100 percent of its claim exposure and is obtained from an insurer approved by the office which holds a certificate of authority to do business within this state.
2. If the service agreement company does not meet its contractual obligations, the contractual liability insurance policy binds its issuer to pay or cause to be paid to the service agreement holder all legitimate claims and cancellation refunds for all service agreements issued by the service agreement company while the policy was in effect. This requirement also applies to those service agreements for which no premium has been remitted to the insurer.
3. If the issuer of the contractual liability policy is fulfilling the service agreements covered by the contractual liability policy and the service agreement holder cancels the service agreement, the issuer must make a full refund of unearned premium to the consumer, subject to the cancellation fee provisions of s. 634.121(5). The sales representative and agent must refund to the contractual liability policy issuer their unearned pro rata commission.
4. The policy may not be canceled, terminated, or nonrenewed by the insurer or the service agreement company unless a 90-day written notice thereof has been given to the office by the insurer before the date of the cancellation, termination, or nonrenewal.
5. The service agreement company must provide the office with the claims statistics.

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

(9)(a) In meeting the requirements of this part, except as provided in paragraph (b), a service agreement company may not utilize both the 50-percent reserve and contractual liability insurance simultaneously. However, a company may have contractual liability coverage on service agreements previously sold and sell new service agreements covered by the 50-percent reserve, and the converse of this is also allowed. A service agreement company must be able to distinguish how each individual service agreement is covered.

(b) A service agreement company that maintains net assets of at least \$10 million and that annually files with the office a financial statement audited in accordance with generally accepted accounting principles may use either the 50-percent reserve or the contractual liability coverage for specific blocks of new service agreements. For purposes of this subsection, the term "specific blocks of new service agreements" means the service agreements

sold by a single designated licensed salesperson. A service agreement company must be able to distinguish how each individual service agreement is covered. A service agreement company using the 50-percent premium reserve, as permitted under this subsection, must obtain contractual liability insurance coverage for any future deficits in the premium reserve account directly attributable to the specific blocks of new agreements written. Such a contractual liability insurance policy must be filed with the office. Such policies or endorsements to an existing policy must contain language evidencing that the contractual liability insurance policy shall pay claims arising out of such specific blocks of agreements if the service agreement company cannot or will not pay such claims. All contractual liability insurance policies issued to a service agreement company under this part must cover all agreements issued during the term of the policy and, for purposes of this section, the company must obtain and file with the office endorsements to that policy identifying the specific blocks of agreements not covered thereunder.

(10) In addition to information called for and furnished with its annual statement, a service agreement company must furnish to the office, as soon as reasonably possible, any information as to its transactions or affairs that the office requests in writing. All information furnished pursuant to the request of the office must be verified by the oath of two executive officers of the service agreement company.

(11)(a) A service agreement company offering service agreements providing vehicle protection expenses may meet the requirements for this part only by maintaining contractual liability insurance covering 100 percent of its vehicle protection claim exposure in accordance with paragraph (8)(b), which insurance must be issued by an insurance company not affiliated with the service agreement company, unless the insurance company had issued a contractual liability insurance policy to a service agreement company on or before January 1, 2002. Service agreements providing vehicle protection expenses may be sold only to a service agreement holder that has in-force comprehensive motor vehicle insurance coverage for the vehicle to be covered by the service agreement.

(b) Notwithstanding any other requirement of this part, a service agreement company maintaining an unearned premium reserve on all service agreements in accordance with paragraph (8)(a) may offer service agreements providing vehicle protection expenses if it maintains contractual liability insurance only on all service agreements providing vehicle protection expenses and continues to maintain the 50-percent reserve for all service agreements not providing vehicle protection expenses. A service agreement company maintaining contractual liability insurance for all service agreements providing vehicle protection expenses and the 50-percent reserve for all other service agreements must, in the service agreement register as required under s. 634.136(4), distinguish between insured service agreements providing vehicle protection expenses and service agreements not providing vehicle protection expenses.

(12) A motor vehicle manufacturer complying with the provisions of this part must be an entity formed under the laws of this state or of another state or district of the United States and need comply only with subsections (2) and (10). A motor vehicle manufacturer need not submit fingerprints, background information, or biographical statements for any individual except those serving as officers or directors of the applicant entity. A motor vehicle manufacturer need not comply with s. 634.081(5). Motor vehicle manufacturers are subject to all other applicable provisions of this part.

#### **634.121 Filing of forms, required procedures, provisions.--**

(1) A service agreement form or related form may not be issued or used in this state unless it has been filed with and approved by the office. Upon application for a license, the office shall

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require the applicant to submit for approval each brochure, pamphlet, circular, form letter, advertisement, or other sales literature or advertising communication addressed or intended for distribution. The office shall disapprove any document which is untrue, deceptive, or misleading or which contains misrepresentations or omissions of material facts.

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

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

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

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

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

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

(5)(a) Each service agreement must contain a cancellation provision. Any service agreement is cancelable by the purchaser within 60 days after purchase. The refund must be 100 percent of the gross premium paid, less any claims paid on the agreement. A reasonable administrative fee may be charged not to exceed 5 percent of the gross premium paid by the agreement holder.

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

1. There has been a material misrepresentation or fraud at the time of sale of the service agreement;
2. The agreement holder has failed to maintain the motor vehicle as prescribed by the manufacturer;
3. The odometer has been tampered with or disabled and the agreement holder has failed to repair the odometer; or
4. For nonpayment of premium by the agreement holder, in which case the service agreement company shall provide the agreement holder notice of cancellation by certified mail.

If the service agreement is canceled by the insurer or service agreement company, the return of premium must not be less than 100 percent of the paid unearned pro rata premium. If, after 60 days, the service agreement is canceled by the service agreement holder, the insurer or service agreement company shall return directly to the agreement holder not less than 90 percent of the unearned pro rata premium. The service agreement company remains responsible for full refunds to the consumer on canceled service agreements. However, the salesperson and agent are responsible for the refund of the unearned pro rata commission. A service agreement company may effectuate refunds through the issuing salesperson or agent.

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

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

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

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

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

(11) Each service agreement form as well as all service agreement company sales brochures must clearly identify the name, address, and Florida license number of the licensed insurer or service agreement company.

(12) If a service agreement contains a rental car provision, it must disclose the terms and conditions of this benefit in conspicuous, boldfaced type or disclose such restrictions or

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limitations in regular type in a section of the service agreement containing a conspicuous,  
boldfaced type heading.

**634.1213 Grounds for disapproval.**--The office may disapprove any service agreement form or service agreement company sales brochures filed under s. 634.121, or withdraw any previous approval thereof, if the form or brochure:

- (1) Is in any respect in violation of or does not comply with this part, any applicable provision of the Florida Insurance Code, or any applicable rule of the commission.
- (2) Contains or incorporates by reference when such incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the service agreement.
- (3) Has any title, heading, or other indication of its provisions which is misleading.
- (4) Is printed or otherwise reproduced in such manner as to render any material provision of the form substantially illegible.
- (5) Contains any provision which is unfair or inequitable or which encourages misrepresentation.
- (6) Contains any provision which makes it difficult to determine the actual insurer or service agreement company issuing the form.
- (7) Contains any provision for reducing claim payments due to depreciation of parts, except for marine engines.

**634.1216 Rate filings.**--Each insurer and each motor vehicle service agreement company shall file with the office the rates, rating schedules, or rating manuals used, including all modifications of rates and premiums, to be paid by the service agreement holder. Every filing shall state the proposed effective date thereon. The filing shall be made not less than 30 days before its effective date.

**634.061 Application for and issuance of license.**--

- (1) A sworn application for a license as a motor vehicle service agreement company shall be made to and filed with the office on forms as prescribed by the commission and furnished by the office.
- (2) In addition to information relative to its qualifications as called for under s. 634.041, the application shall show:
  - (a) The location of the applicant's home office.
  - (b) The name and residence address of each director, officer, and 10-percent or greater stockholder of the applicant.
  - (c) Other pertinent information as required by the commission or office.
- (3) The application when filed shall be accompanied by:

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(a) If a corporation or partnership, a copy of the applicant's articles of incorporation or partnership document, if any, certified by the public official having custody of the original and a copy of its bylaws certified by its secretary.

(b) A copy of the most recent financial statement of the applicant, verified under the oath of at least two of its principal officers.

(c) The license tax as required under s. 634.071.

(4) Upon completion of the application for license, the office shall examine the same and make such further investigation of the applicant as it deems advisable. If it finds that the applicant is qualified therefor under this part, it shall issue to the applicant a license as a motor vehicle service agreement company. If the office does not so find, it shall refuse to issue the license.

**634.252 Acquisition.**--Every motor vehicle service agreement company shall be subject to the provisions of s. 628.4615.

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**M E M O R A N D U M**

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**DATE:** May 25, 2010  
**TO:** Kevin M. McCarty, Commissioner, Office of Insurance Regulation  
**THROUGH:** Steven H. Parton, General Counsel  
**FROM:** Dennis Threadgill  
Bob Prentiss  
**SUBJECT:** Cabinet Agenda for May 25, 2010  
Request for Approval to Publish Amendments to  
Rule 69O-167.024  
Assmt. # 44307

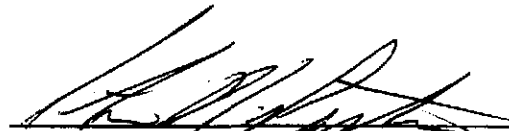
The Office of Insurance Regulation requests that these proposed rule amendments be presented to the Cabinet aides on or before May 19, 2010 and to the Financial Services Commission on May 25, 2010, with a request to approve for publication the proposed rules.

The Legislature changed the numbering within Section 627.021, Florida Statutes. Consequently, this rule needs to be changed to reflect the renumbering. There is no substantive change in the proposed rule.

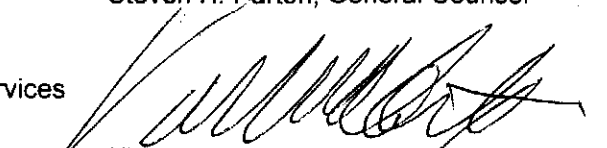
Sections 624.308, 627.021, 627.607, 627.062, 627.0651, F.S., provide rulemaking authority and laws implemented for this rule.

Bob Prentiss is the attorney handling this rule. Attached are: 1) the proposed rule(s), 2) any incorporated materials, such as forms; and 3) copies of the rulemaking statutory authority and law implemented.

Approved for signature:

  
Steven H. Parton, General Counsel

Approved for submission to Financial Services  
Commission:

  
Kevin M. McCarty, Commissioner  
Office of Insurance Regulation

**690-167.024 Rate Filings for Inland Marine Insurance.**

(1) This rule applies to marine insurance that is subject to Chapter 627, Florida Statutes.

(2) Section 627.021(2)(c), Florida Statutes, states that Chapter 627, Florida Statutes, does not apply to ocean marine insurance as distinguished from inland marine insurance.

(a) Section 627.021(d) ~~627.0651(13)(e)~~, Florida Statutes, states that rates and rules are not required to be filed for commercial inland marine risks.

(b) The specific exclusion of commercial inland marine risks indicates that rates and rules for personal inland marine risks must continue to be filed with the Office.

(c) For purposes of this rule, personal inland marine is defined as insurance covering non-business property of a portable or movable nature that would typically be included in or with a homeowner's policy or a separate policy insuring one or more articles of property, including, but not limited to, jewelry, furs, art objects, silverware, glassware, small boats, sports equipment.

(d) For purposes of this rule, commercial inland marine is defined as commercial or industrial property, often but not always of a portable or movable nature or instrumentalities of transportation or communication, that would typically be included in or with a commercial lines policy or written in a separate policy insuring one or more such items of property, including, but not limited to, commercial goods in transit, traffic signals, bridges, tunnels.

*Rulemaking-Specific Authority 624.308(1) FS. Law Implemented 624.607, 627.021, 627.062, ~~627.0651~~ FS. History-New 1-27-92, Formerly 4-167.024.*

**624.308 Rules.--**

- (1) The department and the commission may each adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law conferring duties upon the department or the commission, respectively.

**624.607 "Marine insurance," "wet marine and transportation insurance," and "inland marine insurance" defined.--**

- (1) "Marine insurance" includes:

(a) Insurance against any kinds of loss or damage to:

1. Vessels, craft, aircraft, cars, automobiles, and vehicles of every kind, as well as all goods, freights, cargoes, merchandise, effects, disbursements, profits, moneys, bullion, precious stones, securities, choses in action, evidences of debt, valuable papers, bottomry and respondentia interests and all other kinds of property and interests therein, in respect to, appertaining to, or in connection with any and all risks or perils of navigation, transit, or transportation, including war risks, on or under any seas or other waters, on land or in the air, or while being assembled, packed, crated, baled, compressed, or similarly prepared for shipment or while awaiting the same or during any delays, storage, transshipment, or reshipment incident thereto, including marine builder's risks and all personal property floater risks; and
2. Person or property in connection with or appertaining to a marine, inland marine, transit, or transportation insurance, including liability for loss of or damage to either, arising out of or in connection with the construction, repair, operation, maintenance, or use of the subject matter of such insurance, but not including life insurance or surety bonds nor insurance against loss by reason of bodily injury to the person arising out of the ownership, maintenance, or use of automobiles; and
3. Precious stones, jewels, jewelry, gold, silver, and other precious metals, whether used in business or trade or otherwise and whether the same be in course of transportation or otherwise; and
4. Bridges, tunnels, and other instrumentalities of transportation and communication (excluding buildings, their furniture and furnishings, fixed contents, and supplies held in storage) unless fire, tornado, sprinkler leakage, hail, explosion, earthquake, riot, and/or civil commotion are the only hazards to be covered; piers, wharves, docks, and slips, excluding the risks of fire, tornado, sprinkler leakage, hail, explosion, earthquake, riot, and/or civil commotion; and other aids to navigation and transportation, including dry docks and marine railways, against all risks.

- (b) Marine protection and indemnity insurance, meaning insurance against, or against legal liability of the insured for, loss, damage, or expense arising out of, or incident to, the ownership, operation, chartering, maintenance, use, repair, or construction of any vessel, craft, or instrumentality in use in ocean or inland waterways, including liability of the insured for personal injury, illness, or death or for loss of or damage to the property of another person.

- (2) For the purposes of this code, "wet marine and transportation insurance" is that part of marine insurance which includes only:

(a) Insurance upon vessels, crafts, and hulls and of interests therein or with relation thereto;

(b) Insurance of marine builders' risks, marine war risks, and contracts of marine protection and indemnity insurance;

- (c) Insurance of freights and disbursements pertaining to a subject of insurance coming within this definition; and
  - (d) Insurance of personal property and interests therein, in course of exportation from or importation into any country, or in course of transportation coastwise or on inland waters, including transportation by land, water, or air from point of origin to final destination, in respect to, appertaining to, or in connection with any and all risks or perils of navigation, transit, or transportation, and while being prepared for and while awaiting shipment, and during any delays, storage, transshipment, or reshipment incident thereto.
- (3) For the purposes of this code, "inland marine insurance" is as established by general custom of the insurance business and promulgated by rule of the commission.

**627.021 Scope of this part.--**

- (1) This part of this chapter applies only to property, casualty, and surety insurances on subjects of insurance resident, located, or to be performed in this state.

- (2) This chapter does not apply to:

- (a) Reinsurance, except joint reinsurance as provided in s. 627.311.
  - (b) Insurance against loss of or damage to aircraft, their hulls, accessories, or equipment, or against liability, other than workers' compensation and employer's liability, arising out of the ownership, maintenance, or use of aircraft.
  - (c) Insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine insurance policies.
  - (d) Commercial inland marine insurance.
  - (e) Surplus lines insurance placed under the provisions of ss. 626.913-626.937.
- (3) For the purposes of this chapter, all motor vehicle insurance shall be deemed to be casualty insurance only.
- (4) This part does not apply to health insurance.

**627.062 Rate standards.--**

- (1) The rates for all classes of insurance to which the provisions of this part are applicable shall not be excessive, inadequate, or unfairly discriminatory.
- (2) As to all such classes of insurance:
- (a) Insurers or rating organizations shall establish and use rates, rating schedules, or rating manuals to allow the insurer a reasonable rate of return on such classes of insurance written in this state. A copy of rates, rating schedules, rating manuals, premium credits or discount schedules, and surcharge schedules, and changes thereto, shall be filed with the office under one of the following procedures except as provided in subparagraph 3.:

1. If the filing is made at least 90 days before the proposed effective date and the filing is not implemented during the office's review of the filing and any proceeding and judicial review, then such filing shall be considered a "file and use" filing. In such case, the office shall finalize its review by issuance of a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing. The notice of intent to approve and the notice of intent to disapprove constitute agency action for purposes of the Administrative Procedure Act. Requests for supporting information, requests for mathematical or mechanical corrections, or notification to the insurer by the office of its preliminary findings shall not toll the 90-day period during any such proceedings and subsequent judicial review. The rate shall be deemed approved if the office does not issue a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing.

2. If the filing is not made in accordance with the provisions of subparagraph 1., such filing shall be made as soon as practicable, but no later than 30 days after the effective date, and shall be considered a "use and file" filing. An insurer making a "use and file" filing is potentially subject to an order by the office to return to policyholders portions of rates found to be excessive, as provided in paragraph (h).

3. For all property insurance filings made or submitted after January 25, 2007, but before December 31, 2010, an insurer seeking a rate that is greater than the rate most recently approved by the office shall make a "file and use" filing. For purposes of this subparagraph, motor vehicle collision and comprehensive coverages are not considered to be property coverages.

(b) Upon receiving a rate filing, the office shall review the rate filing to determine 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 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 shall calculate investment income attributable to such classes of insurance written in this state and the manner in which such investment income shall be used to calculate insurance rates. Such manner shall contemplate allowances for an underwriting profit factor and full consideration of investment income 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 shall not disapprove a rate as excessive solely due to the 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 found to be acceptable or reliable by the Florida Commission on Hurricane Loss Projection Methodology, and as further provided in s. 627.0628.

12. A reasonable margin for underwriting profit and contingencies.

13. The cost of medical services, if applicable.

14. Other relevant factors which impact upon the frequency or severity of claims or upon expenses.

(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.

(d) If conflagration or catastrophe hazards are given consideration by an insurer in its rates or rating plan, including surcharges and discounts, the insurer shall establish a reserve for that portion of the premium allocated to such hazard and shall maintain the premium in a catastrophe reserve. Any removal of such premiums from the reserve for purposes other than paying claims associated with a catastrophe or purchasing reinsurance for catastrophes shall be subject to approval of the office. Any ceding commission received by an insurer purchasing reinsurance for catastrophes shall be placed in the catastrophe reserve.

(e) After consideration of the rate factors provided in paragraphs (b), (c), and (d), a rate may be found by the office to be excessive, inadequate, or unfairly discriminatory based upon the following standards:

1. Rates shall be deemed excessive if they are likely to produce a profit from Florida business that is unreasonably high in relation to the risk involved in the class of business or if expenses are unreasonably high in relation to services rendered.
2. Rates shall be deemed excessive if, among other things, the rate structure established by a stock insurance company provides for replenishment of surpluses from premiums, when the replenishment is attributable to investment losses.
3. Rates shall be deemed inadequate if they are clearly insufficient, together with the investment income attributable to them, to sustain projected losses and expenses in the class of business to which they apply.
4. A rating plan, including discounts, credits, or surcharges, shall be deemed unfairly discriminatory if it fails to clearly and equitably reflect consideration of the policyholder's participation in a risk management program adopted pursuant to s. 627.0625.
5. A rate shall be deemed inadequate as to the premium charged to a risk or group of risks if discounts or credits are allowed which exceed a reasonable reflection of expense savings and reasonably expected loss experience from the risk or group of risks.

6. A rate shall be deemed unfairly discriminatory as to a risk or group of risks if the application of premium discounts, credits, or surcharges among such risks does not bear a reasonable relationship to the expected loss and expense experience among the various risks.

(f) In reviewing a rate filing, the office may require the insurer to provide at the insurer's expense all information necessary to evaluate the condition of the company and the reasonableness of the filing according to the criteria enumerated in this section.

(g) The office may at any time review a rate, rating schedule, rating manual, or rate change; the pertinent records of the insurer; and market conditions. If the office finds on a preliminary basis that a rate may be excessive, inadequate, or unfairly discriminatory, the office shall initiate proceedings to disapprove the rate and shall so notify the insurer. However, the office may not disapprove as excessive any rate for which it has given final approval or which has been deemed approved for a period of 1 year after the effective date of the filing unless the office finds that a material misrepresentation or material error was made by the insurer or was contained in the filing. Upon being so notified, the insurer or rating organization shall, within 60 days, file with the office all information which, in the belief of the insurer or organization, proves the reasonableness, adequacy, and fairness of the rate or rate change. The office shall issue a notice of intent to approve or a notice of intent to disapprove pursuant to the procedures of paragraph (a) within 90 days after receipt of the insurer's initial response. In such instances and in any administrative proceeding relating to the legality of the rate, the insurer or rating organization shall carry the burden of proof by a preponderance of the evidence to show that the rate is not excessive, inadequate, or unfairly discriminatory. After the office notifies an insurer that a rate may be excessive, inadequate, or unfairly discriminatory, unless the office withdraws the notification, the insurer shall not alter the rate except to conform with the office's notice until the earlier of 120 days after the date the notification was provided or 180 days after the date of the implementation of the rate. The office may, subject to chapter 120, disapprove without the 60-day notification any rate increase filed by an insurer within the prohibited time period or during the time that the legality of the increased rate is being contested.

(h) In the event the office finds that a rate or rate change is excessive, inadequate, or unfairly discriminatory, the office shall issue an order of disapproval specifying that a new rate or rate schedule which responds to the findings of the office be filed by the insurer. The office shall further order, for any "use and file" filing made in accordance with subparagraph (a)2., that premiums charged each policyholder constituting the portion of the rate above that which was actuarially justified be returned to such policyholder in the form of a credit or refund. If the office finds that an insurer's rate or rate change is inadequate, the new rate or rate schedule filed with the office in response to such a finding shall be applicable only to new or renewal business of the insurer written on or after the effective date of the responsive filing.

(i) Except as otherwise specifically provided in this chapter, the office shall not prohibit any insurer, including any residual market plan or joint underwriting association, from paying acquisition costs based on the full amount of premium, as defined in s. 627.403, applicable to any policy, or prohibit any such insurer from including the full amount of acquisition costs in a rate filing.

(j) With respect to residential property insurance rate filings, the rate filing must account for mitigation measures undertaken by policyholders to reduce hurricane losses.

(k)1. An insurer may make a separate filing limited solely to an adjustment of its rates for reinsurance or financing costs incurred in the purchase of reinsurance or financing products to replace or finance the payment of the amount covered by the Temporary Increase in Coverage Limits (TICL) portion of the Florida Hurricane Catastrophe Fund including replacement reinsurance for the TICL reductions made pursuant to s. 215.555(17)(e); the actual cost paid due to the application of the TICL premium factor pursuant to s. 215.555(17)(f); and the actual cost paid due to the application of the cash build-up factor pursuant to s. 215.555(5)(b) if the insurer:

- a. Elects to purchase financing products such as a liquidity instrument or line of credit, in which case the cost included in the filing for the liquidity instrument or line of credit may not result in a premium increase exceeding 3 percent for any individual policyholder. All costs contained in the filing may not result in an overall premium increase of more than 10 percent for any individual policyholder.
- b. Includes in the filing a copy of all of its reinsurance, liquidity instrument, or line of credit contracts; proof of the billing or payment for the contracts; and the calculation upon which the proposed rate change is based demonstrates that the costs meet the criteria of this section and are not loaded for expenses or profit for the insurer making the filing.
- c. Includes no other changes to its rates in the filing.
- d. Has not implemented a rate increase within the 6 months immediately preceding the filing.
- e. Does not file for a rate increase under any other paragraph within 6 months after making a filing under this paragraph.
- f. That purchases reinsurance or financing products from an affiliated company in compliance with this paragraph does so only if the costs for such reinsurance or financing products are charged at or below charges made for comparable coverage by nonaffiliated reinsurers or financial entities making such coverage or financing products available in this state.

2. An insurer may only make one filing in any 12-month period under this paragraph.
3. An insurer that elects to implement a rate change under this paragraph must file its rate filing with the office at least 45 days before the effective date of the rate change. After an insurer submits a complete filing that meets all of the requirements of this paragraph, the office has 45 days after the date of the filing to review the rate filing and determine if the rate is excessive, inadequate, or unfairly discriminatory.

The provisions of this subsection <sup>1</sup>shall not apply to workers' compensation and employer's liability insurance and to motor vehicle insurance.

- (3)(a) For individual risks that are not rated in accordance with the insurer's rates, rating schedules, rating manuals, and underwriting rules filed with the office and which have been submitted to the insurer for individual rating, the insurer must maintain documentation on each risk subject to individual risk rating. The documentation must identify the named insured and specify the characteristics and classification of the risk supporting the reason for the risk being individually risk rated, including any modifications to existing approved forms to be used on the risk. The insurer must maintain these records for a period of at least 5 years after the effective date of the policy.
- (b) Individual risk rates and modifications to existing approved forms are not subject to this part or part II, except for paragraph (a) and ss. 627.402, 627.403, 627.4035, 627.404, 627.405, 627.406, 627.407, 627.4085, 627.409, 627.4132, 627.4133, 627.415, 627.416, 627.417, 627.419, 627.425, 627.426, 627.4265, 627.427, and 627.428, but are subject to all other applicable provisions of this code and rules adopted thereunder.
- (c) This subsection does not apply to private passenger motor vehicle insurance.

- (4) The establishment of any rate, rating classification, rating plan or schedule, or variation thereof in violation of part IX of chapter 626 is also in violation of this section. In order to enhance the ability of consumers to compare premiums and to increase the accuracy and usefulness of rate-comparison information provided by the office to the public, the office shall develop a proposed standard rating

territory plan to be used by all authorized property and casualty insurers for residential property insurance. In adopting the proposed plan, the office may consider geographical characteristics relevant to risk, county lines, major roadways, existing rating territories used by a significant segment of the market, and other relevant factors. Such plan shall be submitted to the President of the Senate and the Speaker of the House of Representatives by January 15, 2006. The plan may not be implemented unless authorized by further act of the Legislature.

(5) With respect to a rate filing involving coverage of the type for which the insurer is required to pay a reimbursement premium to the Florida Hurricane Catastrophe Fund, the insurer may fully recoup in its property insurance premiums any reimbursement premiums paid to the Florida Hurricane Catastrophe Fund, together with reasonable costs of other reinsurance, but except as otherwise provided in this section, may not recoup reinsurance costs that duplicate coverage provided by the Florida Hurricane Catastrophe Fund. An insurer may not recoup more than 1 year of reimbursement premium at a time. Any under-recoupment from the prior year may be added to the following year's reimbursement premium, and any over-recoupment shall be subtracted from the following year's reimbursement premium.

(6)(a) If an insurer requests an administrative hearing pursuant to s. 120.57 related to a rate filing under this section, the director of the Division of Administrative Hearings shall expedite the hearing and assign an administrative law judge who shall commence the hearing within 30 days after the receipt of the formal request and shall enter a recommended order within 30 days after the hearing or within 30 days after receipt of the hearing transcript by the administrative law judge, whichever is later. Each party shall be allowed 10 days in which to submit written exceptions to the recommended order. The office shall enter a final order within 30 days after the entry of the recommended order. The provisions of this paragraph may be waived upon stipulation of all parties.

(b) Upon entry of a final order, the insurer may request a expedited appellate review pursuant to the Florida Rules of Appellate Procedure. It is the intent of the Legislature that the First District Court of Appeal grant an insurer's request for an expedited appellate review.

(7)(a) The provisions of this subsection apply only with respect to rates for medical malpractice insurance and shall control to the extent of any conflict with other provisions of this section.

(b) Any portion of a judgment entered or settlement paid as a result of a statutory or common-law bad faith action and any portion of a judgment entered which awards punitive damages against an insurer may not be included in the insurer's rate base, and shall not be used to justify a rate or rate change. Any common-law bad faith action identified as such, any portion of a settlement entered as a result of a statutory or common-law action, or any portion of a settlement wherein an insurer agrees to pay specific punitive damages may not be used to justify a rate or rate change. The portion of the taxable costs and attorney's fees which is identified as being related to the bad faith and punitive damages in these judgments and settlements may not be included in the insurer's rate base and may not be utilized to justify a rate or rate change.

(c) Upon reviewing a rate filing and determining whether the rate is excessive, inadequate, or unfairly discriminatory, the office shall consider, in accordance with generally accepted and reasonable actuarial techniques, past and present prospective loss experience, either using loss experience solely for this state or giving greater credibility to this state's loss data after applying actuarially sound methods of assigning credibility to such data.

(d) Rates shall be deemed excessive if, among other standards established by this section, the rate structure provides for replenishment of reserves or surpluses from premiums when the replenishment is attributable to investment losses.

(e) The insurer must apply a discount or surcharge based on the health care provider's loss experience or shall establish an alternative method giving due consideration to the provider's loss experience. The insurer must include in the filing a copy of the surcharge or discount schedule or a description of the alternative method used, and must provide a copy of such schedule or description, as approved by the office, to policyholders at the time of renewal and to prospective policyholders at the time of application for coverage.

(f) Each medical malpractice insurer must make a rate filing under this section, sworn to by at least two executive officers of the insurer, at least once each calendar year.

(8)(a)1. No later than 60 days after the effective date of medical malpractice legislation enacted during the 2003 Special Session D of the Florida Legislature, the office shall calculate a presumed factor that reflects the impact that the changes contained in such legislation will have on rates for medical malpractice insurance and shall issue a notice informing all insurers writing medical malpractice coverage of such presumed factor. In determining the presumed factor, the office shall use generally accepted actuarial techniques and standards provided in this section in determining the expected impact on losses, expenses, and investment income of the insurer. To the extent that the operation of a provision of medical malpractice legislation enacted during the 2003 Special Session D of the Florida Legislature is stayed pending a constitutional challenge, the impact of that provision shall not be included in the calculation of a presumed factor under this subparagraph.

2. No later than 60 days after the office issues its notice of the presumed rate change factor under subparagraph 1., each insurer writing medical malpractice coverage in this state shall submit to the office a rate filing for medical malpractice insurance, which will take effect no later than January 1, 2004, and apply retroactively to policies issued or renewed on or after the effective date of medical malpractice legislation enacted during the 2003 Special Session D of the Florida Legislature. Except as authorized under paragraph (b), the filing shall reflect an overall rate reduction at least as great as the presumed factor determined under subparagraph 1. With respect to policies issued on or after the effective date of such legislation and prior to the effective date of the rate filing required by this subsection, the office shall order the insurer to make a refund of the amount that was charged in excess of the rate that is approved.

(b) Any insurer or rating organization that contends that the rate provided for in paragraph (a) is excessive, inadequate, or unfairly discriminatory shall separately state in its filing the rate it contends is appropriate and shall state with specificity the factors or data that it contends should be considered in order to produce such appropriate rate. The insurer or rating organization shall be permitted to use all of the generally accepted actuarial techniques provided in this section in making any filing pursuant to this subsection. The office shall review each such exception and approve or disapprove it prior to use. It shall be the insurer's burden to actuarially justify any deviations from the rates required to be filed under paragraph (a). The insurer making a filing under this paragraph shall include in the filing the expected impact of medical malpractice legislation enacted during the 2003 Special Session D of the Florida Legislature on losses, expenses, and rates.

(c) If any provision of medical malpractice legislation enacted during the 2003 Special Session D of the Florida Legislature is held invalid by a court of competent jurisdiction, the office shall permit an adjustment of all medical malpractice rates filed under this section to reflect the impact of such holding on such rates so as to ensure that the rates are not excessive, inadequate, or unfairly discriminatory.

(d) Rates approved on or before July 1, 2003, for medical malpractice insurance shall remain in effect until the effective date of a new rate filing approved under this subsection.

(e) The calculation and notice by the office of the presumed factor pursuant to paragraph (a) is not an order or rule that is subject to chapter 120. If the office enters into a contract with an independent

consultant to assist the office in calculating the presumed factor, such contract shall not be subject to the competitive solicitation requirements of s. 287.057.

(9)(a) The chief executive officer or chief financial officer of a property insurer and the chief actuary of a property insurer must certify under oath and subject to the penalty of perjury, on a form approved by the commission, the following information, which must accompany a rate filing:

1. The signing officer and actuary have reviewed the rate filing;
2. Based on the signing officer's and actuary's knowledge, the rate filing does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which such statements were made, not misleading;
3. Based on the signing officer's and actuary's knowledge, the information and other factors described in paragraph (2)(b), including, but not limited to, investment income, fairly present in all material respects the basis of the rate filing for the periods presented in the filing; and
4. Based on the signing officer's and actuary's knowledge, the rate filing reflects all premium savings that are reasonably expected to result from legislative enactments and are in accordance with generally accepted and reasonable actuarial techniques.

(b) A signing officer or actuary knowingly making a false certification under this subsection commits a violation of s. 626.9541(1)(e) and is subject to the penalties under s. 626.9521.

(c) Failure to provide such certification by the officer and actuary shall result in the rate filing being disapproved without prejudice to be refiled.

(d) The commission may adopt rules and forms pursuant to ss. 120.536(1) and 120.54 to administer this subsection.

(10) The burden is on the office to establish that rates are excessive for personal lines residential coverage with a dwelling replacement cost of \$1 million or more or for a single condominium unit with a combined dwelling and contents replacement cost of \$1 million or more. Upon request of the office, the insurer shall provide to the office such loss and expense information as the office reasonably needs to meet this burden.

(11) Any interest paid pursuant to s. 627.70131(5) may not be included in the insurer's rate base and may not be used to justify a rate or rate change.