Session Law 83-038

Florida Senate & House of Representatives

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Ch. 83-38 (FS 631.399) - TAPE LIST

HB 1043 (PCB 83-28)

H. Commerce (sub-committee on Property & Casualty Insurance)

Sub-cmt. 3/29/83

Full cmt. 4/5/83 (tape 2?)

Floor Action

House 4/18/83 (introduced)

5/2/83 (3rd read/passed)

Same as SB 299

SB 299

S. Commerce 4/12/83

Floor Action

Senate 4/5/83 (introduced)

5/3/83 (amds/substituted)
<table>
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<tr>
<th>Year</th>
<th>Session Law No.</th>
<th>LOF Cite</th>
<th>Prime Sponsor</th>
<th>Comp./Sim. Bills</th>
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<th>pp.#s</th>
<th>House Leg. Cites</th>
<th>pp.#s</th>
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<td>325-526</td>
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**Committee Records**

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**Senate/House Journals**

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<th>Date</th>
<th>#pp</th>
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<th>Date</th>
<th>#pp</th>
</tr>
</thead>
</table>

**Tape Recordings**

<table>
<thead>
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<th>Committee/subcommittee</th>
<th>Date</th>
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**Other Documentation**

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LOF 83-38

HB 1043 (HCMR cmt. Bill) - Passed

HCMR BF 5/19/1122
MF 5/19/1140
MT 5/19/1140

(Prop 83-28)

1) Prop & Cons. Sub 3/29/83 (tpe) 5.414/433
2) Full Cmt 4/5/83 (tpe) 5.414/433
tpe:2, SDEA

SB 299 (main)

SCMR BF
MF 9/12/83
MT 9/12/83

5.18/128
5.18/1279
5.625/307 1 tpe

20 min in 5 mins of disc.
69-106/13
Dept. of Insurance Co.
defines Insurance Comm. & Treasurer

69-106/35
Conflicts in nomenclature for Dept. names

70-439/1
Conformity of statutes to terminology of 1969 Rev. Act or 1970 laws

23 48
FIA RESEARCH PROJECT NO. L90-069
SESSION LAW/SECTION NO(S). 83-38, Sections 30-33
AFFECTED STATUTE(S) 631.54, 631.60, 631.62, 631.70
PRIME BILL NO. HB 1043
PRIME BILL SPONSOR House Commerce Committee
IDENTICAL/SIMILAR BILL NOS. SB 299 (Mann)

NARRATIVE/COMMENTS:

This law amends 631.54 in Section 30, 631.60 in Section 31, 631.62 in Section 32, and 631.70 in Section 33. This law originated as HB 1043 and similar SB 299. HB 1043, the bill that ultimately passed, originated as House Commerce Committee Proposed Committee Bill (PCB) 28. PCB 28 was heard by the House Commerce Committee's Sub-committee on Property and Casualty Insurance on 3/29/83 and by the full committee on 4/5/83. HB 1043 was not heard by any Senate committee, but SB 299 was heard by the Senate Commerce Committee on 4/12/83. The staff analyses on these two bills (which are almost identical) only mentions the amendment to 631.60 as being significant. All of the other amendments to the subject statutory sections appear to be technical.
DOCUMENTATION CHECKLIST:

NOTE: All documentation obtained from the Florida State Archives is cited by the series and box number, i.e., "FSA S.19/200." "na" indicates that either that particular documentation does not apply or is non-existent.

* **Laws of Florida:** Chapter 83-38, Sections 30-33

* **Florida Statutes:** (see statute/law comparison)

* **History of Legislation:** 1983; HB 1043, SB 299

* **Prime Bill Version(s):** na

* **Identical/Similar Bills:** na

* **House Journal:** na

* **Senate Journal:** na

* **Committee Staff Analyses and Reports:**

  (1) House Commerce Committee, Bill Analysis of HB 1043, 7/1/83. (FSA S. 19/1128).

  (2) Senate Commerce Committee, Staff Analysis of SB 299, 7/7/83 (revised). (FSA S. 18/1280).

* **Committee Meeting Tapes:**

  (1) House Commerce Committee, Property & Casualty Insurance Sub-Committee, 3/29/83; and full committee 4/5/83 (tape 2). (FSA S. 414/433).

  (2) Senate Commerce Committee, 4/12/83. (FSA S. 625/307).

* **Floor Debate Tapes:** na
This law amends 631.54 in Section 30, 631.60 in Section 31, 631.62 in Section 32, and 631.70 in Section 33. This law originated as HB 1043 and similar SB 299. HB 1043, the bill that ultimately passed, originated as House Commerce Committee Proposed Committee Bill (PCB) 28. PCB 28 was heard by the House Commerce Committee's Sub-committee on Property and Casualty Insurance on 3/29/83 and by the full committee on 4/5/83. HB 1043 was not heard by any Senate committee, but SB 299 was heard by the Senate Commerce Committee on 4/12/83. The staff analyses on these two bills (which are almost identical) only mentions the amendment to 631.60 as being significant. All of the other amendments to the subject statutory sections appear to be technical.
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History of Legislation: 1983; HB 1043, SB 299

* Prime Bill Version(s): na

* Identical/Similar Bills: na

* House Journal: na

* Senate Journal: na

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(2) Senate Commerce Committee, 4/12/83. (FSA S. 625/307).

* Floor Debate Tapes: na

*** Denotes that material was sent to client on 9/7/80.
Florida Legislature

History of Legislation
1983 Regular Session
1983 Special Sessions A, B, C
1982 Special Session H

prepared by:

Joint Legislative Management Committee
Legislative Information Division
Capitol Building, Room 826—488-4371
05/12/83 HB 1941 READ SECOND TIME; AMENDMENTS ADOPTED; READ THIRD TIME; PASSED AS AMENDED; YEAS 114 NAYS 0
05/13/83 HOUSE CONSIDERED; AMENDMENTS PENDING - SJ 0037
05/16/83 HOUSE CONSIDERED; AMENDMENTS PENDING; AMENDMENTS ADOPTED; CONCURRED AS AMENDED; YEAS 87 NAYS 0 - SJ 00419
05/18/83 SENATE IN MESSAGES
05/17/83 SENATE CONCURRED; PASSED AS AMENDED; YEAS 32 NAYS 0 - SJ 00286; ORDERED ENGROSSED, THEN ENGROSSED - SJ 00285
05/20/83 SENATE APPROVED BY GOVERNOR CHAP No. 83-90 - SJ 00451

S 029 GENERAL BILL /CS BY NATURAL RESOURCES AND CONSERVATION, MANN AND OTHERS 
SIMILAR CS/H 0243V COMPARE S 0411
NATURAL RESOURCES DEPARTMENT; PROHIBITS CONSTRUCTION ON CERTAIN SUBMERGED LANDS OF STRUCTURES TO DRILL FOR; EXPLORE FOR, OR PRODUCE OIL, GAS, OR PETROLEUM PRODUCTS; PROHIBITS SUCH STRUCTURES ON CERTAIN UPLANDS UNDER CERTAIN CIRCUMSTANCES; ESTABLISHES FLA. GEOLOGICAL SURVEY; AMENDS 377.026, 377.027, FROM ALEPING CAMPAIGN CONTRIBUTIONS, ETC. AMENDS 106.04.09, EFFECTIVE DATE: UPON BECOMING LAW.
03/03/83 SENATE PREFILED
03/18/83 SENATE REFERRED TO NATURAL RESOURCES AND CONSTRUCTION, ECONOMIC, COMMUNITY AND CONSUMER AFFAIRS - SJ 00321
04/05/83 SENATE INTRODUCED, REFERRED TO NATURAL RESOURCES AND CONSERVATION, ECONOMIC, COMMUNITY AND CONSUMER AFFAIRS - SJ 00321
04/20/83 SENATE CONCURRED; PASSED AS AMENDED; YEAS 114 NAYS 0 - SJ 0037
04/25/83 SENATE NOW IN ECONOMIC, COMMUNITY AND CONSUMER AFFAIRS - SJ 00321
05/03/83 SENATE WITHDREW FROM ECONOMIC, COMMUNITY AND CONSUMER AFFAIRS - SJ 00204; PLACED ON CALENDAR; C/S READ FIRST TIME
06/23/83 SENATE PLACED ON CURRENT CALENDAR; AMENDMENTS ADOPTED - SJ 00321; 100M/LIM. HOUSE BILL SUBSTITUTED; Laid ON TABLE UNDER RULE, C/S COMPARE BILL PASSED, REFER TO C/S HB 231 (CH. 83-176) - SJ 00733

S 0299 GENERAL BILL BY MANN (SIMILAR H 1043; COMPARE H 1276; CS/H 1005)
INSURER INSOLENCIES; PROVIDES FOR DELINQUENCY PROCEEDINGS NOTICE; PROVIDES GROUNDS & PROCEDURES FOR LIQUIDATION; SPECIFIES PUNISH & DUTIES OF INSURANCE DEPT.; PROVIDES CLAIMS PROCEDURES; ETC. AMENDS CH. 26, 30, 83; REPLACES 631.211, 631.301, 631.351, EFFECTIVE DATE: UPON BECOMING LAW.
03/03/83 SENATE PREFILED
04/05/83 SENATE CONCURRED; PASSED AS AMENDED; YEAS 114 NAYS 0 - SJ 0037
04/07/83 SENATE INTRODUCED, REFERRED TO COMMERCE, APPROPRIATIONS - SJ 00031
04/09/83 SENATE CONCURRED; PASSED AS AMENDED; YEAS 114 NAYS 0 - SJ 00204; PLACED ON CALENDAR; C/S READ FIRST TIME
06/10/83 SENATE PLACED ON CURRENT CALENDAR; AMENDMENTS ADOPTED - SJ 00204; 100M/LIM. HOUSE BILL SUBSTITUTED; Laid ON TABLE UNDER RULE, C/S COMPARE BILL PASSED, REFER TO C/S HB 231 (CH. 83-176) - SJ 00733

S 0300 GENERAL BILL BY MANN (IDENTICAL H 0562)
CAMPAIGN FINANCING; PROVIDES NEW LIMITATIONS ON CAMPAIGN CONTRIBUTIONS BY POLITICAL COMMITTEES & COMMITTEES OF CONTINUOUS EXISTENCE; PROVIDES AGGREGATE LIMITS CANDIDATES MAY ACCEPT FROM SUCH ENTITIES; PROHIBITS UNPROPOSED CANDIDATES FROM ACCEPTING CAMPAIGN CONTRIBUTIONS, ETC. AMENDS 106.04.09, EFFECTIVE DATE: UPON BECOMING LAW.
03/21/83 SENATE PREFILED
03/18/83 SENATE REFERRED TO JUDICIARY-CIVIL, RULES AND CALENDAR
04/05/83 SENATE INTRODUCED, REFERRED TO JUDICIARY-CIVIL, RULES AND CALENDAR - SJ 00031
04/18/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE JUDICIARY-CIVIL
05/02/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE JUDICIARY-CIVIL
05/16/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE JUDICIARY-CIVIL
05/30/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE JUDICIARY-CIVIL
06/03/83 SENATE INDEFINITELY POSTPONED & W/D (SR 12091); WAS IN COMMITTEE ON COMMERCE

$ 0301 GENERAL BILL BY BANK DEPOSITS; REQUIRES DEPOSITORY BANK TO CREDIT A CUSTOMER'S ACCOUNT FOR ANY ILM RECEIVED WITHIN 5 BUSINESS DAYS OF RECEIPT UNLESS NOT COLLECTED FOR CREDIT. CREATES 647.0651, EFFECTIVE DATE: 07/01/83.
03/03/83 SENATE PREFILED
03/18/83 SENATE REFERRED TO COMMERCE
04/05/83 SENATE INTRODUCED, REFERRED TO COMMERCE - SJ 00031
04/20/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE COMMERCE
05/03/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE COMMERCE
05/19/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE COMMERCE
05/31/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE COMMERCE
06/03/83 SENATE INDEFINITELY POSTPONED & W/D (SR 12091); WAS IN COMMITTEE ON COMMERCE

$ 0302 GENERAL BILL /CS BY HEALTH AND REHABILITATIVE SERVICES, STUART 
SIMILAR CS/H 03020
HEALTH PROFESSIONAL REGULATION; (SUNSET) PROVIDES FOR REGULATIONS OF HEARING AIDS DISPENSING; PROVIDES FOR PROFESSIONAL REGULATION OF HEARING AIDS, CREATES HEARING AIDS SPECIALISTS. PROVIDES FOR APPT. OF BB. MEMBERS: PROVIDES QUALIFICATIONS & PROCEDURES FOR LICENSURE, ETC. REPEALS 440.120-138, EFFECTIVE DATE: 07/01/83.
03/03/83 SENATE PREFILED
04/05/83 SENATE CONCURRED; PASSED AS AMENDED; YEAS 114 NAYS 0 - SJ 00204; PLACED ON CALENDAR; C/S READ FIRST TIME
06/23/83 SENATE PLACED ON CURRENT CALENDAR; AMENDMENTS ADOPTED - SJ 00204; 100M/LIM. HOUSE BILL SUBSTITUTED; Laid ON TABLE UNDER RULE, C/S COMPARE BILL PASSED, REFER TO C/S HB 231 (CH. 83-176) - SJ 00733

HISTORY OF SENATE BILLS - 1983

05/20/83 SENATE ORDERED ENGROSSED - SJ 00204
06/03/83 SENATE CONCURRED; PASSED AS AMENDED; YEAS 114 NAYS 0 - SJ 00204; PLACED ON CALENDAR; C/S READ FIRST TIME
06/03/83 SENATE IN MESSAGES; RECEIVED, PLACED ON CALENDAR; READ SECOND TIME; READ THIRD TIME; PASSED; YEAS 110 NAYS 4
05/10/83 SENATE NOW IN HEALTH AND REHABILITATIVE SERVICES - SJ 00424
05/19/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE HEALTH AND REHABILITATIVE SERVICES
05/23/83 SENATE ON COMMITTEE AGENDA -- HAS, NOT CONSIDERED
05/26/83 SENATE ON COMMITTEE AGENDA -- HAS, 30/03/83, 1101 AM; RM. A
05/30/83 SENATE CONCURRED; PASSED AS AMENDED; YEAS 114 NAYS 0 - SJ 00204; PLACED ON CALENDAR
06/01/83 SENATE NOW IN APPROPRIATIONS - SJ 00578
06/02/83 SENATE CONCURRED; PASSED AS AMENDED; YEAS 114 NAYS 0 - SJ 00578
06/03/83 SENATE CONCURRED; PASSED AS AMENDED; YEAS 114 NAYS 0 - SJ 00578
06/17/83 SENATE CONCURRED; PASSED AS AMENDED; YEAS 114 NAYS 0 - SJ 00578
06/20/83 SENATE CONCURRED; PASSED AS AMENDED; YEAS 114 NAYS 0 - SJ 00578
06/22/83 SENATE CONCURRED; PASSED AS AMENDED; YEAS 114 NAYS 0 - SJ 00578
06/26/83 SENATE CONCURRED; PASSED AS AMENDED; YEAS 114 NAYS 0 - SJ 00578
07/01/83 SENATE CONCURRED; PASSED AS AMENDED; YEAS 114 NAYS 0 - SJ 00578

HISTORY OF SENATE BILLS - 1983

07/03/83 SENATE INTRODUCED, REFERRED TO JUDICIARY-CIVIL, RULES AND CALENDAR - SJ 00031
Bill Analysis

Florida House of Representatives
H. Lee Moffitt, Speaker  Steve Palicic, Speaker pro tempore
Committee on Commerce

Samuel P. Bell, III
Chairman
Dexter W. Lehdinen
Vice Chairman

FINAL STAFF SUMMARY

HB 1043 by ___ Commerce ______ Date: July 1, 1983
(as enacted by the Legislature)
relating to insur er insolven cy
Became Law: May 16, 1983

Committee Consideration:
Ch. 83-38, Laws of Florida
House Commerce

Identical*/Similar Bills:
SB 299
Effective Date:
May 16, 1983

I. SUMMARY AND PURPOSE

This bill substantially revises chapter 631, Florida Statutes, Insurer Insolvency: Guaranty of Payment. The bill is largely a technical rewrite intended to rearrange provisions in a more logical manner in order to make the chapter more easily understandable. Many substantive changes are also made, primarily to conform to the model bill adopted by the National Association of Insurance Commissioners (NAIC).

II. CURRENT LAW AND EFFECT OF CHANGES

A. CURRENT LAW

Chapter 631, Florida Statutes, is divided into three parts. Part I, Insurer Insolvency; Rehabilitation and Liquidation, establishes the procedures for the Department of Insurance to detect potentially dangerous financial conditions of insurers and to take corrective action. The powers of the department, the priority of claims, and methods of enhancing cooperation with other states are primary areas of concern. Part II, Florida Insurance Guaranty of Payments, creates a guaranty association to provide for the payment of claims by insureds of insolvent property and casualty insurers. Providing for the payment of claims by insureds of insolvent life and health insurers is addressed in part III, Life and Health Insurance Guaranty of Payments, which creates a guaranty association for this purpose.

The specific aspects of the present law affected by this bill are addressed below.
B. EFFECT OF CHANGES

Important changes made by this bill include the following:

1. (Section 8) - Section 631.141 provides the Department of Insurance with various powers and duties when it is appointed in a delinquency proceeding as a receiver for a domestic insurer, such as the administration of all of the assets of the insurer. The bill adds to these powers, including authorizing the department to have all the powers of directors, officers, and managers; to hire and discharge employees; and to prepare plans for reorganization, merger, or other transformation of the insurer, subject to the approval of the appointing court after notice and hearing.

2. (Sections 9 and 10) - Sections 631.161 and 631.171 are revised, relating to the procedure for filing claims during a delinquency proceeding. The rewrite of these sections is primarily technical, except for the controverted claim notice requirement. In the event a Florida claimant files a claim with the department as ancillary receiver, the amendment requires the department to notify the domiciliary state of the claim and any hearing, as opposed to present law which requires the claimant to give such notice.

3. (Sections 11 and 12) - Section 631.181 is substantially revised and 631.182 is created, providing additional procedures for the filing and proof of claims against an insurer in a delinquency proceeding. Subsection (2) of section 631.181 (from the NAIC uniform act) requires claims to contain more specific information than present law requires. Subsection (1), also from the model law, provides grounds for the court to permit the late filing of a claim after the time provided in the notice given by the receiver.

A significant change from present law is the provision for a claim hearing only when a claimant objects to the recommendation in the receiver's report. Presently, a hearing is required for all claims. Other than these changes, the rewrite is primarily technical, incorporating provisions from existing ss. 631.181 and 631.301(2).

4. (Section 15) - Section 631.193 is created, (which is actually an amendment of existing s. 631.291(2)(a)(4)). This section relates to the release of liability of an insured when a third party claimant files a claim in a delinquency proceeding. The amendment specifies that the release from liability is only to the extent of the policy limits provided by the insolvent insurer, and is conditioned upon the insured's cooperation with the receiver in the defense of the claim.

5. (Section 16) - New section 631.205 is created providing that all reinsurance proceeds to which the insolvent insurer is a party are to be paid directly to the domiciliary receiver as general assets unless the reinsurance contract specifically names the insolvent insurer's insured as a direct beneficiary.

6. (Section 19) - Section 631.252 is amended to provide that upon liquidation, all insurance policies issued by the insurer shall continue in force for 45 days, rather than 30, in order to allow more time for replacement. New subsection (4) is created to provide an exception for life or health policies covered by the Florida Life and Health Guaranty Association, which continue in force as provided in s. 631.717.

7. (Section 21) - One of the most significant provisions in this bill is the substantial revision of s. 631.271, setting
forth the priority of distribution of claims from the insurer's
estate, which is in substantial conformity with the Uniform Act.
Eight classes of claims are established in the following order:
(1) receiver's expenses of administration and expenses of a
guaranty association; (2) wages to employees (with the $1,000 cap
per employee raised to $2,000 and the 90-day period increased to
6 months); (3) claims under policies; (4) claims for unearned
premium refunds; (5) governmental claims; (6) claims filed late;
(7) surplus or contribution notes; and (8) shareholder claims.
New subsection (2), providing equal protection for claims by
residents of reciprocal states, is adopted from existing s.
631.191(1).

8. (Section 24) - Presently, s. 631.341 requires the
receiver (department), immediately after appointment in
delinquency proceedings, to give written notice of such
proceedings to each agent of the insurer in Florida. As amended,
the receiver must give such notice only if the insurance policies
have been cancelled.

9. (Section 26) - Section 631.391 is amended to provide
prompt access to the department to data processing facilities and
records of the insurer. In addition, the maximum fine is raised
from $5,000 to $10,000 for persons who control any segment of the
insurer's affairs who fail to cooperate in the conduct of
delinquency proceedings.

10. (Section 28) - New section 631.398 is created
relating to the prevention of insolvencies. The section is
primarily technical, incorporating provisions of ss. 631.62 and
631.723. Substantive changes include a provision that reports
and recommendations from certain persons on behalf of a guaranty
association to the department upon any matter germane to the
solventy, liquidation, rehabilitation, or conservation of an
insurer shall be confidential and exempt from the Public Records
law. Another substantive change is a requirement that the
department, rather than the guaranty association prepare a
summary report at the conclusion of an insolvency proceeding.

11. (Section 29) - Section 631.732 is renumbered as
section 631.399 and amended, relating to the receiver's right to
recover distributions made to affiliate organizations. As
amended, the requirement is eliminated that an affiliate be a
"controlling" affiliate before the receiver can recover pre-
petition transfers that were made in an unlawful and unreasonable
manner. Also as amended, the affiliate has the burden of showing
that the transfers were lawful and reasonable.

12. (Section 31) - Section 631.60 is amended to require
that any release of the Florida Insurance Guaranty Association
and its insured must clearly state whether it waives any claim
filed with the receiver in excess of FIGA's liability under s.
631.57.

13. (Sections 33 and 34) - Presently, s. 631.68 provides
that claims against an insolvent insurer through FIGA are barred
unless instituted within one year after the date of the deadline
for filing claims in the order for liquidation. As amended, this
limitation also applies to claims against the insured. The
statute of limitations section, s. 95.11, is also amended to
reflect this amendment.

III. ECONOMIC IMPACT

A. PRIVATE SECTOR CONSIDERATIONS

This bill is intended to increase the ability of the
Department of Insurance to detect financial problems of insurers,
to increase the efficiency and predictability of settling claims of insolvent insurers, and to increase cooperation with reciprocal states. To these ends, policyholders in Florida and in reciprocal states are afforded greater protection in the event that they are insured by a company that incurs financial problems.

B. PUBLIC SECTOR CONSIDERATIONS

No substantial effect.

IV. COMMENTS

None.

V. LEGISLATIVE HISTORY

A. ENACTED BILL

House Bill 1043 began as PCB 83-28 which was heard in the Subcommittee on Property and Casualty Insurance of the Commerce Committee on March 29, 1983. The subcommittee voted the PCB out favorably with four technical amendments.

On April 5, 1983, the Commerce Committee adopted the four technical amendments to the PCB, approved the bill, and introduced it as HB 1043.

On April 28, 1983, HB 1043 was read for the second time without amendments. On May 2, 1983, the bill was passed by the House 115-0 (HJ 291).

The Senate substituted HB 1043 for its companion, SB 299, and passed the House measure, 39-0 (SJ 210).

HB 1043 was approved by the Governor on May 16, 1983 (Chapter 83-38, Laws of Florida).

B. DISPOSITION OF COMPANION

The companion measure, Senate Bill 299, was referred to the committees on Commerce and Appropriations. It was reported favorably by the Commerce Committee with amendments on April 12, 1983, and was later withdrawn from Appropriations and placed on the Calendar. On May 3, 1983, HB 1043 was substituted for SB 299 which was then laid on the table under the Rules.

Prepared by: Brian Deffenbaugh

Staff Director: Wyatt T. Martin
SUMMARY OF HB 1043
INSURANCE INSOLVENCY

The bill substantially revises Chapter 631, relating to insurance company insolvencies and guaranty of payment. In addition to many technical changes, substantive changes are also made, primarily to conform to the model bill adopted by the National Association of Insurance Commissioners.

This bill is intended to increase the ability of the Department of Insurance to detect financial problems of insurers, to increase the efficiency and predictability of settling claims, and to increase cooperation with other states.

Specifics of major changes:

1. Section 631.41 provides the Department of Insurance with various powers and duties when it is appointed in a delinquency proceeding as a receiver for a domestic insurer, such as the administration of all of the assets of the insurer. The bill adds to these powers, including authorizing the department to have all the powers of directors, officers, and managers; to hire and discharge employees; and to prepare plans for reorganization, merger, or other transformation of the insurer, subject to the approval of the appointing court after notice and hearing (Page 11, Line 17).

2. A significant change from present law is the provision for a claim hearing only when a claimant objects to the recommendation in the receiver's report. Presently, a hearing is required for all claims (Page 19, Line 27).
3. One of the most significant provisions in this bill is the substantial revision of s. 631.271, setting forth the priority of distribution of claims from the insurer’s estate, which is in substantial conformity with the Uniform Act. Eight classes of claims are established in the following order: (1) receiver’s expenses of administration and expenses of a guaranty association; (2) wages to employees (with the $1,000 cap per employee raised to $2,000 and the 90-day period increased to 6 months); (3) claims under policies; (4) claims for unearned premium refunds; (5) governmental claims; (6) claims filed late; (7) surplus or contribution notes; and (8) shareholder claims.

4. Presently, s. 631.68 provides that claims against an insolvent insurer through the Florida Insurance Guaranty Association (FIGA) are barred unless instituted within one year after the date of the deadline for filing claims in the order for liquidation. As amended, this limitation also applies to claims against the insured. The statute of limitations section, s. 95.11, is also amended to reflect this amendment.
I. SUMMARY:

A. Present Situation:

Chapter 631, Florida Statutes, is divided into three parts. Part I, Insurer Insolvency; Rehabilitation and Liquidation, establishes the procedures for the Department of Insurance to detect potentially dangerous financial conditions of insurers and to take corrective action. Primary areas of concern in this part are the powers of the department, the priority of claims, and methods of enhancing cooperation with other states.

Part II, Florida Insurance Guaranty of Payments, creates a guaranty association to provide for the payment of claims of insolvent property and casualty insurers.

Part III, Life and Health Insurance Guaranty of Payments, creates a guaranty association for the payment of claims of insolvent life and health insurers.

B. Effect of Proposed Changes:

This bill substantially revises chapter 631, Florida Statutes. The bill is largely a technical rewrite intended to rearrange provisions in a more logical manner in order to make the chapter more easily understandable. Many substantive changes are also made, primarily to conform to the model bill adopted by the National Association of Insurance Commissioners (NAIC).

The major substantive provisions are as follows:

1. Section 631.141, provides the department with various powers and duties when it is appointed as a receiver in a delinquency proceeding for a domestic insurer, such as the administration of all of the insurer's assets. This bill adds to these powers by authorizing the department to (1) have all the powers of directors, officers, and managers; (2) hire and discharge employees; and (3) prepare plans for reorganization, merger, or other transformation of the insurer, subject to the approval of the appointing court after notice and hearing.

2. Sections 631.161 and 631.171, relating to the procedure for filing claims during a delinquency proceeding are revised. These revisions are largely technical except for the controverted claim notice requirement. In the event a Florida claimant files a claim with the department as ancillary receiver, the amendment requires the department to notify the domiciliary state of the claim and any hearing, as opposed to present law which requires the claimant to give such notice.
3. Section 631.181 is substantially revised and 631.182 is created, providing additional procedures for the filing and proof of claims against an insurer in a delinquency proceeding. Section 631.181(2) requires claims to contain more specific information than present law requires. Section 631.181(1) provides the grounds for the court to permit the late filing of a claim after the time provided in the notice given by the receiver. These provisions are from the NAIC uniform act.

In addition, current law requires that a hearing is required for all claims. This bill provides for a claim hearing only when a claimant objects to the recommendation in the receiver's report.

4. Section 631.193 is created relating to the release of liability of an insured when a third party claimant files a claim in a delinquency proceeding. This section specifies that the release from liability is only to the extent of the policy limits provided by the insolvent insurer, and is conditioned upon the insured's cooperation with the receiver in the defense of the claim.

5. Section 631.220 is created providing that all reinsurance proceeds to which the insolvent insurer is a party are to be paid directly to the domiciliary receiver as general assets unless the reinsurance contract specifically names the insolvent insurer's insured as a direct beneficiary.

6. Section 631.252 is amended to provide that upon liquidation, all insurance policies issued by the insurer shall continue in force for 45 days, instead of the current 30 days, in order to allow more time for replacement. However, there is an exception created for life and health policies covered by the Florida Life and Health Guaranty Association which continue in force as provided in section 631.717.

7. Section 631.271 sets forth the priority of distribution of claims from the insurer's estate. This is in substantial conformity with the NAIC Uniform Act. Eight classes of claims are established in the following order: (1) receiver's expenses of administration and expenses of a guaranty association; (2) certain wages to employees; (3) claims under policies; (4) claims for unearned premium refunds; (5) governmental claims; (6) surplus or contribution notes; and (8) shareholder claims. Equal protection is provided for claims by residents of reciprocal states.

8. Currently, section 631.341 requires the receiver (department), immediately after appointment in delinquency proceedings, to give written notice of such proceedings to each agent of the insurer in Florida. This bill requires the receiver to give such notice only if the insurance policies have been cancelled.

9. Section 631.391 is amended to provide the department with prompt access of the data processing facilities and records of the insurer. Also, the maximum fine is raised from $5,000 to $10,000 for persons who control any segment of the insurer's affairs who fail to cooperate in the conduct of delinquency proceedings.

10. Section 631.398 is created relating to the prevention of insolvencies. Reports and recommendations from certain persons on behalf of a guaranty association to the department upon any matter germane to the solvency, liquidation, rehabilitation, or conservation of an insurer shall be confidential and exempt the Public Records Law. Also, the department rather than the
guaranty association must prepare a summary report at the conclusion of an insolvency proceeding.

11. Section 631.732 is renumbered as section 631.399 and amended, relating to the receiver's right to recover distributions made to affiliate organizations. The requirement that an affiliate be a "controlling" affiliate before the receiver can recover prepetition transfers that were made in an unlawful and unreasonable manner is eliminated. Also, the affiliate has the burden of showing that the transfers were lawful and reasonable.

12. Section 631.60 is amended to require that any release of the Florida Insurance Guaranty Association and its insured must clearly state whether it waives any claim filed with the receiver in excess of FIGA's liability under section 631.57.

13. Currently, section 631.68 provides that claims against an insolvent insurer through FIGA are barred unless instituted within one year after the date of the deadline for filing claims in the order for liquidation. This bill also applies the limitation to claims against the insured. This change is also reflected in the statute of limitation section, section 95.11.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

The provisions of this bill are intended to increase the Department of Insurance's ability to detect financial problems of insurers, to increase the efficiency and predictability of settling claims of insolvent insurers, and to increase cooperation with reciprocal states. As a result, the policyholders in Florida and in reciprocal states are afforded greater protection in the event they are insured by a company that incurs financial problems.

B. Government:

As stated above, the department's power and authority to deal with financially troubled insurers is enhanced. A spokesman from the department has indicated that there will be no significant impact on the department as a result of this bill.

III. COMMENTS:

IV. AMENDMENTS:

$1 by Commerce - Technical amendment.
$2 by Commerce - Technical amendment.
$3 by Commerce - Technical amendment.
$4 by Commerce - Technical amendment - corrects a cross reference.
$5 by Commerce - Technical amendment - corrects a cross reference.
$6 by Commerce - Technical amendment - corrects a cross reference.
$7 by Commerce - Title amendment.
H 1040 GENERAL BILL BY GOVERNMENTAL OPERATIONS (SIMILAR CS/S 0107)
OTHER PERSONAL SERVICES EMPLOYMENT; PROHIBITS CERTAIN UNAPPROVED
EMPLOYMENT; PROVIDES FOR PREPARATION & DISTRIBUTION OF WRITTEN MATERIAL
EXPLAINING TERMS & CONDITIONS OF OTHER-PERSONAL-SERVICES EMPLOYMENT;
MODIFIES DEFINITION OF "OTHER PERSONAL SERVICES", ETC. AMENDS 216.011;
CREATES 110.131. EFFECTIVE DATE: 07/01/83.
04/08/83 HOUSE FILED
04/18/83 HOUSE INTRODUCED, PLACED ON CALENDAR - HJ 00191
04/21/83 HOUSE PLACED ON SPECIAL ORDER CALENDAR; WITHDRAWN FROM
CALENDAR, REFERRED TO APPROPRIATIONS - HJ 00214
05/03/83 HOUSE SUBREFEREED TO SUBCOMMITTEE ON GENERAL GOVERNMENT (SUB. 11)
05/09/83 HOUSE ON COMMITTEE AGENDA -- SUBCOM., APPROP., 24 HOB, 1:10 PM, 05/11/83
05/12/83 HOUSE ON COMMITTEE AGENDA -- APPROPRIATIONS, 21 HOB, 1:00 PM, 05/13/83
05/17/83 HOUSE ON COMMITTEE AGENDA -- APPROPRIATIONS, 21 HOB, 7:30 AM, 05/18/83
05/19/83 HOUSE COMM. REPORT: FAVORABLE WITH AMENDS.; PLACED ON CALENDAR
BY APPROPRIATIONS - HJ 00486
05/25/83 HOUSE PLACED ON SPECIAL ORDER CALENDAR
06/01/83 HOUSE IDEN./SIM. SENATE BILL SUBSTITUTED; LAID ON TABLE UNDER
RULE; IDEN./SIM./COMPARE BILL PASSED; REFER TO C/S SB 107 (CH. 83-279) - HJ 00893

H 1041 GENERAL BILL BY GOVERNMENTAL OPERATIONS (SIMILAR CS/S 0466)
RISK MANAGEMENT/SAFETY PROGRAMS; EXTENDS COVERAGE UNDER FLA. FIRE INS.
TRUST FUND; REQUIRES PROVISION OF RENTAL VALUE INSURANCE TO COVER LOSS
OF INCOME OF CERTAIN STATE BUILDINGS; DESIGNATES FLA. CASUALTY INS. RISK
MANAGEMENT TRUST FUND AS SELF-INSURANCE FUND, ETC. AMENDS CH. 284,
110.504. EFFECTIVE DATE: UPON BECOMING LAW.
04/08/83 HOUSE FILED
04/18/83 HOUSE INTRODUCED, REFERRED TO COMMERCE - HJ 00191
04/19/83 HOUSE SUBREFEREED TO SUBCOMMITTEE ON PROPERTY AND CASUALTY
INSURANCE
04/22/83 HOUSE ON COMMITTEE AGENDA -- SUBCOM., COMMERCE, 24 HOB, 1:00
PM, 04/26/83
04/29/83 HOUSE ON COMMITTEE AGENDA -- COMMERCE, 21 HOB, 10:00 AM, 05/03/83
05/06/83 HOUSE COMM. REPORT: FAVORABLE WITH AMENDS.; PLACED ON CALENDAR
BY COMMITTEE -- HJ 00353
06/03/83 HOUSE PLACED ON SPECIAL ORDER CALENDAR; INDEF. POSTPONED &
W/D (SCR 120V); WAS IN CA; ISC BILL PASSED, SEE C/S SB 464 (CH. 83-139)

H 1042 GENERAL BILL BY JUDICIARY, UPHURCH AND OTHERS (IDENTICAL S 0946)
MEDICAL EXAMINERS; REQUIRES STATE TO PROVIDE CERTAIN FUNDING FOR MEDICAL
EXAMINERS; PROVIDES FOR ESTABLISHMENT OF FUNDING DISTRIBUTION FORMULA.
AMENDS 406.08. EFFECTIVE DATE: 07/01/83.
04/08/83 HOUSE FILED
04/18/83 HOUSE INTRODUCED, REFERRED TO FINANCE & TAXATION;
APPROPRIATIONS - HJ 00191; ON COMMITTEE AGENDA -- FOR
SUBREFEREAL, 21 HOB, 2:30PM, 04/20/83
04/20/83 HOUSE SUBREFEREED TO SUBCOMMITTEE ON SALES TAX AND GENERAL
LEGISLATION
06/03/83 HOUSE INDEFINITELY POSTPONED & W/D (SCR 120V); WAS IN
COMMITTEE ON FINANCE & TAXATION

H 1043 GENERAL BILL BY COMMERCE (SIMILAR S 0299, COMPARE H 1276; C/S 1065)
INSURANCE; REVISES VARIOUS PROVISIONS OF INSURERS REHABILITATION &
LIQUIDATION ACT; PROVIDES FOR NOTICE TO FLA. LIFE & HEALTH GUARANTY
ASSOC. OF HEARINGS RE. INSOLVENCY OF MEMBER INSURER, ETC. AMENDS CH.
631, 95.11, 651.071, 20.1, REPEALS 631.291, 301.351, 62(3)16.
EFFECTIVE DATE: 05/16/83.
04/18/83 HOUSE FILED
04/18/83 HOUSE INTRODUCED, PLACED ON CALENDAR - HJ 00192
04/28/83 HOUSE PLACED ON SPECIAL ORDER CALENDAR; READ SECOND TIME
-HJ 00278
05/02/83 HOUSE READ THIRD TIME; PASSED; YEAS 115 NAYS 0 - HJ 00291;
CONTINUED ON NEXT PAGE
H 1044 GENERAL BILL BY JUDICIARY, LEHTINEN
HIGHER EDUCATION: PROVIDES THAT ACTIVITIES OF SEARCH COMMITTEES FOR
SELECTION OF CHANCELLOR OF STATE UNIVERSITY SYSTEM & OF COMMUNITY
COLLEGE PRESIDENTS SHALL BE CONDUCTED IN ACCORDANCE WITH PUBLIC MEETINGS
& PUBLIC RECORDS REQUIREMENTS. AMENDS 240.109, 319. EFFECTIVE DATE: 10/01/83.
04/08/83 HOUSE FILED
04/18/83 HOUSE INTRODUCED, REFERRED TO HIGHER EDUCATION -HJ 00192
04/21/83 HOUSE SUBREFERRED TO SUBCOMMITTEE ON ADMINISTRATION AND
FINANCE
04/22/83 HOUSE ON COMMITTEE AGENDA— SUBCOMM., HIGHER ED., 214 C,
1:00PM, 04/26/83; ON COMMITTEE AGENDA, PENDING
SUBCOMMITTEE ACTION— HIGHER EDUCATION, 214 C, 2:00 PM,
04/26/83
04/29/83 HOUSE ON COMMITTEE AGENDA— HIGHER EDUCATION, 214 C, 10:00
AM, 05/03/83
05/03/83 HOUSE COMM. REPORT: FAVORABLE, PLACED ON CALENDAR BY HIGHER
EDUCATION — HJ 00323
05/05/83 HOUSE PLACED ON SPECIAL ORDER CALENDAR
05/12/83 HOUSE READ SECOND TIME — HJ 00378
05/13/83 HOUSE READ THIRD TIME; PASSED; YEAS 71 NAYS 40 — HJ 00390;
IMMEDIATELY CERTIFIED
05/13/83 SENATE IN MESSAGES
05/17/83 SENATE RECEIVED, REFERRED TO EDUCATION, GOVERNMENTAL
OPERATIONS — SJ 00286
05/20/83 SENATE ON COMMITTEE AGENDA— EDUCATION, 05/24/83, 9:00 AM, RM,
A
05/24/83 SENATE COMM. REPORT: FAVORABLE BY EDUCATION; NOW IN
GOVERNMENTAL OPERATIONS — SJ 00335
06/03/83 SENATE INDEFINITELY POSTPONED & W/D (SCR 1209); WAS IN
COMMITTEE ON GOVERNMENTAL OPERATIONS

H 1045 GENERAL BILL BY CORRECTIONS, PRUBATION & PAROLE (IDENTICAL S 0989,
COMPARE ENG/H 0651, ENG/H 1140, S 0790)
CORRECTIONS: REQUIRES CERTAIN IMPRISONMENT IN COUNTY JAILS IF TOTAL
CUMULATIVE SENTENCES OF PRISONER ARE LESS THAN 1 YEAR; Restricts PERSONS
WHO MAY BE COMMITTED TO DEPT.; REQUIRES DEPT. TO REFUSE TO ACCEPT
CERTAIN PERSONS INTO SYSTEM, ETC. AMENDS 922.051, 944.08, 948.03;
REPEALS 944.10., 18. EFFECTIVE DATE: UPON BECOMING LAW.
04/08/83 HOUSE FILED
04/16/83 HOUSE INTRODUCED, REFERRED TO APPROPRIATIONS — HJ 00192
05/03/83 HOUSE SUBREFERRED TO SUBCOMMITTEE ON HRS/CRIMINAL JUSTICE
(SUB. 1)
06/02/83 HOUSE WITHDRAWN FROM APPROPRIATIONS — HJ 01025; PLACED ON
CALENDAR
06/03/83 HOUSE INDEFINITELY POSTPONED & W/D (SCR 1209); WAS IN
CALENDAR

H 1046 GENERAL BILL BY JUDICIARY, COSGROVE, DERATANY, DRAGE, DUBLEY, DUNBAR,
EASLEY, GRANT, JOHNSON, B. L., JOHNSON, R. M., LAWSON, MURPHY, PEEPELS,
SAMPLE, SILVER, SIMON, THOMAS, UPCHURCH, WALLACE AND OTHERS
(SIMILAR CS/S 0476, S 0800, COMPARE H 0137, H 0418, H 0601, S 0324,
S 0396)
REAL ESTATE TIME-SHARE PLANS: PROVIDES FULL & FAIR DISCLOSURE TO
PURCHASERS & PROSPECTIVE PURCHASERS OF TIME-SHARE PLANS IS ONE OF
PURPOSES OF PROVISIONS RE SAID PLANS; AMENDS PROVISIONS RE SCOPE OF
CHAPTER, CERTAIN TIME-SHARE PLANS, ETC. AMENDS CH. 718, 192.037, 895.02;
REPEALS 718.1005. EFFECTIVE DATE: 07/01/83.
04/08/83 HOUSE FILED
04/18/83 HOUSE INTRODUCED, REFERRED TO FINANCE & TAXATION,
APPROPRIATIONS — HJ 00192; ON COMMITTEE AGENDA— FOR
CONTINUED ON NEXT PAGE
H 1273 GENERAL BILL BY HIGHER EDUCATION (SIMILAR CS/S 0461, COMPARE CS/S 0357, S 1069, S 1080)

POSTSECONDARY EDUCATION: REVISES ELIGIBILITY REQUIREMENTS FOR TUITION VOUCHERS AWARDED TO STUDENTS AT INDEPENDENT COLLEGES & UNIVERSITIES; REVISWS PROVISIONS RE AWARDS FROM FLA. ACADEMIC SCHOLARS' FUND; CREATES TEACHER PREPARATION LOAN TRUST FUND, ETC. AMENDS CH. 240, 743.05.

EFFECTIVE DATE: 07/01/83.

05/04/83 HOUSE FILED
05/06/83 HOUSE INTRODUCED, REFERRED TO APPROPRIATIONS -HJ 00353
05/16/83 HOUSE SUBREFERRED TO SUBCOMMITTEE ON EDUCATION/TRANSPORTATION (SUB. III)
05/30/83 HOUSE WITHDRAWN FROM APPROPRIATIONS -HJ 00761; PLACED ON CALENDAR
06/02/83 HOUSE PLACED ON SPECIAL ORDER CALENDAR
06/03/83 HOUSE IDEN./SIM. SENATE BILL SUBSTITUTED; LAID ON TABLE UNDER RULE, IDEN./SIM./COMPARE BILL PASSED, REFER TO CS/S SB 461 (CH. 83-2911) -HJ 01087
06/24/83 HOUSE COMM. REPOR. FAVORABLE WITH AMEND., PLACED ON CALENDAR

H 1274 RESOLUTION BY DANSO MERCI, LAURIE:

COMMENDS LAURIE MERCER FOR HER HEROIC ACTIONS IN SAVING LIFE OF ANOTHER & JOINS AMERICAN RED CROSS IN ITS PRAISE OF THIS OUTSTANDING CITIZEN OF SARASOTA COUNTY.

05/06/83 HOUSE FILED
05/06/83 HOUSE INTRODUCED, REFERRED TO RULES & CALENDAR -HJ 00453
05/24/83 HOUSE WITHDRAWN FROM RULES & CALENDAR; PLACED ON CALENDAR

H 1275 LOCAL BILL BY BROWN, T. C., BELL, WETHERELL (IDENTICAL S 1193, SIMILAR S 1179)

Volusia Co./Chalena Area: Creates & Establishes Local Government Study Commission to Study Structures, Functions & Operations of All Governmental Units & Bodies Located in Said Area, to Determine Need for Unification of Services, Separation, Annexation, Removal or Other Revision of Same, ETC. EFFECTIVE DATE: UPON BECOMING LAW.

05/06/83 HOUSE FILED; INTRODUCED, REFERRED TO COMMUNITY AFFAIRS -HJ 00353; ON COMMITTEE AGENDA--COMMUNITY AFFAIRS, 314 HBS, 9:00 AM, 05/10/83
05/11/83 HOUSE COMM. REPOR. FAVORABLE WITH AMEND., PLACED ON CALENDAR
05/27/83 HOUSE IDEN./SIM. SENATE BILL SUBSTITUTED; LAID ON TABLE UNDER RULE, IDEN./SIM./COMPARE BILL PASSED, REFER TO SB 1193 (CH. 83-531) -HJ 00715

H 1276 GENERAL BILL BY COMMERCE (COMPARE H 0462; H 1043, S 0299, CS/S 1065)

INSURANCE: ESTABLISHES REHABILITATION & LIQUIDATION DIV. WITHIN INS. DEPT.; REQUIRES ADDITIONAL REQUIREMENTS FOR NOTICE OF INTENT TO SEEK CIVIL REMEDY AGAINST INSURERS; AUTHORIZES DEPT. TO REQUIRE ANNUAL STATEMENTS BY AUTHORIZED INSURERS, ETC. AMENDS CHS. 624, 627, 20.13; REPEALS 626.989(17). EFFECTIVE DATE: UPON BECOMING LAW.

05/06/83 HOUSE FILED
05/09/83 HOUSE INTRODUCED, REFERRED TO APPROPRIATIONS -HJ 00366
05/16/83 HOUSE WITHDRAWN FROM APPROPRIATIONS -HJ 00427; PLACED ON CALENDAR
06/03/83 HOUSE INDEF. POSTPONED & W/O (SCR 1209); WAS ON CALL; ISC BILL PASSED, SEE CS/S SB 1065 (CH. 83-288) & HB 1043 (CH. 83-38)

H 1277 GENERAL BILL BY COMMERCE (COMPARE ENG/H 1103, S 0308)

WORKERS' COMPENSATION: CHANGES TYPES OF COMMUNICATIONS EXEMPT FROM ADMINISTRATIVE PROCEDURES; REITERATES EXCLUSIVENESS OF LIABILITY PROVISIONS OF WORKERS' COMPENSATION LAWS; REQUIRES TREATMENT & CARE FOR EMPLOYEES TO BE MEICALLY NECESSARY, ETC. AMENDS CH. 440; REPEALS 440.02(19), 36(7). EFFECTIVE DATE: 06/30/83.

05/06/83 HOUSE FILED
05/09/83 HOUSE INTRODUCED, REFERRED TO APPROPRIATIONS -HJ 00366
05/16/83 HOUSE SUBREFERRED TO SUBCOMMITTEE ON GENERAL GOVERNMENT (SUB. CONTINUED ON NEXT PAGE
05/12/83 HB 195; READ SECOND TIME; AMENDMENTS ADOPTED; READ THIRD TIME; PASSED AS AMENDED; YEAAS 114 NAYS 0 -HJ 00376
05/13/83 HOUSE RECONSIDERED; AMENDMENTS PENDING -HJ 00377
05/16/83 HOUSE PENDING AMENDMENTS WITHDRAWN; AMENDMENTS ADOPTED; PASSED AS AMENDED; YEAAS 87 NAYS 0 -HJ 00419
05/16/83 SENATE IN MESSAGES
05/17/83 SENATE CONCURRED; PASSED AS AMENDED; YEAAS 37 NAYS 0 -SJ 00284; ORDERED ENGROSSED, THEN ENROLLED -SJ 00285
05/22/83 SENATE SIGNED BY OFFICERS AND PRESENTED TO GOVERNOR -SJ 00333
05/26/83 APPROVED BY GOVERNOR CHAPTER NO. 83-52 -SJ 00451

S 0298 GENERAL BILL/CS BY NATURAL RESOURCES AND CONSERVATION, MANN AND OTHERS
(SIMILAR CS/H 0234, COMPARE S 0417)

03/03/83 SENATE PREFILED
03/18/83 SENATE REFERRED TO NATURAL RESOURCES AND CONSERVATION, ECONOMIC COMMUNITY AND CONSUMER AFFAIRS
04/05/83 SENATE INTRODUCED; REFERRED TO NATURAL RESOURCES AND CONSERVATION, ECONOMIC, COMMUNITY AND CONSUMER AFFAIRS -SJ 00031
04/18/83 SENATE ON COMMITTEE AGENDA -- NATURAL RES & CONS., 04/20/83, 2:00 PM, RM. H
04/20/83 SENATE COMMITTEE REPORT: CS BY NATURAL RESOURCES AND CONSERVATION -SJ 00169
04/25/83 SENATE NOW IN ECONOMIC, COMMUNITY AND CONSUMER AFFAIRS -SJ 00169
05/03/83 SENATE WITHDRAWN FROM ECONOMIC, COMMUNITY AND CONSUMER AFFAIRS -SJ 00204; PLACED ON CALENDAR; CS READ FIRST TIME -SJ 00190
06/02/83 SENATE PLACED ON CONSENT CALENDAR; AMENDMENTS ADOPTED -SJ 00732; IDEN./SIM. HOUSE BILL SUBSTITUTED; LAID ON TABLE UNDER RULE, IDEN./SIM./COMPARE BILL PASSED, REFER TO CS/HB 234 (CH. 83-176) -SJ 00733

S 0299 GENERAL BILL BY MANN (SIMILAR H 1043, COMPARE H 1276, CS/S 1065)

03/03/83 SENATE PREFILED
03/18/83 SENATE REFERRED TO COMMERCE, APPROPRIATIONS -SJ 00031
04/05/83 SENATE INTRODUCED; REFERRED TO COMMERCE, APPROPRIATIONS -SJ 00031
04/07/83 SENATE ON COMMITTEE AGENDA -- COMMERCE, 04/12/83, 2 PM, RM. A
04/12/83 SENATE COMMITTEE REPORT: FAVORABLE WITH AMENDS. BY COMMERCE -SJ 00099
04/13/83 SENATE NOW IN APPROPRIATIONS -SJ 00099
04/21/83 SENATE WITHDRAWN FROM APPROPRIATIONS -SJ 00154; PLACED ON CALENDAR
05/03/83 SENATE PLACED ON SPECIAL ORDER CALENDAR; AMENDMENTS ADOPTED -SJ 00209; IDEN./SIM. HOUSE BILL SUBSTITUTED; LAID ON TABLE UNDER RULE, IDEN./SIM./COMPARE BILL PASSED, REFER TO HB 1043 (CH. 83-38) & CS/SB 1065 (CH. 83-286) -SJ 00210

S 0300 GENERAL BILL BY MANN (IDENTICAL H 0562)

03/03/83 SENATE PREFILED
03/18/83 SENATE REFERRED TO JUDICIARY-CIVIL, RULES AND CALENDAR
CONTINUED ON NEXT PAGE
S 1003 GENERAL BILL BY FOX (SIMILAR ENG/H 1166)

DEPENDENT CHILDREN; CLARIFIES JURISDICTION OF COURT IN JUDICIAL REVIEWS; CHANGES TIME REQUIREMENTS FOR SHELTER CARE; PROVIDES FOR HEARING ON CONTINUED PLACEMENT AT REQUEST OF PARENT, GUARDIAN OR CUSTODIAN OF CHILD; PROVIDES FOR DETERMINATION OF PARENTAL VISITATION, ETC. AMENDS CHS. 39, 49, 409. EFFECTIVE DATE: 10/01/83.

04/18/83 SENATE FILED

04/21/83 SENATE INTRODUCED, REFERRED TO GOVERNMENTAL OPERATIONS, JUDICIARY-CIVIL - SJ 00148

05/02/83 SENATE ON COMMITTEE AGENDA -- GOVERNMENTAL OPERATIONS, JUDICIARY-CIVIL, 05/04/83, 2:00 PM, RM. H

05/04/83 SENATE COMM. REPRT: FAVORABLE BY GOVERNMENTAL OPERATIONS - SJ 00246

05/06/83 SENATE NOW IN JUDICIARY-CIVIL - SJ 00241; ON COMMITTEE AGENDA -- JUDICIARY-CIVIL, 05/10/83, 2:00 PM, RM. B

05/10/83 SENATE COMM. REPRT: FAVORABLE, PLACED ON CALENDAR BY JUDICIARY-CIVIL - SJ 00246

06/03/83 SENATE INDEF. POSTPUNED & W/D (SCR 1209); WAS ON CAL; ISL BILL PASSED, SEC HB 1251 (CH. 83-273)

S 1004 GENERAL BILL BY GERSTEN (IDENTICAL H 0886)

RESTITUTION; REQUIRES COURT TO ORDER RESTITUTION FOR CRIMES COMMITTED ON OR AFTER SPECIFIED DATE. AMENDS 775.089. EFFECTIVE DATE: 10/01/83.

04/18/83 SENATE FILED

04/21/83 SENATE INTRODUCED, REFERRED TO JUDICIARY-CRIMINAL - SJ 00149

04/29/83 SENATE ON COMMITTEE AGENDA -- JUDICIARY-CRIMINAL, 05/04/83, 9:00 AM, RM. C

05/04/83 SENATE COMM. REPRT: FAVORABLE, PLACED ON CALENDAR BY JUDICIARY-CRIMINAL - SJ 00222

06/03/83 SENATE INDEF. POSTPUNED & W/D (SCR 1209); WAS IN COMMITTEE ON HEALTH AND REHABILITATIVE SERVICES

S 1005 GENERAL BILL/CS BY COMMERCE, THOMAS (COMPARE H 0672, H 0960, ENG/H 1026; H 1043, ENG/H 1110; H 1160; H 1276; S 0299, CS/S 0492)

INSURANCE; CREATES REHABILITATION & LIQUIDATION DIV. OF INS. DEPT.; PROVIDES FOR WRITTEN NOTICE IN ADVANCE OF CIVIL ACTION; PROHIBITS AUTHORIZATION OF CERTAIN INSURERS; CHANGES SPECIAL SURPLUS REQUIREMENTS FOR INSURERS, ETC. AMENDS CHS. 20, 624, 625, 626, 627, 634.

EFFECTIVE DATE: 06/24/83.

04/18/83 SENATE FILED

04/21/83 SENATE INTRODUCED, REFERRED TO COMMERCE, APPROPRIATIONS - SJ 00149

05/05/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE COMMERCE; ON COMMITTEE AGENDA -- COMMERCE, 05/09/83, 2:00 PM, RM. A

05/09/83 SENATE COMM. REPRT: CS BY COMMERCE - SJ 00246; CS/READ FIRST TIME 05/11/83 - SJ 00250

05/11/83 SENATE NOW IN APPROPRIATIONS - SJ 00246

05/16/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE APPROPRIATIONS

05/17/83 SENATE WITHDRAWN FROM APPROPRIATIONS - SJ 00243; PLACED ON CALENDAR

05/25/83 SENATE PLACED ON SPECIAL ORDER CALENDAR

05/26/83 SENATE PLACED ON SPECIAL ORDER CALENDAR

05/27/83 SENATE PLACED ON SPECIAL ORDER CALENDAR; CS PASSED AS AMENDED; YEA 31 NAYS 0 - SJ 00477

05/30/83 HOUSE IN MESSAGES

06/01/83 HOUSE RECEIVED, PLACED ON CALENDAR - HJ 00847

CONTINUED ON NEXT PAGE
S 1066  GENERAL BILL BY HAIR (COMPARE ENG/H 0472)  GARNISHMENT: PROVIDES FOR ISSUANCE OF WRITS OF GARNISHMENT BEFORE JUDGMENT; PROVIDES FOR DISSOLUTION OF WRITS OF GARNISHMENT. AMENDS 77.031, 07. EFFECTIVE DATE: 07/01/83.
04/18/83 SENATE FILED 04/21/83 SENATE INTRODUCED, REFERRED TO JUDICIARY-CIVIL - SJ 00149 04/25/83 SENATE ON COMMITTEE AGENDA— JUDICIARY-CIVIL, 04/27/83, 2:00 PM, RM. B 04/27/83 SENATE COMM. REPORT: FAVORABLE, PLACED ON CALENDAR BY JUDICIARY-CIVIL - SJ 00182 05/03/83 SENATE PLACED ON SPECIAL ORDER CALENDAR; AMENDMENT ADOPTED; HOUSE BILL SUBSTITUTED; LAID ON TABLE UNDER RULE, IDEN./SIM./COMPARE BILL PASSED, REFER TO HB 472 (CH. 83-97) - SJ 00229

S 1067  GENERAL BILL BY DUNN (SIMILAR S 0948) BUDGET STABILIZATION FUND; CREATES SAID FUND; PROVIDES THAT CERTAIN REVENUE ACCRUE TO BUDGET STABILIZATION FUND; PRESCRIBES USE OF SUCH FUND & LIMITATION ON RATE OF GROWTH IN CERTAIN STATE EXPENDITURES; SPECIFIES REVENUE TO BE DEPOSITED IN SUCH FUND, ETC. AMENDS CH. 212, 001. EFFECTIVE DATE: 07/01/83.
04/18/83 SENATE FILED 04/21/83 SENATE INTRODUCED, REFERRED TO FINANCE, TAXATION AND CLAIMS, APPROPRIATIONS - SJ 00149 04/25/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE FINANCE, TAXATION AND CLAIMS 05/06/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE FINANCE, TAXATION AND CLAIMS 05/11/83 SENATE WITHDRAWN FROM FINANCE, TAXATION AND CLAIMS, APPROPRIATIONS: INDEFINITELY POSTPONED - SJ 00247

S 1068  GENERAL BILL BY DUNN AND OTHERS. (SIMILAR H 0635) FLORIDA LAW ENDOMENT ACT: CREATES SAID ACT: CREATES FLA. LAW ENDOMENT; A QUASI-PUBLIC, NONPROFIT CORPORATION TO PROVIDE LEGAL ASSISTANCE TO THE POOR; REQUIRES ENDOMENT & CERTAIN OTHER NONPROFIT CORPORATIONS & ASSOCIATIONS TO APPLY FOR FEDERAL TAX EXEMPTIONS, ETC. EFFECTIVE DATE: UPON BECOMING LAW.
04/18/83 SENATE FILED 04/21/83 SENATE INTRODUCED, REFERRED TO JUDICIARY-CIVIL, RULES AND CALENDAR - SJ 00149 05/02/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE JUDICIARY-CIVIL 05/16/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE JUDICIARY-CIVIL 05/30/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE JUDICIARY-CIVIL 06/03/83 SENATE INDEFINITELY POSTPONED & W/O (SCR 1209); WAS IN COMMITTEE ON JUDICIARY-CIVIL

S 1069  GENERAL BILL BY JOHNSTON (COMPARE H 1273, CS/S 0401) SCHOLARSHIPS: BY REQUESTI PROVIDES CRITERIA FOR SELECTION OF SEMINOLE & MICCOSUKEE INDIAN SCHOLARSHIP RECIPIENTS; PROVIDES THAT SUCH SCHOLARSHIPS BE IN AN AMOUNT DECIDED BY RESPECTIVE SEMINOLE & MICCOSUKEE INDIAN TRIBES. AMENDS 240.413. EFFECTIVE DATE: UPON BECOMING LAW.
04/18/83 SENATE FILED 04/21/83 SENATE INTRODUCED, REFERRED TO EDUCATION, APPROPRIATIONS - SJ 00149 05/03/83 SENATE ON COMMITTEE AGENDA— EDUCATION, 05/05/83, 2:00 PM, RM. A 05/05/83 SENATE COMM. REPORT: FAVORABLE WITH AMEND. BY EDUCATION - SJ 00241 05/06/83 SENATE NOW IN APPROPRIATIONS - SJ 00241 05/16/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE APPROPRIATIONS 05/30/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE APPROPRIATIONS CONTINUEU ON NEXT PAGE
S 0301 GENERAL BILL BY GRANT
BANK DEPOSITS; requires depositary bank to credit a customer's account for an item received within 5 business days of receipt unless not collected for credit. Creates 674.2061. Effective date: 10/01/83.
03/03/83 SENATE PREFILED
03/18/83 SENATE REFERRED TO COMMERCE
04/05/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE COMMERCE
04/19/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE COMMERCE
05/21/83 SENATE INDEFININELY POSTPONED & W/D ISCR 1209; WAS IN COMMITTEE ON COMMERCE

S 0302 GENERAL BILL/CS BY HEALTH AND REHABILITATIVE SERVICES, STUART
(SIMILAR CS/H 0170)
(CS/CS) PROFESSIONAL REGULATION; (SUNSET) provides for regulation of hearing aids dispensing by professional regulation dept.; creates hearing aid specialists bd. within dept.; provides for appt. of bd. members; provides qualifications & procedures for licensure, etc. Repeals 468.120-138. Effective date: 07/01/83.
03/03/83 SENATE PREFILED
03/18/83 SENATE REFERRED TO ECONOMIC, COMMUNITY AND CONSUMER AFFAIRS, HEALTH AND REHABILITATIVE SERVICES, APPROPRIATIONS
04/05/83 SENATE INTRODUCED, REFERRED TO ECONOMIC, COMMUNITY AND CONSUMER AFFAIRS, HEALTH AND REHABILITATIVE SERVICES, APPROPRIATIONS -SJ 00031
04/12/83 SENATE ON COMMITTEE AGENDA - ECCA, TEMPORARILY POSTPONED
04/15/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE ECONOMIC, COMMUNITY AND CONSUMER AFFAIRS
04/26/83 SENATE ON COMMITTEE AGENDA - ECCA, TEMPORARILY POSTPONED
04/29/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE ECONOMIC, COMMUNITY AND CONSUMER AFFAIRS
05/02/83 SENATE ON COMMITTEE AGENDA - ECCA, 05/04/83, 9:00 AM, RM. H
05/04/83 SENATE COMM. REPORT: C/S BY ECONOMIC, COMMUNITY AND CONSUMER AFFAIRS -SJ 00242; C/S READ FIRST TIME 05/10/83 -SJ 00236
05/10/83 SENATE NOW IN HEALTH AND REHABILITATIVE SERVICES -SJ 00242
05/19/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE HEALTH AND REHABILITATIVE SERVICES
05/23/83 SENATE ON COMMITTEE AGENDA - HRS, NOT CONSIDERED
05/26/83 SENATE ON COMMITTEE AGENDA - HRS, 05/30/83, 11:00 AM, RM. A -SJ 00446
05/30/83 SENATE COMM. REPORT: C/S FOR C/S BY HEALTH AND REHABILITATIVE SERVICES -SJ 00578; C/S READ FIRST TIME 06/01/83 -SJ 00585
06/01/83 SENATE NOW IN APPROPRIATIONS -SJ 00578
06/02/83 SENATE WITHDRAWN FROM APPROPRIATIONS -SJ 00651; PLACED ON CALENDAR
06/03/83 SENATE C/S PASSED; YEAS 36 NAYS 0 -SJ 00818
06/03/83 HOUSE IN MESSAGES; RECEIVED, PLACED ON CALENDAR; READ SECOND TIME; READ THIRD TIME; PASSED; YEAS 108 NAYS 4 -HJ 01143
06/03/83 SENATE ORDERED ENROLLED -SJ 00862
06/09/83 SENATE SIGNED BY OFFICERS AND PRESENTED TO GOVERNOR
06/22/83 APPROVED BY GOVERNOR CHAPTER NO. 83-153

S 0303 GENERAL BILL BY CHILDERNS, W. D. AND OTHERS (COMPARE CS/H 0109)
INSURANCE; authorizes investigators of ins. fraud div. of insurance dept. to carry firearms; provides that investigators shall be deemed to continued on next page.
the "Housing Authorities Law" shall be made in accordance with federal audit standards of public housing agencies; repealing s. 166.241 (4), Florida Statutes, relating to municipal financial post-audits; repealing s. 218.34 (5), Florida Statutes, relating to financial post-audits of special districts; providing an effective date.

Referred to the Committee on Appropriations

By the Committee on Corrections, Probation & Parole—

HB 1037—A bill to be entitled An act relating to the state correctional system; amending s 944.47 (1)(a), Florida Statutes, 1982 Supplement, providing that it is unlawful while upon the grounds of any state correctional institution to attempt to send contraband therefrom except as authorized by the officer in charge of such institution; modifying the description of contraband with respect to controlled substances and certain other drugs; providing an effective date

Placed on the Calendar without reference.

By the Committee on Governmental Operations—

HB 1038—A bill to be entitled An act relating to the Secretary of State; adding subsection (7) to s. 15.18, Florida Statutes, authorizing the Secretary of State to promulgate certain rules for the purpose of entering into contracts for promotional services and events; providing an effective date.

Referred to the Committee on Appropriations.

By the Committee on Governmental Operations—

HB 1039—A bill to be entitled An act relating to contractual services; amending s. 287.012 (3) and (5), Florida Statutes, 1982 Supplement, and adding subsections (7) and (9) thereto, redefining the term "contractual services"; defining the terms "physically or mentally disabled person," "extension" and "renewal," amending s. 287.042 (4)(a), Florida Statutes, 1982 Supplement, requiring notice of invitation to bids to be mailed at least 10 days prior to the date of bid submittals; amending s. 267.057 (2), (3), (9), (11), (12), (15), and (17), Florida Statutes, 1982 Supplement, and adding new subsections (13) and (17) to said section, providing criteria for bids for contractual services; providing procedures for contract renewal; deleting an internal cross reference; requiring agency certification of emergency situations that justify exceptions to bidding requirements; allowing dollar increases with respect to contract extensions; providing renewal procedures; deleting a prohibition against agency fiscal employees serving on contract selection committees; providing for a review and approval process for certain contractual service contracts; amending s. 287.058, Florida Statutes, 1982 Supplement, providing additional provisions to be included in contract documents; providing for signature of written agreements by agency heads; providing an effective date.

Placed on the Calendar without reference.

By the Committee on Governmental Operations—

HB 1040—A bill to be entitled An act relating to other-personal services employment, creating s. 110.131, Florida Statutes; defining "agency"; prohibiting certain unapproved employment; providing for the adoption of rules; providing for the preparation and distribution of written material explaining terms and conditions of other-personal services employment; providing for an annual report; providing for exceptions; amending s. 216.011 (1)(e), Florida Statutes, modifying the definition of "other personal services"; providing an effective date.

Placed on the Calendar without reference.

By the Committee on Governmental Operations—

HB 1041—A bill to be entitled An act relating to the state's risk management and safety programs; amending s. 284.01 (1) and (2), Florida Statutes, extending the coverage under the Florida Fire Insurance Trust Fund; requiring the provision of rental value insurance to cover loss of income of certain state buildings; amending s. 284.30, Florida Statutes, designating the Florida Casualty Insurance Risk Management Trust Fund as a self-insurance fund; amending s. 284.31, Florida Statutes, including volunteers under coverage of the insurance risk management trust fund; amending s. 284.33, Florida Statutes, providing for special accounts to pay claims against the state; providing for the furnishing of health and mental services or drugs as required by the Workers' Compensation Law for the adoption of rules; amending s. 284.41 (2), Florida Statutes, providing for the administration of part III of chapter 284, Florida Statutes, relating to safety programs, creating s. 284.411, Florida Statutes, establishing procedures for the reporting, handling and payment of certain claims; amending s. 284.50 (2), Florida Statutes, 1982 Supplement, authorizing the Interagency Advisory Council on Loss Prevention to provide a program of recognition for employees, agents or volunteers who make exceptional contributions to the reduction and control of employment-related accidents; adding a subsection to s. 110.504, Florida Statutes, providing for coverage for state volunteers for medical and funeral expenses under the Workers' Compensation Law; providing an effective date

Referred to the Committee on Commerce.

By the Committee on Commerce—

HB 1042—A bill to be entitled An act relating to medical examiners; amending s. 406.08 (3), Florida Statutes, and adding a subsection, requiring the state to provide certain funding for medical examiners; providing for the establishment of a funding distribution formula; providing an effective date.

Referred to the Committees on Finance & Taxation and Appropriations.

By the Committee on Commerce—

HB 1043—A bill to be entitled An act relating to insurance; amending s. 631.001, Florida Statutes, 1982 Supplement, and transferring thereto and amending s. 631.211, Florida Statutes, 1982 Supplement; revising short title, purpose, and construction provisions under part I of chapter 631, the Insurers Rehabilitation and Liquidation Act; amending s. 631.011, Florida Statutes, 1982 Supplement; revising and clarifying definitions; amending s. 631.021 (4), Florida Statutes, 1982 Supplement; providing for notice to the Florida Life and Health Guaranty Association of hearings relating to insolvency of a member insurer; amending ss. 631.041 (1), 631.061 (2), 631.091 and 631.111 (1), Florida Statutes, 1982 Supplement; clarifying language; adding subsections (7) and (8) to s. 631.141, Florida Statutes, 1982 Supplement; providing powers of the Department of Insurance as domiciliary receiver with respect to the insurer; amending ss. 631.161 and 631.171, Florida Statutes, 1982 Supplement; providing for claims of nonresidents against insurers domiciled in this state and claims of Florida residents against insurers domiciled in reciprocal states; amending s. 631.191, Florida Statutes, 1982 Supplement; providing requirements for filing proof of claim, providing for late filings; creating s. 631.182, Florida Statutes; providing for report by the receiver on claims to the court; providing for notice to claimants and for hearings on objections; amending s. 631.191, Florida Statutes, 1982 Supplement; clarifying language and providing for determination of value of security held by a secured creditor; creating s. 631.192, Florida Statutes; providing for allowance of certain claims; creating s. 631.193, Florida Statutes; providing that filing of a claim constitutes a release of the insured from liability to the claimant; providing limits and conditions; creating s. 631.205, Florida Statutes; providing for disposal of surplus assets; providing for the Florida Casualty Insurance Risk Management Trust Fund as a self-insurance fund; transferring thereto and amending s. 631.221, 631.251, and 631.263 (4), Florida Statutes, 1982 Supplement; clarifying and correcting language; amending s. 631.252, Florida Statutes, 1982 Supplement; extending the coverage continuation period; providing for continuation with respect to policies as defined under the Florida Life and Health Insurance Guaranty Association Act; amending s. 631.271, Florida Statutes, 1982 Supplement; providing for priority of claims.
and limitations thereon, adding subsection (3) to ss. 631.281, Florida Statutes, 1982 Supplement; providing rights of an agent who pays the unearned portion of premium to a policyholder with respect to the policyholder's claim against the receiver; repealing ss. 631.291, 631.301, and 631.351, Florida Statutes, 1982 Supplement, relating to allowance of certain claims, time to file claims, and summary proceedings; amending ss. 631.341, Florida Statutes, 1982 Supplement; providing for notification by the receiver to agents of an insurer of delinquency proceedings against the insurer where policies have been canceled; revising a penalty thereunder; amending ss. 631.301, Florida Statutes, 1982 Supplement; revising provisions related to cooperation with the department of insurance; specifically including employees and independent contractors; providing for access to data processing facilities and records; increasing a penalty thereunder; amending ss. 631.396, Florida Statutes, 1982 Supplement; providing for authorization for the department to provide data processing services for any appropriate guaranty fund, creating s. 631.398, Florida Statutes; providing duties of insurers, agents, employees, board members, and the department with regard to prevention of insolvencies; numbering and amending s. 631.792, Florida Statutes, 1982 Supplement; revising provisions relating to receiver's right to recover distributions made to affiliates; eliminating the requirement that the affiliate be a controlling affiliate, amending s. 631.54 (9), Florida Statutes, 1982 Supplement; revising the definition of "expenses in handling claims" under the Florida Insurance Guaranty Association Act; amending ss. 631.60 (4), Florida Statutes, 1982 Supplement; requiring that a release of the association must include a statement regarding waiver of certain claims; repealing ss. 631.62 (3) and (6), Florida Statutes, 1982 Supplement, relating to certain duties of the department and board of directors regarding prevention of insolvencies; amending s. 631.68, Florida Statutes, 1982 Supplement, and adding paragraph (d) to s. 85.11 (5), Florida Statutes; specifying limitations on certain actions against a guaranty association and the insurer; amending s. 631.718 (3) (a), Florida Statutes, 1982 Supplement; correcting a cross reference; amending ss. 631.723, Florida Statutes, 1982 Supplement; deleting provisions relating to prevention of insolvencies; amending ss. 651.071, Florida Statutes; correcting a cross reference; adding paragraph (g) to s. 20.13 (2), Florida Statutes; creating the Division of Rehabilitation and Liquidation within the Department of Insurance; providing for review and repeal under the Regulatory Sunset Act; providing an effective date.

HB 1045—A bill to be entitled An act relating to real estate time-share plans; amending s. 721.02 (2), Florida Statutes, and adding a new subsection (3), providing that full and fair disclosure to purchasers and prospective purchasers of time-share plans is one of the purposes of chapter 721, Florida Statutes; amending s. 721.03, Florida Statutes, 1982 Supplement, relating to the scope of the chapter; amending s. 721.05, Florida Statutes, providing definitions; amending s. 721.04, Florida Statutes, relating to certain time-share plans; amending s. 721.06, Florida Statutes, 1982 Supplement, relating to contracts for the purchase of time-share periods; prohibiting attempts to obtain waivers of cancellation rights; providing requirements for contracts; amending s. 721.07, Florida Statutes, providing procedures with respect to public offering statements; amending s. 721.08, Florida Statutes, relating to escrow deposits; amending s. 721.09 (2), (3), and (4), Florida Statutes; requiring escrow agents to maintain escrow accounts in a specified manner; providing a penalty for sellers or escrow agents who intentionally fail to comply with certain escrow deposit requirements, amending s. 721.10, Florida Statutes, relating to the cancellation of purchase transactions with respect to time-sharing; amending s. 721.11, Florida Statutes; defining advertising materials and providing restrictions; providing penalties; requiring disclosure with respect to certain advertising; creating s. 721.111, Florida Statutes, relating to prize and gift promotional offers; providing requirements; providing penalties; amending s. 721.12, Florida Statutes, relating to recordkeeping by the seller; amending s. 721.13 (3) (e), Florida Statutes, and adding a new subsection (4); requiring annual audits to be conducted in a certain manner; requiring purchasers to approve certain agreements; amending s. 721.14, Florida Statutes, providing for the appointment of a receiver to run the affairs of the association under certain circumstances; amending s. 721.15 (2), Florida Statutes, and adding subsection (6) thereto, prohibiting excuse of time-share owners from paying a share of common expenses; providing exceptions; providing that assessments against time-share purchasers need not be increased more frequently than annually; amending s. 721.17, Florida Statutes, providing for the transfer of interest in a time-share plan; creating s. 721.175, Florida Statutes, providing for supervisory duties of developers; amending s. 721.18, Florida Statutes, relating to exchange programs, modifying filing requirements and procedures, annual filing fee; amending s. 721.20, Florida Statutes, prohibiting sellers or developers from employing unlicensed persons to sell time-share periods; amending s. 721.21, Florida Statutes, relating to purchasers' remedies; amending s. 721.22, Florida Statutes, relating to partition; amending s. 721.26 (4) and (5) (c) and (d), Florida Statutes, authorizing the division to bring an action for appropriate relief in circuit court for violations of the chapter; providing rulemaking authority; amending s. 721.27, Florida Statutes, increasing to $1 the annual fee for each time-share period; repealing s. 718.1065, Florida Statutes, relating to condominium partition; providing application of the act; providing an effective date.

HB 1047—A bill to be entitled An act relating to Duval County; providing for the issuance of a special alcoholic beverage license to WJCT, Inc., a Florida corporation not-for-profit by the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation of the State of Florida; authorizing only the sale of alcoholic beverages by WJCT, Inc., for on premises consumption

By Representatives Bankhead, Pajic, Thomas, Ogden, Hazouri, Crady, and C. Brown—

April 18, 1983
Bill Analysis

Florida House of Representatives
H. Lee Moffitt, Speaker Steve Pajcic, Speaker pro tempore
Committee on Commerce

Samuel P. Bell, III
Chairman
Dexter W. Lehtinen
Vice Chairman

FINAL STAFF SUMMARY

HB 1043 by ______ Commerce ________ Date: July 1, 1983
(as enacted by the Legislature) Became Law: May 16, 1983
relating to insurer insolvency

Committee Consideration: Ch. 83-38, Laws of Florida
House Commerce
Identical*/Similar Bills: Effective Date:
SB 299 ______________________ May 16, 1983

I. SUMMARY AND PURPOSE

This bill substantially revises chapter 631, Florida Statutes, Insurer Insolvency; Guaranty of Payment. The bill is largely a technical rewrite intended to rearrange provisions in a more logical manner in order to make the chapter more easily understandable. Many substantive changes are also made, primarily to conform to the model bill adopted by the National Association of Insurance Commissioners (NAIC).

II. CURRENT LAW AND EFFECT OF CHANGES

A. CURRENT LAW

Chapter 631, Florida Statutes, is divided into three parts. Part I, Insurer Insolvency; Rehabilitation and Liquidation, establishes the procedures for the Department of Insurance to detect potentially dangerous financial conditions of insurers and to take corrective action. The powers of the department, the priority of claims, and methods of enhancing cooperation with other states are primary areas of concern. Part II, Florida Insurance Guaranty of Payments, creates a guaranty association to provide for the payment of claims by insureds of insolvent property and casualty insurers. Providing for the payment of claims by insureds of insolvent life and health insurers is addressed in part III, Life and Health Insurance Guaranty of Payments, which creates a guaranty association for this purpose.

The specific aspects of the present law affected by this bill are addressed below.
B. EFFECT OF CHANGES

Important changes made by this bill include the following:

1. (Section 8) - Section 631.141 provides the Department of Insurance with various powers and duties when it is appointed in a delinquency proceeding as a receiver for a domestic insurer, such as the administration of all of the assets of the insurer. The bill adds to these powers, including authorizing the department to have all the powers of directors, officers, and managers; to hire and discharge employees; and to prepare plans for reorganization, merger, or other transformation of the insurer, subject to the approval of the appointing court after notice and hearing.

2. (Sections 9 and 10) - Sections 631.161 and 631.171 are revised, relating to the procedure for filing claims during a delinquency proceeding. The rewrite of these sections is primarily technical, except for the controverted claim notification requirement. In the event a Florida claimant files a claim with the department as ancillary receiver, the amendment requires the department to notify the domiciliary state of the claim and any hearing, as opposed to present law which requires the claimant to give such notice.

3. (Sections 11 and 12) - Section 631.181 is substantially revised and 631.182 is created, providing additional procedures for the filing and proof of claims against an insurer in a delinquency proceeding. Subsection (2) of section 631.181 (from the NAIC uniform act) requires claims to contain more specific information than present law requires. Subsection (1), also from the model law, provides grounds for the court to permit the late filing of a claim after the time provided in the notice given by the receiver.

A significant change from present law is the provision for a claim hearing only when a claimant objects to the recommendation in the receiver's report. Presently, a hearing is required for all claims. Other than these changes, the rewrite is primarily technical, incorporating provisions from existing ss. 631.181 and 631.301(2).

4. (Section 15) - Section 631.193 is created, (which is actually an amendment of existing s. 631.291(2)(a)(4)). This section relates to the release of liability of an insured when a third party claimant files a claim in a delinquency proceeding. The amendment specifies that the release from liability is only to the extent of the policy limits provided by the insolvent insurer, and is conditioned upon the insured's cooperation with the receiver in the defense of the claim.

5. (Section 16) - New section 631.205 is created providing that all reinsurance proceeds to which the insolvent insurer is a party are to be paid directly to the domiciliary receiver as general assets unless the reinsurance contract specifically names the insolvent insurer's insured as a direct beneficiary.

6. (Section 19) - Section 631.252 is amended to provide that upon liquidation, all insurance policies issued by the insurer shall continue in force for 45 days, rather than 30, in order to allow more time for replacement. New subsection (4) is created to provide an exception for life or health policies covered by the Florida Life and Health Guaranty Association, which continue in force as provided in s. 631.717.

7. (Section 21) - One of the most significant provisions in this bill is the substantial revision of s. 631.271, setting
forth the priority of distribution of claims from the insurer's estate, which is in substantial conformity with the Uniform Act. Eight classes of claims are established in the following order:
(1) receiver's expenses of administration and expenses of a guaranty association; (2) wages to employees (with the $1,000 cap per employee raised to $2,000 and the 90-day period increased to 6 months); (3) claims under policies; (4) claims for unearned premium refunds; (5) governmental claims; (6) claims filed late; (7) surplus or contribution notes; and (8) shareholder claims. New subsection (2), providing equal protection for claims by residents of reciprocal states, is adopted from existing s. 631.191(1).

8. (Section 24) - Presently, s. 631.341 requires the receiver (department), immediately after appointment in delinquency proceedings, to give written notice of such proceedings to each agent of the insurer in Florida. As amended, the receiver must give such notice only if the insurance policies have been cancelled.

9. (Section 26) - Section 631.391 is amended to provide prompt access to the department to data processing facilities and records of the insurer. In addition, the maximum fine is raised from $5,000 to $10,000 for persons who control any segment of the insurer's affairs who fail to cooperate in the conduct of delinquency proceedings.

10. (Section 28) - New section 631.398 is created relating to the prevention of insolvencies. The section is primarily technical, incorporating provisions of ss. 631.62 and 631.723. Substantive changes include a provision that reports and recommendations from certain persons on behalf of a guaranty association to the department upon any matter germane to the solvency, liquidation, rehabilitation, or conservation of an insurer shall be confidential and exempt from the Public Records law. Another substantive change is a requirement that the department, rather than the guaranty association prepare a summary report at the conclusion of an insolvency proceeding.

11. (Section 29) - Section 631.732 is renumbered as section 631.399 and amended, relating to the receiver's right to recover distributions made to affiliate organizations. As amended, the requirement is eliminated that an affiliate be a "controlling" affiliate before the receiver can recover prepetition transfers that were made in an unlawful and unreasonable manner. Also as amended, the affiliate has the burden of showing that the transfers were lawful and reasonable.

12. (Section 31) - Section 631.60 is amended to require that any release of the Florida Insurance Guaranty Association and its insured must clearly state whether it waives any claim filed with the receiver in excess of FIGA's liability under s. 631.57.

13. (Sections 33 and 34) - Presently, s. 631.68 provides that claims against an insolvent insurer through FIGA are barred unless instituted within one year after the date of the deadline for filing claims in the order for liquidation. As amended, this limitation also applies to claims against the insured. The statute of limitations section, s. 95.11, is also amended to reflect this amendment.

III. ECONOMIC IMPACT

A. PRIVATE SECTOR CONSIDERATIONS

This bill is intended to increase the ability of the Department of Insurance to detect financial problems of insurers,
to increase the efficiency and predictability of settling claims of insolvent insurers, and to increase cooperation with reciprocal states. To these ends, policyholders in Florida and in reciprocal states are afforded greater protection in the event that they are insured by a company that incurs financial problems.

B. PUBLIC SECTOR CONSIDERATIONS

No substantial effect.

IV. COMMENTS

None.

V. LEGISLATIVE HISTORY

A. ENACTED BILL

House Bill 1043 began as PCB 83-28 which was heard in the Subcommittee on Property and Casualty Insurance of the Commerce Committee on March 29, 1983. The subcommittee voted the PCB out favorably with four technical amendments.

On April 5, 1983, the Commerce Committee adopted the four technical amendments to the PCB, approved the bill, and introduced it as HB 1043.

On April 28, 1983, HB 1043 was read for the second time without amendments. On May 2, 1983, the bill was passed by the House 115-0 (HJ 291).

The Senate substituted HB 1043 for its companion, SB 299, and passed the House measure, 39-0 (SJ 210).

HB 1043 was approved by the Governor on May 16, 1983 (Chapter 83-38, Laws of Florida).

B. DISPOSITION OF COMPANION

The companion measure, Senate Bill 299, was referred to the committees on Commerce and Appropriations. It was reported favorably by the Commerce Committee with amendments on April 12, 1983, and was later withdrawn from Appropriations and placed on the Calendar. On May 3, 1983, HB 1043 was substituted for SB 299 which was then laid on the table under the Rules.

Prepared by: Brian Deffenbaugh

Staff Director: Wyatt T. Martin
I. SUMMARY:

A. Present Situation:

Chapter 631, Florida Statutes, is divided into three parts. Part I, Insurer Insolvency; Rehabilitation and Liquidation, establishes the procedures for the Department of Insurance to detect potentially dangerous financial conditions of insurers and to take corrective action. Primary areas of concern in this part are the powers of the department, the priority of claims, and methods of enhancing cooperation with other states.

Part II, Florida Insurance Guaranty of Payments, creates a guaranty association to provide for the payment of claims of insolvent property and casualty insurers.

Part III, Life and Health Insurance Guaranty of Payments, creates a guaranty association for the payment of claims of insolvent life and health insurers.

B. Effect of Proposed Changes:

This bill substantially revises chapter 631, Florida Statutes. The bill is largely a technical rewrite intended to rearrange provisions in a more logical manner in order to make the chapter more easily understandable. Many substantive changes are also made, primarily to conform to the model bill adopted by the National Association of Insurance Commissioners (NAIC).

The major substantive provisions are as follows:

1. Section 631.141, provides the department with various powers and duties when it is appointed as a receiver in a delinquency proceeding for a domestic insurer, such as the administration of all of the insurer's assets. This bill adds to these powers by authorizing the department to (1) have all the powers of directors, officers, and managers; (2) hire and discharge employees; and (3) prepare plans for reorganization, merger, or other transformation of the insurer, subject to the approval of the appointing court after notice and hearing.

2. Sections 631.161 and 631.171, relating to the procedure for filing claims during a delinquency proceeding are revised. These revisions are largely technical except for the controverted claim notice requirement. In the event a Florida claimant files a claim with the department as ancillary receiver, the amendment requires the department to notify the domiciliary state of the claim and any hearing, as opposed to present law which requires the claimant to give such notice.
3. Section 631.181, is substantially revised and 631.182 is created, providing additional procedures for the filing and proof of claims against an insurer in a delinquency proceeding. Section 631.181(2) requires claims to contain more specific information than present law requires. Section 631.181(1) provides the grounds for the court to permit the late filing of a claim after the time provided in the notice given by the receiver. These provisions are from the NAIC uniform act.

In addition, current law requires that a hearing is required for all claims. This bill provides for a claim hearing only when a claimant objects to the recommendation in the receiver's report.

4. Section 631.193 is created relating to the release of liability of an insured when a third party claimant files a claim in a delinquency proceeding. This section specifies that the release from liability is only to the extent of the policy limits provided by the insolvent insurer, and is conditioned upon the insured's cooperation with the receiver in the defense of the claim.

5. Section 631.220 is created providing that all reinsurance proceeds to which the insolvent insurer is a party are to be paid directly to the domiciliary receiver as general assets unless the reinsurance contract specifically names the insolvent insurer's insured as a direct beneficiary.

6. Section 631.252 is amended to provide that upon liquidation, all insurance policies issued by the insurer shall continue in force for 45 days, instead of the current 30 days, in order to allow more time for replacement. However, there is an exception created for life and health policies covered by the Florida Life and Health Guaranty Association which continue in force as provided in section 631.717.

7. Section 631.271 sets forth the priority of distribution of claims from the insurer's estate. This is in substantial conformity with the NAIC Uniform Act. Eight classes of claims are established in the following order: (1) receiver's expenses of administration and expenses of a guaranty association; (2) certain wages to employees; (3) claims under policies; (4) claims for unearned premium refunds; (5) governmental claims; (6) claims filed late; (7) surplus or contribution notes; and (8) shareholder claims. Equal protection is provided for claims by residents of reciprocal states.

8. Currently, section 631.341 requires the receiver (department), immediately after appointment in delinquency proceedings, to give written notice of such proceedings to each agent of the insurer in Florida. This bill requires the receiver to give such notice only if the insurance policies have been cancelled.

9. Section 631.391 is amended to provide the department with prompt access of the data processing facilities and records of the insurer. Also, the maximum fine is raised from $5,000 to $10,000 for persons who control any segment of the insurer's affairs who fail to cooperate in the conduct of delinquency proceedings.

10. Section 631.398 is created relating to the prevention of insolvencies. Reports and recommendations from certain persons on behalf of a guaranty association to the department upon any matter germane to the solvency, liquidation, rehabilitation, or conservation of an insurer shall be confidential and exempt the Public Records Law. Also, the department rather than the
guaranty association must prepare a summary report at the conclusion of an insolvency proceeding.

11. Section 631.732 is renumbered as section 631.399 and amended, relating to the receiver's right to recover distributions made to affiliate organizations. The requirement that an affiliate be a "controlling" affiliate before the receiver can recover prepetition transfers that were made in an unlawful and unreasonable manner is eliminated. Also, the affiliate has the burden of showing that the transfers were lawful and reasonable.

12. Section 631.60 is amended to require that any release of the Florida Insurance Guaranty Association and its insured must clearly state whether it waives any claim filed with the receiver in excess of FIGA's liability under section 631.57.

13. Currently, section 631.68 provides that claims against an insolvent insurer through FIGA are barred unless instituted within one year after the date of the deadline for filing claims in the order for liquidation. This bill also applies the limitation to claims against the insured. This change is also reflected in the statute of limitation section, section 95.11.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

The provisions of this bill are intended to increase the Department of Insurance's ability to detect financial problems of insurers, to increase the efficiency and predictability of settling claims of insolvent insurers, and to increase cooperation with reciprocal states. As a result, the policyholders in Florida and in reciprocal states are afforded greater protection in the event they are insured by a company that incurs financial problems.

B. Government:

As stated above, the department's power and authority to deal with financially troubled insurers is enhanced. A spokesman from the department has indicated that there will be no significant impact on the department as a result of this bill.

III. COMMENTS:

IV. AMENDMENTS:

#1 by Commerce - Technical amendment.
#2 by Commerce - Technical amendment.
#3 by Commerce - Technical amendment.
#4 by Commerce - Technical amendment - corrects a cross reference.
#5 by Commerce - Technical amendment - corrects a cross reference.
#6 by Commerce - Technical amendment - corrects a cross reference.
#7 by Commerce - Title amendment.
GENERAL ACTS
RESOLUTIONS AND MEMORIALS
ADOPTED BY THE
EIGHTH LEGISLATURE OF FLORIDA
UNDER THE CONSTITUTION
AS REVISED IN 1968
During the First Regular Session
April 5, 1983 through June 13, 1983
and the Special Sessions
March 1, 1983 through March 3, 1983
June 15, 1983 through June 24, 1983
July 12, 1983 through July 13, 1983

Volume I, Part One
Published by Authority of Law
Under Direction of the
JOINT LEGISLATIVE MANAGEMENT
COMMITTEE
TALLAHASSEE
1983
This act hereby establishes minimum standards for the operation and funding of public employee retirement systems and plans.

Section 2 Subsection (7) of section 112.625, Florida Statutes, is amended to read:

112.625 Definitions.--As used in this act:

(7) "Statement value" means the value of assets in accordance with section 302(c)(2) of the Employee Retirement Income Security Act of 1974, and as permitted under regulations prescribed by the Secretary of the Treasury amortized value of bonds and the market value of stocks as of a particular reporting date.

Section 3 Subsection (1) of section 112.63, Florida Statutes, is amended to read:

112.63 Actuarial reports and statements of actuarial impact, review.--

(1) Each retirement system or plan subject to the provisions of this act shall have regularly scheduled actuarial reports prepared and certified by an enrolled actuary. The actuarial report shall consist of, but shall not be limited to, the following:

(a) Adequacy of employer and employee contribution rates in meeting levels of employee benefits provided in the system and changes, if any, needed in such rates to achieve or preserve a level of funding deemed adequate to enable payment through the indefinite future of the benefit amounts prescribed by the system, which shall include a valuation of present assets, based on statement value, and prospective assets and liabilities of the system and the extent of unfunded accrued liabilities, if any.

(b) A plan to amortize any unfunded liability pursuant to s. 112.64 and a description of actions taken to reduce the unfunded liability.

(c) A description and explanation of actuarial assumptions.

(d) A schedule illustrating the amortization of unfunded liabilities, if any.

(e) A comparative review illustrating the actual salary increases granted and the rate of investment return realized over the 3-year period preceding the actuarial report with the assumptions used in both the preceding and current actuarial reports.

(f) A statement by the enrolled actuary that the report is complete and accurate and that in his opinion the techniques and assumptions used are reasonable and meet the requirements and intent of this act.

The actuarial cost methods utilized for establishing the amount of the annual actuarial normal cost to support the promised benefits shall only be those methods approved in the Employee Retirement Income Security Act of 1974, and as permitted under regulations prescribed by the Secretary of the Treasury.

Section 4 Section 112.658, Florida Statutes, is amended to read:

112.658 Auditor General to determine compliance of the Florida Retirement System.--

(1) The Auditor General shall determine, through the examination of actuarial reviews, financial statements, and the practices and procedures of the Division of Retirement, the compliance of the Florida Retirement System with the provisions of this act.

(2) The Auditor General shall be authorized to employ, as necessary, an independent consulting actuary who is an enrolled actuary as defined in this part to assist in the determination of compliance.

(3) The Auditor General shall employ the same actuarial standards to monitor the Division of Retirement as the Division of Retirement uses to monitor local governments.

Section 5 This act shall take effect July 1, 1983.

Approved by the Governor May 16, 1983.

Filed in Office Secretary of State May 16, 1983.
insured from liability to the claimant; providing limits and conditions; creating s. 631.205, Florida Statutes; providing for disposition of reinsurance; amending ss. 631.221, 631.251, and 631.263(4), Florida Statutes, 1982 Supplement; clarifying and correcting language; amending s. 631.252, Florida Statutes, 1982 Supplement; extending the coverage continuation period, providing for continuation with respect to policies as defined under the Florida Life and Health Insurance Guaranty Association Act; amending s. 631.271, Florida Statutes, 1982 Supplement; providing for priority of claims and limitations thereon, adding subsection (3) to s. 631.281, Florida Statutes, 1982 Supplement, providing rights of an agent who pays the unearned portion of premium to a policyholder with respect to the policyholder's claim against the receiver, repealing ss. 631.291, 631.301, and 631.351, Florida Statutes, 1982 Supplement; relating to allowance of certain claims, time to file claims, and summary proceedings; amending s. 631.341, Florida Statutes, 1982 Supplement; providing for notification by the receiver to agents of an insurer of delinquency proceedings against the insurer where policies have been canceled, revising a penalty thereunder, amending s. 631.391, Florida Statutes, 1982 Supplement; revising provisions relating to cooperation with the department of officers and employees of an insurer, specifically including employees and independent contractors; providing for access to data processing facilities and records, increasing a penalty therefor; amending s. 631.395, Florida Statutes, 1982 Supplement; providing for authorization for the department to provide data processing services for any appropriate guaranty association and the insured, amending s. 631.732, Florida Statutes, 1982 Supplement, and adding subsection (g) to s. 20.13(2), Florida Statutes, creating the Division of Rehabilitation and Liquidation within the Department of Insurance, providing for review and repeal under the Regulatory Sunset Act; providing an effective date.

Chapter 83-38

Be It Enacted by the Legislature of the State of Florida

Section 1 Section 631.001, Florida Statutes, 1982 Supplement, is amended, and section 631.211, Florida Statutes, 1982 Supplement, is transferred to said section and amended to read:

631.001 Title, construction, and purpose --

(1) This part constitutes and may be cited as the "Insurers Rehabilitation and Liquidation Act." (2) This part shall not be interpreted to limit the powers granted the Department of Insurance by other provisions of the law. (3) This part shall be liberally construed to effect the purpose stated in subsection (4). (4) The purpose of this part is the protection of the interests of insureds, creditors, and the public generally, through:

(a) Early detection of any potentially dangerous condition in an insurer and prompt application of appropriate corrective measures which are neither unduly harsh nor subject to unwarranted publicity needlessly damaging to the insurer, (b) Improved methods for rehabilitating insurers, involving the cooperation and management expertise of the insurance industry; (c) Enhanced efficiency and economy of liquidation through clarification and specification of the law to minimize legal uncertainty and litigation, (d) Equitable apportionment of any unavoidable loss, and (e) Lessening the problems of interstate rehabilitation and liquidation by facilitating cooperation between states in the liquidation process and by extension of the scope of personal jurisdiction over debtors of the insurer outside this state.

Chapter 83-38

Uniform Insurers Liquidation Act --

Section 2 Section 631.011, Florida Statutes, 1982 Supplement, is amended to read:

631.011 Definitions -- For the purpose of this part
(1) "Assets" as used in subsections (3)-(5) means only allowed assets as defined in chapter 625.

(2) "Liabilities" as used in subsections (3)-(5) means all liabilities, including those specifically required in s. 625.041.

(3) "Impairment of surplus" means that the surplus of a stock insurer, the additional surplus of a mutual or reciprocal insurer, or the additional net trust fund of a business trust insurer does not comply with the requirements of s. 624.408(3).

(4) "Impairment of capital" means that the minimum surplus required to be maintained in s. 624.408(3) has been dissipated and the insurer is not possessed of assets at least equal to all its liabilities together with its total issued and outstanding capital stock, if a stock insurer, or the minimum surplus or net trust fund required by s. 624.407, if a mutual, reciprocal, or business trust insurer.

(5) "Insolvency" means that all the assets of the insurer, if made immediately available, would not be sufficient to discharge all its liabilities, or that the insurer is unable to pay its debts as they become due in the usual course of business. When the context of any provision of this code so indicates, insolvency shall also include and be defined as "impairment of surplus" as defined in subsection (3) and "impairment of capital" as defined in subsection (4).

(6) "Insurer," in addition to persons so defined under s. 624.03, includes also persons purporting to be insurers or organizing, or holding themselves out as organizing, in this state for the purpose of becoming insurers and all insurers who have insureds resident in this state.

(7) "Delinquency proceedings" means any proceeding commenced against an insurer pursuant to this chapter for the purpose of liquidating, rehabilitilitating, reorganizing, or conserving such insurer and any summary proceeding authorized by ss. 631.354-631.394.

(8) "State" is as defined in s. 624.08.

(9) "Foreign country" means territory not in any state.

(10) "Domiciliary state" means the state in which an insurer is incorporated or organized or, in the case of an insurer incorporated or organized in a foreign country, the state in which such insurer, having become authorized to do business in such state, has, at the commencement of delinquency proceedings, the largest amount of its assets held in trust and assets held on deposit for the benefit of its policyholders or policyholders and creditors in the United States, and any such insurer is deemed to be domiciled in such state.

(11) "Ancillary state" means any state other than a domiciliary state.

(12) "Reciprocal state" means any state other than this state in which in substance and effect the provisions of the Uniform Insurers Rehabilitation and Liquidation Act, as defined in s. 641.224, are in force, including the provisions requiring that the commissioner of insurance or equivalent insurance supervisory official be the receiver of a delinquent insurer.

(13) "General assets" means all property, real, personal, or otherwise, not specifically mortgaged, pledged, deposited, or otherwise encumbered for the security or benefit of specified persons or a limited class or classes of persons, and as to such specifically encumbered property the term includes all such property or its proceeds in excess of the amount necessary to discharge the sum or sums secured thereby. Assets held in trust and assets held on deposit for the security or benefit of all policyholders or all policyholders and creditors in the United States shall be deemed general assets.

(14) "Preferred claim" means any claim with respect to which the law of the state or of the United States accords priority of payment from the general assets of the insurer.

(15) "Special deposit claim" means any claim secured by a deposit made pursuant to statute for the security or benefit of a limited class or classes of persons, but not including any general assets.

(16) "Secured claim" means any claim secured by mortgage, trust deed, pledge, deposit as security, escrow, or otherwise, but not including special deposit claim or claims against general assets. The term also includes claims which more than 4 months prior to the commencement of delinquency proceedings in the state of the insurer's domicile have become liens upon specific assets by reason of judicial process.

(17) "Receiver" means receiver, liquidator, rehabilitator, or conservator, as the context may require.

Section 3. Subsection (4) of section 631.021, Florida Statutes, 1982 Supplement, is amended to read:

631.021 Jurisdiction of delinquency proceedings, venue, change of venue, exclusiveness of remedy, appeal --

(4) Delinquency proceedings pursuant to this chapter shall constitute the sole and exclusive method of liquidating, rehabilitilitating, reorganizing, or conserving an insurer, and no court shall entertain a petition for the commencement of such proceedings unless the same has been filed in the name of the state on the relation of the department. The Florida Insurance Guaranty Association, Incorporated, and the Florida Life and Health Guaranty Association, Incorporated, shall be given reasonable written notice by the department of all hearings which pertain to an adjudication of insolvency of a member insurer.

Section 4. Subsection (1) of section 631.041, Florida Statutes, 1982 Supplement, is amended to read:

631.041 Injunctions --

(1) Upon application by the department pursuant to this part for such an order to show cause, or at any time thereafter, the court may without notice issue an injunction restraining the insurer, its officers, directors, stockholders, members, subscribers, agents and all other persons from the transaction of its business or the waste or disposition of its property until the further order of the court.
CHAPTER 83-38

LAWS OF FLORIDA

CHAPTER 83-38

Section 5 Subsection (2) of section 631.061, Florida Statutes, 1982 Supplement, is amended to read:

631.061 Grounds for liquidation -- The department may apply to the court for an order appointing it as receiver (if its appointment as receiver shall not be in effect) and directing it to liquidate the business of a domestic insurer or of the United States branch of an alien insurer having all assets in this state, regardless of whether or not there has been a prior order directing it to reorganize such insurer, or if any of the grounds specified in § 631.051, or if such insurer:

(2) Is an insolvent insurer and has commenced voluntary liquidation or dissolution, or attempts to commence voluntary liquidation or dissolution or prosecute any action or proceeding to liquidate its business or affairs, or to dissolve its corporate charter or to reorganize the appointment of a receiver, trustee, custodian, or sequestrator under any law except under this code.

Section 6 Section 631.091, Florida Statutes, 1982 Supplement, is amended to read:

631.091 Grounds for ancillary liquidation, foreign insurers -- The department may apply to the circuit court for an order appointing it as ancillary receiver of and directing it to liquidate the business and assets of a foreign insurer having assets, business, or claims in this state upon the appointment in the domiciliary state of such insurer of a receiver, liquidator, conservator, rehabilitator, or other officer by whatever name called for the purpose of liquidating the business of such insurer.

Section 7 Subsection (1) of section 631.111, Florida Statutes, 1982 Supplement, is amended to read:

631.111 Order of liquidation, domestic insurers --

(1) An order to liquidate the business of a domestic insurer shall direct the department forthwith to take immediate possession of the property of the insurer, to marshal all assets of the insurer, to liquidate its business, to deal with the insurer's property and business in its own name or in the name of the insurer, as the court may direct, and to give notice to all creditors who may have claims against the insurer to present such claims, as the court may direct.

Section 8 Subsections (7) and (8) are added to section 631.141, Florida Statutes, 1982 Supplement, to read:

631.141 Conduct of delinquency proceedings; domestic and alien insurers --

(7) The department as domiciliary receiver may take such action as it deems necessary or appropriate to reform and revitalize the insurer. The department shall have all the powers of the directors, officers, and managers, whose authority shall be suspended, except as they are redelegate by the receiver. The receiver shall have full power to direct and manage the affairs of the insurer, to hire and discharge employees and to deal with the property and business of the insurer.

(8) If the department as domiciliary receiver determines that reorganization, consolidation, conversion, reinsurance, merger, or other transformation of the insurer is appropriate, it shall prepare a plan to effect such changes. Upon application of the receiver, for approval of the plan, and after such notice and hearings as the court may prescribe, the court may either approve or disapprove the plan proposed, or may modify it and approve it as modified. If the plan approved under this section shall be, in the judgment of the court, fair and equitable to all parties concerned, if the plan is approved, the receiver shall carry out the plan.

Section 9 Section 631.161, Florida Statutes, 1982 Supplement, is amended to read:

631.161 Claims of nonresidents against domestic insurers domiciled in this state --

(1) In a liquidation proceeding begun in this state against an insurer domiciled in this state, claimants residing in foreign countries or in states which are not reciprocal must file claims in this state, and claimants residing in reciprocal states may file claims either with the ancillary receivers, if any, in their respective states, or with the domiciliary receiver. Claims must be filed on or before the last date fixed for the filing of claims in the domiciliary liquidation proceeding.

(2) Claims belonging to claimants residing in reciprocal states may be proved either in the liquidation proceeding in this state as provided in this part, or in ancillary proceedings, if any, in the reciprocal states. If notice of the claims and opportunity to appear and be heard is afforded the domiciliary receiver of this state as provided in subsection (1), with respect to ancillary proceedings, the final allowance of claims by the courts in ancillary proceedings in reciprocal states shall be conclusive as to amount and as to priority of special deposit or secured claims arising in an ancillary state, but shall not be conclusive with respect to priorities against general assets under s. 631.271.

(3) In a delinquency proceeding begun in this state against a domestic insurer, claimants residing in reciprocal states may file claims either with the ancillary receivers, if any, in their respective states, or with the domiciliary receiver. All such claims must be filed on or before the last date fixed for the filing of claims in the domiciliary delinquency proceeding.

(4) Controversed claims belonging to claimants residing in reciprocal states may either:

(a) Be proved in this state; or

(b) If ancillary proceedings have been commenced in such reciprocal states, may be proved in those proceedings, in the event a claimant elects to prove his claim in ancillary proceedings; if notice of the claim and opportunity to appear and be heard is afforded the domiciliary receiver of this state, as provided in s. 631.161 with respect to ancillary proceedings in this state, the final allowance of such claim by the courts in the ancillary state shall be conclusive as to its amount and shall also be accepted as conclusive as to its priority; if any, against special deposits or other security located within the ancillary state.
CHAPTER 83-38

Section 10 Section 631.171, Florida Statutes, 1982 Supplement, is amended to read:

631.171 Claims of residents against foreign insurers domiciled in reciprocal states.--

(1) In a liquidation proceeding in a reciprocal state against an insurer domiciled in that state, claimants against the insurer who reside within this state may file claims with the ancillary receiver, if any, in this state, or with the domiciliary receiver. Claims must be filed on or before the last date fixed for the filing of claims in the domiciliary liquidation proceeding.

(2) Claims belonging to claimants residing in this state may be proved either in the domiciliary state under the law of that state, or in ancillary proceedings. If any in this state - if a claimant elects to prove his claim in this state, he shall file his claim with the receiver in the manner provided in s. 631.181(1) and (2). The ancillary receiver shall make its recommendation to the court as under s. 631.181(3), arrange a date for hearing if necessary under s. 631.181(3), and shall give notice to the liquidator in the domiciliary state, either by certified mail or by personal service at least 40 days prior to the date set for hearing. If the domiciliary liquidator, within 30 days after the giving of such notice, gives notice in writing to the ancillary receiver and to the claimant, either by certified mail or by personal service, of his intention to contest the claim, he shall be entitled to appear or to be represented in any proceeding in this state involving the adjudication of the claim.

(3) The final allowance of the claim by the courts of this state shall be accepted as conclusive as to amount and as to priority against special deposits or other security located in this state.

(4) In a liquidation proceeding in a reciprocal state against an insurer domiciled in that state, claimants against such insurer who reside within this state may file claims either with the ancillary receiver or with the domiciliary receiver. All such claims must be filed on or before the last date fixed for the filing of claims in the domiciliary liquidation proceeding.

(5) Controverted claims belonging to claimants residing in this state may be either:

(a) Proved in the domiciliary state as provided by the law of that state; or

(b) If ancillary proceedings have been commenced in this state, be proved in those proceedings in the event that any such claimant elects to prove his claim in this state; he shall file his claim with the ancillary receiver and shall give notice in writing to the receiver or, if any, in this state, or with the domiciliary receiver. All such claims must be filed on or before the last date fixed for the filing of claims in the domiciliary liquidation proceeding.

Section 11 Section 631.181, Florida Statutes, 1982 Supplement, is amended to read:

631.101 Filing and proof of claim; notice; hearing.--

(1)(a) Proof of a claim shall be filed with the receiver in the form required by subsection (2) on or before the last day for filing specified in the notice required under subsection (3) except that proof of claim for cash surrender values or other investment values in life insurance and annuities need not be filed unless the receiver expressly so requires.

(b) The court may permit a claimant making a late filing to share in distributions, whether past or future, as if he were not late, to prevent manifest injustice to the extent that any such payment will not prejudice the orderly administration of the liquidation, under any of the following circumstances:

1. The existence of the claim was not known to the claimant and he filed his claim as promptly thereafter as reasonably possible after learning of it.

2. A transfer to the claimant was avoided under s. 631.261 and 631.262.

3. The valuation under s. 631.191 of security held by a secured creditor shows a deficiency, which is filled within 30 days after the valuation.

(c) The court shall permit late filing claims to share in distributions, whether past or future, as if they were not late, if such claims are claims of a guaranty association or foreign guaranty association for reimbursement of covered claims paid or expenses incurred, or both, subsequent to the last day for filing where such payments were made and expenses incurred as provided by law.

(d) The court may consider any claim filed late which is not covered by paragraph (b) and permit it to receive distributions which are subsequently declared on any claims of the same or lower priority if the payment does not prejudice the orderly administration of the liquidation. The late filing claimant shall receive, at each distribution, the same percentage of the amount allowed on his claim as is then being paid to claimants of any lower priority. This shall continue until his claim has been paid in full.

(2)(a) Proof of claim shall consist of a statement signed by the claimant that includes all of the following which are applicable:

1. The particulars of the claim including the consideration given for it.

2. The identity and amount of the security on the claim.

3. The payments made on the debt, if any.

CHAPTER 83-38 LAWS OF FLORIDA CHAPTER 83-38

4. That the sum claimed is justly owing and that there is no setoff, counterclaim, or defense to the claim.

5. Any right of priority of payment or other specific right asserted by the claimants.

6. A copy of the written instrument which is the foundation of the claim.

7. The name and address of the claimant and the attorney who represents him, if any.

(b) No claim need be considered or allowed if it does not contain all the information in paragraph (a) which may be applicable. The receiver may require that a prescribed form be used, that other information and documents be included, and that the proof of claim be verified by an affidavit of the claimant.

(c) At any time the receiver may require the claimant to present information or evidence supplementary to that required under paragraph (a) and may take testimony under oath, require production of affidavits or depositions, or otherwise obtain additional information or evidence.

(d) No judgment or order against an insured or the insurer entered after the date of filing of a successful petition for liquidation and no judgment or order against an insured or the insurer entered at any time by default or by collusion need be considered as evidence of liability or of quantum of damages. No judgment or order against an insured or the insurer entered within 6 months before the filing of the petition need be considered as evidence of liability or of the quantum of damages.

(e) All claims of a guaranty association or foreign guaranty association shall be in such form and contain such substantiation as may be agreed to by the association and the receiver.

3. After the entry of the order of liquidation regardless of any prior notice that may have been given to creditors, the receiver shall notify all persons who may have claims against the insurer to file such claims with it at a place and within the time specified in the notice, or that such claims shall be forever barred. The time specified in the notice shall be as fixed by the court for filing of claims and shall be not less than 6 months after the entry of the order of insolvency. The notice shall be given in such manner and for such reasonable period of time as may be ordered by the court.

4. All claims against an insurer against which insolvency proceedings have been begun shall set forth in reasonable detail the amount of the claim, or the basis upon which such amount can be ascertained; the facts upon which the claim is based; and the names and addresses of the parties. All such claims shall be verified. The time for filing the affidavit of the claimant or someone authorized to act on his behalf and having knowledge of the facts shall be supported by such documents as may be material thereto.

5. All claims filed in this state shall be filed with the receiver, whether domiciliary or ancillary, in this state; or before the last date for filing as specified in this chapter.

6. The time in which proof of claim shall be filed is not extended by a court order allowing the receiver to accept proof of claim filed after the time as specified in this chapter.
deposit so that the claims secured thereby are not fully discharged therefrom, the claimants may share in the general assets, but such sharing shall be deferred until general creditors, and also claimants against other special deposits who have received smaller percentages from their respective special deposits, have been paid percentages of their claims equal to the percentage paid from the special deposit.

(2)(a) The owner of a secured claim against an insurer for which a receiver has been appointed in this or any other state may surrender his security and file his claim as a general creditor, or the claim may be discharged by resort to the security, in which case the deficiency, if any, shall be treated as a claim against the general assets of the insurer on the same basis as claims of unsecured creditors. If the amount of the deficiency has been adjudicated in ancillary proceedings as provided in this chapter, or if it has been adjudicated by a court of competent jurisdiction in proceedings in which the domiciliary receiver has had notice and opportunity to be heard, such amounts shall be conclusive; otherwise the amount shall be determined in the delinquency proceeding in the domiciliary state.

(b) The value of any security held by a secured creditor shall be determined under supervision of the court by:

1. Converting the same into money according to the terms of the agreement pursuant to which the security was delivered to such creditor, or

2. By agreement, arbitration, compromise, or litigation between the creditor and the receiver.

Section 14 Section 631.192, Florida Statutes, is created to read:

631.192 Allowance of certain claims --

1. No claim based upon a contract of insurance, suretyship, or indemnity shall be allowed or paid from the assets of an insurer in process of liquidation unless the event causing the loss to, or creating the liability of, the obligee of the contract shall have occurred prior to the order of liquidation or pursuant to the provisions of s. 631.252.

2(a) Claims not covered by the provisions of subsection (1) shall not be allowed or paid from the assets of an insurer in process of liquidation unless:

1. The event, whether an act or omission, occurred prior to the date of the order of liquidation,

2. The goods were delivered or services were rendered prior to the order of liquidation, or

3. The duty to perform under a contract matured prior to the order of liquidation.

(b) Nothing in this subsection shall be deemed to extinguish or limit any right the receiver may otherwise have to cancel any contract or part thereof by virtue of any contractual provision or law. It shall be the duty of every claimant under this subsection to mitigate and minimize any damage suffered as a result of a breach of contract upon entry of the order of liquidation. Recovery by any claimant under this subsection shall be limited to the actual damages suffered by virtue of a breach.

3. Claims of a third party shall not be deemed contingent, but shall be fairly evaluated even though liability has not been established by the date set forth in subsection (1).

(a) It may be reasonably inferred from the proof presented upon such claim that such person would be able to obtain a judgment upon such cause of action against such insured, and

(b) The claimant shall furnish suitable proof, unless the court determines that such cause of action other than those already presented can be made.

4. The total liability of such insurer to all claimants arising out of the same act of its insured shall be no greater than its maximum liability would be were it not in liquidation.

Section 15 Section 631.193, Florida Statutes, is created to read:

631.193 Releases -- The filing of a claim shall constitute a release of the insured from liability to the claimant to the extent of the coverage or policy limits provided by the insolvent insurer. The release shall be conditioned upon the insured’s cooperation with the receiver in defense of the claim.

Section 16 Section 631.205, Florida Statutes, is created to read:

631.205 Reinsurance proceeds -- All reinsurance proceeds payable under contracts of reinsurance to which the insolvent insurer is a party are to be paid directly to the domiciliary receiver as general assets of the receivership estate unless the reinsurance contract contains a clause which specifically names the insolvent insurer as a direct beneficiary of the reinsurance contract.

Section 17 Section 631.221, Florida Statutes, 1982 Supplement, is amended to read:

631.221 Deposit of moneys collected -- The moneys collected by the department in a proceeding under this chapter shall be from time to time deposited in one or more state or national banks, savings banks, or trust companies, or savings and loan associations, and, in the case of the insolvency or voluntary or involuntary liquidation of any such depository which is an institution organized and supervised under the laws of this state, such deposits shall be entitled to priority of payment on an equality with any other priority given by the financial institutions codes and laws of this state. The department may in its discretion deposit such moneys or any part thereof in such a financial institution or trust company as a trust fund.

Section 18. Section 631.251, Florida Statutes, 1982 Supplement, is amended to read:

631.251 Date rights fixed on liquidation. -- Except as provided in ss. 631.252 and 631.192, the rights and liabilities of the
CHAPTER 83-38  LAWS OF FLORIDA  CHAPTER 83-38

insurer and its creditors, policyholders, stockholders, members, subscribers and all other persons interested in its estate shall, unless otherwise directed by the court, be fixed as of the date on which the order directing the liquidation of the insurer is filed in the office of the clerk of the court which made the order, subject to the provisions of this chapter with respect to the rights of claimants holding contingent claims.

Section 19  Section 631.252, Florida Statutes, 1982 Supplement, is amended to read:

631.252  Continuation of coverage.--

(1) All insurance policies or similar contracts of coverage, other than coverages defined in s. 631.713, issued by the insurer shall continue in force until the earliest to occur of the following:

(a) Expiration of 45 30 days from the date of entry of the liquidation order, if the order so specifies.

(b) Normal expiration of the policy or contract coverage;

(c) Replacement of the coverage by the insured, or replacement of the policy or contract of coverage, with a policy or contract acceptable to the insured by the receiver with another insurer, or

(d) Termination of the coverage by the insured

(2) A claim arising during such continuation of coverage shall be treated as if it arose immediately before the petition for liquidation

(3) The 45-day 30-day coverage continuation period provided in paragraph (1)(a) shall in no event be extended; and failure of actual notice to the policyholder of the insolvency of the insurer, or commencement of delinquency proceedings, or of expiration of the extension period shall not affect such expiration

(4) Benefits under policies of life or health insurance or annuities and other coverages as defined in s. 631.713 shall continue in force for such period as provided for by s. 631.717 as any applicable law governing a foreign guaranty association

Section 20  Subsection (4) of section 631.263, Florida Statutes, 1982 Supplement, is amended to read:

631.263  Transfers after petition --

(4) A person asserting the validity of a transfer under this section shall have the burden of proof Except as elsewhere provided in this section, any transfer by or in behalf of the insurer after the date of the appointment of a receiver, as defined in s. 631.111(16)##, by any person other than the receiver shall not be valid against the receiver

Section 21  Section 631.271, Florida Statutes, 1982 Supplement, is amended to read:

631.271  Priority of claims for compensation of employees and administrative expenses --

(1) The priority of distribution of claims from the insurer's estate shall be in accordance with the order in which each class of claims is herein set forth. Every claim in each class shall be paid in full or adequate funds retained for such payment before the members of the next class receive any payment. No subclasses shall be established within any class. The order of distribution of claims shall be

(a) Class 1

(1) All of the receiver's costs and expenses of administration.

2  All of the expenses of a guaranty association or foreign guaranty association in handling claims.

(b) Class 2. Debts due to employees for services performed to the extent that they do not exceed $2,000 for each employee and represent payment for services performed within 6 months before the filing of the petition for liquidation. Officers and directors shall not be entitled to the benefit of this priority such priority shall be in lieu of any other similar priority which may be authorized by law as to wages or compensation of employees.

(c) Class 3 All claims under policies for losses incurred, including third party claims, all claims against the insurer for liability for bodily injury or for injury to or destruction of tangible property which are not under policies, and all claims of a guaranty association or foreign guaranty association. All claims under life insurance and annuity policies, whether for death proceeds, annuity proceeds, or investment values, shall be treated as loss claims. That portion of any loss, indemnification for which is provided by other benefits or advantages recovered by the claimant, shall not be included in this class, other than benefits of accident, recovered or recoverable in discharge of familial obligations of support or by way of succession at death or as proceeds of life insurance, or as gratuities. No payment by an employer to his employee shall be treated as a gratuity.

(d) Class 4. Claims under nonassessable policies for unearned premium or other premium refunds and claims of general creditors.

(e) Class 5. Claims of the federal or any state or local government. Claims, including those of any governmental body for a penalty or forfeiture, shall be allowed in this class, but only to the extent of the pecuniary loss sustained from the act, transaction, or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs occasioned thereby. Remainder of such claims shall be postponed to the class of claims under paragraphs (b), (f), (g), (h), and (i).

(f) Class 6. Claims filed after the time specified in s. 611.181(4)## except when ordered otherwise by the court to prevent manifest injustice, or any claims other than claims under paragraphs (g) and (h).

(g) Class 7. Surplus or contribution notes, or similar obligations, and premium refunds on assessable policies. Payments to members of domestic mutual insurance companies shall be limited in accordance with law.

(h) Class 8. The claims of shareholders or other owners.
(2) In a liquidation proceeding involving one or more reciprocal states, the order of distribution of the domiciliary state shall control as to all claims of residents of this and reciprocal states. All claims of residents of reciprocal states shall be given equal priority of payment from general assets regardless of where such assets are located.

(3) Compensation actually owed to employees other than officers and directors, of an insurer for services rendered within 3 months prior to the commencement of a proceeding against the insurer under this chapter, but not exceeding $1,000 for each employee, shall be paid prior to the payment of any other debt or claim, and in the discretion of the department may be paid as soon as practicable after the proceeding has been commenced, except that at all times the department shall reserve such funds as will in the opinion be sufficient for the payment of all expenses of administration; which expenses shall have priority over all other debts and claims.

(4) Each property shall be in lieu of any other similar property which may be authorized by law to waive or compensate or compensation of such employees.

Section 22 Subsection (3) is added to section 631.281, Florida Statutes, 1982 Supplement, to read:

631.281 Offsets --

(3) An agent who voluntarily pays the unearned portion of premium to a policyholder shall succeed to the interest of the policyholder as an assignee of the policyholder's claim against the receiver for the unearned portion of the premium as of the effective date of cancellation of the policy.

Section 23. Sections 631.291 and 631.301, Florida Statutes, are hereby repealed.

Section 24. Section 631.341, Florida Statutes, 1982 Supplement, is amended to read:

631.341 Notice of insolvency to policyholders by insurer, general agent, or agent --

(1) The receiver shall, immediately after appointment in any delinquency proceeding against an insurer where the policies have been canceled, give written notice of such proceeding proceedings to each general agent and licensed agent of the insurer in Florida. Each general agent and licensed agent of the insurer in Florida shall forthwith give written notice of such proceeding proceedings to all subagents, producing agents, brokers, adjusters, and service representatives writing business through such general agent or licensed agent, whether or not such subagents, producing agents, brokers, solicitors, and servicing representatives are licensed or permitted by the insurer and whether or not operating under a written agency contract.

(2) Unless, within 15 days subsequent to the date of such notice, all agents referred to in subsection (1) shall have either replaced or reinsured in a solvent authorized insurer the insurance coverages placed by or through such agent in the delinquent insurer, such agents shall then, by registered or certified mail, send to the last known address of any policyholder a written notice of the insolvency of the delinquent insurer.

(3) The license, permit, or certificate of authority of any person, firm, or corporation failing to comply with the provisions of this section shall be subject to revocation as otherwise provided by law.

(4) If such person, firm, or corporation is not licensed or permitted or the holder of a certificate of authority under any section of this code, then such person, firm, or corporation, or the officers and directors thereof, shall, upon failure to comply with the provisions of this section, be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or by a fine of not more than $5,000 or imprisonment of not more than 1 year in the county jail or both; upon failure to comply with the provisions of this section.

Section 25. Section 631.351, Florida Statutes, is hereby repealed.

Section 26. Section 631.391, Florida Statutes, 1982 Supplement, is amended to read:

631.391 Cooperation of officers and employees --

(1) Any officer, director, manager, trustee, agent, or adjuster, employee, or independent contractor of any insurer and any other person who possesses any executive authority over, or who exercises any control or influence over, any segment of the insurer's affairs shall fully cooperate with the department or any other person who obstructs or interferes with the department in the conduct of any delinquency proceeding or other orders or directions.

(2) To promptly provide access to all data processing records in hard copy and electronic form, and to data processing facilities and services.

(3) To promptly provide access to all data processing records in hard copy and electronic form, and to data processing facilities and services.

(4) No person shall obstruct or interfere with the department in the conduct of any delinquency proceeding or any preliminary investigation or incidental thereto.

(5) This section shall not prohibit any person from seeking legal relief from a court when aggrieved by the petition for liquidation or other delinquency proceedings or other orders.

(6) Any person referred to in subsection (1) who fails to cooperate with the department or any other person who obstructs or interferes with the department in the conduct of any delinquency proceedings or any investigation preliminary or incidental thereto, shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, or by fine not more than $10,000.

122

123
CHAPTER 83-38 LAWS OF FLORIDA CHAPTER 83-38

Section 27 Section 631.395, Florida Statutes, 1982 Supplement, is amended to read:

631.395 Guaranty fund, orders of court -- Any order of liquidation issued pursuant to s. 631.111 or s. 631.131 shall authorize and direct the department as receiver to coordinate the operation of the receivership with the operation of any insurance guaranty fund authorized to operate in this state, and may authorize the department to provide data processing services for any appropriate guaranty fund. Such authorization shall include, but not be limited to, release of copies of any of the following:

1. Claims files, records, or documents pertaining to claims on file with the insolvent insurer; and
2. Insurance claims filed with the receiver.

Section 28 Section 631.398, Florida Statutes, is created to read:

631.398 Prevention of insolvencies -- To aid in the detection and prevention of insurer insolvencies or impairments:

1. Any member insurer, agent, employee or member of the board of directors or representative of any insurance guaranty association may make reports and recommendations to the department upon any matter germane to the solvency, liquidation, rehabilitation, or conservation of any member insurer or germane to the solvency of any company seeking to do an insurance business in this state. Such reports and recommendations shall be confidential and exempt from the provisions of s. 119.07(1).

2. The department shall:
   a. Report to the board of directors of the appropriate insurance guaranty association when it has reasonable cause to believe from any examination, whether completed or in process, of any member insurer that such insurer may be an impaired or insolvent insurer.
   b. Furnish to the board of directors of each insurance guaranty association any available NAIC Early Warning Test developed by the National Association of Insurance Commissioners. The boards may use the information contained therein in carrying out their duties and responsibilities under chapter 631. Such reports and the information contained therein shall be kept confidential by the boards until such time as they are made public by the department or by any other lawful authority.
   c. Seek the advice and recommendations of the board of directors of the appropriate insurance guaranty association concerning any matter affecting the department's duties and responsibilities regarding the financial condition of member companies and companies seeking admission to transact insurance business in this state.

3. The department shall, no later than the conclusion of any domestic insurer insolvency proceeding, prepare a summary report containing such information in its possession relating to the history and causes of such insolvency, including a statement of the business practices of such insurer which led to such insolvency.

Section 29 Section 631.732, Florida Statutes, 1982 Supplement, is renumbered as section 631.399 and amended to read:

631.399 631-732 Receiver's right to recover distributions made to controlling affiliate --

1. If an order for liquidation or rehabilitation of an insurer domiciled in this state has been entered, the receiver appointed under such order shall have a right to recover on behalf of the insurer, from any affiliate that controlled the insurer at the time the distributions were declared, the amount of value of distributions, other than stock dividends paid by the insurer on its capital stock, made at any time during the 5 years preceding the petition for liquidation or rehabilitation, subject to the limitations of subsections (2), (3), and (4).

2. The distributions No cash dividend shall be recoverable unless the affiliate insurer shows that when paid the distributions were declared to be lawful and reasonable and that the insurer did not know and could not reasonably have known that the distributions distributions might adversely affect the ability of the insurer to fulfill its contractual obligations.

3. Any person who was an affiliate that controlled the insurer at the time the distributions were made paid shall be liable up to the amount of value of distributions it received. Any person who was an affiliate that controlled the insurer at the time the distributions were declared shall be liable up to the amount of distributions he would have received if he had been paid some other amount. Any persons who are liable with respect to the same distributions shall be jointly and severally liable.

4. The maximum amount recoverable under this section shall be the amount needed in excess of all other available assets of the insolvent insurer to pay the contractual obligations of the insolvent insurer.

5. If any affiliate person liable under subsection (3) is insolvent, all its affiliates that controlled it at the time the dividend was paid shall be jointly and severally liable for any resulting deficiency in the amount recovered from the insolvent affiliate.

Section 30 Subsection (9) of section 631.54, Florida Statutes, 1982 Supplement, is amended to read:

631.54 Definitions -- As used in this part:

9. "Expenses in handling claims" means allocated and unallocated expenses, including, but not limited to, general administrative expenses and those expenses which relate to the investigation, adjustment, defense, or settlement of specific claims under, or arising out of, a specific policy.

Section 31 Subsection (4) of section 631.60, Florida Statutes, 1982 Supplement, is amended to read:

631.60 Effect of paid claims --

4. Any release of the Florida Insurance Guaranty Association and its insured must clearly state whether or not it waives any claim filed with the receiver in excess of the association's liability.
under s. 631.57 in the event chapter 79-90, laws of Florida; in good faith believe to be unconstitutional; covered claims paid under chapter 71-970; laws of Florida; shall not be recoverable under chapter 70-28.

Section 32. Subsections (3) and (6) of section 631.62, Florida Statutes, are hereby repealed.

Section 33. Section 631.68, Florida Statutes, 1982 Supplement, is amended to read:

631 68 Limitation, certain actions.—Notwithstanding any other provision of chapter 71-970, laws of Florida; A covered claim as defined herein with respect to which settlement is not effected and suit is not instituted against the insured of an insolvent insurer or under s. 631.57, if the event chapter 62-99, laws of Florida; A covered claim as defined herein with respect to which settlement is not effected and suit is not instituted against the insured of an insolvent insurer shall thenceforth be barred as a claim against the association and the insured.

Section 34. Paragraph (d) is added to subsection (5) of section 95 11, Florida Statutes, to read:

95 11 Limitations other than for the recovery of real property.—Actions other than for recovery of real property shall be commenced as follows.

(5) WITHIN ONE YEAR.—

(d) An action against any guaranty association and its insured for the purpose of meeting administrative costs and other general expenses and for examinations conducted under the authority of s. 631.723(2) which are not related to a particular impaired or insolvent insurer.

Section 35. Paragraph (a) of subsection (2) of section 631.718, Florida Statutes, 1982 Supplement, is amended to read:

631 718 Assessments --

(2) There shall be three classes of assessments, as follows:

(a) Class A assessments shall be made by the board of directors and shall be used for the purpose of meeting administrative costs and other general expenses and for examinations conducted under the authority of s. 631.723(2) which are not related to a particular impaired or insolvent insurer.

Section 36. Section 631 723, Florida Statutes, 1982 Supplement, is amended to read:

631 723 Prevention of insolvencies -- To aid in the detection and prevention of insurer insolvencies or impairments.

(4) It shall be the duty of the department—

(a) To report to the board of directors when it has reasonable cause to believe from any examination, whether completed or in progress, of any member insurer that such insurer may be an impaired or insolvent insurer.

(b) To furnish to the board of directors any available NAIC Early Warning Tests developed by the National Association of Insurance Commissioners. The board may use the information contained therein carrying out its duties and responsibilities under this section. Such report and the information contained therein shall be kept confidential by the board of directors until such time as it is made public by the department or by any other lawful authority.

(2) The department may seek the advice and recommendations of the board of directors concerning any matter affecting the department's duties and responsibilities regarding the financial condition of member companies and companies seeking admission to transact insurance business in this state.

(1) The board of directors may, upon majority vote, make reports and recommendations to the department upon any matter germane to the solvency, liquidation, rehabilitation, or conservation of any member insurer or germane to the solvency of any company seeking to do an insurance business in this state. Such reports and recommendations shall be confidential and exempt from the provisions of s. 119.07(1).

(2) It shall be the duty of the board of directors, upon a majority vote, to notify the department of any information indicating any member insurer may be an impaired or insolvent insurer.

(3) The board of directors may, upon majority vote, request that the department order an examination of any member insurer which the board in good faith believes may be an impaired or insolvent insurer. Within 30 days of the receipt of such request, the department shall begin such examination. The examination may be conducted as a National Association of Insurance Commissioners examination. The examination may be conducted by such persons as the Insurance Commissioner designates. The cost of such examination shall be paid by the association, and the examination report shall be treated in a manner similar to other examination reports. In no event shall such examination report be released to the board of directors prior to its release to the public, but this shall not preclude the department from complying with s. 631.398(2). The department shall notify the board of directors when the examination is completed. The request for an examination shall be kept on file by the department, but it shall not be open to public inspection prior to the release of the examination report to the public.

(4) The board of directors may, upon majority vote, make recommendations to the department for the detection and prevention of insurer insolvencies.

(7) The board of directors shall, at the conclusion of any insurer insolvency proceeding in which the association was obligated to pay covered claims, prepare a report to the department containing such information in its possession relating to the history and causes of such insolvency. The board shall cooperate with the boards of directors of guaranty associations in other states in preparing a report on the history and causes for insolvency of a particular insurer and may adopt by reference any report prepared by such other associations.

Section 37. Subsection (1) of section 651.071, Florida Statutes, is amended to read:

651 071 Agreements as preferred claims on liquidation --
Be It Enacted by the Legislature of the State of Florida

Section 1 Section 48 183, Florida Statutes, is amended to read:

48 183: Service of process in action for possession of residential premises --

(1) In an action for possession of residential premises under s 88 59, if neither the tenant nor a person residing therein who is of the tenant's family 15 years of age or older can be found at the usual place of residence of the tenant, after at least two attempts to obtain personal service, summons may be served by attaching a copy
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<th>TAPE 1 OF 2</th>
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<tbody>
<tr>
<td>PCB 83-21</td>
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<td>PCB 83-145</td>
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Subcommittee on Property and Casualty Insurance March 29, 1983

HB 213
PCB 83-4
PCB 83-19
PCB 83-21
PCB 83-23
PCB 83-24
PCB 83-29
PCB 83-22
SUMMARY OF HB 1043
INSURANCE INSOLVENCY

THE BILL SUBSTANTIALLY REVISES CHAPTER 631, RELATING TO INSURANCE COMPANY INSOLVENCIES AND GUARANTY OF PAYMENT. IN ADDITION TO MANY TECHNICAL CHANGES, SUBSTANTIVE CHANGES ARE ALSO MADE, PRIMARILY TO CONFORM TO THE MODEL BILL ADOPTED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.

THIS BILL IS INTENDED TO INCREASE THE ABILITY OF THE DEPARTMENT OF INSURANCE TO DETECT FINANCIAL PROBLEMS OF INSURERS, TO INCREASE THE EFFICIENCY AND PREDICTABILITY OF SETTLING CLAIMS, AND TO INCREASE COOPERATION WITH OTHER STATES.

SPECIFICS OF MAJOR CHANGES:

1. SECTION 631.41 PROVIDES THE DEPARTMENT OF INSURANCE WITH VARIOUS POWERS AND DUTIES WHEN IT IS APPOINTED IN A DELINQUENCY PROCEEDING AS A RECEIVER FOR A DOMESTIC INSURER, SUCH AS THE ADMINISTRATION OF ALL OF THE ASSETS OF THE INSURER. THE BILL ADDS TO THESE POWERS, INCLUDING AUTHORIZING THE DEPARTMENT TO HAVE ALL THE POWERS OF DIRECTORS, OFFICERS, AND MANAGERS; TO HIRE AND DISCHARGE EMPLOYEES; AND TO PREPARE PLANS FOR REORGANIZATION, MERGER, OR OTHER TRANSFORMATION OF THE INSURER; SUBJECT TO THE APPROVAL OF THE APPOINTING COURT AFTER NOTICE AND HEARING (PAGE 11, LINE 17).

2. A SIGNIFICANT CHANGE FROM PRESENT LAW IS THE PROVISION FOR A CLAIM HEARING ONLY WHEN A CLAIMANT OBJECTS TO THE RECOMMENDATION IN THE RECEIVER'S REPORT. PRESENTLY, A HEARING IS REQUIRED FOR ALL CLAIMS (PAGE 19, LINE 27).
3. One of the most significant provisions in this bill is the substantial revision of s. 631.271, setting forth the priority of distribution of claims from the insurer's estate, which is in substantial conformity with the Uniform Act. Eight classes of claims are established in the following order: (1) receiver's expenses of administration and expenses of a guaranty association; (2) wages to employees (with the $1,000 cap per employee raised to $2,000 and the 90-day period increased to 6 months); (3) claims under policies; (4) claims for unearned premium refunds; (5) governmental claims; (6) claims filed late; (7) surplus or contribution notes; and (8) shareholder claims (Page 26, Line 12).

4. Presently, s. 631.68 provides that claims against an insolvent insurer through the Florida Insurance Guaranty Association (FIGA) are barred unless instituted within one year after the date of the deadline for filing claims in the order for liquidation. As amended, this limitation also applies to claims against the insured. The statute of limitations section, s. 95.11, is also amended to reflect this amendment (Page 35, Line 15).
I. SUMMARY:

A. Present Situation:

Chapter 631, Florida Statutes, is divided into three parts. Part I, Insurer Insolvency; Rehabilitation and Liquidation, establishes the procedures for the Department of Insurance to detect potentially dangerous financial conditions of insurers and to take corrective action. Primary areas of concern in this part are the powers of the department, the priority of claims, and methods of enhancing cooperation with other states.

Part II, Florida Insurance Guaranty of Payments, creates a guaranty association to provide for the payment of claims of insolvent property and casualty insurers.

Part III, Life and Health Insurance Guaranty of Payments, creates a guaranty association for the payment of claims of insolvent life and health insurers.

B. Effect of Proposed Changes:

This bill substantially revises chapter 631, Florida Statutes. The bill is largely a technical rewrite intended to rearrange provisions in a more logical manner in order to make the chapter more easily understandable. Many substantive changes are also made, primarily to conform to the model bill adopted by the National Association of Insurance Commissioners (NAIC).

The major substantive provisions are as follows:

1. Section 631.141, provides the department with various powers and duties when it is appointed as a receiver in a delinquency proceeding for a domestic insurer, such as the administration of all of the insurer's assets. This bill adds to these powers by authorizing the department to (1) have all the powers of directors, officers, and managers; (2) hire and discharge employees; and (3) prepare plans for reorganization, merger, or other transformation of the insurer, subject to the approval of the appointing court after notice and hearing.

2. Sections 631.161 and 631.171, relating to the procedure for filing claims during a delinquency proceeding are revised. These revisions are largely technical except for the controverted claim notice requirement. In the event a Florida claimant files a claim with the department as ancillary receiver, the amendment requires the department to notify the domiciliary state of the claim and any hearing, as opposed to present law which requires the claimant to give such notice.

3. Section 631.181, is substantially revised and 631.182 is created, providing additional procedures for the filing and proof of claims against an insurer in a delinquency proceeding.
Section 631.181(2) requires claims to contain more specific information than present law requires. Section 631.181(1) provides the grounds for the court to permit the late filing of a claim after the time provided in the notice given by the receiver. These provisions are from the NAIC uniform act.

In addition, current law requires that a hearing is required for all claims. This bill provides for a claim hearing only when a claimant objects to the recommendation in the receiver's report.

4. Section 631.193 is created relating to the release of liability of an insured when a third party claimant files a claim in a delinquency proceeding. This section specifies that the release from liability is only to the extent of the policy limits provided by the insolvent insurer, and is conditioned upon the insured's cooperation with the receiver in the defense of the claim.

5. Section 631.220 is created providing that all reinsurance proceeds to which the insolvent insurer is a party are to be paid directly to the domiciliary receiver as general assets unless the reinsurance contract specifically names the insolvent insurer's insured as a direct beneficiary.

6. Section 631.252 is amended to provide that upon liquidation, all insurance policies issued by the insolvent insurer shall continue in force for 45 days, instead of the current 30 days, in order to allow more time for replacement. However, there is an exception created for life and health policies covered by the Florida Life and Health Guaranty Association which continue in force as provided in section 631.717.

7. Section 631.271 sets forth the priority of distribution of claims from the insurer's estate. This is in substantial conformity with the NAIC Uniform Act. Eight classes of claims are established in the following order: (1) receiver's expenses of administration and expenses of a guaranty association; (2) certain wages to employees; (3) claims under policies; (4) claims for unearned premium refunds; (5) governmental claims; (6) claims filed late; (7) surplus or contribution notes; and (8) shareholder claims. Equal protection is provided for claims by residents of reciprocal states.

8. Currently, section 631.341 requires the receiver (department), immediately after appointment in delinquency proceedings, to give written notice of such proceedings to each agent of the insurer in Florida. This bill requires the receiver to give such notice only if the insurance policies have been cancelled.

9. Section 631.391 is amended to provide the department with prompt access of the data processing facilities and records of the insurer. Also, the maximum fine is raised from $5,000 to $10,000 for persons who control any segment of the insurer's affairs who fail to cooperate in the conduct of delinquency proceedings.

10. Section 631.398 is created relating to the prevention of insolvencies. Reports and recommendations from certain persons on behalf of a guaranty association to the department upon any matter germane to the solvency, liquidation, rehabilitation, or conservation of an insurer shall be confidential and exempt from the Public Records Law. Also, the department rather than the guaranty association must prepare a summary report at the conclusion of an insolvency proceeding.
11. Section 631.732 is renumbered as section 631.399 and amended, relating to the receiver's right to recover distributions made to affiliate organizations. The requirement that an affiliate be a "controlling" affiliate before the receiver can recover prepetition transfers that were made in an unlawful and unreasonable manner is eliminated. Also, the affiliate has the burden of showing that the transfers were lawful and reasonable.

12. Section 631.60 is amended to require that any release of the Florida Insurance Guaranty Association and its insured must clearly state whether it waives any claim filed with the receiver in excess of FIGA's liability under section 631.57.

13. Currently, section 631.68 provides that claims against an insolvent insurer through FIGA are barred unless instituted within one year after the date of the deadline for filing claims in the order for liquidation. This bill also applies the limitation to claims against the insured. This change is also reflected in the statute of limitation section, section 95.11.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

The provisions of this bill are intended to increase the Department of Insurance's ability to detect financial problems of insurers, to increase the efficiency and predictability of settling claims of insolvent insurers, and to increase cooperation with reciprocal states. As a result, the policyholders in Florida and in reciprocal states are afforded greater protection in the event they are insured by a company that incurs financial problems.

B. Government:

As stated above, the department's power and authority to deal with financially troubled insurers is enhanced. A spokesman from the department has indicated that there will be no significant impact on the department as a result of this bill.

III. COMMENTS:

IV. AMENDMENTS:
I. SUMMARY:

A. Present Situation:

Chapter 631, Florida Statutes, is divided into three parts. Part I, Insurer Insolvency; Rehabilitation and Liquidation, establishes the procedures for the Department of Insurance to detect potentially dangerous financial conditions of insurers and to take corrective action. Primary areas of concern in this part are the powers of the department, the priority of claims, and methods of enhancing cooperation with other states.

Part II, Florida Insurance Guaranty of Payments, creates a guaranty association to provide for the payment of claims of insolvent property and casualty insurers.

Part III, Life and Health Insurance Guaranty of Payments, creates a guaranty association for the payment of claims of insolvent life and health insurers.

B. Effect of Proposed Changes:

This bill substantially revises chapter 631, Florida Statutes. The bill is largely a technical rewrite intended to rearrange provisions in a more logical manner in order to make the chapter more easily understandable. Many substantive changes are also made, primarily to conform to the model bill adopted by the National Association of Insurance Commissioners (NAIC).

The major substantive provisions are as follows:

1. Section 631.141, provides the department with various powers and duties when it is appointed as a receiver in a delinquency proceeding for a domestic insurer, such as the administration of all of the insurer's assets. This bill adds to these powers by authorizing the department to (1) have all the powers of directors, officers, and managers; (2) hire and discharge employees; and (3) prepare plans for reorganization, merger, or other transformation of the insurer, subject to the approval of the appointing court after notice and hearing.

2. Sections 631.161 and 631.171, relating to the procedure for filing claims during a delinquency proceeding are revised. These revisions are largely technical except for the controverted claim notice requirement. In the event a Florida claimant files a claim with the department as ancillary receiver, the amendment requires the department to notify the domiciliary state of the claim and any hearing, as opposed to present law which requires the claimant to give such notice.

3. Section 631.181, is substantially revised and 631.182 is created, providing additional procedures for the filing and proof of claims against an insurer in a delinquency proceeding.
Section 631.181(2) requires claims to contain more specific information than present law requires. Section 631.181(1) provides the grounds for the court to permit the late filing of a claim after the time provided in the notice given by the receiver. These provisions are from the NAIC uniform act.

In addition, current law requires that a hearing is required for all claims. This bill provides for a claim hearing only when a claimant objects to the recommendation in the receiver's report.

4. Section 631.193 is created relating to the release of liability of an insured when a third party claimant files a claim in a delinquency proceeding. This section specifies that the release from liability is only to the extent of the policy limits provided by the insolvent insurer, and is conditioned upon the insured's cooperation with the receiver in the defense of the claim.

5. Section 631.220 is created providing that all reinsurance proceeds to which the insolvent insurer is a party are to be paid directly to the domiciliary receiver as general assets unless the reinsurance contract specifically names the insolvent insurer's insured as a direct beneficiary.

6. Section 631.252 is amended to provide that upon liquidation, all insurance policies issued by the insurer shall continue in force for 45 days, instead of the current 30 days, in order to allow more time for replacement. However, there is an exception created for life and health policies covered by the Florida Life and Health Guaranty Association which continue in force as provided in section 631.717.

7. Section 631.271 sets forth the priority of distribution of claims from the insurer's estate. This is in substantial conformity with the NAIC Uniform Act. Eight classes of claims are established in the following order: (1) receiver's expenses of administration and expenses of a guaranty association; (2) certain wages to employees; (3) claims under policies; (4) claims for unearned premium refunds; (5) governmental claims; (6) claims filed late; (7) surplus or contribution notes; and (8) shareholder claims. Equal protection is provided for claims by residents of reciprocal states.

8. Currently, section 631.341 requires the receiver immediately after appointment in delinquency proceedings, to give written notice of such proceedings to each agent of the insurer in Florida. This bill requires the receiver to give such notice only if the insurance policies have been cancelled.

9. Section 631.391 is amended to provide the department with prompt access of the data processing facilities and records of the insurer. Also, the maximum fine is raised from $5,000 to $10,000 for persons who control any segment of the insurer's affairs who fail to cooperate in the conduct of delinquency proceedings.

10. Section 631.398 is created relating to the prevention of insolvencies. Reports and recommendations from certain persons on behalf of a guaranty association to the department upon any matter germane to the solvency, liquidation, rehabilitation, or conservation of an insurer shall be confidential and exempt the Public Records Law. Also, the department rather than the guaranty association must prepare a summary report at the conclusion of an insolvency proceeding.
11. Section 631.732 is renumbered as section 631.399 and amended, relating to the receiver's right to recover distributions made to affiliate organizations. The requirement that an affiliate be a "controlling" affiliate before the receiver can recover prepetition transfers that were made in an unlawful and unreasonable manner is eliminated. Also, the affiliate has the burden of showing that the transfers were lawful and reasonable.

12. Section 631.60 is amended to require that any release of the Florida Insurance Guaranty Association and its insured must clearly state whether it waives any claim filed with the receiver in excess of FIGA's liability under section 631.57.

13. Currently, section 631.68 provides that claims against an insolvent insurer through FIGA are barred unless instituted within one year after the date of the deadline for filing claims in the order for liquidation. This bill also applies the limitation to claims against the insured. This change is also reflected in the statute of limitation section, section 95.11.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

The provisions of this bill are intended to increase the Department of Insurance's ability to detect financial problems of insurers, to increase the efficiency and predictability of settling claims of insolvent insurers, and to increase cooperation with reciprocal states. As a result, the policyholders in Florida and in reciprocal states are afforded greater protection in the event they are insured by a company that incurs financial problems.

B. Government:

As stated above, the department's power and authority to deal with financially troubled insurers is enhanced. A spokesman from the department has indicated that there will be no significant impact on the department as a result of this bill.

III. COMMENTS:

IV. AMENDMENTS:

#1 by Commerce - Technical amendment.
#2 by Commerce - Technical amendment.
#3 by Commerce - Technical amendment.
#4 by Commerce - Technical amendment - corrects a cross reference.
#5 by Commerce - Technical amendment - corrects a cross reference.
#6 by Commerce - Technical amendment - corrects a cross reference.
#7 by Commerce - Title amendment.
Full Commerce Committee Meeting, 1:30 PM, April 5, 1983, 21 HOB:

1:41 PM Meeting opens.

PCB 83-21 taken up.

1:45 PM Bill Bell, Fla. Hospital Ass'n. speaks on PCB 83-21.

Susan Reynolds, Univ. of Miami, Jackson Memorial Hospital, speaks on PCB 83-21.

1:52 PM George S. Palmer, Fla. Medical Ass'n. introduces Dr. Bernard L. Morgan, Jacksonville, FMA (he is a Plastic Surgeon). Dr. Morgan spoke in opposition to PCB 83-21.

1:56 PM Dr. Richard Glatzer, Dade Co. Medical Ass'n., spoke to PCB 83-21.

2:07 PM Dr. Pat McCann, Dade Co. Medical Ass'n., speaks to PCB 83-21.

Daniel Miller, representing Florida AFL-CIO spoke to PCB 83-21.


Jack Herzog, DOI, speaks on PCB 83-21.


2:25 PM Mary Ann Stiles representing: Medical Ass'n. as General Counsel & Associated Industries of Fla. as GC, spoke to PCB 83-21. She stated that there has been a Statewide Fee Schedule since 1935.

2:28 PM Commissioner Bill Gunter speaks in support of PCB 83-21.

Rep. Simon offers an amendment (#1) -- it fails.

Vote taken on PCB 83-21 -- Bill passes.

2:40 PM PCS/HB 145 taken up -- presented by Rep. Hawkins

Vote taken on PCB/HB 145 -- Bill passes unanimously.

2:44 PM PCB 83-1 taken up.
Amendment #1 offered by Rep. Meffert -- adopted.


Amendment #1 to Amendment #2 offered -- adopted.

Amendment #2 to Amendment #2 offered by Rep. Gallagher -- adopted.

Title amendment offered -- adopted without objection.

Vote taken on PCB 83-1 -- Bill passes unanimously.

2:55 PM PCB 83-26 taken up -- presentation by Mr. Meffert.

Amendment #1 offered by Mr. Unchurch -- adopted without objection.

Vote taken on PCB 83-26 -- Bill passes unanimously.

PCB 83-27 taken up.

Vote taken on PCB 83-27 -- Bill passes unanimously.
Commerce Committee Meeting, 1:30 PM, April 5, 1983, 21 HOB:

PCB 83-11 taken up.

Amendments Nos. 1, 2, 3, & 4 offered by Mr. Lehtinen -- all are adopted without objection. Title amendments to be prepared by Commerce Staff.

Vote taken on PCB 83-11 -- Bill passes unanimously.

PCB 83-12 taken up.

Amendments Nos. 1, 2, 3, & 4 offered -- all adopted without objection.

Vote on PCB 83-12 taken -- Bill passes unanimously.

PCB 83-13 taken up.

Amendments Nos. 1 & 2 offered by Mr. Lehtinen -- both adopted without objection.

Vote taken on PCB 83-13 -- Bill passes unanimously.

3:02 PM PCB 83-17 taken up.

Vote on PCB 83-17 taken -- Bill passes unanimously.

3:05 PM HB 213 taken up.

Vote taken -- bill passes.

PCB 83-4 taken up.

Amendments 1-4 offered -- passed.

Vote taken -- bill passes with 4 amendments.

3:12 PM PCB 83-6 -- TP'd.

TAPE 2 - SIDE A BEGAN

PCB 83-8 taken up.

The following spoke to the bill:

Wilbur Jones, Lobbyist, spoke as a proponent for the bill.

Jack Herzog, D.O.I., spoke to bill. He also had a hand-out to Committee.

Rep. Ogden questions Chairman and Mr. Jones.

Jim Wade, American Mortgage Ins. Co. & Mortgage Ins. Cos. of America, spoke regarding "contingency reserve".

Rep. Ogden questions Mr. Wade.

Rep. Simon questions Mr. Jones.

3:40 PM PCB 83-23 taken up (Rep. Gardner)


Amendments 1-5 offered and adopted.

Vote taken on PCB 83-23 -- bill passes with 5 amendments.

Vote taken -- bill passes.

3:50 PM PCB 83-29 taken up.

4:00 PM TAPE 2 - SIDE B BEGAN.

PCB 83-29 discussion continued.

Vote taken -- bill passes with 1 amendment.

PCB 83-6 taken up.

Vote taken on PCB 83-6 -- bill passes with 2 amendments.

4:10 PM RISE.
CHAPTER 631
INSURANCE GUIDE: INSURER INSOLVENCY, GUARANTY OF PAYMENT
PART I INSURER INSOLVENCY; REHABILITATION AND LIQUIDATION
(ss. 631.001-631.197)
PART II FLORIDA INSURANCE GUARANTY OF PAYMENTS
( ss. 631.200-631.700)
PART III LIFE AND HEALTH INSURANCE GUARANTY OF PAYMENTS
( ss. 631.710-631.735)

PART I
INSURER INSOLVENCY;
REHABILITATION AND LIQUIDATION

631.001 Title, construction and purpose. —
(1) Part I of chapter 631, the "Insurance Rehabilitation and Liquidation Act."
(2) This part shall not be interpreted to limit the powers granted the Department of Insurance by other provisions of the law.
(3) This part shall be liberally construed to effect the purpose stated in subsection (4).
(4) The purpose of this part is the protection of the interests of insureds, creditors, and the public generally, through:

(a) Early detection of any potentially dangerous condition in an insurer and prompt application of appropriate corrective measures which are neither unduly harsh nor subject to unwarranted publicity needlessly damaging to the insurer;
(b) Enhanced efficiency and economy of liquidation through clarification and specification of the law to minimize legal uncertainty and litigation;
(c) Equitable apportionment of any unavoidable loss;
(d) Lessening the problems of interstate rehabilitation and liquidation by facilitating cooperation between states in the liquidation process and by extension of the scope of personal jurisdiction over debtors of the insurer outside this state.

History. — s. 1, ch. 70-77; s. 1, ch. 70-439.

631.011 Definitions.—For the purpose of this part:
(1) "Liabilities" as used in subsections (3)-(5) means only allowed assets as defined in chapter 625.
(2) "Liabilities" as used in subsections (3)-(5) means all liabilities, including those specifically required in s. 625.041.
(3) "Impairment of surplus" means that the surplus of a stock insurer, the additional surplus of a mutual or reciprocal insurer, or the additional net trust fund of a business trust insurer does not comply with the requirements of s. 624.406(3).
(4) "Impairment of capital" means that the minimum surplus required to be maintained in s. 624.406(3) has been dissipated and the insurer is not possessed of assets at least equal to all its liabilities together with its total

631.012 Uniform Insurer Liquidation Act —
(1) Subsections (2)-(13) inclusive, of s. 631.011, together with ss. 621.001-621.441 and 631.001-631.211 constitute and may be referred to as the Uniform Insurer Liquidation Act.
(2) The Uniform Insurer Liquidation Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it. To the extent that the Insurer Rehabilitation and Liquidation Act of Uniform Insurer Liquidation Act its provisions when applicable, the provisions of such act shall control.

History. — s. 1, ch. 70-77; s. 1, ch. 70-439.

Section 631.211 was redesignated subsection (5) of section 631.001 for editorial purposes. No substantive changes were intended.

Reason:

Reason:

To recognize existence of third party claimants under current law (Uniform Act). Not a substantive change.

(b) Improved methods for rehabilitating insurers, involving the cooperation and management expertise of the insurance industry.

Reason:

To emphasize the rehabilitation provisions of the chapter. Not a substantive change. (Uniform Act)

(u)
the association at any ground of action as to any covered claims; provided that such stay may be extended for a period of time greater than 6 months upon proper application to a court of competent jurisdiction. The association, either on its own behalf or on behalf of such insured, may apply to have any judgment, order, decision, verdict, or finding set aside by the same court or administrator that made such judgment, order, decision, verdict, or finding and shall be permitted to defend against such claim on the merits. If request is made by the association, the stay of proceedings may be shortened or waived.

History.--s. 18, ch. 70-20; s. 18, ch. 71-970; s. 5, ch. 77-227; s. 2, ch. 80-26.

631.68 Limitations; certain actions. -- Notwithstanding any other provision of this chapter, any covered claim as defined herein with respect to which settlement is not effected and suit is not instituted against the insured of an insolvent insurer or the association within 1 year after the deadline for filing claims, or any extension thereof, with the receiver of the insolvent insurer shall thereafter be barred as a claim against the association.

History.--s. 19, ch. 71-970; s. 6, ch. 77-227.

631.70 Attorney's fees. -- The provisions of s. 627.428 providing for an attorney's fee shall not be applicable to any claim presented to the association under the provisions of this part, except when the association denies by affirmative action, other than delay, a covered claim or a portion thereof.

History.--s. 7, ch. 77-227.

PART III
LIFE AND HEALTH INSURANCE
GUARANTY OF PAYMENTS

631.711 Short title. -- This part may be cited as the "Florida Life and Health Insurance Guaranty Association Act."

History.--s. 1, cn. 79-189.

631.712 Purpose; construction. -- The purpose of this part is to protect policyowners, insureds, beneficiaries, annuitants, payees, and assignees of life insurance policies, health insurance policies, annuity contracts, and supplemental contracts, subject to certain limitations, against the failure of an insurer issuing such policies or contracts to perform its contractual obligations due to its impairment or insolvency, and this part shall be liberally construed to carry out its purpose.

History.--s. 2, ch. 79-189.
Subcommittee on Property & Casualty Insurance

Meeting Time 8:30 a.m. - 3-29-83
Place Room 24 HOB

Referred to Subcommittee on

Subcommittee report:

favorable
✓ favorable with 4 amendments

Committee Action:

Temporarily passed
✓ Reconsidered
✓ favorable with 4 amendments
✓ favorable with committee substitute
unfavorable

Final vote on bill

<table>
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<tr>
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<td>Hazouri, Thomas</td>
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<td>Johnson, Ron</td>
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<td>McEwan, Bruce</td>
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<td>Pajcic, Steve</td>
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<td>Thompson, J. H.</td>
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<td>Williams, Frank</td>
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<td>Gustafson, Tom</td>
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(Chairman)

TOTALS

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Bill No. 83-28

Date received

Date Reported

Bill Action Record

Commerce Committee
Committee Information Record

Committee on Commerce

Date of meeting 4/5/83
Time 1:00 p.m.
Place 21 HOB

Final Action: X FAVORABLE

FAVORABLE WITH AMENDMENTS
FAVORABLE WITH SUBSTITUTE
UNFAVORABLE

Vote:

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<tr>
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<td>X</td>
<td>Rep. Abrams</td>
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<td>Rep. M.E. Hawkins</td>
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<td>X</td>
<td>Rep. Meffert</td>
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Total Yea 18
Total Nays 0

Chairman

Committee Appearance Record

The following persons (other than legislators) appeared before the committee during the consideration of this bill:

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<tr>
<th>Name</th>
<th>Representing</th>
<th>Address</th>
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NOTE: Please indicate by an "X" any State employee appearing at the request of Committee Chairman.

(If additional persons, enter on reverse side and check here)
A bill to be entitled
An act relating to insurance; amending s. 631.001, Florida Statutes, 1982 Supplement, and transferring thereto and amending s. 631.211, Florida Statutes, 1982 Supplement; revising short title, purpose, and construction provisions under part I of chapter 631, the Insurers Rehabilitation and Liquidation Act; amending s. 631.011, Florida Statutes, 1982 Supplement; revising and clarifying definitions; amending s. 631.021(4), Florida Statutes, 1982 Supplement; providing for notice to the Florida Life and Health Guaranty Association of hearings relating to insolvency of a member insurer; amending ss. 631.041(1), 631.061(2), 631.091 and 631.111(1), Florida Statutes, 1982 Supplement; clarifying language; adding subsections (7) and (8) to s. 631.141, Florida Statutes, 1982 Supplement; providing powers of the Department of Insurance as domiciliary receiver with respect to the insurer; amending ss. 631.161 and 631.171, Florida Statutes, 1982 Supplement; providing for claims of nonresidents against insurers domiciled in this state and claims of Florida residents against insurers domiciled in reciprocal states; amending s. 631.181, Florida Statutes, 1982 Supplement; providing requirements for filing proof of claim; providing for late filings; creating s. 631.182, Florida Statutes; providing for report
by the receiver on claims to the court;
providing for notice to claimants and for
hearings on objections; amending s. 631.191,
Florida Statutes, 1982 Supplement; clarifying
language and providing for determination of
value of security held by a secured creditor;
creating s. 631.192, Florida Statutes;
providing for allowance of certain claims;
creating s. 631.193, Florida Statutes;
providing that filing of a claim constitutes a
release of the insured from liability to the
claimant, providing limits and conditions;
creating s. 631.205, Florida Statutes;
providing for disposition of reinsurance
proceeds; amending ss. 631.221, 631.251, and
631.263(4), Florida Statutes, 1982 Supplement;
clarifying and correcting language; amending s.
631.252, Florida Statutes, 1982 Supplement;
extending the coverage continuation period,
providing for continuation with respect to
policies as defined under the Florida Life and
Health Insurance Guaranty Association Act;
amending s. 631.271, Florida Statutes, 1982
Supplement; providing for priority of claims
and limitations thereon; adding subsection (3)
to s. 631.281, Florida Statutes, 1982
Supplement; providing rights of an agent who
pays the unearned portion of premium to a
policyholder with respect to the policyholder's
claim against the receiver; repealing ss.
631.291, 631.301, and 631.351, Florida
Statutes, 1982 Supplement, relating to allowance of certain claims, time to file claims, and summary proceedings; amending s. 631.341, Florida Statutes, 1982 Supplement; providing for notification by the receiver to agents of an insurer of delinquency proceedings against the insurer where policies have been canceled; revising a penalty thereunder; amending s. 631.391, Florida Statutes, 1982 Supplement; revising provisions relating to cooperation with the department of officers and employees of an insurer; specifically including employees and independent contractors; providing for access to data processing facilities and records; increasing a penalty thereunder; amending s. 631.395, Florida Statutes, 1982 Supplement; providing for authorization for the department to provide data processing services for any appropriate guaranty fund; creating s. 631.398, Florida Statutes; providing duties of insurers, agents, employees, board members, and the department with regard to prevention of insolvencies; renumbering and amending s. 631.732, Florida Statutes, 1982 Supplement; revising provisions relating to receiver's right to recover distributions made to affiliates; eliminating the requirement that the affiliate be a controlling affiliate; amending s. 631.54(9), Florida Statutes, 1982 Supplement; revising the definition of "expenses in handling claims"
under the Florida Insurance Guaranty
Association Act; amending s. 631.60(4), Florida
Statutes, 1982 Supplement; requiring that a
release of the association must include a
statement regarding waiver of certain claims;
repealing s. 631.6213(3) and (6), Florida
Statutes, 1982 Supplement, relating to certain
duties of the department and board of directors
regarding prevention of insolvencies; amending s.
631.60, Florida Statutes, 1982 Supplement,
and adding paragraph (d) to s. 95.113(9),
Florida Statutes, specifying limitation on
certain action against a guaranty association
and the insured; amending s. 631.72(2)(a),
Florida Statutes, 1982 Supplement; correcting a
cross reference; amending s. 631.72(4), Florida
Statutes, 1982 Supplement; relating to prevention of insolvencies;
amending s. 631.071(1), Florida Statutes;
correcting a cross reference; adding paragraph
(s) to s. 20.13(2), Florida Statutes; creating
the Division of Rehabilitation and Liquidation
within the Department of Insurance; providing
for review and repeal under the Regulatory
Sunset Act; providing an effective date.

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

Section 1. Section 631.001, Florida Statutes, 1982
Supplement, is amended, and section 631.211, Florida Statutes,

CODING Words in red through type are deletions from existing law. Words underlined are additions.
1982 Supplement, is transferred to said section and amended to read:

631.001 Title, construction, and purpose.--

(1) This part constitutes and may be cited as the "Insurers Rehabilitation and Liquidation Act."

(2) This part shall not be interpreted to limit the powers granted the Department of Insurance by other provisions of the law.

(3) This part shall be liberally construed to effect the purpose stated in subsection (4).

(4) The purpose of this part is the protection of the interests of insureds, creditors, and the public generally, through:

(a) Early detection of any potentially dangerous condition in an insurer and prompt application of appropriate corrective measures which are neither unduly harsh nor subject to unwarranted publicity needlessly damaging to the insurer;

(b) Improved methods for rehabilitating insurers, involving the cooperation and management expertise of the insurance industry;

(c) Enhanced efficiency and economy of liquidation through clarification and specification of the law to minimize legal uncertainty and litigation;

(d) Equitable apportionment of any unavoidable loss; and

(e) Lessening the problems of interstate rehabilitation and liquidation by facilitating cooperation between states in the liquidation process and by extension of the scope of personal jurisdiction over debtors of the insurer outside this state.

631.211 Uniform-Insurers-Liquidation-Act--
Section 631.011, Florida Statutes, 1982

1:105 The Uniform Insurers Rehabilitation and
Liquidation Act shall be so interpreted and construed as to
effectuate its general purpose to make uniform the law of
those states, which in substance and effect enact the
Insurers Rehabilitation and Liquidation Act. To the extent
that the Insurers Rehabilitation and Liquidation Act
provisions applicable conflict with other provisions of
this chapter the provisions of such act shall control.

Section 631.011, Florida Statutes, 1982

1:106 Supplement, is amended to read:

(1) Definitions.—For the purpose of this part:

(1) "Assets" as used in subsections (3)-(5) means only
allowed assets as defined in chapter 625.

(2) "Liabilities" as used in subsections (3)-(5) means
all liabilities, including those specifically required in s.
625.041.

(3) "Impairment of surplus" means that the surplus of
a stock insurer, the additional surplus of a mutual or
reinsurance, or the additional net trust fund of a
business trust insurer does not comply with the requirements
of s. 624.408(3).

(4) "Impairment of capital" means that the minimum
surplus required to be maintained in s. 624.408(3) has been
dissipated and the insurer is not possessed of assets at least
equal to all its liabilities together with its total issued
and outstanding capital stock, if a stock insurer, or the

CODING Words in struck through type are deletions from existing law. Words underlined are additions.
minimum surplus or net trust fund required by s. 624.407, if
a mutual, reciprocal, or business trust insurer.

(5) "Insolvency" means that all the assets of the
insurer, if made immediately available, would not be
sufficient to discharge all its liabilities; or that the
insurer is unable to pay its debts as they become due in the
usual course of business. When the context of any provision of
this code so indicates, insolvency shall also include and be
defined as "impairment of surplus" as defined in subsection
(3) and "impairment of capital" as defined in subsection (4).

(6) "Insurer," in addition to persons so defined under
s. 624.03, includes also persons purporting to be insurers or
organizing, or holding themselves out as organizing, in this
state for the purpose of becoming insurers and all insurers
who have insureds resident in this state.

(7) "Delinquency proceedings" means any proceeding
commenced against an insurer pursuant to this chapter for the
purpose of liquidating, rehabilitating, reorganizing, or
conserving such insurer, and any summary proceeding authorized
by ss. 631.351 - 631.371.

(8) "State" is as defined in s. 624.08.

(9) "Foreign country" means territory not in any
state.

(10) "Domiciliary state" means the state in which an
insurer is incorporated or organized or, in the case of an
insurer incorporated or organized in a foreign country, the
state in which such insurer, having become authorized to do
business in such state, has, at the commencement of
delinquency proceedings, the largest amount of its assets held
in trust and assets held on deposit for the benefit of its
policyholders or policyholders and creditors in the United

CODING Words in struck through type are deletions from existing law, words underlined are additions.
States, and any such insurer is deemed to be domiciled in such 2.63
state.

(11) "Ancillary state" means any state other than a 2.65
state.

(12) "Reciprocal state" means any state other than 2.66
this state in which in substance and effect the provisions of
the Uniform Insurers Rehabilitation and Liquidation Act—as
defined in 42 U.S.C. 5711, et seq., in force, including the provisions
requiring that the commissioner of insurance or an equivalent
insurance supervisor, official be the receiver of a relinquent
insurer.

(13) "General asset" means all property, real, 2.73
personal, or otherwise, not specifically, mortgage, pledged,
deposited, or otherwise encumbered for the security, or benefit
of specified persons or a limited class or classes of persons,
and as to such specifically, encumbered property, the term
includes all such property or the proceeds in event of the
amount necessary to discharge the sum or sums secured thereby. 2.77
Assets held in trust and assets held on deposit for the
security of debt or all policies or all policies of
and creditors in the United States shall be deemed general
assets.

43-44. Preference—meaning—pay-claim-with—receipts— 2.82
45. which—the-law-of-the-state—on—federal—assets— 2.83
46. priority—of—payment—from—the—general—assets—of—the—insurer— 2.84
44. "Special deposit claim" means any claim
secured by a bond made pursuant to statute for the security
or benefit of a limited class or classes of persons, but not
including any general assets.
45. "Secured claim" means any claim secured by
mortgage, trust deed, pledge, deposit as security, refusal, or

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otherwise, but not including special deposit claim or claims against general assets. The term also includes claims which more than 4 months prior to the commencement of delinquency proceedings in the state of the insurer's domicile have become liens upon specific assets by reason of judicial process.

"Receiver" means receiver, liquidator, rehabilitator, or conservator, as the context may require.

Section 3. Subsection (4) of section 631.021, Florida Statutes, 1982 Supplement, is amended to read:

631.021 Jurisdiction of delinquency proceedings; venue; change of venue; exclusiveness of remedy; appeal.--

(4) Delinquency proceedings pursuant to this chapter shall constitute the sole and exclusive method of liquidating, rehabilitating, reorganizing, or conserving an insurer; and no court shall entertain a petition for the commencement of such proceedings unless the same has been filed in the name of the state on the relation of the department. The Florida Insurance Guaranty Association, Incorporated, and the Florida Life and Health Guaranty Association, Incorporated, shall be given reasonable written notice by the department of all hearings which pertain to an adjudication of insolvency of a member insurer.

Section 4. Subsection (1) of section 631.041, Florida Statutes, 1982 Supplement, is amended to read:

631.041 Injunctions.--

(1) Upon application by the department pursuant to this part for such an order to show cause, or at any time thereafter, the court may without notice issue an injunction restraining the insurer, its officers, directors, stockholders, members, subscribers, agents and all other persons from the transaction of its business or the waste or
disposition of its property, until the further order of the court.

Section 5. Subsection (b) of section 631.09, Florida Statutes, 1982 Supplement, as amended to read:

631.09 - Ground for liquidation. — The department may apply to the court for an order appointing it as receiver or directing it to liquidate the business of a domestic insurer or of the United States branch or an alien insurer keeping trust assets in this state, regardless of whether or not there has been a prior order directing it to rehabilitate such insurer, upon write of the court furnished in all usual or

if such insurer:

(2) Is in default and has commenced voluntary liquidation or attempted or entered into voluntary liquidation or proposed to enter into voluntary liquidation or proposed to enter into reorganization or business-conservatorship or to

direct the purpose of reorganization or to declare the appointment of a receiver, liquidator, conservator, rehabilitator, or other officer by whatever name called for the purpose of liquidating the business of such insurer.

CODING: Words a new; through = are deletions from existing law; underlined are additions
Section 7. Subsection (1) of section 631.111, Florida Statutes, 1982 Supplement, is amended to read:

631.111 Order of liquidation; domestic insurers.—

(1) An order to liquidate the business of a domestic insurer shall direct the department forthwith to take immediate possession of the property of the insurer, to marshal all assets of the insurer, to liquidate its business, to deal with the insurer's property and business in its own name or in the name of the insurer, as the court may direct, and to give notice to all creditors who may have claims against the insurer to present such claims, as the court may direct.

Section 8. Subsections (7) and (8) are added to section 631.141, Florida Statutes, 1982 Supplement, to read:

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

(7) The department as domiciliary receiver may take such action as it deems necessary or appropriate to reform and revitalize the insurer. The department shall have all the powers of the directors, officers, and managers, whose authority shall be suspended, except as they are redelegated by the receiver. The receiver shall have full power to direct and manage the affairs of the insurer, to hire and discharge employees and to deal with the property and business of the insurer.

(8) If the department as domiciliary receiver determines that reorganization, consolidation, conversion, reinsurance, merger, or other transformation of the insurer is appropriate, it shall prepare a plan to effect such changes.

Upon application of the receiver for approval of the plan, and after such notice and hearings as the court may prescribe, the
court may either approve or disapprove the plan proposed, or
may modify it and approve it as modified. Any plan approved
under this section shall be, in the judgment of the court,
fair and equitable to all parties concerned. If the plan is
approved, the receiver shall carry out the plan.
Section 9. Section 631.161, Florida Statutes, 1982
Supplement, is amended to read:
631.161 Claims of nonresidents against domestic
insurers domiciled in this state.—
(1) In a liquidation proceeding begun in this state
against an insurer domiciled in this state, claimants residing
in foreign countries or in states which are not reciprocal
must file claims in this state, and claimants residing in
reciprocal states may file claims either with the ancillary
receivers, if any, in their respective states, or with the
domiciliary receiver. Claims must be filed on or before the
last date fixed for the filing of claims in the domiciliary
liquidation proceeding.
(2) Claims belonging to claimants residing in
reciprocal states may be proved either in the liquidation
proceeding in this state as provided in this part, or in
ancillary proceedings, if any, in the reciprocal states. If
notice of the claims and opportunity to appear and be heard is
afforded the domiciliary receiver of this state as provided in
s. 631.171(2) with respect to ancillary proceedings, the final
allowance of claims by the courts in ancillary proceedings in
reciprocal states shall be conclusive as to amount and as to
priority of special deposit or secured claims arising in an
ancillary state, but shall not be conclusive with respect to
priorities against general assets under s. 631.271.
Section 10. Section 631.171, Florida Statutes, 1982 Supplement, is amended to read:

631.171 Claims of residents against foreign insurers domiciled in reciprocal states.--

(1) In a liquidation proceeding in a reciprocal state against an insurer domiciled in that state, claimants against the insurer who reside within this state may file claims either with the ancillary receiver, if any, in this state, or with the domiciliary receiver. Claims must be filed on or after the date fixed for the filing of claims in the domiciliary delinquency proceedings.

(2) Contested claims belonging to claimants residing in reciprocal states may either be proved in those proceedings in the event a claimant elects to prove his claim in ancillary proceedings, if notice of the claim and opportunity to appear and be heard is afforded to the domiciliary receiver of the state, as provided in subsection 631.171-1 with respect to ancillary proceedings in this state, the final allowance of such claim by the courts in the ancillary state shall be accepted in this state as conclusive as to its amount and shall also be accepted as conclusive as to its priority, if any, against special deposits or other security located within the ancillary state.
The first allowance of the claim by the courts of this state shall be accepted as conclusive as to amount and as in this state.
Section 11. Section 631.181, Florida Statutes, 1982

Supplement, is amended to read:

631.181 Filing and proof Form of claim; notice;

hearing.—

(1)(a) Proof of a claim shall be filed with the

receiver in the form required by subsection (2) on or before

the last day for filing specified in the notice required under

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subsection (1) except that proof of claim for cash surrender
values or other investment values in life insurance and
annuities need not be filed unless the receiver expressly so
requires.
(b) The court may permit a claimant making a late
filing to share in distribution, whether past or future, as
if he were not late, to prevent manifest injustice, as
if he were not late, to prevent manifest injustice, to the
extent that any such payment will not prejudice the orderly
administration of the liquidation, under any of the following
circumstances:
1. The existence of the claim was not known to the
claimant and he filed his claim promptly thereafter if
reasonably possible after learning of it.
2. A transfer to the claimant was avoided under
631.261 and 631.262,
3. The valuator under s. 631.44 of security held by
a secured creditor shows a deficiency, which is filed within
30 days after the valuation;
(c) The court shall permit late filing claims to share
in distribution, whether past or future, as if they were not
late, if the claim is a claim of a warranty or guarantee of
foreign warranty, or a claim of a warranty or guarantee of
foreign warranty, or a claim of a warranty or guarantee of
(a) The court may consider any claim filed late which
is not covered by paragraph (b) and permit it to receive
distribution, which is subsequently declared on any claim of
the sum, or inestimable, if the payment does not prejudice
the orderly administration of the liquidation. The late
filing claimant shall receive, at each distribution, the same
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percentage of the amount allowed on his claim as is then being paid to claimants of any lower priority. This shall continue until his claim has been paid in full.

(2)(a) Proof of claim shall consist of a statement signed by the claimant that includes all of the following which are applicable:

1. The particulars of the claim including the consideration given for it.
2. The identity and amount of the security on the claim.
3. The payments made on the debt, if any.
4. That the sum claimed is justly owing and that there is no setoff, counterclaim, or defense to the claim.
5. Any right of priority of payment or other specific right asserted by the claimants.
6. A copy of the written instrument which is the foundation of the claim.
7. The name and address of the claimant and the attorney who represents him, if any.

(b) No claim need be considered or allowed if it does not contain all the information in paragraph (a) which may be applicable. The receiver may require that a prescribed form be used, that other information and documents be included, and that the proof of claim be verified by an affidavit of the claimant.

(c) At any time the receiver may request the claimant to present information or evidence supplementary to that required under paragraph (a) and may take testimony under oath, require production of affidavits or depositions, or otherwise obtain additional information or evidence.
(d) No suit or other action shall be maintained in the
insurer entitled after the date of filing of a successful
petition for liquidation and as judgment or order against an
insured or the insurer entered at any time by default or by
collision need to consider all evidence of liability or of
quantum of damages. No judgment or order against an insured
or the insurer entered within 4 months before the filing of
the petition need be considered as evidence of liability of or
the quantum of damages.

16. All claims of a guaranty association or like in
quantum or association shall be in such form and contain such
substantiation as an interest to an association and the
receiving.

11. After the order of liquidation
regarded in the interests of all persons it may have
creditors, the debtors and all persons, who may have
claims against the debtor, it shall be in writing at a
place and manner the guaranty association shall determine that
such claim shall be filed with the receiver, and the
nature shall be determined by the guaranty association and shall be by the
order of the receiver, the guaranty association shall be given in such manner
and form as may be determined by the court.

15. All claims against an insurer against which
deficiency proceedings have been begun after the
reasonable amount-at-the-claim-at-the-deadline
which such amount cannot be ascertained after to which the
amount-based-and-the-priorities-asserted-if-any--All-such
claims shall be verified by the affidavit-at-the-claimant-by
someone-authorized-to-act-on-his-behalf-and-having-knowledge

18

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Section 12. Section 631.182, Florida Statutes, is created to read:

631.182 Receiver claims report and claimants objections procedure.—

(1) As soon as it has evaluated claims filed in the delinquency proceeding, the receiver shall report the claims to the circuit court, specifying in the report its recommendations with respect to the actions to be taken thereon. Upon receipt of the report, the court shall enter an
order approving the claims so reported, unless an objection is filed thereto within a deadline set by the court. The court shall direct the receiver to provide notice to each claimant of the amount recommended on the claim and the deadline for filing objections to the receiver's report. The receiver shall schedule a hearing before the court on objections filed to its report and provide reasonable written notice to each claimant.

(2) At the hearing, all persons interested shall be entitled to appear and the court shall enter an order allowing, allowing in part, or disallowing the claim. Any such order shall be deemed to be an appealable order.

Section 13. Section 631.191, Florida Statutes, 1982

Supplement, is amended to read:

631.191 Special deposit and secured priority of

(1) In a delinquency proceeding against an insurer domiciled in the state, claims owing to residents of the state shall be preferred to claims owing to nonresidents. All such claims owing to residents of the state shall be given equal priority over payment from general assets regardless of where such assets are located.

(2) In a delinquency proceeding against an insurer domiciled in a reciprocal state, claims owing to residents of the state shall be preferred if like claims are preferred by the laws of that state.

The owners of special deposit claims against an insurer for which a receiver is appointed in this or any other state shall be given priority against their several special deposits in accordance with the provisions of the statutes.
governing the creation and maintenance of such deposits. If there is a deficiency in any such deposit so that the claims secured thereby are not fully discharged therefrom, the claimants may share in the general assets, but such sharing shall be deferred until general creditors, and also claimants against other special deposits who have received smaller percentages from their respective special deposits, have been paid percentages of their claims equal to the percentage paid from the special deposit.

(2)(a) The owner of a secured claim against an insurer for which a receiver has been appointed in this or any other state may surrender his security and file his claim as a general creditor, or the claim may be discharged by resort to the security, in which case the deficiency, if any, shall be treated as a claim against the general assets of the insurer on the same basis as claims of unsecured creditors. If the amount of the deficiency has been adjudicated in ancillary proceedings as provided in this chapter, or if it has been adjudicated by a court of competent jurisdiction in proceedings in which the domiciliary receiver has had notice and opportunity to be heard, such amounts shall be conclusive; otherwise the amount shall be determined in the delinquency proceeding in the domiciliary state.

(b) The value of any security held by a secured creditor shall be determined under supervision of the court by:

1. Converting the same into money according to the terms of the agreement pursuant to which the security was delivered to such creditor; or

2. By agreement, arbitration, compromise, or litigation between the creditor and the receiver.
Section 611.192 - Florida Statutes, as
created, amended:

(1) Allowance of certain claims:

(1)(1) No claim based upon a contract of insurance,

of indemnity or otherwise, whether an act or omission, occurred

shall be allowed or paid from the

the event shall be allowed or paid from the

assets of an insurer in process of liquidation unless the

event, whether an act or omission, occurred

resulting in the loss to, or creating the liability of, the

shall have occurred prior to the order

shall have occurred prior to the order

of liquidation of or pursuant to the provisions of s. 611.252.

(1)(2) Claims not covered by the provisions of

subsection (1) shall not be allowed or paid from the assets of

an insurer in process of liquidation unless:

i. The event, whether an act or omission, occurred

prior to the date of the order of liquidation;

ii. The goods were delivered or services were rendered

prior to the order of liquidation, or

iii. The duty to perform under a contract matured prior

to the order of liquidation.

(2) Nothing in this subsection shall be deemed to

effectually or limit any right the receiver may otherwise have

to suspend or part thereof by virtue of any

contract or part thereof by virtue of any

provision or law of this state. It shall be the

right of the receiver under this subsection to mitigate and

minimize any damage suffered as a result of a breach of

contract or part of the order of liquidation. Recovery by

any claimant under this subsection shall be limited to the

actual damage suffered by virtue of a breach.

(3) Claims of a third party shall not be deemed

contingent, but shall be fairly evaluated even though

the claimant not been established by the date set forth in

subsection (1) if.
(a) It may be reasonably inferred from the proof presented upon such claim that such person would be able to obtain a judgment upon such cause of action against such insured; and

(b) The claimant shall furnish suitable proof, unless the court for good cause shown shall otherwise direct, that no further valid claim against such insurer arising out of his cause of action other than those already presented can be made.

(4) The total liability of such insurer to all claimants arising out of the same act of its insured shall be no greater than its maximum liability would be were it not in liquidation.

Section 15. Section 631.193, Florida Statutes, is created to read:

631.193 Releases.--The filing of a claim shall constitute a release of the insured from liability to the claimant to the extent of the coverage or policy limits provided by the insolvent insurer. The release shall be conditioned upon the insured's cooperation with the receiver in defense of the claim.

Section 16. Section 631.205, Florida Statutes, is created to read:

631.205 Reinsurance proceeds.--All reinsurance proceeds payable under contracts of reinsurance to which the insolvent insurer is a party are to be paid directly to the domiciliary receiver as general assets of the receivership estate unless the reinsurance contract contains a clause which specifically names the insolvent insurer's insured as a direct beneficiary of the reinsurance contract.

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Section 17. Section 631.221, Florida Statutes, 1982 Supplement, is amended to read:

631.221 Deposit of moneys collected.--The moneys collected by the department in a proceeding under this chapter shall be from time to time deposited in one or more state or national banks, savings banks, or trust companies, or savings and loan associations; and, in the case of the insolvency or voluntary or involuntary liquidation of any such depository which is an institution organized and supervised under the laws of this state, such deposit shall be entitled to priority of payment on an equality with any other priority given by the financial institution codes banking-laws of this state. The department may, in its discretion deposit such moneys or any part thereof in such a financial institution bank or trust company as a trust fund.

Section 18. Section 631.251, Florida Statutes, 1982 Supplement, is amended to read:

631.251 Date rights fixed on liquidation.--Except as provided in ss. 631.252 and 631.192, the rights and liabilities of the insurer and its creditors, policyholders, stockholders, members, subscribers and all other persons interested in its estate shall, unless otherwise directed by the court, be fixed as of the date on which the order directing the liquidation of the insurer is filed in the office of the clerk of the court which made the order, subject to the provisions of this chapter with respect to the rights of claimants holding contingent claims.

Section 19. Section 631.252, Florida Statutes, 1982 Supplement, is amended to read

631.252 Continuation of coverage.--
(l) All insurance policies or similar contracts of coverage, other than coverages defined in s. 631.713, issued by the insurer shall continue in force until the earliest to occur of the following:

(a) Expiration of 45 30 days from the date of entry of the liquidation order, if the order so specifies;

(b) Normal expiration of the policy or contract coverage;

(c) Replacement of the coverage by the insured, or replacement of the policy or contract of coverage, with a policy or contract acceptable to the insured by the receiver with another insurer; or

(d) Termination of the coverage by the insured.

(2) A claim arising during such continuation of coverage shall be treated as if it arose immediately before the petition for liquidation.

(3) The 45-day 30-day coverage continuation period provided in paragraph (1)(a) shall in no event be extended; and failure of actual notice to the policyholder of the insolvency of the insurer, of commencement of delinquency proceedings, or of expiration of the extension period shall not affect such expiration.

(4) Benefits under policies of life or health insurance or annuities and other coverages as defined in s. 631.713 shall continue in force for such period as provided for by s. 631.717 or any applicable law governing a foreign guaranty association.

Section 20. Subsection (4) of section 631.263, Florida Statutes, 1982 Supplement, is amended to read:

631.263 Transfers after petition.--
(c) **Class 3.** All claims under policies for losses incurred, including third party claims, all claims against the insurer for liability for bodily injury or for injury to or destruction of tangible property which are not under policies, and all claims of a guaranty association or foreign guaranty association. All claims under life insurance and annuity policies, whether for death proceeds, annuity proceeds, or investment values, shall be treated as loss claims. That portion of any loss, indemnification for which is provided by other benefits or advantages recovered by the claimant, shall not be included in this class, other than benefits or advantages recovered or recoverable in discharge of familial obligations of support or by way of succession at death or as proceeds of life insurance, or as gratuities. No payment by an employer to his employee shall be treated as a gratuity.

(d) **Class 4.** Claims under nonassessable policies for unearned premium or other premium refunds and claims of general creditors.

(e) **Class 5.** Claims of the federal or any state or local government. Claims, including those of any governmental body for a penalty or forfeiture, shall be allowed in this class, but only to the extent of the pecuniary loss sustained from the act, transaction, or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs occasioned thereby. The remainder of such claims shall be postponed to the class of claims under paragraph (h).

(f) **Class 6.** Claims filed after the time specified in s. 631.181(3) except when ordered otherwise by the court to prevent manifest injustice, or any claims other than claims under paragraphs (g) and (h).
(1) Class 7. Surplus or contribution notes, or
similar obligations, and premium refunds on assessable
policies. Payments to members of domestic mutual insurance
companies shall be limited in accordance with law.

(h) Class 8. The claims of shareholders or other
owners.

(2) In a liquidation proceeding involving one or more
reciprocal states, the order of distribution of the
domiciliary state shall control as to all claims of residents
of this and reciprocal states. All claims of residents of
reciprocal states shall be given equal priority of payment
from general assets. Requirements of whom such assets are
located.

{1}--Compensation actually owing to employees, other
than officers and directors of an insurer for services
rendered within 3 months prior to the commencement of a
proceeding against the insurer under this chapter, but not
exceeding $1,500 for each employee, shall be paid prior to the
payment of any other debt or claim, and in the discretion of
the department may be paid as soon as practicable after the
proceeding has been commenced, except that at all times the
department shall reserve such funds as well in its opinion be
sufficient for the payment of all expenses of administration,
which expenses shall have priority over all other debts and
claims.

{2}--Such priority shall be in lieu of any other
similar priority which may be authorized by law as to wages or
compensation of such employees.

Section 22. Subsection (3) is added to section
631.23(3), Florida Statutes, 1982 Supplemet, to read:

631.28(1) Offsets.--
(3) An agent who voluntarily pays the unearned portion of premium to a policyholder shall succeed to the interest of the policyholder as an assignee of the policyholder's claim against the receiver for the unearned portion of the premium as of the effective date of cancellation of the policy.

Section 23. Sections 631.291 and 631.301, Florida Statutes, are hereby repealed.

Section 24. Section 631.341, Florida Statutes, 1982 Supplement, is amended to read:

631.341 Notice of insolvency to policyholders by insurer, general agent, or agent.--

(1) The receiver shall, immediately after appointment in any delinquency proceedings against an insurer where the policies have been canceled, give written notice of such proceedings to each general agent and licensed agent of the insurer in Florida. Each general agent and licensed agent of the insurer in Florida shall forthwith give written notice of such proceedings to all subagents, producing agents, brokers, solicitors, and service representatives writing business through such general agent or licensed agent, whether or not such subagents, producing agents, brokers, solicitors, and servicing representatives are licensed or permitted by the insurer and whether or not operating under a written agency contract.

(2) Unless, within 15 days subsequent to the date of such notice, all agents referred to in subsection (1) shall have either replaced or reinsured in a solvent authorized insurer the insurance coverages placed by or through such agent in the delinquent insurer, such agents shall then, by registered or certified mail, send to the last known address

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of the person, and is not at the insolvency of the
delict made in such a case, the insurance of authority
of the person, and a situation "not with the
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alteration as
other is provided in law.

41 In corporation, but, as corporation is not
limited to one of the number of a certificate of
the person, in the situation, and for the person,
shall in the case of the proceeding with the provision of this
commission of the Florida yet.

The probable scope of improvement of not
nanagement in the situation, and the reason for the
commission of this situation.

Section 1. Section 61.31, Florida Statutes, is
hereby amended.

In Florida Statutes, 1982

Section 1 is amended to read,

Section 61.31, Florida Statutes, 1982

and of employees,

Section 61.31, Florida Statutes, 1982

Section 61.31, Florida Statutes, 1982

Section 61.31, Florida Statutes, 1982

Section 61.31, Florida Statutes, 1982

As amended, this section shall fully cooperate with the department in

the investigation of the commission of any investigation

the proceeding. To cooperate

sections, as to any injury from

If the occurrence of any section, and any additional
(b) Promptly to make available and deliver to the
department any books, accounts, documents, other records,
information, data processing software, or property of or
pertaining to the insurer and in his possession, custody, or
control; or

(c) To promptly provide access to all data processing
records in hard copy and electronic form, and to data
processing facilities and services.

(2) No person shall obstruct or interfere with the
department in the conduct of any delinquency proceeding or any
preliminary investigation or incidental thereto.

(3) This section shall not prohibit any person from
seeking legal relief from a court when aggrieved by the
petition for liquidation or other delinquency proceedings or
other orders.

(4) Any person referred to in subsection (1) who fails
to cooperate with the department or any other person who
obstructs or interferes with the department in the conduct of
any delinquency proceedings or any investigation preliminary
or incidental thereto, shall be guilty of a misdemeanor of the
first degree, punishable as provided in s. 775.082, or by fine
of not more than $10,000 $5,000.

Section 27. Section 631.395, Florida Statutes, 1982
Supplement, is amended to read:

631.395 Guaranty fund; orders of court.—Any order of
liqution issued pursuant to s. 631.111 or s. 631.131 shall
authorize and direct the department as receiver to coordinate
the operation of the receivership with the operation of any
insurance guaranty fund authorized to operate in this state,
and may authorize the department to provide data processing
services for any appropriate guaranty fund. Such
authorization shall include, but not be limited to, release of copies of any of the following:

1. Claims files, records, or documents pertaining to claims on file with the insolvent insurer; and
2. Insurance claims filed with the receiver.

Section 631.393, Florida Statutes, is created to read:

631.393 Prevention of insolvencies. — To aid in the detection and prevention of insurer insolvencies or impairments:

1. Any member insurer, agent, employee or member of the board of directors or representative of any insurance guaranty association may make reports and recommendations to the department upon any matter germane to the solvency, liquidation, rehabilitation, or conservation of any member insurer or concern to the solvency of any company seeking to do an insurance business in this state. Such reports and recommendations shall be confidential and exempt from the provisions of s. 119.07(1).

2. The department shall:

a. Report to the board of directors of the appropriate insurance guaranty association when it has reasonable cause to believe from an examination, whether completed or in progress, of any member insurer that such insurer be an impaired or insolvent insurer.

b. Furnish to the board of directors of each insurance guaranty association any available NAIC Early Warning Test developed by the National Association of Insurance Commissioners. The boards may use the information contained therein in carrying out their duties and responsibilities under this chapter. Such reports and the
information contained therein shall be kept confidential by
the boards until such time as they are made public by the
department or by any other lawful authority.

(c) Seek the advice and recommendations of the board
of directors of the appropriate insurance guaranty association
concerning any matter affecting the department's duties and
responsibilities regarding the financial condition of member
companies and companies seeking admission to transact
insurance business in this state.

(3) The department shall, no later than the conclusion
of any domestic insurer insolvency proceeding, prepare a
summary report containing such information in its possession
relating to the history and causes of such insolvency,
including a statement of the business practices of such
insurer which led to such insolvency.

Section 29. Section 631.732, Florida Statutes, 1982
Supplement, is renumbered as section 631.399 and amended to
read:

631.399 631.732 Receiver's right to recover
distributions made to controlling affiliate.--

(1) If an order for liquidation or rehabilitation of
an insurer domiciled in this state has been entered, the
receiver appointed under such order shall have a right to
recover on behalf of the insurer, from any affiliate that
controlled— it, the amount or value of distributions, other
than stock dividends paid by the insurer on its capital stock,
made at any time during the 5 years preceding the petition for
liquidation or rehabilitation, subject to the limitations of
subsections (2), (3), and (4).

(2) The distributions No-such-dividend shall be
recoverable unless if the affiliate insurer shows that when

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the distributions were distributions—es lawful and
true, and that the insurer did not know and could not
know or have reason to believe that the distributions
as distributions to the ability of the insurer to fulfill
its obligations.

Every person who was an affiliate that—controlled
the insurer at the time the distributions were made paid shall
pay the amount of value of the distributions; it he
were an affiliate that—controlled the
distributions declared shall—be
responsible for the amount of the distributions he would have
paid if two persons
are—responsible for the amount that they—shall
pay for the

Every person liable under this section
shall pay in an amount of all other available
assets the claim or pay the contractual
amount to the insurer.

Every person liable under subsection

All affiliates that—controlled the

Every affiliate will be jointly and severally

All associates to the amount recovered

As amended to read:

"Pursuant to the Florida

Definitions—As read in this part:

"person in handling claims" means allocated and

Injured, including, but not limited to, general

Claims, and those expenses which relate to the

Claims for personal injuries, defense, or settlement of specific

11
Section 31. Subsection (4) of section 631.60, Florida Statutes, 1982 Supplement, is amended to read:

631.60 Effect of paid claims.--

(4) Any release of the Florida Insurance Guaranty Association and its insured must clearly state whether or not it waives any claim filed with the receiver in excess of the association's liability under s. 631.57.

Section 32. Subsections (3) and (6) of section 631.62, Florida Statutes, are hereby repealed.

Section 33. Section 631.68, Florida Statutes, 1982 Supplement, is amended to read:

631.68 Limitation; certain actions.--Notwithstanding any other provision of chapter 71-970, laws of Florida, a covered claim as defined herein with respect to which settlement is not effected and suit is not instituted against the insured of an insolvent insurer or the association within one year after the deadline for filing claims, or any extension thereof, with the receiver of the insolvent insurer shall thenceforth be barred as a claim against the association and the insured.

Section 34. Paragraph (d) is added to subsection (5) of section 95.11, Florida Statutes, to read:

95.11 Limitations other than for the recovery of real property.--Actions other than for recovery of real property shall be commenced as follows:

(5) WITHIN ONE YEAR.--
An action against any guaranty association and its
insuree with the period running from the date of the deadline
for filing claims in the order of liquidation.

Section 35. Paragraph (a) of subsection (2) of section
631.718, Florida Statutes, 1982 Supplement, is amended to
read:

631.713 Assessments.--

(2) There shall be three classes of assessments, as
follows:

(a) Class A assessments shall be made by the board of
directors for the purpose of meeting administrative costs and
other general expenses and for examinations conducted under
the authority of s. 631.723(3)(b) which are not related to a
particular impaired or insolvent insurer.

Section 36. Section 631.723, Florida Statutes, 1982
Supplement, is amended to read:

631.723 Prevention of insolvencies.--To aid in the
detection and prevention of insurer insolvencies or
inspections:

(a) shall be the duty of the department:

(b) to report to the board of directors when it has

reasonable cause to believe from any examination whether

insubstantiated or in the interest of any member insurer that such

insurer may be an impaired or insolvent insurer.

(c) to furnish to the board of directors any available

National warned Tests developed by the National Association

of Insurance commissioners.--The board may use the information

gained therein in carrying out its duties and

been given under this section.--Such report and the

information contained therein shall be kept confidential by

36

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the board of directors until such time as it is made public by
the department or by any other lawful authority.

(4) The department may seek the advice and
recommendations of the board of directors concerning any
matter affecting the department's duties and responsibilities
regarding the financial condition of member companies and
guaranteed companies seeking admission to transact insurance business in
this state.

(1) The board of directors may, upon majority vote, make reports and recommendations to the department upon any matter germane to the solvency, liquidation, rehabilitation, or conservation of any member insurer or germane to the solvency of any company seeking to do an insurance business in this state. Such reports and recommendations shall be confidential and exempt from the provisions of s. 119.07(1).

(2) It shall be the duty of the board of directors, upon a majority vote, to notify the department of any information indicating any member insurer may be an impaired or insolvent insurer.

(3) The board of directors may, upon majority vote, request that the department order an examination of any member insurer which the board in good faith believes may be an impaired or insolvent insurer. Within 30 days of the receipt of such request, the department shall begin such examination. The examination may be conducted as a National Association of Insurance Commissioners examination or may be conducted by such persons as the Insurance Commissioner designates. The cost of such examination shall be paid by the association, and the examination report shall be treated in a manner similar to other examination reports. In no event shall such examination report be released to the board of directors prior to its

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Section 38. Paragraph (g) is added to subsection (2) of section 20.13, Florida Statutes, to read:

20.13 Department of Insurance.--There is created a Department of Insurance.

(2) The following divisions of the Department of Insurance are established:

(g) Division of Rehabilitation and Liquidation.

Section 39. Each section which is added to chapter 631, Florida Statutes, by this act is repealed on October 1, 1991, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes.

Section 40. This act shall take effect upon becoming a law.
**HOUSE SUMMARY**

Updates part I of chapter 631, F.S., the Insurers Rehabilitation and Liquidation Act, consolidates various provisions thereof and clarifies and corrects language.

Provides for notice to the Florida Life and Health Guaranty Association of hearings relating to insolvency of a member insurer. Provides powers of the Department of Insurance as domiciliary receiver with respect to the insurer. Provides for claims of nonresidents against insurers domiciled in this state and claims of Florida residents against insurers domiciled in reciprocal states. Provides requirements for filing proof of claim and for late filings. Provides for a report by the receiver on claims to the court. Provides for notice to claimants and for hearings on objections. Provides for determination of value of security held by a secured creditor.

Provides for allowance of certain claims. Provides that filing of a claim constitutes a release of the insured from liability to the claimant and provides limits and conditions. Provides for disposition of reinsurance proceeds. Extends the coverage continuation period from 30 to 45 days. Provides for continuation with respect to policies as defined under the Florida Life and Health Insurance Guaranty Association Act. Provides for priority of claims and limitations thereon. Provides rights of an agent who pays the unearned portion of premium to a policyholder with respect to the policyholder's claim against the receiver.

Provides for notification by the receiver to agents of an insurer of delinquency proceedings against the insurer where policies have been canceled, and revises a penalty thereunder. Revises provisions relating to cooperation with the Department of officers and employees of an insurer. Specifically includes employees and independent contractors, provides for access to data processing facilities and records, and increases a penalty thereunder. Provides for authorization for the department to provide data processing services for any appropriate guaranty fund.

Provides duties of insurers, agents, employees, board members, and the Department with regard to prevention of insolvencies. Revises provisions relating to receiver's right to recover distributions made to affiliates, and eliminates the requirement that the affiliate be a controlling affiliate.

Revises the definition of "expenses in handling claims" under the Florida Insurance Guaranty Association Act. Requires that a release of the association must include a statement regarding waiver of certain claims. Provides a 1-year limitation on certain actions against a guaranty association and the insured.

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Creates the Division of Rehabilitation and Liquidation within the Department of Insurance.