

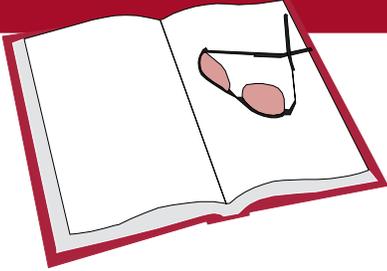
# THE INTERCOM

VOL. 8, NO. 2  
MAY - JULY 1998

PUBLICATION FOR AGENTS AND ADJUSTERS FROM  
THE STATE OF FLORIDA DEPARTMENT OF INSURANCE

Bill Nelson  
Treasurer/Insurance Commissioner/Fire Marshal

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## The Agents Bill Passes - Finally

By Bill Nelson, State Treasurer, Insurance Commissioner, Fire Marshal

One piece of good news to come out of this year's legislative session is the passage of the Agents Bill. After five years of hard work by the Department and your representatives, the Florida Legislature approved a bill that has positive provisions for agents, adjusters and other insurance licensees. Here are a few highlights of the changes, most of which will take effect on October 1. *(For additional information about the Agents Bill, see the legislative summary beginning on page four.)*

- Insurance agencies and adjusting firms will no longer be required to file a primary agent or primary adjuster form by January 1 of each year. The law has been amended to only require owners of insurance agencies or adjusting firms to submit the form within 30 days after an agency's or firm's inception, or when the primary agent or adjuster changes. This will reduce paperwork.
- Persons who reside in a state that shares a common boundary with Florida will now be able to apply for licensure as customer representatives. This license category was previously limited to Florida residents. Now, persons who live in Georgia or Alabama can commute to Florida and work as customer representatives. However, these persons must work under the supervision of a Florida resident general lines agent.
- The Agents Bill eliminates the requirement that only a surplus lines agent can issue and deliver a surplus lines policy or policy confirmation to the insured. With written authorization from the insurer, a general lines agent will be able to issue such documents on behalf of the surplus lines agent. This change is also important for consumers, since they generally deal with a general lines agent and may feel more comfortable doing business with that agent.
- To better address problems with unlicensed persons who solicit adjusting business after a disaster, penalties have been increased. Any person who acts as a resident or nonresident public adjuster or holds himself or herself out to be a public adjuster, without being licensed by the Department, can be charged with a third-degree felony. This law protects licensed adjusters as well as consumers.

Apart from those legislative changes, the Department is continuing to improve service to insurance licensees. For example, we are adding features to our website, at [www.doi.state.fl.us](http://www.doi.state.fl.us). Now you can obtain information about licensees and authorized or approved insurers without having to call or write to us. You can also view back issues of *The Intercom*. Our newest feature gives you the ability to view and download lists of licensees' appointments and their business or mailing addresses. For more information about this new feature, see the article on page two.

We also are working on a significant change that will affect all insurance licensees. Over the years, many of you have expressed concerns about the fact that we use your social security number as your license number. Now we are planning to assign unique license numbers to all licensees. When the necessary computer programming is completed, we will no longer use social security numbers as license numbers. We hope to implement this change by the end of this year. However, the Department will still require applicants to provide their social security numbers on applications for insurance licensure. Look for an update in the next issue of *The Intercom*.

# Health Insurance Portability & Accountability Act (HIPAA) Update

The Department published the article "Health Coverage Guaranteed for Many Consumers" in the September - December 1997 issue of *The Intercom*. We have received many inquiries from agents requesting a list of companies offering guaranteed issue individual health insurance policies.

The following is a list of companies that have advised the Department that they are marketing guaranteed issue individual health insurance policies for eligible individuals in compliance with Section 627.6487, Florida Statutes.

Additional information and an up-to-date list can be found on the Department's web page, at [www.doi.state.fl.us](http://www.doi.state.fl.us).

Company Name	Phone
American Insurance Company of Texas	1-800-221-9039
American National Insurance Company	1-800-899-6503
American National Life Insurance Co. of Texas	1-800-899-6805
Beacon Health Plans, Inc.	1-800-332-3377 ext. 183
Blue Cross and Blue Shield of Florida	1-800-955-2227 ext. 23911
Celtic Life Insurance Company	1-800-477-7990
Connecticut National Life Insurance Company	1-800-759-7007
Continental Casualty Company	1-800-345-7542
Continental General Insurance Company	1-800-656-6110
Foundation Health, a Florida Health Plan, Inc.	1-800-422-7335 ext. 3421
Freedom Life Insurance Company of America	1-800-221-9039
Golden Rule Insurance Company	1-317-297-0358 (call collect)
Health Options, Inc.	1-800-955-2277 ext. 23911
John Alden Life Insurance Company	1-800-328-4816
Kanawha Insurance Company	1-800-635-4252
Medical Savings Insurance Company	1-800-589-8911
MEGA Life and Health Insurance Company	1-800-527-5504
Mid-West National Life Insurance Company	1-800-725-7887
Mutual of Omaha Insurance Company	1-800-775-6000
National Financial Insurance Company	1-800-221-9039
National Foundation Life Insurance Co. of America	1-800-221-9039
National Group Life Insurance Company	1-800-221-3770
National Health Insurance Company	1-800-237-1900 ext. 502
Nationwide Life Insurance Company	1-800-535-8600 ext. 90441
Pan American Life Insurance Company	1-800-986-4787
PCA Family Health Plan, Inc.	1-800-222-0014
Philadelphia American Life Insurance Company	1-800-552-7879
Philadelphia Life Insurance Company	1-800-258-5542
Physicians Healthcare Plans, Inc.	1-800-873-7474
Physicians Mutual Insurance Company	1-800-228-9100
Pioneer Life Insurance Company	1-800-987-5000
Preferred Medical Plan, Inc.	1-800-767-5551
Protective Life Insurance Company	1-800-955-4304
Provident American Health & Life Insurance Co.	1-800-883-3500
Provident Indemnity Life Insurance Company	1-800-883-3500
Public Health Trust of FL, D.B.A.: JMH Health Plan	1-800-721-2993
State Farm Mutual Automobile Insurance Co.	1-309-766-5184 (call collect)
Sunstar Health Plan, Inc.	1-888-339-4997
Time Insurance Company	1-800-800-8463
Total Health Choice, Inc.	1-800-887-6888
Trustmark Insurance Company (Mutual)	1-800-237-7988
United American Insurance Company	1-972-529-5085 (call collect)
United HealthCare of Florida, Inc.	1-800-899-6500
United States Life Insurance Co. in the City of NY	1-800-346-7692
United Wisconsin Life Insurance Company	1-800-232-5432 ext. 17283
Well Care HMO, Inc.	1-813-290-6200 (call collect)



## Agent/Adjuster Lists Now Available on Internet

Lists of Florida-licensed agents, adjusters and other insurance representatives can now be obtained from the Department's Internet website. This feature will save time for insurance companies and others who need these lists. In the past, a requester had to call or write to the Bureau of Licensing, and then wait to receive a printed report or disk in the mail. The lists can now be downloaded instantly, at any time.

To use this feature, access the website at [www.doi.state.fl.us](http://www.doi.state.fl.us). Click on the Industry Menu. Click on Agent/Adjuster Address Download or Agent/Adjuster Appointment Download, depending on the information you need. Both options will provide lists of licensees who have at least one appointment.

The address download provides name and address only. You may choose the business or the mailing address. You can narrow your search by company, business county, and/or license type and class (TYCL).

The appointment download provides name, address, month of birth, appointment expiration date, original issue date of license, and business county code. You may choose the business or the mailing address. You must select a company in order to perform this search. You may narrow your search by business county and/or license type and class (TYCL).

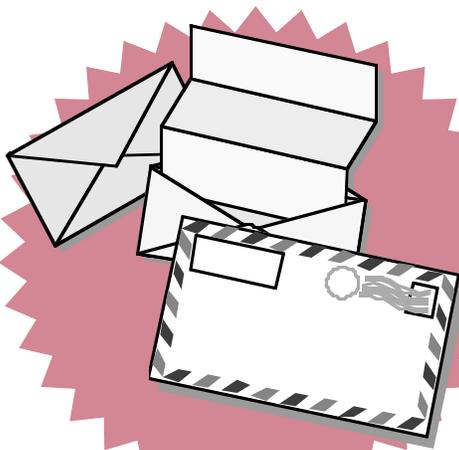
Both types of lists may be downloaded as formatted files for use in mailings, databases, etc. The Department's website gives instructions for downloading the lists.

# Continuing Education Compliance

In March, the Department mailed over 7,850 notices to licensees regarding continuing education (CE) compliance. Many recipients of these notices are not following the instructions contained in the notice. **Please read fully any notice that you receive from the Department.**

Many more licensees will receive similar documents during the coming months. Here is a list of issues that came up as a result of this initial mailing. We are publishing this list to assist licensees who are required to meet continuing education requirements.

**Returned Mail** - Over 25 percent of these documents were returned because of bad or undeliverable addresses. Please



take corrective action to ensure that you are in compliance with Section 626.551, Florida Statutes, which states: *“Every licensee shall notify the department in writing within 30 days after a change of name, residence address, principal business street address, or mailing address.”*

**Nonresident Status** - Nonresident agents must submit a Nonresident Certification form and a Letter of Certification from their home state (or the state they are licensed in which is reciprocal with Florida, in the event their home state is **not** reciprocal with Florida), indicating that their CE requirement has been fulfilled. The certification form may be obtained from the Department’s CE tracking vendor, Assessment Systems, Inc. (ASI) via FAX-BACK at (888) 204-6246 (form #601015). The form can also be downloaded from ASI’s website at [www.asivcs.com](http://www.asivcs.com). The Letter of Certification may not be older than 90 days when submitted, and both forms should be received by ASI no later than 30 days prior to the licensee’s compliance date.

**Workers’ Compensation Adjusters** - All lines adjusters are presumed, at the time of licensure, to handle workers’ compensation, *unless the adjuster notifies the Department otherwise*. To notify the Department that you are not handling workers’ compensation claims, use the Status of Adjuster form, which may be obtained from ASI via FAX-BACK at (888) 204-6246 (form #601016) or downloaded from ASI’s website at [www.asivcs.com](http://www.asivcs.com). Adjusters should submit this form to the Department so that their continuing education records will not reflect a requirement for work-

ers’ compensation courses. If you do handle workers’ compensation, your requirement includes ten hours in workers’ compensation law and policy, four hours in workers’ compensation rules and regulations, two hours of workers’ compensation ethics, and eight hours of optional courses.

**Non-active Licensees** - Licensees may maintain active status without an appointment for up to 24 months, thus incurring a continuing education requirement. A licensee who wishes to cancel his/her license(s) should notify the Department in writing, and return the license ID card. The licensee must also cancel all active appointments. Depending on when a request to cancel a license is submitted, you may or may not avoid penalties for CE non-compliance.

**Grace Period** - The Department will not authorize a grace period for completing required continuing education courses. Licensees may, however, submit a Request for Extension of Time form, available via ASI’s FAX-BACK at (888) 204-6246 (form #601012) or from ASI’s website at [www.asivcs.com](http://www.asivcs.com). You must request the extension *30 days in advance* of the ending date of your compliance period. Extensions are only given for good cause as defined in Chapter 4-228, Florida Administrative Code. The cause must be documented. A maximum of four 90-day extensions may be granted.

## Continuing Education Telephone Numbers

Here is a list of telephone numbers to use when inquiring about your continuing education status. These toll free numbers will connect you to Assessment Systems, Inc. (ASI), the Department’s continuing education (CE) vendor.



- For general information, or to obtain a CE guide or information regarding course offerings, call (888) 204-6214.
- For CE transcripts via fax, call ASI’s FAX-BACK system at (888) 205-6251 and request a transcript through an interactive voice response system.
- For forms (Nonresident Agent Certification, CLU/CPCU/College Degree and Experience Status, etc.), call ASI’s FAX-BACK system at (888) 204-6246. You can also download forms from ASI’s home page at [www.asivcs.com](http://www.asivcs.com).

# New Laws Passed by the 1998 Florida Legislature

This article contains brief summaries of new laws that affect insurance representatives and companies. Additional articles about 1998 legislation are contained on pages one and ten. Due to space limitations, *The Intercom* cannot include details of every change made by the new laws. We recommend that our readers obtain copies of the enrolled (final) bills in order to have a complete description of each new act. You can obtain copies of the bills by calling your state senator or representative, or by calling the state's legislative information lines at (800) 342-1827 or (850) 488-4371. You can also view and copy bills from the Florida Legislature's Internet website, Online Sunshine, at [www.leg.state.fl.us](http://www.leg.state.fl.us).

Note: Throughout this summary, the Department of Insurance will be referred to as the *Department* or *DOI*.

## **AGENT LEGISLATION (AGENTS BILL)**

**CS/SB 1372; Chapter 98-199, Laws of Florida; Effective October 1, 1998, unless otherwise provided; by the Senate Committee on Banking and Insurance and Senator Williams. (This bill was amended with provisions for International Health Insurance Policies; requirements for Employee Leasing Companies; the Special Disability Trust Fund and various other insurance issues.)**

The message from Insurance Commissioner Nelson on page one outlines some of the significant changes contained in this bill. Other important changes or additions to the law include the following:

### **Licensure:**

- Allows a nonresident licensee who relocates to Florida to continue to transact insurance for 90 days under the nonresident license and appointment. The individual must become licensed as a resident agent or adjuster within 90 days of relocating, or the Department shall cancel the nonresident license and appointment.
- Provides for licensure and regulation of nonresident independent adjusters and nonresident public adjusters.
- Requires nonresident independent adjusters and nonresident public adjusters to submit an affidavit to DOI every year, certifying their knowledge of Florida laws and administrative rules.
- Allows the holder of a limited credit insurance license to hold all other property and casualty licenses, as well as a credit life or disability license.
- Increases the amount of the surety bond that must be filed by a surplus lines agent or a public adjuster, from \$5,000 to \$50,000. Affected licensees must submit proof of the increased bond to the Department before October 1, 1998.

### **Compliance:**

- Amends the law governing improper conduct of insurance representatives to require the Department to contact the licensee

during an investigation of that licensee, unless the Department determines that doing so could jeopardize the investigation or cause injury to the public.

- Authorizes DOI to order disciplined licensees to pay restitution to any person who has been deprived of moneys by the licensee's misappropriation, conversion, or unlawful withholding of moneys belonging to insurers, insureds, beneficiaries or others.
- Authorizes the Department to impose an administrative fine *in addition* to suspension, revocation, or refusal of a license or appointment.
- Authorizes the Department to impose up to two years probation *in addition* to suspension, revocation, administrative fine, or refusal of a license or appointment.
- Increases to \$3,500 the administrative penalty that DOI can assess for willful misconduct or willful violation of the law.
- Authorizes the Department to take administrative action against any person who is found to have violated test center or examination procedures at the Department's licensing test centers.
- Prohibits any person with a revoked or suspended license or appointment from obtaining employment with an adjusting firm.
- Provides that the requirement that policies be issued and countersigned by a resident general lines agent does not apply when a bulk transfer occurs within an insurance group under common ownership.
- Requires the use of a licensed and appointed agent to transact insurance on behalf of a group (i.e., workers' compensation) self-insurance fund.
- Requires adjusters to maintain records of adjustments for three years.
- Requires law enforcement agencies or state attorney's offices to notify DOI if licensees plead guilty or nolo contendere or have been found guilty of a felony. Requires state attorney's offices to

furnish the Department with a certified copy of the Information or Indictment when filed against a licensee.

### **International Health Insurance Policies:**

This portion of the bill allows the sale of *international health insurance policies* to residents of foreign countries. These policies are not subject to rate or form approval, underwriting restrictions, or coverage mandates, and must contain a disclaimer. An international health insurance policy can be sold only at an international airport and only by a health agent who is licensed by the Department and appointed by the insurer.

### **Minority-Owned Insurance Companies:**

The act exempts certain newly-formed, minority-owned insurance companies from premium taxes, excise taxes, and regular assessments of the Residential Property and Casualty Joint Underwriting Association and the Florida Windstorm Underwriting Association.

### **Florida Hurricane Catastrophe Fund:**

The bill revises provisions of the Florida Hurricane Catastrophe Fund law to allow larger advances against expected reimbursement payments for "limited apportionment" insurers (insurers that have surplus of \$20 million or less and write at least 25 percent of their policies in Florida).

### **Employee Leasing Companies:**

This portion of the bill ensures that an employer who leases employees from an employee leasing company (ELC) properly obtains coverage for all employees, and that the premium paid by the ELC is commensurate with exposure and anticipated claim experience for all employees. It also:

- Defines the term *experience rating modification*.
- Provides that the information accrued during an employee leasing arrangement shall be used to determine an experience modification factor for the employer when the arrangement is terminated and shall continue to be used to calculate experience modification factors for the employee leasing company.
- Prohibits employers from contracting with an employee leasing company or from procuring coverage in the voluntary market if the employer owes money to an employee leasing company or owes premium to an insurer.
- Requires insurers to conduct annual audits of payroll and classification of employee leasing companies.

### **Special Disability Trust Fund:**

The bill authorizes the creation of the Special Disability Trust Fund Privatization Commission to study the feasibility of privatizing all or part of the Special Disability Trust Fund (SDTF).

### **Miscellaneous Provisions:**

- Provides circumstances under which a credit life or disability insurance policy can be issued for a period shorter than the term of the loan.
- Provides circumstances under which an insured may receive a

credit for premiums paid on a noncancelable motor vehicle policy.

- Replaces certain annual liability insurance experience reporting requirements with a requirement that insurers provide the information when requested by the Department of Insurance.

## **COMMERCIAL INLAND MARINE INSURANCE**

**CS/SB 1108; Chapter 98-173, Laws of Florida; Effective July 1, 1998; by the Senate Committee on Banking and Insurance and Senator Williams. (This bill was amended with provision for insurance claims of Holocaust victims and their heirs and beneficiaries; requirements for Motor Vehicle Insurance; Homeowners' Property Insurance and Workers' Compensation Joint Underwriting Association.)**

The bill exempts all commercial inland marine insurance policies, rather than only *specially rated* commercial inland marine insurance policies, from rate and form regulation under the Insurance Code.

### **Holocaust Victims' Insurance:**

The act requires insurers to investigate claims of Holocaust victims or their beneficiaries. Allows the claimant to meet a reasonable standard of proof, and permit claims, regardless of any statute of limitations imposed by the policy. Insurers must report to the Department of Insurance any legal relationship they might have with an insurer that issued a policy to a Holocaust victim and any claims outstanding.

### **Motor Vehicle Insurance:**

The bill creates two new exemptions to the 60-day down payment requirement for new automobile insurance policies. The down payment requirement would not apply to premiums paid through payroll deduction or automatic electronic funds transfer plans.

### **Homeowners' Property Insurance:**

The act indefinitely freezes any geographical expansion of Florida Windstorm Underwriting Association (FWUA) coverage. Extends for an additional two years the moratorium on hurricane-related cancellations and nonrenewals of personal lines residential property and condominium association insurance policies.

### **Florida Workers' Compensation Joint Underwriting Association:**

The bill changes the composition of the Board of Governors of the Florida Workers' Compensation Joint Underwriting Association (WCJUA) in order to more accurately reflect the current workers' compensation insurance market.

The WCJUA is required to reject coverage when a person is delinquent in the payment of premiums or surcharges to an insurer in the voluntary market. This bill prohibits insurers in the voluntary market from providing workers' compensation coverage to any person who is delinquent in the payment of premiums, assessments, surcharges, or penalties to the WCJUA.



### **MOTOR VEHICLE INSURANCE**

**HB 3889; Chapter 98-270, Laws of Florida; Effective October 1, 1998; by the House Committee on Financial Services.**

The bill allows an insurance agent to charge an applicant a fee to cover the agent's costs of obtaining motor vehicle records, to the extent that those costs are not otherwise compensated. The bill also revises the PIP law to:

- Provide that when a treatment provider bills the insurer, the bill may not include, and the insurer is not required to pay, charges for services provided more than 30 days before the date of the bill, except for past due amounts and hospital and ambulance services.
- Provide that an insurer's independent medical examination could be conducted within the municipality where the injured person is being treated, within the municipality where the injured person resides, or within 10 miles of the injured person's home, provided the location is within the insured's county of residence.
- Identify the *prevailing party* entitled to attorney's fees and costs when a dispute between an insurer and a medical provider is arbitrated, and require the parties to specify the issues for arbitration in advance.

### **AGENTS' CONTINUING EDUCATION PROVIDERS AND AUTO INSURANCE MINIMUM DOWN PAYMENTS**

**SB 766; Chapter 98-103, Laws of Florida; Effective July 1, 1998; by Senator Diaz-Balart.**

The bill amends provisions relating to continuing education for insurance agents and minimum down payments for new auto insurance policies.

The bill codifies the Department's authority to regulate agents' continuing education course providers, instructors, school officials, and monitor groups, including investigations and imposition of fines.

Since 1995, applicants for auto insurance policies have been required to pay a down payment equal to two months' premium. The bill adds an exception to this minimum down payment requirement for auto premiums paid through payroll deduction plans or automatic electronic funds transfer plans.

### **FAMILY DAY CARE HOMES/ INSURANCE**

**HB 3597; Chapter 98-6, Laws of Florida; Effective October 1, 1998; by the House Committee on Financial Services.**

The bill prohibits insurers from denying, canceling, or nonrenewing residential property insurance policies solely on the basis that a family day care home is operated on the property, except in limited circumstances. Insurers would be able to deny, cancel, or nonrenew policies if the homeowner provided day care for more children than allowed by law; if the homeowner failed to maintain separate liability coverage for the day care activities; if the homeowner failed to comply with the applicable licensing and registration laws; or if certain negligent acts or violations of law or rule were discovered.

The bill also provides that a residential property insurance policy must exclude coverage for claims arising out of the operation of a family day care home, unless the liability coverage was specifically provided in the policy or in a rider or endorsement attached to the policy.

### **HEALTH INSURANCE**

**CS/SB 1800; Chapter 98-159, Laws of Florida; Effective January 1, 1999; by the Senate Committee on Banking and Insurance and Senator Diaz-Balart.**

This legislation makes various changes to health insurance and HMO coverage requirements, as follows:

#### **Persons Eligible for Guaranteed Availability of Individual Coverage:**

The bill expands eligibility for guaranteed availability of individual coverage to include persons with 18 months of prior coverage under an individual plan, if the prior insurance coverage is terminated due to the insurer or health maintenance organization (HMO) becoming insolvent or discontinuing all policies in the state, or due to the individual no longer living in the service area of the insurer or HMO. (This is in addition to persons with 18 months of prior coverage, the most recent of which was under a group plan.)

The prior law provided that an individual is not eligible for guaranteed availability of individual coverage if the individual is eligible for a conversion policy under Florida law (since the conversion policy serves as the alternative mechanism for providing individual coverage). The bill provides that this alternative mechanism applies to an individual who is eligible for a conversion policy or contract offered to an individual who is no longer eligible for coverage under either an insured or self-insured plan. However, the conversion policy must be issued by an authorized Florida insurer or HMO and must conform to the requirements of s. 627.6675, F.S., (for group insurers) or s. 641.3921, F.S., (for HMOs), which requires the insurer or HMO to offer the standard benefit plan that must be offered to small employers and limits premiums for the conversion policy to 200 percent of the standard risk rate, as determined by the Department.

## **Solvency Requirements for Health Maintenance Organizations (HMOs):**

The bill increases the minimum surplus requirements for both new and existing HMOs. The bill amends s. 641.285, F.S., to increase the minimum deposit of cash or securities that HMOs must file with DOI.

The bill also amends s. 641.26, F.S., relating to annual reports that must be filed by HMOs. It requires that the annual audited financial statements filed by a certified public accountant (CPA) must include any material weaknesses in the HMO's internal control structure as noted by the CPA and a description of remedial actions taken by the HMO. The bill authorizes the Department to require updates of the annual actuarial certification of the HMO's actuarial soundness under certain conditions.

## **Establishment of Standard Risk Rate:**

The bill requires the Department of Insurance, rather than the Florida Comprehensive Health Association (FCHA), to annually establish the standard risk premium which serves as the benchmark for establishing maximum premiums for FCHA and for individual conversion policies that must be offered by group insurers and HMOs.

## **Notice of Conversion Policy Options:**

The bill requires insurers and HMOs to mail to individuals who are eligible for a conversion policy or contract, an election and premium notice form, including an outline of coverage, within 14 days of request or notice to the insurer that an individual is considering applying for a conversion policy.

## **Other Provisions:**

The bill makes the following additional changes:

- Confirms Florida law to the federal Mental Health Parity Act of 1996, thereby authorizing the Department to enforce such provisions under state law, which requires that lifetime and annual dollar limitations on mental health benefits (if provided) under group policies be the same as for other medical and surgical benefits under the policy, subject to certain exemptions;
- Provides that moneys paid into a Roth individual retirement account (IRA) or Medical Savings Account are protected from creditors;
- Clarifies that in those situations where an insurer or HMO is discontinuing offering a particular policy form or is discontinuing all coverage in the state for a particular market, that the notice requirements must be provided to policyholders prior to nonrenewal, thereby eliminating a possible interpretation that an insurer may cancel policies mid-term, with appropriate notice;
- Excludes supplemental plans provided under a separate policy or contract, designed to fill gaps in the underlying health plan, from the definition of *health benefit plan* as used in s. 627.6699, F.S., thereby exempting such plans from the guaranty-issue and modified community rating requirements of that section;
- Revises the requirements for an HMO to provide a 12-month extension of benefits for persons who are totally disabled, to apply the requirement to any termination of an HMO contract, includ-

ing termination by a group contract holder, but limiting such requirement to group HMO contracts;

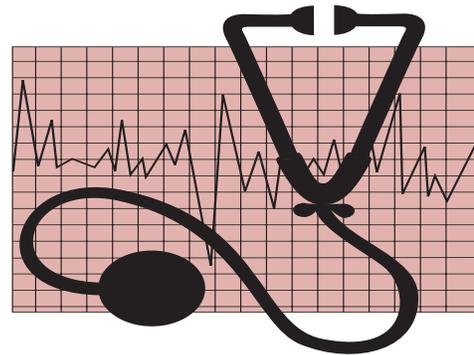
- Exempts disability income and accidental death policies from certain prohibited rating practices that apply to health insurance policies;
- Revises minimum standards for Medicare supplement policies, to conform to federal law; and
- Provides that if notice is given to an insurer or HMO by an insured within 60 days of the birth of a child (or placement, in the case of an adopted child), the insurer or HMO may not deny coverage of the child due to failure to timely notify the insurer (i.e., within 30 days).



## **CLEFT LIP/ CLEFT PALATE CONDITIONS**

**CS/SB 228; Chapter 98-66, Laws of Florida; Effective October 1, 1998; by the Senate Committee on Health Care and Senator Gutman.**

The bill requires all types of health care coverage regulated by the state to provide medical, dental, audiological, nutritional services and speech therapy to minors with cleft lip/cleft palate conditions, when prescribed by the treating physician.



## **FLORIDA KID CARE PROGRAM**

**CS/HB 4415; Chapter 98-288, Laws of Florida; Effective July 1, 1998; by the House Committee on Health Care Services.**

This bill creates the *Florida Kid Care Program* which provides health insurance coverage to uninsured children in families with incomes up to 200 percent of the federal poverty level. It expands existing programs, such as Florida Healthy Kids, and combines them with new ones.

Working families who are offered dependent coverage through their employer-sponsored group health insurance plans will now be allowed to purchase coverage for their children at a subsidized rate. This portion of the program will probably not be available until January 1999.

The Florida Kid Care Program is expected to cover 256,000 children at a total estimated cost of \$344 million (\$119 million state, \$209 million federal, and \$16 million family contributions).

[REDACTED]

## **TRANSFER LICENSURE OF HEALTH CARE RISK MANAGERS**

**CS/SB 314; Chapter 98-89, Laws of Florida; Effective January 1, 1999; by the Senate Committee on Health Care and Senator Brown-Waite.**

The act provides that all powers, duties and function, rules, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Department of Insurance related to the health care risk manager licensure program, are transferred from the Department to the Agency for Health Care Administration.

[REDACTED]

## **CHILDREN'S HEALTH INSURANCE CONFIDENTIALITY:**

**CS/SB 1230; Chapter 98-119, Laws of Florida; Effective July 1, 1998; by the Senate Committee on Health Care and Senator Brown-Waite.**

The bill exempts information regarding applicants, including medical and financial information, from public records laws. It also exempts information obtained from applicants for quality assurance purposes from public records laws.

[REDACTED]

## **HEALTH MAINTENANCE ORGANIZATIONS/ CLAIMS**

**CS/SB 1584; Chapter 98-79, Laws of Florida; Effective October 1, 1998; by the Senate Committee on Banking and Insurance and Senators Campbell, Forman and Silver.**

This bill creates s. 641.3155, F.S., and requires a health maintenance organization (HMO) to reimburse all claims or any portion of any claim made by a contract provider for services or goods provided under a contract with the HMO within 35 days after receipt of the claim by the HMO, unless the HMO contests or denies the claim. If the claim or a portion of a claim is contested by the HMO, the HMO is required to formally notify the contract provider within 35 days after receipt of the claim. In any event, an insurer must pay or deny any claim no later than 120 days after receiving the claim.

[REDACTED]

## **MANAGED CARE GRIEVANCE PROCESS/STATE-WIDE SUBSCRIBER ASSISTANCE PANEL**

**CS/HB 1005; Chapter 98-10, Laws of Florida; Effective December 1, 1998; by the House Committee on Health Care Standards and Regulatory Reform and Representative Saunders.**

The bill mandates that the Statewide Subscriber Assistance Panel must hear all grievances filed by subscribers, except under specified circumstances. The panel shall review all grievances with 60 days after receipt and make a determination whether the grievance shall be heard. The bill sets forth the procedures and deadlines for notification of parties and issuance of findings. The Agency for Health Care Administration and Department of Insurance are empowered to issue proposed or emergency orders and impose fines or sanctions associated with panel findings.

[REDACTED]

## **MEDICAL LIABILITY CLAIMS REPORTING**

**CS/CS/SB 484; Chapter 98-191, Laws of Florida; Effective July 1, 1998; by the Senate Committees on Ways and Means and Health Care.**

The act eliminates the requirement to report to DOI closed claims whose final disposition did not result in a payment on behalf of the insured. However, the act does require state teaching hospitals to report claims for damages or actions associated with their staff; previously, these hospitals were exempt from such reporting.

[REDACTED]

## **GRIEVANCE REPORTING/ PREPAID LIMITED HEALTH SERVICE ORGANIZATIONS**

**CS/SB 1752; Chapter 98-156, Laws of Florida; Effective October 1, 1998; by the Senate Committee on Banking and Insurance and Senator Cowin.**

This bill requires Prepaid Limited Health Service Organization forms to carry the address of DOI and the phone number of DOI's consumer assistance hotline. Upon request of subscribers, plans are also required to provide a description of the authorization and referral process for plan services or a description of the process used to analyze the qualifications and credentials of providers under contract with the plan. The bill requires plans to report annually to DOI the total number of grievances handled, a categorization of the cases underlying the grievances, and their final disposition.

[REDACTED]

## **DENTAL-RELATED ANESTHESIA**

**CS/SB 3487; Chapter 98-312, Laws of Florida; Effective October 1, 1998; by the House Committee on Health Care Standards and Regulatory Reform and Representative Safley.**

The act provides that dental treatment or surgery shall be considered necessary when the dental condition is likely to result in a medical condition if left untreated. Covers charges for general anesthesia or hospitalization for dental care of certain persons.

## **VIATICAL SETTLEMENTS**

**CS/SB 2004; Chapter 98-164, Laws of Florida; Effective July 1, 1998; by the Senate Committee on Banking and Insurance and Senator Burt.**

The act authorizes a viatical settlement provider to establish a *related provider trust* for the sole purpose of entering into or owning viatical settlement contracts. The effect would be that the trust, as owner of the contract, is independent of the provider and would not be subject to any claims against the provider. The related provider trust would be subject to all of the provisions of the act except for licensure. Only one trust is allowed per company and the company must be the sole trustee. The company's name must be included in the trust's name for easy identification.

The viatical settlement provider would be liable for all of the obligations of the related provider trust under all viatical settlement contracts. If the trust violated a provision of the act, then the provider is deemed to have also violated that provision and the Department may take appropriate action against both the viatical settlement provider and the related trust. The provider is required to file notice with the Department if they are using a trust, including a copy of the trust agreement.

The bill requires disclosure by the viatical settlement provider or its broker on all investment agreements and marketing materials. The document shall include disclosures that the return is tied directly to the life span of one or more viators; that the investor may be responsible for the payment of insurance premiums or other related costs which may reduce the rate of return; the amount of any trust fees or other expenses charged to the investor; and if a return is represented, that it is based on a projected life span or date of death of the viator or viators whose life or lives are tied to the return.

## **SURETIES (Rule Authorization Bill)**

**SB 768; Chapter 98-39, Laws of Florida; Effective October 1, 1998; by Senator Diaz-Balart.**

The bill provides statutory authority for three Department of Insurance rules relating to collateral security agreements involving bail bond agents.

The Department is authorized to adopt rules setting out the form of the statutory-required affidavits and statements of the source and amount of the collateral or consideration for a bail bond. The effect of this provision is to statutorily authorize current Rules 4-221.125 and 4-221.130, F.A.C.

The bill requires the indemnity agreement between the principal (the person seeking the bail bond) and the surety (bail bond company) or bail bond agent to contain specific language to hold the surety or agent harmless from all losses not otherwise prohibited by law or rule. This provision places in statute the substance of current Rule 4-221.140, F.A.C.

## **TITLE INSURANCE**

**CS/HB 823; Chapter 98-409, Laws of Florida; Effective July 1, 1998; by the House Committee on Finance & Taxation and Representative Gay.**

An amendment was placed on DOI's Treasury bill that allows title insurance agents to place funds held in trust into escrow accounts which bear interest and may not be insured by the federal government.

Under current law, title agents are required to deposit escrow amounts in *escrow trust accounts* in financial institutions that are located in the state and which are insured by an agency of the federal government; the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Share Insurance Fund (NCUSIF).

Title agents, however, routinely deposit escrow fund amounts from real estate transactions in what are called *sweep accounts* in financial institutions. Sweep accounts are so named because financial institutions may *sweep* these funds nightly into *treasury management accounts* which hold a multitude of deposits from many institutions that are placed in various investments. Technically, a sweep account is not an escrow trust account. This amendment allows sweep accounts to be used. The interest which is generated by these title agent escrow funds are returned to the agents. Banks will routinely charge a fee for this service.

Current law requires not only the financial institution to be federally insured but the investment product as well must be federally insured. The amendment allows funds deposited in these sweep accounts to be invested in the same way as the Treasury is permitted to invest state funds, which includes derivatives, repurchase agreements and other investment products that are not insured by the federal government.

## **WORKERS' COMPENSATION (DRUG-FREE WORK-PLACE)**

**SB 1972; Chapter 98-161, Laws Of Florida; effective July 1, 1998; by Senator Lee.**

This bill revises the standard for rebutting a presumption that an employee's injury was caused by intoxication or influence of drugs. It provides that if the employer has implemented a drug-free workplace, the presumption may be rebutted only by evidence that there is no reasonable hypothesis that the intoxication or drug influence contributed to the injury.

## **STATEWIDE UNIFIED BUILDING CODE**

**CS/CS/HB 4181; Chapter 98-287, Laws of Florida; Effective July 1, 1998; by House Committees on Transportation and Economic Development Appropriations and Community Affairs and Representative Constantine.**

This bill provides for a statewide unified building code. The bill makes contractors accountable for material code violations and provides fine and disciplinary provisions for all licensees; and provides for local governments to inspect many facilities now permitted and inspected by state agencies.

# 1998 Legislation Affecting Workers' Comp Fraud

*The Legislature passed two bills this year that made significant changes to workers' compensation law. Here is a summary of this legislation:*

**WORKERS' COMPENSATION FRAUD:** CS/CS/SB 1406; Chapter 98-174, Laws of Florida; Effective January 1, 1999; by the Senate Committee on Ways & Means, the Senate Committee on Banking and Insurance and Senator Clary.

Over the past year, the Workers' Compensation Oversight Board and the Fourteenth Statewide Grand Jury have studied workers' compensation insurance fraud and non-compliance. This bill is a compilation of their recommendations to industry, employers and governmental entities on how to resolve some of the issues that have had a negative effect on the industry.

This legislation increases the criminal penalties for workers' compensation fraud. The penalties will be based on the dollar amount involved in the crime, mirroring the theft statute. Theft of less than \$20,000 is a third degree felony, \$20,000 to less than \$100,000 is a second degree felony and \$100,000 or more is a first degree felony. An exception was made for attorneys or their employees who are soliciting business in or around a private or public hospital, courts, or another private or public institution. They may be charged only with a third degree felony.

The bill extends the statute of limitations on the prosecution of workers' compensation fraud to five years. Currently, Division of Fraud investigators have three years to investigate and proceed with prosecution in a workers' compensation fraud case. Due to limited personnel and the fact that a majority of the cases are referred to the Division by companies that have spent a year or more investigating a claim themselves, there have been several cases where the statute of limitations ran out before the state attorney's office was able to begin prosecution. The Workers' Compensation Oversight Board contends that insurance fraud is theft, and theft from an insurance company should not be treated any differently than any other type of theft. This change in the law will give state investigators and the industry more time to thoroughly investigate a fraudulent claim, and ultimately lead to more prosecutions.



The bill also makes the following changes:

- Clarifies the law so a judge of compensation claims may deny benefits to an employee if the judge finds that the employee is committing insurance fraud.
- Requires local governments to confirm compliance with workers' compensation coverage requirements as a condition for receiving a building permit.
- Requires a \$50 application fee for a certificate of exemption from workers' compensation insurance. Construction industry exemptions must be renewed every two years. Non-construction industry exemptions are valid until revoked by the certificate holder or the Division of Workers' Compensation.
- Clarifies that independent contractors are not employees and are not entitled to benefits under Chapter 440, F.S. They must obtain their own certificate of exemption or purchase appropriate workers' compensation insurance.
- Requires insurers to identify minimum premium policies and mark them as such. They must notify the Division of Workers' Compensation whenever a minimum premium policy is issued. The Department of Insurance may impose an administrative fine if an insurer is not marking policies appropriately.
- Modifies the Division of Workers' Compensation's discretion regarding noncompliance penalties and grants the Division investigatory and subpoena powers.

- Increases insurers' access to employer wage and payroll data to provide for better auditing by insurers.

**WORKERS' COMPENSATION CONFIDENTIALITY:** CS/SB 1408; Chapter 98-407, Laws of Florida; Effective January 1, 1999; by the Senate Committee on Banking and Insurance and Senator Clary.

This act exempts information relating to an active investigation of a possible fraudulent workers' compensation claim from public records requests. It also exempts such information once a case is completed or closed if it may jeopardize another investigation, reveal a trade secret, reveal a confidential source, defame a good reputation, reveal financial information, or reveal investigative techniques or procedures. This act will repeal on October 1, 2003.

## Florida Life Correction

The January-April 1998 issue of *The Intercom* contained an article about the receivership of Florida Life Insurance Company. The article contained some incorrect information. A Notice to Agents stated that the policies of Florida Life were canceled and instructed agents to place the coverage elsewhere. This notice applies only to property and casualty companies and was erroneously added to this article.

Agents should be aware that the Florida Life and Health Insurance Guaranty Association (FLAHIGA) is continuing coverage of the policies of Florida Life. Policyholders have been notified that agents of Florida Life will continue to collect premiums on behalf of FLAHIGA.

# News from the Division of Fraud

## State Arrests Agent for Internet Insurance Fraud

A Miami insurance agent who targeted HIV-positive people as potential life insurance customers has been arrested by state investigators on charges of insurance fraud solicited through the Internet.

Florida Department of Insurance investigators arrested Phillip Scott Plotka, a licensed life insurance agent and Chartered Life Underwriter, on charges of grand theft, communications fraud, fraudulent insurance claims and filing a false insurance application. The penalty for these charges can be up to 30 years in the Florida state prison system.

The investigation began after Plotka distributed brochures advertising: *"If you are HIV Positive... You probably think you can't purchase life insurance. Now you can!"* A person who responded to the brochure filed a complaint with the Division of Insurance Fraud, claiming that Plotka suggested falsifying an application.

Investigators said Plotka received e-mail from another person claiming that he was recently diagnosed as HIV-positive. The man told Plotka he wanted to buy life insurance, but was nervous about disclosing his condition to his insurance company, investigators said. Investigators said that Plotka made suggestions on the Internet to the customer as to how he might obtain the coverage without his insurance company knowing about his medical condition.

The customer met with Plotka and they filled out an application for \$50,000 in life insurance coverage, lying in response to several questions including if the customer had ever been diagnosed with AIDS, ARC or any immune deficiency disorder, investigators said. A few days later the application arrived at a Kansas insurance company, College Life Insurance Co. of America.

Little did the agent know, the customer was an undercover state insurance fraud investigator.

## Agent Arrested for Forgery, Retaining Premiums

Daniel Bruce Davis was arrested in February on charges of insurance fraud, forgery and grand theft. Each of the charges was a result of an investigation conducted by the Division of Insurance Fraud. The investigation was initiated after Bankers Insurance Company complained that Davis was suspected of having accepted premium payments from an insured and failed to forward the premium to the Bankers Insurance Company.

The investigation revealed that Davis, owner of the Cook Insurance Agency of Apalachicola, quoted an annual premium of \$1,072 to a property owner in 1995. In November 1996, the insured contacted Davis to renew the policy. He again paid \$1,072 for an additional year's coverage. In November 1997, Davis told the insured that he would receive a bill for renewal. When no bill arrived, he contacted Bankers Insurance and inquired about his policy. Bankers Insurance had no record of coverage for him and discovered that the policy number he provided actually belonged to someone else. It was determined that Davis had altered the policy's declaration page to reflect the name and address of the new customer, and then issued it to him.

## Key West Woman Caught Selling Policies with Suspended License

State insurance fraud investigators arrested Miriam Patricia Fernandez, an agent at the Insurance Alternative of the Keys, Inc., in February. Fernandez's insurance license had been suspended for nine months, beginning on January 16, as the result of a prior investigation into her business practices. She allegedly continued to sell insurance during the suspension. Investigators said a client paid Fernandez a premium while her agent's license was suspended, and later learned that the insurance company never received the check. Fernandez was charged with grand theft, forgery, uttering a forged instrument, and transacting insurance with a suspended license.

## Tallahassee Insurance Agent Arrested for Theft of Premiums

The head of an auto insurance agency was arrested on fraud charges in connection with complaints that more than \$3,000 in insurance premiums never reached the companies providing coverage. State insurance investigators arrested David Byron Copeland at Insurance World in Tallahassee. Copeland serves as president of the agency. Investigators said that between September 1996 and March 1997, insurance premiums were collected from four customers but the payments never made it to the insurers. Extra products were slipped into their auto insurance policies without their consent — an illegal practice known as *sliding*, investigators said. Copeland was arrested in March and charged with insurance fraud and grand theft.

## Continuing Education Reciprocal Agreements

The Department has added Alabama, Connecticut, Illinois and Tennessee to the list of states with which it has reciprocal agreements for continuing education. Reciprocity currently applies to agents and customer representatives, but not to adjusters and bail bond agents.

A nonresident agent who must complete continuing education (CE) requirements in his or her home state may use the home state's requirements to meet Florida's CE requirements as well, if the agent's home state recognizes reciprocity with Florida's CE requirements.

A nonresident whose home state does not have a CE requirement but is licensed for the same class of business in another state which does have a CE requirement, may satisfy Florida's requirements by furnishing proof of compliance with the other state's requirement if that state has a CE reciprocal agreement with this state.

A nonresident whose home state does not have such CE requirements, and who is not licensed as a nonresident agent in a state that has CE requirements and reciprocates with this state, must meet Florida's requirements.

Here is a list of states that have CE reciprocal agreements with Florida:

Alabama (modified)*	Kansas	Montana	Oklahoma	West Virginia
Arkansas	Louisiana	Nebraska	Oregon	Wisconsin
California	Illinois	Nevada	Pennsylvania	Wyoming
Colorado	Maine	New Hampshire	South Carolina	
Connecticut	Maryland	New Jersey	South Dakota	* licensee must be en-
Delaware	Massachusetts	New Mexico	Tennessee	rolled in home state's
Georgia	Michigan	New York	(modified)*	CE program; contact
Idaho	Minnesota	North Carolina	Texas	home state's insurance
Indiana	Mississippi (P&C only)	North Dakota	Virginia	department for specific
Iowa	Missouri	Ohio	Washington	requirements.

## Case Notes

In January 1998, the Department of Insurance (DOI) began investigating complaints that some bail bond agent advertisements in phone books were not in compliance with Florida Statutes. Section 648.32, F.S., states that bail bond advertisements must contain the address of the agency. Over 25 agents have been disciplined for violating this statute as of May 1, 1998.

A general lines agent was found to have used an advertisement that was misleading and included an unlawful inducement. The case was settled by a Settlement Stipulation for Consent Order imposing a \$500 fine and one year's probation. All stipulations provide for a 60-day suspension if the fine is not paid in a timely manner. The fine was not paid and the agent is currently under suspension.

An unlicensed person was found to have been acting as a customer representative for eight years and was signing the name of the primary agent to insurance applications. The DOI issued a Final Order that imposed a \$5,000 fine and directed the individual to immediately cease and desist all unlicensed insurance activity in this state.

A licensed life, health and general lines agent was found to have received a \$1,420 premium check in error. This check was then deposited in the agency's account and the agent refused to return the money to the issuer. The DOI issued a Final Order imposing a six-month suspension of his licenses. The agent appealed this finding and was granted a stay so he could continue to transact insurance until the appeal was resolved. Eight months later, the Department prevailed, and the agent began a six-month suspension.

The Department was notified that a bail bond agent was not returning collateral and not remitting premiums to the insurer. An Administrative Complaint was issued in January 1998, alleging three counts of misappropriation of premium and collateral money collected. The subject failed to answer the Administrative Complaint and could not be served by certified mail or personal service. After exhausting all attempts to contact the agent, the DOI issued an Order of Revocation in April 1998.

**Note: The Disciplinary Actions section does not appear in this issue of *The Intercom*, because the Department is in the midst of converting to a new computer tracking system for legal cases.**

# New Companies

**American Colonial Insurance Company** was authorized on March 23, 1998. Lines of business: Fire, Homeowners Multi Peril, Private Passenger Auto Liability, PPA Physical Damage, Reinsurance. Address: 2000 Interstate Park Drive, Ste. 300, Montgomery, AL 36109; telephone: (334) 270-6800.

**American Compensation Insurance Company** was authorized April 6, 1998. Lines of business: Workers' Compensation, Reinsurance. Address: 8500 Normandale Lake Blvd., Ste. 1400, Bloomington, MN 55437; telephone: (612) 893-0403.

**Atlantic Preferred Insurance Company** was authorized on May 11, 1998. Lines of business: Fire, Homeowners Multi Peril, Reinsurance. Address: 1057 Maitland Center Commons, Maitland, FL 32751; telephone: (800) 558-1332.

**Capitol Preferred Insurance Company** was authorized on May 13, 1998. Lines of business: Fire, Allied Lines, Homeowners Multi Peril, Mobile Home Multi Peril, Mobile Home Physical Damage, Reinsurance. Address: 810 Thomasville Road, Tallahassee, FL 32303; telephone: (850) 521-0742.

**Colonial Surety Company** was admitted on April 3, 1998. Lines of business: Fidelity, Surety, Reinsurance. Address: 50 Chestnut Ridge Road, Montvale, NJ 07645; telephone: (201) 573-8788.

**First Protective Insurance Company** was authorized on April 3, 1998. Lines of business: Fire, Allied Lines, Homeowners Multi Peril, Mobile Home Multi Peril, Mobile Home Physical Damage, Other Liability, Reinsurance. Address: 215 East Bay Street, Ste. 100J, Charleston, SC 29401; telephone: (803) 577-7680.

**Medical Mutual Insurance Company of North Carolina** was autho-

riized on April 17, 1998. Lines of business: Medical Malpractice, Reinsurance. Address: 4505 Falls of the Neuse Road, Raleigh, NC 27609; telephone: (919) 872-7117.

**Mountbatten Surety Company** was admitted on June 15, 1998. Lines of business: Surety, Reinsurance. Address: 33 Rock Hill Road, Bala Cynwyd, PA 19004; telephone: (610) 664-2259.

**Old United Casualty Company** was admitted on April 17, 1998. Lines of business: Accident & Health, Ocean Marine, Inland Marine, Auto Warranties, Reinsurance. Address: PO Box 795, Shawnee Mission, KS 66201; telephone: (913) 432-6400.

**PPTF Merger Insurance Company** was authorized on April 13, 1998. Lines of business: Medical Malpractice, Other Liability, Reinsurance. Address: 2600 Professionals Drive, Okemos, MI 48805; telephone: (305) 442-8119.

**Reliance Reinsurance Company** was authorized on April 30, 1998. Lines of business (Reinsurance only): Fire, Allied Lines, Farmowners Multi Peril, Homeowners Multi Peril, Commercial Multi Peril, Ocean Marine, Inland Marine, Financial Guarantee, Auto Warranties, Medical Malpractice, Earthquake, Workers' Compensation, Other Liability, Prepaid Legal, Private Passenger Auto Liability, Commercial Auto Liability, PPA Physical Damage, Commercial Auto Physical Damage, Aircraft, Fidelity, Surety, Bailbonds, Glass, Burglary and Theft, Boiler & Machinery, Credit, Livestock, Industrial Fire, Mortgage Guaranty, Credit Disability, Accident & Health, Industrial Extended Coverage, Mobile Home Multi Peril, Mobile Home Physical Damage, Multi Peril Crop, Home Warranties, Service Warranties (Non-Auto). Address: 4 Penn Center Plaza, Philadelphia, PA 19103; telephone: (215) 864-4000.

# Unauthorized Entities Watch List

**WARNING:** Resident and nonresident agents risk losing their licenses whenever they solicit for an unauthorized insurer.

**Collingham Insurance Company, S.A. c/o Seawise Insurance Consultants, LTD** is domiciled in Uruguay and the United Kingdom and is alleged to be underwriting taxi cab liability insurance to consumers in Florida through the broker (Seawise).

**Diversified Insurance Company c/o Seawise Insurance Consultants, LTD** is located in Great Britain and allegedly underwriting taxi cab liability insurance coverage through the broker (Seawise). Florida consumers may have purchased policies bearing Diversified Insurance Company's name.

**Ideal Mutual & Casualty Insurance Company, Tampa, Florida** is alleged to have underwritten automobile insurance coverage to an out-of-state consumer.

**United Fidelity Corporation (UFC), Rarotonga, Cook Islands** is an offshore surety using TCI Agency, Inc., Bloomfield Hills, MI, as a representative. UFC is alleged to be writing contractor bonds (Performance, bid, labor and material payment bonds) for Florida businesses, municipalities and utilities.

**Tri-Continental Exchange, (TCE), Blaine, Washington** is acting as a direct marine marketing MGA with Florida consumers. TCE is allegedly retaining pleasure boating vessel risk(s).

All of the above entities are considered unauthorized to conduct the business of insurance in Florida. Agents and agencies are urged to contact LaVerne Stephens at (850) 413-4004 to report any activity involving these companies. If you suspect other entities are operating without proper authorization, please report them to Ms. Stephens.

To determine whether or not an insurer is authorized in Florida, please call the Department toll-free at (800) 342-2762.



# Hurricane Preparedness

We are in the midst of the Atlantic hurricane season, but as El Nino has shown us, we need to be prepared for a catastrophe to strike at any time. Insurance companies and their representatives should be ready to assist policyholders when disaster occurs. Here are some reminders to help you in your planning.

## Records Retention:

Section 626.748, Florida Statutes, requires agents to keep records of policies transacted. These records include daily reports, applications, change endorsements, or documents signed or initialed by the insured concerning the policies. The records must be available to policyholders and the Department upon request.

Every licensee is also required to preserve books, accounts, and records relating to a premium payment for at least three years after payment, per Section 626.561, F.S. The law allows a licensee to maintain policy and premium payment records by electronic or photographic means, as long as they are readily accessible.

This year, the Legislature increased the retention period for adjusters' records. Lawmakers amended Section 626.875, F.S. to state that the records of an adjuster relating to a particular claim or loss shall be retained in the adjuster's place of business for three years after the adjustment is completed. The law previously required adjusters to keep these records for one year.

Regardless of whether a licensee keeps records in paper, electronic or photographic form, backup records should be maintained and stored outside the licensee's place of business. In the event that a hurricane or other disaster damages the business, the licensee will be able to access policyholders' records and be able to provide assistance to them.

## Adjusting Claims:

**General Lines Agents:** Section 626.862, F.S. states that a licensed and appointed general lines agent may, without being licensed and appointed as an adjuster, adjust losses for the insurer represented by the agent if authorized by the insurer.

**Emergency Company and Independent Adjusters:** Florida-licensed insurers, independent adjusters and general lines agents may hire or contract with emergency company or independent adjusters. These adjusters may begin work immediately after the catastrophe, before becoming licensed. The entity that employs the emergency adjuster must fax specific information about the adjuster to the Bureau of Licensing, within three days after the adjuster begins work. The adjuster must also obtain a license within 30 calendar days after work has begun. Application for License and Appointment as a Catastrophe or Emergency Adjuster (form D14-396) must be completed and submitted to the Department, along with the applicable fees.

**Emergency Public Adjusters:** A person who wishes to work as an emergency public adjuster must submit Application for License and Appointment as an Emergency Public Adjuster (form D14-AAS-1) to the Department, along with the applicable fees. The individual may not begin to adjust claims until he/she has received an approval notice from the Department. An individual may seek review of her/his application in advance of a known catastrophe by completing and submitting Application for Pre-qualification as an Emergency Public Adjuster (form D14-1199) to the Department, along with the applicable fees.

## Emergency Relief:

An Insurance Disaster Assessment Team (IDAT) will go to the area as soon as possible after a disaster to evaluate insured damage and determine adjuster needs. The IDAT will operate within the Insurance Disaster Preparation Process (IDPP), a cooperative

effort of the Florida Department of Insurance, Florida Insurance Council (FIC), Florida Department of Community Affairs' Division of Emergency Management (DEM), and other public and private entities.

Following the IDAT survey, adjusters from individual companies will be admitted into the area, probably within 24 hours after the storm. Where access is restricted, they will use adjuster passes. DEM will issue these passes and FIC will distribute them to licensed companies in advance of hurricane season. For more information about the IDPP, see the article in the January - April 1998 issue of *The Intercom*.

## Workers' Compensation Companies Liquidated

The Department has been authorized to liquidate two workers' compensation insurance companies.

On April 24, the Department obtained a Consent Order of Liquidation, Injunction and Notice of Automatic Stay against Associated Business & Commerce Insurance Corporation, 4700 N.W. Boca Raton Blvd., Boca Raton, FL 33431. The policy was cancelled effective May 25, 1998, and the deadline for filing claims is April 24, 1999.

On June 1, the Department obtained a Consent Order of Liquidation, Injunction and Notice of Automatic Stay against United Business Owners Self Insurers Fund, 2100 Coral Way, Suite 400, Miami, FL 33145. The policy was cancelled effective July 2, 1998. The deadline for filing claims is June 1, 1999.

Any person who has questions about either of these companies is advised to call the Division of Rehabilitation and Liquidation at (800) 882-3054.

# Bond Requirements for Licensees

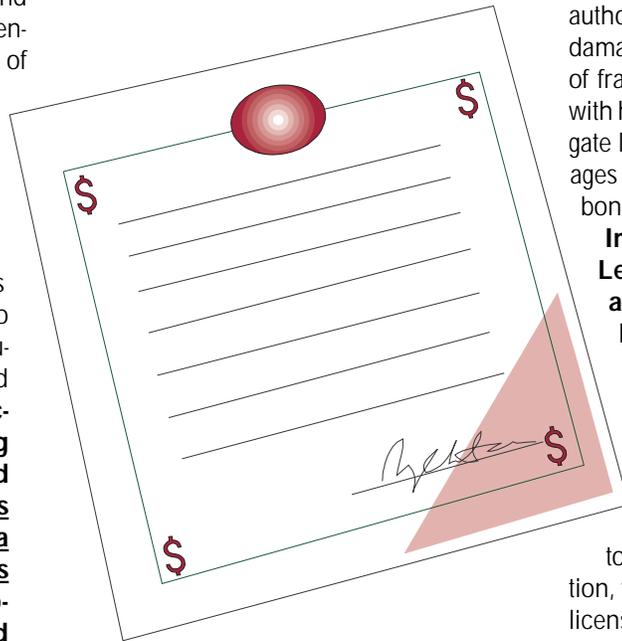
Several classes of licensure require a bond to be in effect **at all times** during licensure. While most applicants are aware of and comply with the initial bond requirement in order to become licensed, licensed agents and adjusters find it easy to forget to renew their bonds or update the Department annually.

Surplus lines agents, public adjusters and title agencies who are required to maintain a bond, or other eligible security, are urged to review their records and update the Department if necessary. **Licenses are responsible for ensuring that bond coverage is in force and on file with the Department. Bonds may not be terminated unless a minimum of thirty days' notice is provided to the Department. Updated information, such as bond renewals, should be provided to the Department on an annual basis.**

The type and class of licenses that require bond coverage, along with pertinent information specific to each type and class, are listed below.

**Surplus Lines Agent** (Type/Class 1-20): Section 626.928, Florida Statutes, requires a \$5,000 surety bond of aggregate liability with corporate surety or sureties approved by the Department. The Department may require a bond in a larger amount commensurate to the volume of surplus lines business to be transacted by the agent. Bonds must state that the agent will faithfully conduct business under the license in accordance with the provisions of the Surplus Lines Law and rules and regulations of the Department, as well as remit to the Department taxes as provided for by such law.

**Important Note: An act of the 1998 Legislature increased the bond amount to \$50,000, effective October 1, 1998. All new and current surplus lines agents must send proof of increased bond to the Department by October 1, 1998.** This notice should be sent to the Bureau of Licensing, PO Box 6650, Tallahassee, FL 32314-6650. Failure to comply will result in administrative action, which may include termination of the license.



**Title Agency** (Type/Class 4-12): Florida law requires the agency to deposit with the Department a \$35,000 surety bond OR securities with a minimum market value of \$35,000. The required deposit or bond must be made by the title agency, not an insurer, and must secure the agency's performance of its duties and responsibilities under the issuing agency contracts with each underwriter for which it is appointed. The Department will return title agency bonds one year after termination of all title insurance agency licenses held by the agency, if no claims have been made against the deposit or bond. The agency must submit a written request for the bond. Section 626.8418(2) F.S., contains more details about the title agency bond requirement. A title agency must also obtain a \$50,000 fidelity bond acceptable to the insurer appointing the agency, according to Section 626.8419(1)(a), F.S.

**Public Adjuster** - General and Limited (Type/Class 3-20, 3-21, 3-24, 3-40, 3-44, 73-20, 73-21, 73-24, 73-40 & 73-44): Section 626.865(2), F.S., requires an applicant for a public adjuster license to file with the Department a \$5,000 bond, issued by a surety insurer authorized to transact in this state. The bond must be conditioned for the faithful performance of the adjuster's duties under the license applied for, shall be in favor

for the Department, and shall specifically authorize recovery by the Department of damages sustained if the licensee is guilty of fraud or unfair practices in connection with his/her business as an adjuster. Aggregate liability of the surety for all such damages shall not exceed the amount of the bond.

**Important Note: An act of the 1998 Legislature increased the bond amount to \$50,000, effective October 1, 1998. All new and current public adjusters must send proof of increased bond to the Department by October 1, 1998.**

This notice should be sent to the Bureau of Licensing, PO Box 6650, Tallahassee, FL 32314-6650. Failure to comply will result in administrative action, which may include termination of the license.

**Nonresident General Lines Agent** (Type/Class 9-20) if transacting surplus lines business for purchasing groups in Florida: The Department requires a \$5,000 fidelity bond, issued by a surety insurer admitted in this state, and payable to the State of Florida. Section 627.952, F.S. states that the bond must be conditioned and limited for the provision of insurance for purchasing groups. The bond remains in effect until the surety is released from liability by the Department or until the bond is canceled by the surety.

**Important Note: An act of the 1998 Legislature increased the bond amount to \$50,000, effective October 1, 1998. All new and current nonresident general lines agents who transact surplus lines business for purchasing groups in Florida must send proof of increased bond to the Department by October 1, 1998.** This notice should be sent to the Bureau of Licensing, PO Box 6650, Tallahassee, FL 32314-6650. Failure to comply will result in administrative action, which may include termination of the license.

Any documentation submitted in order to comply with these requirements should include: name of insured/principal, name of insurer, policy number, policy effective date, and policy expiration/renewal date.

# THE INTERCOM

*The Intercom* is published by the Department of Insurance, Division of Agent and Agencies Services, 200 East Gaines Street, Tallahassee, FL 32399-0318.

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If your name, residence address, principal business street address, or mailing address changes, you must notify the Department within 30 days of the change. Licensees who fail to comply are in violation of Chapter 626.551, F.S., and are subject to investigation and possible disciplinary action.

Please mail your notice of change to:  
Bureau of Licensing  
Department of Insurance  
200 East Gaines Street  
Tallahassee, FL 32399-0319

A name change necessitates the re-issuance of your insurance license. Please remember to enclose the \$5 fee and a copy of your marriage certificate, divorce decree, or other documentation at the time you request re-issuance.

## Bill Nelson Treasurer/Insurance Commissioner/Fire Marshal DIVISION OF AGENT AND AGENCIES SERVICES



**John E. Hale**, Division Director  
**Mary Alice Palmer**, Assistant Division Director  
**Phil Fountain**, Chief, Bureau of Investigations  
**Shirley Kerns**, Chief, Bureau of Licensing

**Bureau of Investigations** ..... (850) 922-3136  
**Bureau of Licensing** ..... (850) 922-3137  
**Education** ..... (850) 922-3134 Ext. 1108  
**Qualifications Section** ..... (850) 922-3137 Ext. 1101

Adjuster's Qualifications • Fingerprint Information  
Nonresident Agents • Bail Bonds  
Managing General Agents • Terminations  
Customer Representatives • Mediator Approval

**License Control Section** ..... (850) 922-3137 Ext. 1100  
Certification and Clearance Letters • Forms • Mailing Lists  
Appointment Renewals • Company and Agency Name Changes

For all other divisions, call the Department Switchboard... (850) 922-3100

Department of Insurance  
Division of Agent and Agencies Services  
200 East Gaines Street  
Tallahassee, FL 32399-0318.

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