

1 A bill to be entitled

2 An act relating to title insurance; amending s.  
3 626.8412, F.S.; specifying that only a licensed and  
4 appointed agent or agency is authorized to sell title  
5 insurance; amending s. 626.8413, F.S.; providing  
6 additional limitations on the name that a title agent  
7 or agency may adopt; providing applicability; amending  
8 s. 626.8417, F.S.; conforming provisions to changes  
9 made by the act; amending s. 626.8418, F.S.; revising  
10 the application requirements for a title insurance  
11 agency license; deleting certain bonding requirements  
12 and procedures; amending s. 626.8419, F.S.; conforming  
13 provisions to changes made by the act; amending s.  
14 626.8437, F.S.; revising terms relating to grounds for  
15 actions against a licensee or appointee; amending s.  
16 627.778, F.S.; limiting the remedies available for the  
17 breach of duty arising from a title insurance  
18 contract; amending s. 627.7845, F.S.; revising terms  
19 relating to determination of insurability and  
20 preservation of evidence of title search and  
21 examination; providing an effective date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
25 Section 1. Paragraph (a) of subsection (1) of section  
26 626.8412, Florida Statutes, is amended to read:

27 626.8412 License and appointments required.—

28 (1) Except as otherwise provided in this part:

29 (a) Title insurance may be sold only by a licensed and  
 30 appointed title insurance agent employed by a licensed and  
 31 appointed title insurance agency or employed by a title insurer.

32 Section 2. Section 626.8413, Florida Statutes, is amended  
 33 to read:

34 626.8413 Title insurance agents; certain names  
 35 prohibited.—After October 1, 2014 ~~1985~~, a title insurance agent  
 36 or title insurance agency may as defined in s. 626.841 shall not  
 37 adopt a name that ~~which~~ contains the words "title insurance,"  
 38 "title company," "title guaranty," or "title guarantee," unless  
 39 such words are followed by the word "agent" or "agency" in the  
 40 same size and type as the words preceding it ~~them~~. This section  
 41 does not apply to a title insurer acting as an agent for another  
 42 title insurer if both insurers hold active certificates of  
 43 authority to transact title insurance business in this state and  
 44 both are acting under the names designated on such certificates.

45 Section 3. Section 626.8417, Florida Statutes, is amended  
 46 to read:

47 626.8417 Title insurance agent licensure; exemptions.—

48 (1) A person may not act as a title insurance agent ~~as~~  
 49 ~~defined in s. 626.841~~ until a valid title insurance agent's  
 50 license has been issued to that person by the department.

51 (2) An application for license as a title insurance agent  
 52 shall be filed with the department on ~~printed~~ forms furnished by

53 the department.

54 (3) The department may ~~shall~~ not grant or issue a license  
 55 as a title insurance agent to an ~~any~~ individual who is found by  
 56 the department ~~it~~ to be untrustworthy or incompetent, who does  
 57 not meet the qualifications for examination specified in s.  
 58 626.8414, or who does not meet the following qualifications:

59 (a) Within the 4 years immediately preceding the date of  
 60 the application for license, the applicant must have completed a  
 61 40-hour classroom course in title insurance, 3 hours of which  
 62 are ~~shall be~~ on the subject matter of ethics, as approved by the  
 63 department, or must have had at least 12 months of experience in  
 64 responsible title insurance duties, under the supervision of a  
 65 licensed title insurance agent, title insurer, or attorney while  
 66 working in the title insurance business as a substantially full-  
 67 time, bona fide employee of a title insurance agency, title  
 68 insurance agent, title insurer, or attorney who conducts real  
 69 estate closing transactions and issues title insurance policies  
 70 but who is exempt from licensure under subsection (4) ~~pursuant~~  
 71 ~~to paragraph (4)(a)~~. If an applicant's qualifications are based  
 72 upon the periods of employment at responsible title insurance  
 73 duties, the applicant must submit, with the license application  
 74 ~~for license on a form prescribed by the department, an~~ the  
 75 affidavit of the applicant and of the employer affirming ~~setting~~  
 76 ~~forth~~ the period of such employment, that the employment was  
 77 substantially full time, and giving a brief abstract of the  
 78 nature of the duties performed by the applicant.

79 (b) The applicant must have passed any examination for  
 80 licensure required under s. 626.221.

81 (4)~~(a)~~ Title insurers or attorneys duly admitted to  
 82 practice law in this state and in good standing with The Florida  
 83 Bar are exempt from the provisions of this chapter relating with  
 84 ~~regard~~ to title insurance licensing and appointment  
 85 requirements.

86 (5)~~(b)~~ An insurer may designate a corporate officer of the  
 87 insurer to occasionally issue and countersign binders,  
 88 commitments, and policies of title insurance ~~policies, or~~  
 89 ~~guarantees of title.~~ The A designated officer is exempt from the  
 90 provisions of this chapter relating with ~~regard~~ to title  
 91 insurance licensing and appointment requirements while the  
 92 officer is acting within the scope of the designation.

93 (6)~~(e)~~ If an attorney owns ~~or attorneys own~~ a corporation  
 94 or other legal entity that ~~which~~ is doing business as a title  
 95 insurance agency, other than an entity engaged in the active  
 96 practice of law, the agency must be licensed and appointed as a  
 97 title insurance agent.

98 Section 4. Section 626.8418, Florida Statutes, is amended  
 99 to read:

100 626.8418 Application for title insurance agency license.—  
 101 Before ~~Prior to~~ doing business in this state as a title  
 102 insurance agency, ~~a title insurance agency must meet all of the~~  
 103 ~~following requirements:~~

104 (1) ~~the~~ applicant must file with the department an

105 application for a license as a title insurance agency, on  
106 ~~printed~~ forms furnished by the department, which ~~that~~ includes  
107 all of the following:

108 (1)(a) The name of each majority owner, partner, officer,  
109 and director of the title insurance agency.

110 (2)(b) The residence address of each person required to be  
111 listed under subsection (1) ~~paragraph (a)~~.

112 (3)(c) The name of the title insurance agency and its  
113 principal business address.

114 (4)(d) The location of each title insurance agency office  
115 and the name under which each agency office conducts or will  
116 conduct business.

117 (5)(e) The name of each title insurance agent to be in  
118 full-time charge of a title insurance ~~an~~ agency office and  
119 specification of which office.

120 (6)(f) Such additional information as the department  
121 requires by rule to ascertain the trustworthiness and competence  
122 of persons required to be listed on the application and to  
123 ascertain that such persons meet the requirements of this code.

124 ~~(2) The applicant must have deposited with the department~~  
125 ~~securities of the type eligible for deposit under s. 625.52 and~~  
126 ~~having at all times a market value of not less than \$35,000. In~~  
127 ~~place of such deposit, the title insurance agency may post a~~  
128 ~~surety bond of like amount payable to the department for the~~  
129 ~~benefit of any appointing insurer damaged by a violation by the~~  
130 ~~title insurance agency of its contract with the appointing~~

131 ~~insurer. If a properly documented claim is timely filed with the~~  
132 ~~department by a damaged title insurer, the department may remit~~  
133 ~~an appropriate amount of the deposit or the proceeds that are~~  
134 ~~received from the surety in payment of the claim. The required~~  
135 ~~deposit or bond must be made by the title insurance agency, and~~  
136 ~~a title insurer may not provide the deposit or bond directly or~~  
137 ~~indirectly on behalf of the title insurance agency. The deposit~~  
138 ~~or bond must secure the performance by the title insurance~~  
139 ~~agency of its duties and responsibilities under the issuing~~  
140 ~~agency contracts with each title insurer for which it is~~  
141 ~~appointed. The agency may exchange or substitute other~~  
142 ~~securities of like quality and value for securities on deposit,~~  
143 ~~may receive the interest and other income accruing on such~~  
144 ~~securities, and may inspect the deposit at all reasonable times.~~  
145 ~~Such deposit or bond must remain unimpaired as long as the title~~  
146 ~~insurance agency continues in business in this state and until 1~~  
147 ~~year after termination of all title insurance agency~~  
148 ~~appointments held by the title insurance agency. The title~~  
149 ~~insurance agency is entitled to the return of the deposit or~~  
150 ~~bond together with accrued interest after such year has passed,~~  
151 ~~if no claim has been made against the deposit or bond. If a~~  
152 ~~surety bond is unavailable generally, the department may adopt~~  
153 ~~rules for alternative methods to comply with this subsection.~~  
154 ~~With respect to such alternative methods for compliance, the~~  
155 ~~department must be guided by the past business performance and~~  
156 ~~good reputation and character of the proposed title insurance~~

157 ~~agency. A surety bond is deemed to be unavailable generally if~~  
 158 ~~the prevailing annual premium exceeds 25 percent of the~~  
 159 ~~principal amount of the bond.~~

160 Section 5. Paragraphs (a), (b), and (c) of subsection (1)  
 161 of section 626.8419, Florida Statutes, are amended to read:

162 626.8419 Appointment of title insurance agency.—

163 (1) The title insurer engaging or employing the title  
 164 insurance agency must file with the department, on forms  
 165 furnished by the department, an application certifying that the  
 166 proposed title insurance agency meets all of the following  
 167 requirements:

168 (a) The title insurance agency ~~has~~ must have obtained a  
 169 fidelity bond in an amount of at least, ~~not less than~~ \$50,000,  
 170 acceptable to the insurer appointing the agency. If a fidelity  
 171 bond is unavailable generally, the department shall ~~must~~ adopt  
 172 rules for alternative methods to comply with this paragraph.

173 (b) The title insurance agency must have obtained errors  
 174 and omissions insurance in an amount acceptable to the insurer  
 175 appointing the agency. The amount of the coverage must be at  
 176 least ~~may not be less than~~ \$250,000 per claim and an aggregate  
 177 limit with a deductible no greater than \$10,000. If errors and  
 178 omissions insurance is unavailable generally, the department  
 179 shall ~~must~~ adopt rules for alternative methods that ~~to~~ comply  
 180 with this paragraph.

181 (c) ~~Notwithstanding s. 626.8418(2),~~ The title insurance  
 182 agency must have obtained a surety bond in an amount of at least

183 ~~not less than~~ \$35,000 made payable to the title insurer or title  
 184 insurers appointing the agency. The surety bond must be for the  
 185 benefit of any appointing title insurer damaged by a violation  
 186 by the title insurance agency of its contract with the  
 187 appointing title insurer. If the surety bond is payable to  
 188 multiple title insurers, the surety bond must provide that each  
 189 title insurer is to be notified if ~~in the event~~ a claim is made  
 190 upon the surety bond or the bond is terminated.

191 Section 6. Subsections (3) and (4) of section 626.8437,  
 192 Florida Statutes, are amended to read:

193 626.8437 Grounds for denial, suspension, revocation, or  
 194 refusal to renew license or appointment.—The department shall  
 195 deny, suspend, revoke, or refuse to renew or continue the  
 196 license or appointment of any title insurance agent or agency,  
 197 and it shall suspend or revoke the eligibility to hold a license  
 198 or appointment of such person, if it finds that as to the  
 199 applicant, licensee, appointee, or any principal thereof, any  
 200 one or more of the following grounds exist:

201 (3) Willful misrepresentation of any title insurance  
 202 policy, ~~guarantee of title, binder,~~ or commitment, or willful  
 203 deception with regard to any such policy, ~~guarantee, binder,~~ or  
 204 commitment, done either in person or by any form of  
 205 dissemination of information or advertising.

206 (4) Demonstrated lack of fitness or trustworthiness to  
 207 represent a title insurer in the issuance of its commitments or  
 208 ~~,binders,~~ policies of title insurance, ~~or guarantees of title.~~

209 Section 7. Subsection (3) is added to section 627.778,  
 210 Florida Statutes, to read:

211 627.778 Limit of risk.—

212 (3) Only contractual remedies are available for a breach  
 213 of a duty which arises solely from the terms of a contract of  
 214 title insurance or an instrument issued pursuant to s.  
 215 627.786(3).

216 Section 8. Subsection (2) of section 627.7845, Florida  
 217 Statutes, is amended to read:

218 627.7845 Determination of insurability required;  
 219 preservation of evidence of title search and examination.—

220 (2) The title insurer shall cause the evidence of the  
 221 determination of insurability and the reasonable title search or  
 222 search of the records of a Uniform Commercial Code filing office  
 223 to be preserved and retained in its files or in the files of its  
 224 title insurance agent or agency for at least ~~a period of not~~  
 225 ~~less than~~ 7 years after the title insurance commitment or ~~7~~ title  
 226 insurance policy, ~~or guarantee of title~~ was issued. The title  
 227 insurer or its agent or agency must produce the evidence  
 228 required to be maintained under ~~by~~ this subsection at its  
 229 offices upon the demand of the office. Instead of retaining the  
 230 original evidence, the title insurer or its ~~the title insurance~~  
 231 agent or agency may, in the regular course of business,  
 232 establish a system under which all or part of the evidence is  
 233 recorded, copied, or reproduced by any photographic,  
 234 photostatic, microfilm, microcard, miniature photographic, or

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235 | other process that ~~which~~ accurately reproduces or forms a  
236 | durable medium for reproducing the original.

237 |

238 |       Section 9. This act shall take effect July 1, 2014.