

1 A bill to be entitled

2 An act relating to the Division of Insurance Agents
3 and Agency Services; amending s. 20.121, F.S.;
4 revising the name of the division; amending s.
5 624.310, F.S.; revising service delivery methods;
6 amending s. 624.318, F.S.; prohibiting the removal of
7 specified original documents under certain conditions;
8 amending s. 624.501, F.S.; revising original
9 appointment and renewal fees related to certain
10 insurance representatives; amending s. 626.015, F.S.;
11 prohibiting new limited customer representative
12 licenses from being issued after a specified date;
13 defining the term "unaffiliated insurance agent";
14 amending s. 626.0428, F.S.; revising prohibitions
15 relating to binding insurance and soliciting
16 insurance; requiring a branch place of business to
17 have an agent in charge; authorizing an agent to be in
18 charge of more than one branch office under certain
19 circumstances; providing requirements relating to the
20 designation of an agent in charge; providing that the
21 agent in charge is accountable for misconduct and
22 violations committed by the licensee and any person
23 under his or her supervision; prohibiting an insurance
24 agency from conducting insurance business at a
25 location without a designated agent in charge;
26 providing for expiration of an agency license under

27 specified circumstances; amending s. 626.112, F.S.;

28 providing licensure exemptions that allow specified

29 individuals or entities to conduct insurance business

30 at specified locations under certain circumstances;

31 revising licensure requirements and penalties with

32 respect to registered insurance agencies; providing

33 that the registration of an approved registered

34 insurance agency automatically converts to an

35 insurance agency license on a specified date; amending

36 s. 626.171, F.S.; providing an exemption from certain

37 licensure application fees; amending s. 626.172, F.S.;

38 revising requirements relating to applications for

39 insurance agency licenses; amending s. 626.207, F.S.;

40 conforming a cross-reference; amending s. 626.241,

41 F.S.; revising the scope of the examination for a

42 limited agent; amending s. 626.261, F.S.; deleting a

43 provision requiring certain costs to be paid by

44 applicants who request licensure examinations in

45 Spanish; amending s. 626.311, F.S.; limiting the types

46 of business that may be transacted by certain agents;

47 amending s. 626.321, F.S.; providing that a limited

48 license to offer motor vehicle rental insurance issued

49 to a business that rents or leases motor vehicles

50 encompasses employees and authorized representatives

51 of such business; amending s. 626.382, F.S.; providing

52 that an insurance agency license continues in force

53 until canceled, suspended, revoked, terminated, or
54 expired; amending s. 626.601, F.S.; revising
55 terminology relating to investigations conducted by
56 the Department of Financial Services and the Office of
57 Insurance Regulation with respect to individuals and
58 entities involved in the insurance industry; amending
59 s. 626.611, F.S.; requiring the department to suspend
60 certain licenses and appointments; amending s.
61 626.641, F.S.; conforming a cross-reference; amending
62 s. 626.733, F.S.; revising applicability of certain
63 appointment provisions; amending s. 626.7355, F.S.;
64 revising qualifications for a temporary customer
65 representative's license; repealing s. 626.747, F.S.,
66 relating to branch agencies, agents in charge, and the
67 payment of additional county tax under certain
68 circumstances on a specified date; amending s.
69 626.7845, F.S.; revising a prohibition against
70 unlicensed transaction of life insurance; amending ss.
71 626.8411, 626.861, and 626.862, F.S.; conforming
72 cross-references; amending s. 626.9272, F.S.; revising
73 requirements for the licensure of nonresident surplus
74 lines agents; creating s. 627.4553, F.S.; requiring an
75 insurance agent who recommends the surrender of
76 certain annuity or life insurance to provide certain
77 information to the department; amending s. 627.7015,
78 F.S.; revising the rulemaking authority of the

79 department with respect to qualifications and
80 specified types of penalties covered under the
81 property insurance mediation program; amending s.
82 627.706, F.S.; revising the definition of the term
83 "neutral evaluator"; amending s. 627.7074, F.S.;
84 providing grounds for the department to deny an
85 application, or suspend or revoke approval of
86 certification, of a neutral evaluator; requiring the
87 department to adopt rules; amending s. 627.745, F.S.;
88 revising qualifications for approval as a mediator by
89 the department; providing grounds for the department
90 to deny an application, or suspend or revoke approval,
91 of a mediator; authorizing the department to adopt
92 rules; amending s. 627.952, F.S.; providing that
93 certain persons who are not residents of this state
94 must be licensed and appointed as nonresident surplus
95 lines agents in this state in order to engage in
96 specified activities with respect to servicing
97 insurance contracts, certificates, or agreements for
98 purchasing or risk retention groups; deleting a
99 fidelity bond requirement applicable to certain
100 nonresident agents who are licensed as surplus lines
101 agents in another state; amending s. 648.43, F.S.;
102 revising requirements for the submission of a power of
103 attorney; amending s. 648.49, F.S.; revising
104 provisions relating to the duration of suspension or

105 revocation of a license; amending ss. 943.0585 and
 106 943.059, F.S.; prohibiting persons seeking to be
 107 licensed by the Division of Insurance Agent and Agency
 108 Services from denying or failing to acknowledge
 109 certain expunged or sealed records; conforming cross-
 110 references; providing an effective date.

111

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

113

114 Section 1. Paragraph (g) of subsection (2) of section
 115 20.121, Florida Statutes, is amended to read:

116 20.121 Department of Financial Services.—There is created
 117 a Department of Financial Services.

118 (2) DIVISIONS.—The Department of Financial Services shall
 119 consist of the following divisions:

120 (g) The Division of Insurance Agent ~~Agents~~ and Agency
 121 Services.

122 Section 2. Subsection (6) of section 624.310, Florida
 123 Statutes, is amended to read:

124 624.310 Enforcement; cease and desist orders; removal of
 125 certain persons; fines.—

126 (6) ADMINISTRATIVE PROCEDURES.—All administrative
 127 proceedings under subsections (3), (4), and (5) shall be
 128 conducted in accordance with chapter 120. Any service required
 129 or authorized to be made by the department or office under this
 130 code shall be made;

- 131 (a)1. By certified mail, return receipt requested,
 132 delivered to the addressee only; or
 133 2. If service by certified mail cannot be obtained at the
 134 last address provided to the department by the recipient, then
 135 by e-mail, delivery receipt required, sent to the most recent e-
 136 mail address provided to the department by the applicant or
 137 licensee in accordance with s. 626.171, s. 626.551, s. 648.34,
 138 or s. 648.421;
 139 (b) By personal delivery, including hand delivery by a
 140 department investigator;
 141 (c) By publication in accordance with s. 120.60; or
 142 (d) In accordance with chapter 48.

143
 144 The service provided for in this subsection ~~herein~~ shall be
 145 effective from the date of delivery.

146 Section 3. Subsection (5) of section 624.318, Florida
 147 Statutes, is amended to read:

148 624.318 Conduct of examination or investigation; access to
 149 records; correction of accounts; appraisals.—

150 (5) ~~Neither~~ The department, the office, or an ~~nor any~~
 151 examiner may not shall remove any original record, account,
 152 document, file, or other property of the person being examined
 153 from the offices of such person except with the written consent
 154 of such person given in advance of such removal or pursuant to
 155 an order of court duly obtained.

156 Section 4. Paragraphs (a) and (c) of subsection (6) and

157 subsections (7) and (8) of section 624.501, Florida Statutes,
 158 are amended to read:

159 624.501 Filing, license, appointment, and miscellaneous
 160 fees.—The department, commission, or office, as appropriate,
 161 shall collect in advance, and persons so served shall pay to it
 162 in advance, fees, licenses, and miscellaneous charges as
 163 follows:

164 (6) Insurance representatives, property, marine, casualty,
 165 and surety insurance.

166 (a) Agent's original appointment and biennial renewal or
 167 continuation thereof, each insurer or unaffiliated agent making
 168 an appointment:

169	Appointment fee.....	\$42.00
170	State tax.....	12.00
171	County tax.....	6.00
172	Total.....	\$60.00

173 (c) Nonresident agent's original appointment and biennial
 174 renewal or continuation thereof, appointment fee, each insurer
 175 or unaffiliated agent making an appointment.....\$60.00

176 (7) Life insurance agents.

177 (a) Agent's original appointment and biennial renewal or
 178 continuation thereof, each insurer or unaffiliated agent making
 179 an appointment:

180	Appointment fee.....	\$42.00
181	State tax.....	12.00
182	County tax.....	6.00

183 Total.....\$60.00
 184 (b) Nonresident agent's original appointment and biennial
 185 renewal or continuation thereof, appointment fee, each insurer
 186 or unaffiliated agent making an appointment.....\$60.00
 187 (8) Health insurance agents.
 188 (a) Agent's original appointment and biennial renewal or
 189 continuation thereof, each insurer or unaffiliated agent making
 190 an appointment:
 191 Appointment fee.....\$42.00
 192 State tax.....12.00
 193 County tax.....6.00
 194 Total.....\$60.00
 195 (b) Nonresident agent's original appointment and biennial
 196 renewal or continuation thereof, appointment fee, each insurer
 197 or unaffiliated agent making an appointment.....\$60.00
 198 Section 5. Subsection (11) of section 626.015, Florida
 199 Statutes, is amended, subsection (18) of that section is
 200 renumbered as subsection (19), and a new subsection (18) is
 201 added to that section, to read:
 202 626.015 Definitions.—As used in this part:
 203 (11) "Limited customer representative" means a customer
 204 representative appointed by a general lines agent or agency to
 205 assist that agent or agency in transacting only the business of
 206 private passenger motor vehicle insurance from the office of
 207 that agent or agency. A limited customer representative is
 208 subject to the Florida Insurance Code in the same manner as a

209 customer representative, unless otherwise specified. Effective
 210 October 1, 2014, a new limited customer representative license
 211 may not be issued.

212 (18) "Unaffiliated insurance agent" means a licensed
 213 insurance agent, except a limited lines agent, who is self-
 214 appointed and who practices as an independent consultant in the
 215 business of analyzing or abstracting insurance policies,
 216 providing insurance advice or counseling, or making specific
 217 recommendations or comparisons of insurance products for a fee
 218 established in advance by written contract signed by the
 219 parties. An unaffiliated insurance agent may not be affiliated
 220 with an insurer, insurer-appointed insurance agent, or insurance
 221 agency contracted with or employing insurer-appointed insurance
 222 agents.

223 Section 6. Effective January 1, 2015, subsections (2) and
 224 (3) of section 626.0428, Florida Statutes, are amended, and
 225 subsection (4) is added to that section, to read:

226 626.0428 Agency personnel powers, duties, and
 227 limitations.-

228 (2) An employee or an authorized representative located at
 229 a designated branch of an agent or agency may not bind insurance
 230 coverage unless licensed and appointed as an agent or customer
 231 representative.

232 (3) An employee or an authorized representative located at
 233 a designated branch of an agent or agency may not initiate
 234 contact with any person for the purpose of soliciting insurance

235 unless licensed and appointed as an agent or customer
236 representative. As to title insurance, an employee of an agent
237 or agency may not initiate contact with any individual proposed
238 insured for the purpose of soliciting title insurance unless
239 licensed as a title insurance agent or exempt from such
240 licensure pursuant to s. 626.8417(4).

241 (4) (a) Each place of business established by an agent or
242 agency, firm, corporation, or association must be in the active
243 full-time charge of a licensed and appointed agent holding the
244 required agent licenses to transact the lines of insurance being
245 handled at the location.

246 (b) Notwithstanding paragraph (a), the licensed agent in
247 charge of an insurance agency may also be the agent in charge of
248 additional branch office locations of the agency if insurance
249 activities requiring licensure as an insurance agent do not
250 occur at any location when an agent is not physically present
251 and unlicensed employees at the location do not engage in
252 insurance activities requiring licensure as an insurance agent
253 or customer representative.

254 (c) An insurance agency and each branch place of business
255 of an insurance agency shall designate an agent in charge and
256 file the name and license number of the agent in charge and the
257 physical address of the insurance agency location with the
258 department at the department's designated website. The
259 designation of the agent in charge may be changed at the option
260 of the agency. A change of the designated agent in charge is

261 effective upon notification to the department, which shall be
262 provided within 30 days after such change.

263 (d) For the purposes of this subsection, an "agent in
264 charge" is the licensed and appointed agent who is responsible
265 for the supervision of all individuals within an insurance
266 agency location, regardless of whether the agent in charge
267 handles a specific transaction or deals with the general public
268 in the solicitation or negotiation of insurance contracts or the
269 collection or accounting of moneys.

270 (e) An agent in charge of an insurance agency is
271 accountable for misconduct or violations of this code committed
272 by the licensee or agent or by any person under his or her
273 supervision while acting on behalf of the agency. This section
274 does not render an agent in charge criminally liable for an act
275 unless the agent in charge personally committed the act or knew
276 or should have known of the act and of the facts constituting a
277 violation of this chapter.

278 (f) An insurance agency location may not conduct the
279 business of insurance unless an agent in charge is designated
280 by, and providing services to, the agency at all times. If the
281 agent in charge designated with the department ends his or her
282 affiliation with the agency for any reason and the agency fails
283 to designate another agent in charge within the 30 days provided
284 for in paragraph (c) and such failure continues for 90 days, the
285 agency license shall automatically expire on the 91st day from
286 the date the designated agent in charge ended his or her

287 affiliation with the agency.

288 Section 7. Effective January 1, 2015, subsection (7) of
 289 section 626.112, Florida Statutes, is amended to read:

290 626.112 License and appointment required; agents, customer
 291 representatives, adjusters, insurance agencies, service
 292 representatives, managing general agents.—

293 (7) (a) An ~~Effective October 1, 2006,~~ no individual, firm,
 294 partnership, corporation, association, or ~~any~~ other entity shall
 295 not act in its own name or under a trade name, directly or
 296 indirectly, as an insurance agency, unless it complies with s.
 297 626.172 with respect to possessing an insurance agency license
 298 for each place of business at which it engages in an ~~any~~
 299 activity that ~~which~~ may be performed only by a licensed
 300 insurance agent. However, an insurance agency that is owned and
 301 operated by a single licensed agent conducting business in his
 302 or her individual name and not employing or otherwise using the
 303 services of or appointing other licensees shall be exempt from
 304 the agency licensing requirements of this subsection.

305 (b) A branch place of business that is established by a
 306 licensed agency is considered a branch agency and is not
 307 required to be licensed so long as it transacts business under
 308 the same name and federal tax identification number as the
 309 licensed agency and has designated with the department a
 310 licensed agent in charge of the branch location as required by
 311 s. 626.0428 and the address and telephone number of the branch
 312 location have been submitted to the department for inclusion in

313 the licensing record of the licensed agency within 30 days after
314 insurance transactions begin at the branch location ~~Each agency~~
315 ~~engaged in business in this state before January 1, 2003, which~~
316 ~~is wholly owned by insurance agents currently licensed and~~
317 ~~appointed under this chapter, each incorporated agency whose~~
318 ~~voting shares are traded on a securities exchange, each agency~~
319 ~~designated and subject to supervision and inspection as a branch~~
320 ~~office under the rules of the National Association of Securities~~
321 ~~Dealers, and each agency whose primary function is offering~~
322 ~~insurance as a service or member benefit to members of a~~
323 ~~nonprofit corporation may file an application for registration~~
324 ~~in lieu of licensure in accordance with s. 626.172(3). Each~~
325 ~~agency engaged in business before October 1, 2006, shall file an~~
326 ~~application for licensure or registration on or before October~~
327 ~~1, 2006.~~

328 (c)1. If an agency is required to be licensed but fails to
329 file an application for licensure in accordance with this
330 section, the department shall impose on the agency an
331 administrative penalty ~~in an amount~~ of up to \$10,000.

332 ~~2.~~ If an agency is eligible for registration but fails to
333 file an application for registration or an application for
334 licensure in accordance with this section, the department shall
335 impose on the agency an administrative penalty in an amount of
336 up to ~~\$5,000.~~

337 (d)(b) Effective October 1, 2015, the department must
338 automatically convert the registration of an approved a

339 registered insurance agency to ~~shall, as a condition precedent~~
340 ~~to continuing business, obtain~~ an insurance agency license if
341 ~~the department finds that, with respect to any majority owner,~~
342 ~~partner, manager, director, officer, or other person who manages~~
343 ~~or controls the agency, any person has:~~

344 1. ~~Been found guilty of, or has pleaded guilty or nolo~~
345 ~~contendere to, a felony in this state or any other state~~
346 ~~relating to the business of insurance or to an insurance agency,~~
347 ~~without regard to whether a judgment of conviction has been~~
348 ~~entered by the court having jurisdiction of the cases.~~

349 2. ~~Employed any individual in a managerial capacity or in~~
350 ~~a capacity dealing with the public who is under an order of~~
351 ~~revocation or suspension issued by the department. An insurance~~
352 ~~agency may request, on forms prescribed by the department,~~
353 ~~verification of any person's license status. If a request is~~
354 ~~mailed within 5 working days after an employee is hired, and the~~
355 ~~employee's license is currently suspended or revoked, the agency~~
356 ~~shall not be required to obtain a license, if the unlicensed~~
357 ~~person's employment is immediately terminated.~~

358 3. ~~Operated the agency or permitted the agency to be~~
359 ~~operated in violation of s. 626.747.~~

360 4. ~~With such frequency as to have made the operation of~~
361 ~~the agency hazardous to the insurance buying public or other~~
362 ~~persons:~~

363 a. ~~Solicited or handled controlled business. This~~
364 ~~subparagraph shall not prohibit the licensing of any lending or~~

365 ~~financing institution or creditor, with respect to insurance~~
366 ~~only, under credit life or disability insurance policies of~~
367 ~~borrowers from the institutions, which policies are subject to~~
368 ~~part IX of chapter 627.~~

369 ~~b. Misappropriated, converted, or unlawfully withheld~~
370 ~~moneys belonging to insurers, insureds, beneficiaries, or others~~
371 ~~and received in the conduct of business under the license.~~

372 ~~e. Unlawfully rebated, attempted to unlawfully rebate, or~~
373 ~~unlawfully divided or offered to divide commissions with~~
374 ~~another.~~

375 ~~d. Misrepresented any insurance policy or annuity~~
376 ~~contract, or used deception with regard to any policy or~~
377 ~~contract, done either in person or by any form of dissemination~~
378 ~~of information or advertising.~~

379 ~~e. Violated any provision of this code or any other law~~
380 ~~applicable to the business of insurance in the course of dealing~~
381 ~~under the license.~~

382 ~~f. Violated any lawful order or rule of the department.~~

383 ~~g. Failed or refused, upon demand, to pay over to any~~
384 ~~insurer he or she represents or has represented any money coming~~
385 ~~into his or her hands belonging to the insurer.~~

386 ~~h. Violated the provision against twisting as defined in~~
387 ~~s. 626.9541(1)(1).~~

388 ~~i. In the conduct of business, engaged in unfair methods~~
389 ~~of competition or in unfair or deceptive acts or practices, as~~
390 ~~prohibited under part IX of this chapter.~~

- 391 ~~j. Willfully overinsured any property insurance risk.~~
- 392 ~~k. Engaged in fraudulent or dishonest practices in the~~
- 393 ~~conduct of business arising out of activities related to~~
- 394 ~~insurance or the insurance agency.~~
- 395 ~~l. Demonstrated lack of fitness or trustworthiness to~~
- 396 ~~engage in the business of insurance arising out of activities~~
- 397 ~~related to insurance or the insurance agency.~~
- 398 ~~m. Authorized or knowingly allowed individuals to transact~~
- 399 ~~insurance who were not then licensed as required by this code.~~
- 400 ~~5. Knowingly employed any person who within the preceding~~
- 401 ~~3 years has had his or her relationship with an agency~~
- 402 ~~terminated in accordance with paragraph (d).~~
- 403 ~~6. Willfully circumvented the requirements or prohibitions~~
- 404 ~~of this code.~~

405 Section 8. Subsection (6) of section 626.171, Florida
 406 Statutes, is renumbered as subsection (7), and a new subsection
 407 (6) is added to that section to read:

408 626.171 Application for license as an agent, customer
 409 representative, adjuster, service representative, managing
 410 general agent, or reinsurance intermediary.—

411 (6) Members of the United States Armed Forces and their
 412 spouses, and veterans of the United States Armed Forces who have
 413 retired within 24 months before application for licensure, are
 414 exempt from the application filing fee prescribed in s. 624.501.
 415 Qualified individuals must provide a copy of a military
 416 identification card, military dependent identification card,

417 military service record, military personnel file, veteran
 418 record, discharge paper, or separation document, or a separation
 419 document that indicates such members of the United States Armed
 420 Forces are currently in good standing or were honorably
 421 discharged.

422 Section 9. Subsections (2), (3), and (4) of section
 423 626.172, Florida Statutes, are amended to read:

424 626.172 Application for insurance agency license.—

425 (2) An application for an insurance agency license must
 426 ~~shall~~ be signed by an individual required to be listed in the
 427 application under paragraph (a) the owner or owners of the
 428 agency. If the agency is incorporated, the application shall be
 429 signed by the president and secretary of the corporation. An
 430 insurance agency may permit a third party to complete, submit,
 431 and sign an application on the insurance agency's behalf;
 432 however, the insurance agency is responsible for ensuring that
 433 the information on the application is true and correct and is
 434 accountable for any misstatements or misrepresentations. The
 435 application for an insurance agency license must ~~shall~~ include:

436 (a) The name of each ~~majority~~ owner, partner, officer, ~~and~~
 437 director, president, senior vice president, secretary,
 438 treasurer, and limited liability company member who directs or
 439 participates in the management or control of the insurance
 440 agency, whether through ownership of voting securities, by
 441 contract, by ownership of any agency bank account, or otherwise.

442 (b) The residence address of each person required to be

443 listed in the application under paragraph (a).

444 (c) The name, principal business street address, and valid
 445 e-mail address of the insurance agency and the name, address,
 446 and e-mail address of the agency's registered agent or person or
 447 company authorized to accept service on behalf of the agency and
 448 its principal business address.

449 (d) The physical address ~~location~~ of each branch agency,
 450 including its name, e-mail address, and telephone number, and
 451 the date that the branch location began transacting insurance
 452 ~~office and the name under which each agency office conducts or~~
 453 ~~will conduct business.~~

454 (e) The name of the each agent ~~to be~~ in full-time charge
 455 of the an agency office, including branch locations, and his or
 456 her corresponding location ~~specification of which office.~~

457 (f) The fingerprints of each of the following:

458 1. A sole proprietor;

459 2. Each individual required to be listed in the
 460 application under paragraph (a) partner; and

461 ~~3. Each owner of an unincorporated agency;~~

462 3.4. Each individual ~~owner~~ who directs or participates in
 463 the management or control of an incorporated agency whose shares
 464 are not traded on a securities exchange;

465 ~~5. The president, senior vice presidents, treasurer,~~
 466 ~~secretary, and directors of the agency; and~~

467 ~~6. Any other person who directs or participates in the~~
 468 ~~management or control of the agency, whether through the~~

469 ~~ownership of voting securities, by contract, or otherwise.~~

470

471 Fingerprints must be taken by a law enforcement agency or other
472 entity approved by the department and must be accompanied by the
473 fingerprint processing fee specified in s. 624.501. Fingerprints
474 must ~~shall~~ be processed in accordance with s. 624.34. However,
475 fingerprints need not be filed for an ~~any~~ individual who is
476 currently licensed and appointed under this chapter. This
477 paragraph does not apply to corporations whose voting shares are
478 traded on a securities exchange.

479 (g) Such additional information as the department requires
480 by rule to ascertain the trustworthiness and competence of
481 persons required to be listed on the application and to
482 ascertain that such persons meet the requirements of this code.
483 However, the department may not require that credit or character
484 reports be submitted for persons required to be listed on the
485 application.

486 (3) ~~(h)~~ ~~Beginning October 1, 2005,~~ The department must
487 ~~shall~~ accept the uniform application for nonresident agency
488 licensure. The department may adopt by rule revised versions of
489 the uniform application.

490 ~~(3)~~ ~~The department shall issue a registration as an~~
491 ~~insurance agency to any agency that files a written application~~
492 ~~with the department and qualifies for registration. The~~
493 ~~application for registration shall require the agency to provide~~
494 ~~the same information required for an agency licensed under~~

495 ~~subsection (2), the agent identification number for each owner~~
496 ~~who is a licensed agent, proof that the agency qualifies for~~
497 ~~registration as provided in s. 626.112(7), and any other~~
498 ~~additional information that the department determines is~~
499 ~~necessary in order to demonstrate that the agency qualifies for~~
500 ~~registration. The application must be signed by the owner or~~
501 ~~owners of the agency. If the agency is incorporated, the~~
502 ~~application must be signed by the president and the secretary of~~
503 ~~the corporation. An agent who owns the agency need not file~~
504 ~~fingerprints with the department if the agent obtained a license~~
505 ~~under this chapter and the license is currently valid.~~

506 ~~(a) If an application for registration is denied, the~~
507 ~~agency must file an application for licensure no later than 30~~
508 ~~days after the date of the denial of registration.~~

509 ~~(b) A registered insurance agency must file an application~~
510 ~~for licensure no later than 30 days after the date that any~~
511 ~~person who is not a licensed and appointed agent in this state~~
512 ~~acquires any ownership interest in the agency. If an agency~~
513 ~~fails to file an application for licensure in compliance with~~
514 ~~this paragraph, the department shall impose an administrative~~
515 ~~penalty in an amount of up to \$5,000 on the agency.~~

516 ~~(c) Sections 626.6115 and 626.6215 do not apply to~~
517 ~~agencies registered under this subsection.~~

518 (4) The department must ~~shall~~ issue a license ~~or~~
519 ~~registration~~ to each agency upon approval of the application,
520 and each agency location must ~~shall~~ display the license ~~or~~

521 ~~registration~~ prominently in a manner that makes it clearly
 522 visible to any customer or potential customer who enters the
 523 agency location.

524 Section 10. Subsection (7) of section 626.207, Florida
 525 Statutes, is amended to read:

526 626.207 Disqualification of applicants and licensees;
 527 penalties against licensees; rulemaking authority.—

528 (7) After the disqualifying period has been met, the
 529 burden is on the applicant to demonstrate that the applicant has
 530 been rehabilitated, does not pose a risk to the insurance-buying
 531 public, is fit and trustworthy to engage in the business of
 532 insurance pursuant to s. 626.611(1)(g) ~~626.611(7)~~, and is
 533 otherwise qualified for licensure.

534 Section 11. Subsection (5) of section 626.241, Florida
 535 Statutes, is amended to read:

536 626.241 Scope of examination.—

537 (5) Examinations given applicants for a limited agent
 538 license ~~as agent or as customer representative~~ shall be limited
 539 in scope to the kind of business to be transacted under such
 540 license.

541 Section 12. Subsection (5) of section 626.261, Florida
 542 Statutes, is amended to read:

543 626.261 Conduct of examination.—

544 (5) The department may provide licensure examinations in
 545 Spanish. ~~Applicants requesting examination or reexamination in~~
 546 ~~Spanish must bear the full cost of the department's development,~~

547 ~~preparation, administration, grading, and evaluation of the~~
548 ~~Spanish-language examination.~~ When determining whether it is in
549 the public interest to allow the examination to be translated
550 into and administered in Spanish, the department shall consider
551 the percentage of the population who speak Spanish.

552 Section 13. Subsection (6) of section 626.311, Florida
553 Statutes, is renumbered as subsection (7), and a new subsection
554 (6) is added to that section to read:

555 626.311 Scope of license.—

556 (6) An agent who appoints his or her license as an
557 unaffiliated insurance agent may not hold an appointment from an
558 insurer for any license he or she holds; transact, solicit, or
559 service an insurance contract on behalf of an insurer; interfere
560 with commissions received or to be received by an insurer-
561 appointed insurance agent or an insurance agency contracted with
562 or employing insurer-appointed insurance agents; or receive
563 compensation or any other thing of value from an insurer, an
564 insurer-appointed insurance agent, or an insurance agency
565 contracted with or employing insurer-appointed insurance agents
566 for any transaction or referral occurring after the date of
567 appointment as an unaffiliated insurance agent. An unaffiliated
568 insurance agent may continue to receive commissions on sales
569 that occurred before the date of appointment as an unaffiliated
570 insurance agent if the receipt of such commissions is disclosed
571 when making recommendations or evaluating products for a client
572 that involve products of the entity from which the commissions

573 are received.

574 Section 14. Paragraph (d) of subsection (1) of section
575 626.321, Florida Statutes, is amended to read:

576 626.321 Limited licenses.—

577 (1) The department shall issue to a qualified applicant a
578 license as agent authorized to transact a limited class of
579 business in any of the following categories of limited lines
580 insurance:

581 (d) Motor vehicle rental insurance.—

582 1. License covering only insurance of the risks set forth
583 in this paragraph when offered, sold, or solicited with and
584 incidental to the rental or lease of a motor vehicle and which
585 applies only to the motor vehicle that is the subject of the
586 lease or rental agreement and the occupants of the motor
587 vehicle:

588 a. Excess motor vehicle liability insurance providing
589 coverage in excess of the standard liability limits provided by
590 the lessor in the lessor's lease to a person renting or leasing
591 a motor vehicle from the licensee's employer for liability
592 arising in connection with the negligent operation of the leased
593 or rented motor vehicle.

594 b. Insurance covering the liability of the lessee to the
595 lessor for damage to the leased or rented motor vehicle.

596 c. Insurance covering the loss of or damage to baggage,
597 personal effects, or travel documents of a person renting or
598 leasing a motor vehicle.

599 d. Insurance covering accidental personal injury or death
600 of the lessee and any passenger who is riding or driving with
601 the covered lessee in the leased or rented motor vehicle.

602 2. Insurance under a motor vehicle rental insurance
603 license may be issued only if the lease or rental agreement is
604 for no more than 60 days, the lessee is not provided coverage
605 for more than 60 consecutive days per lease period, and the
606 lessee is given written notice that his or her personal
607 insurance policy providing coverage on an owned motor vehicle
608 may provide coverage of such risks and that the purchase of the
609 insurance is not required in connection with the lease or rental
610 of a motor vehicle. If the lease is extended beyond 60 days, the
611 coverage may be extended one time only for a period not to
612 exceed an additional 60 days. Insurance may be provided to the
613 lessee as an additional insured on a policy issued to the
614 licensee's employer.

615 3. The license may be issued only to the full-time
616 salaried employee of a licensed general lines agent or to a
617 business entity that offers motor vehicles for rent or lease if
618 insurance sales activities authorized by the license are in
619 connection with and incidental to the rental or lease of a motor
620 vehicle.

621 a. A license issued to a business entity that offers motor
622 vehicles for rent or lease encompasses each office, branch
623 office, employee, authorized representative located at a
624 designated branch, or place of business making use of the

625 entity's business name in order to offer, solicit, and sell
626 insurance pursuant to this paragraph.

627 b. The application for licensure must list the name,
628 address, and phone number for each office, branch office, or
629 place of business that is to be covered by the license. The
630 licensee shall notify the department of the name, address, and
631 phone number of any new location that is to be covered by the
632 license before the new office, branch office, or place of
633 business engages in the sale of insurance pursuant to this
634 paragraph. The licensee must notify the department within 30
635 days after closing or terminating an office, branch office, or
636 place of business. Upon receipt of the notice, the department
637 shall delete the office, branch office, or place of business
638 from the license.

639 c. A licensed and appointed entity is directly responsible
640 and accountable for all acts of the licensee's employees.

641 Section 15. Effective January 1, 2015, section 626.382,
642 Florida Statutes, is amended to read:

643 626.382 Continuation, expiration of license; insurance
644 agencies.—The license of an ~~any~~ insurance agency ~~shall be issued~~
645 ~~for a period of 3 years and~~ shall continue in force until
646 canceled, suspended, or ~~revoked,~~ or until it is otherwise
647 terminated or expires by operation of law. ~~A license may be~~
648 ~~renewed by submitting a renewal request to the department on a~~
649 ~~form adopted by department rule.~~

650 Section 16. Section 626.601, Florida Statutes, is amended

651 to read:

652 626.601 Improper conduct; inquiry; fingerprinting.—

653 (1) The department or office may, upon its own motion or
654 upon a written complaint signed by any interested person and
655 filed with the department or office, inquire into any alleged
656 improper conduct of any licensed, approved, or certified
657 licensee, insurance agency, agent, adjuster, service
658 representative, managing general agent, customer representative,
659 title insurance agent, title insurance agency, mediator, neutral
660 evaluator, navigator, continuing education course provider,
661 instructor, school official, or monitor group under this code.
662 The department or office may thereafter initiate an
663 investigation of any such individual or entity licensee if it
664 has reasonable cause to believe that the individual or entity
665 licensee has violated any provision of the insurance code.
666 During the course of its investigation, the department or office
667 shall contact the individual or entity licensee being
668 investigated unless it determines that contacting such
669 individual or entity person could jeopardize the successful
670 completion of the investigation or cause injury to the public.
671 (2) In the investigation by the department or office of
672 any the alleged misconduct, an individual or entity the licensee
673 shall, whenever so required by the department or office, cause
674 the individual's or entity's his or her books and records to be
675 open for inspection for the purpose of such investigation
676 inquiries.

677 (3) ~~The~~ Complaints against an individual or entity ~~any~~
 678 ~~licensee~~ may be informally alleged and are not required to
 679 include ~~need not be in any such language as is~~ necessary to
 680 charge a crime on an indictment or information.

681 (4) The expense for any hearings or investigations
 682 conducted under this law, as well as the fees and mileage of
 683 witnesses, may be paid out of the appropriate fund.

684 (5) If the department or office, after investigation, has
 685 reason to believe that an individual ~~a licensee~~ may have been
 686 found guilty of or pleaded guilty or nolo contendere to a felony
 687 or a crime related to the business of insurance in this or any
 688 other state or jurisdiction, the department or office may
 689 require the individual ~~licensee~~ to file with the department or
 690 office a complete set of his or her fingerprints, which shall be
 691 accompanied by the fingerprint processing fee set forth in s.
 692 624.501. The fingerprints shall be taken by an authorized law
 693 enforcement agency or other department-approved entity.

694 (6) The complaint and any information obtained pursuant to
 695 the investigation by the department or office are confidential
 696 and are exempt from ~~the provisions of~~ s. 119.07, unless the
 697 department or office files a formal administrative complaint,
 698 emergency order, or consent order against the individual or
 699 entity ~~licensee~~. ~~Nothing in~~ This subsection does not ~~shall be~~
 700 ~~construed to~~ prevent the department or office from disclosing
 701 the complaint or such information as it deems necessary to
 702 conduct the investigation, to update the complainant as to the

703 status and outcome of the complaint, or to share such
 704 information with any law enforcement agency or other regulatory
 705 body.

706 Section 17. Section 626.611, Florida Statutes, is amended
 707 to read:

708 626.611 Grounds for compulsory refusal, suspension, or
 709 revocation of agent's, title agency's, adjuster's, customer
 710 representative's, service representative's, or managing general
 711 agent's license or appointment.-

712 (1) The department shall deny an application for, suspend,
 713 revoke, or refuse to renew or continue the license or
 714 appointment of any applicant, agent, title agency, adjuster,
 715 customer representative, service representative, or managing
 716 general agent, and it shall suspend or revoke the eligibility to
 717 hold a license or appointment of any such person, if it finds
 718 that as to the applicant, licensee, or appointee any one or more
 719 of the following applicable grounds exist:

720 (a)~~(1)~~ Lack of one or more of the qualifications for the
 721 license or appointment as specified in this code.

722 (b)~~(2)~~ Material misstatement, misrepresentation, or fraud
 723 in obtaining the license or appointment or in attempting to
 724 obtain the license or appointment.

725 (c)~~(3)~~ Failure to pass to the satisfaction of the
 726 department any examination required under this code.

727 (d)~~(4)~~ If the license or appointment is willfully used, or
 728 to be used, to circumvent any of the requirements or

729 prohibitions of this code.

730 (e)~~(5)~~ Willful misrepresentation of any insurance policy
731 or annuity contract or willful deception with regard to any such
732 policy or contract, done either in person or by any form of
733 dissemination of information or advertising.

734 (f)~~(6)~~ If, as an adjuster, or agent licensed and appointed
735 to adjust claims under this code, he or she has materially
736 misrepresented to an insured or other interested party the terms
737 and coverage of an insurance contract with intent and for the
738 purpose of effecting settlement of claim for loss or damage or
739 benefit under such contract on less favorable terms than those
740 provided in and contemplated by the contract.

741 (g)~~(7)~~ Demonstrated lack of fitness or trustworthiness to
742 engage in the business of insurance.

743 (h)~~(8)~~ Demonstrated lack of reasonably adequate knowledge
744 and technical competence to engage in the transactions
745 authorized by the license or appointment.

746 (i)~~(9)~~ Fraudulent or dishonest practices in the conduct of
747 business under the license or appointment.

748 (j)~~(10)~~ Misappropriation, conversion, or unlawful
749 withholding of moneys belonging to insurers or insureds or
750 beneficiaries or to others and received in conduct of business
751 under the license or appointment.

752 (k)~~(11)~~ Unlawfully rebating, attempting to unlawfully
753 rebate, or unlawfully dividing or offering to divide his or her
754 commission with another.

755 (l)~~(12)~~ Having obtained or attempted to obtain, or having
756 used or using, a license or appointment as agent or customer
757 representative for the purpose of soliciting or handling
758 "controlled business" as defined in s. 626.730 with respect to
759 general lines agents, s. 626.784 with respect to life agents,
760 and s. 626.830 with respect to health agents.

761 (m)~~(13)~~ Willful failure to comply with, or willful
762 violation of, any proper order or rule of the department or
763 willful violation of any provision of this code.

764 (n)~~(14)~~ Having been found guilty of or having pleaded
765 guilty or nolo contendere to a felony or a crime punishable by
766 imprisonment of 1 year or more under the law of the United
767 States of America or of any state thereof or under the law of
768 any other country which involves moral turpitude, without regard
769 to whether a judgment of conviction has been entered by the
770 court having jurisdiction of such cases.

771 (o)~~(15)~~ Fraudulent or dishonest practice in submitting or
772 aiding or abetting any person in the submission of an
773 application for workers' compensation coverage under chapter 440
774 containing false or misleading information as to employee
775 payroll or classification for the purpose of avoiding or
776 reducing the amount of premium due for such coverage.

777 (p)~~(16)~~ Sale of an unregistered security that was required
778 to be registered, pursuant to chapter 517.

779 (q)~~(17)~~ In transactions related to viatical settlement
780 contracts as defined in s. 626.9911:

- 781 ~~1.(a)~~ Commission of a fraudulent or dishonest act.
- 782 ~~2.(b)~~ No longer meeting the requirements for initial
783 licensure.
- 784 ~~3.(c)~~ Having received a fee, commission, or other valuable
785 consideration for his or her services with respect to viatical
786 settlements that involved unlicensed viatical settlement
787 providers or persons who offered or attempted to negotiate on
788 behalf of another person a viatical settlement contract as
789 defined in s. 626.9911 and who were not licensed life agents.
- 790 ~~4.(d)~~ Dealing in bad faith with viators.

791 (2) The department shall, upon receipt of information or
792 an indictment, immediately temporarily suspend a license or
793 appointment issued under this chapter when the licensee is
794 charged with a felony enumerated in s. 626.207(3). Such
795 suspension shall continue if the licensee is found guilty of, or
796 pleads guilty or nolo contendere to, the crime, regardless of
797 whether a judgment or conviction is entered, during a pending
798 appeal. A person may not transact insurance business after
799 suspension of his or her license or appointment.

800 Section 18. Subsection (2) of section 626.641, Florida
801 Statutes, is amended to read:

802 626.641 Duration of suspension or revocation.—

803 (2) No person or appointee under any license or
804 appointment revoked by the department, nor any person whose
805 eligibility to hold same has been revoked by the department,
806 shall have the right to apply for another license or appointment

807 | under this code within 2 years from the effective date of such
 808 | revocation or, if judicial review of such revocation is sought,
 809 | within 2 years from the date of final court order or decree
 810 | affirming the revocation. An applicant for another license or
 811 | appointment pursuant to this subsection must apply and qualify
 812 | for licensure in the same manner as a first-time applicant, and
 813 | the application may be denied on the same grounds that apply to
 814 | first-time applicants for licensure pursuant to ss. 626.207,
 815 | 626.611, and 626.621. In addition, the department shall not
 816 | grant a new license or appointment or reinstate eligibility to
 817 | hold such license or appointment if it finds that the
 818 | circumstance or circumstances for which the eligibility was
 819 | revoked or for which the previous license or appointment was
 820 | revoked still exist or are likely to recur; if an individual's
 821 | license as agent or customer representative or eligibility to
 822 | hold same has been revoked upon the ground specified in s.
 823 | 626.611(1)(1) ~~626.611(12)~~, the department shall refuse to grant
 824 | or issue any new license or appointment so applied for.

825 | Section 19. Section 626.733, Florida Statutes, is amended
 826 | to read:

827 | 626.733 Agency firms and corporations; special
 828 | requirements.—If a sole proprietorship, partnership,
 829 | corporation, or association holds an agency contract, all
 830 | members thereof who solicit, negotiate, or effect insurance
 831 | contracts, and all officers and stockholders of the corporation
 832 | who solicit, negotiate, or effect insurance contracts, must ~~are~~

833 ~~required to~~ qualify and be licensed individually as agents or
834 customer representatives,[†] and all of such agents must be
835 individually appointed as to each property and casualty insurer
836 entering into an agency contract with such agency. Each ~~such~~
837 appointing insurer ~~as seen as known to it~~ shall comply with this
838 section and shall determine and require that each agent so
839 associated ~~in or so connected~~ with such agency is likewise
840 appointed as to the same such insurer and for the same type and
841 class of license. However, an ~~no~~ insurer is not required to
842 comply with the appointment provisions of this section for an
843 agent within an agency who does not solicit, negotiate, or
844 effect insurance contracts for that insurer if such insurer
845 ~~satisfactorily demonstrates to the department that the insurer~~
846 ~~has issued an aggregate net written premium, in an agency, in an~~
847 ~~amount of \$25,000 or less.~~

848 Section 20. Paragraphs (a) and (g) of subsection (1) of
849 section 626.7355, Florida Statutes, are amended to read:

850 626.7355 Temporary license as customer representative
851 pending examination.—

852 (1) The department shall issue a temporary customer
853 representative's license with respect to a person who has
854 applied for such license upon finding that the person:

855 (a) Has filed an application for a customer
856 representative's license ~~or a limited customer representative's~~
857 ~~license~~ and has paid any fees required under s. 624.501(5) in
858 connection with such application for a customer representative's

859 ~~license or limited customer representative's license.~~

860 (g) Is not disqualified from licensure by the department
861 under s. 626.207. ~~Within the last 5 years, has not been~~
862 ~~convicted, found guilty or pleaded nolo contendere to a felony~~
863 ~~or a crime punishable by imprisonment of 1 year or more under~~
864 ~~the law of any municipality, county, state, territory, or~~
865 ~~country, whether or not a judgment of conviction has been~~
866 ~~entered.~~

867 Section 21. Effective January 1, 2015, section 626.747,
868 Florida Statutes, is repealed.

869 Section 22. Subsection (1) of section 626.7845, Florida
870 Statutes, is amended to read:

871 626.7845 Prohibition against unlicensed transaction of
872 life insurance.—

873 (1) An individual may not solicit or sell variable life
874 insurance, variable annuity contracts, or any other
875 indeterminate value or variable contract as defined in s.
876 627.8015~~7~~, unless the individual has successfully completed a
877 licensure examination relating to variable ~~annuity~~ contracts
878 authorized and approved by the department.

879 Section 23. Effective January 1, 2015, subsection (1) of
880 section 626.8411, Florida Statutes, is amended to read:

881 626.8411 Application of Florida Insurance Code provisions
882 to title insurance agents or agencies.—

883 (1) The following provisions ~~of part II~~ applicable to
884 general lines agents or agencies also apply to title insurance

885 agents or agencies:

886 (a) Section 626.734, relating to liability of certain
887 agents.

888 (b) Section 626.0428(4)(a) and (b) ~~626.747~~, relating to
889 branch agencies.

890 (c) Section 626.749, relating to place of business in
891 residence.

892 (d) Section 626.753, relating to sharing of commissions.

893 (e) Section 626.754, relating to rights of agent following
894 termination of appointment.

895 Section 24. Subsection (2) of section 626.861, Florida
896 Statutes, is amended to read:

897 626.861 Insurer's officers, insurer's employees,
898 reciprocal insurer's representatives; adjustments by.—

899 (2) If any such officer, employee, attorney, or agent in
900 connection with the adjustment of any such claim, loss, or
901 damage engages in any of the misconduct described in or
902 contemplated by s. 626.611(1)(f) ~~626.611(6)~~, the office may
903 suspend or revoke the insurer's certificate of authority.

904 Section 25. Section 626.862, Florida Statutes, is amended
905 to read:

906 626.862 Agents; adjustments by.—A licensed and appointed
907 insurance agent may, without being licensed as an adjuster,
908 adjust losses for the insurer represented by him or her as agent
909 if so authorized by the insurer. The license and appointment of
910 the agent may be suspended or revoked for violation of or

911 misconduct prohibited by s. 626.611(1)(f) ~~626.611(6)~~.

912 Section 26. Subsection (2) of section 626.9272, Florida
913 Statutes, is amended to read:

914 626.9272 Licensing of nonresident surplus lines agents.—

915 (2) The department may not issue a license unless the
916 applicant satisfies the same licensing requirements under s.
917 626.927 as required of a resident surplus lines agent, excluding
918 the required experience or coursework and examination. The
919 department may refuse to issue such license or appointment when
920 it has reason to believe that any of the grounds exist for
921 denial, suspension, or revocation of a license as set forth in
922 ss. 626.611 and 626.621.

923 Section 27. Section 627.4553, Florida Statutes, is created
924 to read:

925 627.4553 Recommendations to surrender.—If an insurance
926 agent recommends the surrender of an annuity or life insurance
927 policy containing a cash value and does not recommend that the
928 proceeds from the surrender be used to fund or purchase another
929 annuity or life insurance policy, before execution of the
930 surrender, the insurance agent, or insurance company if no agent
931 is involved, shall provide, on a form that satisfies the
932 requirements of the rule adopted by the department, information
933 relating to the annuity or policy to be surrendered. Such
934 information shall include, but is not limited to, the amount of
935 any surrender charge, the loss of any minimum interest rate
936 guarantees, the amount of any tax consequences resulting from

937 the transaction, the amount of any forfeited death benefit, and
938 the value of any other investment performance guarantees being
939 forfeited as a result of the transaction. This section also
940 applies to a person performing insurance agent activities
941 pursuant to an exemption from licensure under this part.

942 Section 28. Paragraph (b) of subsection (4) of section
943 627.7015, Florida Statutes, is amended to read:

944 627.7015 Alternative procedure for resolution of disputed
945 property insurance claims.—

946 (4) The department shall adopt by rule a property
947 insurance mediation program to be administered by the department
948 or its designee. The department may also adopt special rules
949 which are applicable in cases of an emergency within the state.
950 The rules shall be modeled after practices and procedures set
951 forth in mediation rules of procedure adopted by the Supreme
952 Court. The rules shall provide for:

953 (b) Qualifications, denial of application, suspension,
954 revocation of approval, and other penalties for ~~of~~ mediators as
955 provided in s. 627.745 and in the Florida Rules of Certified and
956 Court Appointed Mediators, ~~and for such other individuals as are~~
957 ~~qualified by education, training, or experience as the~~
958 ~~department determines to be appropriate.~~

959 Section 29. Paragraph (c) of subsection (2) of section
960 627.706, Florida Statutes, is amended to read:

961 627.706 Sinkhole insurance; catastrophic ground cover
962 collapse; definitions.—

963 (2) As used in ss. 627.706-627.7074, and as used in
 964 connection with any policy providing coverage for a catastrophic
 965 ground cover collapse or for sinkhole losses, the term:

966 (c) "Neutral evaluator" means a professional engineer or a
 967 professional geologist who has completed a course of study in
 968 alternative dispute resolution designed or approved by the
 969 department for use in the neutral evaluation process, ~~and~~ and who is
 970 determined by the department to be fair and impartial, and who
 971 is not otherwise ineligible for certification as provided in s.
 972 627.7074.

973 Section 30. Subsections (7) and (18) of section 627.7074,
 974 Florida Statutes, are amended to read:

975 627.7074 Alternative procedure for resolution of disputed
 976 sinkhole insurance claims.—

977 (7) Upon receipt of a request for neutral evaluation, the
 978 department shall provide the parties a list of certified neutral
 979 evaluators. The department shall allow the parties to submit
 980 requests to disqualify evaluators on the list for cause.

981 (a) The department shall disqualify neutral evaluators for
 982 cause based only on any of the following grounds:

983 1. A familial relationship exists between the neutral
 984 evaluator and either party or a representative of either party
 985 within the third degree.

986 2. The proposed neutral evaluator has, in a professional
 987 capacity, previously represented either party or a
 988 representative of either party, in the same or a substantially

989 related matter.

990 3. The proposed neutral evaluator has, in a professional
 991 capacity, represented another person in the same or a
 992 substantially related matter and that person's interests are
 993 materially adverse to the interests of the parties. The term
 994 "substantially related matter" means participation by the
 995 neutral evaluator on the same claim, property, or adjacent
 996 property.

997 4. The proposed neutral evaluator has, within the
 998 preceding 5 years, worked as an employer or employee of any
 999 party to the case.

1000 (b) The department shall deny an application, or suspend
 1001 or revoke its certification, of a neutral evaluator to serve in
 1002 such capacity if the department finds that one or more of the
 1003 following grounds exist:

1004 1. Lack of one or more of the qualifications specified in
 1005 this section for certification.

1006 2. Material misstatement, misrepresentation, or fraud in
 1007 obtaining or attempting to obtain the certification.

1008 3. Demonstrated lack of fitness or trustworthiness to act
 1009 as a neutral evaluator.

1010 4. Fraudulent or dishonest practices in the conduct of an
 1011 evaluation or in the conduct of financial services business.

1012 5. Violation of any provision of this code or of a lawful
 1013 order or rule of the department or aiding, instructing, or
 1014 encouraging another party in committing such a violation.

1015 ~~(c)~~ ~~(b)~~ The parties shall appoint a neutral evaluator from
1016 the department list and promptly inform the department. If the
1017 parties cannot agree to a neutral evaluator within 14 business
1018 days, the department shall appoint a neutral evaluator from the
1019 list of certified neutral evaluators. The department shall allow
1020 each party to disqualify two neutral evaluators without cause.
1021 Upon selection or appointment, the department shall promptly
1022 refer the request to the neutral evaluator.

1023 ~~(d)~~ ~~(e)~~ Within 14 business days after the referral, the
1024 neutral evaluator shall notify the policyholder and the insurer
1025 of the date, time, and place of the neutral evaluation
1026 conference. The conference may be held by telephone, if feasible
1027 and desirable. The neutral evaluator shall make reasonable
1028 efforts to hold the conference within 90 days after the receipt
1029 of the request by the department. Failure of the neutral
1030 evaluator to hold the conference within 90 days does not
1031 invalidate either party's right to neutral evaluation or to a
1032 neutral evaluation conference held outside this timeframe.

1033 (18) The department shall adopt rules of procedure for the
1034 neutral evaluation process and adopt rules for certifying,
1035 denying certification of, suspending certification of, and
1036 revoking certification as a neutral evaluator.

1037 Section 31. Subsection (3) of section 627.745, Florida
1038 Statutes, is amended, present subsections (4) and (5) of that
1039 section are renumbered as subsections (5) and (6), respectively,
1040 and a new subsection (4) is added to that section, to read:

1041 627.745 Mediation of claims.—

1042 (3) (a) The department shall approve mediators to conduct
 1043 mediations pursuant to this section. All mediators must file an
 1044 application under oath for approval as a mediator.

1045 (b) To qualify for approval as a mediator, an individual ~~a~~
 1046 ~~person~~ must meet one of the following qualifications:

1047 1. Possess an active certification as a Florida Supreme
 1048 Court certified circuit court mediator. A Florida Supreme Court
 1049 certified circuit court mediator in a lapsed, suspended,
 1050 sanctioned, or decertified status is not eligible to participate
 1051 in the mediation program ~~a masters or doctorate degree in~~
 1052 ~~psychology, counseling, business, accounting, or economics, be a~~
 1053 ~~member of The Florida Bar, be licensed as a certified public~~
 1054 ~~accountant, or demonstrate that the applicant for approval has~~
 1055 ~~been actively engaged as a qualified mediator for at least 4~~
 1056 ~~years prior to July 1, 1990.~~

1057 2. Be an approved department mediator as of July 1, 2014,
 1058 and have conducted at least one mediation on behalf of the
 1059 department within 4 years immediately preceding that ~~the date~~
 1060 ~~the application for approval is filed with the department, have~~
 1061 ~~completed a minimum of a 40-hour training program approved by~~
 1062 ~~the department and successfully passed a final examination~~
 1063 ~~included in the training program and approved by the department.~~
 1064 ~~The training program shall include and address all of the~~
 1065 ~~following:~~

1066 a. ~~Mediation theory.~~

1067 ~~b. Mediation process and techniques.~~
 1068 ~~e. Standards of conduct for mediators.~~
 1069 ~~d. Conflict management and intervention skills.~~
 1070 ~~e. Insurance nomenclature.~~
 1071 (4) The department shall deny an application, or suspend
 1072 or revoke its approval, of a mediator to serve in such capacity
 1073 if the department finds that one or more of the following
 1074 grounds exist:
 1075 (a) Lack of one or more of the qualifications specified in
 1076 this section for approval.
 1077 (b) Material misstatement, misrepresentation, or fraud in
 1078 obtaining or attempting to obtain the approval.
 1079 (c) Demonstrated lack of fitness or trustworthiness to act
 1080 as a mediator.
 1081 (d) Fraudulent or dishonest practices in the conduct of
 1082 mediation or in the conduct of business in the financial
 1083 services industry.
 1084 (e) Violation of any provision of this code or of a lawful
 1085 order or rule of the department, violation of the Florida Rules
 1086 of Certified and Court Appointed Mediators, or aiding,
 1087 instructing, or encouraging another party in committing such a
 1088 violation.
 1089
 1090 The department may adopt rules to administer this subsection.
 1091 Section 32. Paragraph (b) of subsection (1) of section
 1092 627.952, Florida Statutes, is amended to read:

1093 627.952 Risk retention and purchasing group agents.—

1094 (1) Any person offering, soliciting, selling, purchasing,
 1095 administering, or otherwise servicing insurance contracts,
 1096 certificates, or agreements for any purchasing group or risk
 1097 retention group to any resident of this state, either directly
 1098 or indirectly, by the use of mail, advertising, or other means
 1099 of communication, shall obtain a license and appointment to act
 1100 as a resident general lines agent, if a resident of this state,
 1101 or a nonresident general lines agent if not a resident. Any such
 1102 person shall be subject to all requirements of the Florida
 1103 Insurance Code.

1104 (b) Any person required to be licensed and appointed under
 1105 this subsection, in order to place business through Florida
 1106 eligible surplus lines carriers, must, if a resident of this
 1107 state, be licensed and appointed as a surplus lines agent. If
 1108 not a resident of this state, such person must be licensed and
 1109 appointed as a surplus lines agent in her or his state of
 1110 residence and be licensed and appointed as a nonresident surplus
 1111 lines agent in this state ~~file and maintain a fidelity bond in~~
 1112 ~~favor of the people of the State of Florida executed by a surety~~
 1113 ~~company admitted in this state and payable to the State of~~
 1114 ~~Florida; however, such nonresident is limited to the provision~~
 1115 ~~of insurance for purchasing groups. The bond must be continuous~~
 1116 ~~in form and in the amount of not less than \$50,000, aggregate~~
 1117 ~~liability. The bond must remain in force and effect until the~~
 1118 ~~surety is released from liability by the department or until the~~

1119 ~~bond is canceled by the surety. The surety may cancel the bond~~
 1120 ~~and be released from further liability upon 30 days' prior~~
 1121 ~~written notice to the department. The cancellation does not~~
 1122 ~~affect any liability incurred or accrued before the termination~~
 1123 ~~of the 30-day period. Upon receipt of a notice of cancellation,~~
 1124 ~~the department shall immediately notify the agent.~~

1125 Section 33. Subsection (1) of section 648.43, Florida
 1126 Statutes, is amended to read:

1127 648.43 Power of attorney; to be approved by department;
 1128 filing of copies; notification of transfer bond.—

1129 (1) Every insurer engaged in the writing of bail bonds
 1130 through bail bond agents in this state shall submit to ~~and have~~
 1131 ~~approved by the~~ office for prior approval ~~department~~ a sample
 1132 power of attorney, which shall ~~will~~ be the only form of power of
 1133 attorney the insurer issues ~~will issue~~ to bail bond agents in
 1134 this state.

1135 Section 34. Subsection (3) of section 648.49, Florida
 1136 Statutes, is amended to read:

1137 648.49 Duration of suspension or revocation.—

1138 (3) During the period of suspension, ~~or after~~ revocation
 1139 of the license and until the license is reinstated or a new
 1140 license is issued, the former licensee may not engage in or
 1141 attempt to profess to engage in any transaction or business for
 1142 which a license or appointment is required under this chapter. A
 1143 ~~Any~~ person who violates this subsection commits a felony of the
 1144 third degree, punishable as provided in s. 775.082, s. 775.083,

1145 or s. 775.084.

1146 Section 35. Paragraphs (a) and (c) of subsection (4) of
1147 section 943.0585, Florida Statutes, are amended to read:

1148 943.0585 Court-ordered expunction of criminal history
1149 records.—The courts of this state have jurisdiction over their
1150 own procedures, including the maintenance, expunction, and
1151 correction of judicial records containing criminal history
1152 information to the extent such procedures are not inconsistent
1153 with the conditions, responsibilities, and duties established by
1154 this section. Any court of competent jurisdiction may order a
1155 criminal justice agency to expunge the criminal history record
1156 of a minor or an adult who complies with the requirements of
1157 this section. The court shall not order a criminal justice
1158 agency to expunge a criminal history record until the person
1159 seeking to expunge a criminal history record has applied for and
1160 received a certificate of eligibility for expunction pursuant to
1161 subsection (2). A criminal history record that relates to a
1162 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
1163 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
1164 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
1165 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
1166 any violation specified as a predicate offense for registration
1167 as a sexual predator pursuant to s. 775.21, without regard to
1168 whether that offense alone is sufficient to require such
1169 registration, or for registration as a sexual offender pursuant
1170 to s. 943.0435, may not be expunged, without regard to whether

1171 adjudication was withheld, if the defendant was found guilty of
1172 or pled guilty or nolo contendere to the offense, or if the
1173 defendant, as a minor, was found to have committed, or pled
1174 guilty or nolo contendere to committing, the offense as a
1175 delinquent act. The court may only order expunction of a
1176 criminal history record pertaining to one arrest or one incident
1177 of alleged criminal activity, except as provided in this
1178 section. The court may, at its sole discretion, order the
1179 expunction of a criminal history record pertaining to more than
1180 one arrest if the additional arrests directly relate to the
1181 original arrest. If the court intends to order the expunction of
1182 records pertaining to such additional arrests, such intent must
1183 be specified in the order. A criminal justice agency may not
1184 expunge any record pertaining to such additional arrests if the
1185 order to expunge does not articulate the intention of the court
1186 to expunge a record pertaining to more than one arrest. This
1187 section does not prevent the court from ordering the expunction
1188 of only a portion of a criminal history record pertaining to one
1189 arrest or one incident of alleged criminal activity.
1190 Notwithstanding any law to the contrary, a criminal justice
1191 agency may comply with laws, court orders, and official requests
1192 of other jurisdictions relating to expunction, correction, or
1193 confidential handling of criminal history records or information
1194 derived therefrom. This section does not confer any right to the
1195 expunction of any criminal history record, and any request for
1196 expunction of a criminal history record may be denied at the

1197 sole discretion of the court.

1198 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any
 1199 criminal history record of a minor or an adult which is ordered
 1200 expunged by a court of competent jurisdiction pursuant to this
 1201 section must be physically destroyed or obliterated by any
 1202 criminal justice agency having custody of such record; except
 1203 that any criminal history record in the custody of the
 1204 department must be retained in all cases. A criminal history
 1205 record ordered expunged that is retained by the department is
 1206 confidential and exempt from the provisions of s. 119.07(1) and
 1207 s. 24(a), Art. I of the State Constitution and not available to
 1208 any person or entity except upon order of a court of competent
 1209 jurisdiction. A criminal justice agency may retain a notation
 1210 indicating compliance with an order to expunge.

1211 (a) The person who is the subject of a criminal history
 1212 record that is expunged under this section or under other
 1213 provisions of law, including former s. 893.14, former s. 901.33,
 1214 and former s. 943.058, may lawfully deny or fail to acknowledge
 1215 the arrests covered by the expunged record, except when the
 1216 subject of the record:

- 1217 1. Is a candidate for employment with a criminal justice
 1218 agency;
- 1219 2. Is a defendant in a criminal prosecution;
- 1220 3. Concurrently or subsequently petitions for relief under
 1221 this section, s. 943.0583, or s. 943.059;
- 1222 4. Is a candidate for admission to The Florida Bar;

1223 5. Is seeking to be employed or licensed by or to contract
 1224 with the Department of Children and Families, the Division of
 1225 Vocational Rehabilitation within the Department of Education,
 1226 the Agency for Health Care Administration, the Agency for
 1227 Persons with Disabilities, the Department of Health, the
 1228 Department of Elderly Affairs, or the Department of Juvenile
 1229 Justice or to be employed or used by such contractor or licensee
 1230 in a sensitive position having direct contact with children, the
 1231 disabled, or the elderly; ~~or~~

1232 6. Is seeking to be employed or licensed by the Department
 1233 of Education, any district school board, any university
 1234 laboratory school, any charter school, any private or parochial
 1235 school, or any local governmental entity that licenses child
 1236 care facilities; or

1237 7. Is seeking to be licensed by the Division of Insurance
 1238 Agent and Agency Services within the Department of Financial
 1239 Services.

1240 (c) Information relating to the existence of an expunged
 1241 criminal history record which is provided in accordance with
 1242 paragraph (a) is confidential and exempt from the provisions of
 1243 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
 1244 except that the department shall disclose the existence of a
 1245 criminal history record ordered expunged to the entities set
 1246 forth in subparagraphs (a)1., 4., 5., 6., and 7. ~~7.~~ for their
 1247 respective licensing, access authorization, and employment
 1248 purposes, and to criminal justice agencies for their respective

1249 criminal justice purposes. It is unlawful for any employee of an
 1250 entity set forth in subparagraph (a)1., subparagraph (a)4.,
 1251 subparagraph (a)5., subparagraph (a)6., or subparagraph (a)7.
 1252 ~~subparagraph (a)7.~~ to disclose information relating to the
 1253 existence of an expunged criminal history record of a person
 1254 seeking employment, access authorization, or licensure with such
 1255 entity or contractor, except to the person to whom the criminal
 1256 history record relates or to persons having direct
 1257 responsibility for employment, access authorization, or
 1258 licensure decisions. Any person who violates this paragraph
 1259 commits a misdemeanor of the first degree, punishable as
 1260 provided in s. 775.082 or s. 775.083.

1261 Section 36. Paragraphs (a) and (c) of subsection (4) of
 1262 section 943.059, Florida Statutes, are amended to read:

1263 943.059 Court-ordered sealing of criminal history
 1264 records.—The courts of this state shall continue to have
 1265 jurisdiction over their own procedures, including the
 1266 maintenance, sealing, and correction of judicial records
 1267 containing criminal history information to the extent such
 1268 procedures are not inconsistent with the conditions,
 1269 responsibilities, and duties established by this section. Any
 1270 court of competent jurisdiction may order a criminal justice
 1271 agency to seal the criminal history record of a minor or an
 1272 adult who complies with the requirements of this section. The
 1273 court shall not order a criminal justice agency to seal a
 1274 criminal history record until the person seeking to seal a

1275 criminal history record has applied for and received a
1276 certificate of eligibility for sealing pursuant to subsection
1277 (2). A criminal history record that relates to a violation of s.
1278 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.
1279 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter
1280 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.
1281 916.1075, a violation enumerated in s. 907.041, or any violation
1282 specified as a predicate offense for registration as a sexual
1283 predator pursuant to s. 775.21, without regard to whether that
1284 offense alone is sufficient to require such registration, or for
1285 registration as a sexual offender pursuant to s. 943.0435, may
1286 not be sealed, without regard to whether adjudication was
1287 withheld, if the defendant was found guilty of or pled guilty or
1288 nolo contendere to the offense, or if the defendant, as a minor,
1289 was found to have committed or pled guilty or nolo contendere to
1290 committing the offense as a delinquent act. The court may only
1291 order sealing of a criminal history record pertaining to one
1292 arrest or one incident of alleged criminal activity, except as
1293 provided in this section. The court may, at its sole discretion,
1294 order the sealing of a criminal history record pertaining to
1295 more than one arrest if the additional arrests directly relate
1296 to the original arrest. If the court intends to order the
1297 sealing of records pertaining to such additional arrests, such
1298 intent must be specified in the order. A criminal justice agency
1299 may not seal any record pertaining to such additional arrests if
1300 the order to seal does not articulate the intention of the court

1301 to seal records pertaining to more than one arrest. This section
1302 does not prevent the court from ordering the sealing of only a
1303 portion of a criminal history record pertaining to one arrest or
1304 one incident of alleged criminal activity. Notwithstanding any
1305 law to the contrary, a criminal justice agency may comply with
1306 laws, court orders, and official requests of other jurisdictions
1307 relating to sealing, correction, or confidential handling of
1308 criminal history records or information derived therefrom. This
1309 section does not confer any right to the sealing of any criminal
1310 history record, and any request for sealing a criminal history
1311 record may be denied at the sole discretion of the court.

1312 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal
1313 history record of a minor or an adult which is ordered sealed by
1314 a court of competent jurisdiction pursuant to this section is
1315 confidential and exempt from the provisions of s. 119.07(1) and
1316 s. 24(a), Art. I of the State Constitution and is available only
1317 to the person who is the subject of the record, to the subject's
1318 attorney, to criminal justice agencies for their respective
1319 criminal justice purposes, which include conducting a criminal
1320 history background check for approval of firearms purchases or
1321 transfers as authorized by state or federal law, to judges in
1322 the state courts system for the purpose of assisting them in
1323 their case-related decisionmaking responsibilities, as set forth
1324 in s. 943.053(5), or to those entities set forth in
1325 subparagraphs (a)1., 4., 5., 6., and 8. ~~8.~~ for their respective
1326 licensing, access authorization, and employment purposes.

1327 (a) The subject of a criminal history record sealed under
 1328 this section or under other provisions of law, including former
 1329 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
 1330 deny or fail to acknowledge the arrests covered by the sealed
 1331 record, except when the subject of the record:

- 1332 1. Is a candidate for employment with a criminal justice
 1333 agency;
- 1334 2. Is a defendant in a criminal prosecution;
- 1335 3. Concurrently or subsequently petitions for relief under
 1336 this section, s. 943.0583, or s. 943.0585;
- 1337 4. Is a candidate for admission to The Florida Bar;
- 1338 5. Is seeking to be employed or licensed by or to contract
 1339 with the Department of Children and Families, the Division of
 1340 Vocational Rehabilitation within the Department of Education,
 1341 the Agency for Health Care Administration, the Agency for
 1342 Persons with Disabilities, the Department of Health, the
 1343 Department of Elderly Affairs, or the Department of Juvenile
 1344 Justice or to be employed or used by such contractor or licensee
 1345 in a sensitive position having direct contact with children, the
 1346 disabled, or the elderly;
- 1347 6. Is seeking to be employed or licensed by the Department
 1348 of Education, any district school board, any university
 1349 laboratory school, any charter school, any private or parochial
 1350 school, or any local governmental entity that licenses child
 1351 care facilities; ~~or~~
- 1352 7. Is attempting to purchase a firearm from a licensed

1353 importer, licensed manufacturer, or licensed dealer and is
 1354 subject to a criminal history check under state or federal law;
 1355 or

1356 8. Is seeking to be licensed by the Division of Insurance
 1357 Agent and Agency Services within the Department of Financial
 1358 Services.

1359 (c) Information relating to the existence of a sealed
 1360 criminal record provided in accordance with the provisions of
 1361 paragraph (a) is confidential and exempt from the provisions of
 1362 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
 1363 except that the department shall disclose the sealed criminal
 1364 history record to the entities set forth in subparagraphs (a)1.,
 1365 4., 5., 6., and 8. ~~8.~~ for their respective licensing, access
 1366 authorization, and employment purposes. It is unlawful for any
 1367 employee of an entity set forth in subparagraph (a)1.,
 1368 subparagraph (a)4., subparagraph (a)5., subparagraph (a)6., or
 1369 subparagraph (a)8. ~~subparagraph (a)8.~~ to disclose information
 1370 relating to the existence of a sealed criminal history record of
 1371 a person seeking employment, access authorization, or licensure
 1372 with such entity or contractor, except to the person to whom the
 1373 criminal history record relates or to persons having direct
 1374 responsibility for employment, access authorization, or
 1375 licensure decisions. Any person who violates the provisions of
 1376 this paragraph commits a misdemeanor of the first degree,
 1377 punishable as provided in s. 775.082 or s. 775.083.

1378 Section 37. Except as otherwise expressly provided in this

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2014

1379 | act, this act shall take effect July 1, 2014. |