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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/24/2023	.	
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The Committee on Banking and Insurance (DiCeglie) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Present subsections (35) through (38) of section 494.001, Florida Statutes, are redesignated as subsections (36) through (39), respectively, a new subsection (35) is added to that section, and subsection (3) of that section is amended, to read:

494.001 Definitions.—As used in this chapter, the term:



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11 (3) "Branch office" means a location, other than a mortgage
12 broker's or mortgage lender's principal place of business or
13 remote location:

14 (a) The address of which appears on business cards,
15 stationery, or advertising used by the licensee in connection
16 with business conducted under this chapter;

17 (b) At which the licensee's name, advertising or
18 promotional materials, or signage suggests that mortgage loans
19 are originated, negotiated, funded, or serviced; or

20 (c) At which mortgage loans are originated, negotiated,
21 funded, or serviced by a licensee.

22 (35) "Remote location" means a location, other than a
23 principal place of business or a branch office, at which a loan
24 originator of a licensee may conduct business. A licensee may
25 allow loan originators to work from remote locations if:

26 (a) The licensee has written policies and procedures for
27 supervision of loan originators working from remote locations.

28 (b) Access to company platforms and customer information is
29 in accordance with the licensee's comprehensive written
30 information security plan.

31 (c) An in-person customer interaction does not occur at a
32 loan originator's residence unless such residence is a licensed
33 location.

34 (d) Physical records are not maintained at a remote
35 location.

36 (e) Customer interactions and conversations about consumers
37 will be in compliance with federal and state information
38 security requirements, including applicable provisions under the
39 Gramm-Leach-Bliley Act and the Safeguards Rule established by



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40 the Federal Trade Commission, set forth at 16 C.F.R. part 314,
41 as such requirements may be amended from time to time.

42 (f) A loan originator working at a remote location accesses
43 the company's secure systems, including a cloud-based system,
44 directly from any out-of-office device such as a laptop, phone,
45 desktop computer, or tablet, through a virtual private network
46 or comparable system that ensures secure connectivity and that
47 requires passwords or other forms of authentication to access.

48 (g) The licensee ensures that appropriate security updates,
49 patches, or other alterations to the security of all devices
50 used at remote locations are installed and maintained.

51 (h) The licensee is able to remotely lock or erase company-
52 related contents of any device or otherwise remotely limit all
53 access to a company's secure systems.

54 (i) The registry's record of a loan originator who works
55 from a remote location designates the principal place of
56 business as the loan originator's registered location, or the
57 loan originator has elected a licensed branch office as a
58 registered location.

59 Section 2. Subsection (1) of section 494.0067, Florida
60 Statutes, is amended to read:

61 494.0067 Requirements of mortgage lenders.—

62 (1) A mortgage lender that makes mortgage loans on real
63 estate in this state shall transact business from a principal
64 place of business, branch office, or remote location. Each
65 principal place of business, ~~and each~~ branch office, and remote
66 location shall be operated under the full charge, control, and
67 supervision of the licensee pursuant to this part.

68 Section 3. Section 501.2042, Florida Statutes, is created



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69 to read:

70 501.2042 Unlawful acts and practices by online crowd-
71 funding campaigns.-

72 (1) As used in this section, the term:

73 (a) "Crowd-funding campaign" means an online fundraising
74 initiative that is intended to receive monetary donations from
75 donors and is created by an organizer in the interest of a
76 beneficiary.

77 (b) "Crowd-funding platform" means an entity doing business
78 in this state which provides an online medium for the creation
79 and facilitation of a crowd-funding campaign.

80 (c) "Disaster" means any natural, technological, or civil
81 emergency that occurs in this state and that causes damage of
82 sufficient severity and magnitude to result in a declaration of
83 a state of emergency by a county, the Governor, or the President
84 of the United States.

85 (d) "Organizer" means a person who:

- 86 1. Resides or is domiciled in this state; and
87 2. Has an account on a crowd-funding platform and has
88 created a crowd-funding campaign either as a beneficiary or on
89 behalf of a beneficiary, regardless of whether the beneficiary
90 or the crowd-funding campaign has received donations.

91 (2) When an organizer arranges a crowd-funding campaign
92 related to a disaster, the organizer must produce to the crowd-
93 funding platform a complete and accurate accounting of all
94 donations received and expended by the crowd-funding campaign.
95 The crowd-funding platform must publish all received accountings
96 on its website.

97 Section 4. Section 520.23, Florida Statutes, is amended to



98 read:

99 520.23 Disclosures required.—Each agreement governing the
100 sale or lease of a distributed energy generation system shall,
101 at a minimum, include a written statement printed in at least
102 12-point type that is separate from the agreement, is separately
103 acknowledged by the buyer or lessee, and includes the following
104 information and disclosures, if applicable:

105 (1) The name, address, telephone number, and e-mail address
106 of the buyer or lessee.

107 (2) The name, address, telephone number, e-mail address,
108 and valid state contractor license number of the person
109 responsible for installing the distributed energy generation
110 system.

111 (3) The name, address, telephone number, e-mail address,
112 and valid state contractor license number of the distributed
113 energy generation system maintenance provider, if different from
114 the person responsible for installing the distributed energy
115 generation system.

116 (4) The customer contact center phone number for the
117 Department of Business and Professional Regulation.

118 (5)~~(4)~~ A written statement indicating whether the
119 distributed energy generation system is being purchased or
120 leased.

121 (a) If the distributed energy generation system will be
122 leased, the written statement must include a disclosure in
123 substantially the following form: "You are entering into an
124 agreement to lease a distributed energy generation system. You
125 will lease (not own) the system installed on your property."

126 (b) If the distributed energy generation system will be



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127 purchased, the written statement must include a disclosure in
128 substantially the following form: "You are entering into an
129 agreement to purchase a distributed energy generation system.
130 You will own (not lease) the system installed on your property."

131 (6)~~(5)~~ The total cost to be paid by the buyer or lessee,
132 including any interest, installation fees, document preparation
133 fees, service fees, or other fees.

134 (7)~~(6)~~ A payment schedule, including any amounts owed at
135 contract signing, at the commencement of installation, at the
136 completion of installation, and any final payments. If the
137 distributed energy generation system is being leased, the
138 written statement must include the frequency and amount of each
139 payment due under the lease and the total estimated lease
140 payments over the term of the lease.

141 (8)~~(7)~~ Each state or federal tax incentive or rebate, if
142 any, relied upon by the seller in determining the price of the
143 distributed energy generation system.

144 (9)~~(8)~~ A description of the assumptions used to calculate
145 any savings estimates provided to the buyer or lessee, and if
146 such estimates are provided, a statement in substantially the
147 following form: "It is important to understand that future
148 electric utility rates are estimates only. Your future electric
149 utility rates may vary."

150 (10)~~(9)~~ A description of any one-time or recurring fees,
151 including, but not limited to, estimated system removal fees,
152 maintenance fees, Internet connection fees, and automated
153 clearinghouse fees. If late fees may apply, the description must
154 describe the circumstances triggering such late fees.

155 (11)~~(10)~~ A statement notifying the buyer whether the



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156 distributed energy generation system is being financed and, if
157 so, a statement in substantially the following form: "If your
158 system is financed, carefully read any agreements and/or
159 disclosure forms provided by your lender. This statement does
160 not contain the terms of your financing agreement. If you have
161 any questions about your financing agreement, contact your
162 finance provider before signing a contract."

163 (12)~~(11)~~ A statement notifying the buyer whether the seller
164 is assisting in arranging financing of the distributed energy
165 generation system and, if so, a statement in substantially the
166 following form: "If your system is financed, carefully read any
167 agreements and/or disclosure forms provided by your lender. This
168 statement does not contain the terms of your financing
169 agreement. If you have any questions about your financing
170 agreement, contact your finance provider before signing a
171 contract."

172 (13)~~(12)~~ A provision notifying the buyer or lessee of the
173 right to rescind the agreement for a period of at least 3
174 business days after the agreement is signed. This subsection
175 does not apply to a contract to sell or lease a distributed
176 energy generation system in a solar community in which the
177 entire community has been marketed as a solar community and all
178 of the homes in the community are intended to have a distributed
179 energy generation system, or a solar community in which the
180 developer has incorporated solar technology for purposes of
181 meeting the Florida Building Code in s. 553.73.

182 (14)~~(13)~~ A description of the distributed energy generation
183 system design assumptions, including the make and model of the
184 major components, system size, estimated first-year energy



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185 production, and estimated annual energy production decreases,
186 including the overall percentage degradation over the estimated
187 life of the distributed energy generation system, and the status
188 of utility compensation for excess energy generated by the
189 system at the time of contract signing. A seller who provides a
190 warranty or guarantee of the energy production output of the
191 distributed energy generation system may provide a description
192 of such warranty or guarantee in lieu of a description of the
193 system design and components.

194 (15)~~(14)~~ A description of any performance or production
195 guarantees.

196 (16)~~(15)~~ A description of the ownership and transferability
197 of any tax credits, rebates, incentives, or renewable energy
198 certificates associated with the distributed energy generation
199 system, including a disclosure as to whether the seller will
200 assign or sell any associated renewable energy certificates to a
201 third party.

202 (17)~~(16)~~ A statement in substantially the following form:
203 "You are responsible for property taxes on property you own.
204 Consult a tax professional to understand any tax liability or
205 eligibility for any tax credits that may result from the
206 purchase of your distributed energy generation system."

207 (18)~~(17)~~ The approximate start and completion dates for the
208 installation of the distributed energy generation system.

209 (19)~~(18)~~ A disclosure as to whether maintenance and repairs
210 of the distributed energy generation system are included in the
211 purchase price.

212 (20)~~(19)~~ A disclosure as to whether any warranty or
213 maintenance obligations related to the distributed energy



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214 generation system may be sold or transferred by the seller to a
215 third party and, if so, a statement in substantially the
216 following form: "Your contract may be assigned, sold, or
217 transferred without your consent to a third party who will be
218 bound to all the terms of the contract. If a transfer occurs,
219 you will be notified if this will change the address or phone
220 number to use for system maintenance or repair requests."

221 (21)~~(20)~~ If the distributed energy generation system will
222 be purchased, a disclosure notifying the buyer of the
223 requirements for interconnecting the system to the utility
224 system.

225 (22)~~(21)~~ A disclosure notifying the buyer or lessee of the
226 party responsible for obtaining interconnection approval.

227 (23)~~(22)~~ A description of any roof warranties.

228 (24) A statement in substantially the following form: "You
229 should consider the age and remaining life of your roof prior to
230 installing a distributed energy generation system. Replacement
231 of your roof may require reinstallment of the distributed energy
232 generation system."

233 (25)~~(23)~~ A disclosure notifying the lessee whether the
234 seller will insure a leased distributed energy generation system
235 against damage or loss and, if applicable, the circumstances
236 under which the seller will not insure the system against damage
237 or loss.

238 (26)~~(24)~~ A statement, ~~if applicable,~~ in substantially the
239 following form: "You are responsible for obtaining insurance
240 policies or coverage for any loss of or damage to the system.
241 Consult an insurance professional to understand how to protect
242 against the risk of loss or damage to the system."



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243 (27) A statement in substantially the following form:
244 "Placing a distributed energy generation system on your roof may
245 impact your future insurance premiums. You are responsible for
246 contacting your insurance carrier, prior to entering into a
247 purchase or lease agreement, to confirm whether your current
248 policy or coverage will need to be modified upon installing the
249 distributed energy generation system onto your dwelling."

250 ~~(28)-(25)~~ A disclosure notifying the buyer or lessee whether
251 the seller or lessor will place a lien on the buyer's or
252 lessee's home or other property as a result of entering into a
253 purchase or lease agreement for the distributed energy
254 generation system.

255 ~~(29)-(26)~~ A disclosure notifying the buyer or lessee whether
256 the seller or lessor will file a fixture filing or a State of
257 Florida Uniform Commercial Code Financing Statement Form (UCC-1)
258 on the distributed energy generation system.

259 ~~(30)-(27)~~ A disclosure identifying whether the agreement
260 contains any restrictions on the buyer's or lessee's ability to
261 modify or transfer ownership of a distributed energy generation
262 system, including whether any modification or transfer is
263 subject to review or approval by a third party.

264 ~~(31)-(28)~~ A disclosure as to whether the lease agreement may
265 be transferred to a purchaser upon sale of the home or real
266 property to which the system is affixed, and any conditions for
267 such transfer.

268 ~~(32)-(29)~~ A blank section that allows the seller to provide
269 additional relevant disclosures or explain disclosures made
270 elsewhere in the disclosure form.

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272 The requirement to provide a written statement under this
273 section may be satisfied by the electronic delivery of a
274 document within 24 hours after execution of the written
275 statement containing the required statement if the intended
276 recipient of the electronic document affirmatively acknowledges
277 its receipt. An electronic document satisfies the font and other
278 formatting standards required for the written statement if the
279 format and the relative size of characters of the electronic
280 document are reasonably similar to those required in the written
281 document or if the information is otherwise displayed in a
282 reasonably conspicuous manner.

283 Section 5. Subsection (6) of section 560.111, Florida
284 Statutes, is amended to read:

285 560.111 Prohibited acts.—

286 (6) A person who knowingly and willfully violates s.
287 560.309(11) or s. 560.310(2) (d) commits a felony of the third
288 degree, punishable as provided in s. 775.082, s. 775.083, or s.
289 775.084.

290 Section 6. Subsection (11) is added to section 560.309,
291 Florida Statutes, to read:

292 560.309 Conduct of business.—

293 (11) A licensee may not cash corporate checks where the
294 aggregate face amount of all corporate checks cashed for each
295 payee exceeds 200 percent of the payee's workers' compensation
296 policy coverage amount during the same dates as the workers'
297 compensation policy coverage period.

298 Section 7. Section 626.551, Florida Statutes, is amended to
299 read:

300 626.551 Notice of change of address, name.—A licensee must



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301 notify the department, in writing, within 5 ~~30~~ days after a
302 change of name, residence address, principal business street
303 address, mailing address, contact telephone numbers, including a
304 business telephone number, or e-mail address. A licensee who has
305 moved his or her principal place of residence and principal
306 place of business from this state shall have his or her license
307 and all appointments immediately terminated by the department.
308 Failure to notify the department within the required time shall
309 result in a fine not to exceed \$250 for the first offense and a
310 fine of at least \$500 or suspension or revocation of the license
311 pursuant to s. 626.611, s. 626.6115, s. 626.621, or s. 626.6215
312 for a subsequent offense. The department may adopt rules to
313 administer and enforce this section.

314 Section 8. Section 626.602, Florida Statutes, is amended to
315 read:

316 626.602 Insurance agency and adjusting firm names;
317 disapproval.—The department may disapprove the use of any true
318 or fictitious name, other than the bona fide natural name of an
319 individual, by any insurance agency or adjusting firm on any of
320 the following grounds:

321 (1) The name interferes with or is too similar to a name
322 already filed and in use by another agency, adjusting firm, or
323 insurer.

324 (2) The use of the name may mislead the public in any
325 respect.

326 (3) The name states or implies that the agency or adjusting
327 firm is an insurer, motor club, hospital service plan, state or
328 federal agency, charitable organization, or entity that
329 primarily provides advice and counsel rather than sells or



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330 solicits insurance, settles claims, or is entitled to engage in
331 insurance activities not permitted under licenses held or
332 applied for. This provision does not prohibit the use of the
333 word "state" or "states" in the name of the agency. The use of
334 the word "state" or "states" in the name of an agency or
335 adjusting firm does not in and of itself imply that the agency
336 or adjusting firm is a state agency.

337 (4) The name contains the word "Medicare" or "Medicaid." ~~An~~
338 ~~insurance agency whose name contains the word "Medicare" or~~
339 ~~"Medicaid" but which is licensed as of July 1, 2021, may~~
340 ~~continue to use that name until June 30, 2023, provided that the~~
341 ~~agency's license remains valid. If the agency's license expires~~
342 ~~or is suspended or revoked, the agency may not be relicensed~~
343 ~~using that name. Licenses for agencies with names containing~~
344 ~~either of these words automatically expire on July 1, 2023,~~
345 ~~unless these words are removed from the name.~~

346 Section 9. Section 626.854, Florida Statutes, is amended to
347 read:

348 626.854 "Public adjuster" defined; prohibitions.—The
349 Legislature finds that it is necessary for the protection of the
350 public to regulate public insurance adjusters and to prevent the
351 unauthorized practice of law.

352 (1) A "public adjuster" is any person, except a duly
353 licensed attorney at law as exempted under s. 626.860, who, for
354 money, commission, or any other thing of value, directly or
355 indirectly prepares, completes, or files an insurance claim for
356 an insured or third-party claimant, regardless of how that
357 person describes or presents his or her services, or who, for
358 money, commission, or any other thing of value, acts on behalf



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359 of, or aids an insured or third-party claimant in negotiating
360 for or effecting the settlement of a claim or claims for loss or
361 damage covered by an insurance contract, regardless of how that
362 person describes or presents his or her services, or who
363 advertises for employment as an adjuster of such claims. The
364 term also includes any person who, for money, commission, or any
365 other thing of value, directly or indirectly solicits,
366 investigates, or adjusts such claims on behalf of a public
367 adjuster, an insured, or a third-party claimant. The term does
368 not include a person who photographs or inventories damaged
369 personal property or business personal property or a person
370 performing duties under another professional license, if such
371 person does not otherwise solicit, adjust, investigate, or
372 negotiate for or attempt to effect the settlement of a claim.

373 (2) This definition does not apply to:

374 (a) A licensed health care provider or employee thereof who
375 prepares or files a health insurance claim form on behalf of a
376 patient.

377 (b) A licensed health insurance agent who assists an
378 insured with coverage questions, medical procedure coding
379 issues, balance billing issues, understanding the claims filing
380 process, or filing a claim, as such assistance relates to
381 coverage under a health insurance policy.

382 (c) A person who files a health claim on behalf of another
383 and does so without compensation.

384 (3) A public adjuster may not give legal advice or act on
385 behalf of or aid any person in negotiating or settling a claim
386 relating to bodily injury, death, or noneconomic damages.

387 (4) For purposes of this section, the term "insured"



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388 includes only the policyholder and any beneficiaries named or
389 similarly identified in the policy.

390 (5) A public adjuster may not directly or indirectly
391 through any other person or entity solicit an insured or
392 claimant by any means except on Monday through Saturday of each
393 week and only between the hours of 8 a.m. and 8 p.m. on those
394 days.

395 (6) (a) When entering a contract for adjuster services after
396 July 1, 2023, a public adjuster may not contract with anyone
397 other than the named insured unless the named insured provides
398 written consent, subsequent to entering a contract for public
399 adjusting services.

400 (b) If a public adjuster contracts with a third party in
401 settling the named insured's claim without first obtaining the
402 insured's written consent, payment of the third party's fees
403 must be made from the public adjuster's fee.

404 (7) ~~(6)~~ An insured or claimant may cancel a public
405 adjuster's contract to adjust a claim without penalty or
406 obligation within 10 days after the date on which the contract
407 is executed. If the contract was entered into based on events
408 that are the subject of a declaration of a state of emergency by
409 the Governor, an insured or claimant may cancel the public
410 adjuster's contract to adjust a claim without penalty or
411 obligation within 30 days after the date of the event or 10 days
412 after the date on which the contract is executed, whichever is
413 longer. The public adjuster's contract must contain the
414 following language in minimum 18-point bold type immediately
415 before the space reserved in the contract for the signature of
416 the insured or claimant: "You, the insured, may cancel this



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417 contract for any reason without penalty or obligation to you
418 within 10 days after the date of this contract. If this contract
419 was entered into based on events that are the subject of a
420 declaration of a state of emergency by the Governor, you may
421 cancel this contract for any reason without penalty or
422 obligation to you within 30 days after the date of the event or
423 10 days after the date on which the contract is executed,
424 whichever is longer. You may also cancel the contract without
425 penalty or obligation to you if I, as your public adjuster, fail
426 to provide you and your insurer a copy of a written estimate
427 within 60 days of the execution of the contract in accordance
428 with s. 626.854(14) (b), Florida Statutes.” The ~~by providing~~
429 notice of cancellation shall be provided to ... (name of public
430 adjuster) ..., submitted in writing and sent by certified mail,
431 return receipt requested, or other form of mailing that provides
432 proof thereof, at the address specified in the contract.

433 (8)(7) It is an unfair and deceptive insurance trade
434 practice pursuant to s. 626.9541 for a public adjuster or any
435 other person to circulate or disseminate any advertisement,
436 announcement, or statement containing any assertion,
437 representation, or statement with respect to the business of
438 insurance which is untrue, deceptive, or misleading.

439 (a) The following statements, made in any public adjuster's
440 advertisement or solicitation, are considered deceptive or
441 misleading:

442 1. A statement or representation that invites an insured
443 policyholder to submit a claim when the policyholder does not
444 have covered damage to insured property.

445 2. A statement or representation that invites an insured



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446 policyholder to submit a claim by offering monetary or other
447 valuable inducement.

448 3. A statement or representation that invites an insured
449 policyholder to submit a claim by stating that there is "no
450 risk" to the policyholder by submitting such claim.

451 4. A statement or representation, or use of a logo or
452 shield, that implies or could mistakenly be construed to imply
453 that the solicitation was issued or distributed by a
454 governmental agency or is sanctioned or endorsed by a
455 governmental agency.

456 (b) For purposes of this paragraph, the term "written
457 advertisement" includes only newspapers, magazines, flyers, and
458 bulk mailers. The following disclaimer, which is not required to
459 be printed on standard size business cards, must be added in
460 bold print and capital letters in typeface no smaller than the
461 typeface of the body of the text to all written advertisements
462 by a public adjuster:

463
464 "THIS IS A SOLICITATION FOR BUSINESS. IF YOU HAVE HAD
465 A CLAIM FOR AN INSURED PROPERTY LOSS OR DAMAGE AND YOU
466 ARE SATISFIED WITH THE PAYMENT BY YOUR INSURER, YOU
467 MAY DISREGARD THIS ADVERTISEMENT."
468

469 (9)~~(8)~~ A public adjuster, a public adjuster apprentice, or
470 any person or entity acting on behalf of a public adjuster or
471 public adjuster apprentice may not give or offer to give a
472 monetary loan or advance to a client or prospective client.

473 (10)~~(9)~~ A public adjuster, public adjuster apprentice, or
474 any individual or entity acting on behalf of a public adjuster



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475 or public adjuster apprentice may not give or offer to give,
476 directly or indirectly, any article of merchandise having a
477 value in excess of \$25 to any individual for the purpose of
478 advertising or as an inducement to entering into a contract with
479 a public adjuster.

480 (11) If the insurer, not later than 14 days after the date
481 on which the loss is reported to the insurer, either pays or
482 commits in writing to pay to the insured the policy limit of the
483 insurance policy, the public adjuster shall:

484 (a) Inform the insured that, due to the insurer's payment
485 or commitment to pay the policy limit, the loss recovery amount
486 might not be increased by the insurer.

487 (b) Not receive a commission consisting of a percentage of
488 the total amount of the timely paid or committed policy limits.

489 (c) Be entitled only up to \$1,000 from the insured for any
490 time spent or expenses incurred on the claim by the public
491 adjuster, until the claim is paid or the insured receives a
492 written commitment to pay from the insurer.

493 (12) Except as provided in paragraphs (11)(b) and (c), if
494 the public adjuster enters into a contract with an insured or
495 claimant after the insured or claimant unsuccessfully negotiates
496 an insurance claim payment and the public adjuster is successful
497 in obtaining a higher insurance claim payment, the public
498 adjuster shall receive a commission consisting of 10 percent of
499 the difference between the initial insurance claim payment offer
500 made to the insured and the final insurance claim payment
501 obtained through the work of the public adjuster after entering
502 into the contract with the insured or claimant.

503 (13) ~~(a)-(10)-(a)~~ If a public adjuster enters into a contract



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504 with an insured or claimant to reopen a claim or file a
505 supplemental claim that seeks additional payments for a claim
506 that has been previously paid in part or in full or settled by
507 the insurer, the public adjuster may not charge, agree to, or
508 accept from any source compensation, payment, commission, fee,
509 or any other thing of value based on a previous settlement or
510 previous claim payments by the insurer for the same cause of
511 loss. The charge, compensation, payment, commission, fee, or any
512 other thing of value must be based only on the claim payments or
513 settlements paid to the insured, exclusive of attorney fees and
514 costs, obtained through the work of the public adjuster after
515 entering into the contract with the insured or claimant.
516 Compensation for the reopened or supplemental claim may not
517 exceed 20 percent of the reopened or supplemental claim payment.
518 In no event shall the contracts described in this paragraph
519 exceed the limitations in paragraph (b).

520 (b) A public adjuster may not charge, agree to, or accept
521 from any source compensation, payment, commission, fee, or any
522 other thing of value in excess of:

523 1. Ten percent of the amount of insurance claim payments or
524 settlements, exclusive of attorney fees and costs, paid to the
525 insured by the insurer for claims based on events that are the
526 subject of a declaration of a state of emergency by the
527 Governor. This provision applies to claims made during the year
528 after the declaration of emergency. After that year, the
529 limitations in subparagraph 2. apply.

530 2. Twenty percent of the amount of insurance claim payments
531 or settlements, exclusive of attorney fees and costs, paid to
532 the insured by the insurer for claims that are not based on



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533 events that are the subject of a declaration of a state of
534 emergency by the Governor.

535 (c) Insurance claim payments made by the insurer do not
536 include policy deductibles, and public adjuster compensation may
537 not be based on the deductible portion of a claim.

538 (d) Public adjuster compensation may not be based on
539 amounts attributable to additional living expenses, unless such
540 compensation is affirmatively agreed to in a separate agreement
541 that includes a disclosure in substantially the following form:
542 "I agree to retain and compensate the public adjuster for
543 adjusting my additional living expenses and securing payment
544 from my insurer for amounts attributable to additional living
545 expenses payable under the policy issued on my (home/mobile
546 home/condominium unit)."

547 (e) Public adjuster rate of compensation may not be
548 increased based solely on the fact that the claim is litigated.

549 (f) Any maneuver, shift, or device through which the limits
550 on compensation set forth in this subsection are exceeded is a
551 violation of this chapter punishable as provided under s.
552 626.8698.

553 (14) (a) ~~(11)~~ Each public adjuster must provide to the
554 claimant or insured a written estimate of the loss to assist in
555 the submission of a proof of loss or any other claim for payment
556 of insurance proceeds within 60 days after the date of the
557 contract. The written estimate must include an itemized, per-
558 unit estimate of the repairs, including itemized information on
559 equipment, materials, labor, and supplies, in accordance with
560 accepted industry standards. The public adjuster shall retain
561 such written estimate for at least 5 years and shall make the



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562 estimate available to the claimant or insured, the insurer, and
563 the department upon request.

564 (b) An insured may cancel the contract with no additional
565 penalties or fees charged by the public adjuster if such an
566 estimate is not provided within 60 days after executing the
567 contract, subject to the cancellation notice requirement in this
568 section.

569 (15)~~(12)~~ A public adjuster, public adjuster apprentice, or
570 any person acting on behalf of a public adjuster or apprentice
571 may not accept referrals of business from any person with whom
572 the public adjuster conducts business if there is any form or
573 manner of agreement to compensate the person, directly or
574 indirectly, for referring business to the public adjuster. A
575 public adjuster may not compensate any person, except for
576 another public adjuster, directly or indirectly, for the
577 principal purpose of referring business to the public adjuster.

578 (16)~~(13)~~ A company employee adjuster, independent adjuster,
579 attorney, investigator, or other persons acting on behalf of an
580 insurer that needs access to an insured or claimant or to the
581 insured property that is the subject of a claim must provide at
582 least 48 hours' notice to the insured or claimant, public
583 adjuster, or legal representative before scheduling a meeting
584 with the claimant or an onsite inspection of the insured
585 property. The insured or claimant may deny access to the
586 property if the notice has not been provided. The insured or
587 claimant may waive the 48-hour notice.

588 (17)~~(14)~~ The public adjuster must ensure that prompt notice
589 is given of the claim to the insurer, the public adjuster's
590 contract is provided to the insurer, the property is available



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591 for inspection of the loss or damage by the insurer, and the
592 insurer is given an opportunity to interview the insured
593 directly about the loss and claim. The insurer must be allowed
594 to obtain necessary information to investigate and respond to
595 the claim.

596 (a) The insurer may not exclude the public adjuster from
597 its in-person meetings with the insured. The insurer shall meet
598 or communicate with the public adjuster in an effort to reach
599 agreement as to the scope of the covered loss under the
600 insurance policy. The public adjuster shall meet or communicate
601 with the insurer in an effort to reach agreement as to the scope
602 of the covered loss under the insurance policy. This section
603 does not impair the terms and conditions of the insurance policy
604 in effect at the time the claim is filed.

605 (b) A public adjuster may not restrict or prevent an
606 insurer, company employee adjuster, independent adjuster,
607 attorney, investigator, or other person acting on behalf of the
608 insurer from having reasonable access at reasonable times to any
609 insured or claimant or to the insured property that is the
610 subject of a claim.

611 (c) A public adjuster may not act or fail to reasonably act
612 in any manner that obstructs or prevents an insurer or insurer's
613 adjuster from timely conducting an inspection of any part of the
614 insured property for which there is a claim for loss or damage.
615 The public adjuster representing the insureds may be present for
616 the insurer's inspection, but if the unavailability of the
617 public adjuster otherwise delays the insurer's timely inspection
618 of the property, the public adjuster or the insureds must allow
619 the insurer to have access to the property without the



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620 participation or presence of the public adjuster or insureds in
621 order to facilitate the insurer's prompt inspection of the loss
622 or damage.

623 (18)~~(15)~~ A licensed contractor under part I of chapter 489,
624 or a subcontractor of such licensee, may not advertise, solicit,
625 offer to handle, handle, or perform public adjuster services as
626 provided in subsection (1) unless licensed and compliant as a
627 public adjuster under this chapter. The prohibition against
628 solicitation does not preclude a contractor from suggesting or
629 otherwise recommending to a consumer that the consumer consider
630 contacting his or her insurer to determine if the proposed
631 repair is covered under the consumer's insurance policy, except
632 as it relates to solicitation prohibited in s. 489.147. In
633 addition, the contractor may discuss or explain a bid for
634 construction or repair of covered property with the residential
635 property owner who has suffered loss or damage covered by a
636 property insurance policy, or the insurer of such property, if
637 the contractor is doing so for the usual and customary fees
638 applicable to the work to be performed as stated in the contract
639 between the contractor and the insured.

640 (19)~~(16)~~ A public adjuster shall not acquire any interest
641 in salvaged property, except with the written consent and
642 permission of the insured through a signed affidavit.

643 (20)~~(17)~~ A public adjuster, a public adjuster apprentice,
644 or a person acting on behalf of an adjuster or apprentice may
645 not enter into a contract or accept a power of attorney that
646 vests in the public adjuster, the public adjuster apprentice, or
647 the person acting on behalf of the adjuster or apprentice the
648 effective authority to choose the persons or entities that will



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649 perform repair work in a property insurance claim or provide
650 goods or services that will require the insured or third-party
651 claimant to expend funds in excess of those payable to the
652 public adjuster under the terms of the contract for adjusting
653 services.

654 (21)~~(18)~~ Subsections (5)-(20) ~~(5)-(17)~~ apply only to
655 residential property insurance policies and condominium unit
656 owner policies as described in s. 718.111(11).

657 (22)~~(19)~~ Except as otherwise provided in this chapter, no
658 person, except an attorney at law or a licensed public adjuster,
659 may for money, commission, or any other thing of value, directly
660 or indirectly:

661 (a) Prepare, complete, or file an insurance claim for an
662 insured or a third-party claimant;

663 (b) Act on behalf of or aid an insured or a third-party
664 claimant in negotiating for or effecting the settlement of a
665 claim for loss or damage covered by an insurance contract;

666 (c) Offer to initiate or negotiate a claim on behalf of an
667 insured;

668 (d) Advertise services that require a license as a public
669 adjuster; or

670 (e) Solicit, investigate, or adjust a claim on behalf of a
671 public adjuster, an insured, or a third-party claimant.

672 (23)~~(20)~~ The department may take administrative actions and
673 impose fines against any persons performing claims adjusting,
674 soliciting, or any other services described in this section
675 without the licensure required under this section or s. 626.112.

676 (24)~~(21)~~ A public adjuster, public adjuster apprentice, or
677 public adjusting firm that solicits a claim and does not enter



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678 into a contract with an insured or a third-party claimant
679 pursuant to paragraph (13) (a) ~~(10) (a)~~ may not charge an insured
680 or a third-party claimant or receive payment by any other source
681 for any type of service related to the insured or third-party
682 claimant's claim.

683 (25) (a) ~~(22) (a)~~ Any following act by a public adjuster, a
684 public adjuster apprentice, or a person acting on behalf of a
685 public adjuster or public adjuster apprentice is prohibited and
686 shall result in discipline as applicable under this part:

687 1. Offering to a residential property owner a rebate, gift,
688 gift card, cash, coupon, waiver of any insurance deductible, or
689 any other thing of value in exchange for:

690 a. Allowing a contractor, a public adjuster, a public
691 adjuster apprentice, or a person acting on behalf of a public
692 adjuster or public adjuster apprentice to conduct an inspection
693 of the residential property owner's roof; or

694 b. Making an insurance claim for damage to the residential
695 property owner's roof.

696 2. Offering, delivering, receiving, or accepting any
697 compensation, inducement, or reward for the referral of any
698 services for which property insurance proceeds would be used for
699 roofing repairs or replacement.

700 (b) Notwithstanding the fine set forth in s. 626.8698, a
701 public adjuster or public adjuster apprentice may be subject to
702 a fine not to exceed \$10,000 per act for a violation of this
703 subsection and a fine not to exceed \$20,000 per act for a
704 violation of this subsection that occurs during a state of
705 emergency declared by executive order or proclamation of the
706 Governor pursuant to s. 252.36.



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707 (c) A person who engages in an act prohibited by this
708 subsection and who is not a public adjuster or a public adjuster
709 apprentice, or is not otherwise exempt from licensure, is guilty
710 of the unlicensed practice of public adjusting and may be:

711 1. Subject to all applicable penalties set forth in this
712 part.

713 2. Notwithstanding subparagraph 1., subject to a fine not
714 to exceed \$10,000 per act for a violation of this subsection and
715 a fine not to exceed \$20,000 per act for a violation of this
716 subsection that occurs during a state of emergency declared by
717 executive order or proclamation of the Governor pursuant to s.
718 252.36.

719 Section 10. Section 626.860, Florida Statutes, is amended
720 to read:

721 626.860 Attorneys at law; exemption.—Attorneys at law duly
722 licensed to practice law in the courts of this state, and in
723 good standing with The Florida Bar, shall not be required to be
724 licensed under ~~the provisions of~~ this code to authorize them to
725 adjust or participate in the adjustment of any claim, loss, or
726 damage arising under policies or contracts of insurance. This
727 exemption does not extend to the employees, interns, volunteers,
728 or contractors of an attorney or of a law firm.

729 Section 11. Section 626.875, Florida Statutes, is amended
730 to read:

731 626.875 Office and records.—

732 (1) (a) Each appointed independent adjuster and licensed
733 public adjuster must maintain a place of business in this state
734 which is accessible to the public and keep therein the usual and
735 customary records pertaining to transactions under the license.



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736 This provision does not prohibit maintenance of such an office
737 in the home of the licensee.

738 (b) A license issued under this chapter must at all times
739 be posted in a conspicuous place in the principal place of
740 business of the license holder. If the licensee is conducting
741 business away from the place of business such that the license
742 cannot be posted, the licensee shall have such license in his or
743 her actual possession at the time of carrying on such business.

744 (2) The records of the adjuster relating to a particular
745 claim or loss shall be so retained in the adjuster's place of
746 business for a period of not less than 5 years after completion
747 of the adjustment and shall be available for inspection by the
748 department at all times. This provision shall not be deemed to
749 prohibit return or delivery to the insurer or insured of
750 documents furnished to or prepared by the adjuster and required
751 by the insurer or insured to be returned or delivered thereto.
752 At a minimum, the following records must be maintained for a
753 period of not less than 5 years:

754 (a) Name, address, telephone number, and e-mail address of
755 the insured, and the name of the attorney representing the
756 insured, if applicable.

757 (b) The date, location, and amount of the loss.

758 (c) An unaltered copy of the executed disclosure document
759 required by s. 626.8796.

760 (d) An unaltered copy of the executed public adjuster
761 contract required by s. 626.8796.

762 (e) A copy of the estimate of damages provided to the
763 insurer.

764 (f) The name of the insurer; the name of the claims



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765 representative of the insurer; and the amount, expiration date,
766 and number of each policy under which the loss is covered.

767 (g) An itemized statement of the recoveries by the insured
768 from the sources known to the adjuster.

769 (h) An itemized statement of all compensation received by
770 the public adjuster from any source in connection with the loss.

771 (i) A register of all money received, deposited, disbursed,
772 and withdrawn in connection with a transaction with the insured,
773 including fees, transfers, and disbursements in connection with
774 the loss.

775 Section 12. Section 626.8796, Florida Statutes, is amended
776 to read:

777 626.8796 Public adjuster contracts; disclosure statement;
778 fraud statement.-

779 (1) All contracts for public adjuster services must be in
780 writing in at least 12-point type, be titled "Public Adjuster
781 Contract," and prominently display the following statement on
782 the contract in minimum 18-point bold type before the space
783 reserved in the contract for the signature of the insured:

784 "Pursuant to s. 817.234, Florida Statutes, any person who, with
785 the intent to injure, defraud, or deceive an insurer or insured,
786 prepares, presents, or causes to be presented a proof of loss or
787 estimate of cost or repair of damaged property in support of a
788 claim under an insurance policy knowing that the proof of loss
789 or estimate of claim or repairs contains false, incomplete, or
790 misleading information concerning any fact or thing material to
791 the claim commits a felony of the third degree, punishable as
792 provided in s. 775.082, s. 775.083, or s. 775.084, Florida
793 Statutes."



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794 (2) A public adjuster contract relating to a property and
795 casualty claim must contain the full name, permanent business
796 address, phone number, e-mail address, and license number of the
797 public adjuster; the full name of the public adjusting firm; and
798 the insured's full name, ~~and~~ street address, phone number, and
799 e-mail address, together with a brief description of the loss.
800 The contract must state the percentage of compensation for the
801 public adjuster's services in minimum 18-point bold type before
802 the space reserved in the contract for the signature of the
803 insured; the type of claim, including an emergency claim,
804 nonemergency claim, or supplemental claim; the initials of the
805 named insured on each page that does not contain the insured's
806 signature; the signatures of the public adjuster and all named
807 insureds; and the signature date. If all of the named insureds'
808 signatures are not available, the public adjuster must submit an
809 affidavit signed by the available named insureds attesting that
810 they have authority to enter into the contract and settle all
811 claim issues on behalf of the named insureds. An unaltered copy
812 of the executed contract must be remitted to the insured at the
813 time of execution and to the insurer within 10 ~~30~~ days after
814 execution. A public adjusting firm that adjusts claims primarily
815 for commercial entities with operations in more than one state
816 and that does not directly or indirectly perform adjusting
817 services for insurers or individual homeowners is deemed to
818 comply with the requirements of this subsection if, at the time
819 a proof of loss is submitted, the public adjusting firm remits
820 to the insurer an affidavit signed by the public adjuster or
821 public adjuster apprentice that identifies:

822 (a) The full name, permanent business address, phone



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823 number, e-mail address, and license number of the public
824 adjuster or public adjuster apprentice.

825 (b) The full name of the public adjusting firm.

826 (c) The insured's full name, ~~and~~ street address, phone
827 number, and e-mail address, together with a brief description of
828 the loss.

829 (d) An attestation that the compensation for public
830 adjusting services will not exceed the limitations provided by
831 law.

832 (e) The type of claim, including an emergency claim,
833 nonemergency claim, or supplemental claim.

834 (3) The public adjuster shall not provide services until
835 both the insured and insurer have been provided with unaltered
836 copies of the executed contract.

837 (4) The insured may rescind the contract for public
838 adjuster services if the public adjuster has not submitted a
839 written estimate to the insurer within 60 days after executing
840 the contract.

841 (5) Before the signing of the contract, the public adjuster
842 shall provide the insured with a separate disclosure document to
843 be signed by the insured, on a form adopted by the department,
844 regarding the claim process which accomplishes the following:

845 (a) Defines the following types of adjusters who may be
846 involved in the claim process: company adjuster, independent
847 adjuster, and public adjuster.

848 (b) Explains that the public adjuster is not a
849 representative or employee of the insurer.

850 (c) Explains that the insured is not required to hire a
851 public adjuster, but has a right to do so.



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852 (d) Explains that an insured has a right to initiate direct
853 communications with the insured's attorney, the insurer, the
854 company adjuster, the insurer's attorney, or any person
855 regarding the settlement of the insured's claim.

856 (e) Explains that the public adjuster's salary, fee,
857 commission, or other consideration to be paid to a public
858 adjuster is the insured's responsibility.

859 (f) Explains that the public adjuster is required to
860 provide the insured an unaltered copy of the executed contract
861 at the time of execution.

862 (g) Explains that if the contract was entered into based on
863 events that are the subject of a declaration of a state of
864 emergency by the Governor, an insured or a claimant may cancel
865 the public adjuster's contract to adjust a claim without penalty
866 or obligation within 30 days after the date of the event or 10
867 days after the date on which the contract is executed, whichever
868 is longer.

869 (h) The public adjuster shall provide an unaltered copy of
870 the executed disclosure document to the insured at the time of
871 execution.

872 (6) A contract that does not comply with this section is
873 invalid and unenforceable.

874 (7) The department may adopt rules pursuant to ss.
875 120.536(1) and 120.54 to implement this section, including rules
876 to adopt forms required by this section.

877 Section 13. Section 626.8797, Florida Statutes, is amended
878 to read:

879 626.8797 Proof of loss; fraud statement.—All proof-of-loss
880 statements must prominently display the following statement in



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881 minimum 18-point bold type before the space reserved in the
882 contract for the signature of the insured: "Pursuant to s.
883 817.234, Florida Statutes, any person who, with the intent to
884 injure, defraud, or deceive any insurer or insured, prepares,
885 presents, or causes to be presented a proof of loss or estimate
886 of cost or repair of damaged property in support of a claim
887 under an insurance policy knowing that the proof of loss or
888 estimate of claim or repairs contains any false, incomplete, or
889 misleading information concerning any fact or thing material to
890 the claim commits a felony of the third degree, punishable as
891 provided in s. 775.082, s. 775.083, or s. 775.084, Florida
892 Statutes."

893 Section 14. Paragraph (a) of subsection (1) of section
894 626.9541, Florida Statutes, is amended to read:

895 626.9541 Unfair methods of competition and unfair or
896 deceptive acts or practices defined.—

897 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
898 ACTS.—The following are defined as unfair methods of competition
899 and unfair or deceptive acts or practices:

900 (a) *Misrepresentations and false advertising of insurance*
901 *policies.*—Knowingly making, issuing, circulating, or causing to
902 be made, issued, or circulated, any estimate, illustration,
903 circular, statement, sales presentation, omission, comparison,
904 or property and casualty certificate of insurance altered after
905 being issued, which:

906 1. Misrepresents the benefits, advantages, conditions, or
907 terms of any insurance policy.

908 2. Misrepresents the dividends or share of the surplus to
909 be received on any insurance policy.



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910 3. Makes any false or misleading statements as to the
911 dividends or share of surplus previously paid on any insurance
912 policy.

913 4. Is misleading, or is a misrepresentation, as to the
914 financial condition of any person or as to the legal reserve
915 system upon which any life insurer operates.

916 5. Uses any name or title of any insurance policy or class
917 of insurance policies misrepresenting the true nature thereof.

918 6. Is a misrepresentation for the purpose of inducing, or
919 tending to induce, the lapse, forfeiture, exchange, conversion,
920 or surrender of any insurance policy.

921 7. Is a misrepresentation for the purpose of effecting a
922 pledge or assignment of, or effecting a loan against, any
923 insurance policy.

924 8. Misrepresents any insurance policy as being shares of
925 stock or misrepresents ownership interest in the company.

926 9. Uses any advertisement that would mislead or otherwise
927 cause a reasonable person to believe mistakenly that the state
928 or the Federal Government is responsible for the insurance sales
929 activities of any person or stands behind any person's credit or
930 that any person, the state, or the Federal Government guarantees
931 any returns on insurance products or is a source of payment of
932 any insurance obligation of or sold by any person.

933 10. Fails to disclose a third party that receives
934 royalties, referral fees, or other remuneration for sponsorship,
935 marketing, or use of third-party branding for a policy of health
936 insurance as defined in s. 624.603.

937 Section 15. Paragraph (c) of subsection (2) of section
938 627.4025, Florida Statutes, is amended, and paragraph (d) is



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939 added to that subsection, to read:

940 627.4025 Residential coverage and hurricane coverage
941 defined.—

942 (2) As used in policies providing residential coverage:

943 (c) "Hurricane" for purposes of paragraphs (a) and (b)
944 means a storm system that has been declared to be a hurricane by
945 the National Hurricane Center of the National Weather Service.
946 The duration of the hurricane includes the time period, in
947 Florida:

948 1. Beginning at the time a ~~hurricane watch or~~ hurricane
949 warning is issued for any part of Florida by the National
950 Hurricane Center of the National Weather Service; and

951 2. ~~Continuing for the time period during which the~~
952 ~~hurricane conditions exist anywhere in Florida; and~~

953 3. ~~Ending~~ 24 ~~72~~ hours following the termination of the last
954 hurricane watch or hurricane warning issued for any part of
955 Florida by the National Hurricane Center of the National Weather
956 Service.

957 (d) "Hurricane deductible" means the deductible applicable
958 to loss caused by a hurricane.

959 Section 16. Paragraph (b) of subsection (1) and paragraph
960 (b) of subsection (2) of section 627.4133, Florida Statutes, are
961 amended to read:

962 627.4133 Notice of cancellation, nonrenewal, or renewal
963 premium.—

964 (1) Except as provided in subsection (2):

965 (b) An insurer issuing a policy providing coverage for
966 property, casualty, except mortgage guaranty, surety, or marine
967 insurance, other than motor vehicle insurance subject to s.



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968 627.728 or s. 627.7281, shall give the first-named insured
969 written notice of cancellation or termination other than
970 nonrenewal at least 45 days prior to the effective date of the
971 cancellation or termination, including in the written notice the
972 reason or reasons for the cancellation or termination, except
973 that:

974 1. When cancellation is for nonpayment of premium, at least
975 10 days' written notice of cancellation accompanied by the
976 reason therefor shall be given. As used in this subparagraph and
977 s. 440.42(3), the term "nonpayment of premium" means failure of
978 the named insured to discharge when due any of her or his
979 obligations in connection with the payment of premiums on a
980 policy or any installment of such premium, whether the premium
981 is payable directly to the insurer or its agent or indirectly
982 under any premium finance plan or extension of credit, or
983 failure to maintain membership in an organization if such
984 membership is a condition precedent to insurance coverage.
985 "Nonpayment of premium" also means the failure of a financial
986 institution to honor an insurance applicant's check after
987 delivery to a licensed agent for payment of a premium, even if
988 the agent has previously delivered or transferred the premium to
989 the insurer. If a dishonored check represents the initial
990 premium payment, the contract and all contractual obligations
991 shall be void ab initio unless the nonpayment is cured within
992 the earlier of 5 days after actual notice by certified mail is
993 received by the applicant or 15 days after notice is sent to the
994 applicant by certified mail or registered mail, and if the
995 contract is void, any premium received by the insurer from a
996 third party shall be refunded to that party in full; and



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997 2. When such cancellation or termination occurs during the
998 first 60 ~~90~~ days during which the insurance is in force and the
999 insurance is canceled or terminated for reasons other than
1000 nonpayment of premium, at least 20 days' written notice of
1001 cancellation or termination accompanied by the reason therefor
1002 shall be given except where there has been a material
1003 misstatement or misrepresentation or failure to comply with the
1004 underwriting requirements established by the insurer.

1005
1006 After the policy has been in effect for 60 ~~90~~ days, no such
1007 policy shall be canceled by the insurer except when there has
1008 been a material misstatement, a nonpayment of premium, a failure
1009 to comply with underwriting requirements established by the
1010 insurer within 60 ~~90~~ days of the date of effectuation of
1011 coverage, or a substantial change in the risk covered by the
1012 policy or when the cancellation is for all insureds under such
1013 policies for a given class of insureds. This subsection does not
1014 apply to individually rated risks having a policy term of less
1015 than 90 days.

1016 (2) With respect to any personal lines or commercial
1017 residential property insurance policy, including, but not
1018 limited to, any homeowner, mobile home owner, farmowner,
1019 condominium association, condominium unit owner, apartment
1020 building, or other policy covering a residential structure or
1021 its contents:

1022 (b) The insurer shall give the first-named insured written
1023 notice of nonrenewal, cancellation, or termination at least 120
1024 days before the effective date of the nonrenewal, cancellation,
1025 or termination. The notice must include the reason for the



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1026 nonrenewal, cancellation, or termination, except that:

1027 1. If cancellation is for nonpayment of premium, at least
1028 10 days' written notice of cancellation accompanied by the
1029 reason therefor must be given. As used in this subparagraph, the
1030 term "nonpayment of premium" means failure of the named insured
1031 to discharge when due her or his obligations for paying the
1032 premium on a policy or an installment of such premium, whether
1033 the premium is payable directly to the insurer or its agent or
1034 indirectly under a premium finance plan or extension of credit,
1035 or failure to maintain membership in an organization if such
1036 membership is a condition precedent to insurance coverage. The
1037 term also means the failure of a financial institution to honor
1038 an insurance applicant's check after delivery to a licensed
1039 agent for payment of a premium even if the agent has previously
1040 delivered or transferred the premium to the insurer. If a
1041 dishonored check represents the initial premium payment, the
1042 contract and all contractual obligations are void ab initio
1043 unless the nonpayment is cured within the earlier of 5 days
1044 after actual notice by certified mail is received by the
1045 applicant or 15 days after notice is sent to the applicant by
1046 certified mail or registered mail. If the contract is void, any
1047 premium received by the insurer from a third party must be
1048 refunded to that party in full.

1049 2. If cancellation or termination occurs during the first
1050 60 ~~90~~ days the insurance is in force and the insurance is
1051 canceled or terminated for reasons other than nonpayment of
1052 premium, at least 20 days' written notice of cancellation or
1053 termination accompanied by the reason therefor must be given
1054 unless there has been a material misstatement or



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1055 misrepresentation or a failure to comply with the underwriting
1056 requirements established by the insurer.

1057 3. After the policy has been in effect for 60 ~~90~~ days, the
1058 policy may not be canceled by the insurer unless there has been
1059 a material misstatement; a nonpayment of premium; a failure to
1060 comply, within 60 ~~90~~ days after the date of effectuation of
1061 coverage, with underwriting requirements established by the
1062 insurer before the date of effectuation of coverage; or a
1063 substantial change in the risk covered by the policy or unless
1064 the cancellation is for all insureds under such policies for a
1065 given class of insureds. This subparagraph does not apply to
1066 individually rated risks that have a policy term of less than 90
1067 days.

1068 4. After a policy or contract has been in effect for more
1069 than 60 ~~90~~ days, the insurer may not cancel or terminate the
1070 policy or contract based on credit information available in
1071 public records.

1072 5. A policy that is nonrenewed by Citizens Property
1073 Insurance Corporation, pursuant to s. 627.351(6), for a policy
1074 that has been assumed by an authorized insurer offering
1075 replacement coverage to the policyholder is exempt from the
1076 notice requirements of paragraph (a) and this paragraph. In such
1077 cases, the corporation must give the named insured written
1078 notice of nonrenewal at least 45 days before the effective date
1079 of the nonrenewal.

1080 6. Notwithstanding any other provision of law, an insurer
1081 may cancel or nonrenew a property insurance policy after at
1082 least 45 days' notice if the office finds that the early
1083 cancellation of some or all of the insurer's policies is



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1084 necessary to protect the best interests of the public or
1085 policyholders and the office approves the insurer's plan for
1086 early cancellation or nonrenewal of some or all of its policies.
1087 The office may base such finding upon the financial condition of
1088 the insurer, lack of adequate reinsurance coverage for hurricane
1089 risk, or other relevant factors. The office may condition its
1090 finding on the consent of the insurer to be placed under
1091 administrative supervision pursuant to s. 624.81 or to the
1092 appointment of a receiver under chapter 631.

1093 7. A policy covering both a home and a motor vehicle may be
1094 nonrenewed for any reason applicable to the property or motor
1095 vehicle insurance after providing 90 days' notice.

1096 Section 17. Effective January 1, 2024, section 627.4554,
1097 Florida Statutes, is amended to read:

1098 627.4554 Suitability in annuity transactions investments.-

1099 (1) PURPOSE.-The purpose of this section is to require
1100 agents to act in the best interest of the consumer when making a
1101 recommendation of an annuity and to require insurers to
1102 establish and maintain a system to supervise so set forth
1103 ~~standards and procedures for making recommendations to consumers~~
1104 ~~which result in transactions involving annuity products, and to~~
1105 ~~establish a system for supervising such recommendations in order~~
1106 ~~to ensure~~ that the insurance needs and financial objectives of
1107 consumers are effectively ~~appropriately~~ addressed at the time of
1108 the transaction.

1109 (2) SCOPE.-This section applies to any sale or
1110 recommendation of ~~made to a consumer to purchase, exchange, or~~
1111 ~~replace an annuity by an insurer or its agent, and which results~~
1112 ~~in the purchase, exchange, or replacement recommended.~~



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1113 (3) DEFINITIONS.—As used in this section, the term:
1114 (a) “Agent” means a person or entity required to be
1115 licensed under the laws of this state to sell, solicit, or
1116 negotiate insurance, including annuities. For purposes of this
1117 section, the term includes an insurer when no agent is involved
1118 has the same meaning as provided in s. 626.015.
1119 (b) “Annuity” means an insurance product under state law
1120 which is individually solicited, whether classified as an
1121 individual or group annuity.
1122 (c) “Cash compensation” means any discount, concession,
1123 fee, service fee, commission, sales charge, loan, override, or
1124 cash benefit received by an agent from an insurer or
1125 intermediary or directly from the consumer in connection with
1126 the recommendation or sale of an annuity.
1127 (d) “Consumer profile information” means information that
1128 is reasonably appropriate to determine whether a recommendation
1129 addresses the consumer’s financial situation, insurance needs,
1130 and financial objectives, including, at a minimum, the
1131 following:
1132 1. Age.
1133 2. Annual income.
1134 3. Financial situation and needs, including debts and other
1135 obligations.
1136 4. Financial experience.
1137 5. Insurance needs.
1138 6. Financial objectives.
1139 7. Intended use of the annuity.
1140 8. Financial time horizon.
1141 9. Existing assets or financial products, including



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1142 investment, annuity, and insurance holdings.
1143 10. Liquidity needs.
1144 11. Liquid net worth.
1145 12. Risk tolerance, including, but not limited to,
1146 willingness to accept nonguaranteed elements in the annuity.
1147 13. Financial resources used to fund the annuity.
1148 14. Tax status.
1149 (e)~~(e)~~ "FINRA" means the Financial Industry Regulatory
1150 Authority or a succeeding agency.
1151 (f)~~(d)~~ "Insurer" has the same meaning as provided in s.
1152 624.03.
1153 (g) "Intermediary" means an entity contracted directly with
1154 an insurer or with another entity contracted with an insurer to
1155 facilitate the sale of the insurer's annuities by agents.
1156 (h) "Material conflict of interest" means a financial
1157 interest of the agent in the sale of an annuity which a
1158 reasonable person would expect to influence the impartiality of
1159 a recommendation. The term does not include cash compensation or
1160 noncash compensation.
1161 (i) "Noncash compensation" means any form of compensation
1162 that is not cash compensation, including, but not limited to,
1163 health insurance, office rent, office support, and retirement
1164 benefits.
1165 (j) "Nonguaranteed elements" means the premiums; credited
1166 interest rates, including any bonus; benefits; values;
1167 dividends; noninterest-based credits; charges; or elements of
1168 formulas used to determine any of these, which are subject to
1169 company discretion and are not guaranteed at issue. An element
1170 is considered nonguaranteed if any of the underlying



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1171 nonguaranteed elements are used in its calculation.

1172 (k) ~~(e)~~ "Recommendation" means advice provided by an insurer
1173 ~~or its~~ agent to an individual a consumer which was intended to
1174 result or does result which would result in a the purchase, an
1175 exchange, or a replacement of an annuity in accordance with that
1176 advice. The term does not include general communication to the
1177 public, generalized customer services, assistance or
1178 administrative support, general educational information and
1179 tools, prospectuses, or other product and sales material.

1180 (l) ~~(f)~~ "Replacement" means a transaction in which a new
1181 annuity ~~policy or contract~~ is to be purchased and it is known or
1182 should be known to the proposing insurer ~~or its~~ agent, or to the
1183 proposing insurer whether or not an agent is involved, that by
1184 reason of such transaction an existing annuity or other
1185 insurance policy has been or is to be any of the following ~~or~~
1186 contract will be:

1187 1. Lapsed, forfeited, surrendered or partially surrendered,
1188 assigned to the replacing insurer, or otherwise terminated;

1189 2. Converted to reduced paid-up insurance, continued as
1190 extended term insurance, or otherwise reduced in value due to
1191 the use of nonforfeiture benefits or other policy values;

1192 3. Amended so as to effect a reduction in benefits or the
1193 term for which coverage would otherwise remain in force or for
1194 which benefits would be paid;

1195 4. Reissued with a reduction in cash value; or

1196 5. Used in a financed purchase.

1197 (m) "SEC" means the United States Securities and Exchange
1198 Commission.

1199 ~~(g) "Suitability information" means information related to~~



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1200 ~~the consumer which is reasonably appropriate to determine the~~
1201 ~~suitability of a recommendation made to the consumer, including~~
1202 ~~the following:~~

- 1203 ~~1. Age;~~
- 1204 ~~2. Annual income;~~
- 1205 ~~3. Financial situation and needs, including the financial~~
1206 ~~resources used for funding the annuity;~~
- 1207 ~~4. Financial experience;~~
- 1208 ~~5. Financial objectives;~~
- 1209 ~~6. Intended use of the annuity;~~
- 1210 ~~7. Financial time horizon;~~
- 1211 ~~8. Existing assets, including investment and life insurance~~
1212 ~~holdings;~~
- 1213 ~~9. Liquidity needs;~~
- 1214 ~~10. Liquid net worth;~~
- 1215 ~~11. Risk tolerance; and~~
- 1216 ~~12. Tax status.~~

1217 (4) EXEMPTIONS.—Unless otherwise specifically included,
1218 this section does not apply to transactions involving:

- 1219 (a) Direct-response solicitations where there is no
1220 recommendation based on information collected from the consumer
1221 pursuant to this section;
- 1222 (b) Contracts used to fund:
 - 1223 1. An employee pension or welfare benefit plan that is
1224 covered by the federal Employee Retirement and Income Security
1225 Act;
 - 1226 2. A plan described by s. 401(a), s. 401(k), s. 403(b), s.
1227 408(k), or s. 408(p) of the Internal Revenue Code, if
1228 established or maintained by an employer;



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1229 3. A government or church plan defined in s. 414 of the
1230 Internal Revenue Code, a government or church welfare benefit
1231 plan, or a deferred compensation plan of a state or local
1232 government or tax-exempt organization under s. 457 of the
1233 Internal Revenue Code; or
1234 4. A nonqualified deferred compensation arrangement
1235 established or maintained by an employer or plan sponsor;
1236 (c) ~~5.~~ Settlements or assumptions of liabilities associated
1237 with personal injury litigation or a dispute or claim-resolution
1238 process; or
1239 (d) ~~6.~~ Formal prepaid funeral contracts.
1240 (5) DUTIES OF INSURERS AND AGENTS.—
1241 (a) An agent, when making a recommendation of an annuity,
1242 shall act in the best interest of the consumer under the
1243 circumstances known at the time the recommendation is made,
1244 without placing the financial interest of the agent or insurer
1245 ahead of the consumer's interest. An agent has acted in the best
1246 interest of the consumer if the agent has satisfied the
1247 following obligations regarding care, disclosure, conflict of
1248 interest, and documentation:
1249 1.a. The agent, in making a recommendation, shall exercise
1250 reasonable diligence, care, and skill to:
1251 (I) Know the financial situation, insurance needs, and
1252 financial objectives of the customer.
1253 (II) Understand the available options after making a
1254 reasonable inquiry into options available to the agent.
1255 (III) Have a reasonable basis to believe the recommended
1256 option effectively addresses the consumer's financial situation,
1257 insurance needs, and financial objectives over the life of the



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1258 product, as evaluated in light of the consumer profile
1259 information.

1260 (IV) Communicate the reason or reasons for the
1261 recommendation.

1262 b. The requirements of sub-subparagraph a. include:

1263 (I) Making reasonable efforts to obtain consumer profile
1264 information from the consumer before the recommendation of an
1265 annuity.

1266 (II) Requiring an agent to consider the types of products
1267 the agent is authorized and licensed to recommend or sell which
1268 address the consumer's financial situation, insurance needs, and
1269 financial objectives. This does not require analysis or
1270 consideration of any products outside the authority and license
1271 of the agent or other possible alternative products or
1272 strategies available in the market at the time of the
1273 recommendation. Agents shall be held to standards applicable to
1274 agents with similar authority and licensure.

1275 (III) Having a reasonable basis to believe the consumer
1276 would benefit from certain features of the annuity, such as
1277 annuitization, death or living benefit, or other insurance-
1278 related features.

1279 c. The requirements of this subsection do not create a
1280 fiduciary obligation or relationship and only create a
1281 regulatory obligation as provided in this section.

1282 d. The consumer profile information, characteristics of the
1283 insurer, and product costs, rates, benefits, and features are
1284 those factors generally relevant in making a determination
1285 whether an annuity effectively addresses the consumer's
1286 financial situation, insurance needs, and financial objectives,



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1287 but the level of importance of each factor under the care
1288 obligation of this paragraph may vary depending on the facts and
1289 circumstances of a particular case. However, each factor may not
1290 be considered in isolation.

1291 e. The requirements under sub-subparagraph a. apply to the
1292 particular annuity as a whole and the underlying subaccounts to
1293 which funds are allocated at the time of purchase or exchange of
1294 an annuity, and riders and similar product enhancements, if any.

1295 f. Sub-subparagraph a. does not require that the annuity
1296 with the lowest one-time occurrence compensation structure or
1297 multiple occurrence compensation structure shall necessarily be
1298 recommended.

1299 g. Sub-subparagraph a. does not require the agent to have
1300 ongoing monitoring obligations under the care obligation,
1301 although such an obligation may be separately owed under the
1302 terms of a fiduciary, consulting, investment, advising, or
1303 financial planning agreement between the consumer and the agent.

1304 h. In the case of an exchange or replacement of an annuity,
1305 the agent shall consider the whole transaction, which includes
1306 taking into consideration whether:

1307 (I) The consumer will incur a surrender charge; be subject
1308 to the commencement of a new surrender period; lose existing
1309 benefits, such as death, living, or other contractual benefits;
1310 or be subject to increased fees, investment advisory fees, or
1311 charges for riders and similar product enhancements.

1312 (II) The replacing product would substantially benefit the
1313 consumer in comparison to the replaced product over the life of
1314 the product.

1315 (III) The consumer has had another annuity exchange or



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1316 replacement and, in particular, an exchange or replacement
1317 within the preceding 60 months.

1318 i. This section does not require an agent to obtain any
1319 license other than an agent license with the appropriate line of
1320 authority to sell, solicit, or negotiate insurance in this
1321 state, including, but not limited to, any securities license, in
1322 order to fulfill the duties and obligations contained in this
1323 section; provided, the agent does not give advice or provide
1324 services that are otherwise subject to securities laws or engage
1325 in any other activity requiring other professional licenses.

1326 2.a. Before the recommendation or sale of an annuity, the
1327 agent shall prominently disclose to the consumer, on a form
1328 substantially similar to that posted on the office website as
1329 Appendix A, related to an insurance agent disclosure for
1330 annuities:

1331 (I) A description of the scope and terms of the
1332 relationship with the consumer and the role of the agent in the
1333 transaction.

1334 (II) An affirmative statement on whether the agent is
1335 licensed and authorized to sell the following products:

1336 (A) Fixed annuities.

1337 (B) Fixed indexed annuities.

1338 (C) Variable annuities.

1339 (D) Life insurance.

1340 (E) Mutual funds.

1341 (F) Stocks and bonds.

1342 (G) Certificates of deposit.

1343 (III) An affirmative statement describing the insurers for
1344 which the agent is authorized, contracted, or appointed, or



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1345 otherwise able to sell insurance products, using the following
1346 descriptions:

1347 (A) From one insurer;

1348 (B) From two or more insurers; or

1349 (C) From two or more insurers, although primarily
1350 contracted with one insurer.

1351 (IV) A description of the sources and types of cash
1352 compensation and noncash compensation to be received by the
1353 agent, including whether the agent is to be compensated for the
1354 sale of a recommended annuity by commission as part of premium
1355 or other remuneration received from the insurer, intermediary,
1356 or other agent, or by fee as a result of a contract for advice
1357 or consulting services.

1358 (V) A notice of the consumer's right to request additional
1359 information regarding cash compensation described in sub-
1360 paragraph b.

1361 b. Upon request of the consumer or the consumer's
1362 designated representative, the agent shall disclose:

1363 (I) A reasonable estimate of the amount of cash
1364 compensation to be received by the agent, which may be stated as
1365 a range of amounts or percentages.

1366 (II) Whether the cash compensation is a one-time or
1367 multiple occurrence amount; and if a multiple occurrence amount,
1368 the frequency and amount of the occurrence, which may be stated
1369 as a range of amounts or percentages. ~~When recommending the~~
1370 ~~purchase or exchange of an annuity to a consumer which results~~
1371 ~~in an insurance transaction or series of insurance transactions,~~
1372 ~~the agent, or the insurer where no agent is involved, must have~~
1373 ~~reasonable grounds for believing that the recommendation is~~



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1374 ~~suitable for the consumer, based on the consumer's suitability~~
1375 ~~information, and that there is a reasonable basis to believe all~~
1376 ~~of the following:~~

1377 c.1. Before or at the time of the recommendation or sale of
1378 an annuity, the agent shall have a reasonable basis to believe
1379 the consumer has been reasonably informed of various features of
1380 the annuity, such as the potential surrender period and
1381 surrender charge; potential tax penalty if the consumer sells,
1382 exchanges, surrenders, or annuitizes the annuity; mortality and
1383 expense fees; any annual fees; investment advisory fees;
1384 potential charges for and features of riders or other options of
1385 the annuity; limitations on interest returns; potential changes
1386 in nonguaranteed elements of the annuity; insurance and
1387 investment components; and market risk.

1388 ~~2. The consumer would benefit from certain features of the~~
1389 ~~annuity, such as tax-deferred growth, annuitization, or the~~
1390 ~~death or living benefit.~~

1391 3. An agent shall identify and avoid or reasonably manage
1392 and disclose material conflicts of interest, including material
1393 conflicts of interest related to an ownership interest.

1394 4. An agent shall at the time of the recommendation or
1395 sale:

1396 a. Make a written record of any recommendation and the
1397 basis for the recommendation, subject to this section.

1398 b. Obtain a consumer-signed statement on a form
1399 substantially similar to that posted on the office website as
1400 Appendix B, related to a consumer's refusal to provide
1401 information, documenting:

1402 (I) A customer's refusal to provide the consumer profile



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1403 information, if any.

1404 (II) A customer's understanding of the ramifications of not
1405 providing his or her consumer profile information or providing
1406 insufficient consumer profile information.

1407 c. Obtain a consumer-signed statement on a form
1408 substantially similar to that posted on the office website as
1409 Appendix C, related to a consumer's decision to purchase an
1410 annuity not based on a recommendation, acknowledging the annuity
1411 transaction is not recommended if a customer decides to enter
1412 into an annuity transaction that is not based on the agent's
1413 recommendation.

1414 5. Any requirement applicable to an agent under this
1415 subsection applies to every agent who has exercised material
1416 control or influence in the making of a recommendation and has
1417 received direct compensation as a result of the recommendation
1418 or sale, regardless of whether the agent has had any direct
1419 contact with the consumer. Activities such as providing or
1420 delivering marketing or education materials, product wholesaling
1421 or other back office product support, and general supervision of
1422 an agent do not, in and of themselves, constitute material
1423 control or influence.

1424 ~~3. The particular annuity as a whole, the underlying~~
1425 ~~subaccounts to which funds are allocated at the time of purchase~~
1426 ~~or exchange of the annuity, and riders and similar product~~
1427 ~~enhancements, if any, are suitable; and, in the case of an~~
1428 ~~exchange or replacement, the transaction as a whole is suitable~~
1429 ~~for the particular consumer based on his or her suitability~~
1430 ~~information.~~

1431 ~~4. In the case of an exchange or replacement of an annuity,~~



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1432 ~~the exchange or replacement is suitable after considering~~
1433 ~~whether the consumer:~~

1434 ~~a. Will incur a surrender charge; be subject to the~~
1435 ~~commencement of a new surrender period; lose existing benefits,~~
1436 ~~such as death, living, or other contractual benefits; or be~~
1437 ~~subject to increased fees, investment advisory fees, or charges~~
1438 ~~for riders and similar product enhancements;~~

1439 ~~b. Would benefit from product enhancements and~~
1440 ~~improvements; and~~

1441 ~~c. Has had another annuity exchange or replacement,~~
1442 ~~including an exchange or replacement within the preceding 36~~
1443 ~~months.~~

1444 ~~(b) Before executing a purchase, exchange, or replacement~~
1445 ~~of an annuity resulting from a recommendation, an insurer or its~~
1446 ~~agent must make reasonable efforts to obtain the consumer's~~
1447 ~~suitability information. The information shall be collected on~~
1448 ~~form DFS-H1-1980, which is hereby incorporated by reference, and~~
1449 ~~completed and signed by the applicant and agent. Questions~~
1450 ~~requesting this information must be presented in at least 12-~~
1451 ~~point type and be sufficiently clear so as to be readily~~
1452 ~~understandable by both the agent and the consumer. A true and~~
1453 ~~correct executed copy of the form must be provided by the agent~~
1454 ~~to the insurer, or to the person or entity that has contracted~~
1455 ~~with the insurer to perform this function as authorized by this~~
1456 ~~section, within 10 days after execution of the form, and shall~~
1457 ~~be provided to the consumer no later than the date of delivery~~
1458 ~~of the contract or contracts.~~

1459 ~~(c) Except as provided under paragraph (d), an insurer may~~
1460 ~~not issue an annuity recommended to a consumer unless there is a~~



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1461 ~~reasonable basis to believe the annuity is suitable based on the~~
1462 ~~consumer's suitability information.~~

1463 (b)1.(d) Except as provided under subparagraph 2., An
1464 ~~insurer's issuance of an annuity must be reasonable based on all~~
1465 ~~the circumstances actually known to the insurer at the time the~~
1466 ~~annuity is issued. However, an insurer or its agent does not~~
1467 ~~have does not have~~ an obligation to a consumer related to an
1468 annuity transaction under subparagraph (a)1. paragraph (a) or
1469 ~~paragraph (c) if:~~

1470 a.1. A recommendation has not been made;

1471 b.2. A recommendation was made and is later found to have
1472 been based on materially inaccurate information provided by the
1473 consumer;

1474 c.3. A consumer refuses to provide relevant consumer
1475 profile suitability information and the annuity transaction is
1476 not recommended; or

1477 d.4. A consumer decides to enter into an annuity
1478 transaction that is not based on a recommendation of the an
1479 ~~insurer or its agent.~~

1480 2. An insurer's issuance of an annuity subject to
1481 subparagraph 1. must be reasonable under all the circumstances
1482 actually known to the insurer at the time the annuity is issued.

1483 (c)1. Except as permitted under paragraph (b), an insurer
1484 may not issue an annuity recommended to a consumer unless there
1485 is a reasonable basis to believe the annuity would effectively
1486 address the particular consumer's financial situation, insurance
1487 needs, and financial objectives based on the consumer's consumer
1488 profile information.

1489 ~~(e) At the time of sale, the agent or the agent's~~



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1490 ~~representative must:~~

1491 ~~1. Make a record of any recommendation made to the consumer~~
1492 ~~pursuant to paragraph (a);~~

1493 ~~2. Obtain the consumer's signed statement documenting his~~
1494 ~~or her refusal to provide suitability information, if~~
1495 ~~applicable; and~~

1496 ~~3. Obtain the consumer's signed statement acknowledging~~
1497 ~~that an annuity transaction is not recommended if he or she~~
1498 ~~decides to enter into an annuity transaction that is not based~~
1499 ~~on the insurer's or its agent's recommendation, if applicable.~~

1500 ~~(f) Before executing a replacement or exchange of an~~
1501 ~~annuity contract resulting from a recommendation, the agent must~~
1502 ~~provide on form DFS-H1-1981, which is hereby incorporated by~~
1503 ~~reference, information that compares the differences between the~~
1504 ~~existing annuity contract and the annuity contract being~~
1505 ~~recommended in order to determine the suitability of the~~
1506 ~~recommendation and its benefit to the consumer. A true and~~
1507 ~~correct executed copy of this form must be provided by the agent~~
1508 ~~to the insurer, or to the person or entity that has contracted~~
1509 ~~with the insurer to perform this function as authorized by this~~
1510 ~~section, within 10 days after execution of the form, and must be~~
1511 ~~provided to the consumer no later than the date of delivery of~~
1512 ~~the contract or contracts.~~

1513 ~~2.(g) An insurer shall establish and maintain a supervision~~
1514 ~~system that is reasonably designed to achieve the insurer's and~~
1515 ~~its agent's compliance with this section, including, but not~~
1516 ~~limited to, the following:-~~

1517 ~~1. Such system must include, but is not limited to:~~

1518 ~~a. The insurer shall establish and maintain Maintaining~~



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1519 reasonable procedures to inform its agents of the requirements
1520 of this section and incorporating those requirements into
1521 relevant agent training manuals.†

1522 b. The insurer shall establish and maintain ~~Establishing~~
1523 standards for agent product training and shall establish and
1524 maintain reasonable procedures to require its agents to comply
1525 with the requirements of subsection (6).†

1526 c. The insurer shall provide ~~Providing~~ product-specific
1527 training and training materials that explain all material
1528 features of its annuity products to its agents.†

1529 d. The insurer shall establish and maintain ~~Maintaining~~
1530 procedures for the review of each recommendation before issuance
1531 of an annuity which are designed to ensure that there is a
1532 reasonable basis to determine the recommended annuity would
1533 effectively address the particular consumer's financial
1534 situation, insurance needs, and financial objectives ~~for~~
1535 ~~determining that a recommendation is suitable.~~ Such review
1536 procedures may use a screening system for identifying selected
1537 transactions for additional review and may be accomplished
1538 electronically or through other means, including, but not
1539 limited to, physical review. Such electronic or other system may
1540 be designed to require additional review only of those
1541 transactions identified for additional review using established
1542 selection criteria.†

1543 e. The insurer shall establish and maintain ~~Maintaining~~
1544 reasonable procedures to detect recommendations that are not in
1545 compliance with paragraphs (a)-(e). This may include, but is not
1546 limited to, ~~suitable, such as~~ confirmation of consumer profile
1547 ~~suitability~~ information, systematic customer surveys, agent and



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1548 consumer interviews, confirmation letters, agent statements or
1549 attestations, and internal monitoring programs. This sub-
1550 subparagraph does not prevent an insurer from using sampling
1551 procedures or from confirming the consumer profile suitability
1552 information after the issuance or delivery of the annuity. ~~and~~

1553 f. The insurer shall establish and maintain reasonable
1554 procedures to assess, prior to or upon issuance or delivery of
1555 an annuity, whether an agent has provided to the consumer the
1556 information required to be provided under this subsection.

1557 g. The insurer shall establish and maintain reasonable
1558 procedures to identify and address suspicious consumer refusals
1559 to provide consumer profile information.

1560 h. The insurer shall establish and maintain reasonable
1561 procedures to identify and eliminate any sales contests, sales
1562 quotas, bonuses, and noncash compensation that are based on the
1563 sales of specific annuities within a limited period of time. The
1564 requirements of this sub-subparagraph are not intended to
1565 prohibit the receipt of health insurance, office rents, office
1566 support, retirement benefits, or other employee benefits by
1567 employees, as long as those benefits are not based upon the
1568 volume of sales of a specific annuity within a limited period of
1569 time.

1570 i.f. The insurer shall annually provide ~~providing~~ a written
1571 report to senior managers, including the senior manager who is
1572 responsible for audit functions, which details a review, along
1573 with appropriate testing, which is reasonably designed to
1574 determine the effectiveness of the supervision system, the
1575 exceptions found, and corrective action taken or recommended, if
1576 any.



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1577 3.2. An insurer is not required to include in its
1578 supervision system:

1579 a. Agent recommendations to consumers of products other
1580 than the annuities offered by the insurer; or

1581 b. Consideration of or comparison to options available to
1582 the agent or compensation relating to those options other than
1583 annuities or other products offered by the insurer.

1584 4.3. An insurer may contract for performance of a function,
1585 including maintenance of procedures, required under subparagraph
1586 1.

1587 a. An insurer's supervision system under this subsection
1588 shall include supervision of contractual performance under this
1589 subsection, which includes, but is ~~If an insurer contracts for~~
1590 ~~the performance of a function, the insurer must include the~~
1591 ~~supervision of contractual performance as part of those~~
1592 ~~procedures listed in subparagraph 1. These include, but are not~~
1593 limited to:

1594 (I) Monitoring and, as appropriate, conducting audits to
1595 ensure that the contracted function is properly performed; and

1596 (II) Annually obtaining a certification from a senior
1597 manager who has responsibility for the contracted function that
1598 the manager has a reasonable basis to represent, and does
1599 represent, ~~for representing~~ that the function is being properly
1600 performed.

1601 b. An insurer is responsible for taking appropriate
1602 corrective action and may be subject to sanctions and penalties
1603 pursuant to subsection (8) ~~(7)~~ regardless of whether the insurer
1604 contracts for performance of a function and regardless of the
1605 insurer's compliance with sub-subparagraph a.



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1606 ~~(d)(h)~~ Neither an agent nor an insurer shall ~~may not~~
1607 dissuade, or attempt to dissuade, a consumer from:

- 1608 1. Truthfully responding to an insurer's request for
1609 confirmation of consumer profile ~~suitability~~ information;
1610 2. Filing a complaint; or
1611 3. Cooperating with the investigation of a complaint.

1612 ~~(e)1.(i)~~ Recommendations and sales made in compliance with
1613 comparable standards shall ~~FINRA requirements pertaining to the~~
1614 ~~suitability and supervision of annuity transactions~~ satisfy the
1615 requirements of this section. This applies to all
1616 recommendations and ~~FINRA broker-dealer~~ sales of ~~variable~~
1617 annuities made by financial professionals in compliance with
1618 business rules, controls, and procedures that satisfy a
1619 comparable standard even if such standard would not otherwise
1620 apply to the product or recommendation at issue ~~and fixed~~
1621 ~~annuities if the suitability and supervision is similar to those~~
1622 ~~applied to variable annuity sales.~~ However, this paragraph does
1623 not limit the ability of the office or the department to
1624 investigate and enforce, ~~including investigate, the provisions~~
1625 ~~of~~ this section.

1626 2. Subparagraph 1. does not limit the insurer's obligation
1627 to comply with subparagraph (c)1., although the insurer may base
1628 its analysis on information received from either the financial
1629 professional or the entity supervising the financial
1630 professional.

1631 3. For subparagraph 1. this paragraph to apply, an insurer
1632 must:

1633 ~~a.1.~~ Monitor relevant conduct of the financial professional
1634 seeking to rely on subparagraph 1. or the entity responsible for



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1635 supervising the financial professional, such as the financial
1636 professional's broker-dealer or an investment adviser registered
1637 under federal or state securities law, ~~the FINRA member broker-~~
1638 ~~dealer~~ using information collected in the normal course of an
1639 insurer's business; and

1640 b.2. Provide to the entity responsible for supervising the
1641 financial professional seeking to rely on subparagraph 1., such
1642 as the financial professional's broker-dealer or investment
1643 adviser registered under federal or state securities laws, ~~FINRA~~
1644 ~~member broker-dealer~~ information and reports that are reasonably
1645 appropriate to assist such entity ~~the FINRA member broker-dealer~~
1646 in maintaining its supervision system.

1647 4. For purposes of this paragraph, the term:

1648 a. "Comparable standards" means:

1649 (I) With respect to broker-dealers and registered
1650 representatives of broker-dealers, applicable SEC and FINRA
1651 rules pertaining to best interest obligations and supervision of
1652 annuity recommendations and sales, including, but not limited
1653 to, Regulation Best Interest, 17 C.F.R. s. 240.151-1, and any
1654 amendments or successor regulations thereto;

1655 (II) With respect to investment advisers registered under
1656 federal or state securities laws or investment adviser
1657 representatives, the fiduciary duties and all other requirements
1658 imposed on such investment advisers or investment adviser
1659 representatives by contract or under the Investment Advisers Act
1660 of 1940 or applicable state securities laws, including, but not
1661 limited to, Form ADV and interpretations; and

1662 (III) With respect to plan fiduciaries or fiduciaries, the
1663 duties, obligations, prohibitions, and all other requirements



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1664 attendant to such status under the Employee Retirement Income
1665 Security Act of 1974 or the Internal Revenue Code and any
1666 amendments or successor statutes thereto.

1667 b. "Financial professional" means an agent that is
1668 regulated and acting as:

1669 (I) A broker-dealer registered under federal or state
1670 securities laws or a registered representative of a broker-
1671 dealer;

1672 (II) An investment adviser registered under federal or
1673 state securities laws or an investment adviser representative
1674 associated with the federal or state registered investment
1675 adviser; or

1676 (III) A plan fiduciary under s. 3(21) of the Employee
1677 Retirement Income Security Act of 1974 or fiduciary under s.
1678 4975(e)(3) of the Internal Revenue Code or any amendments or
1679 successor statutes thereto.

1680 (6) AGENT TRAINING.—

1681 (a) An agent shall not solicit the sale of an annuity
1682 product unless the agent has adequate knowledge of the product
1683 to recommend the annuity and the agent is in compliance with the
1684 insurer's standards for product training. An agent may rely on
1685 insurer-provided, product-specific training standards and
1686 materials to comply with this subsection.

1687 (b)1.a. An agent who engages in the sale of annuity
1688 products shall complete a one-time 4-hour training course. This
1689 requirement is not part of an agent's continuing education
1690 requirement in s. 626.2815; however, if a course provider
1691 submits and receives approval from the department, the course is
1692 eligible for continuing education credit pursuant to s.



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1693 626.2815.
1694 b. Agents who hold a life insurance line of authority on
1695 January 1, 2024, and who desire to sell annuities shall complete
1696 the requirements of this subsection by July 1, 2024. Individuals
1697 who obtain a life insurance line of authority after January 1,
1698 2024, may not engage in the sale of annuities until the annuity
1699 training course required under this subsection has been
1700 completed.
1701 2. The minimum length of the training required under this
1702 subsection is 4 hours.
1703 3. The training required under this subsection shall
1704 include information on the following topics:
1705 a. The types of annuities and various classifications of
1706 annuities.
1707 b. Identification of the parties to an annuity.
1708 c. How product-specific annuity contract features affect
1709 consumers.
1710 d. The application of income taxation of qualified and
1711 nonqualified annuities.
1712 e. The primary uses of annuities.
1713 f. The appropriate standard of conduct, sales practices,
1714 replacement, and disclosure requirements.
1715 4. Providers of courses intended to comply with this
1716 subsection shall cover all topics listed in the prescribed
1717 outline and shall not present any marketing information or
1718 provide training on sales techniques or provide specific
1719 information about a particular insurer's products. Additional
1720 topics may be offered in conjunction with and in addition to the
1721 required outline.



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1722 5. An agent who has completed an annuity training course
1723 before January 1, 2024, shall, by July 1, 2024, complete either:

1724 a. A new 4-hour training course; or

1725 b. An additional 1-hour training course on appropriate
1726 sales practices, replacement, and disclosure requirements under
1727 this section.

1728 6. Annuity training courses may be conducted and completed
1729 by classroom or self-study methods.

1730 7. Providers of annuity training shall issue certificates
1731 of completion.

1732 8. The satisfaction of the training requirements of another
1733 state that are substantially similar to the provisions of this
1734 subsection shall be deemed to satisfy the training requirements
1735 of this subsection in this state.

1736 9. The satisfaction of the training requirements of any
1737 course or courses with components substantially similar to the
1738 provisions of this subsection shall be deemed to satisfy the
1739 training requirements of this subsection in this state.

1740 10. An insurer shall verify that an agent has completed the
1741 annuity training course required under this subsection before
1742 allowing the agent to sell an annuity product for that insurer.

1743 (7)(6) RECORDKEEPING.—

1744 (a) Insurers and agents must maintain or be able to make
1745 available to the office or department records of the information
1746 collected from the consumer and other information used in making
1747 the recommendations that were the basis for insurance
1748 transactions for 5 years after the insurance transaction is
1749 completed by the insurer. An insurer may maintain the
1750 documentation on behalf of its agent.



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1751 (b) Records required to be maintained under this subsection
1752 may be maintained in paper, photographic, microprocess,
1753 magnetic, mechanical, or electronic media, or by any process
1754 that accurately reproduces the actual document.

1755 ~~(8)~~ ~~(7)~~ COMPLIANCE MITIGATION; PENALTIES.—

1756 (a) An insurer is responsible for compliance with this
1757 section. If a violation occurs because of the action or inaction
1758 of the insurer or its agent which results in harm to a consumer,
1759 the office may order the insurer to take reasonably appropriate
1760 corrective action for the consumer and may impose appropriate
1761 penalties and sanctions.

1762 (b) The department may order:

1763 1. An ~~insurance~~ agent to take reasonably appropriate
1764 corrective action for a consumer harmed by a violation of this
1765 section by the ~~insurance~~ agent, including monetary restitution
1766 of penalties or fees incurred by the consumer, and impose
1767 appropriate penalties and sanctions.

1768 2. A managing general agency or insurance agency that
1769 employs or contracts with an ~~insurance~~ agent to sell or solicit
1770 the sale of annuities to consumers to take reasonably
1771 appropriate corrective action for a consumer harmed by a
1772 violation of this section by the ~~insurance~~ agent.

1773 (c) In addition to any other penalty authorized under
1774 chapter 626, the department shall order an insurance agent to
1775 pay restitution to a consumer who has been deprived of money by
1776 the agent's misappropriation, conversion, or unlawful
1777 withholding of moneys belonging to the consumer in the course of
1778 a transaction involving annuities. The amount of restitution
1779 required to be paid may not exceed the amount misappropriated,



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1780 converted, or unlawfully withheld. This paragraph does not limit
1781 or restrict a person's right to seek other remedies as provided
1782 by law.

1783 (d) Any applicable penalty under the Florida Insurance Code
1784 for a violation of this section shall be reduced or eliminated
1785 according to a schedule adopted by the office or the department,
1786 as appropriate, if corrective action for the consumer was taken
1787 promptly after a violation was discovered.

1788 (e) A violation of this section does not create or imply a
1789 private cause of action.

1790 (9)~~(8)~~ PROHIBITED CHARGES.—An annuity contract issued to a
1791 senior consumer age 65 or older may not contain a surrender or
1792 deferred sales charge for a withdrawal of money from an annuity
1793 exceeding 10 percent of the amount withdrawn. The charge shall
1794 be reduced so that no surrender or deferred sales charge exists
1795 after the end of the 10th policy year or 10 years after the date
1796 of each premium payment if multiple premiums are paid, whichever
1797 is later. This subsection does not apply to annuities purchased
1798 by an accredited investor, as defined in Regulation D as adopted
1799 by the United States Securities and Exchange Commission, or to
1800 those annuities specified in paragraph (4) (b).

1801 (10)~~(9)~~ RULES.—The department and the commission may adopt
1802 rules to administer this section. The department may adopt by
1803 rule the forms prescribed in the National Association of
1804 Insurance Commissioners Suitability in Annuity Transactions
1805 Model Regulation Appendix A - Insurance Agent (Producer)
1806 Disclosure for Annuities, Appendix B - Consumer Refusal to
1807 Provide Information, and Appendix C - Consumer Decision to
1808 Purchase an Annuity Not Based on a Recommendation.



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1809 Section 18. Paragraph (b) of subsection (8) of section
1810 634.041, Florida Statutes, is amended to read:

1811 634.041 Qualifications for license.—To qualify for and hold
1812 a license to issue service agreements in this state, a service
1813 agreement company must be in compliance with this part, with
1814 applicable rules of the commission, with related sections of the
1815 Florida Insurance Code, and with its charter powers and must
1816 comply with the following:

1817 (8)

1818 (b) A service agreement company does not have to establish
1819 and maintain an unearned premium reserve if it secures and
1820 maintains contractual liability insurance in accordance with the
1821 following:

1822 1. Coverage of 100 percent of the claim exposure is
1823 obtained from an insurer approved by the office, which holds a
1824 certificate of authority under s. 624.401 to do business within
1825 this state, or secured through a risk retention group, which is
1826 authorized to do business within this state under s. 627.943 or
1827 s. 627.944. Such insurer or risk retention group must maintain a
1828 surplus as regards policyholders of at least \$15 million.

1829 2. If the service agreement company does not meet its
1830 contractual obligations, the contractual liability insurance
1831 policy binds its issuer to pay or cause to be paid to the
1832 service agreement holder all legitimate claims and cancellation
1833 refunds for all service agreements issued by the service
1834 agreement company while the policy was in effect. This
1835 requirement also applies to those service agreements for which
1836 no premium has been remitted to the insurer.

1837 3. If the issuer of the contractual liability policy is



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1838 fulfilling the service agreements covered by the contractual
1839 liability policy and the service agreement holder cancels the
1840 service agreement, the issuer must make a full refund of
1841 unearned premium to the consumer, subject to the cancellation
1842 fee provisions of s. 634.121(3). The sales representative and
1843 agent must refund to the contractual liability policy issuer
1844 their unearned pro rata commission.

1845 4. The policy may not be canceled, terminated, or
1846 nonrenewed by the insurer or the service agreement company
1847 unless a 90-day written notice thereof has been given to the
1848 office by the insurer before the date of the cancellation,
1849 termination, or nonrenewal.

1850 5. The service agreement company must provide the office
1851 with the claims statistics.

1852 6. A policy issued in compliance with this paragraph may
1853 either pay 100 percent of claims as they are incurred, or 100
1854 percent of claims due in the event of the failure of the service
1855 agreement company to pay such claims when due.

1856
1857 All funds or premiums remitted to an insurer by a motor vehicle
1858 service agreement company under this part shall remain in the
1859 care, custody, and control of the insurer and shall be counted
1860 as an asset of the insurer; provided, however, this requirement
1861 does not apply when the insurer and the motor vehicle service
1862 agreement company are affiliated companies and members of an
1863 insurance holding company system. If the motor vehicle service
1864 agreement company chooses to comply with this paragraph but also
1865 maintains a reserve to pay claims, such reserve shall only be
1866 considered an asset of the covered motor vehicle service



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1867 agreement company and may not be simultaneously counted as an
1868 asset of any other entity.

1869 Section 19. Paragraphs (d), (e), and (f) of subsection (17)
1870 of section 634.401, Florida Statutes, are amended to read:

1871 634.401 Definitions.—As used in this part, the term:

1872 (17) “Manufacturer” means any entity or its affiliate
1873 which:

1874 ~~(d) Maintains outstanding debt obligations, if any, rated~~
1875 ~~in the top four rating categories by a recognized rating~~
1876 ~~service;~~

1877 (d)~~(e)~~ Has and maintains at all times, a minimum net worth
1878 of at least \$100 ~~\$10~~ million as evidenced by certified financial
1879 statements prepared by an independent certified public
1880 accountant in accordance with generally accepted accounting
1881 principles; and

1882 (e)~~(f)~~ Is authorized to do business in this state.

1883 Section 20. Paragraph (a) of subsection (7) of section
1884 634.406, Florida Statutes, is amended to read:

1885 634.406 Financial requirements.—

1886 (7) An association licensed under this part and holding no
1887 other license under part I or part II of this chapter is not
1888 required to establish an unearned premium reserve or maintain
1889 contractual liability insurance and may allow its premiums to
1890 exceed the ratio to net assets limitation of this section if the
1891 association complies with the following:

1892 (a) The association or, if the association is a direct or
1893 indirect wholly owned subsidiary of a parent corporation, its
1894 parent corporation has, and maintains at all times, a minimum
1895 net worth of at least \$100 million and provides the office with



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1896 the following:

1897 1. A copy of the association's annual audited financial
1898 statements or the audited consolidated financial statements of
1899 the association's parent corporation, prepared by an independent
1900 certified public accountant in accordance with generally
1901 accepted accounting principles, which clearly demonstrate the
1902 net worth of the association or its parent corporation to be
1903 \$100 million and a quarterly written certification to the office
1904 that such entity continues to maintain the net worth required
1905 under this paragraph.

1906 2. The association's, or its parent corporation's, Form 10-
1907 K, Form 10-Q, or Form 20-F as filed with the United States
1908 Securities and Exchange Commission or such other documents
1909 required to be filed with a recognized stock exchange, which
1910 shall be provided on a quarterly and annual basis within 10 days
1911 after the last date each such report must be filed with the
1912 Securities and Exchange Commission, the National Association of
1913 Security Dealers Automated Quotation system, or other recognized
1914 stock exchange.

1915
1916 Failure to timely file the documents required under this
1917 paragraph may, at the discretion of the office, subject the
1918 association to suspension or revocation of its license under
1919 this part. ~~An association or parent corporation demonstrating~~
1920 ~~compliance with subparagraphs 1. and 2. must maintain~~
1921 ~~outstanding debt obligations, if any, rated in the top four~~
1922 ~~rating categories by a recognized rating service.~~

1923 Section 21. Except as otherwise expressly provided in this
1924 act, this act shall take effect July 1, 2023.



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===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to consumer protection; amending s.
494.001, F.S.; revising the definition of the term
"branch office"; defining the term "remote location";
authorizing a licensee under ch. 494, F.S., to allow
loan originators to work from remote locations if
specified conditions are met; amending s. 494.0067,
F.S.; specifying that mortgage lenders may transact
business from branch offices and remote locations;
providing a requirement for operating remote
locations; creating s. 501.2042, F.S.; defining terms;
providing requirements for organizers of crowd-funding
campaigns related to disasters and for crowd-funding
platforms; amending s. 520.23, F.S.; revising
disclosure requirements for agreements governing the
sale or lease of a distributed energy generation
system; amending s. 560.111, F.S.; providing a
criminal penalty; amending s. 560.309, F.S.;
prohibiting a licensee under ch. 560, F.S., from
cashing corporate checks for certain payees where the
aggregate face amount exceeds a specified amount;
amending s. 626.551, F.S.; revising the timeframe in
which an insurance representative must notify the
Department of Financial Services of certain changes in



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1954 information; amending s. 626.602, F.S.; providing
1955 applicability of provisions relating to the
1956 disapproval of insurance agency names to adjusting
1957 firm names; revising grounds on which such names may
1958 be disapproved by the department; deleting an obsolete
1959 provision; amending s. 626.854, F.S.; revising the
1960 definition of the term "public adjuster"; prohibiting
1961 public adjusters from contracting with anyone other
1962 than the named insured without the insured's written
1963 consent; specifying a penalty for noncompliance;
1964 specifying timeframes in which an insured or a
1965 claimant may cancel a public adjuster's contract
1966 without penalty or contract under certain
1967 circumstances; revising requirements for public
1968 adjusters' contracts; specifying requirements for
1969 public adjusters if the insurer, within a certain
1970 timeframe, pays or commits in writing to pay to the
1971 insured the policy limit of the policy; specifying
1972 limitations on commissions received by public
1973 adjusters; amending s. 626.860, F.S.; providing that
1974 an attorney's exemption from public adjuster licensure
1975 requirements does not apply to certain persons;
1976 amending s. 626.875, F.S.; revising recordkeeping
1977 requirements for appointed independent adjusters and
1978 licensed public adjusters; amending s. 626.8796, F.S.;
1979 revising requirements for public adjuster contracts;
1980 specifying requirements for and prohibitions on public
1981 adjusters relating to such contracts; providing
1982 construction; authorizing the department to adopt



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1983 rules; amending s. 626.8797, F.S.; revising a fraud
1984 statement requirement in proof-of-loss statements;
1985 amending s. 626.9541, F.S.; adding an unfair or
1986 deceptive insurance act relating to health insurance
1987 policies; amending s. 627.4025, F.S.; revising the
1988 definition of the term "hurricane," and defining the
1989 term "hurricane deductible," as used in policies
1990 providing residential coverage; amending s. 627.4133,
1991 F.S.; revising conditions that apply to a specified
1992 notice requirement for, and a limitation on, the
1993 cancellation or termination of certain insurance
1994 policies; amending s. 627.4554, F.S.; revising
1995 legislative purpose; revising applicability; revising
1996 and defining terms; revising and specifying duties of
1997 insurers and agents relating to the recommendation and
1998 sale of annuity investments; specifying comparable
1999 standards that comply with such requirements;
2000 specifying agent training requirements; providing and
2001 revising construction; authorizing the department to
2002 adopt certain forms by rule; amending s. 634.041,
2003 F.S.; specifying authorized methods of paying claims
2004 for motor vehicle service agreements; amending s.
2005 634.401, F.S.; revising the definition of the term
2006 "manufacturer" for purposes of part III of ch. 634,
2007 F.S.; amending s. 634.406, F.S.; deleting a debt
2008 obligation rating requirement for certain service
2009 warranty associations or parent corporations;
2010 providing effective dates.