

By the Committee on Banking and Insurance and Senator Williams

311-1752-98

1 A bill to be entitled
2 An act relating to insurance; amending ss.
3 624.425, 624.428, 624.478, 626.112, F.S.;
4 requiring agents to be appointed; amending s.
5 624.501, F.S.; clarifying application of fees
6 for title insurance agents; amending s.
7 626.022, F.S.; providing for applicability of
8 ch. 626, F.S.; amending s. 626.051, F.S.;
9 revising the definition of the term "life
10 agent"; prescribing requirements for soliciting
11 or selling variable life insurance, variable
12 annuity contracts, and other indeterminate
13 value contracts; amending s. 626.062, F.S.;
14 conforming a cross-reference; amending ss.
15 626.141, 626.171, 626.181, 626.211, 626.221,
16 626.266, 626.281, 626.311, 626.511, 626.521,
17 626.561, 626.611, 626.621, 626.641, 626.651,
18 626.727, 626.730, 626.732, 626.733, 626.877,
19 F.S.; including customer representatives within
20 and deleting claims investigators from
21 application of certain provisions; excluding
22 solicitors; authorizing the department to
23 secure a credit and character report on certain
24 persons; providing limits; providing
25 requirements of the department; amending s.
26 626.451, F.S.; requiring law enforcement
27 agencies, the state attorney's office, and
28 court clerks to notify the department of agents
29 found guilty of felonies; amending s. 626.201,
30 F.S.; providing for interrogatories before
31 reinstatement; amending s. 626.321, F.S.;

1 authorizing certain entities that hold a
2 limited license for credit life or disability
3 insurance to sell credit property insurance;
4 authorizing persons who hold a limited license
5 for credit insurance to hold certain additional
6 licenses; amending s. 626.331, F.S.; requiring
7 licensure of certain agents for certain
8 appointments; providing that an appointment fee
9 is not refundable; amending s. 626.342, F.S.;
10 prohibiting furnishing supplies to certain
11 agents; amending s. 626.541, F.S.; specifying
12 names and addresses required of certain
13 personnel of corporations; amending s. 626.592,
14 F.S.; revising provisions relating to
15 designation of primary agents; amending s.
16 626.601, F.S.; authorizing the department to
17 initiate investigation of agents or other
18 licensees under certain conditions; amending s.
19 626.681, F.S.; providing for administrative
20 fines in addition to certain actions;
21 increasing such fines; amending s. 626.691,
22 F.S.; authorizing the department to place
23 certain persons on probation in addition to
24 suspending, revoking, or refusing to renew a
25 license or appointment; creating s. 626.692,
26 F.S.; providing for restitution under certain
27 circumstances; amending s. 626.7351, F.S.;
28 specifying additional qualifications for a
29 customer representative's license; amending s.
30 626.739, F.S.; specifying a temporary license
31 as general lines insurance agent; amending s.

1 626.741, F.S.; authorizing the department to
2 issue a customer representative license to
3 certain persons; providing a limitation;
4 providing procedures for agent licensure of
5 certain persons under certain circumstances;
6 providing for cancellation of a nonresident
7 agent's license; amending ss. 626.792, 626.835,
8 F.S.; providing procedures for issuing a
9 resident agent's license to certain persons;
10 amending s. 626.837, F.S.; clarifying
11 conditions of placing certain excess or
12 rejected risks; amending s. 626.8411, F.S.;
13 conforming a cross-reference; amending s.
14 626.8417, F.S.; revising the qualifications for
15 licensure as a title insurance agent; amending
16 s. 626.8418, F.S.; increasing the amount of the
17 deposit or bond of a title insurance agency;
18 specifying that the bond of a title insurance
19 agency must be posted with the department and
20 must inure to the benefit of damaged insurers
21 and insureds; amending ss. 626.8437, 626.844,
22 F.S.; clarifying application of grounds for
23 refusal, suspension, or revocation of license
24 or appointment; amending s. 626.8443, F.S.;
25 providing additional limitations on activities
26 during suspension or after revocation of a
27 license; amending s. 626.852, F.S.; providing
28 for applicability; amending s. 626.858, F.S.;
29 revising the definition of the term
30 "nonresident adjuster" to define "nonresident
31 company employee adjuster"; creating s.

1 626.8582, F.S.; defining the term "nonresident
2 public adjuster"; creating s. 626.8884, F.S.;
3 defining the term "nonresident independent
4 adjuster"; amending s. 626.865, F.S.;
5 increasing the bonding requirements for public
6 adjusters; amending s. 626.873, F.S.; providing
7 for licensure and qualifications for resident
8 company employee adjusters; creating s.
9 626.8732, F.S.; providing for licensure and
10 qualifications for nonresident public
11 adjusters; creating s. 626.8734, F.S.;
12 providing for licensure and qualifications for
13 nonresident independent adjusters; creating s.
14 626.8736, F.S.; providing for service of
15 process on nonresident independent adjusters
16 and on nonresident public adjusters; creating
17 s. 626.8737, F.S.; establishing a retaliatory
18 tax provision regarding certain fines, taxes,
19 penalties, license fees, monetary deposits,
20 securities, or other obligations, limitations,
21 or prohibitions imposed by another state upon
22 Florida resident insurance adjusters in
23 connection with the issuance of, or activities
24 under, a nonresident adjuster's license under
25 that state's laws; creating s. 626.8738, F.S.;
26 providing a criminal penalty for acting as a
27 resident or nonresident public adjuster without
28 the required license; amending s. 626.869,
29 F.S.; requiring certain continuing education
30 courses; clarifying requirements of such
31 courses; amending s. 626.8695, F.S.; providing

1 for notice to the department; requiring
2 designation of primary adjuster on forms
3 prescribed by the department; amending s.
4 626.872, F.S.; prohibiting the department from
5 issuing a temporary adjuster's license to
6 certain persons; amending s. 626.873, F.S.;
7 providing procedures for licensing certain
8 persons as resident adjusters; providing for
9 cancellation of nonresident adjuster's license;
10 amending s. 626.875, F.S.; prescribing time for
11 keeping adjusters' records; amending s.
12 626.922, F.S.; requiring surplus lines agents
13 to perform certain duties relating to evidence
14 of insurance; amending s. 626.928, F.S.;
15 increasing bonds for surplus lines agents;
16 amending ss. 626.927, 626.9271, 626.929,
17 626.935, 626.944, F.S.; requiring appointment
18 in addition to licensure of certain persons;
19 amending s. 627.745, F.S.; clarifying a
20 provision related to final examination;
21 amending s. 634.420, F.S.; clarifying
22 application of accountability provisions;
23 amending s. 634.317, F.S.; providing for
24 responsibility and accountability of sales
25 representatives; amending s. 642.036, F.S.;
26 deleting requirement that the addresses of
27 certain agents be filed with the department;
28 repealing s. 626.112(6), F.S., relating to
29 licensing of claims investigators; repealing s.
30 626.532, F.S., relating to insurance vending
31 machine licenses; repealing s. 626.857, F.S.,

1 relating to the definition of "claims
2 investigator"; providing an effective date.

3
4 Be It Enacted by the Legislature of the State of Florida:

5
6 Section 1. Section 624.425, Florida Statutes, is
7 amended to read:

8 624.425 Resident agent and countersignature required,
9 property, casualty, surety insurance.--

10 (1) Except as stated in s. 624.426, no authorized
11 property, casualty, or surety insurer shall assume direct
12 liability as to a subject of insurance resident, located, or
13 to be performed in this state unless the policy or contract of
14 insurance is issued by or through, and is countersigned by, a
15 local producing agent who is a resident of this state,
16 regularly commissioned and licensed currently as an agent and
17 appointed as an agent for ~~of~~ the insurer under this code. If
18 two or more authorized insurers issue a single policy of
19 insurance against legal liability for loss or damage to person
20 or property caused by the nuclear energy hazard, or a single
21 policy insuring against loss or damage to property by
22 radioactive contamination, whether or not also insuring
23 against one or more other perils proper to insure against in
24 this state, such policy if otherwise lawful may be
25 countersigned on behalf of all of the insurers by a licensed
26 and appointed resident agent of any insurer appearing thereon.
27 Such agent shall receive on each policy or contract the full
28 and usual commission allowed and paid by the insurer to its
29 agents on business written or transacted by them for the
30 insurer.

31

1 (2) If any subject of insurance referred to in
2 subsection (1) is insured under a policy, or contract, or
3 certificate of renewal or continuation thereof, issued in
4 another state and covering also property and risks outside
5 this state, a certificate evidencing such insurance as to
6 subjects located, resident, or to be performed in this state,
7 shall be issued by or through and shall be countersigned by
8 the insurer's commissioned and appointed ~~licensed~~ local
9 producing agent resident in this state in the same manner and
10 subject to the same conditions as is provided in subsection
11 (1) as to policies and contracts; except that the compensation
12 to be paid to the agent may relate only to the Florida portion
13 of the insurance risks represented by such policy or contract.

14 (3) An agent shall not sign or countersign in blank
15 any policy to be issued outside her or his office, or
16 countersign in blank any countersignature endorsement
17 therefor, or certificate issued thereunder. An agent may give
18 a written power of attorney to the issuing insurance company
19 to countersign such documents by imprinting his name, or the
20 name of the agency or other entity with which the agent may be
21 sharing commission pursuant to s. 626.753(1)(a) and (2),
22 thereon in lieu of manually countersigning such documents; but
23 an agent shall not give a power of attorney to any other
24 person to countersign any such document in her or his name
25 unless the person so authorized is directly employed by the
26 agent and by no other person, and is so employed in the office
27 of the agent.

28 (4) This section shall not be deemed to prohibit
29 insurers from using salaried licensed and appointed agents for
30 the production and servicing of business in this state and the
31 issuance and countersignature by such agents of insurance

1 policies or contracts, when required under subsection (1), and
2 without payment of commission therefor.

3 (5) This section shall not be deemed to prohibit an
4 insurer from authorizing an agent who is not regularly
5 commissioned and appointed ~~licensed~~ currently as an agent of
6 the insurer from countersigning a policy or contract of
7 insurance issued pursuant to the provisions of ss. 627.311 and
8 627.351. This section does not apply to reissuance of
9 insurance policies or endorsements thereto which are part of a
10 mass reissuance of such policies or endorsements and do not
11 involve a change of premium or payment of agent's commissions.

12 Section 2. Subsections (1) and (2) of section 624.428,
13 Florida Statutes, are amended to read:

14 624.428 Licensed agent law, life and health
15 insurances.--

16 (1) No life insurer shall deliver or issue for
17 delivery in this state any policy of life insurance, master
18 group life insurance contract, master credit life policy or
19 agreement, annuity contract, or contract or policy of health
20 insurance, unless the application for such policy or contract
21 is taken by, and the delivery of such policy or contract is
22 made through, an insurance agent of the insurer duly licensed
23 and appointed under the law of this state, who shall receive
24 the usual commission due to an agent from such insurer.

25 (2) Each such insurer shall maintain a licensed and
26 appointed agent at all times for the purpose of and through
27 whom policies or contracts issued or delivered in this state
28 shall be serviced.

29 Section 3. Section 624.478, Florida Statutes, is
30 amended to read:

31

1 624.478 Use of agents.--A ~~commercial~~ self-insurance
2 fund shall use an agent or agents licensed under parts I and
3 II of chapter 626 to perform any of the activities described
4 in s. 626.041(2). A ~~commercial~~ self-insurance fund shall have
5 the authority to appoint ~~license~~ agents in accordance with
6 parts I and II of chapter 626, and the fund and its appointed
7 ~~licensed~~ agents shall be subject to the requirements of such
8 provisions.

9 Section 4. Subsections (16), (17), and (29) of section
10 624.501, Florida Statutes, are amended to read:

11 624.501 Filing, license, appointment, and
12 miscellaneous fees.--The department shall collect in advance,
13 and persons so served shall pay to it in advance, fees,
14 licenses, and miscellaneous charges as follows:

15 (16) Issuance, reissuance, reinstatement, modification
16 resulting in a modified license being issued, ~~or~~ duplicate
17 copy of any insurance representative license, or an
18 appointment being reinstated.....\$5.00

19 (17) Additional appointment ~~license~~ continuation fees
20 as prescribed in chapter 626.....\$5.00

21 (29) Title insurance agents:

22 (a) Agent's original appointment or biennial renewal
23 or continuation thereof, each insurer ~~and agency's biennial~~
24 ~~license fee~~:

25 Appointment fee.....\$42.00

26 State tax.....12.00

27 County tax.....6.00

28 Total.....\$60.00

29 (b) Agency original appointment ~~license fee~~ or
30 biennial renewal or continuation thereof, each insurer:

31 Appointment ~~Licensing~~ fee.....\$42.00

1 State tax.....12.00
2 County tax.....6.00
3 Total.....\$60.00
4 (c) Filing for title insurance agent's license:
5 Application for filing, each filing, filing
6 fee.....\$10.00
7 (d) Additional appointment continuation fee as
8 prescribed by s. 626.843.....\$5.00
9 (e) Title insurer and title insurance agency
10 administrative surcharge:
11 1. On or before January 30 of each calendar year, each
12 title insurer shall pay to the department for each licensed
13 title insurance agency appointed by the title insurer and for
14 each retail office of the insurer on January 1 of that
15 calendar year an administrative surcharge of \$200.00.
16 2. On or before January 30 of each calendar year, each
17 licensed title insurance agency shall remit to the department
18 an administrative surcharge of \$200.00.
19
20 The administrative surcharge may be used solely to defray the
21 costs to the department in its examination or audit of title
22 insurance agencies ~~agents~~ and retail offices of title insurers
23 and to gather title insurance data for statistical purposes in
24 its regulation of title insurance.
25 Section 5. Section 626.022, Florida Statutes, is
26 amended to read:
27 626.022 Scope of part.--
28 (1) This part applies as to insurance agents,
29 solicitors, service representatives, adjusters, and insurance
30 agencies; as to any and all kinds of insurance; and as to
31

1 stock insurers, mutual insurers, reciprocal insurers, and all
2 other types of insurers, except that:

3 (a) It does not apply as to reinsurance, except that
4 ss. 626.011-626.031, ss. 626.102-626.181, ss. 626.191-626.211,
5 ss. 626.291-626.301, s. 626.331, ss. 626.342-626.521, ss.
6 626.541-626.591, and ss. 626.601-626.711 shall apply as to
7 reinsurance intermediaries as defined in s. 626.7492.

8 (b) The applicability of this chapter as to fraternal
9 benefit societies shall be as provided in chapter 632.

10 (c) It does not apply to a bail bond agent, as defined
11 in s. 648.25, except as provided in chapter 648 or chapter
12 903.

13 (2) For the purposes of this part, "insurance" also
14 includes annuity contracts.

15 Section 6. Subsections (1) and (2) of section 626.051,
16 Florida Statutes, are amended to read:

17 626.051 "Life agent" defined.--

18 (1)(a) For the purposes of this part, a "life agent"
19 is a person who represents ~~one representing~~ an insurer as to
20 life insurance and annuity contracts. The term also includes
21 an agent appointed as such as to life insurance, fixed-dollar
22 annuity contracts, or variable contracts, ~~and health insurance~~
23 ~~contracts~~ by the same insurer.

24 (b) A person may not solicit or sell variable life
25 insurance, variable annuity contracts, or any other
26 indeterminate value or variable contract as defined in s.
27 627.8015, unless the person has successfully completed a
28 licensure examination relating to variable annuity contracts
29 authorized and approved by the department.

1 (2) Except as provided in s. 626.112(6)~~(7)~~, with
2 respect to any such insurances or contracts, no person shall,
3 unless licensed as an agent:

4 (a) Solicit insurance or annuities or procure
5 applications; or

6 (b) In this state engage or hold himself or herself
7 out as engaging in the business of analyzing or abstracting
8 insurance policies or of counseling or advising or giving
9 opinions to persons relative to insurance or insurance
10 contracts other than:

11 1. As a consulting actuary advising an insurer; or

12 2. As to the counseling and advising of labor unions,
13 associations, trustees, employers or other business entities,
14 the subsidiaries and affiliates of each, relative to their
15 interests and those of their members or employees under
16 insurance benefit plans.

17 Section 7. Subsection (2) of section 626.062, Florida
18 Statutes, is amended to read:

19 626.062 "Health agent" defined.--

20 (2) Except as provided in s. 626.112(6)~~(7)~~, with
21 respect to such insurance, no person shall, unless licensed as
22 an agent:

23 (a) Solicit insurance or procure applications; or

24 (b) In this state engage or hold himself or herself
25 out as engaging in the business of analyzing or abstracting
26 insurance policies or of counseling or advising or giving
27 opinions to persons relative to insurance contracts other
28 than:

29 1. As a consulting actuary advising insurers; or

30 2. As to the counseling and advising of labor unions,
31 associations, trustees, employers or other business entities,

1 the subsidiaries and affiliates of each, relative to their
2 interests and those of their members or employees under
3 insurance benefit plans.

4 Section 8. Section 626.112, Florida Statutes, is
5 amended to read:

6 626.112 License and appointment required; agents,
7 customer representatives, solicitors, adjusters, insurance
8 agencies, service representatives, managing general agents,
9 ~~claims investigators.~~--

10 (1) No person shall be, act as, or advertise or hold
11 himself or herself out to be an insurance agent, customer
12 representative, solicitor, or adjuster unless he or she is
13 currently licensed and appointed.

14 (2) No agent, customer representative, or solicitor
15 shall solicit or otherwise transact as agent, customer
16 representative, or solicitor, or represent or hold himself or
17 herself out to be an agent, customer representative, or
18 solicitor as to, any kind or kinds of insurance as to which he
19 or she is not then licensed and appointed.

20 (3) No person shall act as an adjuster as to any class
21 of business for which he or she is not then licensed and
22 appointed.

23 (4) No person shall be, act as, or represent or hold
24 himself or herself out to be a service representative unless
25 he or she then holds a currently effective service
26 representative license and appointment. This subsection does
27 not apply as to similar representatives or employees of
28 casualty insurers whose duties are restricted to health
29 insurance.

30 (5) No person shall be, act as, or represent or hold
31 himself or herself out to be a managing general agent unless

1 he or she then holds a currently effective managing general
2 agent license and appointment.

3 ~~(6) No person shall be, act as, or represent or hold~~
4 ~~himself or herself out to be a claims investigator, or perform~~
5 ~~any of the functions of a claims investigator, unless he or~~
6 ~~she then holds a currently effective claims investigator~~
7 ~~license and appointment.~~

8 (6)~~(7)~~ An individual employed by a life or health
9 insurer as an officer or other salaried representative may
10 solicit and effect contracts of life insurance or annuities or
11 of health insurance, without being licensed as an agent, when
12 and only when he or she is accompanied by and solicits for and
13 on the behalf of a licensed and appointed agent.

14 (7)~~(8)~~(a) No individual, firm, partnership,
15 corporation, association, or any other entity shall act in its
16 own name or under a trade name, directly or indirectly, as an
17 insurance agency, when required to be licensed by this
18 subsection, unless it complies with s. 626.172 with respect to
19 possessing an insurance agency license for each place of
20 business at which it engages in any activity which may be
21 performed only by a licensed insurance agent or solicitor.

22 (b) An insurance agency shall, as a condition
23 precedent to continuing business, obtain an insurance agency
24 license if the department finds that, with respect to any
25 majority owner, partner, manager, director, officer, or other
26 person who manages or controls the agency, any person has,
27 subsequent to the effective date of this act:

28 1. Been found guilty of, or has pleaded guilty or nolo
29 contendere to, a felony in this state or any other state
30 relating to the business of insurance or to an insurance
31

1 agency, without regard to whether a judgment of conviction has
2 been entered by the court having jurisdiction of the cases.

3 2. Employed any individual in a managerial capacity or
4 in a capacity dealing with the public who is under an order of
5 revocation or suspension issued by the department. An
6 insurance agency may request, on forms prescribed by the
7 department, verification of any person's license status. If a
8 request is mailed within 5 working days after an employee is
9 hired, and the employee's license is currently suspended or
10 revoked, the agency shall not be required to obtain a license,
11 if the unlicensed person's employment is immediately
12 terminated.

13 3. Operated the agency or permitted the agency to be
14 operated in violation of s. 626.747.

15 4. With such frequency as to have made the operation
16 of the agency hazardous to the insurance-buying public or
17 other persons:

18 a. Solicited or handled controlled business. This
19 subparagraph shall not prohibit the licensing of any lending
20 or financing institution or creditor, with respect to
21 insurance only, under credit life or disability insurance
22 policies of borrowers from the institutions, which policies
23 are subject to part IX of chapter 627.

24 b. Misappropriated, converted, or unlawfully withheld
25 moneys belonging to insurers, insureds, beneficiaries, or
26 others and received in the conduct of business under the
27 license.

28 c. Unlawfully rebated, attempted to unlawfully rebate,
29 or unlawfully divided or offered to divide commissions with
30 another.

31

1 d. Misrepresented any insurance policy or annuity
2 contract, or used deception with regard to any policy or
3 contract, done either in person or by any form of
4 dissemination of information or advertising.

5 e. Violated any provision of this code or any other
6 law applicable to the business of insurance in the course of
7 dealing under the license.

8 f. Violated any lawful order or rule of the
9 department.

10 g. Failed or refused, upon demand, to pay over to any
11 insurer he or she represents or has represented any money
12 coming into his or her hands belonging to the insurer.

13 h. Violated the provision against twisting as defined
14 in s. 626.9541(1)(1).

15 i. In the conduct of business, engaged in unfair
16 methods of competition or in unfair or deceptive acts or
17 practices, as prohibited under part X of this chapter.

18 j. Willfully overinsured any property insurance risk.

19 k. Engaged in fraudulent or dishonest practices in the
20 conduct of business arising out of activities related to
21 insurance or the insurance agency.

22 l. Demonstrated lack of fitness or trustworthiness to
23 engage in the business of insurance arising out of activities
24 related to insurance or the insurance agency.

25 m. Authorized or knowingly allowed individuals to
26 transact insurance who were not then licensed as required by
27 this code.

28 5. Knowingly employed any person who within the
29 preceding 3 years has had his or her relationship with an
30 agency terminated in accordance with paragraph (d).

31

1 6. Willfully circumvented the requirements or
2 prohibitions of this code.

3 (c) An agency required to be licensed in accordance
4 with paragraph (b) shall remain so licensed for a period of 3
5 years from the date of licensure unless the license is
6 suspended or revoked in accordance with law. The department
7 may revoke or suspend the agency authority to do business for
8 activities occurring during the time the agency is licensed,
9 regardless of whether the licensing period has terminated.

10 (d) Notwithstanding the provisions of this subsection,
11 no insurance agency shall be required to apply for an agency
12 license if such agency can prove to the department that:

13 1. The agency is severing its relationship with each
14 majority owner, partner, manager, director, officer, or other
15 person who managed or controlled such agency and who violated
16 any of the provisions of paragraph (b).

17 2. No such majority owner, partner, manager, director,
18 officer, or other person who managed such agency is to be
19 affiliated with such agency in any capacity for a period of 3
20 years from the date of such severance.

21 Section 9. Section 626.141, Florida Statutes, is
22 amended to read:

23 626.141 Violation not to affect validity of
24 insurance.--An insurance contract which is otherwise valid and
25 binding as between the parties thereto shall not be rendered
26 invalid by reason of having been solicited, handled, or
27 procured by or through an unlicensed agent, customer
28 representative, or solicitor or an agent, customer
29 representative, or solicitor who has not been appointed.

30 Section 10. Subsections (1) and (6) of section
31 626.171, Florida Statutes, are amended to read:

1 626.171 Application for license.--

2 (1) The department shall not issue a license as agent,
3 customer representative, ~~solicitor~~, adjuster, insurance
4 agency, service representative, managing general agent, or
5 reinsurance intermediary, ~~or claims investigator~~, to any
6 person except upon written application therefor filed with it,
7 qualification therefor, and payment in advance of all
8 applicable fees. Any such application shall be made under the
9 oath of the applicant and be signed by the applicant.

10 (6) The application for license filing fee prescribed
11 in s. 624.501 is ~~shall not be~~ subject to refund.

12 Section 11. Section 626.181, Florida Statutes, is
13 amended to read:

14 626.181 Number of applications for licensure
15 required.--After a license as agent, customer representative,
16 ~~solicitor~~, or adjuster has been issued to an individual, the
17 same individual shall not be required to take another
18 examination for a similar license, regardless, in the case of
19 an agent, of the number of insurers to be represented by him
20 or her as agent, unless:

21 (1) Specifically ordered by the department to complete
22 a new application for license; or

23 (2) During any period of 24 months since the filing of
24 the original license application, such individual was not
25 appointed as an agent, customer representative, ~~solicitor~~, or
26 adjuster, unless the failure to be so appointed was due to
27 military service, in which event the period within which a new
28 application is not required may, in the discretion of the
29 department, be extended to 12 months following the date of
30 discharge from military service if the military service does
31 not exceed 3 years, but in no event to extend under this

1 clause for a period of more than 4 years from the date of
2 filing of the original application for license.

3 Section 12. Section 626.201, Florida Statutes, is
4 amended to read:

5 626.201 Investigation.--The department may propound
6 any reasonable interrogatories in addition to those contained
7 in the application, to any applicant for license or
8 appointment, or on any renewal, reinstatement, or continuation
9 thereof, relating to his or her qualifications, residence,
10 prospective place of business, and any other matter which, in
11 the opinion of the department, is deemed necessary or
12 advisable for the protection of the public and to ascertain
13 the applicant's qualifications. The department may, upon
14 completion of the application, make such further investigation
15 as it may deem advisable of the applicant's character,
16 experience, background, and fitness for the license or
17 appointment. Such an inquiry or investigation shall be in
18 addition to any examination required to be taken by the
19 applicant as hereinafter in this chapter provided.

20 Section 13. Subsection (2) of section 626.211, Florida
21 Statutes, is amended to read:

22 626.211 Approval, disapproval of application.--

23 (2) Upon approval of an applicant for license as
24 agent, customer representative, ~~solicitor~~, or adjuster who is
25 subject to written examination, the department shall notify
26 the applicant when and where he or she may take the required
27 examination.

28 Section 14. Paragraphs (c) and (d) of subsection (2)
29 and subsection (3) of section 626.221, Florida Statutes, are
30 amended to read:

31 626.221 Examination requirement; exemptions.--

1 (2) However, no such examination shall be necessary in
2 any of the following cases:

3 (c) In the discretion of the department, an applicant
4 for reinstatement of license or appointment as an agent,
5 customer representative, or adjuster whose license has been
6 suspended within 2 years prior to the date of application or
7 written request for reinstatement.

8 (d) An applicant who, within 2 years prior to
9 application for license and appointment as an agent, customer
10 representative, or adjuster, was a full-time salaried employee
11 of the department and had continuously been such an employee
12 with responsible insurance duties for not less than 2 years
13 and who had been a licensee within 2 years prior to employment
14 by the department with the same class of license as that being
15 applied for.

16 (3) An individual who is already licensed as a
17 solicitor or customer representative shall not be licensed as
18 a general lines agent without application and examination for
19 such license.

20 Section 15. Section 626.266, Florida Statutes, is
21 amended to read:

22 626.266 Printing of examinations or related materials
23 to preserve examination security.--A contract let for the
24 development, administration, or grading of examinations or
25 related materials by the Department of Insurance pursuant to
26 the various agent, customer representative, solicitor, or
27 adjuster licensing and examination provisions of this code may
28 include the printing or furnishing of these examinations or
29 related materials in order to preserve security. Any such
30 contract shall be let as a contract for a contractual service
31 pursuant to s. 287.057.

1 Section 16. Subsection (2) of section 626.281, Florida
2 Statutes, is amended to read:

3 626.281 Reexamination.--

4 (2) The department may require any individual whose
5 license as an agent, customer representative, or adjuster has
6 expired or has been suspended to pass an examination prior to
7 reinstating or relicensing the individual as to any class of
8 license. The examination fee shall be paid as to each
9 examination.

10 Section 17. Subsection (1) of section 626.311, Florida
11 Statutes, is amended to read:

12 626.311 Scope of license.--

13 (1) Except as to limited licenses, the applicant for
14 license as a general lines agent or customer representative
15 ~~solicitor~~ shall qualify for all property, marine, casualty,
16 and surety lines except bail bonds which require a separate
17 license under chapter 648. The license of a general lines
18 agent may also cover health insurance if health insurance is
19 included in the agent's appointment by an insurer as to which
20 the licensee is also appointed as agent for property or
21 casualty or surety insurance. The license of a customer
22 representative ~~solicitor~~ shall provide, in substance, that it
23 covers all of such classes of insurance that his or her
24 appointing general lines agent or agency is currently so
25 authorized to transact under the general lines agent's license
26 and appointments. No such license shall be issued limited to
27 particular classes of insurance except for bail bonds which
28 require a separate license under chapter 648.

29 Section 18. Subsection (1) of section 626.321, Florida
30 Statutes, is amended to read:

31 626.321 Limited licenses.--

1 (1) The department shall issue to a qualified
2 individual, or a qualified individual or entity under
3 paragraphs (c), (d), and (e), a license as agent authorized to
4 transact a limited class of business in any of the following
5 categories:

6 (a) Motor vehicle physical damage and mechanical
7 breakdown insurance.--License covering insurance against only
8 the loss of or damage to any motor vehicle which is designed
9 for use upon a highway, including trailers and semitrailers
10 designed for use with such vehicles. Such license also covers
11 insurance against the failure of an original or replacement
12 part to perform any function for which it was designed. The
13 applicant for such a license shall pass a written examination
14 covering motor vehicle physical damage insurance and
15 mechanical breakdown insurance. No individual while so
16 licensed shall hold a license as an agent or solicitor as to
17 any other or additional kind or class of insurance coverage
18 except as to a limited license for credit life and disability
19 insurances as provided in paragraph (e).

20 (b) Industrial fire insurance or burglary
21 insurance.--License covering only industrial fire insurance or
22 burglary insurance. The applicant for such a license shall
23 pass a written examination covering such insurance. No
24 individual while so licensed shall hold a license as an agent
25 or solicitor as to any other or additional kind or class of
26 insurance coverage except as to life and health insurances.

27 (c) Personal accident insurance.--License covering
28 only policies of personal accident insurance covering the
29 risks of travel, except as provided in subparagraph 2. The
30 license may be issued only:

31

1 1. To a full-time salaried employee of a common
2 carrier or a full-time salaried employee or owner of a
3 transportation ticket agency and may authorize the sale of
4 such ticket policies only in connection with the sale of
5 transportation tickets, or to the full-time salaried employee
6 of such an agent. No such policy shall be for a duration of
7 more than 48 hours or for the duration of a specified one-way
8 trip or round trip.

9 2. To a full-time salaried employee of a business
10 which offers motor vehicles for rent or lease, or to a
11 business office of a business which offers motor vehicles for
12 rent or lease if insurance sales activities authorized by the
13 license are limited to full-time salaried employees. A
14 business office licensed or a person licensed pursuant to this
15 subparagraph may, as an agent of an insurer, transact
16 insurance that provides coverage for accidental personal
17 injury or death of the lessee and any passenger who is riding
18 or driving with the covered lessee in the rental motor vehicle
19 if the lease or rental agreement is for not more than 30 days,
20 or if the lessee is not provided coverage for more than 30
21 consecutive days per lease period; however, if the lease is
22 extended beyond 30 days, the coverage may be extended one time
23 only for a period not to exceed an additional 30 days.

24 (d) Baggage and motor vehicle excess liability
25 insurance.--

26 1. License covering only insurance of personal effects
27 except as provided in subparagraph 2. The license may be
28 issued only:

29 a. To a full-time salaried employee of a common
30 carrier or a full-time salaried employee or owner of a
31 transportation ticket agency, which person is engaged in the

1 sale or handling of transportation of baggage and personal
2 effects of travelers, and may authorize the sale of such
3 insurance only in connection with such transportation; or

4 b. To the full-time salaried employee of a licensed
5 general lines agent, a full-time salaried employee of a
6 business which offers motor vehicles for rent or lease, or to
7 a business office of a business which offers motor vehicles
8 for rent or lease if insurance sales activities authorized by
9 the license are limited to full-time salaried employees.

10
11 The purchaser of baggage insurance shall be provided written
12 information disclosing that the insured's homeowner's policy
13 may provide coverage for loss of personal effects and that the
14 purchase of such insurance is not required in connection with
15 the purchase of tickets or in connection with the lease or
16 rental of a motor vehicle.

17 2. A business office licensed pursuant to subparagraph
18 1., or a person licensed pursuant to subparagraph 1. who is a
19 full-time salaried employee of a business which offers motor
20 vehicles for rent or lease, may include lessees under a master
21 contract providing coverage to the lessor or may transact
22 excess motor vehicle liability insurance providing coverage in
23 excess of the standard liability limits provided by the lessor
24 in its lease to a person renting or leasing a motor vehicle
25 from the licensee's employer for liability arising in
26 connection with the negligent operation of the leased or
27 rented motor vehicle, provided that the lease or rental
28 agreement is for not more than 30 days; that the lessee is not
29 provided coverage for more than 30 consecutive days per lease
30 period, and, if the lease is extended beyond 30 days, the
31 coverage may be extended one time only for a period not to

1 exceed an additional 30 days; that the lessee is given written
2 notice that his or her personal insurance policy providing
3 coverage on an owned motor vehicle may provide additional
4 excess coverage; and that the purchase of the insurance is not
5 required in connection with the lease or rental of a motor
6 vehicle. The excess liability insurance may be provided to
7 the lessee as an additional insured on a policy issued to the
8 licensee's employer.

9 3. A business office licensed pursuant to subparagraph
10 1., or a person licensed pursuant to subparagraph 1. who is a
11 full-time salaried employee of a business which offers motor
12 vehicles for rent or lease, may, as an agent of an insurer,
13 transact insurance that provides coverage for the liability of
14 the lessee to the lessor for damage to the leased or rented
15 motor vehicle if:

16 a. The lease or rental agreement is for not more than
17 30 days; or the lessee is not provided coverage for more than
18 30 consecutive days per lease period, but, if the lease is
19 extended beyond 30 days, the coverage may be extended one time
20 only for a period not to exceed an additional 30 days;

21 b. The lessee is given written notice that his
22 personal insurance policy that provides coverage on an owned
23 motor vehicle may provide such coverage with or without a
24 deductible; and

25 c. The purchase of the insurance is not required in
26 connection with the lease or rental of a motor vehicle.

27 (e) ~~Credit life or disability insurance.--~~License
28 covering only credit life or disability insurance. The
29 license may be issued only to an individual employed by a life
30 or health insurer as an officer or other salaried or
31 commissioned representative, or to an individual employed by

1 or associated with a lending or financing institution or
2 creditor, and may authorize the sale of such insurance only
3 with respect to borrowers or debtors of such lending or
4 financing institution or creditor. However, only the
5 individual or entity whose tax identification number is used
6 in receiving or is credited with receiving the commission from
7 the sale of such insurance shall be the licensed agent of the
8 insurer. No individual while so licensed shall hold a license
9 as an agent or solicitor as to any other or additional kind or
10 class of life or health insurance coverage. An entity other
11 than a lending or financial institution defined in s. 626.988
12 holding a limited license under this paragraph shall also be
13 authorized to sell credit property insurance.

14 (f) Credit insurance.--License covering only credit
15 insurance, as such insurance is defined in s. 624.605(1)(i),
16 and no individual so licensed shall, during the same period,
17 hold a license as an agent or solicitor as to any other or
18 additional kind of life or health insurance with the exception
19 of credit life or disability insurance as defined in paragraph
20 (e).

21 Section 19. Subsections (3) and (4) of section
22 626.331, Florida Statutes, are amended to read:

23 626.331 Number of appointments permitted or
24 required.--

25 (3) The department may issue a single appointment
26 covering both life and health insurances to an individual
27 licensed ~~qualified~~ as to both such kinds of insurance and
28 appointed as agent as to both such kinds by the same insurer.

29 (4) If requested in writing by the applicant or payor
30 entitled thereto within 60 days after the denial or
31 disapproval of an appointment, the department shall refund to

1 the applicant or payor entitled thereto any state and county
2 taxes received by it in connection with the application for
3 the appointment. The appointment fee is not subject to
4 refund.No refund shall be made under any circumstances after
5 issuance of an appointment. No refund shall be made if the
6 applicable appointment year has commenced before receipt by
7 the department of the request for cancellation of the
8 appointment and refund.

9 Section 20. Section 626.342, Florida Statutes, is
10 amended to read:

11 626.342 Furnishing supplies to unlicensed life,
12 health, or general lines agent prohibited; civil liability and
13 penalty.--

14 (1) An ~~No~~ insurer, a managing general agent, or an
15 agent, directly or through any representative, may not ~~shall~~
16 furnish to any agent any blank forms, applications,
17 stationery, or other supplies to be used in soliciting,
18 negotiating, or effecting contracts of insurance on its behalf
19 unless such blank forms, applications, stationery, or other
20 supplies relate to a class of business with respect to which
21 the agent is licensed and appointed, whether for that insurer
22 or another insurer.

23 (2) Any insurer, general agent, or agent who furnishes
24 any of the supplies specified in subsection (1) to any agent
25 or prospective agent not appointed to represent the insurer
26 and who accepts from or writes any insurance business for such
27 agent or agency is ~~shall be~~ subject to civil liability to any
28 insured of such insurer to the same extent and in the same
29 manner as if such agent or prospective agent had been
30 appointed or authorized by the insurer or such agent to act in
31 its or his or her behalf. The provisions of this subsection

1 do not apply to insurance risk apportionment plans under s.
2 627.351.

3 (3) This section does not apply to the placing of
4 surplus lines business under the provisions of ss.
5 626.913-626.937.

6 Section 21. Subsections (5) and (6) are added to
7 section 626.451, Florida Statutes, to read:

8 626.451 Appointment of agent or other
9 representative.--

10 (5) Any law enforcement agency, state attorney's
11 office, or court clerk that is aware that an agent, adjuster,
12 service representative, solicitor, customer representative, or
13 managing general agent has pleaded guilty or nolo contendere
14 to or has been found guilty of a felony shall notify the
15 department of such fact.

16 (6) Upon the filing of an information or indictment
17 against an agent, adjuster, service representative, solicitor,
18 customer representative, or managing general agent, the state
19 attorney or clerk of the circuit court shall immediately
20 furnish the department a certified copy of the information or
21 indictment.

22 Section 22. Subsection (1) of section 626.511, Florida
23 Statutes, 1996 Supplement, is amended to read:

24 626.511 Reasons for termination; confidential
25 information.--

26 (1) Any insurer terminating the appointment of an
27 agent; any general lines agent terminating the appointment of
28 a solicitor, customer representative, or a crop hail or
29 multiple-peril crop insurance agent; and any employer
30 terminating the appointment of an adjuster, service
31 representative, or managing general agent, ~~or claims~~

1 ~~investigator~~, whether such termination is by direct action of
2 the appointing insurer, agent, or employer or by failure to
3 renew or continue the appointment as provided, shall file with
4 the department a statement of the reasons, if any, for and the
5 facts relative to such termination. In the case of
6 termination of the appointment of an agent, such information
7 may be filed by the insurer or by the general agent of the
8 insurer.

9 (2) In the case of terminations by failure to renew or
10 continue the appointment, the information required under
11 subsection (1) shall be filed with the department as soon as
12 possible, and at all events within 30 days, after the date
13 notice of intention not to so renew or continue was filed with
14 the department as required in this chapter. In all other
15 cases, the information required under subsection (1) shall be
16 filed with the department at the time, or at all events within
17 10 days after, notice of the termination was filed with the
18 department.

19 (3) Any information, document, record, or statement
20 furnished to the department under subsection (1) is
21 confidential and exempt from the provisions of s. 119.07(1).

22 Section 23. Subsections (1) and (3) of section
23 626.521, Florida Statutes, are amended to read:

24 626.521 Character, credit reports.--

25 (1) As to each applicant who for the first time in
26 this state is applying and qualifying for a license as agent,
27 solicitor, adjuster, service representative, customer
28 representative, or managing general agent, ~~or claims~~
29 ~~investigator~~, the appointing insurer or its manager or general
30 agent in this state, in the case of agents, or the appointing
31 general lines agent, in the case of solicitors or customer

1 representatives, or the employer, in the case of service
2 representatives ~~and claims investigators~~ and of adjusters who
3 are not to be self-employed, shall coincidentally with such
4 appointment or employment secure and thereafter keep on file a
5 full detailed credit and character report made by an
6 established and reputable independent reporting service,
7 relative to the individual so appointed or employed.

8 (3) As to an applicant for an adjuster's or
9 reinsurance intermediary's license who is to be self-employed,
10 the department may secure, at the cost of the applicant, a
11 full detailed credit and character report made by an
12 established and reputable independent reporting service
13 relative to the applicant.

14 Section 24. Subsections (1) and (2) of section
15 626.541, Florida Statutes, are amended to read:

16 626.541 Firm, corporate, and business names; officers;
17 associates; notice of changes.--

18 (1) Any licensed agent or adjuster doing business
19 under a firm or corporate name or under any business name
20 other than his or her own individual name shall annually on or
21 before January 1 file with the department, on forms furnished
22 by it, a written statement of the firm, corporate, or business
23 name being so used, the address of any office or offices or
24 places of business making use of such name, and the name and
25 social security number of each officer and director ~~and the~~
26 ~~president~~ of the corporation and of each individual associated
27 in such firm or corporation as to the insurance transactions
28 thereof or in the use of such business name.

29 (2) In the event of any change of such name, or of any
30 of the officers and ~~such~~ directors ~~or president~~, or of any of
31 such addresses, or in the personnel so associated, written

1 notice of such change shall be filed with the department
2 within 60 days by or on behalf of those licensees terminating
3 any such firm, corporate, or business name or continuing to
4 operate thereunder.

5 Section 25. Subsections (1) and (3) of section
6 626.561, Florida Statutes, are amended to read:

7 626.561 Reporting and accounting for funds.--

8 (1) All premiums, return premiums, or other funds
9 belonging to insurers or others received by an agent, customer
10 representative, solicitor, or adjuster in transactions under
11 his or her license are ~~shall be~~ trust funds ~~so~~ received by the
12 licensee in a fiduciary capacity. An agent shall keep the
13 funds belonging to each insurer for which he or she is not
14 appointed, other than a surplus lines insurer, in a separate
15 account so as to allow the department to properly audit such
16 funds. The licensee in the applicable regular course of
17 business shall account for and pay the same to the insurer,
18 insured, or other person entitled thereto.

19 (3) Any agent, customer representative, solicitor, or
20 adjuster who, not being lawfully entitled thereto, either
21 temporarily or permanently diverts or misappropriates
22 ~~appropriates~~ such funds or any portion thereof ~~to his or her~~
23 ~~own use~~ or deprives the other person of a benefit therefrom
24 commits the offense specified below:

25 (a) If the funds diverted or misappropriated
26 ~~appropriated to his or her own use~~ are \$300 or less, a
27 misdemeanor of the first degree, punishable as provided in s.
28 775.082 or s. 775.083.

29 (b) If the funds diverted or misappropriated
30 ~~appropriated to his or her own use~~ are more than \$300, but
31

1 less than \$20,000, a felony of the third degree, punishable as
2 provided in s. 775.082, s. 775.083, or s. 775.084.

3 (c) If the funds diverted or misappropriated
4 ~~appropriated to his or her own use~~ are \$20,000 or more, but
5 less than \$100,000, a felony of the second degree, punishable
6 as provided in s. 775.082, s. 775.083, or s. 775.084.

7 (d) If the funds diverted or misappropriated
8 ~~appropriated to his or her own use~~ are \$100,000 or more, a
9 felony of the first degree, punishable as provided in s.
10 775.082, s. 775.083, or s. 775.084.

11 Section 26. Subsections (1), (2), (4), and (7) of
12 section 626.592, Florida Statutes, are amended to read:

13 626.592 Primary agents.--

14 (1) ~~On or before January 1, 1990, and annually~~
15 ~~thereafter,~~ Each person operating an insurance agency and each
16 location of a multiple location agency shall designate a
17 primary agent for each insurance agency location and shall
18 file the name of the person so designated, and the address of
19 the insurance agency location where he or she is primary
20 agent, with the Department of Insurance, on a form approved by
21 the department. The designation of the primary agent may be
22 changed at the option of the agency and any change shall be
23 effective upon notification to the department. Notice of
24 change must be sent to the department within 30 days after
25 such change.

26 (2) For the purpose of this section, a "primary agent"
27 is the licensed agent who is responsible for the hiring and
28 supervision of all individuals within an insurance agency
29 location whether such individuals ~~who~~ deal with the public in
30 the solicitation or negotiation of insurance contracts or in
31 the collection or accounting of moneys from the general

1 public. An agent may be designated as primary agent for only
2 one insurance agency location.

3 (4) The department may suspend or revoke the license
4 of the primary agent if the an insurance agency employs any
5 person who has had a license denied or any person whose
6 license is currently suspended or revoked. However, when a
7 person has been denied a license for failure to pass a
8 required examination, he or she may be employed to perform
9 clerical or administrative functions for which licensure is
10 not required.

11 (7) An No insurance agency location may not shall
12 conduct the business of insurance unless a primary agent is
13 designated at all times. Failure to designate a primary agent,
14 on a form prescribed by the department, within 30 days after
15 agency inception or change of primary agent designation,
16 constitutes as required under this section shall constitute
17 grounds for requiring that the agency obtain a license in
18 accordance with ss. 626.112 and 626.172.

19 Section 27. Subsection (1) of section 626.601, Florida
20 Statutes, is amended to read:

21 626.601 Improper conduct; inquiry; fingerprinting.--

22 (1) The department may, upon its own motion or, and
23 ~~shall~~, upon a written complaint signed by any interested
24 person and filed with the department, inquire into any alleged
25 improper conduct of any licensed agent, solicitor, adjuster,
26 service representative, managing general agent, customer
27 representative, title insurance agent, or title insurance
28 agency or claims investigator under this code. The department
29 may thereafter initiate an investigation of any such licensee
30 if it has reasonable cause to believe that the licensee has
31 violated any provision of the insurance code. During the

1 course of its investigation, the department shall contact the
2 licensee being investigated unless it determines that
3 contacting such person could jeopardize the successful
4 completion of the investigation or cause injury to the public.

5 Section 28. Section 626.611, Florida Statutes, is
6 amended to read:

7 626.611 Grounds for compulsory refusal, suspension, or
8 revocation of agent's, title agency's, solicitor's,
9 adjuster's, customer representative's, service
10 representative's, or managing general agent's, ~~or claims~~
11 ~~investigator's~~ license or appointment.--The department shall
12 deny an application for, suspend, revoke, or refuse to renew
13 or continue the license or appointment of any applicant,
14 agent, title agency, solicitor, adjuster, customer
15 representative, service representative, or managing general
16 agent, ~~or claims investigator~~, and it shall suspend or revoke
17 the eligibility to hold a license or appointment of any such
18 person, if it finds that as to the applicant, licensee, or
19 appointee any one or more of the following applicable grounds
20 exist:

21 (1) Lack of one or more of the qualifications for the
22 license or appointment as specified in this code.

23 (2) Material misstatement, misrepresentation, or fraud
24 in obtaining the license or appointment or in attempting to
25 obtain the license or appointment.

26 (3) Failure to pass to the satisfaction of the
27 department any examination required under this code.

28 (4) If the license or appointment is willfully used,
29 or to be used, to circumvent any of the requirements or
30 prohibitions of this code.

31

1 (5) Willful misrepresentation of any insurance policy
2 or annuity contract or willful deception with regard to any
3 such policy or contract, done either in person or by any form
4 of dissemination of information or advertising.

5 (6) If, as an adjuster, ~~claims investigator,~~ or agent
6 licensed and appointed to adjust claims under this code, he or
7 she has materially misrepresented to an insured or other
8 interested party the terms and coverage of an insurance
9 contract with intent and for the purpose of effecting
10 settlement of claim for loss or damage or benefit under such
11 contract on less favorable terms than those provided in and
12 contemplated by the contract.

13 (7) Demonstrated lack of fitness or trustworthiness to
14 engage in the business of insurance.

15 (8) Demonstrated lack of reasonably adequate knowledge
16 and technical competence to engage in the transactions
17 authorized by the license or appointment.

18 (9) Fraudulent or dishonest practices in the conduct
19 of business under the license or appointment.

20 (10) Misappropriation, conversion, or unlawful
21 withholding of moneys belonging to insurers or insureds or
22 beneficiaries or to others and received in conduct of business
23 under the license or appointment.

24 (11) Unlawfully rebating, attempting to unlawfully
25 rebate, or unlawfully dividing or offering to divide his or
26 her commission with another.

27 (12) Having obtained or attempted to obtain, or having
28 used or using, a license or appointment as agent, customer
29 representative, or solicitor for the purpose of soliciting or
30 handling "controlled business" as defined in s. 626.730 with
31

1 respect to general lines agents, s. 626.784 with respect to
2 life agents, and s. 626.830 with respect to health agents.

3 (13) Willful failure to comply with, or willful
4 violation of, any proper order or rule of the department or
5 willful violation of any provision of this code.

6 (14) Having been found guilty of or having pleaded
7 guilty or nolo contendere to a felony or a crime punishable by
8 imprisonment of 1 year or more under the law of the United
9 States of America or of any state thereof or under the law of
10 any other country which involves moral turpitude, without
11 regard to whether a judgment of conviction has been entered by
12 the court having jurisdiction of such cases.

13 (15) Fraudulent or dishonest practice in submitting or
14 aiding or abetting any person in the submission of an
15 application for workers' compensation coverage under chapter
16 440 containing false or misleading information as to employee
17 payroll or classification for the purpose of avoiding or
18 reducing the amount of premium due for such coverage.

19 Section 29. Section 626.621, Florida Statutes, is
20 amended to read:

21 626.621 Grounds for discretionary refusal, suspension,
22 or revocation of agent's, solicitor's, adjuster's, customer
23 representative's, service representative's, or managing
24 general agent's, ~~or claims investigator's~~ license or
25 appointment.--The department may, in its discretion, deny an
26 application for, suspend, revoke, or refuse to renew or
27 continue the license or appointment of any applicant, agent,
28 solicitor, adjuster, customer representative, service
29 representative, or managing general agent, ~~or claims~~
30 ~~investigator~~, and it may suspend or revoke the eligibility to
31 hold a license or appointment of any such person, if it finds

1 that as to the applicant, licensee, or appointee any one or
2 more of the following applicable grounds exist under
3 circumstances for which such denial, suspension, revocation,
4 or refusal is not mandatory under s. 626.611:

5 (1) Any cause for which issuance of the license or
6 appointment could have been refused had it then existed and
7 been known to the department.

8 (2) Violation of any provision of this code or of any
9 other law applicable to the business of insurance in the
10 course of dealing under the license or appointment.

11 (3) Violation of any lawful order or rule of the
12 department.

13 (4) Failure or refusal, upon demand, to pay over to
14 any insurer he or she represents or has represented any money
15 coming into his or her hands belonging to the insurer.

16 (5) Violation of the provision against twisting, as
17 defined in s. 626.9541(1)(1).

18 (6) In the conduct of business under the license or
19 appointment, engaging in unfair methods of competition or in
20 unfair or deceptive acts or practices, as prohibited under
21 part X of this chapter, or having otherwise shown himself or
22 herself to be a source of injury or loss to the public or
23 detrimental to the public interest.

24 (7) Willful overinsurance of any property or health
25 insurance risk.

26 (8) Having been found guilty of or having pleaded
27 guilty or nolo contendere to a felony or a crime punishable by
28 imprisonment of 1 year or more under the law of the United
29 States of America or of any state thereof or under the law of
30 any other country, without regard to whether a judgment of
31

1 conviction has been entered by the court having jurisdiction
2 of such cases.

3 (9) If a life agent, violation of the code of ethics.

4 (10) Cheating on an examination required for licensure
5 or violating test center or examination procedures published
6 orally, in writing, or electronically at the test site by
7 authorized representatives of the examination program
8 administrator. Communication of test center and examination
9 procedures must be clearly established and documented.

10 (11) Failure to inform the department in writing
11 within 30 days after pleading guilty or nolo contendere to, or
12 being convicted or found guilty of, any felony or a crime
13 punishable by imprisonment of 1 year or more under the law of
14 the United States or of any state thereof, or under the law of
15 any other country without regard to whether a judgment of
16 conviction has been entered by the court having jurisdiction
17 of the case.

18 (12) Knowingly aiding, assisting, procuring, advising,
19 or abetting any person in the violation of or to violate a
20 provision of the insurance code or any order or rule of the
21 department.

22 Section 30. Subsections (2), (3), and (4) of section
23 626.641, Florida Statutes, are amended to read:

24 626.641 Duration of suspension or revocation.--

25 (2) No person or appointee under any license or
26 appointment revoked by the department, nor any person whose
27 eligibility to hold same has been revoked by the department,
28 shall have the right to apply for another license or
29 appointment under this code within 2 years from the effective
30 date of such revocation or, if judicial review of such
31 revocation is sought, within 2 years from the date of final

1 court order or decree affirming the revocation. The
2 department shall not, however, grant a new license or
3 appointment or reinstate eligibility to hold such license or
4 appointment if it finds that the circumstance or circumstances
5 for which the eligibility was revoked or for which the
6 previous license or appointment was revoked still exist or are
7 likely to recur; if an individual's license as agent, customer
8 representative, or solicitor or eligibility to hold same has
9 been revoked upon the ground specified in s. 626.611(12), the
10 department shall refuse to grant or issue any new license or
11 appointment so applied for.

12 (3) If licenses as agent, customer representative, or
13 solicitor, or the eligibility to hold same, as to the same
14 individual have been revoked at two separate times, the
15 department shall not thereafter grant or issue any license
16 under this code as to such individual.

17 (4) During the period of suspension or revocation of
18 the license or appointment, the former licensee or appointee
19 shall not engage in or attempt or profess to engage in any
20 transaction or business for which a license or appointment is
21 required under this code or directly or indirectly own,
22 control, or be employed in any manner by any insurance agent
23 or agency or adjuster or adjusting firm.

24 Section 31. Section 626.651, Florida Statutes, is
25 amended to read:

26 626.651 Effect of suspension, revocation upon
27 associated licenses and appointments and licensees and
28 appointees.--

29 (1) Upon suspension, revocation, or refusal to renew
30 or continue any one license of an agent, customer
31 representative, or solicitor, or upon suspension or revocation

1 of eligibility to hold a license or appointment, the
2 department shall at the same time likewise suspend or revoke
3 all other licenses, appointments, or status of eligibility
4 held by the licensee or appointee under this code.

5 (2) In case of the suspension or revocation of license
6 and appointments of any general lines agent, or in case of
7 suspension or revocation of eligibility, the license and
8 appointments of any ~~and all~~ other agents who are members of
9 such agency, whether incorporated or unincorporated, and any
10 ~~and all~~ solicitors or customer representatives employed by
11 such agency, who knowingly are parties to the act which formed
12 the ground for the suspension or revocation may likewise be
13 suspended or revoked.

14 Section 32. Section 626.681, Florida Statutes, is
15 amended to read:

16 626.681 Administrative fine in lieu of or in addition
17 to suspension, revocation, or refusal of license or
18 appointment.--

19 (1) Except as to insurance agencies, if the department
20 finds that one or more grounds exist for the suspension,
21 revocation, or refusal to issue, renew, or continue any
22 license or appointment issued under this chapter, the
23 department may, in its discretion, in lieu of or in addition
24 to such suspension or, revocation, or in lieu of such refusal,
25 and except on a second offense or when such suspension,
26 revocation, or refusal is mandatory, impose upon the licensee
27 or appointee an administrative penalty in an amount up to \$500
28 or, if the department has found willful misconduct or willful
29 violation on the part of the licensee or appointee, up to
30 \$3,500~~\$2,500~~. The administrative penalty may, in the
31 discretion of the department, be augmented by an amount equal

1 to any commissions received by or accruing to the credit of
2 the licensee or appointee in connection with any transaction
3 as to which the grounds for suspension, revocation, or refusal
4 related.

5 (2) With respect to insurance agencies, if the
6 department finds that one or more grounds exist for the
7 suspension, revocation, or refusal to issue, renew, or
8 continue any license issued under this chapter, the department
9 may, in its discretion, in lieu of or in addition to such
10 suspension or revocation, or in lieu of such refusal, impose
11 upon the licensee an administrative penalty in an amount not
12 to exceed \$10,000 per violation. The administrative penalty
13 may, in the discretion of the department, be augmented by an
14 amount equal to any commissions received by or accruing to the
15 credit of the licensee in connection with any transaction as
16 to which the grounds for suspension, revocation, or refusal
17 related.

18 (3) The department may allow the licensee or appointee
19 a reasonable period, not to exceed 30 days, within which to
20 pay to the department the amount of the penalty so imposed.
21 If the licensee or appointee fails to pay the penalty in its
22 entirety to the department within the period so allowed, the
23 license, or appointments, or status of the licensee or
24 appointee shall stand suspended or revoked or issuance,
25 renewal, or continuation shall be refused, as the case may be,
26 upon expiration of such period.

27 Section 33. Section 626.691, Florida Statutes, is
28 amended to read:

29 626.691 Probation.--

30 (1) If the department finds that one or more grounds
31 exist for the suspension, revocation, or refusal to renew or

1 continue any license or appointment issued under this part,
2 the department may, in its discretion, except when an
3 administrative fine is not permissible under s. 626.681 or
4 when such suspension, revocation, or refusal is mandatory, in
5 lieu of or in addition to such suspension ~~or~~ revocation, or
6 in lieu of such refusal, or in connection with any
7 administrative monetary penalty imposed under s. 626.681,
8 place the offending licensee or appointee on probation for a
9 period, not to exceed 2 years, as specified by the department
10 in its order.

11 (2) As a condition to such probation or in connection
12 therewith, the department may specify in its order reasonable
13 terms and conditions to be fulfilled by the probationer during
14 the probation period. If during the probation period the
15 department has good cause to believe that the probationer has
16 violated a term or condition ~~such terms and conditions or any~~
17 ~~of them~~, it shall suspend, revoke, or refuse to issue, renew,
18 or continue the license or appointment of the probationer, as
19 upon the original ~~ground or~~ grounds referred to in subsection
20 (1).

21 Section 34. Section 626.692, Florida Statutes, is
22 created to read:

23 626.692 Restitution.--If any ground exists for the
24 suspension, revocation, or refusal of a license or
25 appointment, the department may, in addition to any other
26 penalty authorized under this chapter, order the licensee to
27 pay restitution to any person who has been deprived of money
28 by the licensee's misappropriation, conversion, or unlawful
29 withholding of moneys belonging to insurers, insureds,
30 beneficiaries, or others. In no instance shall the amount of
31 restitution required to be paid under this section exceed the

1 amount of money misappropriated, converted, or unlawfully
2 withheld. Nothing in this section limits or restricts a
3 person's right to seek other remedies as provided for by law.

4 Section 35. Section 626.727, Florida Statutes, is
5 amended to read:

6 626.727 Scope of this part.--This part applies only ~~as~~
7 to:

- 8 (1) General lines agents, as defined in s. 626.041;
9 (2) Solicitors, as defined in s. 626.071; ~~and~~
10 (3) Customer representatives as defined in s. 626.072;

11 and

12 (4)(3) Service representatives, as defined in s.
13 626.081, or managing general agents, as defined in s. 626.091.

14 Section 36. Section 626.730, Florida Statutes, is
15 amended to read:

16 626.730 Purpose of license.--

17 (1) The purpose of a license issued under this code to
18 a general lines agent, customer representative, or solicitor
19 is to authorize and enable the licensee actively and in good
20 faith to engage in the insurance business as such an agent,
21 customer representative, or solicitor with respect to the
22 ~~general~~ public and to facilitate the public supervision of
23 such activities in the public interest, and not for the
24 purpose of enabling the licensee to receive a rebate of
25 premium in the form of commission or other compensation as an
26 agent, customer representative, or solicitor or enabling the
27 licensee to receive commissions or other compensation based
28 upon insurance solicited or procured by or through him or her
29 upon his or her own interests or those of other persons with
30 whom he or she is closely associated in capacities other than
31

1 that of insurance agent, customer representative, or
2 solicitor.

3 (2) The department shall not grant, renew, continue,
4 or permit to exist any license or appointment as such agent,
5 customer representative, or solicitor as to any applicant
6 therefor or licensee or appointee thereunder if it finds that
7 the license or appointment has been, is being, or will
8 probably be used by the applicant, or licensee, or appointee
9 for the purpose of securing rebates or commissions on
10 "controlled business," that is, on insurance written on his or
11 her own interests or those of his or her family or of any
12 firm, corporation, or association with which he or she is
13 associated, directly or indirectly, or in which he or she has
14 an interest other than as to the insurance thereof.

15 Section 37. Subsection (3) of section 626.732, Florida
16 Statutes, is amended to read:

17 626.732 Requirement as to knowledge, experience, or
18 instruction.--

19 (3) An individual who was or became qualified to sit
20 for an agent's, customer representative's, or adjuster's
21 examination at or during the time he or she was employed by
22 the department and who, while so employed, was employed in
23 responsible insurance duties as a full-time bona fide employee
24 shall be permitted to take an examination if application for
25 such examination is made within 90 days after the date of
26 termination of his or her employment with the department.

27 Section 38. Section 626.733, Florida Statutes, is
28 amended to read:

29 626.733 Agency firms and corporations; special
30 requirements.--If a sole proprietorship, partnership,
31 corporation, or association holds an agency contract, all

1 members thereof who solicit, negotiate, or effect insurance
2 contracts, and all officers and stockholders of the
3 corporation who solicit, negotiate, or effect insurance
4 contracts, are required to qualify and be licensed
5 individually as agents, solicitors, or customer
6 representatives; and all of such agents must be individually
7 appointed as to each property and casualty insurer entering
8 into an agency contract with such agency. Each such
9 appointing insurer as soon as known to it shall comply with
10 this section and shall determine and require that each agent
11 so associated in or so connected with such agency is likewise
12 appointed as to the same such insurer and for the same type
13 and class of license. However, no insurer is required to
14 comply with the provisions of this section if such insurer
15 satisfactorily demonstrates to the department that the insurer
16 has issued an aggregate net written premium, in an agency, in
17 an amount of \$25,000 or less.

18 Section 39. Subsection (2) of section 626.7351,
19 Florida Statutes, is amended to read:

20 626.7351 Qualifications for customer representative's
21 license.--The department shall not grant or issue a license as
22 customer representative to any individual found by it to be
23 untrustworthy or incompetent, or who does not meet each of the
24 following qualifications:

25 (2)(a) The applicant is a bona fide resident of this
26 state and will actually reside in the state at least 6 months
27 out of the year. An individual who is a bona fide resident of
28 this state shall be deemed to meet the residence requirements
29 of this subsection, notwithstanding the existence at the time
30 of application for license of a license in his or her name on
31 the records of another state as a resident licensee of the

1 other state, if the applicant furnishes a letter of clearance
2 satisfactory to the department that the resident licenses have
3 been canceled or changed to a nonresident basis and that he or
4 she is in good standing.

5 (b) The applicant is a resident of another state
6 sharing a common boundary with this state and has been
7 employed in this state for a period of not less than 6 months
8 by a Florida resident general lines agent licensed and
9 appointed under this chapter. The applicant licensed under
10 this subsection must meet all other requirements as described
11 in this chapter and must, under the direct supervision of a
12 licensed and appointed Florida resident general lines agent,
13 conduct business solely within the confines of the office of
14 the agent or agency whom he or she represents in this state.

15 Section 40. Subsection (1) of section 626.739, Florida
16 Statutes, is amended to read:

17 626.739 Temporary license; death, disability, absence
18 of agent.--

19 (1) The department may, in its discretion, issue a
20 temporary license authorizing appointment as a general lines
21 insurance ~~as~~ agent to a licensed agent's employee, family
22 member, business associate, or personal representative for the
23 purpose of continuing or winding up the business affairs of
24 the agent or agency, ~~all~~ subject to the following conditions:

25 (a) The agent ~~so~~ being replaced must have died ~~become~~
26 ~~deceased~~ or become unable to perform his or her duties as
27 agent because of military service or illness or other physical
28 or mental disability.

29 (b) ~~There must be~~ No other person connected with the
30 agent's business ~~who~~ is licensed as a general lines agent.

31

1 (c) The proposed temporary licensee is ~~must be~~
2 qualified ~~as~~ for a regular general lines agent's license under
3 this code except as to residence, examination, education, or
4 experience.

5 (d) Application for the temporary license has been
6 ~~must be~~ made by the applicant upon statements and affidavit
7 filed with the department on forms ~~as~~ prescribed and furnished
8 by it.

9 (e) The temporary license must ~~shall~~ be ~~issued and be~~
10 valid for 4 months and may ~~shall~~ not be renewed either to the
11 then holder of the temporary license or to any other person
12 for or on behalf of the agent or agency.

13 (f) Under a temporary license and appointment the
14 licensee does ~~shall~~ not represent as agent any insurer not
15 last represented by the agent ~~so~~ being replaced, and is not
16 ~~nor be~~ licensed or appointed as to any additional kind or
17 classification of insurance than those covered by the last
18 existing agency appointments of the replaced agent, except
19 that, if during the temporary license period an insurer
20 withdraws from the agency, the temporary licensee may be
21 appointed by another like insurer only for the period
22 remaining under the temporary license.

23 (g) The holder of a temporary license may be granted a
24 regular agent's license upon taking and successfully
25 completing a classroom course or correspondence course in
26 insurance or having the insurance employment experience as
27 prescribed in s. 626.732 and passing an examination as
28 required by s. 626.221.

29 Section 41. Subsections (1) and (2) of section
30 626.741, Florida Statutes, are amended, present subsection (5)

31

1 of that section is renumbered as subsection (7), and new
2 subsections (5) and (6) are added to that section, to read:

3 626.741 Nonresident agents; licensing and
4 restrictions.--

5 (1) The department may, upon written application and
6 the payment of the fees as specified in s. 624.501, issue a
7 license as:

8 (a) A general lines agent to an individual who is
9 otherwise qualified therefor, but who is not a resident of
10 this state, if by the laws of the state of the individual's
11 residence, residents of this state may be licensed in like
12 manner as a nonresident agent of his state.

13 (b) A customer representative to an individual who is
14 otherwise qualified therefor, who is not a resident of this
15 state, but who is a resident of a state that shares a common
16 boundary with this state.

17 (2) The department shall not, however, issue any
18 license and appointment to any nonresident who has an office
19 or place of business in this state, or who has any direct or
20 indirect pecuniary interest in any insurance agent, insurance
21 agency, or in any solicitor licensed as a resident of this
22 state; nor to any individual who does not, at the time of
23 issuance and throughout the existence of the Florida license,
24 hold a license as agent or broker issued by the state of his
25 or her residence; nor to any individual who is employed by any
26 insurer as a service representative or who is a managing
27 general agent in any state, whether or not also licensed in
28 another state as an agent or broker. The foregoing
29 requirement to hold a similar license in the applicant's state
30 of residence does not apply to customer representatives unless
31 the home state licenses residents of that state in a like

1 manner. The prohibition against having an office or place of
2 business in this state does not apply to customer
3 representatives who are required to conduct business solely
4 within the confines of the office of a licensed and appointed
5 Florida resident general lines agent in this state.The
6 department shall have discretion to refuse to issue any
7 license or appointment to a nonresident when it has reason to
8 believe that the applicant by ruse or subterfuge is attempting
9 to avoid the intent and prohibitions contained in this
10 subsection or to believe that any of the grounds exist as for
11 suspension or revocation of license as set forth in ss.
12 626.611 and 626.621.

13 (5) Any individual who holds a Florida nonresident
14 agent's license, upon becoming a resident of this state may,
15 for a period not to exceed 90 days, continue to transact
16 insurance in this state under the nonresident license and
17 appointment. Such individual must make application for
18 resident licensure and must become licensed as a resident
19 agent within 90 days of becoming a resident of this state.

20 (6) Upon becoming a resident of this state, an
21 individual who holds a Florida nonresident agent's license is
22 no longer eligible for licensure as a nonresident agent if
23 such individual fails to make application for a resident
24 license and become licensed as a resident agent within 90
25 days. His license and any appointments shall be canceled
26 immediately. He may apply for a resident license pursuant to
27 s. 626.731.

28 (7)~~(5)~~ Except as provided in this section and ss.
29 626.742 and 626.743, nonresident agents shall be subject to
30 the same requirements as apply to agents resident in this
31 state.

1 Section 42. Present subsection (7) of section 626.792,
2 Florida Statutes, is renumbered as subsection (8) and amended,
3 and a new subsection (7) is added to that section, to read:

4 626.792 Nonresident agents.--

5 (7) Any individual who holds a Florida nonresident
6 agent's license, upon becoming a resident of this state may,
7 for a period not to exceed 90 days, continue to transact
8 insurance in this state under the nonresident license and
9 appointment. Such individual must make application for
10 resident licensure and must become licensed as a resident
11 agent within 90 days after becoming a resident of this state.

12 ~~(8)(7)~~ Upon becoming a resident of this state, an
13 individual who holds a Florida nonresident agent's license is
14 no longer eligible for licensure as a nonresident agent if
15 such individual fails to make application for a resident
16 license and become licensed as a resident agent within 90
17 days. ~~and~~ His license and any appointments shall be canceled
18 immediately. He may apply for a resident license pursuant to
19 s. 626.785.

20 Section 43. Present subsection (7) of section 626.835,
21 Florida Statutes, is renumbered as subsection (8) and amended,
22 and a new subsection (7) is added to that section, to read:

23 626.835 Nonresident agents.--

24 (7) Any individual who holds a Florida nonresident
25 agent's license, upon becoming a resident of this state may,
26 for a period not to exceed 90 days, continue to transact
27 insurance in this state under the nonresident license and
28 appointment. Such individual must make application for
29 resident licensure and must become licensed as a resident
30 agent within 90 days of becoming a resident of this state.

31

1 ~~(8)(7)~~ Upon becoming a resident of this state, an
2 individual who holds a Florida nonresident agent's license is
3 no longer eligible for licensure as a nonresident agent if
4 such individual fails to make application for a resident
5 license and become licensed as a resident agent within 90
6 days. ~~and~~ His or her license and any appointments shall be
7 canceled immediately. The individual may apply for a resident
8 license pursuant to s. 626.831.

9 Section 44. Subsection (1) of section 626.837, Florida
10 Statutes, is amended to read:

11 626.837 Excess or rejected business.--

12 (1) A licensed health agent may place excess or
13 rejected risks within the class of business for which he or
14 she is licensed and appointed, and which the insurer
15 appointing the agent is authorized to transact, with any other
16 authorized insurer without being required to secure an
17 appointment as to such other insurer, but subject to the
18 agent's agreement with the insurer appointing ~~licensing~~ him or
19 her.

20 Section 45. Paragraph (a) of subsection (2) of section
21 626.8411, Florida Statutes, is amended to read:

22 626.8411 Application of Florida Insurance Code
23 provisions to title insurance agents or agencies.--

24 (2) The following provisions of part I do not apply to
25 title insurance agents or title insurance agencies:

26 (a) Section 626.112~~(7)(8)~~, relating to licensing of
27 insurance agencies.

28 Section 46. Paragraph (a) of subsection (3) of section
29 626.8417, Florida Statutes, is amended to read:

30
31

1 626.8417 Title insurance agent's license; application
2 and qualification; errors and omissions insurance; bond and
3 deposit requirements; exemptions.--

4 (3) The department shall not grant or issue a license
5 as title agent to any individual found by it to be
6 untrustworthy or incompetent, who does not meet the
7 qualifications for examination specified in s. 626.8414, or
8 who does not meet the following qualifications:

9 (a) Within the 4 years immediately preceding the date
10 of the application for license, the applicant must have
11 completed a 40-hour classroom course in title insurance, as
12 approved by the department, or must have had at least 12
13 months of experience in responsible title insurance duties,
14 while working in the title insurance business as a
15 substantially full-time, bona fide employee of a title agency,
16 title agent, or title insurer, or attorney who conducts real
17 estate closing transactions and issues title insurance
18 policies but who is exempt from licensure pursuant to
19 paragraph (4)(a). If an applicant's qualifications are based
20 upon the periods of employment at responsible title insurance
21 duties, the applicant must submit, with the application for
22 license on a form prescribed by the department, the affidavit
23 of the applicant and of the employer setting forth the period
24 of such employment, that the employment was substantially full
25 time, and giving a brief abstract of the nature of the duties
26 performed by the applicant.

27 Section 47. Subsection (2) of section 626.8418,
28 Florida Statutes, is amended to read:

29 626.8418 Application for title insurance agency
30 license.--Prior to doing business in this state as a title
31

1 insurance agency, a title insurance agency must meet all of
2 the following requirements:
3 (2) The applicant must have deposited with the
4 department securities of the type eligible for deposit under
5 s. 625.52 and having at all times a market value of not less
6 than \$35,000. In place of such deposit, the title insurance
7 agency may post a surety bond of like amount payable to the
8 department for the benefit of any appointing insurer damaged
9 by a violation by the title insurance agency of its contract
10 with the appointing insurer. If a properly documented claim
11 on the bond is timely filed with the department by a damaged
12 title insurer or insured, the department may shall remit an
13 appropriate amount of the deposit or the proceeds that are
14 received from the surety in payment of the claim ~~damaged~~
15 ~~insurer making claim on the bond.~~ The required deposit or
16 bond must be made by the title insurance agency, and a title
17 insurer may not provide the deposit or bond directly or
18 indirectly on behalf of the title insurance agency. The
19 deposit or bond must secure the performance by the title
20 insurance agency of its duties and responsibilities under the
21 issuing agency contracts with each title insurer underwriter
22 for which it is appointed. The agency may exchange or
23 substitute other securities of like quality and value for
24 securities on deposit, may receive the interest and other
25 income accruing on such securities, and may inspect the
26 deposit at all reasonable times. Such deposit or bond must
27 remain unimpaired as long as the title insurance agency
28 continues in business in this state and until 1 year after
29 termination of all title insurance agency appointments
30 ~~licenses~~ held by the title insurance agency. The title
31 insurance agency is entitled to the return of the deposit or

1 bond together with accrued interest after such year has
2 passed, if no claim has been made against the deposit or bond.
3 If a surety bond is unavailable generally, the department may
4 adopt rules for alternative methods to comply with this
5 subsection. With respect to such alternative methods for
6 compliance, the department must be guided by the past business
7 performance and good reputation and character of the proposed
8 title insurance agency. A surety bond is deemed to be
9 unavailable generally if the prevailing annual premium exceeds
10 25 percent of the principal amount of the bond.

11 Section 48. Section 626.8437, Florida Statutes, is
12 amended to read:

13 626.8437 Grounds for compulsory refusal, suspension,
14 or revocation of license or appointment.--The department shall
15 deny, suspend, revoke, or refuse to renew or continue the
16 license or appointment of any title insurance agent or agency,
17 and it shall suspend or revoke the eligibility to hold a
18 license or appointment of such person, if it finds that as to
19 the applicant, licensee, appointee, or any principal thereof,
20 any one or more of the following grounds exist:

21 (1) Lack of one or more of the qualifications for the
22 license or appointment as specified in ss. ~~s.~~626.8417,
23 626.8418, and 626.8419.

24 (2) Material misstatement, misrepresentation, or fraud
25 in obtaining, or attempting to obtain, the license or
26 appointment.

27 (3) Willful misrepresentation of any title insurance
28 policy, guarantee of title, binder, or commitment, or willful
29 deception with regard to any such policy, guarantee, binder,
30 or commitment, done either in person or by any form of
31 dissemination of information or advertising.

1 (4) Demonstrated lack of fitness or trustworthiness to
2 represent a title insurer in the issuance of its commitments,
3 binders, policies of title insurance, or guarantees of title.

4 (5) Demonstrated lack of reasonably adequate knowledge
5 and technical competence to engage in the transactions
6 authorized by the license or appointment.

7 (6) Fraudulent or dishonest practices in the conduct
8 of business under the license or appointment.

9 (7) Misappropriation, conversion, or unlawful
10 withholding of moneys belonging to title insurers or insureds
11 or others and received in conduct of business under the
12 license or appointment.

13 (8) Unlawful rebating, or attempting to unlawfully
14 rebate, or unlawfully dividing, or offering to unlawfully
15 divide, title insurance premiums, fees, or charges with
16 another, as prohibited by s. 626.9541(1)(h)3.

17 (9) Willful failure to comply with, or willful
18 violation of, any proper order or rule of the department or
19 willful violation of any provision of this act.

20 (10) The licensee if an individual, or the partners if
21 a partnership, or owner if a sole proprietorship, or the
22 officers if a corporation, having been found guilty of or
23 having pleaded guilty or nolo contendere to a felony or a
24 crime punishable by imprisonment of 1 year or more under the
25 law of the United States or of any state or under the law of
26 any other country which involves moral turpitude, without
27 regard to whether a judgment of conviction has been entered by
28 the court having jurisdiction of such cases.

29 Section 49. Section 626.844, Florida Statutes, is
30 amended to read:

31

1 626.844 Grounds for discretionary refusal, suspension,
2 or revocation of license or appointment.--The department may,
3 in its discretion, deny, suspend, revoke, or refuse to renew
4 or continue the license or appointment of any title insurance
5 agent or agency, and it may suspend or revoke the eligibility
6 to hold a license or appointment of any such title insurance
7 agent or agency ~~person~~ if it finds that as to the applicant or
8 licensee or appointee, or any principal thereof, any one or
9 more of the following grounds exist under circumstances for
10 which such denial, suspension, revocation, or refusal is not
11 mandatory under s. 626.8437:

12 (1) Any cause for which issuance of the license or
13 appointment could have been refused had it then existed and
14 been known to the department.

15 (2) Violation of any provision of this act in the
16 course of dealing under the license or appointment.

17 (3) Violation of any lawful order or rule of the
18 department.

19 (4) Failure or refusal upon demand to pay over to any
20 title insurer that the appointee represents or has represented
21 any money coming into the hands of such appointee and
22 belonging to the title insurer.

23 (5) Engaging in unfair methods of competition or in
24 unfair or deceptive acts or practices in the conduct of
25 business, as prohibited under part X of this chapter, or
26 having otherwise shown himself or herself to be a source of
27 injury or loss to the public or to be detrimental to the
28 public interest.

29 (6) The licensee if an individual, or the partners if
30 a partnership, or owner if a sole proprietorship, or the
31 officers if a corporation, having been found guilty of or

1 having pleaded guilty or nolo contendere to a felony or a
2 crime punishable by imprisonment of 1 year or more under the
3 law of the United States or of any state or under the law of
4 any other country, without regard to whether a judgment of
5 conviction has been entered by the court having jurisdiction
6 of such cases.

7 Section 50. Subsections (1), (3), and (4) of section
8 626.8443, Florida Statutes, are amended to read:

9 626.8443 Duration of suspension or revocation.--

10 (1) The department shall, in its order suspending a
11 title insurance agent's or agency's license or appointment or
12 in its order suspending the eligibility of a person to hold or
13 apply for such license or appointment, specify the period
14 during which the suspension is to be in effect, but such
15 period shall not exceed 1 year. The license, or appointment,
16 or eligibility shall remain suspended during the period so
17 specified, subject, however, to any rescission or modification
18 of the order by the department, or modification or reversal
19 thereof by the court, prior to expiration of the suspension
20 period. A license, ~~and~~ appointment, or eligibility which has
21 been suspended may not be reinstated except upon request for
22 such reinstatement, but the department shall not grant such
23 reinstatement if it finds that the circumstance or
24 circumstances for which the license, appointment, and
25 eligibility was suspended still exist or are likely to recur.

26 (3) If licenses of any person as a title insurance
27 agent or agency has ~~have~~ been revoked twice, the department
28 shall not thereafter grant or issue a title insurance agent's
29 or agency's license to such person.

30 (4) During the period of suspension or after
31 revocation of the license and appointment, the former licensee

1 shall not engage in or attempt to profess to engage in any
2 transaction or business for which a license or appointment is
3 required under this code or directly or indirectly own,
4 control, or be employed in any manner by any insurance agent
5 or agency or adjuster or adjusting firm ~~act.~~

6 Section 51. Subsections (1) and (2) of section
7 626.852, Florida Statutes, are amended to read:

8 626.852 Scope of this part.--

9 (1) This part applies only ~~as~~ to insurance adjusters
10 ~~and claims investigators~~ as defined hereinafter in this part
11 defined.

12 (2) Unless otherwise required by context, the term
13 "adjusters" as used in this part applies to all licensees
14 defined ~~herein~~ as any type of adjuster ~~or as a claims~~
15 investigator.

16 Section 52. Section 626.858, Florida Statutes, is
17 amended to read:

18 626.858 "Nonresident company employee adjuster"
19 defined.--A "nonresident company employee adjuster" is a
20 person who:

21 (1) Is not a resident of this state;

22 (2) Is a currently licensed or authorized adjuster in
23 his or her home state for the type or kinds of insurance for
24 which he or she intends to adjust claims ~~for~~ in this state;
25 and

26 (3) Is an employee of an insurer, or other insurers
27 under the common control or ownership of such insurer,
28 admitted to do business in this state. ~~and~~

29 ~~(4) Does not maintain an office in this state for the~~
30 ~~purpose of adjusting losses in this state.~~

31

1 Section 53. Section 626.8582, Florida Statutes, is
2 created to read:

3 626.8582 "Nonresident public adjuster" defined.--A
4 "nonresident public adjuster" is a person who:

5 (1) Is not a resident of this state;

6 (2) Is a currently licensed public adjuster in his or
7 her state of residence for the type or kinds of insurance for
8 which the licensee intends to adjust claims in this state or,
9 if a resident of a state that does not license public
10 adjusters, has passed the department's adjuster examination as
11 prescribed in s. 626.8732(1)(b); and

12 (3) Is a self-employed public adjuster or associated
13 with or employed by a public adjusting firm or other public
14 adjuster.

15 Section 54. Section 626.8584, Florida Statutes, is
16 created to read:

17 626.8584 "Nonresident independent adjuster"
18 defined.--A "nonresident independent adjuster" is a person
19 who:

20 (1) Is not a resident of this state;

21 (2) Is a currently licensed independent adjuster in
22 his or her state of residence for the type or kinds of
23 insurance for which the licensee intends to adjust claims in
24 this state or, if a resident of a state that does not license
25 independent adjusters, has passed the department's adjuster
26 examination as prescribed in s. 626.8734(1)(b); and

27 (3) Is a self-employed independent adjuster or
28 associated with or employed by an independent adjusting firm
29 or other independent adjuster.

30 Section 55. Subsection (2) of section 626.865, Florida
31 Statutes, is amended to read:

1 626.865 Public adjuster's qualifications, bond.--

2 (2) At the time of application for license as a public
3 adjuster, the applicant shall file with the department a bond
4 executed and issued by a surety insurer authorized to transact
5 such business in this state, in the amount of \$50,000~~\$5,000~~,
6 conditioned for the faithful performance of his or her duties
7 as a public adjuster under the license applied for. The bond
8 shall be in favor of the department and shall specifically
9 authorize recovery by the department of the damages sustained
10 in case the licensee is guilty of fraud or unfair practices in
11 connection with his or her business as public adjuster. The
12 aggregate liability of the surety for all such damages shall
13 in no event exceed the amount of the bond. Such bond shall
14 not be terminated unless at least 30 days' written notice is
15 given to the licensee and filed with the department.

16 Section 56. Section 626.873, Florida Statutes, is
17 amended to read:

18 626.873 Nonresident company employee adjusters.--The
19 department shall, upon application therefor, issue a license
20 to an applicant for a nonresident adjuster's license upon
21 determining that the applicant has paid the applicable license
22 fees required under s. 624.501 and:

23 (1) Is a currently licensed insurance adjuster in his
24 or her home state, if such state requires a license.

25 (2) Is an employee of an insurer, or a wholly owned
26 subsidiary of an insurer, admitted to do business in this
27 state.

28 ~~(3) Does not maintain an office in this state for the~~
29 ~~purpose of adjusting losses in this state.~~

30 (3)~~(4)~~ Has filed a certificate or letter of
31 authorization from the insurance department of his or her home

1 state, if such state requires an adjuster to be licensed,
2 stating that he or she holds a current license or
3 authorization to adjust insurance losses. Such certificate or
4 authorization must be signed by the insurance commissioner, or
5 his or her deputy, of the adjuster's home state and must
6 reflect whether or not the adjuster has ever had his or her
7 license or authorization in the adjuster's home state
8 suspended or revoked and, if such is the case, the reason for
9 such action.

10 Section 57. Section 626.8732, Florida Statutes, is
11 created to read:

12 626.8732 Nonresident public adjuster's qualifications,
13 bond.--

14 (1) The department shall, upon application therefor,
15 issue a license to an applicant for a nonresident public
16 adjuster's license upon determining that the applicant has
17 paid the applicable license fees required under s. 624.501
18 and:

19 (a) Is a natural person at least 18 years of age.

20 (b) Has passed to the satisfaction of the department a
21 written Florida public adjuster's examination of the scope
22 prescribed in s. 626.241(6); however, the requirement for such
23 an examination does not apply to any of the following:

24 1. An applicant who is licensed as a resident public
25 adjuster in his or her state of residence, when that state
26 requires the passing of a written examination in order to
27 obtain the license and a reciprocal agreement with the
28 appropriate official of that state has been entered into by
29 the department; or

30 2. An applicant who is licensed as a nonresident
31 public adjuster in a state other than his or her state of

1 residence when the state of licensure requires the passing of
2 a written examination in order to obtain the license and a
3 reciprocal agreement with the appropriate official of the
4 state of licensure has been entered into by the department.

5 (c) Is self-employed as a public adjuster or
6 associated with or employed by a public adjusting firm or
7 other public adjuster. Applicants licensed as nonresident
8 public adjusters under this section must be appointed as such
9 in accordance with the provisions of ss. 626.112 and 626.451.
10 Appointment fees in the amount specified in s. 624.501 must be
11 paid to the department in advance. The appointment of a
12 nonresident public adjuster shall continue in force until
13 suspended, revoked, or otherwise terminated, but subject to
14 biennial renewal or continuation by the licensee in accordance
15 with procedures prescribed in s. 626.381 for licensees in
16 general.

17 (d) Is trustworthy and has such business reputation as
18 would reasonably assure that he or she will conduct his or her
19 business as a nonresident public adjuster fairly and in good
20 faith and without detriment to the public.

21 (e) Has had sufficient experience, training, or
22 instruction concerning the adjusting of damages or losses
23 under insurance contracts, other than life and annuity
24 contracts; is sufficiently informed as to the terms and
25 effects of the provisions of those types of insurance
26 contracts; and possesses adequate knowledge of the laws of
27 this state relating to such contracts as to enable and qualify
28 him or her to engage in the business of insurance adjuster
29 fairly and without injury to the public or any member thereof
30 with whom he or she may have business as a public adjuster.

31

1 (2) The applicant shall furnish the following with his
2 or her application:

3 (a) A complete set of his or her fingerprints. The
4 applicant's fingerprints must be certified by an authorized
5 law enforcement officer. The department may not authorize an
6 applicant to take the required examination or issue a
7 nonresident public adjuster's license to the applicant until
8 the department has received a report from the Florida
9 Department of Law Enforcement and the Federal Bureau of
10 Investigation relative to the existence or nonexistence of a
11 criminal history report based on the applicant's fingerprints.

12 (b) If currently licensed as a resident public
13 adjuster in the applicant's state of residence, a certificate
14 or letter of authorization from the licensing authority of the
15 applicant's state of residence, stating that the applicant
16 holds a current or comparable license to act as a public
17 adjuster. The certificate or letter of authorization must be
18 signed by the insurance commissioner or his or her deputy or
19 the appropriate licensing official and must disclose whether
20 the adjuster has ever had any license or eligibility to hold
21 any license declined, denied, suspended, revoked, or placed on
22 probation or whether an administrative fine or penalty has
23 been levied against the adjuster and, if so, the reason for
24 the action.

25 (c) If the applicant's state of residence does not
26 require licensure as a public adjuster and the applicant has
27 been licensed as a resident insurance adjuster, agent, broker,
28 or other insurance representative in his or her state of
29 residence or any other state within the past 3 years, a
30 certificate or letter of authorization from the licensing
31 authority stating that the applicant holds or has held a

1 license to act as such an insurance adjuster, agent, or other
2 insurance representative. The certificate or letter of
3 authorization must be signed by the insurance commissioner or
4 his or her deputy or the appropriate licensing official and
5 must disclose whether or not the adjuster, agent, or other
6 insurance representative has ever had any license or
7 eligibility to hold any license declined, denied, suspended,
8 revoked, or placed on probation or whether an administrative
9 fine or penalty has been levied against the adjuster and, if
10 so, the reason for the action.

11 (3) At the time of application for license as a
12 nonresident public adjuster, the applicant shall file with the
13 department a bond executed and issued by a surety insurer
14 authorized to transact surety business in this state, in the
15 amount of \$50,000, conditioned for the faithful performance of
16 his or her duties as a nonresident public adjuster under the
17 license applied for. The bond must be in favor of the
18 department and must specifically authorize recovery by the
19 department of the damages sustained if the licensee commits
20 fraud or unfair practices in connection with his or her
21 business as nonresident public adjuster. The aggregate
22 liability of the surety for all the damages may not exceed the
23 amount of the bond. The bond may not be terminated unless at
24 least 30 days' written notice is given to the licensee and
25 filed with the department.

26 (4) The usual and customary records pertaining to
27 transactions under the license of a nonresident public
28 adjuster must be retained for at least 3 years after
29 completion of the adjustment and must be made available in
30 this state to the department upon request. The failure of a
31 nonresident public adjuster to properly maintain records and

1 make them available to the department upon request constitutes
2 grounds for the immediate suspension of the license issued
3 under this section.

4 (5) After licensure as a nonresident public adjuster,
5 as a condition of doing business in this state, the licensee
6 must annually on or before January 1, on a form prescribed by
7 the department, submit an affidavit certifying that the
8 licensee is familiar with and understands the insurance code
9 and rules adopted thereunder and the provisions of the
10 contracts negotiated or to be negotiated. Compliance with this
11 filing requirement is a condition precedent to the issuance,
12 continuation, reinstatement, or renewal of a nonresident
13 public adjuster's appointment.

14 Section 58. Section 626.8734, Florida Statutes, is
15 created to read:

16 626.8734 Nonresident independent adjuster's
17 qualifications.--

18 (1) The department shall, upon application therefor,
19 issue a license to an applicant for a nonresident independent
20 adjuster's license upon determining that the applicant has
21 paid the applicable license fees required under s. 624.501
22 and:

23 (a) Is a natural person at least 18 years of age.

24 (b) Has passed to the satisfaction of the department a
25 written Florida independent adjuster's examination of the
26 scope prescribed in s. 626.214(6); however, the requirement
27 for the examination does not apply to any of the following:

28 1. An applicant who is licensed as a resident
29 independent adjuster in his or her state of residence when
30 that state requires the passing of a written examination in
31 order to obtain the license and a reciprocal agreement with

1 the appropriate official of that state has been entered into
2 by the department; or

3 2. An applicant who is licensed as a nonresident
4 independent adjuster in a state other than his or her state of
5 residence when the state of licensure requires the passing of
6 a written examination in order to obtain the license and a
7 reciprocal agreement with the appropriate official of the
8 state of licensure has been entered into by the department.

9 (c) Is self-employed or associated with or employed by
10 an independent adjusting firm or other independent adjuster.
11 Applicants licensed as nonresident independent adjusters under
12 this section must be appointed as such in accordance with the
13 provisions of ss. 626.112 and 626.451. Appointment fees in the
14 amount specified in s. 624.501 must be paid to the department
15 in advance. The appointment of a nonresident independent
16 adjuster shall continue in force until suspended, revoked, or
17 otherwise terminated, but subject to biennial renewal or
18 continuation by the licensee in accordance with procedures
19 prescribed in s. 626.381 for licensees in general.

20 (d) Is trustworthy and has such business reputation as
21 would reasonably assure that he or she will conduct his
22 business as a nonresident independent adjuster fairly and in
23 good faith and without detriment to the public.

24 (e) Has had sufficient experience, training, or
25 instruction concerning the adjusting of damages or losses
26 under insurance contracts, other than life and annuity
27 contracts; is sufficiently informed as to the terms and
28 effects of the provisions of those types of insurance
29 contracts; and possesses adequate knowledge of the laws of
30 this state relating to such contracts as to enable and qualify
31 him or her to engage in the business of insurance adjuster

1 fairly and without injury to the public or any member thereof
2 with whom he or she may have business as an independent
3 adjuster.

4 (2) The applicant shall furnish the following with his
5 or her application:

6 (a) A complete set of his or her fingerprints. The
7 applicant's fingerprints must be certified by an authorized
8 law enforcement officer.

9 (b) If currently licensed as a resident independent
10 adjuster in the applicant's state of residence, a certificate
11 or letter of authorization from the licensing authority of the
12 applicant's state of residence, stating that the applicant
13 holds a current license to act as an independent adjuster.
14 Such certificate or letter of authorization must be signed by
15 the insurance commissioner or his or her deputy or the
16 appropriate licensing official and must disclose whether the
17 adjuster has ever had any license or eligibility to hold any
18 license declined, denied, suspended, revoked or placed on
19 probation or whether an administrative fine or penalty has
20 been levied against the adjuster and, if so, the reason for
21 the action.

22 (c) If the applicant's state of residence does not
23 require licensure as an independent adjuster and the applicant
24 has been licensed as a resident insurance adjuster, agent,
25 broker, or other insurance representative in his state of
26 residence or any other state within the past 3 years, a
27 certificate or letter of authorization from the licensing
28 authority stating that the applicant holds or has held a
29 license to act as an insurance adjuster, agent, or other
30 insurance representative. The certificate or letter of
31 authorization must be signed by the insurance commissioner or

1 his or her deputy or the appropriate licensing official and
2 must disclose whether the adjuster, agent, or other insurance
3 representative has ever had any license or eligibility to hold
4 any license declined, denied, suspended, revoked or placed on
5 probation or whether an administrative fine or penalty has
6 been levied against the adjuster and, if so, the reason for
7 the action.

8 (3) The usual and customary records pertaining to
9 transactions under the license of a nonresident independent
10 adjuster must be retained for at least 3 years after
11 completion of the adjustment and must be made available in
12 this state to the department upon request. The failure of a
13 nonresident independent adjuster to properly maintain records
14 and make them available to the the department upon request
15 constitutes grounds for the immediate suspension of the
16 license issued under this section.

17 (4) After licensure as a nonresident independent
18 adjuster, as a condition of doing business in this state, the
19 licensee must annually on or before January 1, on a form
20 prescribed by the department, submit an affidavit certifying
21 that the licensee is familiar with and understands the
22 insurance laws and administrative rules of this state and the
23 provisions of the contracts negotiated or to be negotiated.
24 Compliance with this filing requirement is a condition
25 precedent to the issuance, continuation, reinstatement, or
26 renewal of a nonresident independent adjuster's appointment.

27 Section 59. Section 626.8736, Florida Statutes, is
28 created to read:

29 626.8736 Nonresident independent or public adjusters;
30 service of process.--

31

1 (1) Each licensed nonresident independent or public
2 adjuster shall appoint the Insurance Commissioner and
3 Treasurer and his or her successors in office as his or her
4 attorney to receive service of legal process issued against
5 the nonresident independent or public adjuster in this state,
6 upon causes of action arising within this state out of
7 transactions under his license and appointment. Service upon
8 the Insurance Commissioner and Treasurer as attorney shall
9 constitute effective legal service upon the nonresident
10 independent or public adjuster.

11 (2) The appointment of the Insurance Commissioner and
12 Treasurer for service of process shall be irrevocable for as
13 long as there could be any cause of action against the
14 nonresident independent or public adjuster arising out of his
15 or her insurance transactions in this state.

16 (3) Duplicate copies of legal process against the
17 nonresident independent or public adjuster shall be served
18 upon the Insurance Commissioner and Treasurer by a person
19 competent to serve a summons.

20 (4) Upon receiving the service, the Insurance
21 Commissioner and Treasurer shall forthwith send one of the
22 copies of the process, by registered mail with return receipt
23 requested, to the defendant nonresident independent or public
24 adjuster at his or her last address of record with the
25 department.

26 (5) The Insurance Commissioner and Treasurer shall
27 keep a record of the day and hour of service upon him or her
28 of all legal process received under this section.

29 Section 60. Section 626.8737, Florida Statutes, is
30 created to read:

31

1 626.8737 Nonresident adjusters; retaliatory
2 provision.--When under the laws of any other state any fine,
3 tax, penalty, license fee, deposit of money, or security or
4 other obligation, limitation, or prohibition is imposed upon
5 resident insurance adjusters of this state in connection with
6 the issuance of, and activities under, a nonresident
7 adjuster's license under the laws of that state as to Florida
8 resident insurance adjusters, then so long as these laws
9 continue in force or are so administered, the same
10 requirements, obligations, limitations, and prohibitions, of
11 whatever kind, shall be imposed upon every insurance adjuster
12 of that other state when doing business in this state under a
13 nonresident adjuster's license issued under this part.

14 Section 61. Section 626.8738, Florida Statutes, is
15 created to read:

16 626.8738 Penalty for violation.--In addition to any
17 other remedy imposed pursuant to this code, any person who
18 acts as a resident or nonresident public adjuster or holds
19 himself or herself out to be a public adjuster to adjust
20 claims in this state, without being licensed by the department
21 as a public adjuster and appointed as a public adjuster,
22 commits a felony of the third degree, punishable as provided
23 in s. 775.082, s. 775.083, or s. 775.084. Each act in
24 violation of this section constitutes a separate offense.

25 Section 62. Subsection (5) of section 626.869, Florida
26 Statutes, is amended to read:

27 626.869 License, adjusters.--

28 (5) Any person holding a license for 24 consecutive
29 months or longer ~~and appointment~~ and who engages in adjusting
30 workers' compensation insurance must, beginning in their birth
31 month and every 2 years thereafter, have completed 24 hours of

1 courses, 2 hours of which relate to ethics, in subjects ~~shall~~
2 ~~certify to the department every 2 years, at least 90 days~~
3 ~~prior to the renewal date of his or her appointment, the fact~~
4 ~~that the licensee has completed a course of instruction~~
5 designed to inform the licensee regarding ~~as to~~ the current
6 workers' compensation laws of this state, so as to enable him
7 or her to engage in ~~such~~ business as a workers' compensation
8 insurance adjuster fairly and without injury to the public and
9 to adjust all claims in accordance with the policy or contract
10 and the workers' compensation laws of this state. In order to
11 qualify as an eligible course under this subsection, the
12 course must ~~shall~~:

13 (a) Have a ~~Consist of 24 hours of classroom~~
14 ~~instruction in the workers' compensation laws and practices of~~
15 ~~this state, 2 hours of which shall relate to ethics, with the~~
16 course outline approved by the department. ~~It is not required~~
17 ~~that the 24 hours of classroom instruction take place in one~~
18 ~~course.~~

19 (b) Be taught at a school training facility or other
20 location approved by the department.

21 (c) Be taught by instructors with at least 5 years of
22 experience in the area of workers' compensation, general lines
23 of insurance, or other persons approved by the department.
24 However, a member of The Florida Bar is ~~shall be~~ exempt from
25 the 5 years' experience requirement.

26 (d) Furnish the attendee a certificate of completion.
27 ~~The sponsor of the~~ course provider shall send a roster copy ~~of~~
28 ~~the certificate of completion~~ to the department in a format
29 prescribed by the department.

30 Section 63. Section 626.8695, Florida Statutes, is
31 amended to read:

1 626.8695 Primary adjuster.--

2 (1) ~~On or before January 1, 1993, and annually~~
3 ~~thereafter,~~Each person operating an adjusting firm and each
4 location of a multiple location adjusting firm must designate
5 a primary adjuster for each such firm or location and must
6 file with the department the name of such primary adjuster and
7 the address of the firm or location where he or she is the
8 primary adjuster, on a form approved by the department. The
9 designation of the primary adjuster may be changed at the
10 option of the adjusting firm. Any such change is effective
11 upon notification to the department. Notice of change must be
12 sent to the department within 30 days after such change.

13 (2)(a) For purposes of this section, a "primary
14 adjuster" is the licensed adjuster who is responsible for the
15 hiring and supervision of all individuals within an adjusting
16 firm location who deal with the public and who acts in the
17 capacity of a public adjuster as defined in s. 626.854, or an
18 independent adjuster as defined in s. 626.855. An adjuster
19 may be designated as a primary adjuster for only one adjusting
20 firm location.

21 (b) For purposes of this section, an "adjusting firm"
22 is a location where an independent or public adjuster is
23 engaged in the business of insurance.

24 (3) The department may suspend or revoke the license
25 of the primary adjuster if the ~~an~~ adjusting firm employs any
26 person who has had a license denied or any person whose
27 license is currently suspended or revoked. However, if a
28 person has been denied a license for failure to pass a
29 required examination, he or she may be employed to perform
30 clerical or administrative functions for which licensure is
31 not required.

1 (4) The primary adjuster in an unincorporated
2 adjusting firm, or the primary adjuster in an incorporated
3 adjusting firm in which no officer, director, or stockholder
4 is an adjuster, is responsible and accountable for the acts of
5 salaried employees under his or her direct supervision and
6 control while acting on behalf of the adjusting firm. Nothing
7 in this section renders any person criminally liable or
8 subject to any disciplinary proceedings for any act unless the
9 person personally committed or knew or should have known of
10 the act and of the facts constituting a violation of this
11 code.

12 (5) The department may suspend or revoke the license
13 of any adjuster who is employed by a person whose license is
14 currently suspended or revoked.

15 (6) An ~~No~~ adjusting firm location may not conduct the
16 business of insurance unless a primary adjuster is designated.
17 Failure of the person operating the adjusting firm to
18 designate a primary adjuster for the firm, or for each
19 location, as applicable, on a form prescribed by the
20 department within 30 days after inception of the firm or
21 change of primary adjuster designation, constitutes grounds
22 for requiring the adjusting firm to obtain an adjusting firm
23 license pursuant to s. 626.8696.

24 (7) Any adjusting firm may request, on a form
25 prescribed by the department, verification from the department
26 of any person's current licensure status. If a request is
27 mailed to the department within 5 working days after the date
28 an adjuster is hired, and the department subsequently notifies
29 the adjusting firm that an employee's license is currently
30 suspended, revoked, or has been denied, the license of the
31 primary adjuster shall not be revoked or suspended if the

1 unlicensed person is immediately dismissed from employment as
2 an adjuster with the firm.

3 Section 64. Subsection (5) is added to section
4 626.872, Florida Statutes, to read:

5 626.872 Temporary license.--

6 (5) The department shall not issue a temporary license
7 as an independent adjuster or as a company employee adjuster
8 to any individual who has ever held such a license in this
9 state.

10 Section 65. Section 626.873, Florida Statutes, is
11 amended to read:

12 626.873 Nonresident adjusters.--

13 (1) The department shall, upon application therefor,
14 issue a license to an applicant for a nonresident adjuster's
15 license upon determining that the applicant has paid the
16 applicable license fees required under s. 624.501 and:

17 (a)~~(1)~~ Is a currently licensed insurance adjuster in
18 his or her home state, if such state requires a license.

19 (b)~~(2)~~ Is an employee of an insurer admitted to do
20 business in this state.

21 (c)~~(3)~~ Does not maintain an office in this state for
22 the purpose of adjusting losses in this state.

23 (d)~~(4)~~ Has filed a certificate or letter of
24 authorization from the insurance department of his or her home
25 state, if such state requires an adjuster to be licensed,
26 stating that he or she holds a current license or
27 authorization to adjust insurance losses. Such certificate or
28 authorization must be signed by the insurance commissioner, or
29 his or her deputy, of the adjuster's home state and must
30 reflect whether or not the adjuster has ever had his or her
31 license or authorization in the adjuster's home state

1 suspended or revoked and, if such is the case, the reason for
2 such action.

3 (2) Any individual who holds a Florida nonresident
4 adjuster's license, upon becoming a resident of this state
5 may, for a period not to exceed 90 days, continue to adjust
6 claims in this state under his or her nonresident license and
7 appointment. Such individual must make application for
8 resident licensure and must become licensed as a resident
9 adjuster within 90 days of becoming a resident of this state.

10 (3) Upon becoming a resident of this state, an
11 individual who holds a Florida nonresident adjuster's license
12 is no longer eligible for licensure as a nonresident adjuster
13 if such individual fails to make application for a resident
14 license and become licensed as a resident adjuster within 90
15 days. Such individual may apply for a resident license
16 pursuant to s. 626.865, s. 626.866, or s. 626.867.

17 Section 66. Subsection (2) of section 626.875, Florida
18 Statutes, is amended to read:

19 626.875 Office and records.--

20 (2) The records of the adjuster relating to a
21 particular claim or loss shall be so retained in the
22 adjuster's place of business for a period of not less than 3
23 years ~~1 year~~ after completion of the adjustment. This
24 provision shall not be deemed to prohibit return or delivery
25 to the insurer or insured of documents furnished to or
26 prepared by the adjuster and required by the insurer or
27 insured to be returned or delivered thereto.

28 Section 67. Section 626.877, Florida Statutes, is
29 amended to read:

30 626.877 Adjustments to comply with insurance contract
31 and law.--Every adjuster ~~and claims investigator~~ shall adjust

1 or investigate every claim, damage, or loss made or occurring
2 under an insurance contract, in accordance with the terms and
3 conditions of the contract and of the applicable laws of this
4 state.

5 Section 68. Subsection (1) of section 626.922, Florida
6 Statutes, is amended to read:

7 626.922 Evidence of the insurance; changes; penalty.--

8 (1) Upon placing a surplus lines coverage, the surplus
9 lines agent shall promptly issue and deliver to the insured
10 evidence of the insurance consisting either of the policy as
11 issued by the insurer or, if such policy is not then
12 available, a certificate, cover note, or other confirmation of
13 insurance. Such document shall be executed or countersigned
14 by the surplus lines agent and shall show the description and
15 location of the subject of the insurance; coverage,
16 conditions, and term of the insurance; the premium and rate
17 charged and taxes collected from the insured; and the name and
18 address of the insured and insurer. If the direct risk is
19 assumed by more than one insurer, the document shall state the
20 name and address and proportion of the entire direct risk
21 assumed by each insurer. A surplus lines agent may not
22 delegate the duty to issue any such document to producing
23 general lines agents without prior written authority from the
24 surplus lines insurer. A general lines agent may issue any
25 such document only if the agent has prior written authority
26 from the surplus lines agent. The surplus lines agent must
27 maintain copies of the authorization from the surplus lines
28 insurer and the delegation to the producing general lines
29 agent. The producing agent must maintain copies of the written
30 delegation from the surplus lines agent and copies of any
31 evidence of coverage or certificate of insurance which the

1 producing agent issues or delivers. Any evidence of coverage
2 issued by a producing agent pursuant to this section must
3 include the name and address of the authorizing surplus lines
4 agent.

5 Section 69. Section 626.928, Florida Statutes, is
6 amended to read:

7 626.928 Surplus lines agent's bond.--Prior to issuance
8 of license, the applicant shall file with the department, and
9 thereafter for as long as any such license remains in effect,
10 shall keep in force and unimpaired, a bond in favor of the
11 department in the penal sum of not less than ~~\$50,000~~\$5,000,
12 aggregate liability, with authorized corporate surety or
13 sureties approved by the department. The department may, in
14 its discretion, require a bond in a larger amount commensurate
15 with the volume of surplus lines business transacted or to be
16 transacted by a particular surplus lines agent. The bond
17 shall be conditioned that the surplus lines agent will
18 faithfully conduct business under the license in accordance
19 with the provisions of the Surplus Lines Law and rules and
20 regulations of the department for the effectuation thereof and
21 that the licensee will promptly remit to the department the
22 taxes as provided for by such law. No such bond shall be
23 terminated unless not less than 30 days' prior written notice
24 thereof is given the licensee and filed with the department.

25 Section 70. Subsections (4) and (7) of section
26 626.927, Florida Statutes, are amended to read:

27 626.927 Licensing of surplus lines agent.--

28 (4) License and appointment fees in the amount
29 specified in s. 624.501 shall be paid to the department in
30 advance. The license and appointment of a surplus lines agent
31 continue in force until suspended, revoked, or otherwise

1 terminated. The appointment of a surplus lines agent
2 continues in force until suspended, revoked, or terminated,
3 but is subject to biennial renewal or continuation by the
4 licensee in accordance with procedures prescribed in s.
5 626.381 for agents in general.

6 (7) Any individual who has been licensed by the
7 department as a surplus lines agent as provided in this
8 section may be subsequently appointed ~~licensed~~ without
9 additional written examination if his or her application for
10 appointment license is filed with the department within 24
11 months next following the date of cancellation or expiration
12 of the prior appointment license. The department may, in its
13 discretion, require any individual to take and successfully
14 pass an examination as for original issuance of license as a
15 condition precedent to the reinstatement ~~renewal~~ or
16 continuation of the licensee's current license or
17 reinstatement or continuation of the licensee's appointment.

18 Section 71. Subsections (1) and (2) of section
19 626.9271, Florida Statutes, are amended to read:

20 626.9271 Temporary license; death, disability, absence
21 of surplus lines agent.--

22 (1) The department may, in its discretion, issue a
23 temporary license and appointment as a surplus lines agent to
24 a licensed surplus lines agent's employee, family member,
25 business associate, or personal representative for the purpose
26 of continuing or winding up the business affairs of the
27 surplus lines agent or agency, ~~and~~ subject to the following
28 conditions:

29 (a) The surplus lines agent being replaced must have
30 died ~~become deceased~~ or become unable to perform his or her
31

1 duties as agent because of military service or illness or
2 other physical or mental disability.

3 (b) There must be no other person connected with the
4 surplus lines agent's business who is licensed as a surplus
5 lines agent.

6 (c) The proposed temporary licensee must be qualified
7 ~~as~~ for a regular surplus lines agent's license under this code
8 except as to residence, examination, education, or experience.

9 (d) Application for the temporary license and
10 appointment must be made by the applicant upon statements and
11 affidavit filed with the department on forms as prescribed and
12 furnished by it.

13 (e) The temporary license and appointment shall be
14 issued and be valid for a period of not over 4 months, and may
15 ~~shall~~ not be renewed ~~either~~ to the ~~then~~ holder of the
16 temporary license or to any other person for or on behalf of
17 the surplus lines agent or agency.

18 (2) The applicant for a temporary license and
19 appointment shall pay to the department, prior to the issuance
20 thereof, the applicable license and appointment fees ~~fee as~~
21 specified ~~therefor~~ in s. 624.501.

22 Section 72. Subsections (1) and (2) of section
23 626.929, Florida Statutes, are amended to read:

24 626.929 Origination, acceptance, placement of surplus
25 lines business.--

26 (1) A resident general lines agent while licensed and
27 appointed as a surplus lines agent under this part may
28 originate surplus lines business and may accept surplus lines
29 business from any other originating Florida-licensed general
30 lines agent appointed and licensed as to the ~~kind~~ ~~or~~ kinds of
31 insurance involved and may compensate such agent therefor.

1 (2) A managing general agent while licensed and
2 appointed as a surplus lines agent under this part may accept
3 and place solely such surplus lines business as is originated
4 by a Florida-licensed general lines agent appointed and
5 licensed as to the ~~kind or~~ kinds of insurance involved and may
6 compensate such agent therefor.

7 Section 73. Subsections (1), (2), and (3) of section
8 626.935, Florida Statutes, are amended to read:

9 626.935 Suspension, revocation, or refusal of surplus
10 lines agent's license.--

11 (1) The department shall deny an application for,
12 suspend, revoke, or refuse to renew the appointment license of
13 a surplus lines agent and all other licenses and appointments
14 held by the licensee under this code, upon any ~~one or more~~ of
15 the following grounds:

16 (a) Removal of the licensee's office from the state.

17 (b) Removal of the accounts and records of his or her
18 surplus lines business from this state during the period when
19 such accounts and records are required to be maintained under
20 s. 626.930.

21 (c) Closure of the licensee's office for a period of
22 more than 30 consecutive days.

23 (d) Failure to make and file his or her quarterly
24 reports when due as required by s. 626.931.

25 (e) Failure to pay the tax on surplus lines premiums,
26 as provided for in this Surplus Lines Law.

27 (f) Failure to maintain the bond as required by s.
28 626.928.

29 (g) Suspension, revocation, or refusal to renew or
30 continue the license or appointment as a general lines agent,
31 service representative, or managing general agent.

1 (h) Lack of qualifications as for an original surplus
2 lines agent's license.

3 (i) Violation of this Surplus Lines Law.

4 (j) For any other applicable cause for which the
5 license of a general lines agent could be suspended, revoked,
6 or refused under s. 626.611.

7 (2) The department may, in its discretion, deny an
8 application for, suspend, revoke, or refuse to renew the
9 license or appointment of any surplus lines agent upon any
10 applicable ground for which a general lines agent's license
11 could be suspended, revoked, or refused under s. 626.621.

12 (3) In the suspension or revocation of, or the refusal
13 to issue or renew, the license or appointment of a surplus
14 lines agent, the department shall follow the same procedures,
15 as applicable, as provided for suspension, revocation, or
16 refusal of licenses of general lines agents, but subject to s.
17 626.936 as to failure to file a quarterly report or pay the
18 tax.

19 Section 74. Subsections (3) and (4) of section
20 626.944, Florida Statutes, are amended to read:

21 626.944 Qualifications for health care risk
22 managers.--

23 (3) The department shall issue a license and an
24 appointment, beginning on June 1, 1986, to practice health
25 care risk management to any applicant who qualifies under this
26 section and submits the license and appointment fees ~~fee~~ as
27 set forth in s. 624.501. Licenses and appointments shall be
28 issued and canceled in the same manner as provided in part I
29 of this chapter.

30
31

1 (4) The department shall renew a health care risk
2 manager appointment license in accordance with procedures
3 prescribed in s. 626.381 for agents in general.

4 Section 75. Subsection (3) of section 627.745, Florida
5 Statutes, is amended to read:

6 627.745 Mediation of claims.--

7 (3)(a) The department shall approve ~~appoint~~ mediators
8 to conduct mediations pursuant to this section. All mediators
9 must file an application under oath for approval as a
10 mediator.

11 (b) To qualify for approval ~~appointment~~ as a mediator,
12 a person must ~~shall~~ meet the following qualifications:

13 1. Possess a masters or doctorate degree in
14 psychology, counseling, business, accounting, or economics, be
15 a member of The Florida Bar, be licensed as a certified public
16 accountant, or demonstrate that the applicant for approval
17 ~~appointment~~ has been actively engaged as a qualified mediator
18 for at least 4 years prior to July 1, 1990.

19 2. Within 4 years immediately preceding the date the
20 application for approval is filed with the department, have
21 completed a minimum of a 40-hour training program approved by
22 the department and successfully passed a final ~~an~~ examination
23 included in the training program and approved by the
24 department. The training program shall include and address
25 all of the following:

- 26 a. Mediation theory.
27 b. Mediation process and techniques.
28 c. Standards of conduct for mediators.
29 d. Conflict management and intervention skills.
30 e. Insurance nomenclature.

31

1 Section 76. Section 634.317, Florida Statutes, is
2 amended to read:

3 634.317 License and appointment required.--No person
4 may solicit, negotiate, or effectuate home warranty contracts
5 for remuneration in this state unless such person is licensed
6 and appointed as a sales representative. A licensed and
7 appointed sales representative shall be directly responsible
8 and accountable for all acts of the licensee's employees.

9 Section 77. Section 634.420, Florida Statutes, is
10 amended to read:

11 634.420 License and appointment of sales
12 representatives.--Sales representatives for service warranty
13 associations or insurers shall be licensed, appointed,
14 renewed, continued, reinstated, or terminated in accordance
15 with procedures as prescribed in chapter 626 for insurance
16 representatives in general. However, they shall be exempt
17 from all other provisions of chapter 626, including
18 fingerprinting, photo identification, education, and
19 examination. License, appointment, and other fees shall be
20 those prescribed in s. 624.501. A licensed and appointed
21 sales representative shall be directly responsible and
22 accountable for all acts of the licensed sales
23 representative's ~~her or his~~ employees or other
24 representatives. Each service warranty association or insurer
25 shall, on forms prescribed by the department, within 30 days
26 after termination of the appointment, notify the department of
27 such termination. No employee or sales representative of a
28 service warranty association or insurer may directly or
29 indirectly solicit or negotiate insurance contracts, or hold
30 herself or himself out in any manner to be an insurance agent
31

1 or solicitor, unless so qualified, licensed, and appointed
2 therefor under the insurance code.

3 Section 78. Section 642.036, Florida Statutes, is
4 amended to read:

5 642.036 Sales representatives to be licensed and
6 appointed.--

7 ~~(1)~~ Sales representatives of legal expense insurers
8 shall be licensed, appointed, renewed, continued, reinstated,
9 or terminated as prescribed in chapter 626 for insurance
10 representatives in general, and shall pay the license and
11 appointment fees prescribed in s. 624.501. No employee or
12 sales representative of an insurer may directly or indirectly
13 solicit or negotiate insurance contracts, or hold herself or
14 himself out in any manner to be an insurance agent or
15 solicitor, unless so qualified, licensed, and appointed
16 therefor under the insurance code.

17 ~~(2) Each casualty insurer shall, on or before March 1~~
18 ~~of each odd-numbered year, file with the department the name~~
19 ~~and business address of each licensed general lines agent or~~
20 ~~solicitor who solicits, negotiates, sells, or executes legal~~
21 ~~expense insurance contracts on behalf of the casualty insurer.~~

22 Section 79. Sections 626.532 and 626.857, Florida
23 Statutes, are repealed.

24 Section 80. This act shall take effect October 1,
25 1998.

26
27
28
29
30
31

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 1372
4 Provides for licensure and regulation of nonresident public
5 adjusters and nonresident independent adjusters.
6 Increases surety bond requirements for public adjusters from
7 \$5,000 to \$50,000.
8 Deletes the provision that required surplus lines agents to
9 provide a copy of the producing agent's statement of diligent
10 effort to the surplus lines insurer.
11 Deletes the provision that authorizes the Department of
12 Insurance to designate an entity to administer the PIP
13 mediation program.
14 Deletes the provision that requires individuals to be licensed
15 as salespersons for motor vehicle warranty associations.
16 Specifies which provisions of chapter 626, F.S., apply to
17 reinsurance intermediaries.
18 Strikes the provision of current law that requires the
19 department to inquire into alleged improper conduct of an
20 agent upon receipt of a written complaint and, instead,
21 authorizes the department to determine whether the complaint
22 should be investigated.
23 Makes other technical and conforming changes.
24
25
26
27
28
29
30
31