

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.
12 626.918, F.S.; allowing the department to
13 approve a surplus lines insurer's election of
14 alternative surplus requirements only if the
15 election was filed before a specified date;
16 amending s. 626.922, F.S.; requiring surplus
17 lines agents to perform certain duties relating
18 to evidence of insurance; amending s. 626.928,
19 F.S.; increasing bonds for surplus lines
20 agents; amending ss. 626.927, 626.9271,
21 626.929, 626.935, 626.944, F.S.; requiring
22 appointment in addition to licensure of certain
23 persons; amending s. 627.745, F.S.; clarifying
24 a provision related to final examination;
25 amending s. 634.420, F.S.; clarifying
26 application of accountability provisions;
27 amending s. 634.317, F.S.; providing for
28 responsibility and accountability of sales
29 representatives; amending s. 642.036, F.S.;
30 deleting requirement that the addresses of
31 certain agents be filed with the department;

1 repealing s. 626.112(6), F.S., relating to
2 licensing of claims investigators; amending s.
3 624.412, F.S.; deleting provisions relating to
4 minimum trust deposits by alien insurers;
5 amending s. 627.681, F.S.; prescribing terms
6 for credit life insurance and credit disability
7 insurance; repealing s. 626.532, F.S., relating
8 to insurance vending machine licenses;
9 repealing s. 626.857, F.S., relating to the
10 definition of "claims investigator"; creating
11 s. 624.4072, F.S.; exempting minority-owned
12 property and casualty insurers from prescribed
13 taxes and assessments for specified period;
14 specifying conditions; amending s. 440.49,
15 F.S., creating the Special Disability Trust
16 Fund Privatization Commission; providing
17 purpose; providing for members; providing
18 duties; providing for adoption of rules;
19 creating the Special Disability Trust Fund
20 Financing Corporation; providing purposes;
21 providing for a board of directors; providing
22 powers and duties of the corporation;
23 authorizing the Division of Workers'
24 Compensation to enter into service contracts
25 for certain purposes; authorizing the
26 corporation to issue evidences of indebtedness;
27 authorizing the corporation to validate bond
28 obligations; exempting the corporation from
29 certain taxes and assessments; providing
30 application; providing for reversion of the
31 assets to the State upon dissolution of the

1 corporation; providing for the State Board of
2 Administration to be a trustee of the
3 corporation's securities; authorizing the
4 commission to issue a request for proposal for
5 administration of the claims of the fund;
6 authorizing the transfer and assumption of the
7 liabilities of the Special Disability Trust
8 Fund to a qualified entity if it is determined
9 by the commission that such an arrangement
10 would be more cost effective than the current
11 administration by the division; authorizing the
12 Auditor General to examine and audit the
13 records of the corporation; providing an
14 appropriation; amending s. 215.555, F.S.;
15 revising the method of reimbursement to
16 insurers under the Florida Hurricane
17 Catastrophe Fund; amending s. 624.316, F.S.;
18 deleting certain rulemaking authority of the
19 Department of Insurance relating to insurer
20 compliance; amending s. 624.426, F.S.;
21 providing that certain transferred policies are
22 exempt from the resident agent and
23 countersignature law; amending s. 624.610,
24 F.S.; specifying purposes of regulation of
25 reinsurance; correcting cross references;
26 amending s. 627.7275, F.S.; modifying coverage
27 requirements and premiums relating to motor
28 vehicle property damage liability; amending s.
29 627.9126, F.S.; authorizing the Department of
30 Insurance to sample claims or actions for
31 damages; amending s. 627.913, F.S.; revising

1 requirements for annual reports by products
2 liability insurers; repealing s. 624.22, F.S.,
3 relating to purposes of regulation of
4 reinsurance; providing for future repeal;
5 creating s. 624.123, F.S.; providing
6 definitions; authorizing licensed agents to
7 sell international health insurance policies to
8 residents of foreign countries at international
9 airports; requiring a specified disclaimer;
10 providing exemptions from regulation under the
11 Insurance Code; specifying applicable
12 provisions; creating s. 627.192, F.S.;
13 providing purposes; providing definitions;
14 authorizing certain lessors to secure workers'
15 compensation insurance coverage on leased
16 employees under certain circumstances;
17 providing procedures; requiring such lessors to
18 provide certain information to insurers for
19 certain purposes; providing for cancellation or
20 nonrenewal of such insurance under certain
21 circumstances; providing for notice; providing
22 an exception; providing for assigning an
23 experience modification factor to lessees under
24 a terminated employee leasing arrangement;
25 requiring notice; providing application;
26 prohibiting lessees from entering into employee
27 leasing relationships or from being eligible
28 for certain workers' compensation coverage
29 under certain circumstances; requiring insurers
30 to conduct audits of employee leasing companies
31 for certain purposes; specifying procedures;

1 requiring the insured to pay additional
2 premiums if the lessor or lessee fails to
3 provide certain audit access; providing an
4 exception; providing application; providing
5 effective dates.

6
7 Be It Enacted by the Legislature of the State of Florida:

8
9 Section 1. Section 624.425, Florida Statutes, is
10 amended to read:

11 624.425 Resident agent and countersignature required,
12 property, casualty, surety insurance.--

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

1 agents on business written or transacted by them for the
2 insurer.

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

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

30 (4) This section shall not be deemed to prohibit
31 insurers from using salaried licensed and appointed agents for

1 the production and servicing of business in this state and the
2 issuance and countersignature by such agents of insurance
3 policies or contracts, when required under subsection (1), and
4 without payment of commission therefor.

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

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

16 624.428 Licensed agent law, life and health
17 insurances.--

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

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

31

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

11 Section 4. Subsections (16), (17), and (29) of section
 12 624.501, Florida Statutes, are amended to read:

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

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

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

23 (29) Title insurance agents:

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

27 Appointment fee.....\$42.00

28 State tax.....12.00

29 County tax.....6.00

30 Total.....\$60.00

31

1 (b) Agency original appointment ~~license fee~~ or
 2 biennial renewal or continuation thereof, each insurer:
 3 Appointment Licensing fee.....\$42.00
 4 State tax.....12.00
 5 County tax.....6.00
 6 Total.....\$60.00

7 (c) Filing for title insurance agent's license:
 8 Application for filing, each filing, filing
 9 fee.....\$10.00

10 (d) Additional appointment continuation fee as
 11 prescribed by s. 626.843.....\$5.00

12 (e) Title insurer and title insurance agency
 13 administrative surcharge:

14 1. On or before January 30 of each calendar year, each
 15 title insurer shall pay to the department for each licensed
 16 title insurance agency appointed by the title insurer and for
 17 each retail office of the insurer on January 1 of that
 18 calendar year an administrative surcharge of \$200.00.

19 2. On or before January 30 of each calendar year, each
 20 licensed title insurance agency shall remit to the department
 21 an administrative surcharge of \$200.00.

22
 23 The administrative surcharge may be used solely to defray the
 24 costs to the department in its examination or audit of title
 25 insurance agencies ~~agents~~ and retail offices of title insurers
 26 and to gather title insurance data for statistical purposes in
 27 its regulation of title insurance.

28 Section 5. Section 626.022, Florida Statutes, is
 29 amended to read:

30 626.022 Scope of part.--
 31

1 (1) This part applies as to insurance agents,
2 solicitors, service representatives, adjusters, and insurance
3 agencies; as to any and all kinds of insurance; and as to
4 stock insurers, mutual insurers, reciprocal insurers, and all
5 other types of insurers, except that:

6 (a) It does not apply as to reinsurance, except that
7 ss. 626.011-626.031, ss. 626.102-626.181, ss. 626.191-626.211,
8 ss. 626.291-626.301, s. 626.331, ss. 626.342-626.521, ss.
9 626.541-626.591, and ss. 626.601-626.711 shall apply as to
10 reinsurance intermediaries as defined in s. 626.7492.

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

13 (c) It does not apply to a bail bond agent, as defined
14 in s. 648.25, except as provided in chapter 648 or chapter
15 903.

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

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

20 626.051 "Life agent" defined.--

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

27 (b) A person may not solicit or sell variable life
28 insurance, variable annuity contracts, or any other
29 indeterminate value or variable contract as defined in s.
30 627.8015, unless the person has successfully completed a
31

1 licensure examination relating to variable annuity contracts
2 authorized and approved by the department.

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

6 (a) Solicit insurance or annuities or procure
7 applications; or

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

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

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

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

21 626.062 "Health agent" defined.--

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

25 (a) Solicit insurance or procure applications; or

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

31 1. As a consulting actuary advising insurers; or

1 2. As to the counseling and advising of labor unions,
2 associations, trustees, employers or other business entities,
3 the subsidiaries and affiliates of each, relative to their
4 interests and those of their members or employees under
5 insurance benefit plans.

6 Section 8. Section 626.112, Florida Statutes, is
7 amended to read:

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

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

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

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

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

1 (5) No person shall be, act as, or represent or hold
2 himself or herself out to be a managing general agent unless
3 he or she then holds a currently effective managing general
4 agent license and appointment.

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

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

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

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

30 1. Been found guilty of, or has pleaded guilty or nolo
31 contendere to, a felony in this state or any other state

1 relating to the business of insurance or to an insurance
2 agency, without regard to whether a judgment of conviction has
3 been entered by the court having jurisdiction of the cases.

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

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

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

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

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

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

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

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

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

23 626.511 Reasons for termination; confidential
24 information.--

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

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

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

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

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

23 626.521 Character, credit reports.--

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

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

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

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

15 626.541 Firm, corporate, and business names; officers;
16 associates; notice of changes.--

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

28 (2) In the event of any change of such name, or of any
29 of the officers and ~~such~~ directors ~~or president~~, or of any of
30 such addresses, or in the personnel so associated, written
31 notice of such change shall be filed with the department

1 within 60 days by or on behalf of those licensees terminating
2 any such firm, corporate, or business name or continuing to
3 operate thereunder.

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

6 626.561 Reporting and accounting for funds.--

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

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

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

28 (b) If the funds diverted or misappropriated
29 ~~appropriated to his or her own use~~ are more than \$300, but
30 less than \$20,000, a felony of the third degree, punishable as
31 provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

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

11 626.592 Primary agents.--

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

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

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

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

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

19 626.601 Improper conduct; inquiry; fingerprinting.--

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

1 contacting such person could jeopardize the successful
2 completion of the investigation or cause injury to the public.

3 Section 28. Section 626.611, Florida Statutes, is
4 amended to read:

5 626.611 Grounds for compulsory refusal, suspension, or
6 revocation of agent's, title agency's, solicitor's,
7 adjuster's, customer representative's, service
8 representative's, or managing general agent's, ~~or claims~~
9 ~~investigator's~~ license or appointment.--The department shall
10 deny an application for, suspend, revoke, or refuse to renew
11 or continue the license or appointment of any applicant,
12 agent, title agency, solicitor, adjuster, customer
13 representative, service representative, or managing general
14 agent, ~~or claims investigator~~, and it shall suspend or revoke
15 the eligibility to hold a license or appointment of any such
16 person, if it finds that as to the applicant, licensee, or
17 appointee any one or more of the following applicable grounds
18 exist:

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

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

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

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

29 (5) Willful misrepresentation of any insurance policy
30 or annuity contract or willful deception with regard to any
31

1 such policy or contract, done either in person or by any form
2 of dissemination of information or advertising.

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

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

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

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

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

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

25 (12) Having obtained or attempted to obtain, or having
26 used or using, a license or appointment as agent, customer
27 representative, or solicitor for the purpose of soliciting or
28 handling "controlled business" as defined in s. 626.730 with
29 respect to general lines agents, s. 626.784 with respect to
30 life agents, and s. 626.830 with respect to health agents.

31

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

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

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

17 Section 29. Section 626.621, Florida Statutes, is
18 amended to read:

19 626.621 Grounds for discretionary refusal, suspension,
20 or revocation of agent's, solicitor's, adjuster's, customer
21 representative's, service representative's, or managing
22 general agent's, ~~or claims investigator's~~ license or
23 appointment.--The department may, in its discretion, deny an
24 application for, suspend, revoke, or refuse to renew or
25 continue the license or appointment of any applicant, agent,
26 solicitor, adjuster, customer representative, service
27 representative, or managing general agent, ~~or claims~~
28 ~~investigator~~, and it may suspend or revoke the eligibility to
29 hold a license or appointment of any such person, if it finds
30 that as to the applicant, licensee, or appointee any one or
31 more of the following applicable grounds exist under

1 circumstances for which such denial, suspension, revocation,
2 or refusal is not mandatory under s. 626.611:

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

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

9 (3) Violation of any lawful order or rule of the
10 department.

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

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

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

22 (7) Willful overinsurance of any property or health
23 insurance risk.

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

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

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

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

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

19 Section 30. Subsections (2), (3), and (4) of section
20 626.641, Florida Statutes, are amended to read:

21 626.641 Duration of suspension or revocation.--

22 (2) No person or appointee under any license or
23 appointment revoked by the department, nor any person whose
24 eligibility to hold same has been revoked by the department,
25 shall have the right to apply for another license or
26 appointment under this code within 2 years from the effective
27 date of such revocation or, if judicial review of such
28 revocation is sought, within 2 years from the date of final
29 court order or decree affirming the revocation. The
30 department shall not, however, grant a new license or
31 appointment or reinstate eligibility to hold such license or

1 appointment if it finds that the circumstance or circumstances
2 for which the eligibility was revoked or for which the
3 previous license or appointment was revoked still exist or are
4 likely to recur; if an individual's license as agent, customer
5 representative, or solicitor or eligibility to hold same has
6 been revoked upon the ground specified in s. 626.611(12), the
7 department shall refuse to grant or issue any new license or
8 appointment so applied for.

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

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

21 Section 31. Section 626.651, Florida Statutes, is
22 amended to read:

23 626.651 Effect of suspension, revocation upon
24 associated licenses and appointments and licensees and
25 appointees.--

26 (1) Upon suspension, revocation, or refusal to renew
27 or continue any one license of an agent, customer
28 representative, or solicitor, or upon suspension or revocation
29 of eligibility to hold a license or appointment, the
30 department shall at the same time likewise suspend or revoke

31

1 all other licenses, appointments, or status of eligibility
2 held by the licensee or appointee under this code.

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

12 Section 32. Section 626.681, Florida Statutes, is
13 amended to read:

14 626.681 Administrative fine in lieu of or in addition
15 to suspension, revocation, or refusal of license or
16 appointment.--

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

1 as to which the grounds for suspension, revocation, or refusal
2 related.

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

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

25 Section 33. Section 626.691, Florida Statutes, is
26 amended to read:

27 626.691 Probation.--

28 (1) If the department finds that one or more grounds
29 exist for the suspension, revocation, or refusal to renew or
30 continue any license or appointment issued under this part,
31 the department may, in its discretion, except when an

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

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

19 Section 34. Section 626.692, Florida Statutes, is
20 created to read:

21 626.692 Restitution.--If any ground exists for the
22 suspension, revocation, or refusal of a license or
23 appointment, the department may, in addition to any other
24 penalty authorized under this chapter, order the licensee to
25 pay restitution to any person who has been deprived of money
26 by the licensee's misappropriation, conversion, or unlawful
27 withholding of moneys belonging to insurers, insureds,
28 beneficiaries, or others. In no instance shall the amount of
29 restitution required to be paid under this section exceed the
30 amount of money misappropriated, converted, or unlawfully
31

1 withheld. Nothing in this section limits or restricts a
2 person's right to seek other remedies as provided for by law.

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

5 626.727 Scope of this part.--This part applies only ~~as~~
6 to:

7 (1) General lines agents, as defined in s. 626.041;

8 (2) Solicitors, as defined in s. 626.071; ~~and~~

9 (3) Customer representatives as defined in s. 626.072;

10 and

11 (4)(3) Service representatives, as defined in s.
12 626.081, or managing general agents, as defined in s. 626.091.

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

15 626.730 Purpose of license.--

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

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

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

15 626.732 Requirement as to knowledge, experience, or
16 instruction.--

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

25 Section 38. Section 626.733, Florida Statutes, is
26 amended to read:

27 626.733 Agency firms and corporations; special
28 requirements.--If a sole proprietorship, partnership,
29 corporation, or association holds an agency contract, all
30 members thereof who solicit, negotiate, or effect insurance
31 contracts, and all officers and stockholders of the

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

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

18 626.7351 Qualifications for customer representative's
19 license.--The department shall not grant or issue a license as
20 customer representative to any individual found by it to be
21 untrustworthy or incompetent, or who does not meet each of the
22 following qualifications:

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

1 been canceled or changed to a nonresident basis and that he or
2 she is in good standing.

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

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

15 626.739 Temporary license; death, disability, absence
16 of agent.--

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

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

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

29 (c) The proposed temporary licensee is ~~must be~~
30 qualified ~~as~~ for a regular general lines agent's license under
31

1 this code except as to residence, examination, education, or
2 experience.

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

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

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

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

27 Section 41. Subsections (1) and (2) of section
28 626.741, Florida Statutes, are amended, present subsection (5)
29 of that section is renumbered as subsection (7), and new
30 subsections (5) and (6) are added to that section, to read:
31

1 626.741 Nonresident agents; licensing and
2 restrictions.--

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

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

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

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

1 representatives who are required to conduct business solely
2 within the confines of the office of a licensed and appointed
3 Florida resident general lines agent in this state.The
4 department shall have discretion to refuse to issue any
5 license or appointment to a nonresident when it has reason to
6 believe that the applicant by ruse or subterfuge is attempting
7 to avoid the intent and prohibitions contained in this
8 subsection or to believe that any of the grounds exist as for
9 suspension or revocation of license as set forth in ss.
10 626.611 and 626.621.

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

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

26 (7)(5) Except as provided in this section and ss.
27 626.742 and 626.743, nonresident agents shall be subject to
28 the same requirements as apply to agents resident in this
29 state.
30
31

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 is
11 timely filed with the department by a damaged title insurer,
12 the department may remit an appropriate amount of the deposit
13 or the proceeds that are received from the surety in payment
14 of the claim ~~damaged insurer making claim on the bond~~. The
15 required deposit or bond must be made by the title insurance
16 agency, and a title insurer may not provide the deposit or
17 bond directly or indirectly on behalf of the title insurance
18 agency. The deposit or bond must secure the performance by
19 the title insurance agency of its duties and responsibilities
20 under the issuing agency contracts with each title insurer
21 ~~underwriter~~ for which it is appointed. The agency may
22 exchange or substitute other securities of like quality and
23 value for securities on deposit, may receive the interest and
24 other income accruing on such securities, and may inspect the
25 deposit at all reasonable times. Such deposit or bond must
26 remain unimpaired as long as the title insurance agency
27 continues in business in this state and until 1 year after
28 termination of all title insurance agency appointments
29 ~~licenses~~ held by the title insurance agency. The title
30 insurance agency is entitled to the return of the deposit or
31 bond together with accrued interest after such year has

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

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

12 626.8437 Grounds for compulsory refusal, suspension,
13 or revocation of license or appointment.--The department shall
14 deny, suspend, revoke, or refuse to renew or continue the
15 license or appointment of any title insurance agent or agency,
16 and it shall suspend or revoke the eligibility to hold a
17 license or appointment of such person, if it finds that as to
18 the applicant, licensee, appointee, or any principal thereof,
19 any one or more of the following grounds exist:

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

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

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

31

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. Effective upon this act becoming a law,
6 subsection (2) of section 626.918, Florida Statutes, is
7 amended to read:

8 626.918 Eligible surplus lines insurers.--

9 (2) No unauthorized insurer shall be or become an
10 eligible surplus lines insurer unless made eligible by the
11 department in accordance with the following conditions:

12 (a) Eligibility of the insurer must be requested in
13 writing by a Florida-licensed surplus lines agent;

14 (b) The insurer must be currently an authorized
15 insurer in the state or country of its domicile as to the kind
16 or kinds of insurance proposed to be so placed and must have
17 been such an insurer for not less than the 3 years next
18 preceding or must be the wholly owned subsidiary of such
19 authorized insurer or must be the wholly owned subsidiary of
20 an already eligible surplus lines insurer as to the kind or
21 kinds of insurance proposed for a period of not less than the
22 3 years next preceding. However, the department may waive the
23 3-year requirement if the insurer provides a product or
24 service not readily available to the consumers of this state
25 or has operated successfully for a period of at least 1 year
26 next preceding and has capital and surplus of not less than
27 \$25 million;

28 (c) Before granting eligibility, the requesting
29 surplus lines agent or the insurer shall furnish the
30 department with a duly authenticated copy of its current
31 annual financial statement in the English language and with

1 all monetary values therein expressed in United States
2 dollars, at an exchange rate (in the case of statements
3 originally made in the currencies of other countries)
4 then-current and shown in the statement, and with such
5 additional information relative to the insurer as the
6 department may request;

7 (d)1. The insurer must have and maintain surplus as to
8 policyholders of not less than \$15 million; in addition, an
9 alien insurer must also have and maintain in the United States
10 a trust fund for the protection of all its policyholders in
11 the United States under terms deemed by the department to be
12 reasonably adequate, in an amount not less than 5.4 million.
13 Any such surplus as to policyholders or trust fund shall be
14 represented by investments consisting of eligible investments
15 for like funds of like domestic insurers under part II of
16 chapter 625 provided, however, that in the case of an alien
17 insurance company, any such surplus as to policyholders may be
18 represented by investments permitted by the domestic regulator
19 of such alien insurance company if such investments are
20 substantially similar in terms of quality, liquidity, and
21 security to eligible investments for like funds of like
22 domestic insurers under part II of chapter 625;

23 2. For those surplus lines insurers that were eligible
24 on January 1, 1994, and that maintained their eligibility
25 thereafter, the required surplus as to policyholders shall be:

26 a. On December 31, 1994, and until December 30, 1995,
27 \$2.5 million.

28 b. On December 31, 1995, and until December 30, 1996,
29 \$3.5 million.

30 c. On December 31, 1996, and until December 30, 1997,
31 \$4.5 million.

- 1 d. On December 31, 1997, and until December 30, 1998,
2 \$5.5 million.
- 3 e. On December 31, 1998, and until December 30, 1999,
4 \$6.5 million.
- 5 f. On December 31, 1999, and until December 30, 2000,
6 \$8 million.
- 7 g. On December 31, 2000, and until December 30, 2001,
8 \$9.5 million.
- 9 h. On December 31, 2001, and until December 30, 2002,
10 \$11 million.
- 11 i. On December 31, 2002, and until December 30, 2003,
12 \$13 million.
- 13 j. On December 31, 2003, and thereafter, \$15 million.
- 14 3. The capital and surplus requirements as set forth
15 in subparagraph 2. do not apply in the case of an insurance
16 exchange created by the laws of individual states, where the
17 exchange maintains capital and surplus pursuant to the
18 requirements of that state, or maintains capital and surplus
19 in an amount not less than \$50 million in the aggregate. For
20 an insurance exchange which maintains funds in the amount of
21 at least \$12 million for the protection of all insurance
22 exchange policyholders, each individual syndicate shall
23 maintain minimum capital and surplus in an amount not less
24 than \$3 million. If the insurance exchange does not maintain
25 funds in the amount of at least \$12 million for the protection
26 of all insurance exchange policyholders, each individual
27 syndicate shall meet the minimum capital and surplus
28 requirements set forth in subparagraph 2.;
- 29 4. A surplus lines insurer which is a member of an
30 insurance holding company that includes a member which is a
31 Florida domestic insurer as set forth in its holding company

1 registration statement, as set forth in s. 628.801 and rules
2 adopted ~~promulgated~~ thereunder, may elect to maintain surplus
3 as to policyholders in an amount equal to the requirements of
4 s. 624.408, subject to the requirement that the surplus lines
5 insurer shall at all times be in compliance with the
6 requirements of chapter 625.

7
8 The election shall be submitted to the department and shall be
9 effective upon the department's being satisfied that the
10 requirements of subparagraph 4.~~this sub-subparagraph~~ have
11 been met. The initial date of election shall be the date of
12 department approval. The election approval application shall
13 be on a form adopted by department rule. The department may
14 approve an election form submitted pursuant to subparagraph 4.
15 only if it was on file with the department before February 28,
16 1998;

17 (e) The insurer must be of good reputation as to the
18 providing of service to its policyholders and the payment of
19 losses and claims;

20 (f) The insurer must be eligible, as for authority to
21 transact insurance in this state, under s. 624.404(3); and

22 (g) This subsection does not apply as to unauthorized
23 insurers made eligible under s. 626.917 as to wet marine and
24 aviation risks.

25 Section 69. Subsection (1) of section 626.922, Florida
26 Statutes, is amended to read:

27 626.922 Evidence of the insurance; changes; penalty.--

28 (1) Upon placing a surplus lines coverage, the surplus
29 lines agent shall promptly issue and deliver to the insured
30 evidence of the insurance consisting either of the policy as
31 issued by the insurer or, if such policy is not then

1 available, a certificate, cover note, or other confirmation of
2 insurance. Such document shall be executed or countersigned
3 by the surplus lines agent and shall show the description and
4 location of the subject of the insurance; coverage,
5 conditions, and term of the insurance; the premium and rate
6 charged and taxes collected from the insured; and the name and
7 address of the insured and insurer. If the direct risk is
8 assumed by more than one insurer, the document shall state the
9 name and address and proportion of the entire direct risk
10 assumed by each insurer. A surplus lines agent may not
11 delegate the duty to issue any such document to producing
12 general lines agents without prior written authority from the
13 surplus lines insurer. A general lines agent may issue any
14 such document only if the agent has prior written authority
15 from the surplus lines agent. The surplus lines agent must
16 maintain copies of the authorization from the surplus lines
17 insurer and the delegation to the producing general lines
18 agent. The producing agent must maintain copies of the written
19 delegation from the surplus lines agent and copies of any
20 evidence of coverage or certificate of insurance which the
21 producing agent issues or delivers. Any evidence of coverage
22 issued by a producing agent pursuant to this section must
23 include the name and address of the authorizing surplus lines
24 agent.

25 Section 70. Section 626.928, Florida Statutes, is
26 amended to read:

27 626.928 Surplus lines agent's bond.--Prior to issuance
28 of license, the applicant shall file with the department, and
29 thereafter for as long as any such license remains in effect,
30 shall keep in force and unimpaired, a bond in favor of the
31 department in the penal sum of not less than ~~\$50,000~~\$5,000,

1 aggregate liability, with authorized corporate surety or
2 sureties approved by the department. The department may, in
3 its discretion, require a bond in a larger amount commensurate
4 with the volume of surplus lines business transacted or to be
5 transacted by a particular surplus lines agent. The bond
6 shall be conditioned that the surplus lines agent will
7 faithfully conduct business under the license in accordance
8 with the provisions of the Surplus Lines Law and rules and
9 regulations of the department for the effectuation thereof and
10 that the licensee will promptly remit to the department the
11 taxes as provided for by such law. No such bond shall be
12 terminated unless not less than 30 days' prior written notice
13 thereof is given the licensee and filed with the department.

14 Section 71. Subsections (4) and (7) of section
15 626.927, Florida Statutes, are amended to read:

16 626.927 Licensing of surplus lines agent.--

17 (4) License and appointment fees in the amount
18 specified in s. 624.501 shall be paid to the department in
19 advance. The license and appointment of a surplus lines agent
20 continue in force until suspended, revoked, or otherwise
21 terminated. The appointment of a surplus lines agent
22 continues in force until suspended, revoked, or terminated,
23 but is subject to biennial renewal or continuation by the
24 licensee in accordance with procedures prescribed in s.
25 626.381 for agents in general.

26 (7) Any individual who has been licensed by the
27 department as a surplus lines agent as provided in this
28 section may be subsequently appointed ~~licensed~~ without
29 additional written examination if his or her application for
30 appointment ~~license~~ is filed with the department within 24
31 months next following the date of cancellation or expiration

1 of the prior appointment license. The department may, in its
2 discretion, require any individual to take and successfully
3 pass an examination as for original issuance of license as a
4 condition precedent to the reinstatement ~~renewal~~ or
5 continuation of the licensee's current license or
6 reinstatement or continuation of the licensee's appointment.

7 Section 72. Subsections (1) and (2) of section
8 626.9271, Florida Statutes, are amended to read:

9 626.9271 Temporary license; death, disability, absence
10 of surplus lines agent.--

11 (1) The department may, in its discretion, issue a
12 temporary license and appointment as a surplus lines agent to
13 a licensed surplus lines agent's employee, family member,
14 business associate, or personal representative for the purpose
15 of continuing or winding up the business affairs of the
16 surplus lines agent or agency, ~~and~~ subject to the following
17 conditions:

18 (a) The surplus lines agent being replaced must have
19 died ~~become deceased~~ or become unable to perform his or her
20 duties as agent because of military service or illness or
21 other physical or mental disability.

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

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

28 (d) Application for the temporary license and
29 appointment must be made by the applicant upon statements and
30 affidavit filed with the department on forms as prescribed and
31 furnished by it.

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

6 (2) The applicant for a temporary license and
7 appointment shall pay to the department, prior to the issuance
8 thereof, the applicable license and appointment fees ~~fee as~~
9 specified ~~therefor~~ in s. 624.501.

10 Section 73. Subsections (1) and (2) of section
11 626.929, Florida Statutes, are amended to read:

12 626.929 Origination, acceptance, placement of surplus
13 lines business.--

14 (1) A resident general lines agent while licensed and
15 appointed as a surplus lines agent under this part may
16 originate surplus lines business and may accept surplus lines
17 business from any other originating Florida-licensed general
18 lines agent appointed and licensed as to the ~~kind~~ or kinds of
19 insurance involved and may compensate such agent therefor.

20 (2) A managing general agent while licensed and
21 appointed as a surplus lines agent under this part may accept
22 and place solely such surplus lines business as is originated
23 by a Florida-licensed general lines agent appointed and
24 licensed as to the ~~kind~~ or kinds of insurance involved and may
25 compensate such agent therefor.

26 Section 74. Subsections (1), (2), and (3) of section
27 626.935, Florida Statutes, are amended to read:

28 626.935 Suspension, revocation, or refusal of surplus
29 lines agent's license.--

30 (1) The department shall deny an application for,
31 suspend, revoke, or refuse to renew the appointment ~~license~~ of

1 a surplus lines agent and all other licenses and appointments
2 held by the licensee under this code, upon any ~~one or more~~ of
3 the following grounds:

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

5 (b) Removal of the accounts and records of his or her
6 surplus lines business from this state during the period when
7 such accounts and records are required to be maintained under
8 s. 626.930.

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

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

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

15 (f) Failure to maintain the bond as required by s.
16 626.928.

17 (g) Suspension, revocation, or refusal to renew or
18 continue the license or appointment as a general lines agent,
19 service representative, or managing general agent.

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

22 (i) Violation of this Surplus Lines Law.

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

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

31

1 (3) In the suspension or revocation of, or the refusal
2 to issue or renew, the license or appointment of a surplus
3 lines agent, the department shall follow the same procedures,
4 as applicable, as provided for suspension, revocation, or
5 refusal of licenses of general lines agents, but subject to s.
6 626.936 as to failure to file a quarterly report or pay the
7 tax.

8 Section 75. Subsections (3) and (4) of section
9 626.944, Florida Statutes, are amended to read:

10 626.944 Qualifications for health care risk
11 managers.--

12 (3) The department shall issue a license and an
13 appointment, beginning on June 1, 1986, to practice health
14 care risk management to any applicant who qualifies under this
15 section and submits the license and appointment fees ~~fee~~ as
16 set forth in s. 624.501. Licenses and appointments shall be
17 issued and canceled in the same manner as provided in part I
18 of this chapter.

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

22 Section 76. Subsection (3) of section 627.745, Florida
23 Statutes, is amended to read:

24 627.745 Mediation of claims.--

25 (3)(a) The department shall approve ~~appoint~~ mediators
26 to conduct mediations pursuant to this section. All mediators
27 must file an application under oath for approval as a
28 mediator.

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

31

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

7 2. Within 4 years immediately preceding the date the
8 application for approval is filed with the department, have
9 completed a minimum of a 40-hour training program approved by
10 the department and successfully passed a final ~~an~~ examination
11 included in the training program and approved by the
12 department. The training program shall include and address
13 all of the following:

- 14 a. Mediation theory.
- 15 b. Mediation process and techniques.
- 16 c. Standards of conduct for mediators.
- 17 d. Conflict management and intervention skills.
- 18 e. Insurance nomenclature.

19 Section 77. Section 634.317, Florida Statutes, is
20 amended to read:

21 634.317 License and appointment required.--No person
22 may solicit, negotiate, or effectuate home warranty contracts
23 for remuneration in this state unless such person is licensed
24 and appointed as a sales representative. A licensed and
25 appointed sales representative shall be directly responsible
26 and accountable for all acts of the licensee's employees.

27 Section 78. Section 634.420, Florida Statutes, is
28 amended to read:

29 634.420 License and appointment of sales
30 representatives.--Sales representatives for service warranty
31 associations or insurers shall be licensed, appointed,

1 renewed, continued, reinstated, or terminated in accordance
2 with procedures as prescribed in chapter 626 for insurance
3 representatives in general. However, they shall be exempt
4 from all other provisions of chapter 626, including
5 fingerprinting, photo identification, education, and
6 examination. License, appointment, and other fees shall be
7 those prescribed in s. 624.501. A licensed and appointed
8 sales representative shall be directly responsible and
9 accountable for all acts of the licensed sales
10 representative's ~~her or his~~ employees or other
11 representatives. Each service warranty association or insurer
12 shall, on forms prescribed by the department, within 30 days
13 after termination of the appointment, notify the department of
14 such termination. No employee or sales representative of a
15 service warranty association or insurer may directly or
16 indirectly solicit or negotiate insurance contracts, or hold
17 herself or himself out in any manner to be an insurance agent
18 or solicitor, unless so qualified, licensed, and appointed
19 therefor under the insurance code.

20 Section 79. Section 642.036, Florida Statutes, is
21 amended to read:

22 642.036 Sales representatives to be licensed and
23 appointed.--

24 ~~(1)~~ Sales representatives of legal expense insurers
25 shall be licensed, appointed, renewed, continued, reinstated,
26 or terminated as prescribed in chapter 626 for insurance
27 representatives in general, and shall pay the license and
28 appointment fees prescribed in s. 624.501. No employee or
29 sales representative of an insurer may directly or indirectly
30 solicit or negotiate insurance contracts, or hold herself or
31 himself out in any manner to be an insurance agent or

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

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

8 Section 80. Section 624.412, Florida Statutes, is
9 amended to read:

10 624.412 Deposit of alien insurers.--

11 (1) An alien insurer shall not have authority to
12 transact insurance in this state unless it has and maintains
13 within the United States as trust deposits with public
14 officials having supervision over insurers, or with trustees,
15 public depositories, or trust institutions approved by the
16 department, assets available for discharge of its United
17 States insurance obligations, which assets shall be in amount
18 not less than the outstanding reserves and other liabilities
19 of the insurer arising out of its insurance transactions in
20 the United States together with the amount of surplus as to
21 policyholders required by s. 624.408 of a domestic stock
22 insurer transacting like kinds of insurance.

23 ~~(2) The amount so held on deposit under subsection (1)~~
24 ~~is, for the purposes of this code, deemed to be minimum~~
25 ~~surplus of the insurer required to be maintained.~~

26 (2)~~(3)~~ Any such deposit made in this state shall be
27 held for the protection of the insurer's policyholders or
28 policyholders and creditors in the United States and shall be
29 subject to the applicable provisions of part III of chapter
30 625 and chapter 630.

31

1 Section 81. Section 624.4072, Florida Statutes, is
2 created to read:

3 624.4072 Minority owned property and casualty
4 insurers; limited exemption for taxation and assessments.--

5 (1) A minority business that is at least 51 percent
6 owned by minority persons, as defined in s. 288.703(3),
7 initially issued a certificate of authority in this state as
8 an authorized insurer after May 1, 1998, to write property and
9 casualty insurance shall be exempt, for a period not to exceed
10 5 years from the date of receiving its certificate of
11 authority, from the following taxes and assessments:

12 (a) Taxes imposed under ss. 624.509, 175.101, and
13 185.08;

14 (b) Assessments by the Florida Residential Property
15 and Casualty Joint Underwriting Association or by the Florida
16 Windstorm Underwriting Association, as provided under s.
17 627.351, except for emergency assessments collected from
18 policyholders pursuant to s. 627.351(2)(b)2.d.(III) and
19 (6)(b)3.d. Any such insurer shall be a member insurer of the
20 Florida Windstorm Underwriting Association and the Florida
21 Residential Property and Casualty Joint Underwriting
22 Association. The premiums of such insurer shall be included in
23 determining, for the Florida Windstorm Underwriting
24 Association, the aggregate statewide direct written premium
25 for property insurance and in determining, for the Florida
26 Residential Property and Casualty Joint Underwriting
27 Association, the aggregate statewide direct written premium
28 for the subject lines of business for all member insurers.

29 (2) Subsection (1) applies only to personal lines and
30 commercial lines residential property insurance policies as
31 defined in s. 627.4025, and applies only to an insurer that

1 has employees in this state and has a home office or a
2 regional office in this state. With respect to any tax year
3 or assessment year, the exemptions provided by subsection (1)
4 apply only if during the year an average of at least 10
5 percent of the insurer's Florida residential property policies
6 in force covered properties located in enterprise zones
7 designated pursuant to s. 290.0065.

8 (3) The provision of the definition of "minority
9 person" in s. 288.703(3) that requires residency in Florida
10 shall not apply to the term "minority person" as used in this
11 section or s. 627.3511.

12 (4) This section is repealed effective July 1, 2003,
13 and the tax and assessment exemptions authorized by this
14 section shall terminate on such date.

15 Section 82. Section 624.123, Florida Statutes, is
16 created to read:

17 624.123 Certain international health insurance
18 policies; exemption from code.--

19 (1) International health insurance policies and
20 applications may be solicited and sold in this state at any
21 international airport to a resident of a foreign country. Such
22 international health insurance policies shall be solicited and
23 sold only by a licensed health insurance agent and unwritten
24 only by an admitted insurer. For purposes of this subsection:

25 (a) "International airport" means any airport in
26 Florida with U. S. Customs service, which enplanes more than 1
27 million passengers per year.

28 (b) "International health insurance policy" means
29 health insurance, as defined in s. 627.6561(5)(a)2., which is
30 offered to an individual, covering only a resident of a
31 foreign country on an annual basis.

1 (c) "Resident of a foreign country" does not include
2 any United States citizen, any natural person maintaining his
3 or her residence in this country, or any natural person
4 staying in this state continuously for more than 120 days.

5 (2) Any international health insurance policy sold,
6 and any application provided, to residents of foreign
7 countries pursuant to this subsection shall contain the
8 following conspicuous, boldfaced disclaimer in at least 12
9 point type: "This individual health insurance policy may be
10 sold only to a person not a resident of the United States.
11 This policy does not comply with coverage, underwriting, and
12 other provisions of the Florida Insurance Code, and must
13 comply with coverage, underwriting, and other insurance
14 regulatory provisions of your country of residence."

15 (3) Any insurer underwriting international health
16 insurance policies pursuant to this subsection is subject to
17 all applicable provisions of the Insurance Code, except as
18 otherwise provided in this subsection. International health
19 insurance policies are not subject to any form approval, rate
20 approval, underwriting restrictions, guaranteed availability,
21 or coverage mandates provided in the Insurance Code. Health
22 insurance agents who are licensed and appointed pursuant to
23 chapter 626 may solicit, sell, effect, collect premium on, and
24 deliver international health insurance policies in accordance
25 with this section. Solicitation or sale of an international
26 health insurance policy to a U. S. citizen or to a natural
27 person not a resident of a foreign country is a willful
28 violation of the provisions of s. 626.611.

29 (4) Any international health insurance policy or
30 application solicited, provided, entered into, issued, or
31 delivered pursuant to this subsection is exempt from all

1 provisions of the Insurance Code, except that such policy,
2 contract, or agreement is subject to the provisions of ss.
3 624.155, 624.316, 624.3161, 626.951, 626.9511, 626.9521,
4 626.9541, 626.9551, 626.9561, 626.9571, 626.9581, 626.9591,
5 626.9601, 627.413, 627.4145, 627.428, and 627.6043.

6 Section 83. Present subsections (3) and (4) of section
7 627.681, Florida Statutes, are renumbered as subsections (4)
8 and (5), respectively, and a new subsection (3) is added to
9 that section, to read:

10 627.681 Term and evidence of insurance.--

11 (3) Notwithstanding s. 627.6785(3), the term of credit
12 life or credit disability insurance may be for less than the
13 term of the indebtedness. However, except for the age
14 limitations referred to in s. 627.6785(3), the term shall
15 extend for at least 5 years or for the term of the
16 indebtedness, whichever is less.

17 Section 84. Section 440.49, Florida Statutes, is
18 amended to read:

19 440.49 Limitation of liability for subsequent injury
20 through Special Disability Trust Fund.--

21 (1) LEGISLATIVE INTENT.--Whereas it is often difficult
22 for workers with disabilities to achieve employment or to
23 become reemployed following an injury, and it is the desire of
24 the Legislature to facilitate the return of these workers to
25 the workplace, it is the purpose of this section to encourage
26 the employment, reemployment, and accommodation of the
27 physically disabled by reducing an employer's insurance
28 premium for reemploying an injured worker, to decrease
29 litigation between carriers on apportionment issues, and to
30 protect employers from excess liability for compensation and
31 medical expense when an injury to a physically disabled worker

1 merges with, aggravates, or accelerates her or his preexisting
2 permanent physical impairment to cause either a greater
3 disability or permanent impairment, or an increase in
4 expenditures for temporary compensation or medical benefits
5 than would have resulted from the injury alone. The division
6 or the administrator shall inform all employers of the
7 existence and function of the fund and shall interpret
8 eligibility requirements liberally. However, this subsection
9 shall not be construed to create or provide any benefits for
10 injured employees or their dependents not otherwise provided
11 by this chapter. The entitlement of an injured employee or her
12 or his dependents to compensation under this chapter shall be
13 determined without regard to this subsection, the provisions
14 of which shall be considered only in determining whether an
15 employer or carrier who has paid compensation under this
16 chapter is entitled to reimbursement from the Special
17 Disability Trust Fund.

18 (2) DEFINITIONS.--As used in this section, the term:

19 (a) "Permanent physical impairment" means and is
20 limited to the conditions listed in paragraph (6)(a).

21 (b) "Preferred worker" means a worker who, because of
22 a permanent impairment resulting from a compensable injury or
23 occupational disease, is unable to return to the worker's
24 regular employment.

25 (c) "Merger" describes or means that:

26 1. If the permanent physical impairment had not
27 existed, the subsequent accident or occupational disease would
28 not have occurred;

29 2. The permanent disability or permanent impairment
30 resulting from the subsequent accident or occupational disease
31 is materially and substantially greater than that which would

1 have resulted had the permanent physical impairment not
2 existed, and the employer has been required to pay, and has
3 paid, permanent total disability or permanent impairment
4 benefits for that materially and substantially greater
5 disability;

6 3. The preexisting permanent physical impairment is
7 aggravated or accelerated as a result of the subsequent injury
8 or occupational disease, or the preexisting impairment has
9 contributed, medically and circumstantially, to the need for
10 temporary compensation, medical, or attendant care and the
11 employer has been required to pay, and has paid, temporary
12 compensation, medical, or attendant care benefits for the
13 aggravated preexisting permanent impairment; or

14 4. Death would not have been accelerated if the
15 permanent physical impairment had not existed.

16 (d) "Excess permanent compensation" means that
17 compensation for permanent impairment, or permanent total
18 disability or death benefits, for which the employer or
19 carrier is otherwise entitled to reimbursement from the
20 Special Disability Trust Fund.

21 (e) "Administrator" means the entity selected by the
22 commission to review, allow, deny, compromise, controvert, and
23 litigate claims of the Special Disability Trust Fund.

24 (f) "Corporation" means the Special Disability Trust
25 Fund Financing Corporation, as created under subsection (14).

26 (g) "Commission" means the Special Disability Trust
27 Fund Privatization Commission, as created under subsection
28 (13).

29 (3) DEDUCTIBLE.--Reimbursement may not be obtained for
30 the first \$10,000 of benefits paid which otherwise qualify for
31 reimbursement under this section. This deductible does not

1 apply to claims by employers for reimbursement under
2 subparagraph (b)3.

3 (4) PERMANENT IMPAIRMENT OR PERMANENT TOTAL
4 DISABILITY, TEMPORARY BENEFITS, MEDICAL BENEFITS, OR ATTENDANT
5 CARE AFTER OTHER PHYSICAL IMPAIRMENT.--

6 (a) Permanent impairment.--If an employee who has a
7 preexisting permanent physical impairment incurs a subsequent
8 permanent impairment from injury or occupational disease
9 arising out of, and in the course of, her or his employment
10 which merges with the preexisting permanent physical
11 impairment to cause a permanent impairment, the employer
12 shall, in the first instance, pay all benefits provided by
13 this chapter; but, subject to the limitations specified in
14 subsection (6), such employer shall be reimbursed from the
15 Special Disability Trust Fund created by subsection (8) for 50
16 percent of all impairment benefits which the employer has been
17 required to provide pursuant to s. 440.15(3)(a) as a result of
18 the subsequent accident or occupational disease.

19 (b) Permanent total disability.--If an employee who
20 has a preexisting permanent physical impairment incurs a
21 subsequent permanent impairment from injury or occupational
22 disease arising out of, and in the course of, her or his
23 employment which merges with the preexisting permanent
24 physical impairment to cause permanent total disability, the
25 employer shall, in the first instance, pay all benefits
26 provided by this chapter; but, subject to the limitations
27 specified in subsection (6), such employer shall be reimbursed
28 from the Special Disability Trust Fund created by subsection
29 (8) for 50 percent of all compensation for permanent total
30 disability.

31

1 (c) Temporary compensation and medical benefits;
2 aggravation or acceleration of preexisting condition or
3 circumstantial causation.--If an employee who has a
4 preexisting permanent physical impairment experiences an
5 aggravation or acceleration of the preexisting permanent
6 physical impairment as a result of an injury or occupational
7 disease arising out of and in the course of her or his
8 employment, or suffers an injury as a result of a merger as
9 defined in subparagraph (1)(b)2., the employer shall provide
10 all benefits provided by this chapter, but, subject to the
11 limitations specified in subsection (7), the employer shall be
12 reimbursed by the Special Disability Trust Fund created by
13 subsection (8) for 50 percent of its payments for temporary,
14 medical, and attendant care benefits.

15 (5) WHEN DEATH RESULTS.--If death results from the
16 subsequent permanent impairment contemplated in paragraph (c)
17 within 1 year after the subsequent injury, or within 5 years
18 after the subsequent injury when disability has been
19 continuous since the subsequent injury, and it is determined
20 that the death resulted from a merger, the employer shall, in
21 the first instance, pay the funeral expenses and the death
22 benefits prescribed by this chapter; but, subject to the
23 limitations specified in subsection (6), she or he shall be
24 reimbursed from the Special Disability Trust Fund created by
25 subsection (8) for the last 50 percent of all compensation
26 allowable and paid for such death and for 50 percent of the
27 amount paid as funeral expenses.

28 (6) EMPLOYER KNOWLEDGE, EFFECT ON REIMBURSEMENT.--

29 (a) Reimbursement is not allowed under this section
30 unless it is established that the employer knew of the
31 preexisting permanent physical impairment prior to the

- 1 occurrence of the subsequent injury or occupational disease,
2 and that the permanent physical impairment is one of the
3 following:
- 4 1. Epilepsy.
 - 5 2. Diabetes.
 - 6 3. Cardiac disease.
 - 7 4. Amputation of foot, leg, arm, or hand.
 - 8 5. Total loss of sight of one or both eyes or a
9 partial loss of corrected vision of more than 75 percent
10 bilaterally.
 - 11 6. Residual disability from poliomyelitis.
 - 12 7. Cerebral palsy.
 - 13 8. Multiple sclerosis.
 - 14 9. Parkinson's disease.
 - 15 10. Meniscectomy.
 - 16 11. Patellectomy.
 - 17 12. Ruptured cruciate ligament.
 - 18 13. Hemophilia.
 - 19 14. Chronic osteomyelitis.
 - 20 15. Surgical or spontaneous fusion of a major
21 weight-bearing joint.
 - 22 16. Hyperinsulinism.
 - 23 17. Muscular dystrophy.
 - 24 18. Thrombophlebitis.
 - 25 19. Herniated intervertebral disk.
 - 26 20. Surgical removal of an intervertebral disk or
27 spinal fusion.
 - 28 21. One or more back injuries or a disease process of
29 the back resulting in disability over a total of 120 or more
30 days, if substantiated by a doctor's opinion that there was a
31 preexisting impairment to the claimant's back.

1 22. Total deafness.

2 23. Mental retardation, provided the employee's
3 intelligence quotient is such that she or he falls within the
4 lowest 2 percentile of the general population. However, it
5 shall not be necessary for the employer to know the employee's
6 actual intelligence quotient or actual relative ranking in
7 relation to the intelligence quotient of the general
8 population.

9 24. Any permanent physical condition which, prior to
10 the industrial accident or occupational disease, constitutes a
11 20-percent impairment of a member or of the body as a whole.

12 25. Obesity, provided the employee is 30 percent or
13 more over the average weight designated for her or his height
14 and age in the Table of Average Weight of Americans by Height
15 and Age prepared by the Society of Actuaries using data from
16 the 1979 Build and Blood Pressure Study.

17 26. Any permanent physical impairment as defined in s.
18 440.15(3) which is a result of a prior industrial accident
19 with the same employer or the employer's parent company,
20 subsidiary, sister company, or affiliate located within the
21 geographical boundaries of this state.

22 (b) The Special Disability Trust Fund is not liable
23 for any costs, interest, penalties, or attorneys' fees.

24 (c) An employer's or carrier's right to apportionment
25 or deduction pursuant to ss. 440.02(1), 440.15(5)(b), and
26 440.151(1)(c) does not preclude reimbursement from such fund,
27 except when the merger comes within the definition of
28 subparagraph (2)(b)2. and such apportionment or deduction
29 relieves the employer or carrier from providing the materially
30 and substantially greater permanent disability benefits
31 otherwise contemplated in those paragraphs.

1 (7) REIMBURSEMENT OF EMPLOYER.--

2 (a) The right to reimbursement as provided in this
3 section is barred unless written notice of claim of the right
4 to such reimbursement is filed by the employer or carrier
5 entitled to such reimbursement with the division or
6 administrator at Tallahassee within 2 years after the date the
7 employee last reached maximum medical improvement, or within 2
8 years after the date of the first payment of compensation for
9 permanent total disability, wage loss, or death, whichever is
10 later. The notice of claim must contain such information as
11 the division by rule requires or as established by the
12 administrator; and the employer or carrier claiming
13 reimbursement shall furnish such evidence in support of the
14 claim as the division or administrator reasonably may require.

15 (b) For notice of claims on the Special Disability
16 Trust Fund filed on or after July 1, 1978, the Special
17 Disability Trust Fund shall, within 120 days after receipt of
18 notice that a carrier has paid, been required to pay, or
19 accepted liability for excess compensation, serve notice of
20 the acceptance of the claim for reimbursement.

21 (c) A proof of claim must be filed on each notice of
22 claim on file as of June 30, 1997, within 1 year after July 1,
23 1997, or the right to reimbursement of the claim shall be
24 barred. A notice of claim on file on or before June 30, 1997,
25 may be withdrawn and refiled if, at the time refiled, the
26 notice of claim remains within the limitation period specified
27 in paragraph (a). Such refiled shall not toll, extend, or
28 otherwise alter in any way the limitation period applicable to
29 the withdrawn and subsequently refiled notice of claim. Each
30 proof of claim filed shall be accompanied by a proof-of-claim
31 fee as provided in paragraph (9)(d). The Special Disability

1 Trust Fund shall, within 120 days after receipt of the proof
2 of claim, serve notice of the acceptance of the claim for
3 reimbursement. This paragraph shall apply to all claims
4 notwithstanding the provisions of subsection (12).

5 (d) Each notice of claim filed or refiled on or after
6 July 1, 1997, must be accompanied by a notification fee as
7 provided in paragraph (9)(d). A proof of claim must be filed
8 within 1 year after the date the notice of claim is filed or
9 refiled, accompanied by a proof-of-claim fee as provided in
10 paragraph (9)(d), or the claim shall be barred. The
11 notification fee shall be waived if both the notice of claim
12 and proof of claim are submitted together as a single filing.
13 The Special Disability Trust Fund shall, within 180 days after
14 receipt of the proof of claim, serve notice of the acceptance
15 of the claim for reimbursement. This paragraph shall apply to
16 all claims notwithstanding the provisions of subsection (12).

17 (e) For dates of accident on or after January 1, 1994,
18 the Special Disability Trust Fund shall, within 120 days of
19 receipt of notice that a carrier has been required to pay, and
20 has paid over \$10,000 in benefits, serve notice of the
21 acceptance of the claim for reimbursement. Failure of the
22 Special Disability Trust Fund to serve notice of acceptance
23 shall give rise to the right to request a hearing on the claim
24 for reimbursement. If the Special Disability Trust Fund
25 through its representative denies or controverts the claim,
26 the right to such reimbursement shall be barred unless an
27 application for a hearing thereon is filed with the division
28 or administrator at Tallahassee within 60 days after notice to
29 the employer or carrier of such denial or controversion. When
30 such application for a hearing is timely filed, the claim
31 shall be heard and determined in accordance with the procedure

1 prescribed in s. 440.25, to the extent that such procedure is
2 applicable, and in accordance with the workers' compensation
3 rules of procedure. In such proceeding on a claim for
4 reimbursement, the Special Disability Trust Fund shall be made
5 the party respondent, and no findings of fact made with
6 respect to the claim of the injured employee or the dependents
7 for compensation, including any finding made or order entered
8 pursuant to s. 440.20(12), shall be res judicata. The Special
9 Disability Trust Fund may not be joined or made a party to any
10 controversy or dispute between an employee and the dependents
11 and the employer or between two or more employers or carriers
12 without the written consent of the fund.

13 (f) When it has been determined that an employer or
14 carrier is entitled to reimbursement in any amount, the
15 employer or carrier shall be reimbursed annually from the
16 Special Disability Trust Fund for the compensation and medical
17 benefits paid by the employer or carrier for which the
18 employer or carrier is entitled to reimbursement, upon filing
19 request therefor and submitting evidence of such payment in
20 accordance with rules prescribed by the division, which rules
21 may include parameters for annual audits. The Special
22 Disability Trust Fund shall pay the approved reimbursement
23 requests on a first-in, first-out basis reflecting the order
24 in which the reimbursement requests were received.

25 (8) PREFERRED WORKER PROGRAM.--The division or
26 administrator shall issue identity cards to preferred workers
27 upon request by qualified employees and shall reimburse an
28 employer, from the Special Disability Trust Fund, for the cost
29 of workers' compensation premium related to the preferred
30 workers payroll for up to 3 years of continuous employment
31 upon satisfactory evidence of placement and issuance of

1 payroll and classification records and upon the employee's
2 certification of employment.

3 (9) SPECIAL DISABILITY TRUST FUND.--

4 (a) There is established in the State Treasury a
5 special fund to be known as the "Special Disability Trust
6 Fund," which shall be available only for the purposes stated
7 in this section; and the assets thereof may not at any time be
8 appropriated or diverted to any other use or purpose. The
9 Treasurer shall be the custodian of such fund, and all moneys
10 and securities in such fund shall be held in trust by such
11 Treasurer and shall not be the money or property of the state.
12 The Treasurer is authorized to disburse moneys from such fund
13 only when approved by the division or corporation and upon the
14 order of the Comptroller. The Treasurer shall deposit any
15 moneys paid into such fund into such depository banks as the
16 division or corporation may designate and is authorized to
17 invest any portion of the fund which, in the opinion of the
18 division, is not needed for current requirements, in the same
19 manner and subject to all the provisions of the law with
20 respect to the deposits of state funds by such Treasurer. All
21 interest earned by such portion of the fund as may be invested
22 by the Treasurer shall be collected by her or him and placed
23 to the credit of such fund.

24 (b)1. The Special Disability Trust Fund shall be
25 maintained by annual assessments upon the insurance companies
26 writing compensation insurance in the state, the commercial
27 self-insurers under ss. 624.462 and 624.4621, the assessable
28 mutuals under s. 628.601, and the self-insurers under this
29 chapter, which assessments shall become due and be paid
30 quarterly at the same time and in addition to the assessments
31 provided in s. 440.51. The division shall estimate annually in

1 advance the amount necessary for the administration of this
2 subsection and the maintenance of this fund and shall make
3 such assessment in the manner hereinafter provided.

4 2. The annual assessment shall be calculated to
5 produce during the ensuing fiscal year an amount which, when
6 combined with that part of the balance in the fund on June 30
7 of the current fiscal year which is in excess of \$100,000, is
8 equal to the average of:

9 a. The sum of disbursements from the fund during the
10 immediate past 3 calendar years, and

11 b. Two times the disbursements of the most recent
12 calendar year.

13
14 Such amount shall be prorated among the insurance companies
15 writing compensation insurance in the state and the
16 self-insurers.

17 3. The net premiums written by the companies for
18 workers' compensation in this state and the net premium
19 written applicable to the self-insurers in this state are the
20 basis for computing the amount to be assessed as a percentage
21 of net premiums. Such payments shall be made by each insurance
22 company and self-insurer to the division for the Special
23 Disability Trust Fund in accordance with such regulations as
24 the division prescribes.

25 4. The Treasurer is authorized to receive and credit
26 to such Special Disability Trust Fund any sum or sums that may
27 at any time be contributed to the state by the United States
28 under any Act of Congress, or otherwise, to which the state
29 may be or become entitled by reason of any payments made out
30 of such fund.

31

1 (c) Notwithstanding the Special Disability Trust Fund
2 assessment rate calculated pursuant to this section, the rate
3 assessed shall not exceed 4.52 percent.

4 (d) The Special Disability Trust Fund shall be
5 supplemented by a \$250 notification fee on each notice of
6 claim filed or refiled after July 1, 1997, and a \$500 fee on
7 each proof of claim filed in accordance with subsection (7).
8 Revenues from the fee shall be deposited into the Special
9 Disability Trust Fund and are exempt from the deduction
10 required by s. 215.20. The fees provided in this paragraph
11 shall not be imposed upon any insurer which is in receivership
12 with the Department of Insurance.

13 (e) The Department of Labor and Employment Security or
14 administrator shall report annually on the status of the
15 Special Disability Trust Fund. The report shall update the
16 estimated undiscounted and discounted fund liability, as
17 determined by an independent actuary ~~the projected change in~~
18 ~~fund liability~~, change in the total number of notices of claim
19 on file with the fund in addition to the number of newly filed
20 notices of claim, change in the number of proofs of claim
21 processed by the fund, ~~and~~ the fee revenues refunded and
22 revenues applied to pay down the liability of the fund, the
23 average time required to reimburse accepted claims, and the
24 average administrative costs per claim. The department or
25 administrator shall submit its ~~initial~~ report to the Governor,
26 the President of the Senate, and the Speaker of the House of
27 Representatives ~~by March 1, 1998, for the period ending~~
28 ~~February 1, 1998, with additional reports submitted by~~
29 December 1 of each year, 1998, and December 1, 1999.

30 (10) DIVISION ADMINISTRATION OF FUND; CLAIMS; ADVISORY
31 COMMITTEE; EXPENSES.--The division or administrator shall

1 administer the Special Disability Trust Fund with authority to
2 allow, deny, compromise, controvert, and litigate claims made
3 against it and to designate an attorney to represent it in
4 proceedings involving claims against the fund, including
5 negotiation and consummation of settlements, hearings before
6 judges of compensation claims, and judicial review. The
7 division or administrator or the attorney designated by it
8 shall be given notice of all hearings and proceedings
9 involving the rights or obligations of such fund and shall
10 have authority to make expenditures for such medical
11 examinations, expert witness fees, depositions, transcripts of
12 testimony, and the like as may be necessary to the proper
13 defense of any claim. The division shall appoint an advisory
14 committee composed of representatives of management,
15 compensation insurance carriers, and self-insurers to aid it
16 in formulating policies with respect to conservation of the
17 fund, who shall serve without compensation for such terms as
18 specified by it, but be reimbursed for travel expenses as
19 provided in s. 112.061. All expenditures made in connection
20 with conservation of the fund, including the salary of the
21 attorney designated to represent it and necessary travel
22 expenses, shall be allowed and paid from the Special
23 Disability Trust Fund as provided in this section upon the
24 presentation of itemized vouchers therefor approved by the
25 division.

26 (11) EFFECTIVE DATES.--This section does not apply to
27 any case in which the accident causing the subsequent injury
28 or death or the disablement or death from a subsequent
29 occupational disease occurred prior to July 1, 1955, or on or
30 after January 1, 1998. In no event shall the Special
31 Disability Trust Fund be liable for, or reimburse employers or

1 carriers for, any case in which the accident causing the
2 subsequent injury or death or the disablement or death from a
3 subsequent occupational disease occurred on or after January
4 1, 1998. The Special Disability Trust Fund shall continue to
5 reimburse employers or carriers for subsequent injuries
6 occurring prior to January 1, 1998, and the division shall
7 continue to assess for and the division or administrator shall
8 fund reimbursements as provided in subsection (9) for this
9 purpose.

10 (12) REIMBURSEMENT FROM THE SPECIAL DISABILITY TRUST
11 FUND.--The applicable law for the purposes of determining
12 entitlement to reimbursement from the Special Disability Trust
13 Fund is the law in effect on the date the accident occurred.

14 (13)(a) The Special Disability Trust Fund
15 Privatization Commission is created to evaluate and determine
16 the feasibility of privatizing the Special Disability Trust
17 Fund. The commission shall determine the liabilities of the
18 fund and the costs to presently administer the Special
19 Disability Trust Fund. The commission may develop and issue a
20 request for proposal to transfer the liabilities of the
21 Special Disability Trust Fund to a qualified entity. The
22 commission is authorized to select and contract with a
23 qualified entity, only if the commission determines that such
24 an arrangement would substantially reduce the costs and be
25 more effective than the current administration of the Special
26 Disability Trust Fund. The commission may adopt rules
27 necessary for the performance of its assigned duties and
28 responsibilities.

29 (b) Consistent with the closing of the fund provided
30 in subsection (11), the Special Disability Trust Fund
31 Privatization Commission is authorized to contract with an

1 administrator to review, allow, deny, compromise, controvert,
2 and litigate claims of the Special Disability Trust Fund under
3 this section. The Commission, in consultation with the
4 division, is authorized to contract with a qualified entity to
5 assume the reimbursement obligations of the Special Disability
6 Trust Fund for claims which have previously have accepted for
7 reimbursement by the Special Disability Trust Fund and claims
8 which are determined to be reimbursable by the Special
9 Disability Trust Fund. The qualified entity and the
10 administrator shall not be affiliates of the other, and shall
11 not establish or maintain a financial or contractual agreement
12 with each other for purposes of this section. On or before
13 July 1, 1999, the commission, in consultation with the
14 division, may develop and issue a request for proposal for the
15 transfer and assumption of liabilities, and administration of
16 certain functions related to claims of the Special Disability
17 Trust Fund. The administrator shall have experience in
18 workers' compensation claims management of sufficient scope
19 and size to undertake the duties and responsibilities of this
20 section and shall demonstrate the ability to meet the criteria
21 established by the commission, which shall include the ability
22 to substantially reduce the overall costs of reviewing and
23 reimbursing claims, and to settle and extinguish the
24 liabilities of the Special Disability Trust Fund in a more
25 cost efficient and more timely manner than presently provided
26 by the division. In the event liabilities on the Special
27 Disabilities Trust Fund are transferred to and assumed by a
28 qualified entity, such entity shall provide the state with
29 financial assurance as to the satisfaction of any such
30 liabilities or claims and the state and the Special Disability
31 Trust Fund shall have no further liability with respect to

1 those liabilities and claims. The financial assurances may
2 include, but are not limited to, cash reserves, reinsurance,
3 guarantees, or letters of credit.

4 (c) The commission shall be composed of three members,
5 one member selected by the Governor; one selected by the
6 Insurance Commissioner; and one selected by the Comptroller.

7 (d) The commission is authorized to appoint and employ
8 such officers, agents, and employees as the commission deems
9 advisable to operate and manage the affairs of the commission,
10 which officers, agents, and employees may be employees of the
11 division or the State Board of Administration. The commission
12 shall contract with consultants deemed necessary to determine
13 the liabilities of the Special Disability Trust Fund, as of
14 December 31, 1998, and the feasibility of privatizing the
15 Special Disability Trust Fund.

16 (14) Florida Special Disability Trust Fund Financing
17 Corporation.--

18 (a) The Legislature finds that:

19 1. The liabilities of the Special Disability Trust
20 Fund are substantial and that the extinguishment of these
21 liabilities in a cost effective and timely manner are of
22 paramount importance to the state. In connection therewith, in
23 the event that the commission determines that it is more cost
24 effective and in the best interest of the Special Disabilities
25 Trust Fund and the state to finance the liabilities of the
26 Special Disabilities Trust Fund through the issuance of bonds,
27 notes or other evidence of indebtedness, it shall request the
28 assistance of the corporation to issue such bonds, notes or
29 other evidences of indebtedness.

30 2. The Legislature finds that the creation of a public
31 benefits corporation and the issuance of bonds or other forms

1 of indebtedness under this section is consistent with the
2 underlying public purpose of reducing and ultimately
3 eliminating the liabilities of the Special Disability Trust
4 Fund. The purpose of the corporation and the subsequent bond
5 issuance is to fund and pay the liabilities of the Special
6 Disability Trust Fund, ensure the existence of a sufficient
7 funding source for reimbursements to employers and carriers,
8 and reduce the overall costs of the program provided by the
9 state by employers and carriers.

10 (b) In the event the commission determines that it is
11 more cost effective and in the best interest of the Special
12 Disability Trust Fund, the state, insurers, and employers to
13 finance the liabilities of the Special Disability Trust Fund
14 through the issuance of bonds, notes, or other evidences of
15 indebtedness, there is created a public benefits corporation
16 to be known as the Special Disability Trust Fund Financing
17 Corporation.

18 1. The corporation shall operate under a three-member
19 board of directors consisting of the Governor or a designee,
20 the Treasurer or a designee, and the Comptroller or a
21 designee.

22 2. The corporation has all of the powers of
23 corporations under chapter 607 and under chapter 617.

24 3. The corporation may issue bonds, notes, or other
25 evidences of indebtedness and engage in such other financial
26 transactions as are necessary to provide sufficient funds to
27 achieve the purposes of this section.

28 4. The corporation may invest in any of the
29 investments authorized under s. 215.47.

30 5. There shall be no liability on the part of, and no
31 cause of action shall arise against, any board members or

1 employees of the corporation or the state for any actions
2 taken by them in the performance of their duties under this
3 paragraph.

4 6. The corporation may appoint and employ such
5 officers, agents, and employees as the corporation deems
6 advisable to operate and manage the affairs of the
7 corporation, which officers, agents, and employees may be
8 employees of the division or the State Board of
9 Administration. The administrative costs and fees incurred by
10 the corporation, and employee salaries, shall be paid from
11 bond revenues. The corporation and the division shall have
12 the power to contract with each other for expenses incurred in
13 connection with the transfer, assumption, and settlement of
14 liabilities of the Special Disability Trust Fund.

15 7. In addition to bonding, the corporation may also
16 borrow from, or enter into other financing arrangements with,
17 any market sources at interest rates not exceeding prevailing
18 interest rates.

19 (c)1. The proceeds of revenue bonds issued by this
20 corporation may be used to pay obligations of the Special
21 Disability Trust Fund made pursuant to this section; to
22 finance or replace previously existing borrowings or financial
23 arrangements; to pay interest on bonds; to fund reserves for
24 the bonds; to pay expenses incident to the issuance or sale of
25 any bonds issued under this subsection, or for such other
26 purposes related to the financial obligations of the Special
27 Disability Trust Fund as the corporation may determine. The
28 corporation may pledge all or a portion of the revenues
29 collected under subsection (9) to secure such revenue bonds,
30 and may execute such agreements between the corporation and
31

1 the division, necessary or desirable in connection with the
2 issuance of any revenue bonds.

3 2. The corporation may contract with the State Board
4 of Administration to serve as trustee with respect to debt
5 obligations issued by the corporation as provided by this
6 section and to hold, administer, and invest proceeds of such
7 debt obligations and other funds of the corporation. The State
8 Board of Administration may perform such services and may
9 contract with others to provide all or a part of such services
10 and to recover the costs and expenses of providing such
11 services. The investment of proceeds of debt obligations or
12 other funds of the corporation and contracts of funds held in
13 trust by the State Board of Administration, whether directly
14 or indirectly related to the investments or contracts, are
15 exempt from the provisions of chapter 287.

16 (d)1. Revenue bonds may not be issued under this
17 subsection until validated under chapter 75. In any suit,
18 action, or proceeding involving the validity or enforceability
19 of any bond issued under this subsection, or the security
20 therefor, any such bond reciting in substance that it has been
21 issued by the corporation in connection with any purpose of
22 this section shall be conclusively deemed to have been carried
23 out in accordance with the mandates herein. In actions under
24 chapter 75 to validate any bonds issued by the corporation,
25 the notice required by s. 75.06 shall be published only in
26 Leon County and in two newspapers of general circulation in
27 the state, and the complaint and order of the court shall be
28 served only on the State Attorney of the Second Judicial
29 Circuit. The validation of at least the first obligations
30 incurred pursuant to this subsection shall be appealed to the
31 Supreme Court, to be handled on an expedited basis.

1 2. The state hereby covenants with holders of bonds of
2 the corporation that the state will not repeal or abrogate the
3 power of the division to levy the assessments and to collect
4 the proceeds of the revenues pledged to the payment of such
5 bonds as long as any such bonds remain outstanding unless
6 adequate provision has been made for the payment of such bonds
7 pursuant to the documents authorizing the issuance of such
8 bonds.

9 3. The corporation and its corporate existence shall
10 continue until terminated by law; however, no such law shall
11 take effect as long as the corporation has bonds outstanding
12 unless adequate provision has been made for the payment of
13 such bonds pursuant to the documents authorizing the issuance
14 of such bonds. Upon termination of the existence of the
15 corporation, all of its rights and properties in excess of its
16 obligations shall pass to and be vested in the state.

17 (e)1. The funds, credit, property, or taxing power of
18 the state or political subdivisions of the state shall not be
19 pledged for the payment of such bonds. The bonds of the
20 corporation are not a debt of the state or of any political
21 subdivision, and neither the state nor any political
22 subdivision is liable on such bonds. The corporation does not
23 have the power to pledge the credit, the revenues, or the
24 taxing power of the state or of any political subdivision. The
25 credit, revenues, or taxing power of the state or of any
26 political subdivision shall not be deemed to be pledged to the
27 payment of any bonds of the corporation. However, bonds issued
28 under this subsection are declared to be for an essential
29 public and governmental purpose.

30 2. The property, revenues, and other assets of the
31 corporation; the transactions and operations of the

1 corporation and the income from such transactions and
2 operations; and all bonds issued under this paragraph and the
3 interest on such bonds, which is exempt from income taxes of
4 the United States, are exempt from taxation by the state and
5 any political subdivision, including, but not limited to, the
6 intangibles tax under chapter 199, the income tax under
7 chapter 220, and the premium tax under the Florida Insurance
8 Code. This exemption does not apply to any tax imposed by
9 chapter 220 on interest income or profits on debt obligations
10 owned by corporations other than the Special Disability Trust
11 Fund Financing Corporation. The corporation is not subject to
12 the reporting requirements mandated by the Florida Insurance
13 Code.

14 (f) All bonds of the corporation shall be and
15 constitute legal investments without limitation for all public
16 bodies of this state; for all banks, trust companies, savings
17 banks, savings associations, savings and loan associations,
18 and investment companies; for all administrators, executors,
19 trustees, and other fiduciaries; for all insurance companies
20 and associations and other persons carrying on an insurance
21 business; and for all other persons who are now or may
22 hereafter be authorized to invest in bonds or other
23 obligations of the state and shall be and constitute eligible
24 securities to be deposited as collateral for the security of
25 any state, county, municipal, or other public funds. This
26 paragraph shall be considered as additional and supplemental
27 authority and shall not be limited without specific reference
28 to this paragraph.

29 (g) In the event the commission selects a qualified
30 entity to assume all or some of the liabilities of the Special
31 Disability Trust Fund, all or any portion of the monetary

1 assets and claims liabilities held in and accruing to the
2 Special Disability Trust Fund may, with the agreement of the
3 corporation or the administrator, be transferred to and fully
4 assumed by the corporation or the qualified entity. As
5 provided in an agreement with the corporation or the qualified
6 entity, subsequent assessments under subsection (9) shall be
7 collected by the division, deposited into the Special
8 Disability Trust Fund, and used exclusively for the debt
9 service of the bonds issued by the corporation, the payment of
10 outstanding liabilities of the Special Disability Trust Fund
11 not assumed by the corporation or the qualified entity, and
12 expenses of the corporation.

13 (h) The administrator is prohibited from reviewing,
14 auditing, litigating, reimbursing, or settling any pending or
15 future claim or liability of its affiliates or subsidiaries.
16 The administrator is required to subcontract the
17 responsibility of reviewing, auditing, litigating,
18 reimbursing, or settling such a claim or liability.

19 (i) The Auditor General is authorized to examine and
20 audit the records and accounts of the corporation.

21 Section 85. There is hereby appropriated \$200,000 from
22 the Special Disability Trust Fund to the Special Disability
23 Trust Fund Privatization Commission to implement this act.

24 Section 86. Paragraph (e) of subsection (4) of section
25 215.555, Florida Statutes, is amended to read:

26 215.555 Florida Hurricane Catastrophe Fund.--

27 (4) REIMBURSEMENT CONTRACTS.--

28 (e)1. Except as provided in subparagraphs 2. and 3.,
29 the contract shall provide that if an insurer demonstrates to
30 the board that it is likely to qualify for reimbursement under
31 the contract, and demonstrates to the board that the immediate

1 receipt of moneys from the board is likely to prevent the
2 insurer from becoming insolvent, the board shall advance the
3 insurer, at market interest rates, the amounts necessary to
4 maintain the solvency of the insurer, up to 50 percent of the
5 board's estimate of the reimbursement due the insurer. The
6 insurer's reimbursement shall be reduced by an amount equal to
7 the amount of the loan and interest thereon.

8 2. With respect only to an entity created under s.
9 627.351, the contract shall also provide that the board may,
10 upon application by such entity, advance to such entity, at
11 market interest rates, up to 90 percent of the lesser of:

12 a. The board's estimate of the amount of reimbursement
13 due to such entity; or

14 b. The entity's share of the actual reimbursement
15 premium paid for that contract year, multiplied by the
16 currently available liquid assets of the fund. In order for
17 the entity to qualify for an advance under this subparagraph,
18 the entity must demonstrate to the board that the advance is
19 essential to allow the entity to pay claims for a covered
20 event and the board must determine that the fund's assets are
21 sufficient and are sufficiently liquid to allow the board to
22 make an advance to the entity and still fulfill the board's
23 reimbursement obligations to other insurers. The entity's
24 final reimbursement for any contract year in which an advance
25 has been made under this subparagraph must be reduced by an
26 amount equal to the amount of the advance and any interest on
27 such advance. In order to determine what amounts, if any, are
28 due the entity, the board may require the entity to report its
29 exposure and its losses at any time to determine retention
30 levels and reimbursements payable.

31

1 3. The contract shall also provide specifically and
2 solely with respect to any limited apportionment company under
3 s. 627.351(2)(b)3. that the board may, upon application by
4 such company, advance to such company the amount of the
5 estimated reimbursement payable to such company as calculated
6 pursuant to paragraph (d), up to the lesser of:

7 a. ~~Ninety percent of the board's estimate of the~~
8 ~~reimbursement due to such company, or~~

9 b. ~~Ninety percent of the company's share of the total~~
10 ~~fund premiums applied to the board's currently available~~
11 ~~liquid assets,~~

12
13 at market rates, ~~if the company demonstrates to the board that~~
14 ~~the immediate receipt of such moneys is essential to permit it~~
15 ~~to pay claims for a covered event and if the board determines~~
16 ~~that the fund's assets are sufficient and are sufficiently~~
17 ~~liquid to permit the board to make an advance to such company~~
18 ~~and at the same time fulfill its reimbursement obligations to~~
19 ~~the insurers that are participants in the fund. Such~~
20 ~~company's final reimbursement for any contract year in which~~
21 ~~an advance pursuant to this subparagraph has been made shall~~
22 ~~be reduced by an amount equal to the amount of the advance and~~
23 ~~interest thereon. In order to determine what amounts, if any,~~
24 ~~are due to such company, the board may require such company to~~
25 ~~report its exposure and its losses at such times as may be~~
26 ~~required to determine retention levels and loss reimbursements~~
27 ~~payable.~~

28 Section 87. Paragraph (f) of subsection (2) of section
29 624.316, Florida Statutes, is amended to read:

30 624.316 Examination of insurers.--

31 (2)

1 (f)1.a. An examination under this section must be
2 conducted at least once every year with respect to a domestic
3 insurer that has continuously held a certificate of authority
4 for less than 3 years. The examination must cover the
5 preceding fiscal year or the period since the last examination
6 of the insurer. The department may limit the scope of the
7 examination ~~if the insurer has demonstrated sufficient~~
8 ~~compliance as determined under subparagraph 3.~~

9 b. The department may not accept an independent
10 certified public accountant's audit report in lieu of an
11 examination required by this subparagraph.

12 c. An insurer may not be required to pay more than
13 \$25,000 to cover the costs of any one examination under this
14 subparagraph.

15 2. An examination under this section must be conducted
16 not less frequently than once every 5 years with respect to an
17 insurer that has continuously held a certificate of authority,
18 without a change in ownership subject to s. 624.4245 or s.
19 628.461, for more than 15 years ~~and has demonstrated~~
20 ~~sufficient compliance as determined under subparagraph 3.~~ The
21 examination must cover the preceding 5 fiscal years of the
22 insurer or the period since the last examination of the
23 insurer. This subparagraph does not limit the ability of the
24 department to conduct more frequent examinations.

25 ~~3. The department must, by rule, adopt procedures and~~
26 ~~criteria for determining if an insurer has demonstrated~~
27 ~~sufficient compliance with this code and cooperation with the~~
28 ~~department. The rules must include consideration of such~~
29 ~~factors as financial strength, timeliness, consumer service,~~
30 ~~economic and community contributions and support,~~
31 ~~responsiveness to department requests, and any other relevant~~

1 ~~factors. The department must annually publish and disseminate~~
2 ~~a listing of those insurers found to demonstrate sufficient~~
3 ~~compliance under the rules, including special recognition for~~
4 ~~community contributions and support.~~

5 Section 88. Subsection (4) is added to section
6 624.426, Florida Statutes, to read:

7 624.426 Exceptions to resident agent and
8 countersignature law.--Section 624.425 does not apply to:

9 (4) Policies of insurance issued by insurers whose
10 agents represent only one company or group of companies under
11 common ownership if a company within one group is transferring
12 policies to another company within the same group and the
13 agent of record remains the same.

14 Section 89. Subsections (1)-(12) of section 624.610,
15 Florida Statutes, are renumbered as subsections (2)-(13) of
16 said section, respectively, new subsection (1) is added to
17 said section, and renumbered subsection (2) of said section is
18 amended, to read:

19 624.610 Reinsurance.--

20 (1) The purpose of this section is to protect the
21 interests of insureds, claimants, ceding insurers, assuming
22 insurers, and the public. It is the intent of the Legislature
23 to ensure adequate regulation of insurers and reinsurers and
24 adequate protection for those to whom they owe obligations.
25 In furtherance of that state interest, the Legislature
26 requires that upon the insolvency of a non-United States
27 insurer or reinsurer which provides security to fund its
28 United States obligations in accordance with this section,
29 such security shall be maintained in the United States and
30 claims shall be filed with and valued by the State Insurance
31 Commissioner with regulatory oversight, and the assets shall

1 be distributed in accordance with the insurance laws of the
2 state in which the trust is domiciled that are applicable to
3 the liquidation of domestic United States insurance companies.
4 The Legislature declares that the matters contained in this
5 section are fundamental to the business of insurance in
6 accordance with 15 U.S.C. ss. 1011-1012.

7 (3)(2)

8 (b) Credit in accounting and financial statements on
9 account of reinsurance ceded to a nonapproved reinsurer may be
10 allowed only:

11 1. When it is demonstrated by the ceding insurer to
12 the satisfaction of the department that such reinsurer
13 maintains the standards and meets the financial requirements
14 applicable to an authorized insurer;

15 2. To the extent of deposits by, or funds withheld
16 from, such reinsurer pursuant to express provision therefor in
17 the reinsurance contract as security for the payment of the
18 obligations thereunder if such deposits or funds are held
19 subject to withdrawal by, and under the control of, the ceding
20 insurer or such deposits or funds are placed in trust for such
21 purposes in a bank which is a member of the Federal Reserve
22 System if withdrawals from the trust cannot be made without
23 the consent of the ceding insurer. The funds withheld may be
24 cash or securities which are qualified as admitted assets
25 under part II of chapter 625 and which have a market value
26 equal to or greater than the credit taken; or

27 3. To the extent that the amount of a clean,
28 unconditional, evergreen, and irrevocable letter of credit,
29 issued for a term of not less than 1 year and in conformity
30 with the requirements set forth in this subparagraph, equals
31 or exceeds the liability of an unauthorized or unapproved

1 reinsurer for unearned premiums, outstanding losses, and an
2 adequate reserve for incurred but not reported losses under a
3 specific reinsurance agreement. The requirements are that such
4 a clean and irrevocable letter of credit be issued under
5 arrangements satisfactory to the department as constituting
6 security to the ceding insurer substantially equal to that of
7 a deposit under subparagraph 2. and that the letter be issued
8 by a banking institution which is a member of the Federal
9 Reserve System and which has financial standing satisfactory
10 to the commissioner. The department may adopt rules requiring
11 that the letter adhere in its wording to a format for letters
12 of credit as the format has been or may be adopted or approved
13 by the National Association of Insurance Commissioners.

14 4. When the reinsurance is ceded to a reinsurer which
15 maintains a trust fund, in a bank or trust company that is
16 subject to supervision by any state of the United States or
17 that is a member of the Federal Reserve System, for the
18 payment of the valid claims for business written in the United
19 States. The trust shall consist of a trusteed account in an
20 amount not less than the reinsurer's liabilities attributable
21 to reinsurance by ceding insurers for business written in the
22 United States and, in addition, the reinsurer shall maintain a
23 trusteed surplus of not less than \$20 million. Such trust
24 shall be established in a form approved, and any amendments to
25 the trust approved, by the insurance commissioner where the
26 trust is domiciled, or the insurance commissioner of another
27 state who, pursuant to the terms of the trust agreement, has
28 accepted principal regulatory oversight of the trust. The
29 trust shall remain in effect for as long as the reinsurer has
30 outstanding obligations due under the reinsurance agreements
31 subject to the trust. The trust assets must be in cash or

1 securities which are qualified as admitted assets under part
2 II of chapter 625 and which have a market value of the
3 required liabilities and trusteed surplus. The reinsurer shall
4 report quarterly to the insurance commissioner information
5 substantially the same as that required to be reported on the
6 National Association of Insurance Commissioners Annual
7 Statement form by licensed insurers to enable the insurance
8 commissioner to determine the sufficiency of the trust fund.
9 The trust and the reinsurer shall be subject to examination as
10 determined by the commissioner.

11 5. The credit permitted by subparagraph(a)4. and the
12 credit permitted by subparagraph(b)2. shall not be allowed
13 unless the assuming insurer in substance agrees in the trust
14 agreement to the following conditions:

15 a. Notwithstanding any other provisions in the trust
16 instrument, if the trust fund is inadequate because it
17 contains an amount less than the amount required by the
18 department or, if the grantor of the trust has been declared
19 insolvent or placed into receivership, rehabilitation,
20 liquidation, or similar proceedings under the laws of its
21 state or country of domicile, the trustee shall comply with an
22 order of the commissioner ~~superintendent~~ with regulatory
23 oversight over the trust or with an order of a court of
24 competent jurisdiction directing the trustee to transfer to
25 the commissioner ~~superintendent~~ with regulatory oversight all
26 of the assets of United States trust beneficiaries.

27 b. The assets shall be distributed by, and claims of
28 United States trust beneficiaries shall be filed with and
29 valued by, the commissioner ~~superintendent~~ with regulatory
30 oversight in accordance with the laws of the state in which
31

1 the trust is domiciled that are applicable to the liquidation
2 of domestic insurance companies.

3 c. If the commissioner ~~superintendent~~ with regulatory
4 oversight determines that the assets of the trust fund or any
5 part thereof are not necessary to satisfy the claims for
6 business written in the United States, the assets or any part
7 thereof shall be returned by the commissioner ~~superintendent~~
8 with regulatory oversight to the trustee for distribution in
9 accordance with the trust agreement.

10 d. The grantor shall waive any right otherwise
11 available to it under United States law that is inconsistent
12 with this provision.

13 (c) For the purposes of this subsection only, the term
14 "ceding insurer" shall include any health maintenance
15 organization operating under a certificate of authority issued
16 under part I of chapter 641.

17 Section 90. Paragraph (a) of subsection (2) of section
18 627.7275, Florida Statutes, is amended to read:

19 627.7275 Motor vehicle property damage liability.--

20 (2)(a) Insurers writing motor vehicle insurance in
21 this state shall make available, subject to the insurers'
22 usual underwriting restrictions, coverage under policies as
23 described in subsection (1) of this section to any applicant
24 for private passenger motor vehicle insurance coverage who is
25 seeking the coverage in order to reinstate the applicant's
26 driving privileges in this state when the driving privileges
27 were revoked or suspended pursuant to s. 316.646 or s. 627.733
28 due to the failure of the applicant to maintain required
29 security. The policy shall be issued for a period of at least
30 6 months and as to the minimum coverages required under this
31 section shall not be cancelable by the insured for any reason

1 or by the insurer after a period not to exceed 30 days during
2 which the insurer must complete underwriting of the policy.
3 After the insurer has completed underwriting the policy within
4 the 30-day period, the insurer shall notify the Department of
5 Highway Safety and Motor Vehicles that the policy is in full
6 force and effect and the policy shall not be cancelable for
7 the remainder of the policy period. A premium shall be
8 collected and coverage shall be in effect for the 30-day
9 period during which the insurer is completing the underwriting
10 of the policy whether or not the person's driver license,
11 motor vehicle tag, and motor vehicle registration are in
12 effect. Once the noncancelable provisions of the policy
13 become effective, the coverage or risk shall not be changed
14 during the policy period and the premium shall be
15 nonrefundable fully earned. If, during the pendency of the
16 2-year proof of insurance period required under s. 627.733(7),
17 the insured obtains additional coverage or coverage for an
18 additional risk or changes territories, the insured ~~then she~~
19 ~~or he~~ must obtain a new 6-month noncancelable policy in
20 accordance with the provisions of this section. However, if
21 the insured must obtain a new 6-month policy and obtains the
22 policy from the same insurer, the policyholder shall receive
23 credit on the new policy for any premium paid on the
24 previously issued policy.

25 Section 91. Subsections (1) and (2) of section
26 627.9126, Florida Statutes, are amended to read:

27 627.9126 Annual reports of information by liability
28 insurers required.--

29 (1) Each insurer transacting commercial multiperil,
30 products liability, commercial automobile liability, private
31 passenger automobile liability, or other line of liability

1 insurance shall maintain information as specified in this
2 section. Such information shall be maintained for each line of
3 insurance and for direct Florida business only. The department
4 ~~may~~ ~~shall~~ ~~annually~~ conduct a sampling of claims or actions for
5 damages for personal injury or property damage claimed to have
6 been caused by error, omission, or negligence of insureds if
7 the claim resulted in:

8 (a) A final judgment in any amount.

9 (b) A settlement in any amount.

10 (c) A final disposition not resulting in payment on
11 behalf of the insured.

12 (2) Upon request of the department, an insurer shall,
13 within 60 days, submit to the department a report ~~that~~ ~~which~~
14 contains:

15 (a) A final judgment in any amount.

16 (b) A settlement in any amount.

17 (c) A final disposition not resulting in payment on
18 behalf of the insured.

19 Section 92. Section 627.913, Florida Statutes, is
20 amended to read:

21 627.913 Reports of information by products liability
22 insurers required.--

23 ~~(1)~~ The department may require any insurer authorized
24 to write a policy of products liability insurance in the state
25 to ~~shall~~ transmit the following information, based on its
26 statewide products liability insurance writings. Upon the
27 request of, to the department, an ~~each year in the annual~~
28 ~~report of such~~ insurer shall, within 60 days, submit to the
29 department a report that contains:

30 (1)~~(a)~~ Premiums written;

31 (2)~~(b)~~ Premiums earned;

- 1 (3)~~(c)~~ Unearned premiums;
- 2 (4)~~(d)~~ The dollar amount of claims paid;
- 3 (5)~~(e)~~ Incurred claims, not including claims incurred
4 but not reported;
- 5 (6)~~(f)~~ Claims closed without payment, and the amount
6 reserved for such claims;
- 7 (7)~~(g)~~ Loss reserves for all claims except claims
8 incurred but not reported;
- 9 (8)~~(h)~~ Reserves for claims incurred but not reported;
- 10 (9)~~(i)~~ Losses paid as a percentage of the amount
11 reserved for such losses;
- 12 (10)~~(j)~~ Net investment gain or loss and other income
13 gain or loss allocated to products liability lines according
14 to the allocation formula used in the annual insurance expense
15 exhibit;
- 16 (11)~~(k)~~ Underwriting income or loss;
- 17 (12)~~(l)~~ Actual expenses in detail, including, but not
18 limited to, loss adjustment expense; commissions; general
19 expense; and advertising, home office, and defense costs;
- 20 (13)~~(m)~~ Claims settled after a suit was filed;
- 21 (14)~~(n)~~ Claims paid based on a judgment; and
- 22 (15)~~(o)~~ Judgments appealed by the insurer, together
23 with the total results of such appeals.
- 24 ~~(2) The department shall provide a summary of~~
25 ~~information provided pursuant to subsection (1) in its annual~~
26 ~~report.~~
- 27 ~~(3) In the first year that an insurer makes a report~~
28 ~~pursuant to subsection (1), the insurer shall provide only the~~
29 ~~information required by paragraphs (a) through (l) of~~
30 ~~subsection (1) and shall provide such information for the~~
31 ~~current year and the 3 previous years.~~

1 Section 93. Section 624.22, Florida Statutes, is
2 repealed.

3 Section 94. Sections 626.532 and 626.857, Florida
4 Statutes, are repealed.

5 Section 95. Section 627.192, Florida Statutes, is
6 created to read:

7 627.192 Workers' compensation insurance; employee
8 leasing arrangements.--

9 (1) The purpose of this section is to ensure that an
10 employer who leases some or all of its workers properly
11 obtains workers' compensation insurance coverage for all of
12 its employees, including those leased from or coemployed with
13 another entity, and that premium paid by an employee leasing
14 company is commensurate with exposure and anticipated claim
15 experience for all employees.

16 (2) For purposes of the Florida Insurance Code:

17 (a) "Employee leasing" shall have the same meaning as
18 set forth in s. 468.520(4).

19 (b) "Experience rating modification" means a factor
20 applied to a premium to reflect a risk's variation from the
21 average risk. The experience modification is determined by
22 comparing actual losses to expected losses, using the risk's
23 own past experience.

24 (c) "Leased employee" means a person performing
25 services for a lessee under an employee leasing arrangement.

26 (d) "Lessee" means an entity which obtains all or part
27 of its workforce from another entity through an employee
28 leasing arrangement or which employs the services of an entity
29 through an employee leasing arrangement.

30 (e) "Lessor" means an employee leasing company, as set
31 forth in part XI of chapter 468, engaged in the business of or

1 holding itself out as being in the business of employee
2 leasing. A lessor may also be referred to as an employee
3 leasing company.

4 (f) "Premium subject to dispute" means that the
5 insured has provided a written notice of dispute to the
6 insurer or service carrier, has initiated any applicable
7 proceeding for resolving such disputes as prescribed by law or
8 rating organization procedures approved by the department, or
9 has initiated litigation regarding the premium dispute. The
10 insured must have detailed the specific areas of dispute and
11 provided an estimate of the premium the insured believes to be
12 correct. The insured must have paid any undisputed portion of
13 the bill.

14 (3) A lessor that obtains coverage in the voluntary
15 workers' compensation market may elect, with the voluntary
16 market insurer's knowledge and consent, to secure the coverage
17 on leased employees through a workers' compensation policy
18 issued to the lessor. The insurer of the lessor may, in its
19 discretion, take all reasonable steps to ascertain exposure
20 under the policy and collect the appropriate premium by:

21 (a) Requiring the lessor to provide a complete
22 description of lessor's operations.

23 (b) Requiring periodic reporting by the lessor of
24 covered lessees' payroll, classifications, claims information,
25 loss data, and jurisdictions with exposure. This reporting may
26 be supplemented by a requirement for lessees to submit to the
27 carrier Internal Revenue Service Form 941 or its equivalent on
28 a quarterly basis.

29 (c) Auditing the lessor's operations.

30 (d) Using other reasonable measures to determine the
31 appropriate premium.

1 (4) A lessor that applies for coverage or is covered
2 through the voluntary market shall also maintain and furnish
3 to the insurer on an annual basis, and as the insurer may
4 otherwise reasonably require, sufficient information to permit
5 the calculation of an experience modification factor for each
6 lessee upon termination of the employee leasing relationship.
7 Information accruing during the term of the leasing
8 arrangement which is used to calculate an experience
9 modification factor for a lessee upon termination of the
10 leasing relationship shall continue to be used in the future
11 experience ratings of the lessor. Such information shall
12 include:
13 (a) The lessee's corporate name.
14 (b) The lessee's taxpayer or employer identification
15 number.
16 (c) Payroll summaries and class codes applicable to
17 each lessee, and, if requested by the insurer, a listing of
18 all leased employees associated with a given lessee.
19 (d) Claims information grouped by lessee, and any
20 other information maintained by or readily available to the
21 lessor that is necessary for the calculation of an experience
22 modification factor for each lessee.
23 (5) In addition to any other provision of law, any
24 material violation of this section by an employee leasing
25 company is grounds for cancellation or nonrenewal of the
26 lessor's insurance policy provided that the employee leasing
27 company has been provided a reasonable opportunity to cure the
28 violation. If an employee leasing company has received notice
29 that its workers' compensation insurance policy will be
30 canceled or nonrenewed, the leasing company shall notify by
31 certified mail, within 15 days after receipt of the notice,

1 all of the lessees for which there is an employee leasing
2 arrangement covered under the policy to be canceled, except
3 notice is not required if the employee leasing company has
4 obtained another insurance policy with an effective date that
5 is the same as the date of cancellation or nonrenewal.

6 (6) If the employee leasing arrangement with a lessee
7 is terminated, the lessee shall be assigned an experience
8 modification factor which reflects its experience during the
9 experience period specified by the approved experience rating
10 plan, including, if applicable, experience incurred for leased
11 employees under the employee leasing arrangements. The
12 employee leasing company shall notify the insurer of its
13 intent to terminate any lessee relationship prior to
14 termination when feasible. When prior notice is not feasible,
15 the employee leasing company shall notify its insurer within 5
16 working days following actual termination.

17 (7) This section shall not have any effect on the
18 statutory obligation, if any, of a lessee to secure workers'
19 compensation coverage for employees that the lessee does not
20 coemploy or lease pursuant to an employee leasing arrangement.

21 (8) A lessee shall not enter into an employee leasing
22 relationship or be eligible for workers' compensation coverage
23 in the voluntary market if the lessee owes its current or a
24 prior insurer any premium for workers' compensation insurance,
25 or if the lessee owes its current or prior employee leasing
26 company amounts due under the service agreement, except for
27 premium or amounts due that are subject to dispute. For the
28 purposes of this section and compliance with other laws and
29 regulations, a lessor may rely on a sworn statement by the
30 lessee that the lessee has met any and all prior premium or

31

1 fee obligations, unless the lessor has actual knowledge to the
2 contrary.

3 (9) Insurers shall conduct annual audits of payroll
4 and classifications of employee leasing companies in order to
5 ensure that the appropriate premium is charged for workers'
6 compensation coverage. The audits shall be conducted to ensure
7 that all sources of payment by lessors to employees,
8 subcontractors, and independent contractors have been reviewed
9 and the accuracy of classifications of employees have been
10 verified. Insurers may provide for more frequent audits of
11 lessors based on such factors as amount of premium, type of
12 business, loss ratios, or other relevant factors. Payroll and
13 classification verification audit rules of insurers must
14 include, but need not be limited to, use by the insurer of
15 state and federal reports of employee income, payroll and
16 other accounting records, certificates of insurance maintained
17 by subcontractors, and duties of employees.

18 (10) If a lessor or a lessee fails to provide
19 reasonable access to payroll and classification records for a
20 payroll and classification audit, the insured shall pay a
21 premium to the insurer not to exceed three times the most
22 recent estimated annual premium. However, the lessor is not
23 subject to such penalty if the failure to obtain the needed
24 records is the direct result of the acts or omissions of the
25 lessee.

26 (11) This section shall take effect July 1, 1998, and
27 shall apply to any workers' compensation insurance policy
28 issued to or renewed with an employee leasing company on or
29 after October 1, 1998.

30 Section 96. Except as otherwise provided herein, this
31 act shall take effect October 1, 1998.