

By the Committee on Financial Services and Representative
Rayson

1 A bill to be entitled
2 An act relating to insurance; creating s.
3 624.4072, F.S.; exempting minority-owned
4 property and casualty insurers from prescribed
5 taxes and assessments for specified period;
6 specifying conditions; amending s. 624.412,
7 F.S.; deleting provisions relating to minimum
8 trust deposits by alien insurers; amending ss.
9 624.425, 624.428, 624.478, 626.112, F.S.;
10 requiring agents to be appointed; amending s.
11 624.501, F.S.; clarifying application of fees
12 for title insurance agents; amending s.
13 626.022, F.S.; providing for applicability of
14 ch. 626, F.S.; amending s. 626.051, F.S.;
15 revising the definition of the term "life
16 agent"; prescribing requirements for soliciting
17 or selling variable life insurance, variable
18 annuity contracts, and other indeterminate
19 value contracts; amending s. 626.062, F.S.;
20 conforming a cross-reference; amending ss.
21 626.141, 626.171, 626.181, 626.211, 626.221,
22 626.266, 626.281, 626.311, 626.511, 626.521,
23 626.561, 626.611, 626.621, 626.641, 626.651,
24 626.727, 626.730, 626.732, 626.733, 626.877,
25 F.S.; including customer representatives within
26 and deleting claims investigators from
27 application of certain provisions; excluding
28 solicitors; authorizing the department to
29 secure a credit and character report on certain
30 persons; providing limits; providing
31 requirements of the department; amending s.

1 626.451, F.S.; requiring law enforcement
2 agencies, the state attorney's office, and
3 court clerks to notify the department of agents
4 found guilty of felonies; amending s. 626.201,
5 F.S.; providing for interrogatories before
6 reinstatement; amending s. 626.321, F.S.;
7 authorizing certain entities that hold a
8 limited license for credit life or disability
9 insurance to sell credit property insurance;
10 authorizing persons who hold a limited license
11 for credit insurance to hold certain additional
12 licenses; amending s. 626.331, F.S.; requiring
13 licensure of certain agents for certain
14 appointments; providing that an appointment fee
15 is not refundable; amending s. 626.342, F.S.;
16 prohibiting furnishing supplies to certain
17 agents; amending s. 626.541, F.S.; specifying
18 names and addresses required of certain
19 personnel of corporations; amending s. 626.592,
20 F.S.; revising provisions relating to
21 designation of primary agents; amending s.
22 626.601, F.S.; authorizing the department to
23 initiate investigation of agents or other
24 licensees under certain conditions; amending s.
25 626.681, F.S.; providing for administrative
26 fines in addition to certain actions;
27 increasing such fines; amending s. 626.691,
28 F.S.; authorizing the department to place
29 certain persons on probation in addition to
30 suspending, revoking, or refusing to renew a
31 license or appointment; creating s. 626.692,

1 F.S.; providing for restitution under certain
2 circumstances; amending s. 626.7351, F.S.;
3 specifying additional qualifications for a
4 customer representative's license; amending s.
5 626.739, F.S.; specifying a temporary license
6 as general lines insurance agent; amending s.
7 626.741, F.S.; authorizing the department to
8 issue a customer representative license to
9 certain persons; providing a limitation;
10 providing procedures for agent licensure of
11 certain persons under certain circumstances;
12 providing for cancellation of a nonresident
13 agent's license; amending ss. 626.792, 626.835,
14 F.S.; providing procedures for issuing a
15 resident agent's license to certain persons;
16 amending s. 626.837, F.S.; clarifying
17 conditions of placing certain excess or
18 rejected risks; amending s. 626.8411, F.S.;
19 conforming a cross-reference; amending s.
20 626.8417, F.S.; revising the qualifications for
21 licensure as a title insurance agent; amending
22 s. 626.8418, F.S.; increasing the amount of the
23 deposit or bond of a title insurance agency;
24 specifying that the bond of a title insurance
25 agency must be posted with the department and
26 must inure to the benefit of damaged insurers
27 and insureds; amending ss. 626.8437, 626.844,
28 F.S.; clarifying application of grounds for
29 refusal, suspension, or revocation of license
30 or appointment; amending s. 626.8443, F.S.;
31 providing additional limitations on activities

1 during suspension or after revocation of a
2 license; amending s. 626.852, F.S.; providing
3 for applicability; amending s. 626.858, F.S.;
4 revising the definition of the term
5 "nonresident adjuster" to define "nonresident
6 company employee adjuster"; creating s.
7 626.8582, F.S.; defining the term "nonresident
8 public adjuster"; creating s. 626.8884, F.S.;
9 defining the term "nonresident independent
10 adjuster"; amending s. 626.865, F.S.;
11 increasing the bonding requirements for public
12 adjusters; amending s. 626.873, F.S.; providing
13 for licensure and qualifications for resident
14 company employee adjusters; creating s.
15 626.8732, F.S.; providing for licensure and
16 qualifications for nonresident public
17 adjusters; creating s. 626.8734, F.S.;
18 providing for licensure and qualifications for
19 nonresident independent adjusters; creating s.
20 626.8736, F.S.; providing for service of
21 process on nonresident independent adjusters
22 and on nonresident public adjusters; creating
23 s. 626.8737, F.S.; establishing a retaliatory
24 tax provision regarding certain fines, taxes,
25 penalties, license fees, monetary deposits,
26 securities, or other obligations, limitations,
27 or prohibitions imposed by another state upon
28 Florida resident insurance adjusters in
29 connection with the issuance of, or activities
30 under, a nonresident adjuster's license under
31 that state's laws; creating s. 626.8738, F.S.;

1 providing a criminal penalty for acting as a
2 resident or nonresident public adjuster without
3 the required license; amending s. 626.869,
4 F.S.; requiring certain continuing education
5 courses; clarifying requirements of such
6 courses; amending s. 626.8695, F.S.; providing
7 for notice to the department; requiring
8 designation of primary adjuster on forms
9 prescribed by the department; amending s.
10 626.872, F.S.; prohibiting the department from
11 issuing a temporary adjuster's license to
12 certain persons; amending s. 626.873, F.S.;
13 providing procedures for licensing certain
14 persons as resident adjusters; providing for
15 cancellation of nonresident adjuster's license;
16 amending s. 626.875, F.S.; prescribing time for
17 keeping adjusters' records; amending s.
18 626.922, F.S.; requiring surplus lines agents
19 to perform certain duties relating to evidence
20 of insurance; amending s. 626.928, F.S.;
21 increasing bonds for surplus lines agents;
22 amending ss. 626.927, 626.9271, 626.929,
23 626.935, 626.944, F.S.; requiring appointment
24 in addition to licensure of certain persons;
25 amending s. 627.681, F.S.; prescribing terms
26 for credit life insurance and credit disability
27 insurance; amending s. 627.745, F.S.;
28 clarifying a provision related to final
29 examination; amending s. 634.420, F.S.;
30 clarifying application of accountability
31 provisions; amending s. 634.317, F.S.;

1 providing for responsibility and accountability
2 of sales representatives; amending s. 642.036,
3 F.S.; deleting requirement that the addresses
4 of certain agents be filed with the department;
5 repealing s. 626.112(6), F.S., relating to
6 licensing of claims investigators; repealing s.
7 626.532, F.S., relating to insurance vending
8 machine licenses; repealing s. 626.857, F.S.,
9 relating to the definition of "claims
10 investigator"; providing an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Section 624.4072, Florida Statutes, is
15 created to read:

16 624.4072 Minority owned property and casualty
17 insurers; limited exemption for taxation and assessments.--

18 (1) A minority business that is at least 51 percent
19 owned by minority persons, as defined in s. 288.703(3),
20 initially issued a certificate of authority in this state as
21 an authorized insurer after May 1, 1998, to write property and
22 casualty insurance shall be exempt, for a period not to exceed
23 5 years from the date of receiving its certificate of
24 authority, from the following taxes and assessments:

25 (a) Taxes imposed under ss. 624.509, 175.101, and
26 185.08;

27 (b) Assessments by the Florida Residential Property
28 and Casualty Joint Underwriting Association or by the Florida
29 Windstorm Underwriting Association, as provided under s.
30 627.351, except for emergency assessments collected from
31 policyholders pursuant to s. 627.351(2)(b)2.d.(III) and

1 (6)(b)3.d. Any such insurer shall be a member insurer of the
2 Florida Windstorm Underwriting Association and the Florida
3 Residential Property and Casualty Joint Underwriting
4 Association. The premiums of such insurer shall be included in
5 determining, for the Florida Windstorm Underwriting
6 Association, the aggregate statewide direct written premium
7 for property insurance and in determining, for the Florida
8 Residential Property and Casualty Joint Underwriting
9 Association, the aggregate statewide direct written premium
10 for the subject lines of business for all member insurers.

11 (2) The provisions of subsection (1) apply only to
12 residential property insurance policies, including commercial
13 residential property insurance policies, and only to an
14 insurer that:

15 (a) Has a home or regional office in this state;
16 (b) Has permanent employees in this state; and
17 (c) Has at least 20 percent of its Florida policies
18 written and located in urban and inner-city areas that are
19 located in a metropolitan statistical area, as defined in 42
20 U.S.C. 12902(5).

21 (3) The provision of the definition of "minority
22 person" in s. 288.703(3) that requires residency in Florida
23 shall not apply to the term "minority person" as used in this
24 section or s. 627.3511.

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

28 Section 2. Section 624.412, Florida Statutes, is
29 amended to read:

30 624.412 Deposit of alien insurers.--
31

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

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

16 (2)~~(3)~~ Any such deposit made in this state shall be
17 held for the protection of the insurer's policyholders or
18 policyholders and creditors in the United States and shall be
19 subject to the applicable provisions of part III of chapter
20 625 and chapter 630.

21 Section 3. Section 624.425, Florida Statutes, is
22 amended to read:

23 624.425 Resident agent and countersignature required,
24 property, casualty, surety insurance.--

25 (1) Except as stated in s. 624.426, no authorized
26 property, casualty, or surety insurer shall assume direct
27 liability as to a subject of insurance resident, located, or
28 to be performed in this state unless the policy or contract of
29 insurance is issued by or through, and is countersigned by, a
30 local producing agent who is a resident of this state,
31 regularly commissioned and licensed currently as an agent and

1 appointed as an agent for ~~of~~ the insurer under this code. If
2 two or more authorized insurers issue a single policy of
3 insurance against legal liability for loss or damage to person
4 or property caused by the nuclear energy hazard, or a single
5 policy insuring against loss or damage to property by
6 radioactive contamination, whether or not also insuring
7 against one or more other perils proper to insure against in
8 this state, such policy if otherwise lawful may be
9 countersigned on behalf of all of the insurers by a licensed
10 and appointed resident agent of any insurer appearing thereon.
11 Such agent shall receive on each policy or contract the full
12 and usual commission allowed and paid by the insurer to its
13 agents on business written or transacted by them for the
14 insurer.

15 (2) If any subject of insurance referred to in
16 subsection (1) is insured under a policy, or contract, or
17 certificate of renewal or continuation thereof, issued in
18 another state and covering also property and risks outside
19 this state, a certificate evidencing such insurance as to
20 subjects located, resident, or to be performed in this state,
21 shall be issued by or through and shall be countersigned by
22 the insurer's commissioned and appointed ~~licensed~~ local
23 producing agent resident in this state in the same manner and
24 subject to the same conditions as is provided in subsection
25 (1) as to policies and contracts; except that the compensation
26 to be paid to the agent may relate only to the Florida portion
27 of the insurance risks represented by such policy or contract.

28 (3) An agent shall not sign or countersign in blank
29 any policy to be issued outside her or his office, or
30 countersign in blank any countersignature endorsement
31 therefor, or certificate issued thereunder. An agent may give

1 a written power of attorney to the issuing insurance company
2 to countersign such documents by imprinting his name, or the
3 name of the agency or other entity with which the agent may be
4 sharing commission pursuant to s. 626.753(1)(a) and (2),
5 thereon in lieu of manually countersigning such documents; but
6 an agent shall not give a power of attorney to any other
7 person to countersign any such document in her or his name
8 unless the person so authorized is directly employed by the
9 agent and by no other person, and is so employed in the office
10 of the agent.

11 (4) This section shall not be deemed to prohibit
12 insurers from using salaried licensed and appointed agents for
13 the production and servicing of business in this state and the
14 issuance and countersignature by such agents of insurance
15 policies or contracts, when required under subsection (1), and
16 without payment of commission therefor.

17 (5) This section shall not be deemed to prohibit an
18 insurer from authorizing an agent who is not regularly
19 commissioned and appointed ~~licensed~~ currently as an agent of
20 the insurer from countersigning a policy or contract of
21 insurance issued pursuant to the provisions of ss. 627.311 and
22 627.351. This section does not apply to reissuance of
23 insurance policies or endorsements thereto which are part of a
24 mass reissuance of such policies or endorsements and do not
25 involve a change of premium or payment of agent's commissions.

26 Section 4. Subsections (1) and (2) of section 624.428,
27 Florida Statutes, are amended to read:

28 624.428 Licensed agent law, life and health
29 insurances.--

30 (1) No life insurer shall deliver or issue for
31 delivery in this state any policy of life insurance, master

1 group life insurance contract, master credit life policy or
2 agreement, annuity contract, or contract or policy of health
3 insurance, unless the application for such policy or contract
4 is taken by, and the delivery of such policy or contract is
5 made through, an insurance agent of the insurer duly licensed
6 and appointed under the law of this state, who shall receive
7 the usual commission due to an agent from such insurer.

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

12 Section 5. Section 624.478, Florida Statutes, is
13 amended to read:

14 624.478 Use of agents.--A ~~commercial~~ self-insurance
15 fund shall use an agent or agents licensed under parts I and
16 II of chapter 626 to perform any of the activities described
17 in s. 626.041(2). A ~~commercial~~ self-insurance fund shall have
18 the authority to appoint ~~license~~ agents in accordance with
19 parts I and II of chapter 626, and the fund and its appointed
20 ~~licensed~~ agents shall be subject to the requirements of such
21 provisions.

22 Section 6. Subsections (16), (17), and (29) of section
23 624.501, Florida Statutes, are amended to read:

24 624.501 Filing, license, appointment, and
25 miscellaneous fees.--The department shall collect in advance,
26 and persons so served shall pay to it in advance, fees,
27 licenses, and miscellaneous charges as follows:

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

1 (17) Additional appointment license continuation fees
2 as prescribed in chapter 626.....\$5.00
3 (29) Title insurance agents:
4 (a) Agent's original appointment or biennial renewal
5 or continuation thereof, each insurer and ~~agency's biennial~~
6 ~~license fee~~:
7 Appointment fee.....\$42.00
8 State tax.....12.00
9 County tax.....6.00
10 Total.....\$60.00
11 (b) Agency original appointment license fee or
12 biennial renewal or continuation thereof, each insurer:
13 Appointment Licensing fee.....\$42.00
14 State tax.....12.00
15 County tax.....6.00
16 Total.....\$60.00
17 (c) Filing for title insurance agent's license:
18 Application for filing, each filing, filing
19 fee.....\$10.00
20 (d) Additional appointment continuation fee as
21 prescribed by s. 626.843.....\$5.00
22 (e) Title insurer and title insurance agency
23 administrative surcharge:
24 1. On or before January 30 of each calendar year, each
25 title insurer shall pay to the department for each licensed
26 title insurance agency appointed by the title insurer and for
27 each retail office of the insurer on January 1 of that
28 calendar year an administrative surcharge of \$200.00.
29 2. On or before January 30 of each calendar year, each
30 licensed title insurance agency shall remit to the department
31 an administrative surcharge of \$200.00.

1
2 The administrative surcharge may be used solely to defray the
3 costs to the department in its examination or audit of title
4 insurance agencies ~~agents~~ and retail offices of title insurers
5 and to gather title insurance data for statistical purposes in
6 its regulation of title insurance.

7 Section 7. Section 626.022, Florida Statutes, is
8 amended to read:

9 626.022 Scope of part.--

10 (1) This part applies as to insurance agents,
11 solicitors, service representatives, adjusters, and insurance
12 agencies; as to any and all kinds of insurance; and as to
13 stock insurers, mutual insurers, reciprocal insurers, and all
14 other types of insurers, except that:

15 (a) It does not apply as to reinsurance, except that
16 ss. 626.011-626.031, ss. 626.102-626.181, ss. 626.191-626.211,
17 ss. 626.291-626.301, s. 626.331, ss. 626.342-626.521, ss.
18 626.541-626.591, and ss. 626.601-626.711 shall apply as to
19 reinsurance intermediaries as defined in s. 626.7492.

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

22 (c) It does not apply to a bail bond agent, as defined
23 in s. 648.25, except as provided in chapter 648 or chapter
24 903.

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

27 Section 8. Subsections (1) and (2) of section 626.051,
28 Florida Statutes, are amended to read:

29 626.051 "Life agent" defined.--

30 (1)(a) For the purposes of this part, a "life agent"
31 is a person who represents ~~one representing~~ an insurer as to

1 life insurance and annuity contracts. The term also includes
2 an agent appointed as such as to life insurance, fixed-dollar
3 annuity contracts, or variable contracts, ~~and health insurance~~
4 ~~contracts~~ by the same insurer.

5 (b) A person may not solicit or sell variable life
6 insurance, variable annuity contracts, or any other
7 indeterminate value or variable contract as defined in s.
8 627.8015, unless the person has successfully completed a
9 licensure examination relating to variable annuity contracts
10 authorized and approved by the department.

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

14 (a) Solicit insurance or annuities or procure
15 applications; or

16 (b) In this state engage or hold himself or herself
17 out as engaging in the business of analyzing or abstracting
18 insurance policies or of counseling or advising or giving
19 opinions to persons relative to insurance or insurance
20 contracts other than:

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

22 2. As to the counseling and advising of labor unions,
23 associations, trustees, employers or other business entities,
24 the subsidiaries and affiliates of each, relative to their
25 interests and those of their members or employees under
26 insurance benefit plans.

27 Section 9. Subsection (2) of section 626.062, Florida
28 Statutes, is amended to read:

29 626.062 "Health agent" defined.--
30
31

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

4 (a) Solicit insurance or procure applications; or

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

10 1. As a consulting actuary advising insurers; or

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

16 Section 10. Section 626.112, Florida Statutes, is
17 amended to read:

18 626.112 License and appointment required; agents,
19 customer representatives, solicitors, adjusters, insurance
20 agencies, service representatives, managing general agents,
21 ~~claims investigators.--~~

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

26 (2) No agent, customer representative, or solicitor
27 shall solicit or otherwise transact as agent, customer
28 representative, or solicitor, or represent or hold himself or
29 herself out to be an agent, customer representative, or
30 solicitor as to, any kind or kinds of insurance as to which he
31 or she is not then licensed and appointed.

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

4 (4) No person shall be, act as, or represent or hold
5 himself or herself out to be a service representative unless
6 he or she then holds a currently effective service
7 representative license and appointment. This subsection does
8 not apply as to similar representatives or employees of
9 casualty insurers whose duties are restricted to health
10 insurance.

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

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

20 (6)~~(7)~~ An individual employed by a life or health
21 insurer as an officer or other salaried representative may
22 solicit and effect contracts of life insurance or annuities or
23 of health insurance, without being licensed as an agent, when
24 and only when he or she is accompanied by and solicits for and
25 on the behalf of a licensed and appointed agent.

26 (7)~~(8)~~(a) No individual, firm, partnership,
27 corporation, association, or any other entity shall act in its
28 own name or under a trade name, directly or indirectly, as an
29 insurance agency, when required to be licensed by this
30 subsection, unless it complies with s. 626.172 with respect to
31 possessing an insurance agency license for each place of

1 business at which it engages in any activity which may be
2 performed only by a licensed insurance agent or solicitor.

3 (b) An insurance agency shall, as a condition
4 precedent to continuing business, obtain an insurance agency
5 license if the department finds that, with respect to any
6 majority owner, partner, manager, director, officer, or other
7 person who manages or controls the agency, any person has,
8 subsequent to the effective date of this act:

9 1. Been found guilty of, or has pleaded guilty or nolo
10 contendere to, a felony in this state or any other state
11 relating to the business of insurance or to an insurance
12 agency, without regard to whether a judgment of conviction has
13 been entered by the court having jurisdiction of the cases.

14 2. Employed any individual in a managerial capacity or
15 in a capacity dealing with the public who is under an order of
16 revocation or suspension issued by the department. An
17 insurance agency may request, on forms prescribed by the
18 department, verification of any person's license status. If a
19 request is mailed within 5 working days after an employee is
20 hired, and the employee's license is currently suspended or
21 revoked, the agency shall not be required to obtain a license,
22 if the unlicensed person's employment is immediately
23 terminated.

24 3. Operated the agency or permitted the agency to be
25 operated in violation of s. 626.747.

26 4. With such frequency as to have made the operation
27 of the agency hazardous to the insurance-buying public or
28 other persons:

29 a. Solicited or handled controlled business. This
30 subparagraph shall not prohibit the licensing of any lending
31 or financing institution or creditor, with respect to

- 1 insurance only, under credit life or disability insurance
2 policies of borrowers from the institutions, which policies
3 are subject to part IX of chapter 627.
- 4 b. Misappropriated, converted, or unlawfully withheld
5 moneys belonging to insurers, insureds, beneficiaries, or
6 others and received in the conduct of business under the
7 license.
- 8 c. Unlawfully rebated, attempted to unlawfully rebate,
9 or unlawfully divided or offered to divide commissions with
10 another.
- 11 d. Misrepresented any insurance policy or annuity
12 contract, or used deception with regard to any policy or
13 contract, done either in person or by any form of
14 dissemination of information or advertising.
- 15 e. Violated any provision of this code or any other
16 law applicable to the business of insurance in the course of
17 dealing under the license.
- 18 f. Violated any lawful order or rule of the
19 department.
- 20 g. Failed or refused, upon demand, to pay over to any
21 insurer he or she represents or has represented any money
22 coming into his or her hands belonging to the insurer.
- 23 h. Violated the provision against twisting as defined
24 in s. 626.9541(1)(1).
- 25 i. In the conduct of business, engaged in unfair
26 methods of competition or in unfair or deceptive acts or
27 practices, as prohibited under part X of this chapter.
- 28 j. Willfully overinsured any property insurance risk.
- 29 k. Engaged in fraudulent or dishonest practices in the
30 conduct of business arising out of activities related to
31 insurance or the insurance agency.

1 1. Demonstrated lack of fitness or trustworthiness to
2 engage in the business of insurance arising out of activities
3 related to insurance or the insurance agency.

4 m. Authorized or knowingly allowed individuals to
5 transact insurance who were not then licensed as required by
6 this code.

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

10 6. Willfully circumvented the requirements or
11 prohibitions of this code.

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

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

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

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

30 Section 11. Section 626.141, Florida Statutes, is
31 amended to read:

1 626.141 Violation not to affect validity of
2 insurance.--An insurance contract which is otherwise valid and
3 binding as between the parties thereto shall not be rendered
4 invalid by reason of having been solicited, handled, or
5 procured by or through an unlicensed agent, customer
6 representative, or solicitor or an agent, customer
7 representative, or solicitor who has not been appointed.

8 Section 12. Subsections (1) and (6) of section
9 626.171, Florida Statutes, are amended to read:

10 626.171 Application for license.--

11 (1) The department shall not issue a license as agent,
12 customer representative, ~~solicitor~~, adjuster, insurance
13 agency, service representative, managing general agent, or
14 reinsurance intermediary, ~~or claims investigator~~, to any
15 person except upon written application therefor filed with it,
16 qualification therefor, and payment in advance of all
17 applicable fees. Any such application shall be made under the
18 oath of the applicant and be signed by the applicant.

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

21 Section 13. Section 626.181, Florida Statutes, is
22 amended to read:

23 626.181 Number of applications for licensure
24 required.--After a license as agent, customer representative,
25 ~~solicitor~~, or adjuster has been issued to an individual, the
26 same individual shall not be required to take another
27 examination for a similar license, regardless, in the case of
28 an agent, of the number of insurers to be represented by him
29 or her as agent, unless:

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

1 (2) During any period of 24 months since the filing of
2 the original license application, such individual was not
3 appointed as an agent, customer representative, ~~solicitor~~, or
4 adjuster, unless the failure to be so appointed was due to
5 military service, in which event the period within which a new
6 application is not required may, in the discretion of the
7 department, be extended to 12 months following the date of
8 discharge from military service if the military service does
9 not exceed 3 years, but in no event to extend under this
10 clause for a period of more than 4 years from the date of
11 filing of the original application for license.

12 Section 14. Section 626.201, Florida Statutes, is
13 amended to read:

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

29 Section 15. Subsection (2) of section 626.211, Florida
30 Statutes, is amended to read:

31 626.211 Approval, disapproval of application.--

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

6 Section 16. Paragraphs (c) and (d) of subsection (2)
7 and subsection (3) of section 626.221, Florida Statutes, are
8 amended to read:

9 626.221 Examination requirement; exemptions.--

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

12 (c) In the discretion of the department, an applicant
13 for reinstatement of license or appointment as an agent,
14 customer representative, or adjuster whose license has been
15 suspended within 2 years prior to the date of application or
16 written request for reinstatement.

17 (d) An applicant who, within 2 years prior to
18 application for license and appointment as an agent, customer
19 representative, or adjuster, was a full-time salaried employee
20 of the department and had continuously been such an employee
21 with responsible insurance duties for not less than 2 years
22 and who had been a licensee within 2 years prior to employment
23 by the department with the same class of license as that being
24 applied for.

25 (3) An individual who is already licensed as a
26 solicitor or customer representative shall not be licensed as
27 a general lines agent without application and examination for
28 such license.

29 Section 17. Section 626.266, Florida Statutes, is
30 amended to read:

31

1 626.266 Printing of examinations or related materials
2 to preserve examination security.--A contract let for the
3 development, administration, or grading of examinations or
4 related materials by the Department of Insurance pursuant to
5 the various agent, customer representative, solicitor, or
6 adjuster licensing and examination provisions of this code may
7 include the printing or furnishing of these examinations or
8 related materials in order to preserve security. Any such
9 contract shall be let as a contract for a contractual service
10 pursuant to s. 287.057.

11 Section 18. Subsection (2) of section 626.281, Florida
12 Statutes, is amended to read:

13 626.281 Reexamination.--

14 (2) The department may require any individual whose
15 license as an agent, customer representative, or adjuster has
16 expired or has been suspended to pass an examination prior to
17 reinstating or relicensing the individual as to any class of
18 license. The examination fee shall be paid as to each
19 examination.

20 Section 19. Subsection (1) of section 626.311, Florida
21 Statutes, is amended to read:

22 626.311 Scope of license.--

23 (1) Except as to limited licenses, the applicant for
24 license as a general lines agent or customer representative
25 ~~solicitor~~ shall qualify for all property, marine, casualty,
26 and surety lines except bail bonds which require a separate
27 license under chapter 648. The license of a general lines
28 agent may also cover health insurance if health insurance is
29 included in the agent's appointment by an insurer as to which
30 the licensee is also appointed as agent for property or
31 casualty or surety insurance. The license of a customer

1 representative ~~solicitor~~ shall provide, in substance, that it
2 covers all of such classes of insurance that his or her
3 appointing general lines agent or agency is currently so
4 authorized to transact under the general lines agent's license
5 and appointments. No such license shall be issued limited to
6 particular classes of insurance except for bail bonds which
7 require a separate license under chapter 648.

8 Section 20. Subsection (1) of section 626.321, Florida
9 Statutes, is amended to read:

10 626.321 Limited licenses.--

11 (1) The department shall issue to a qualified
12 individual, or a qualified individual or entity under
13 paragraphs (c), (d), and (e), a license as agent authorized to
14 transact a limited class of business in any of the following
15 categories:

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

30 (b) Industrial fire insurance or burglary
31 insurance.--License covering only industrial fire insurance or

1 burglary insurance. The applicant for such a license shall
2 pass a written examination covering such insurance. No
3 individual while so licensed shall hold a license as an agent
4 or solicitor as to any other or additional kind or class of
5 insurance coverage except as to life and health insurances.

6 (c) Personal accident insurance.--License covering
7 only policies of personal accident insurance covering the
8 risks of travel, except as provided in subparagraph 2. The
9 license may be issued only:

10 1. To a full-time salaried employee of a common
11 carrier or a full-time salaried employee or owner of a
12 transportation ticket agency and may authorize the sale of
13 such ticket policies only in connection with the sale of
14 transportation tickets, or to the full-time salaried employee
15 of such an agent. No such policy shall be for a duration of
16 more than 48 hours or for the duration of a specified one-way
17 trip or round trip.

18 2. To a full-time salaried employee of a business
19 which offers motor vehicles for rent or lease, or to a
20 business office of a business which offers motor vehicles for
21 rent or lease if insurance sales activities authorized by the
22 license are limited to full-time salaried employees. A
23 business office licensed or a person licensed pursuant to this
24 subparagraph may, as an agent of an insurer, transact
25 insurance that provides coverage for accidental personal
26 injury or death of the lessee and any passenger who is riding
27 or driving with the covered lessee in the rental motor vehicle
28 if the lease or rental agreement is for not more than 30 days,
29 or if the lessee is not provided coverage for more than 30
30 consecutive days per lease period; however, if the lease is
31

1 extended beyond 30 days, the coverage may be extended one time
2 only for a period not to exceed an additional 30 days.

3 (d) Baggage and motor vehicle excess liability
4 insurance.--

5 1. License covering only insurance of personal effects
6 except as provided in subparagraph 2. The license may be
7 issued only:

8 a. To a full-time salaried employee of a common
9 carrier or a full-time salaried employee or owner of a
10 transportation ticket agency, which person is engaged in the
11 sale or handling of transportation of baggage and personal
12 effects of travelers, and may authorize the sale of such
13 insurance only in connection with such transportation; or

14 b. To the full-time salaried employee of a licensed
15 general lines agent, a full-time salaried employee of a
16 business which offers motor vehicles for rent or lease, or to
17 a business office of a business which offers motor vehicles
18 for rent or lease if insurance sales activities authorized by
19 the license are limited to full-time salaried employees.

20
21 The purchaser of baggage insurance shall be provided written
22 information disclosing that the insured's homeowner's policy
23 may provide coverage for loss of personal effects and that the
24 purchase of such insurance is not required in connection with
25 the purchase of tickets or in connection with the lease or
26 rental of a motor vehicle.

27 2. A business office licensed pursuant to subparagraph
28 1., or a person licensed pursuant to subparagraph 1. who is a
29 full-time salaried employee of a business which offers motor
30 vehicles for rent or lease, may include lessees under a master
31 contract providing coverage to the lessor or may transact

1 excess motor vehicle liability insurance providing coverage in
2 excess of the standard liability limits provided by the lessor
3 in its lease to a person renting or leasing a motor vehicle
4 from the licensee's employer for liability arising in
5 connection with the negligent operation of the leased or
6 rented motor vehicle, provided that the lease or rental
7 agreement is for not more than 30 days; that the lessee is not
8 provided coverage for more than 30 consecutive days per lease
9 period, and, if the lease is extended beyond 30 days, the
10 coverage may be extended one time only for a period not to
11 exceed an additional 30 days; that the lessee is given written
12 notice that his or her personal insurance policy providing
13 coverage on an owned motor vehicle may provide additional
14 excess coverage; and that the purchase of the insurance is not
15 required in connection with the lease or rental of a motor
16 vehicle. The excess liability insurance may be provided to
17 the lessee as an additional insured on a policy issued to the
18 licensee's employer.

19 3. A business office licensed pursuant to subparagraph
20 1., or a person licensed pursuant to subparagraph 1. who is a
21 full-time salaried employee of a business which offers motor
22 vehicles for rent or lease, may, as an agent of an insurer,
23 transact insurance that provides coverage for the liability of
24 the lessee to the lessor for damage to the leased or rented
25 motor vehicle if:

26 a. The lease or rental agreement is for not more than
27 30 days; or the lessee is not provided coverage for more than
28 30 consecutive days per lease period, but, if the lease is
29 extended beyond 30 days, the coverage may be extended one time
30 only for a period not to exceed an additional 30 days;

31

1 b. The lessee is given written notice that his
2 personal insurance policy that provides coverage on an owned
3 motor vehicle may provide such coverage with or without a
4 deductible; and

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

7 (e) Credit life or disability insurance.--License
8 covering only credit life or disability insurance. The
9 license may be issued only to an individual employed by a life
10 or health insurer as an officer or other salaried or
11 commissioned representative, or to an individual employed by
12 or associated with a lending or financing institution or
13 creditor, and may authorize the sale of such insurance only
14 with respect to borrowers or debtors of such lending or
15 financing institution or creditor. However, only the
16 individual or entity whose tax identification number is used
17 in receiving or is credited with receiving the commission from
18 the sale of such insurance shall be the licensed agent of the
19 insurer. No individual while so licensed shall hold a license
20 as an agent or solicitor as to any other or additional kind or
21 class of life or health insurance coverage. An entity other
22 than a lending or financial institution defined in s. 626.988
23 holding a limited license under this paragraph shall also be
24 authorized to sell credit property insurance.

25 (f) Credit insurance.--License covering only credit
26 insurance, as such insurance is defined in s. 624.605(1)(i),
27 and no individual so licensed shall, during the same period,
28 hold a license as an agent or solicitor as to any other or
29 additional kind of life or health insurance with the exception
30 of credit life or disability insurance as defined in paragraph
31 (e).

1 Section 21. Subsections (3) and (4) of section
2 626.331, Florida Statutes, are amended to read:

3 626.331 Number of appointments permitted or
4 required.--

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

9 (4) If requested in writing by the applicant or payor
10 entitled thereto within 60 days after the denial or
11 disapproval of an appointment, the department shall refund to
12 the applicant or payor entitled thereto any state and county
13 taxes received by it in connection with the application for
14 the appointment. The appointment fee is not subject to
15 refund. No refund shall be made under any circumstances after
16 issuance of an appointment. No refund shall be made if the
17 applicable appointment year has commenced before receipt by
18 the department of the request for cancellation of the
19 appointment and refund.

20 Section 22. Section 626.342, Florida Statutes, is
21 amended to read:

22 626.342 Furnishing supplies to unlicensed life,
23 health, or general lines agent prohibited; civil liability and
24 penalty.--

25 (1) An ~~No~~ insurer, a managing general agent, or an
26 agent, directly or through any representative, may not ~~shall~~
27 furnish to any agent any blank forms, applications,
28 stationery, or other supplies to be used in soliciting,
29 negotiating, or effecting contracts of insurance on its behalf
30 unless such blank forms, applications, stationery, or other
31 supplies relate to a class of business with respect to which

1 the agent is licensed and appointed, whether for that insurer
2 or another insurer.

3 (2) Any insurer, general agent, or agent who furnishes
4 any of the supplies specified in subsection (1) to any agent
5 or prospective agent not appointed to represent the insurer
6 and who accepts from or writes any insurance business for such
7 agent or agency ~~is shall be~~ subject to civil liability to any
8 insured of such insurer to the same extent and in the same
9 manner as if such agent or prospective agent had been
10 appointed or authorized by the insurer or such agent to act in
11 its or his or her behalf. The provisions of this subsection
12 do not apply to insurance risk apportionment plans under s.
13 627.351.

14 (3) This section does not apply to the placing of
15 surplus lines business under the provisions of ss.
16 626.913-626.937.

17 Section 23. Subsections (5) and (6) are added to
18 section 626.451, Florida Statutes, to read:

19 626.451 Appointment of agent or other
20 representative.--

21 (5) Any law enforcement agency or state attorney's
22 office that is aware that an agent, adjuster, service
23 representative, solicitor, customer representative, or
24 managing general agent has pleaded guilty or nolo contendere
25 to or has been found guilty of a felony shall notify the
26 department of such fact.

27 (6) Upon the filing of an information or indictment
28 against an agent, adjuster, service representative, solicitor,
29 customer representative, or managing general agent, the state
30 attorney shall immediately furnish the department a certified
31 copy of the information or indictment.

1 Section 24. Subsection (1) of section 626.511, Florida
2 Statutes, 1996 Supplement, is amended to read:

3 626.511 Reasons for termination; confidential
4 information.--

5 (1) Any insurer terminating the appointment of an
6 agent; any general lines agent terminating the appointment of
7 a solicitor, customer representative, or a crop hail or
8 multiple-peril crop insurance agent; and any employer
9 terminating the appointment of an adjuster, service
10 representative, or managing general agent, ~~or claims~~
11 ~~investigator~~, whether such termination is by direct action of
12 the appointing insurer, agent, or employer or by failure to
13 renew or continue the appointment as provided, shall file with
14 the department a statement of the reasons, if any, for and the
15 facts relative to such termination. In the case of
16 termination of the appointment of an agent, such information
17 may be filed by the insurer or by the general agent of the
18 insurer.

19 (2) In the case of terminations by failure to renew or
20 continue the appointment, the information required under
21 subsection (1) shall be filed with the department as soon as
22 possible, and at all events within 30 days, after the date
23 notice of intention not to so renew or continue was filed with
24 the department as required in this chapter. In all other
25 cases, the information required under subsection (1) shall be
26 filed with the department at the time, or at all events within
27 10 days after, notice of the termination was filed with the
28 department.

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

1 Section 25. Subsections (1) and (3) of section
2 626.521, Florida Statutes, are amended to read:

3 626.521 Character, credit reports.--

4 (1) As to each applicant who for the first time in
5 this state is applying and qualifying for a license as agent,
6 solicitor, adjuster, service representative, customer
7 representative, or managing general agent, ~~or claims~~
8 ~~investigator~~, the appointing insurer or its manager or general
9 agent in this state, in the case of agents, or the appointing
10 general lines agent, in the case of solicitors or customer
11 representatives, or the employer, in the case of service
12 representatives ~~and claims investigators~~ and of adjusters who
13 are not to be self-employed, shall coincidentally with such
14 appointment or employment secure and thereafter keep on file a
15 full detailed credit and character report made by an
16 established and reputable independent reporting service,
17 relative to the individual so appointed or employed.

18 (3) As to an applicant for an adjuster's or
19 reinsurance intermediary's license who is to be self-employed,
20 the department may secure, at the cost of the applicant, a
21 full detailed credit and character report made by an
22 established and reputable independent reporting service
23 relative to the applicant.

24 Section 26. Subsections (1) and (2) of section
25 626.541, Florida Statutes, are amended to read:

26 626.541 Firm, corporate, and business names; officers;
27 associates; notice of changes.--

28 (1) Any licensed agent or adjuster doing business
29 under a firm or corporate name or under any business name
30 other than his or her own individual name shall annually on or
31 before January 1 file with the department, on forms furnished

1 by it, a written statement of the firm, corporate, or business
2 name being so used, the address of any office or offices or
3 places of business making use of such name, and the name and
4 social security number of each officer and director ~~and the~~
5 ~~president~~ of the corporation and of each individual associated
6 in such firm or corporation as to the insurance transactions
7 thereof or in the use of such business name.

8 (2) In the event of any change of such name, or of any
9 of the officers and ~~such~~ directors ~~or president~~, or of any of
10 such addresses, or in the personnel so associated, written
11 notice of such change shall be filed with the department
12 within 60 days by or on behalf of those licensees terminating
13 any such firm, corporate, or business name or continuing to
14 operate thereunder.

15 Section 27. Subsections (1) and (3) of section
16 626.561, Florida Statutes, are amended to read:

17 626.561 Reporting and accounting for funds.--

18 (1) All premiums, return premiums, or other funds
19 belonging to insurers or others received by an agent, customer
20 representative, solicitor, or adjuster in transactions under
21 his or her license are ~~shall be~~ trust funds ~~so~~ received by the
22 licensee in a fiduciary capacity. An agent shall keep the
23 funds belonging to each insurer for which he or she is not
24 appointed, other than a surplus lines insurer, in a separate
25 account so as to allow the department to properly audit such
26 funds. The licensee in the applicable regular course of
27 business shall account for and pay the same to the insurer,
28 insured, or other person entitled thereto.

29 (3) Any agent, customer representative, solicitor, or
30 adjuster who, not being lawfully entitled thereto, either
31 temporarily or permanently diverts or misappropriates

1 ~~appropriates~~ such funds or any portion thereof ~~to his or her~~
2 ~~own use~~ or deprives the other person of a benefit therefrom
3 commits the offense specified below:

4 (a) If the funds diverted or misappropriated
5 ~~appropriated to his or her own use~~ are \$300 or less, a
6 misdemeanor of the first degree, punishable as provided in s.
7 775.082 or s. 775.083.

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

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

16 (d) If the funds diverted or misappropriated
17 ~~appropriated to his or her own use~~ are \$100,000 or more, a
18 felony of the first degree, punishable as provided in s.
19 775.082, s. 775.083, or s. 775.084.

20 Section 28. Subsections (1), (2), (4), and (7) of
21 section 626.592, Florida Statutes, are amended to read:

22 626.592 Primary agents.--

23 (1) ~~On or before January 1, 1990, and annually~~
24 ~~thereafter,~~ Each person operating an insurance agency and each
25 location of a multiple location agency shall designate a
26 primary agent for each insurance agency location and shall
27 file the name of the person so designated, and the address of
28 the insurance agency location where he or she is primary
29 agent, with the Department of Insurance, on a form approved by
30 the department. The designation of the primary agent may be
31 changed at the option of the agency and any change shall be

1 effective upon notification to the department. Notice of
2 change must be sent to the department within 30 days after
3 such change.

4 (2) For the purpose of this section, a "primary agent"
5 is the licensed agent who is responsible for the hiring and
6 supervision of all individuals within an insurance agency
7 location whether such individuals ~~who~~ deal with the public in
8 the solicitation or negotiation of insurance contracts or in
9 the collection or accounting of moneys from the general
10 public. An agent may be designated as primary agent for only
11 one insurance agency location.

12 (4) The department may suspend or revoke the license
13 of the primary agent if the ~~an~~ insurance agency employs any
14 person who has had a license denied or any person whose
15 license is currently suspended or revoked. However, when a
16 person has been denied a license for failure to pass a
17 required examination, he or she may be employed to perform
18 clerical or administrative functions for which licensure is
19 not required.

20 (7) An ~~No~~ insurance agency location may not ~~shall~~
21 conduct the business of insurance unless a primary agent is
22 designated at all times. Failure to designate a primary agent,
23 on a form prescribed by the department, within 30 days after
24 agency inception or change of primary agent designation,
25 constitutes ~~as required under this section shall constitute~~
26 grounds for requiring that the agency obtain a license in
27 accordance with ss. 626.112 and 626.172.

28 Section 29. Subsection (1) of section 626.601, Florida
29 Statutes, is amended to read:

30 626.601 Improper conduct; inquiry; fingerprinting.--
31

1 (1) The department may, upon its own motion or, ~~and~~
2 ~~shall~~, upon a written complaint signed by any interested
3 person and filed with the department, inquire into any alleged
4 improper conduct of any licensed agent, solicitor, adjuster,
5 service representative, managing general agent, customer
6 representative, title insurance agent, or title insurance
7 agency ~~or claims investigator~~ under this code. The department
8 may thereafter initiate an investigation of any such licensee
9 if it has reasonable cause to believe that the licensee has
10 violated any provision of the insurance code. During the
11 course of its investigation, the department shall contact the
12 licensee being investigated unless it determines that
13 contacting such person could jeopardize the successful
14 completion of the investigation or cause injury to the public.

15 Section 30. Section 626.611, Florida Statutes, is
16 amended to read:

17 626.611 Grounds for compulsory refusal, suspension, or
18 revocation of agent's, title agency's, solicitor's,
19 adjuster's, customer representative's, service
20 representative's, or managing general agent's, ~~or claims~~
21 ~~investigator's~~ license or appointment.--The department shall
22 deny an application for, suspend, revoke, or refuse to renew
23 or continue the license or appointment of any applicant,
24 agent, title agency, solicitor, adjuster, customer
25 representative, service representative, or managing general
26 agent, ~~or claims investigator~~, and it shall suspend or revoke
27 the eligibility to hold a license or appointment of any such
28 person, if it finds that as to the applicant, licensee, or
29 appointee any one or more of the following applicable grounds
30 exist:
31

- 1 (1) Lack of one or more of the qualifications for the
2 license or appointment as specified in this code.
- 3 (2) Material misstatement, misrepresentation, or fraud
4 in obtaining the license or appointment or in attempting to
5 obtain the license or appointment.
- 6 (3) Failure to pass to the satisfaction of the
7 department any examination required under this code.
- 8 (4) If the license or appointment is willfully used,
9 or to be used, to circumvent any of the requirements or
10 prohibitions of this code.
- 11 (5) Willful misrepresentation of any insurance policy
12 or annuity contract or willful deception with regard to any
13 such policy or contract, done either in person or by any form
14 of dissemination of information or advertising.
- 15 (6) If, as an adjuster, ~~claims investigator~~, or agent
16 licensed and appointed to adjust claims under this code, he or
17 she has materially misrepresented to an insured or other
18 interested party the terms and coverage of an insurance
19 contract with intent and for the purpose of effecting
20 settlement of claim for loss or damage or benefit under such
21 contract on less favorable terms than those provided in and
22 contemplated by the contract.
- 23 (7) Demonstrated lack of fitness or trustworthiness to
24 engage in the business of insurance.
- 25 (8) Demonstrated lack of reasonably adequate knowledge
26 and technical competence to engage in the transactions
27 authorized by the license or appointment.
- 28 (9) Fraudulent or dishonest practices in the conduct
29 of business under the license or appointment.
- 30 (10) Misappropriation, conversion, or unlawful
31 withholding of moneys belonging to insurers or insureds or

1 beneficiaries or to others and received in conduct of business
2 under the license or appointment.

3 (11) Unlawfully rebating, attempting to unlawfully
4 rebate, or unlawfully dividing or offering to divide his or
5 her commission with another.

6 (12) Having obtained or attempted to obtain, or having
7 used or using, a license or appointment as agent, customer
8 representative, or solicitor for the purpose of soliciting or
9 handling "controlled business" as defined in s. 626.730 with
10 respect to general lines agents, s. 626.784 with respect to
11 life agents, and s. 626.830 with respect to health agents.

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

15 (14) Having been found guilty of or having pleaded
16 guilty or nolo contendere to a felony or a crime punishable by
17 imprisonment of 1 year or more under the law of the United
18 States of America or of any state thereof or under the law of
19 any other country which involves moral turpitude, without
20 regard to whether a judgment of conviction has been entered by
21 the court having jurisdiction of such cases.

22 (15) Fraudulent or dishonest practice in submitting or
23 aiding or abetting any person in the submission of an
24 application for workers' compensation coverage under chapter
25 440 containing false or misleading information as to employee
26 payroll or classification for the purpose of avoiding or
27 reducing the amount of premium due for such coverage.

28 Section 31. Section 626.621, Florida Statutes, is
29 amended to read:

30 626.621 Grounds for discretionary refusal, suspension,
31 or revocation of agent's, solicitor's, adjuster's, customer

1 representative's, service representative's, or managing
2 general agent's, ~~or claims investigator's~~ license or
3 appointment.--The department may, in its discretion, deny an
4 application for, suspend, revoke, or refuse to renew or
5 continue the license or appointment of any applicant, agent,
6 solicitor, adjuster, customer representative, service
7 representative, or managing general agent, ~~or claims~~
8 ~~investigator~~, and it may suspend or revoke the eligibility to
9 hold a license or appointment of any such person, if it finds
10 that as to the applicant, licensee, or appointee any one or
11 more of the following applicable grounds exist under
12 circumstances for which such denial, suspension, revocation,
13 or refusal is not mandatory under s. 626.611:

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

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

20 (3) Violation of any lawful order or rule of the
21 department.

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

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

27 (6) In the conduct of business under the license or
28 appointment, engaging in unfair methods of competition or in
29 unfair or deceptive acts or practices, as prohibited under
30 part X of this chapter, or having otherwise shown himself or
31

1 herself to be a source of injury or loss to the public or
2 detrimental to the public interest.

3 (7) Willful overinsurance of any property or health
4 insurance risk.

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

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

13 (10) Cheating on an examination required for licensure
14 or violating test center or examination procedures published
15 orally, in writing, or electronically at the test site by
16 authorized representatives of the examination program
17 administrator. Communication of test center and examination
18 procedures must be clearly established and documented.

19 (11) Failure to inform the department in writing
20 within 30 days after pleading guilty or nolo contendere to, or
21 being convicted or found guilty of, any felony or a crime
22 punishable by imprisonment of 1 year or more under the law of
23 the United States or of any state thereof, or under the law of
24 any other country without regard to whether a judgment of
25 conviction has been entered by the court having jurisdiction
26 of the case.

27 (12) Knowingly aiding, assisting, procuring, advising,
28 or abetting any person in the violation of or to violate a
29 provision of the insurance code or any order or rule of the
30 department.
31

1 Section 32. Subsections (2), (3), and (4) of section
2 626.641, Florida Statutes, are amended to read:

3 626.641 Duration of suspension or revocation.--

4 (2) No person or appointee under any license or
5 appointment revoked by the department, nor any person whose
6 eligibility to hold same has been revoked by the department,
7 shall have the right to apply for another license or
8 appointment under this code within 2 years from the effective
9 date of such revocation or, if judicial review of such
10 revocation is sought, within 2 years from the date of final
11 court order or decree affirming the revocation. The
12 department shall not, however, grant a new license or
13 appointment or reinstate eligibility to hold such license or
14 appointment if it finds that the circumstance or circumstances
15 for which the eligibility was revoked or for which the
16 previous license or appointment was revoked still exist or are
17 likely to recur; if an individual's license as agent, customer
18 representative, or solicitor or eligibility to hold same has
19 been revoked upon the ground specified in s. 626.611(12), the
20 department shall refuse to grant or issue any new license or
21 appointment so applied for.

22 (3) If licenses as agent, customer representative, or
23 solicitor, or the eligibility to hold same, as to the same
24 individual have been revoked at two separate times, the
25 department shall not thereafter grant or issue any license
26 under this code as to such individual.

27 (4) During the period of suspension or revocation of
28 the license or appointment, the former licensee or appointee
29 shall not engage in or attempt or profess to engage in any
30 transaction or business for which a license or appointment is
31 required under this code or directly or indirectly own,

1 control, or be employed in any manner by any insurance agent
2 or agency or adjuster or adjusting firm.

3 Section 33. Section 626.651, Florida Statutes, is
4 amended to read:

5 626.651 Effect of suspension, revocation upon
6 associated licenses and appointments and licensees and
7 appointees.--

8 (1) Upon suspension, revocation, or refusal to renew
9 or continue any one license of an agent, customer
10 representative, or solicitor, or upon suspension or revocation
11 of eligibility to hold a license or appointment, the
12 department shall at the same time likewise suspend or revoke
13 all other licenses, appointments, or status of eligibility
14 held by the licensee or appointee under this code.

15 (2) In case of the suspension or revocation of license
16 and appointments of any general lines agent, or in case of
17 suspension or revocation of eligibility, the license and
18 appointments of any ~~and all~~ other agents who are members of
19 such agency, whether incorporated or unincorporated, and any
20 ~~and all~~ solicitors or customer representatives employed by
21 such agency, who knowingly are parties to the act which formed
22 the ground for the suspension or revocation may likewise be
23 suspended or revoked.

24 Section 34. Section 626.681, Florida Statutes, is
25 amended to read:

26 626.681 Administrative fine in lieu of or in addition
27 to suspension, revocation, or refusal of license or
28 appointment.--

29 (1) Except as to insurance agencies, if the department
30 finds that one or more grounds exist for the suspension,
31 revocation, or refusal to issue, renew, or continue any

1 license or appointment issued under this chapter, the
2 department may, in its discretion, in lieu of or in addition
3 to such suspension or, revocation, or in lieu of such refusal,
4 and except on a second offense or when such suspension,
5 revocation, or refusal is mandatory, impose upon the licensee
6 or appointee an administrative penalty in an amount up to \$500
7 or, if the department has found willful misconduct or willful
8 violation on the part of the licensee or appointee, up to
9 ~~\$3,500~~\$2,500. The administrative penalty may, in the
10 discretion of the department, be augmented by an amount equal
11 to any commissions received by or accruing to the credit of
12 the licensee or appointee in connection with any transaction
13 as to which the grounds for suspension, revocation, or refusal
14 related.

15 (2) With respect to insurance agencies, if the
16 department finds that one or more grounds exist for the
17 suspension, revocation, or refusal to issue, renew, or
18 continue any license issued under this chapter, the department
19 may, in its discretion, in lieu of or in addition to such
20 suspension or, revocation, or in lieu of such refusal, impose
21 upon the licensee an administrative penalty in an amount not
22 to exceed \$10,000 per violation. The administrative penalty
23 may, in the discretion of the department, be augmented by an
24 amount equal to any commissions received by or accruing to the
25 credit of the licensee in connection with any transaction as
26 to which the grounds for suspension, revocation, or refusal
27 related.

28 (3) The department may allow the licensee or appointee
29 a reasonable period, not to exceed 30 days, within which to
30 pay to the department the amount of the penalty so imposed.
31 If the licensee or appointee fails to pay the penalty in its

1 entirety to the department within the period so allowed, the
2 license, ~~or~~ appointments, or status of the licensee or
3 appointee shall stand suspended or revoked or issuance,
4 renewal, ~~or~~ continuation shall be refused, as the case may be,
5 upon expiration of such period.

6 Section 35. Section 626.691, Florida Statutes, is
7 amended to read:

8 626.691 Probation.--

9 (1) If the department finds that one or more grounds
10 exist for the suspension, revocation, or refusal to renew or
11 continue any license or appointment issued under this part,
12 the department may, in its discretion, except when an
13 administrative fine is not permissible under s. 626.681 or
14 when such suspension, revocation, or refusal is mandatory, in
15 lieu of or in addition to such suspension ~~or~~ revocation, or
16 in lieu of such refusal, or in connection with any
17 administrative monetary penalty imposed under s. 626.681,
18 place the offending licensee or appointee on probation for a
19 period, not to exceed 2 years, as specified by the department
20 in its order.

21 (2) As a condition to such probation or in connection
22 therewith, the department may specify in its order reasonable
23 terms and conditions to be fulfilled by the probationer during
24 the probation period. If during the probation period the
25 department has good cause to believe that the probationer has
26 violated a term or condition ~~such terms and conditions or any~~
27 ~~of them~~, it shall suspend, revoke, or refuse to issue, renew,
28 or continue the license or appointment of the probationer, as
29 upon the original ~~ground~~ ~~or~~ grounds referred to in subsection
30 (1).

31

1 Section 36. Section 626.692, Florida Statutes, is
2 created to read:
3 626.692 Restitution.--If any ground exists for the
4 suspension, revocation, or refusal of a license or
5 appointment, the department may, in addition to any other
6 penalty authorized under this chapter, order the licensee to
7 pay restitution to any person who has been deprived of money
8 by the licensee's misappropriation, conversion, or unlawful
9 withholding of moneys belonging to insurers, insureds,
10 beneficiaries, or others. In no instance shall the amount of
11 restitution required to be paid under this section exceed the
12 amount of money misappropriated, converted, or unlawfully
13 withheld. Nothing in this section limits or restricts a
14 person's right to seek other remedies as provided for by law.

15 Section 37. Section 626.727, Florida Statutes, is
16 amended to read:
17 626.727 Scope of this part.--This part applies only ~~as~~
18 to:
19 (1) General lines agents, as defined in s. 626.041;
20 (2) Solicitors, as defined in s. 626.071; ~~and~~
21 (3) Customer representatives as defined in s. 626.072;
22 and
23 (4)(3) Servicerepresentatives, as defined in s.
24 626.081, or managing general agents, as defined in s. 626.091.

25 Section 38. Section 626.730, Florida Statutes, is
26 amended to read:
27 626.730 Purpose of license.--
28 (1) The purpose of a license issued under this code to
29 a general lines agent, customer representative, or solicitor
30 is to authorize and enable the licensee actively and in good
31 faith to engage in the insurance business as such an agent,

1 customer representative, or solicitor with respect to the
2 ~~general~~ public and to facilitate the public supervision of
3 such activities in the public interest, and not for the
4 purpose of enabling the licensee to receive a rebate of
5 premium in the form of commission or other compensation as an
6 agent, customer representative, or solicitor or enabling the
7 licensee to receive commissions or other compensation based
8 upon insurance solicited or procured by or through him or her
9 upon his or her own interests or those of other persons with
10 whom he or she is closely associated in capacities other than
11 that of insurance agent, customer representative, or
12 solicitor.

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

25 Section 39. Subsection (3) of section 626.732, Florida
26 Statutes, is amended to read:

27 626.732 Requirement as to knowledge, experience, or
28 instruction.--

29 (3) An individual who was or became qualified to sit
30 for an agent's, customer representative's, or adjuster's
31 examination at or during the time he or she was employed by

1 the department and who, while so employed, was employed in
2 responsible insurance duties as a full-time bona fide employee
3 shall be permitted to take an examination if application for
4 such examination is made within 90 days after the date of
5 termination of his or her employment with the department.

6 Section 40. Section 626.733, Florida Statutes, is
7 amended to read:

8 626.733 Agency firms and corporations; special
9 requirements.--If a sole proprietorship, partnership,
10 corporation, or association holds an agency contract, all
11 members thereof who solicit, negotiate, or effect insurance
12 contracts, and all officers and stockholders of the
13 corporation who solicit, negotiate, or effect insurance
14 contracts, are required to qualify and be licensed
15 individually as agents, solicitors, or customer
16 representatives; and all of such agents must be individually
17 appointed as to each property and casualty insurer entering
18 into an agency contract with such agency. Each such
19 appointing insurer as soon as known to it shall comply with
20 this section and shall determine and require that each agent
21 so associated in or so connected with such agency is likewise
22 appointed as to the same such insurer and for the same type
23 and class of license. However, no insurer is required to
24 comply with the provisions of this section if such insurer
25 satisfactorily demonstrates to the department that the insurer
26 has issued an aggregate net written premium, in an agency, in
27 an amount of \$25,000 or less.

28 Section 41. Subsection (2) of section 626.7351,
29 Florida Statutes, is amended to read:

30 626.7351 Qualifications for customer representative's
31 license.--The department shall not grant or issue a license as

1 customer representative to any individual found by it to be
2 untrustworthy or incompetent, or who does not meet each of the
3 following qualifications:

4 (2)(a) The applicant is a bona fide resident of this
5 state and will actually reside in the state at least 6 months
6 out of the year. An individual who is a bona fide resident of
7 this state shall be deemed to meet the residence requirements
8 of this subsection, notwithstanding the existence at the time
9 of application for license of a license in his or her name on
10 the records of another state as a resident licensee of the
11 other state, if the applicant furnishes a letter of clearance
12 satisfactory to the department that the resident licenses have
13 been canceled or changed to a nonresident basis and that he or
14 she is in good standing.

15 (b) The applicant is a resident of another state
16 sharing a common boundary with this state and has been
17 employed in this state for a period of not less than 6 months
18 by a Florida resident general lines agent licensed and
19 appointed under this chapter. The applicant licensed under
20 this subsection must meet all other requirements as described
21 in this chapter and must, under the direct supervision of a
22 licensed and appointed Florida resident general lines agent,
23 conduct business solely within the confines of the office of
24 the agent or agency whom he or she represents in this state.

25 Section 42. Subsection (1) of section 626.739, Florida
26 Statutes, is amended to read:

27 626.739 Temporary license; death, disability, absence
28 of agent.--

29 (1) The department may, in its discretion, issue a
30 temporary license authorizing appointment as a general lines
31 insurance ~~as~~ agent to a licensed agent's employee, family

1 member, business associate, or personal representative for the
2 purpose of continuing or winding up the business affairs of
3 the agent or agency, ~~all~~ subject to the following conditions:
4 (a) The agent ~~so~~ being replaced must have died ~~become~~
5 ~~deceased~~ or become unable to perform his or her duties as
6 agent because of military service or illness or other physical
7 or mental disability.
8 (b) ~~There must be~~ No other person connected with the
9 agent's business ~~who~~ is licensed as a general lines agent.
10 (c) The proposed temporary licensee is ~~must be~~
11 qualified ~~as~~ for a regular general lines agent's license under
12 this code except as to residence, examination, education, or
13 experience.
14 (d) Application for the temporary license has been
15 ~~must be~~ made by the applicant upon statements and affidavit
16 filed with the department on forms ~~as~~ prescribed and furnished
17 by it.
18 (e) The temporary license must ~~shall~~ be ~~issued and be~~
19 valid for 4 months and may ~~shall~~ not be renewed either to the
20 then holder of the temporary license or to any other person
21 for or on behalf of the agent or agency.
22 (f) Under a temporary license and appointment the
23 licensee does ~~shall~~ not represent as agent any insurer not
24 last represented by the agent ~~so~~ being replaced, and is not
25 ~~nor be~~ licensed or appointed as to any additional kind or
26 classification of insurance than those covered by the last
27 existing agency appointments of the replaced agent, except
28 that, if during the temporary license period an insurer
29 withdraws from the agency, the temporary licensee may be
30 appointed by another like insurer only for the period
31 remaining under the temporary license.

1 (g) The holder of a temporary license may be granted a
2 regular agent's license upon taking and successfully
3 completing a classroom course or correspondence course in
4 insurance or having the insurance employment experience as
5 prescribed in s. 626.732 and passing an examination as
6 required by s. 626.221.

7 Section 43. Subsections (1) and (2) of section
8 626.741, Florida Statutes, are amended, present subsection (5)
9 of that section is renumbered as subsection (7), and new
10 subsections (5) and (6) are added to that section, to read:

11 626.741 Nonresident agents; licensing and
12 restrictions.--

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

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

21 (b) A customer representative to an individual who is
22 otherwise qualified therefor, who is not a resident of this
23 state, but who is a resident of a state that shares a common
24 boundary with this state.

25 (2) The department shall not, however, issue any
26 license and appointment to any nonresident who has an office
27 or place of business in this state, or who has any direct or
28 indirect pecuniary interest in any insurance agent, insurance
29 agency, or in any solicitor licensed as a resident of this
30 state; nor to any individual who does not, at the time of
31 issuance and throughout the existence of the Florida license,

1 hold a license as agent or broker issued by the state of his
2 or her residence; nor to any individual who is employed by any
3 insurer as a service representative or who is a managing
4 general agent in any state, whether or not also licensed in
5 another state as an agent or broker. The foregoing
6 requirement to hold a similar license in the applicant's state
7 of residence does not apply to customer representatives unless
8 the home state licenses residents of that state in a like
9 manner. The prohibition against having an office or place of
10 business in this state does not apply to customer
11 representatives who are required to conduct business solely
12 within the confines of the office of a licensed and appointed
13 Florida resident general lines agent in this state.The
14 department shall have discretion to refuse to issue any
15 license or appointment to a nonresident when it has reason to
16 believe that the applicant by ruse or subterfuge is attempting
17 to avoid the intent and prohibitions contained in this
18 subsection or to believe that any of the grounds exist as for
19 suspension or revocation of license as set forth in ss.
20 626.611 and 626.621.

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

28 (6) Upon becoming a resident of this state, an
29 individual who holds a Florida nonresident agent's license is
30 no longer eligible for licensure as a nonresident agent if
31 such individual fails to make application for a resident

1 license and become licensed as a resident agent within 90
2 days. His license and any appointments shall be canceled
3 immediately. He may apply for a resident license pursuant to
4 s. 626.731.

5 ~~(7)(5)~~ Except as provided in this section and ss.
6 626.742 and 626.743, nonresident agents shall be subject to
7 the same requirements as apply to agents resident in this
8 state.

9 Section 44. Present subsection (7) of section 626.792,
10 Florida Statutes, is renumbered as subsection (8) and amended,
11 and a new subsection (7) is added to that section, to read:

12 626.792 Nonresident agents.--

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

20 ~~(8)(7)~~ Upon becoming a resident of this state, an
21 individual who holds a Florida nonresident agent's license is
22 no longer eligible for licensure as a nonresident agent if
23 such individual fails to make application for a resident
24 license and become licensed as a resident agent within 90
25 days. ~~and~~ His license and any appointments shall be canceled
26 immediately. He may apply for a resident license pursuant to
27 s. 626.785.

28 Section 45. Present subsection (7) of section 626.835,
29 Florida Statutes, is renumbered as subsection (8) and amended,
30 and a new subsection (7) is added to that section, to read:

31 626.835 Nonresident agents.--

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

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

16 Section 46. Subsection (1) of section 626.837, Florida
17 Statutes, is amended to read:

18 626.837 Excess or rejected business.--

19 (1) A licensed health agent may place excess or
20 rejected risks within the class of business for which he or
21 she is licensed and appointed, and which the insurer
22 appointing the agent is authorized to transact, with any other
23 authorized insurer without being required to secure an
24 appointment as to such other insurer, but subject to the
25 agent's agreement with the insurer appointing ~~licensing~~ him or
26 her.

27 Section 47. Paragraph (a) of subsection (2) of section
28 626.8411, Florida Statutes, is amended to read:

29 626.8411 Application of Florida Insurance Code
30 provisions to title insurance agents or agencies.--

31

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

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

5 Section 48. Paragraph (a) of subsection (3) of section
6 626.8417, Florida Statutes, is amended to read:

7 626.8417 Title insurance agent's license; application
8 and qualification; errors and omissions insurance; bond and
9 deposit requirements; exemptions.--

10 (3) The department shall not grant or issue a license
11 as title agent to any individual found by it to be
12 untrustworthy or incompetent, who does not meet the
13 qualifications for examination specified in s. 626.8414, or
14 who does not meet the following qualifications:

15 (a) Within the 4 years immediately preceding the date
16 of the application for license, the applicant must have
17 completed a 40-hour classroom course in title insurance, as
18 approved by the department, or must have had at least 12
19 months of experience in responsible title insurance duties,
20 while working in the title insurance business as a
21 substantially full-time, bona fide employee of a title agency,
22 title agent, or title insurer, or attorney who conducts real
23 estate closing transactions and issues title insurance
24 policies but who is exempt from licensure pursuant to
25 paragraph (4)(a). If an applicant's qualifications are based
26 upon the periods of employment at responsible title insurance
27 duties, the applicant must submit, with the application for
28 license on a form prescribed by the department, the affidavit
29 of the applicant and of the employer setting forth the period
30 of such employment, that the employment was substantially full
31

1 time, and giving a brief abstract of the nature of the duties
2 performed by the applicant.

3 Section 49. Subsection (2) of section 626.8418,
4 Florida Statutes, is amended to read:

5 626.8418 Application for title insurance agency
6 license.--Prior to doing business in this state as a title
7 insurance agency, a title insurance agency must meet all of
8 the following requirements:

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

1 remain unimpaired as long as the title insurance agency
2 continues in business in this state and until 1 year after
3 termination of all title insurance agency appointments
4 ~~licenses~~ held by the title insurance agency. The title
5 insurance agency is entitled to the return of the deposit or
6 bond together with accrued interest after such year has
7 passed, if no claim has been made against the deposit or bond.
8 If a surety bond is unavailable generally, the department may
9 adopt rules for alternative methods to comply with this
10 subsection. With respect to such alternative methods for
11 compliance, the department must be guided by the past business
12 performance and good reputation and character of the proposed
13 title insurance agency. A surety bond is deemed to be
14 unavailable generally if the prevailing annual premium exceeds
15 25 percent of the principal amount of the bond.

16 Section 50. Section 626.8437, Florida Statutes, is
17 amended to read:

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

26 (1) Lack of one or more of the qualifications for the
27 license or appointment as specified in ~~ss. s-~~626.8417,
28 626.8418, and 626.8419.

29 (2) Material misstatement, misrepresentation, or fraud
30 in obtaining, or attempting to obtain, the license or
31 appointment.

- 1 (3) Willful misrepresentation of any title insurance
2 policy, guarantee of title, binder, or commitment, or willful
3 deception with regard to any such policy, guarantee, binder,
4 or commitment, done either in person or by any form of
5 dissemination of information or advertising.
- 6 (4) Demonstrated lack of fitness or trustworthiness to
7 represent a title insurer in the issuance of its commitments,
8 binders, policies of title insurance, or guarantees of title.
- 9 (5) Demonstrated lack of reasonably adequate knowledge
10 and technical competence to engage in the transactions
11 authorized by the license or appointment.
- 12 (6) Fraudulent or dishonest practices in the conduct
13 of business under the license or appointment.
- 14 (7) Misappropriation, conversion, or unlawful
15 withholding of moneys belonging to title insurers or insureds
16 or others and received in conduct of business under the
17 license or appointment.
- 18 (8) Unlawful rebating, or attempting to unlawfully
19 rebate, or unlawfully dividing, or offering to unlawfully
20 divide, title insurance premiums, fees, or charges with
21 another, as prohibited by s. 626.9541(1)(h)3.
- 22 (9) Willful failure to comply with, or willful
23 violation of, any proper order or rule of the department or
24 willful violation of any provision of this act.
- 25 (10) The licensee if an individual, or the partners if
26 a partnership, or owner if a sole proprietorship, or the
27 officers if a corporation, having been found guilty of or
28 having pleaded guilty or nolo contendere to a felony or a
29 crime punishable by imprisonment of 1 year or more under the
30 law of the United States or of any state or under the law of
31 any other country which involves moral turpitude, without

1 regard to whether a judgment of conviction has been entered by
2 the court having jurisdiction of such cases.

3 Section 51. Section 626.844, Florida Statutes, is
4 amended to read:

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

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

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

21 (3) Violation of any lawful order or rule of the
22 department.

23 (4) Failure or refusal upon demand to pay over to any
24 title insurer that the appointee represents or has represented
25 any money coming into the hands of such appointee and
26 belonging to the title insurer.

27 (5) Engaging in unfair methods of competition or in
28 unfair or deceptive acts or practices in the conduct of
29 business, as prohibited under part X of this chapter, or
30 having otherwise shown himself or herself to be a source of
31

1 injury or loss to the public or to be detrimental to the
2 public interest.

3 (6) The licensee if an individual, or the partners if
4 a partnership, or owner if a sole proprietorship, or the
5 officers if a corporation, having been found guilty of or
6 having pleaded guilty or nolo contendere to a felony or a
7 crime punishable by imprisonment of 1 year or more under the
8 law of the United States or of any state or under the law of
9 any other country, without regard to whether a judgment of
10 conviction has been entered by the court having jurisdiction
11 of such cases.

12 Section 52. Subsections (1), (3), and (4) of section
13 626.8443, Florida Statutes, are amended to read:

14 626.8443 Duration of suspension or revocation.--

15 (1) The department shall, in its order suspending a
16 title insurance agent's or agency's license or appointment or
17 in its order suspending the eligibility of a person to hold or
18 apply for such license or appointment, specify the period
19 during which the suspension is to be in effect, but such
20 period shall not exceed 1 year. The license, or appointment,
21 or eligibility shall remain suspended during the period so
22 specified, subject, however, to any rescission or modification
23 of the order by the department, or modification or reversal
24 thereof by the court, prior to expiration of the suspension
25 period. A license, ~~and~~ appointment, or eligibility which has
26 been suspended may not be reinstated except upon request for
27 such reinstatement, but the department shall not grant such
28 reinstatement if it finds that the circumstance or
29 circumstances for which the license, appointment, and
30 eligibility was suspended still exist or are likely to recur.
31

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

5 (4) During the period of suspension or after
6 revocation of the license and appointment, the former licensee
7 shall not engage in or attempt to profess to engage in any
8 transaction or business for which a license or appointment is
9 required under this code or directly or indirectly own,
10 control, or be employed in any manner by any insurance agent
11 or agency or adjuster or adjusting firm ~~act~~.

12 Section 53. Subsections (1) and (2) of section
13 626.852, Florida Statutes, are amended to read:

14 626.852 Scope of this part.--

15 (1) This part applies only ~~as~~ to insurance adjusters
16 ~~and claims investigators~~ as defined hereinafter in this part
17 ~~defined~~.

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

22 Section 54. Section 626.858, Florida Statutes, is
23 amended to read:

24 626.858 "Nonresident company employee adjuster"
25 defined.--A "nonresident company employee adjuster" is a
26 person who:

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

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

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

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

6 Section 55. Section 626.8582, Florida Statutes, is
7 created to read:

8 626.8582 "Nonresident public adjuster" defined.--A
9 "nonresident public adjuster" is a person who:

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

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

17 (3) Is a self-employed public adjuster or associated
18 with or employed by a public adjusting firm or other public
19 adjuster.

20 Section 56. Section 626.8584, Florida Statutes, is
21 created to read:

22 626.8584 "Nonresident independent adjuster"
23 defined.--A "nonresident independent adjuster" is a person
24 who:

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

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

1 (3) Is a self-employed independent adjuster or
2 associated with or employed by an independent adjusting firm
3 or other independent adjuster.

4 Section 57. Subsection (2) of section 626.865, Florida
5 Statutes, is amended to read:

6 626.865 Public adjuster's qualifications, bond.--

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

21 Section 58. Section 626.873, Florida Statutes, is
22 amended to read:

23 626.873 Nonresident company employee adjusters.--The
24 department shall, upon application therefor, issue a license
25 to an applicant for a nonresident adjuster's license upon
26 determining that the applicant has paid the applicable license
27 fees required under s. 624.501 and:

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

30
31

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

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

6 (3)(4) Has filed a certificate or letter of
7 authorization from the insurance department of his or her home
8 state, if such state requires an adjuster to be licensed,
9 stating that he or she holds a current license or
10 authorization to adjust insurance losses. Such certificate or
11 authorization must be signed by the insurance commissioner, or
12 his or her deputy, of the adjuster's home state and must
13 reflect whether or not the adjuster has ever had his or her
14 license or authorization in the adjuster's home state
15 suspended or revoked and, if such is the case, the reason for
16 such action.

17 Section 59. Section 626.8732, Florida Statutes, is
18 created to read:

19 626.8732 Nonresident public adjuster's qualifications,
20 bond.--

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

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

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

31

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

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

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

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

29 (e) Has had sufficient experience, training, or
30 instruction concerning the adjusting of damages or losses
31 under insurance contracts, other than life and annuity

1 contracts; is sufficiently informed as to the terms and
2 effects of the provisions of those types of insurance
3 contracts; and possesses adequate knowledge of the laws of
4 this state relating to such contracts as to enable and qualify
5 him or her to engage in the business of insurance adjuster
6 fairly and without injury to the public or any member thereof
7 with whom he or she may have business as a public adjuster.

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

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

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

1 (c) If the applicant's state of residence does not
2 require licensure as a public adjuster and the applicant has
3 been licensed as a resident insurance adjuster, agent, broker,
4 or other insurance representative in his or her state of
5 residence or any other state within the past 3 years, a
6 certificate or letter of authorization from the licensing
7 authority stating that the applicant holds or has held a
8 license to act as such an insurance adjuster, agent, or other
9 insurance representative. The certificate or letter of
10 authorization must be signed by the insurance commissioner or
11 his or her deputy or the appropriate licensing official and
12 must disclose whether or not the adjuster, agent, or other
13 insurance representative has ever had any license or
14 eligibility to hold any license declined, denied, suspended,
15 revoked, or placed on probation or whether an administrative
16 fine or penalty has been levied against the adjuster and, if
17 so, the reason for the action.

18 (3) At the time of application for license as a
19 nonresident public adjuster, the applicant shall file with the
20 department a bond executed and issued by a surety insurer
21 authorized to transact surety business in this state, in the
22 amount of \$50,000, conditioned for the faithful performance of
23 his or her duties as a nonresident public adjuster under the
24 license applied for. The bond must be in favor of the
25 department and must specifically authorize recovery by the
26 department of the damages sustained if the licensee commits
27 fraud or unfair practices in connection with his or her
28 business as nonresident public adjuster. The aggregate
29 liability of the surety for all the damages may not exceed the
30 amount of the bond. The bond may not be terminated unless at
31

1 least 30 days' written notice is given to the licensee and
2 filed with the department.

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

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

22 Section 60. Section 626.8734, Florida Statutes, is
23 created to read:

24 626.8734 Nonresident independent adjuster's
25 qualifications.--

26 (1) The department shall, upon application therefor,
27 issue a license to an applicant for a nonresident independent
28 adjuster's license upon determining that the applicant has
29 paid the applicable license fees required under s. 624.501
30 and:

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

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

5 1. An applicant who is licensed as a resident
6 independent adjuster in his or her state of residence when
7 that state requires the passing of a written examination in
8 order to obtain the license and a reciprocal agreement with
9 the appropriate official of that state has been entered into
10 by the department; or

11 2. An applicant who is licensed as a nonresident
12 independent adjuster in a state other than his or her state of
13 residence when the state of licensure requires the passing of
14 a written examination in order to obtain the license and a
15 reciprocal agreement with the appropriate official of the
16 state of licensure has been entered into by the department.

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

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

1 (e) Has had sufficient experience, training, or
2 instruction concerning the adjusting of damages or losses
3 under insurance contracts, other than life and annuity
4 contracts; is sufficiently informed as to the terms and
5 effects of the provisions of those types of insurance
6 contracts; and possesses adequate knowledge of the laws of
7 this state relating to such contracts as to enable and qualify
8 him or her to engage in the business of insurance adjuster
9 fairly and without injury to the public or any member thereof
10 with whom he or she may have business as an independent
11 adjuster.

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

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

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

30 (c) If the applicant's state of residence does not
31 require licensure as an independent adjuster and the applicant

1 has been licensed as a resident insurance adjuster, agent,
2 broker, or other insurance representative in his state of
3 residence or any other state within the past 3 years, a
4 certificate or letter of authorization from the licensing
5 authority stating that the applicant holds or has held a
6 license to act as an insurance adjuster, agent, or other
7 insurance representative. The certificate or letter of
8 authorization must be signed by the insurance commissioner or
9 his or her deputy or the appropriate licensing official and
10 must disclose whether the adjuster, agent, or other insurance
11 representative has ever had any license or eligibility to hold
12 any license declined, denied, suspended, revoked or placed on
13 probation or whether an administrative fine or penalty has
14 been levied against the adjuster and, if so, the reason for
15 the action.

16 (3) The usual and customary records pertaining to
17 transactions under the license of a nonresident independent
18 adjuster must be retained for at least 3 years after
19 completion of the adjustment and must be made available in
20 this state to the department upon request. The failure of a
21 nonresident independent adjuster to properly maintain records
22 and make them available to the the department upon request
23 constitutes grounds for the immediate suspension of the
24 license issued under this section.

25 (4) After licensure as a nonresident independent
26 adjuster, as a condition of doing business in this state, the
27 licensee must annually on or before January 1, on a form
28 prescribed by the department, submit an affidavit certifying
29 that the licensee is familiar with and understands the
30 insurance laws and administrative rules of this state and the
31 provisions of the contracts negotiated or to be negotiated.

1 Compliance with this filing requirement is a condition
2 precedent to the issuance, continuation, reinstatement, or
3 renewal of a nonresident independent adjuster's appointment.

4 Section 61. Section 626.8736, Florida Statutes, is
5 created to read:

6 626.8736 Nonresident independent or public adjusters;
7 service of process.--

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

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

23 (3) Duplicate copies of legal process against the
24 nonresident independent or public adjuster shall be served
25 upon the Insurance Commissioner and Treasurer by a person
26 competent to serve a summons.

27 (4) Upon receiving the service, the Insurance
28 Commissioner and Treasurer shall forthwith send one of the
29 copies of the process, by registered mail with return receipt
30 requested, to the defendant nonresident independent or public
31

1 adjuster at his or her last address of record with the
2 department.

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

6 Section 62. Section 626.8737, Florida Statutes, is
7 created to read:

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

21 Section 63. Section 626.8738, Florida Statutes, is
22 created to read:

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

1 Section 64. Subsection (5) of section 626.869, Florida
2 Statutes, is amended to read:

3 626.869 License, adjusters.--

4 (5) Any person holding a license for 24 consecutive
5 months or longer ~~and appointment~~ and who engages in adjusting
6 workers' compensation insurance must, beginning in their birth
7 month and every 2 years thereafter, have completed 24 hours of
8 courses, 2 hours of which relate to ethics, in subjects shall
9 ~~certify to the department every 2 years, at least 90 days~~
10 ~~prior to the renewal date of his or her appointment, the fact~~
11 ~~that the licensee has completed a course of instruction~~
12 ~~designed to inform the licensee regarding as to the current~~
13 ~~workers' compensation laws of this state, so as to enable him~~
14 ~~or her to engage in such business as a workers' compensation~~
15 ~~insurance adjuster fairly and without injury to the public and~~
16 ~~to adjust all claims in accordance with the policy or contract~~
17 ~~and the workers' compensation laws of this state. In order to~~
18 ~~qualify as an eligible course under this subsection, the~~
19 ~~course must shall:~~

20 (a) ~~Have a~~ Consist of 24 hours of classroom
21 ~~instruction in the workers' compensation laws and practices of~~
22 ~~this state, 2 hours of which shall relate to ethics, with the~~
23 ~~course outline approved by the department. It is not required~~
24 ~~that the 24 hours of classroom instruction take place in one~~
25 ~~course.~~

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

28 (c) Be taught by instructors with at least 5 years of
29 experience in the area of workers' compensation, general lines
30 of insurance, or other persons approved by the department.

31

1 However, a member of The Florida Bar is ~~shall be~~ exempt from
2 the 5 years' experience requirement.

3 (d) Furnish the attendee a certificate of completion.
4 The ~~sponsor of the~~ course provider shall send a roster copy of
5 ~~the certificate of completion~~ to the department in a format
6 prescribed by the department.

7 Section 65. Section 626.8695, Florida Statutes, is
8 amended to read:

9 626.8695 Primary adjuster.--

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

21 (2)(a) For purposes of this section, a "primary
22 adjuster" is the licensed adjuster who is responsible for the
23 hiring and supervision of all individuals within an adjusting
24 firm location who deal with the public and who acts in the
25 capacity of a public adjuster as defined in s. 626.854, or an
26 independent adjuster as defined in s. 626.855. An adjuster
27 may be designated as a primary adjuster for only one adjusting
28 firm location.

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

1 (3) The department may suspend or revoke the license
2 of the primary adjuster if the ~~an~~ adjusting firm employs any
3 person who has had a license denied or any person whose
4 license is currently suspended or revoked. However, if 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 (4) The primary adjuster in an unincorporated
10 adjusting firm, or the primary adjuster in an incorporated
11 adjusting firm in which no officer, director, or stockholder
12 is an adjuster, is responsible and accountable for the acts of
13 salaried employees under his or her direct supervision and
14 control while acting on behalf of the adjusting firm. Nothing
15 in this section renders any person criminally liable or
16 subject to any disciplinary proceedings for any act unless the
17 person personally committed or knew or should have known of
18 the act and of the facts constituting a violation of this
19 code.

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

23 (6) An ~~No~~ adjusting firm location may not conduct the
24 business of insurance unless a primary adjuster is designated.
25 Failure of the person operating the adjusting firm to
26 designate a primary adjuster for the firm, or for each
27 location, as applicable, on a form prescribed by the
28 department within 30 days after inception of the firm or
29 change of primary adjuster designation, constitutes grounds
30 for requiring the adjusting firm to obtain an adjusting firm
31 license pursuant to s. 626.8696.

1 (7) Any adjusting firm may request, on a form
2 prescribed by the department, verification from the department
3 of any person's current licensure status. If a request is
4 mailed to the department within 5 working days after the date
5 an adjuster is hired, and the department subsequently notifies
6 the adjusting firm that an employee's license is currently
7 suspended, revoked, or has been denied, the license of the
8 primary adjuster shall not be revoked or suspended if the
9 unlicensed person is immediately dismissed from employment as
10 an adjuster with the firm.

11 Section 66. Subsection (5) is added to section
12 626.872, Florida Statutes, to read:

13 626.872 Temporary license.--

14 (5) The department shall not issue a temporary license
15 as an independent adjuster or as a company employee adjuster
16 to any individual who has ever held such a license in this
17 state.

18 Section 67. Section 626.873, Florida Statutes, is
19 amended to read:

20 626.873 Nonresident adjusters.--

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

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

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

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

31

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

12 (2) Any individual who holds a Florida nonresident
13 adjuster's license, upon becoming a resident of this state
14 may, for a period not to exceed 90 days, continue to adjust
15 claims in this state under his or her nonresident license and
16 appointment. Such individual must make application for
17 resident licensure and must become licensed as a resident
18 adjuster within 90 days of becoming a resident of this state.

19 (3) Upon becoming a resident of this state, an
20 individual who holds a Florida nonresident adjuster's license
21 is no longer eligible for licensure as a nonresident adjuster
22 if such individual fails to make application for a resident
23 license and become licensed as a resident adjuster within 90
24 days. Such individual may apply for a resident license
25 pursuant to s. 626.865, s. 626.866, or s. 626.867.

26 Section 68. Subsection (2) of section 626.875, Florida
27 Statutes, is amended to read:

28 626.875 Office and records.--

29 (2) The records of the adjuster relating to a
30 particular claim or loss shall be so retained in the
31 adjuster's place of business for a period of not less than 3

1 years ~~1 year~~ after completion of the adjustment. This
2 provision shall not be deemed to prohibit return or delivery
3 to the insurer or insured of documents furnished to or
4 prepared by the adjuster and required by the insurer or
5 insured to be returned or delivered thereto.

6 Section 69. Section 626.877, Florida Statutes, is
7 amended to read:

8 626.877 Adjustments to comply with insurance contract
9 and law.--Every adjuster ~~and claims investigator~~ shall adjust
10 or investigate every claim, damage, or loss made or occurring
11 under an insurance contract, in accordance with the terms and
12 conditions of the contract and of the applicable laws of this
13 state.

14 Section 70. Subsection (1) of section 626.922, Florida
15 Statutes, is amended to read:

16 626.922 Evidence of the insurance; changes; penalty.--

17 (1) Upon placing a surplus lines coverage, the surplus
18 lines agent shall promptly issue and deliver to the insured
19 evidence of the insurance consisting either of the policy as
20 issued by the insurer or, if such policy is not then
21 available, a certificate, cover note, or other confirmation of
22 insurance. Such document shall be executed or countersigned
23 by the surplus lines agent and shall show the description and
24 location of the subject of the insurance; coverage,
25 conditions, and term of the insurance; the premium and rate
26 charged and taxes collected from the insured; and the name and
27 address of the insured and insurer. If the direct risk is
28 assumed by more than one insurer, the document shall state the
29 name and address and proportion of the entire direct risk
30 assumed by each insurer. A surplus lines agent may not
31 delegate the duty to issue any such document to producing

1 general lines agents without prior written authority from the
2 surplus lines insurer. A general lines agent may issue any
3 such document only if the agent has prior written authority
4 from the surplus lines agent. The surplus lines agent must
5 maintain copies of the authorization from the surplus lines
6 insurer and the delegation to the producing general lines
7 agent. The producing agent must maintain copies of the written
8 delegation from the surplus lines agent and copies of any
9 evidence of coverage or certificate of insurance which the
10 producing agent issues or delivers. Any evidence of coverage
11 issued by a producing agent pursuant to this section must
12 include the name and address of the authorizing surplus lines
13 agent.

14 Section 71. Section 626.928, Florida Statutes, is
15 amended to read:

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

1 terminated unless not less than 30 days' prior written notice
2 thereof is given the licensee and filed with the department.

3 Section 72. Subsections (4) and (7) of section
4 626.927, Florida Statutes, are amended to read:

5 626.927 Licensing of surplus lines agent.--

6 (4) License and appointment fees in the amount
7 specified in s. 624.501 shall be paid to the department in
8 advance. The license and appointment of a surplus lines agent
9 continue in force until suspended, revoked, or otherwise
10 terminated. The appointment of a surplus lines agent
11 continues in force until suspended, revoked, or terminated,
12 but is subject to biennial renewal or continuation by the
13 licensee in accordance with procedures prescribed in s.
14 626.381 for agents in general.

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

27 Section 73. Subsections (1) and (2) of section
28 626.9271, Florida Statutes, are amended to read:

29 626.9271 Temporary license; death, disability, absence
30 of surplus lines agent.--

31

1 (1) The department may, in its discretion, issue a
2 temporary license and appointment as a surplus lines agent to
3 a licensed surplus lines agent's employee, family member,
4 business associate, or personal representative for the purpose
5 of continuing or winding up the business affairs of the
6 surplus lines agent or agency, ~~all~~ subject to the following
7 conditions:

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

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

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

18 (d) Application for the temporary license and
19 appointment must be made by the applicant upon statements and
20 affidavit filed with the department on forms as prescribed and
21 furnished by it.

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

27 (2) The applicant for a temporary license and
28 appointment shall pay to the department, prior to the issuance
29 thereof, the applicable license and appointment fees ~~fee as~~
30 specified ~~therefor~~ in s. 624.501.

31

1 Section 74. Subsections (1) and (2) of section
2 626.929, Florida Statutes, are amended to read:

3 626.929 Origination, acceptance, placement of surplus
4 lines business.--

5 (1) A resident general lines agent while licensed and
6 appointed as a surplus lines agent under this part may
7 originate surplus lines business and may accept surplus lines
8 business from any other originating Florida-licensed general
9 lines agent appointed and licensed as to the ~~kind or~~ kinds of
10 insurance involved and may compensate such agent therefor.

11 (2) A managing general agent while licensed and
12 appointed as a surplus lines agent under this part may accept
13 and place solely such surplus lines business as is originated
14 by a Florida-licensed general lines agent appointed and
15 licensed as to the ~~kind or~~ kinds of insurance involved and may
16 compensate such agent therefor.

17 Section 75. Subsections (1), (2), and (3) of section
18 626.935, Florida Statutes, are amended to read:

19 626.935 Suspension, revocation, or refusal of surplus
20 lines agent's license.--

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

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

27 (b) Removal of the accounts and records of his or her
28 surplus lines business from this state during the period when
29 such accounts and records are required to be maintained under
30 s. 626.930.

31

- 1 (c) Closure of the licensee's office for a period of
2 more than 30 consecutive days.
- 3 (d) Failure to make and file his or her quarterly
4 reports when due as required by s. 626.931.
- 5 (e) Failure to pay the tax on surplus lines premiums,
6 as provided for in this Surplus Lines Law.
- 7 (f) Failure to maintain the bond as required by s.
8 626.928.
- 9 (g) Suspension, revocation, or refusal to renew or
10 continue the license or appointment as a general lines agent,
11 service representative, or managing general agent.
- 12 (h) Lack of qualifications as for an original surplus
13 lines agent's license.
- 14 (i) Violation of this Surplus Lines Law.
- 15 (j) For any other applicable cause for which the
16 license of a general lines agent could be suspended, revoked,
17 or refused under s. 626.611.
- 18 (2) The department may, in its discretion, deny an
19 application for, suspend, revoke, or refuse to renew the
20 license or appointment of any surplus lines agent upon any
21 applicable ground for which a general lines agent's license
22 could be suspended, revoked, or refused under s. 626.621.
- 23 (3) In the suspension or revocation of, or the refusal
24 to issue or renew, the license or appointment of a surplus
25 lines agent, the department shall follow the same procedures,
26 as applicable, as provided for suspension, revocation, or
27 refusal of licenses of general lines agents, but subject to s.
28 626.936 as to failure to file a quarterly report or pay the
29 tax.
- 30 Section 76. Subsections (3) and (4) of section
31 626.944, Florida Statutes, are amended to read:

1 626.944 Qualifications for health care risk
2 managers.--

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

10 (4) The department shall renew a health care risk
11 manager appointment ~~license~~ in accordance with procedures
12 prescribed in s. 626.381 for agents in general.

13 Section 77. Present subsections (3) and (4) of section
14 627.681, Florida Statutes, are renumbered as subsections (4)
15 and (5), respectively, and a new subsection (3) is added to
16 that section, to read:

17 627.681 Term and evidence of insurance.--

18 (3) Notwithstanding s. 627.6785(3), the term of credit
19 life or credit disability insurance may be for less than the
20 term of the indebtedness. However, except for the age
21 limitations referred to in s. 627.6785(3), the term shall
22 extend for at least 5 years or for the term of the
23 indebtedness, whichever is less.

24 Section 78. Subsection (3) of section 627.745, Florida
25 Statutes, is amended to read:

26 627.745 Mediation of claims.--

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

31

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

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

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

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

21 Section 79. Section 634.317, Florida Statutes, is
22 amended to read:

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

29 Section 80. Section 634.420, Florida Statutes, is
30 amended to read:

31

1 634.420 License and appointment of sales
2 representatives.--Sales representatives for service warranty
3 associations or insurers shall be licensed, appointed,
4 renewed, continued, reinstated, or terminated in accordance
5 with procedures as prescribed in chapter 626 for insurance
6 representatives in general. However, they shall be exempt
7 from all other provisions of chapter 626, including
8 fingerprinting, photo identification, education, and
9 examination. License, appointment, and other fees shall be
10 those prescribed in s. 624.501. A licensed and appointed
11 sales representative shall be directly responsible and
12 accountable for all acts of the licensed sales
13 representative's ~~her or his~~ employees or other
14 representatives. Each service warranty association or insurer
15 shall, on forms prescribed by the department, within 30 days
16 after termination of the appointment, notify the department of
17 such termination. No employee or sales representative of a
18 service warranty association or insurer may directly or
19 indirectly solicit or negotiate insurance contracts, or hold
20 herself or himself out in any manner to be an insurance agent
21 or solicitor, unless so qualified, licensed, and appointed
22 therefor under the insurance code.

23 Section 81. Section 642.036, Florida Statutes, is
24 amended to read:

25 642.036 Sales representatives to be licensed and
26 appointed.--

27 ~~(1)~~ Sales representatives of legal expense insurers
28 shall be licensed, appointed, renewed, continued, reinstated,
29 or terminated as prescribed in chapter 626 for insurance
30 representatives in general, and shall pay the license and
31 appointment fees prescribed in s. 624.501. No employee or

1 sales representative of an insurer may directly or indirectly
2 solicit or negotiate insurance contracts, or hold herself or
3 himself out in any manner to be an insurance agent or
4 solicitor, unless so qualified, licensed, and appointed
5 therefor under the insurance code.

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

11 Section 82. Sections 626.532 and 626.857, Florida
12 Statutes, are repealed.

13 Section 83. This act shall take effect October 1 of
14 the year in which enacted.

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