

By Representative Brown

1 A bill to be entitled
2 An act relating to insurance agents; amending
3 s. 624.318, F.S.; requiring maintenance of
4 separate records relating to insurance products
5 and transactions; amending s. 626.112, F.S.;
6 describing activities which constitute the
7 solicitation of insurance requiring licensure
8 as an insurance agent; prohibiting certain
9 referral payments or receipts of payments;
10 amending s. 626.171, F.S.; revising agent
11 application requirements; creating s. 626.202,
12 F.S.; requiring fingerprinting of certain
13 persons; amending s. 626.431, F.S.; extending a
14 period of eligibility for reappointment;
15 amending s. 626.5715, F.S.; applying
16 requirements of the Florida Insurance Code
17 equally to all insurance transactions; creating
18 s. 626.9531, F.S.; requiring identification of
19 insurers, agents, and insurance contracts;
20 amending s. 626.541, F.S.; revising
21 requirements for notification of name and
22 information change; amending s. 626.601, F.S.;
23 deleting a limitation on a confidentiality
24 provision; amending 626.611, F.S.; prohibiting
25 the sale of certain unregistered securities;
26 amending ss. 626.741, 626.792, and 626.835,
27 F.S.; limiting authority of certain nonresident
28 licenses; amending ss. 626.927 and 626.8427,
29 F.S.; revising certain time provisions relating
30 to licensure; amending s. 626.872, F.S.;
31 clarifying a temporary license loss adjustment

1 provision; amending s. 626.856, F.S.; revising
2 a definition; amending s. 626.873, F.S.;
3 clarifying application of certain adjuster
4 provisions; amending s. 626.521, F.S.; revising
5 certain information reporting requirements;
6 repealing s. 624.501(11) and (23), F.S.,
7 relating to appointment fees for vending
8 machines and health care risk managers;
9 providing an effective date.

10

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

12

13 Section 1. Subsection (2) of section 624.318, Florida
14 Statutes, is amended to read:

15 624.318 Conduct of examination or investigation;
16 access to records; correction of accounts; appraisals.--

17 (2) Every person being examined or investigated, and
18 its officers, attorneys, employees, agents, and
19 representatives, shall make freely available to the department
20 or its examiners or investigators the accounts, records,
21 documents, files, information, assets, and matters in their
22 possession or control relating to the subject of the
23 examination or investigation. If the licensed insurance agent
24 markets other products, provides other services, or maintains
25 other information regarding the customer which relates to
26 other than insurance transactions, all records relating to
27 insurance products and transactions shall be separately
28 maintained, if separation is necessary to enable the
29 department to access and review the records relating to
30 insurance transactions. If records relating to the insurance
31 transactions are maintained by the agent on premises owned or

1 operated by a third party, the agent and the third party shall
2 provide access to the records by the department.

3 Section 2. Subsection (1) of section 626.112, Florida
4 Statutes, is amended, and subsection (8) is added to said
5 section, to read:

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

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

13 (b) Except as provided in subsection (6) or applicable
14 department rules, and in addition to other conduct described
15 in this chapter with respect to particular types of agents, a
16 license as an insurance agent, service representative,
17 solicitor, customer representative, or limited customer
18 representative is required in order to solicit insurance. For
19 purposes of this requirement, as applicable to any of the
20 license types described in this paragraph, the solicitation of
21 insurance includes:

22 1. Describing the benefits or terms of insurance
23 coverage, including premiums or rates of return;

24 2. Providing an application, enrollment form, or other
25 document by which insurance coverage is effectuated;

26 3. Receiving an application, enrollment form, or other
27 document by which a purchaser effectuates insurance coverage
28 or otherwise taking such action as may be required to
29 effectuate coverage on behalf of a purchaser;

30 4. Receiving an initial premium payment from the
31 purchaser;

1 5. Distributing an invitation to contract to
2 prospective purchasers;

3 6. Making general or specific recommendations as to
4 insurance products;

5 7. Accepting orders or applications for insurance
6 products;

7 8. Responding to questions from prospective purchasers
8 regarding insurance products; or

9 9. Otherwise attempting to persuade any person to
10 purchase a particular insurance product.

11
12 However, notwithstanding the provisions of subparagraphs 2.
13 and 3., an employer or employee leasing company licensed
14 pursuant to chapter 468, which has entered into a contract
15 with an employer and is the employer for purposes identified
16 in such contract, may provide or receive enrollment forms or
17 other documents or otherwise take such action as may be
18 required to effectuate coverage of employees under a group
19 insurance policy or group health maintenance organization
20 contract issued to the employer, provided such employer does
21 not otherwise engage in any activities enumerated in this
22 paragraph.

23 (8) Except as permitted by s. 626.753, s. 626.794, or
24 s. 626.838, no person may pay or receive any fee or other
25 consideration for the referral of prospective insurance
26 purchasers to an insurance agent which is in any way dependent
27 upon whether the referral results in the purchase of an
28 insurance product.

29 Section 3. Subsections (2) and (5) of section 626.171,
30 Florida Statutes, are amended to read:

31 626.171 Application for license.--

1 (2) In the application, the applicant shall set forth:
2 (a) His or her full name, age, social security number,
3 residence, and place of business, ~~and occupation for the~~
4 ~~5-year period preceding the date of application.~~

5 (b) Proof that the applicant ~~His or her qualifications~~
6 ~~for the license, as follows:~~

7 1. ~~What efforts he or she has made or intends to make~~
8 ~~to become familiar with the insurance laws of this state and~~
9 ~~with the provisions of the contracts to be negotiated.~~

10 2. ~~What insurance experience he or she has had, if~~
11 ~~any.~~

12 3. ~~What insurance instruction he or she has had or~~
13 ~~expects to receive.~~

14 4. ~~What approved insurance courses he or she has~~
15 ~~completed or is in the process of completing~~ any prelicensing
16 course, if required ~~which may be used to meet any educational~~
17 ~~requirements.~~

18 (c) Whether he or she has been refused or has
19 voluntarily surrendered or has had suspended or revoked a
20 license to solicit insurance by the department or by the
21 supervising officials of any state.

22 (d) Whether any insurer or any managing general agent
23 claims the applicant is indebted under any agency contract or
24 otherwise and, if so, the name of the claimant, the nature of
25 the claim, and the applicant's defense thereto, if any.

26 (e) Proof that the applicant meets the requirements
27 for the type of license as provided in this chapter ~~Whether~~
28 ~~the applicant will devote all or part of his or her efforts to~~
29 ~~acting as an insurance representative and, if part only, how~~
30 ~~much time will be devoted to such work and in what other~~
31 ~~business or businesses he or she is engaged or employed.~~

1 (f) Such other or additional information as the
2 department may deem proper to enable it to determine the
3 character, experience, ability, and other qualifications of
4 the applicant to hold himself or herself out to the public as
5 an insurance representative.

6 (5) An application for a license as an agent, customer
7 representative, solicitor, adjuster, insurance agency, service
8 representative, managing general agent, or reinsurance
9 intermediary, ~~or claims investigator~~ shall be accompanied by a
10 set of the individual applicant's fingerprints, or, if the
11 applicant is not an individual, by a set of the fingerprints
12 of the sole proprietor, majority owner, partners, officers, or
13 directors, on a form adopted by rule of the department and
14 accompanied by the fingerprint processing fee set forth in s.
15 624.501. The fingerprints shall be certified by a law
16 enforcement officer.

17 Section 4. Section 626.202, Florida Statutes, is
18 created to read:

19 626.202 Fingerprinting; owner; officers, directors, or
20 partners.--If there is a change in ownership or control of any
21 entity licensed under the provisions of this chapter, or if
22 any new partner, officer, or director is employed or
23 appointed, a set of fingerprints of any new owner, partner,
24 officer, or director must be filed with the department within
25 30 days after such change. Finally acquiring 10 percent or
26 more of the voting securities of a licensed entity is deemed a
27 change of ownership or control. The fingerprints shall be
28 certified by a law enforcement officer and be accompanied by
29 the fingerprint processing fee set forth in s. 624.501.

30 Section 5. Subsections (2) and (3) of section 626.431,
31 Florida Statutes, are amended to read:

1 626.431 Effect of expiration of license and
2 appointment.--

3 (2) When a licensee's last appointment for a
4 particular class of insurance has been terminated or not
5 renewed, the department must notify the licensee that his or
6 her eligibility for appointment as such an appointee will
7 expire unless he or she is appointed prior to expiration of
8 the 48-month ~~24-month~~ period referred to in subsection (3).

9 (3) An individual who fails to maintain an appointment
10 with an appointing entity writing the class of business listed
11 on his or her license during any 48-month ~~24-month~~ period
12 shall not be granted an appointment for that class of
13 insurance until he or she qualifies as a first-time applicant.

14 Section 6. Section 626.5715, Florida Statutes, is
15 amended to read:

16 626.5715 Parity of regulation of insurance agents and
17 agencies.--The requirements of the insurance code shall apply
18 equally to all ~~department shall adopt rules to assure the~~
19 ~~parity of regulation in this state of~~ insurance transactions
20 as between an insurance agency owned by or an agent associated
21 with a federally chartered financial institution, an insurance
22 agency owned by or an agent associated with a state-chartered
23 financial institution, and an insurance agency owned by or an
24 agent associated with an entity that is not a financial
25 institution. Except as may be expressly provided in the
26 insurance code, ~~Such rules shall be limited to assuring that~~
27 no insurance agency or agent shall be ~~is~~ subject to more
28 stringent or less stringent regulation than another insurance
29 agency or agent on the basis of the regulatory status of the
30 entity that owns the agency or is associated with the agent.
31 For the purposes of this section, a person is "associated

1 with" another entity if the person is employed by, retained
2 by, under contract to, or owned or controlled by the entity
3 directly or indirectly. This section does not apply with
4 respect to a financial institution that is prohibited from
5 owning an insurance agency or that is prohibited from being
6 associated with an insurance agent under state or federal law.

7 Section 7. Section 626.9531, Florida Statutes, is
8 created to read:

9 626.9531 Identification of insurers, agents, and
10 insurance contracts.--With respect to the transaction of
11 insurance, advertising materials used by, and oral and written
12 communications of, insurers, insurance agents, and other
13 persons shall clearly indicate that the insured or prospective
14 insured is or will be dealing with an insurer or insurance
15 agent regarding an insurance product.

16 Section 8. Section 626.541, Florida Statutes, is
17 amended to read:

18 626.541 Firm, corporate, and business names; officers;
19 associates; notice of changes.--

20 (1) Any licensed agent or adjuster doing business
21 under a firm or corporate name or under any business name
22 other than his or her own individual name shall, within 30
23 days after the initial transaction of insurance under such
24 business name, ~~annually on or before January 1~~ file with the
25 department, on forms furnished by it, a written statement of
26 the firm, corporate, or business name being so used, the
27 address of any office or offices or places of business making
28 use of such name, and the name and social security number of
29 each officer and director of the corporation and of each
30 individual associated in such firm or corporation as to the
31

1 insurance transactions thereof or in the use of such business
2 name.

3 (2) In the event of any change of such name, or of any
4 of the officers and directors, or of any of such addresses, or
5 in the personnel so associated, written notice of such change
6 shall be filed with the department within 30 ~~60~~ days by or on
7 behalf of those licensees terminating any such firm,
8 corporate, or business name or continuing to operate
9 thereunder.

10 (3) Any licensed insurance agency shall promptly, but
11 in no event later than 30 days ~~annually on or before January~~
12 ~~†~~, notify the department of any change in the information
13 contained in the application filed pursuant to s. 626.172.

14 Section 9. Subsection (6) of section 626.601, Florida
15 Statutes, is amended to read:

16 626.601 Improper conduct; inquiry; fingerprinting.--

17 (6) The complaint and any information obtained
18 pursuant to the investigation by the department are
19 confidential and are exempt from the provisions of s. 119.07,
20 unless the department files a formal administrative complaint,
21 emergency order, or consent order against the licensee, ~~or~~
22 ~~unless the licensee waives confidentiality~~. Nothing in this
23 subsection shall be construed to prevent the department from
24 disclosing the complaint or such information as it deems
25 necessary to conduct the investigation, to update the
26 complainant as to the status and outcome of the complaint, or
27 to share such information with any law enforcement agency.

28 Section 10. Subsection (16) is added to section
29 626.611, Florida Statutes, to read:

30 626.611 Grounds for compulsory refusal, suspension, or
31 revocation of agent's, title agency's, solicitor's,

1 adjuster's, customer representative's, service
2 representative's, or managing general agent's license or
3 appointment.--The department shall deny an application for,
4 suspend, revoke, or refuse to renew or continue the license or
5 appointment of any applicant, agent, title agency, solicitor,
6 adjuster, customer representative, service representative, or
7 managing general agent, and it shall suspend or revoke the
8 eligibility to hold a license or appointment of any such
9 person, if it finds that as to the applicant, licensee, or
10 appointee any one or more of the following applicable grounds
11 exist:

12 (16) Having sold a security which was not registered
13 but which was required to be registered under chapter 517.

14 Section 11. Subsection (2) of section 626.741, Florida
15 Statutes, is amended to read:

16 626.741 Nonresident agents; licensing and
17 restrictions.--

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

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

16 Section 12. Subsection (6) of section 626.792, Florida
17 Statutes, is amended to read:

18 626.792 Nonresident agents.--

19 (6) The licensee shall, throughout the existence of
20 the Florida nonresident life license and appointment, hold a
21 license as a resident life agent in his or her state of
22 residence. The authority of such nonresident license, if
23 issued, is limited to the specific lines of authority granted
24 the agent by the license issued in the state of residence.

25 Section 13. Subsection (6) of section 626.835, Florida
26 Statutes, is amended to read:

27 626.835 Nonresident agents.--

28 (6) The licensee shall, throughout the existence of
29 his or her Florida nonresident health license and appointment,
30 hold a license as a resident health agent in his or her state
31 of residence. The authority of such nonresident license, if

1 issued, is limited to the specific lines of authority granted
2 the agent by the license issued in the state of residence.

3 Section 14. Subsections (1) and (7) of section
4 626.927, Florida Statutes, are amended to read:

5 626.927 Licensing of surplus lines agent.--

6 (1) Any individual while licensed and appointed as a
7 resident general lines agent as to property, casualty, and
8 surety insurances, and who is deemed by the department to have
9 had sufficient experience in the insurance business to be
10 competent for the purpose, and who, within the 4 years
11 immediately preceding the date the application for license as
12 a surplus lines agent is filed with the department, has a
13 minimum of 1 year's experience working for a licensed surplus
14 lines agent or who has successfully completed 60 class hours
15 in surplus and excess lines in a course approved by the
16 department, may be licensed as a surplus lines agent, upon
17 taking and successfully passing a written examination as to
18 surplus lines, as given by the department.

19 (7) Any individual who has been licensed by the
20 department as a surplus lines agent as provided in this
21 section may be subsequently appointed without additional
22 written examination if his or her application for appointment
23 is filed with the department within 48 ~~24~~ months next
24 following the date of cancellation or expiration of the prior
25 appointment. The department may, in its discretion, require
26 any individual to take and successfully pass an examination as
27 for original issuance of license as a condition precedent to
28 the reinstatement or continuation of the licensee's current
29 license or reinstatement or continuation of the licensee's
30 appointment.

31

1 Section 15. Subsection (3) of section 626.872, Florida
2 Statutes, is amended to read:

3 626.872 Temporary license.--

4 (3) In no event shall an adjuster licensed under this
5 section adjust losses in this state after expiration of the
6 temporary license without having been issued ~~passed the~~
7 ~~written examination as for~~ a regular adjuster's license.

8 Section 16. Section 626.8427, Florida Statutes, is
9 amended to read:

10 626.8427 Number of applications for licensure
11 required; exemption; effect of expiration of license.--

12 (1) After a license as a title insurance agent has
13 been issued to a title insurance agent, the agent is not
14 required to file another license application for a similar
15 license, irrespective of the number of insurers to be
16 represented by the agent, unless:

17 (a) The agent is specifically ordered by the
18 department to complete a new application; or

19 (b) During any period of 48 ~~24~~ months since the filing
20 of the original license application, the agent was not
21 appointed, unless in the case of individuals the failure to be
22 so appointed was due to military service, in which event the
23 period within which a new application is not required may, in
24 the discretion of the Department of Insurance, be extended for
25 12 months following the date of discharge from military
26 service if the military service does not exceed 3 years, but
27 in no event shall the period be extended under this clause for
28 a period of more than 6 ~~4~~ years from the date of filing the
29 original application.

30 (2) The department shall not charge a fee for filing
31 an application for license with respect to any applicant for

1 license who is exempted under this section from filing an
2 application.

3 (3) Upon the expiration or termination of a title
4 insurance agent's appointment, the title insurance agent is
5 without authority conferred by the license and shall not
6 engage or attempt to engage in any activity requiring a title
7 insurance agent's license and appointment. The agent shall
8 not again be granted an appointment until he or she fully
9 qualifies therefor as provided in this chapter. An
10 application shall be required in all cases for qualification
11 of a new title insurance agent's license when application is
12 made after the expiration of 4 2 years from the date of the
13 expiration or termination of the last appointment held by a
14 licensee.

15 Section 17. Section 626.856, Florida Statutes, is
16 amended to read:

17 626.856 "Company employee adjuster" defined.--A
18 "company employee adjuster" is a person employed on an
19 insurer's staff of adjusters or by a wholly owned subsidiary
20 of an insurer, and who undertakes on behalf of such insurer or
21 other insurers under common control or ownership to ascertain
22 and determine the amount of any claim, loss, or damage payable
23 under a contract of insurance, or undertakes to effect
24 settlement of such claim, loss, or damage.

25 Section 18. Section 626.873, Florida Statutes, is
26 amended to read:

27 626.873 Nonresident ~~adjusters and nonresident~~ company
28 employee adjusters.--

29 (1) The department shall, upon application therefor,
30 issue a license to an applicant for a nonresident adjuster's
31

1 license upon determining that the applicant has paid the
2 applicable license fees required under s. 624.501 and:
3 (a) Is a currently licensed insurance adjuster in his
4 or her home state, if such state requires a license.
5 (b) Is an employee of an insurer, or a wholly owned
6 subsidiary of an insurer, admitted to do business in this
7 state.
8 (c) Has filed a certificate or letter of authorization
9 from the insurance department of his or her home state, if
10 such state requires an adjuster to be licensed, stating that
11 he or she holds a current license or authorization to adjust
12 insurance losses. Such certificate or authorization must be
13 signed by the insurance commissioner, or his or her deputy, of
14 the adjuster's home state and must reflect whether or not the
15 adjuster has ever had his or her license or authorization in
16 the adjuster's home state suspended or revoked and, if such is
17 the case, the reason for such action.
18 (2) Any individual who holds a Florida nonresident
19 adjuster's license, upon becoming a resident of this state
20 may, for a period not to exceed 90 days, continue to adjust
21 claims in this state under his or her nonresident license and
22 appointment. Such individual must make application for
23 resident licensure and must become licensed as a resident
24 adjuster within 90 days of becoming a resident of this state.
25 (3) Upon becoming a resident of this state, an
26 individual who holds a Florida nonresident adjuster's license
27 is no longer eligible for licensure as a nonresident adjuster
28 if such individual fails to make application for a resident
29 license and become licensed as a resident adjuster within 90
30 days. Such individual may apply for a resident license
31 pursuant to s. 626.865, s. 626.866, or s. 626.867.

