

By Senator Holzendorf

2-1274-01

1                                   A bill to be entitled  
2           An act relating to insurance; amending s.  
3           624.318, F.S.; requiring access to records by  
4           the department; repealing s. 624.501(11) and  
5           (23), F.S.; repealing provisions establishing  
6           specified fees; amending s. 626.112, F.S.;  
7           prohibiting certain activities that constitute  
8           solicitation of insurance by unlicensed  
9           persons; amending s. 626.171, F.S.; revising  
10          agent application requirements; creating s.  
11          626.202, F.S.; requiring fingerprinting of  
12          specified persons; amending s. 626.431, F.S.;  
13          extending the nonappointment period to 48  
14          months; amending s. 626.521, F.S.; requiring  
15          certain information upon demand of the  
16          department; amending s. 626.541, F.S.;  
17          requiring notification to the department of  
18          certain name changes and other information;  
19          amending s. 626.5715, F.S.; removing a  
20          requirement that the Department of Insurance  
21          adopt rules to assure parity of regulation;  
22          providing that the Insurance Code applies to  
23          all transactions; amending s. 626.601, F.S.;  
24          revising a confidentiality provision; amending  
25          s. 626.611, F.S.; prohibiting the sale of  
26          unregistered securities; amending ss. 626.741,  
27          626.792, 626.835, F.S.; limiting the authority  
28          of certain nonresident licenses to that granted  
29          by the resident state; amending s. 626.8427,  
30          F.S.; revising provisions governing the  
31          duration of licenses; amending s. 626.856,

1 F.S.; revising the definition of the term  
2 "company employee adjuster"; amending s.  
3 626.872, F.S.; limiting the term of a temporary  
4 adjuster's license; amending s. 626.873, F.S.;  
5 revising a catchline regarding nonresident  
6 company adjusters; amending s. 627.927;  
7 limiting an experience requirement for surplus  
8 lines agents; extending a renewal grace period;  
9 creating s. 626.9531, F.S.; requiring the  
10 identification of certain persons in  
11 advertisements and other communications;  
12 providing an effective date.

13

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

15

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

18 624.318 Conduct of examination or investigation;  
19 access to records; correction of accounts; appraisals.--

20 (2) Every person being examined or investigated, and  
21 its officers, attorneys, employees, agents, and  
22 representatives, shall make freely available to the department  
23 or its examiners or investigators the accounts, records,  
24 documents, files, information, assets, and matters in their  
25 possession or control relating to the subject of the  
26 examination or investigation. An agent who provides other  
27 products or services or maintains customer information not  
28 related to insurance must maintain records relating to  
29 insurance products and transactions separately if necessary to  
30 give the department access to such records. If records  
31 relating to the insurance transactions are maintained by an

1 agent on premises owned or operated by a third party, the  
2 agent and the third party must provide access to the records  
3 by the department.

4 Section 2. Subsections (11) and (23) of section  
5 624.501, are repealed.

6 Section 3. Subsection (1) of section 626.112, Florida  
7 Statutes, is amended and subsection (8) is added to that  
8 section to read:

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

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

16 (b) Except as provided in subsection (6), a license as  
17 an insurance agent, service representative, solicitor,  
18 customer representative, or limited customer representative is  
19 required to solicit insurance. For purposes of this paragraph,  
20 the solicitation of insurance includes:

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

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

25 3. Receiving an initial premium payment;

26 4. Distributing an invitation to contract to  
27 prospective purchasers;

28 5. Making general or specific recommendations  
29 regarding insurance products;

30 6. Accepting orders or applications for insurance  
31 products;

1           7. Answering questions from prospective purchasers  
2 regarding insurance products; and

3           8. Otherwise attempting to persuade any person to  
4 purchase an insurance product.

5  
6 However, an employer or employee leasing company licensed  
7 pursuant to chapter 468 which has contracted with an employer  
8 and is the employer for purposes of the contract may provide  
9 or receive enrollment forms or take action to effectuate  
10 coverage of employees under a group insurance policy or group  
11 health maintenance organization contract issued to the  
12 employer.

13           (8) Except as permitted by ss. 626.753, 626.794, and  
14 626.838, a person may not pay or receive any fee or other  
15 consideration for referring prospective purchasers to an  
16 agent, which payment is dependent upon whether the prospect  
17 purchases insurance.

18           Section 4. Subsections (2) and (5) of section 626.171,  
19 Florida Statutes, are amended to read:

20           626.171 Application for license.--

21           (2) In the application, the applicant shall set forth:

22           (a) His or her full name, age, social security number,  
23 residence, and place of business, ~~and occupation for the~~  
24 ~~5-year period preceding the date of application.~~

25           ~~(b) His or her qualifications for the license, as~~  
26 ~~follows:~~

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

30           ~~2. What insurance experience he or she has had, if~~  
31 ~~any.~~

1           ~~3. What insurance instruction he or she has had or~~  
2 ~~expects to receive.~~

3           ~~4. What approved insurance courses he or she~~  
4           (b) Proof that he or she has completed or is in the  
5 process of completing any required prelicensing course which  
6 may be used to meet any educational requirements.

7           (c) Whether he or she has been refused or has  
8 voluntarily surrendered or has had suspended or revoked a  
9 license to solicit insurance by the department or by the  
10 supervising officials of any state.

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

15           (e) Proof that the applicant meets the requirements  
16 for the type of license for which he or she is applying  
17 ~~whether the applicant will devote all or part of his or her~~  
18 ~~efforts to acting as an insurance representative and, if part~~  
19 ~~only, how much time will be devoted to such work and in what~~  
20 ~~other business or businesses he or she is engaged or employed.~~

21           (f) Such other or additional information as the  
22 department may deem proper to enable it to determine the  
23 character, experience, ability, and other qualifications of  
24 the applicant to hold himself or herself out to the public as  
25 an insurance representative.

26           (5) An application for a license as an agent, customer  
27 representative, solicitor, adjuster, insurance agency, service  
28 representative, managing general agent, or reinsurance  
29 intermediary must, ~~or claims investigator shall~~ be accompanied  
30 by a set of the individual applicant's fingerprints, or, if  
31 the applicant is not an individual, by a set of the

1 fingerprints of the sole proprietor, majority owner, partners,  
2 officers, and ~~or~~ directors, on a form adopted by rule of the  
3 department and accompanied by the fingerprint processing fee  
4 set forth in s. 624.501. The fingerprints shall be certified  
5 by a law enforcement officer.

6 Section 5. Section 626.202, Florida Statutes, is  
7 created to read:

8 626.202 Fingerprinting requirements.--If there is a  
9 change in ownership or control of any entity licensed under  
10 this chapter, or if a new partner, officer, or director is  
11 employed or appointed, a set of fingerprints of the new owner,  
12 partner, officer, or director must be filed with the  
13 department within 30 days after the change. The acquisition of  
14 10 percent or more of the voting securities of a licensed  
15 entity is considered a change of ownership or control. The  
16 fingerprints must be certified by a law enforcement officer  
17 and be accompanied by the fingerprint processing fee in s.  
18 624.501.

19 Section 6. Subsections (2) and (3) of section 626.431,  
20 Florida Statutes, are amended to read:

21 626.431 Effect of expiration of license and  
22 appointment.--

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

29 (3) An individual who fails to maintain an appointment  
30 with an appointing entity writing the class of business listed  
31 on his or her license during any 48-month ~~24-month~~ period

1 shall not be granted an appointment for that class of  
2 insurance until he or she qualifies as a first-time applicant.

3 Section 7. Subsection (2) of section 626.521, Florida  
4 Statutes, is amended to read:

5 626.521 Character, credit reports.--

6 (2) If requested by the department ~~within 60 days~~  
7 ~~after such appointment or employment has been made or~~  
8 ~~commenced~~, the insurer, manager, general agent, general lines  
9 agent, or employer, as the case may be, shall furnish to the  
10 department on a form furnished by the department, such  
11 information as it may reasonably require relative to such  
12 individual and investigation.

13 Section 8. Section 626.541, Florida Statutes, is  
14 amended to read:

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

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

30 (2) In the event of any change of such name, or of any  
31 of the officers and directors, or of any of such addresses, or

1 in the personnel so associated, written notice of such change  
2 must ~~shall~~ be filed with the department within 30 ~~60~~ days by  
3 or on behalf of those licensees terminating any such firm,  
4 corporate, or business name or continuing to operate  
5 thereunder.

6 (3) Any licensed insurance agency shall, within 30  
7 days after a change, ~~promptly, but in no event later than~~  
8 ~~annually on or before January 1,~~ notify the department of any  
9 change in the information contained in the application filed  
10 pursuant to s. 626.172.

11 Section 9. Section 626.5715, Florida Statutes, is  
12 amended to read:

13 626.5715 Parity of regulation of insurance agents and  
14 agencies.--The Insurance Code requirements apply equally to  
15 all ~~department shall adopt rules to assure the parity of~~  
16 ~~regulation in this state of~~ insurance transactions as between  
17 an insurance agency owned by or an agent associated with a  
18 federally chartered financial institution, an insurance agency  
19 owned by or an agent associated with a state-chartered  
20 financial institution, and an insurance agency owned by or an  
21 agent associated with an entity that is not a financial  
22 institution. Except as provided in the code, one ~~Such rules~~  
23 ~~shall be limited to assuring that no~~ insurance agency or agent  
24 is not subject to more stringent or less stringent regulation  
25 than another insurance agency or agent on the basis of the  
26 regulatory status of the entity that owns the agency or is  
27 associated with the agent. For the purposes of this section,  
28 a person is "associated with" another entity if the person is  
29 employed by, retained by, under contract to, or owned or  
30 controlled by the entity directly or indirectly. This section  
31 does not apply with respect to a financial institution that is



1 prohibited from owning an insurance agency or that is  
2 prohibited from being associated with an insurance agent under  
3 state or federal law.

4 Section 10. Subsection (6) of section 626.601, Florida  
5 Statutes, is amended to read:

6 626.601 Improper conduct; inquiry; fingerprinting.--

7 (6) The complaint and any information obtained  
8 pursuant to the investigation by the department are  
9 confidential and are exempt from the provisions of s. 119.07,  
10 unless the department files a formal administrative complaint,  
11 emergency order, or consent order against the licensee, ~~or~~  
12 ~~unless the licensee waives confidentiality~~. Nothing in this  
13 subsection shall be construed to prevent the department from  
14 disclosing the complaint or such information as it deems  
15 necessary to conduct the investigation, to update the  
16 complainant as to the status and outcome of the complaint, or  
17 to share such information with any law enforcement agency.

18 Section 11. Subsection (16) is added to section  
19 626.611, Florida Statutes, to read:

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

1 appointee any one or more of the following applicable grounds  
2 exist:

3 (16) Sale of an unregistered security that was  
4 required to be registered, pursuant to chapter 517.

5 Section 12. Subsection (2) of section 626.741, Florida  
6 Statutes, is amended to read:

7 626.741 Nonresident agents; licensing and  
8 restrictions.--

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

1 discretion to refuse to issue any license or appointment to a  
2 nonresident when it has reason to believe that the applicant  
3 by ruse or subterfuge is attempting to avoid the intent and  
4 prohibitions contained in this subsection or to believe that  
5 any of the grounds exist as for suspension or revocation of  
6 license as set forth in ss. 626.611 and 626.621.

7 Section 13. Subsection (6) of section 626.792, Florida  
8 Statutes, is amended to read:

9 626.792 Nonresident agents.--

10 (6) The licensee shall, throughout the existence of  
11 the Florida nonresident life license and appointment, hold a  
12 license as a resident life agent in his or her state of  
13 residence. The authority of the nonresident license is limited  
14 to the specific lines of authority granted in the license  
15 issued by the agent's state of residence.

16 Section 14. Subsection (6) of section 626.835, Florida  
17 Statutes, is amended to read:

18 626.835 Nonresident agents.--

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

25 Section 15. Section 626.8427, Florida Statutes, is  
26 amended to read:

27 626.8427 Number of applications for licensure  
28 required; exemption; effect of expiration of license.--

29 (1) After a license as a title insurance agent has  
30 been issued to a title insurance agent, the agent is not  
31 required to file another license application for a similar

1 license, irrespective of the number of insurers to be  
2 represented by the agent, unless:

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

5 (b) During any period of 48 ~~24~~ months since the filing  
6 of the original license application, the agent was not  
7 appointed, unless in the case of individuals the failure to be  
8 so appointed was due to military service, in which event the  
9 period within which a new application is not required may, in  
10 the discretion of the Department of Insurance, be extended for  
11 12 months following the date of discharge from military  
12 service if the military service does not exceed 3 years, but  
13 in no event shall the period be extended under this clause for  
14 a period of more than 6 ~~4~~ years from the date of filing the  
15 original application.

16 (2) The department shall not charge a fee for filing  
17 an application for license with respect to any applicant for  
18 license who is exempted under this section from filing an  
19 application.

20 (3) Upon the expiration or termination of a title  
21 insurance agent's appointment, the title insurance agent is  
22 without authority conferred by the license and shall not  
23 engage or attempt to engage in any activity requiring a title  
24 insurance agent's license and appointment. The agent shall  
25 not again be granted an appointment until he or she fully  
26 qualifies therefor as provided in this chapter. An  
27 application shall be required in all cases for qualification  
28 of a new title insurance agent's license when application is  
29 made after the expiration of 4 ~~2~~ years from the date of the  
30 expiration or termination of the last appointment held by a  
31 licensee.

1           Section 16. Section 626.856, Florida Statutes, is  
2 amended to read:

3           626.856 "Company employee adjuster" defined.--A  
4 "company employee adjuster" is a person employed on an  
5 insurer's staff of adjusters or a wholly owned subsidiary of  
6 the insurer, and who undertakes on behalf of such insurer or  
7 other insurers under common control or ownership to ascertain  
8 and determine the amount of any claim, loss, or damage payable  
9 under a contract of insurance, or undertakes to effect  
10 settlement of such claim, loss, or damage.

11           Section 17. Subsection (3) of section 626.872, Florida  
12 Statutes, is amended to read:

13           626.872 Temporary license.--

14           (3) ~~In no event shall~~ An adjuster licensed under this  
15 section may not adjust losses in this state after expiration  
16 of the temporary license without having been issued ~~passed the~~  
17 ~~written examination as for~~ a regular adjuster's license.

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

20           626.873 Nonresident ~~adjusters and nonresident~~ company  
21 employee adjusters.--

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

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

28           (b) Is an employee of an insurer, or a wholly owned  
29 subsidiary of an insurer, admitted to do business in this  
30 state.

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

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

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

25           Section 19. Subsections (1) and (7) of section  
26 626.927, Florida Statutes, are amended to read:

27           626.927 Licensing of surplus lines agent.--

28           (1) Any individual while licensed and appointed as a  
29 resident general lines agent as to property, casualty, and  
30 surety insurances, and who is deemed by the department to have  
31 had sufficient experience in the insurance business to be

1 competent for the purpose, and who, within the 4 years  
2 immediately preceding the date the application was submitted,  
3 has a minimum of 1 year's experience working for a licensed  
4 surplus lines agent or who has successfully completed 60 class  
5 hours in surplus and excess lines in a course approved by the  
6 department, may be licensed as a surplus lines agent, upon  
7 taking and successfully passing a written examination as to  
8 surplus lines, as given by the department.

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

21 Section 20. Section 626.9531, Florida Statutes, is  
22 created to read:

23 626.9531 Identification of insurers, agents, and  
24 insurance contracts.--Advertising materials and oral and  
25 written communications of insurers, insurance agents, and  
26 other related persons must clearly indicate that the insured  
27 or prospective insured is or will be dealing with an insurer  
28 or insurance agent regarding an insurance product.

29 Section 21. This act shall take effect July 1, 2001.  
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SENATE SUMMARY

Revises provisions relating to the sale of insurance and  
licensure of insurance agents. (See bill for details.)