

By the Committee on Insurance and Representatives Waters,
Wiles, Brown, Lee, Kallinger, McGriff, Sobel, Fields, Ross,
Baker, Simmons, Clarke, Melvin and Negron

1 A bill to be entitled
2 An act relating to insurance company
3 representatives; providing legislative findings
4 and intent; creating s. 626.015, F.S.;
5 providing definitions; creating s. 626.025,
6 F.S.; requiring insurance agents to comply with
7 certain consumer protection laws; amending s.
8 626.171, F.S.; requiring the department to
9 accept a uniform application for nonresident
10 agent licensing; creating s. 626.175, F.S.;
11 providing for Department of Insurance issuance
12 of temporary licenses under certain
13 circumstances; providing requirements and
14 procedures; providing for fees; creating s.
15 626.207, F.S.; requiring the department to
16 adopt rules establishing waiting periods for
17 applicants for licensure under certain
18 circumstances; authorizing the department to
19 adopt rules providing for penalties for
20 licensees under certain circumstances; amending
21 s. 626.221, F.S.; exempting customer
22 representatives and adjusters with certain
23 designations, agents transferring their
24 licenses from other states, and certain
25 applicants for nonresident agent licensure from
26 certain examination requirements under certain
27 circumstances; amending s. 626.2815, F.S.;
28 specifying additional continuing education
29 requirements; creating s. 626.292, F.S.;
30 providing requirements and procedures for
31 certain agents licensed in other states to

1 transfer their licenses to this state under
2 certain circumstances; amending s. 626.301,
3 F.S.; revising the form and content of licenses
4 issued by the department; creating s. 626.536,
5 F.S.; requiring agents to report to the
6 department certain final dispositions of
7 administrative actions taken against the agent;
8 authorizing the department to adopt rules to
9 implement the requirement; amending s. 626.551,
10 F.S.; extending the time period allowed for
11 licensees to notify the department of a change
12 of address or name; providing for fines for
13 failure to timely report such information to
14 the department; creating ss. 626.7315,
15 626.7845, and 626.8305, F.S.; prohibiting
16 engaging in specified general lines insurance
17 activities, life insurance activities, or
18 health insurance activities without a license;
19 amending s. 626.732, F.S.; specifying
20 additional requirements relating to knowledge,
21 experience, or instruction for certain customer
22 representatives and service representatives;
23 specifying additional classroom and
24 correspondence course instruction requirements;
25 amending s. 626.738, F.S.; specifying
26 cancellation of solicitor licenses and
27 conversion to general lines insurance agent
28 licenses; amending ss. 626.741, 626.792, and
29 626.835, F.S.; authorizing the department to
30 issue a nonresident general lines agent, life
31 agent, or health agent license to certain

1 individuals under certain circumstances;
2 authorizing the department to enter into
3 reciprocal agreements with other states to
4 waive certain examinations under certain
5 circumstances; authorizing the department to
6 verify the nonresident applicant's licensing
7 status through a database; creating s.
8 626.7455, F.S.; prohibiting insurers from
9 entering into agreements with unlicensed
10 persons to manage certain business of the
11 insurer; providing an exception; amending ss.
12 626.7851 and 626.8311, F.S.; specifying
13 additional classroom and correspondence course
14 instruction requirements; amending s. 626.852,
15 F.S.; exempting from insurance adjusters
16 provisions persons adjusting only
17 multiple-peril crop insurance or crop hail
18 claims; amending s. 626.902, F.S.; increasing a
19 criminal penalty for representing an
20 unauthorized insurer; providing a penalty for
21 subsequent violations; amending ss. 624.11,
22 624.509, 626.094, 626.112, 626.321, 626.727,
23 626.729, 626.730, 626.7454, 626.779, 626.790,
24 626.8411, 626.927, 626.992, 629.401, and
25 648.27, F.S., to conform; amending s. 626.032,
26 F.S., relating to a definition of
27 administrative agent; amending ss. 624.311,
28 624.523, 624.507, 626.0428, 626.141, 626.112,
29 626.171, 626.221, 626.2815, 626.321, 626.451,
30 626.511, 626.521, 626.561, 626.601, 626.611,
31 626.621, 626.641, 626.651, 626.730, 626.745,

1 626.9541, 627.776, 631.155, 631.341, 634.318,
2 641.37, and 642.041, F.S., to conform;
3 repealing ss. 624.505(2), 626.727(2), 626.737,
4 626.738, and 626.862(2), F.S., to conform;
5 repealing ss. 626.031, 626.041, 626.051,
6 626.062, 626.071, 626.072, 626.081, 626.091,
7 626.094, 626.101, 626.102, 626.103, and
8 626.104, F.S., relating to definitions;
9 repealing ss. 626.736, 626.737, and 626.738,
10 F.S., relating to solicitors; repealing s.
11 626.739, F.S., relating to certain temporary
12 licenses; repealing s. 626.740, F.S., relating
13 to certain temporary limited licenses;
14 repealing ss. 626.790 and 626.791, F.S.,
15 relating to certain temporary licenses;
16 providing effective dates.

17

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

19

20 Section 1. Legislative findings and intent.--The
21 Legislature finds that Subtitle C of the federal
22 Gramm-Leach-Bliley Act, 15 U.S.C.A., s. 6751, et seq.,
23 requires states to achieve uniformity or reciprocity in
24 producer licensing but not at the expense of state laws
25 designed to protect insurance consumers. The Legislature
26 finds that the Gramm-Leach-Bliley Act expressly saves from
27 alteration state consumer protection laws unless inconsistent
28 with that act. Therefore, it is the intent of the Legislature
29 to achieve compliance with the uniformity and reciprocity
30 requirements of Subtitle C of the Gramm-Leach-Bliley Act,
31 while exercising its authority under that act to preserve

1 insurance consumer protection laws not inconsistent with these
2 requirements.

3 Section 2. Subsection (2) of section 624.11, Florida
4 Statutes, is amended to read:

5 624.11 Compliance required.--

6 (2) Any risk retention group organized and existing
7 under the provisions of the Product Liability Risk Retention
8 Act of 1981 (Pub. L. No. 97-45), which has been licensed as an
9 insurance company and authorized to engage in the business of
10 insurance may transact insurance in this state and shall be
11 subject to the provisions of ss. 624.15, 624.316, 624.418,
12 624.421, 624.4211, 624.422, 624.509, ~~626.041~~, 626.112,
13 626.611, 626.621, 626.731, 626.741, 626.932, 626.938,
14 626.9541, 627.351, and 627.915; part I of chapter 631; and all
15 other applicable provisions of the laws of this state. Any
16 such group formed in another jurisdiction shall furnish to the
17 department, upon request, a copy of any financial report
18 submitted by the group in the licensing jurisdiction.

19 Section 3. Paragraph (b) of subsection (5) of section
20 624.509, Florida Statutes, is amended to read:

21 624.509 Premium tax; rate and computation.--

22 (5) There shall be allowed a credit against the net
23 tax imposed by this section equal to 15 percent of the amount
24 paid by the insurer in salaries to employees located or based
25 within this state and who are covered by the provisions of
26 chapter 443. For purposes of this subsection:

27 (b) The term "employees" does not include independent
28 contractors or any person whose duties require that the person
29 hold a valid license under the Florida Insurance Code, except
30 persons defined in s. 626.015(1), (15), and (17)~~ss. 626.081,~~
31 ~~626.091, and 626.101.~~

1 Section 4. Section 626.015, Florida Statutes, is
2 created to read:

3 626.015 Definitions.--As used in this part:

4 (1) "Adjuster" means a public adjuster as defined in
5 s. 626.854, independent adjuster as defined in s. 626.855, or
6 company employee adjuster as defined in s. 626.856.

7 (2) "Administrative agent" means a life agent or
8 health agent who:

9 (a) Is employed by a full-time licensed life agent or
10 health agent who shall supervise and be accountable for the
11 actions of the administrative agent.

12 (b) Performs primarily administrative functions.

13 (c) Receives no insurance commissions.

14 (d) Does not solicit or transact business outside of
15 the confines of an insurance agency office.

16 (3) "Agent" means a general lines agent, life agent,
17 health agent, or title agent, or all such agents, as indicated
18 by context. The term "agent" includes an insurance producer or
19 producer, but does not include a customer representative,
20 limited customer representative, or service representative.

21 (4) "Appointment" means the authority given by an
22 insurer or employer to a licensee to transact insurance or
23 adjust claims on behalf of an insurer or employer.

24 (5) "Customer representative" means an individual
25 appointed by a general lines agent or agency to assist that
26 agent or agency in transacting the business of insurance from
27 the office of that agent or agency.

28 (6) "Department" means the Department of Insurance.

29 (7) "General lines agent" means an agent transacting
30 any one or more of the following kinds of insurance:

31 (a) Property insurance.

1 (b) Casualty insurance, including commercial liability
2 insurance underwritten by a risk retention group, a commercial
3 self-insurance fund as defined in s. 624.462, or a workers'
4 compensation self-insurance fund established pursuant to s.
5 624.4621.

6 (c) Surety insurance.

7 (d) Health insurance, when transacted by an insurer
8 also represented by the same agent as to property or casualty
9 or surety insurance.

10 (e) Marine insurance.

11 (8) "Health agent" means an agent representing a
12 health maintenance organization or, as to health insurance
13 only, an insurer transacting health insurance.

14 (9) "Home state" means the District of Columbia and
15 any state or territory of the United States in which an
16 insurance agent maintains his or her principal place of
17 residence and is licensed to act as an insurance agent.

18 (10) "Insurance agency" means a business location at
19 which an individual, firm, partnership, corporation,
20 association, or other entity, other than an employee of the
21 individual, firm, partnership, corporation, association, or
22 other entity and other than an insurer as defined by s. 624.03
23 or an adjuster as defined by subsection (1), engages in any
24 activity or employs individuals to engage in any activity
25 which by law may be performed only by a licensed insurance
26 agent.

27 (11) "License" means a document issued by the
28 department authorizing a person to be appointed to transact
29 insurance or adjust claims for the kind, line, or class of
30 insurance identified in the document.

31

1 (12) "Life agent" means an individual representing an
2 insurer as to life insurance and annuity contracts, including
3 agents appointed to transact life insurance, fixed-dollar
4 annuity contracts, or variable contracts by the same insurer.

5 (13) "Limited customer representative" means a
6 customer representative appointed by a general lines agent or
7 agency to assist that agent or agency in transacting only the
8 business of private passenger motor vehicle insurance from the
9 office of that agent or agency. A limited customer
10 representative is subject to the Florida Insurance Code in the
11 same manner as a customer representative, unless otherwise
12 specified.

13 (14) "Limited lines insurance" means those categories
14 of business specified in ss. 626.321 and 635.011.

15 (15) "Line of authority" means a kind, line, or class
16 of insurance an agent is authorized to transact.

17 (16)(a) "Managing general agent" means any person
18 managing all or part of the insurance business of an insurer,
19 including the management of a separate division, department,
20 or underwriting office, and acting as an agent for that
21 insurer, whether known as a managing general agent, manager,
22 or other similar term, who, with or without authority,
23 separately or together with affiliates, produces directly or
24 indirectly, or underwrites an amount of gross direct written
25 premium equal to or more than 5 percent of the policyholder
26 surplus as reported in the last annual statement of the
27 insurer in any single quarter or year and also does one or
28 more of the following:

29 1. Adjusts or pays claims.

30 2. Negotiates reinsurance on behalf of the insurer.

31

1 (b) The following persons shall not be considered
2 managing general agents:

3 1. An employee of the insurer.

4 2. A United States manager of the United States branch
5 of an alien insurer.

6 3. An underwriting manager managing all the insurance
7 operations of the insurer pursuant to this contract, who is
8 under the common control of the insurer subject to regulation
9 under ss. 628.801-628.803, and whose compensation is not based
10 on the volume of premiums written.

11 4. Administrators as defined by s. 626.88.

12 5. The attorney in fact authorized by and acting for
13 the subscribers of a reciprocal insurer under powers of
14 attorney.

15 (17) "Resident" means an individual domiciled and
16 residing in this state.

17 (18) "Service representative" means an individual
18 employed by an insurer or managing general agent for the
19 purpose of assisting a general lines agent in negotiating and
20 effecting insurance contracts when accompanied by a licensed
21 general lines agent. A service representative shall not be
22 simultaneously licensed as a general lines agent in this
23 state.

24 (19) "Uniform application" means the uniform
25 application of the National Association of Insurance
26 Commissioners for nonresident agent licensing, effective
27 January 15, 2001, or subsequent versions adopted by rule by
28 the department.

29 Section 5. Section 626.025, Florida Statutes, is
30 created to read:

31

1 626.025 Consumer protections.--To transact insurance,
2 agents shall comply with consumer protection laws, including
3 the following, as applicable:

4 (1) Continuing education requirements for resident and
5 nonresident agents, as required in s. 626.2815.

6 (2) Fingerprinting requirements for resident and
7 nonresident agents, as required under s. 626.171 or s.
8 626.202.

9 (3) Fingerprinting following a department
10 investigation under s. 626.601.

11 (4) The submission of credit and character reports, as
12 required by s. 626.171 or s. 626.521.

13 (5) Qualifications for licensure as an agent in s.
14 626.731, s. 626.741, s. 626.785, s. 626.792, s. 626.831, or s.
15 626.835.

16 (6) Examination requirements in s. 626.221, s.
17 626.741, s. 626.792, or s. 626.835.

18 (7) Required licensure of certain insurance agencies
19 under s. 626.172.

20 (8) Requirements for licensure of resident and
21 nonresident agents in s. 626.112, s. 626.321, s. 626.731, s.
22 626.741, s. 626.785, s. 626.831, s. 626.835, or s. 626.792.

23 (9) The prohibition against nonresident agents having
24 a place of business in the state, a pecuniary interest in an
25 insurance business in the state, or a financial interest in an
26 insurance agency in the state, under s. 626.741, s. 626.835,
27 or s. 626.792.

28 (10) The prohibition against employees of the United
29 States Department of Veterans Affairs being licensed as life
30 agents or health agents, under s. 626.788 or s. 626.833.

31

1 (11) The prohibition against licensed life agents or
2 health agents who are members of the United States Armed
3 Services selling insurance products to those of a lower
4 military rank, under s. 626.789 or s. 626.834.

5 (12) Countersignature of insurance policies, as
6 required under s. 624.425, s. 624.426, or s. 626.741.

7 (13) Designation of a primary agent by an insurance
8 agency under s. 626.592.

9 (14) The code of ethics for life insurance agents, as
10 set forth in s. 626.797.

11 (15) The prohibition against the designation of a life
12 insurance agent as the beneficiary of life insurance policy
13 sold to an individual other than a family member under s.
14 626.798.

15 (16) Any other licensing requirement, restriction, or
16 prohibition designated a consumer protection by the Insurance
17 Commissioner, but not inconsistent with the requirements of
18 Subtitle C of the Gramm-Leach-Bliley Act, 15, U.S.C.A., s.
19 6751, et seq.

20 Section 6. Section 626.032, Florida Statutes, is
21 amended to read:

22 626.032 Administrative agents~~Administrative agent~~
23 ~~defined~~; continuing education and designation required.--

24 ~~(1) As used in this part, "administrative agent" means~~
25 ~~a life agent or health agent who:~~

26 ~~(a) Is employed by a full-time licensed life agent or~~
27 ~~health agent who shall supervise and be accountable for~~
28 ~~actions of the administrative agent.~~

29 ~~(b) Performs primarily administrative functions.~~

30 ~~(c) Receives no insurance commissions.~~

31

1 ~~(d) Does not solicit or transact business outside of~~
2 ~~the confines of an insurance agency office.~~

3 (1)~~(2)~~ An administrative agent is subject to all
4 requirements of this code applicable to life agents or health
5 agents, except that the number of hours of continuing
6 education required of an administrative agent under s.
7 626.2815 is one-half the number of hours of continuing
8 education required of a life agent or health agent.

9 (2)~~(3)~~ An agent may request, and the department must
10 grant, a designation of "administrative agent" to be
11 prominently printed on the agent's license. The request shall
12 be filed on a form furnished by the department with the
13 administrative agent's application filing fee of \$10 and
14 license modification fee established by s. 624.501(16).

15 (3)~~(4)~~ An administrative agent who desires removal of
16 the "administrative agent" designation may apply to the
17 department, on forms furnished by the department with an
18 application filing fee of \$10 and license modification fee
19 established pursuant to s. 624.501(16). If, during the 24
20 months preceding the application, the administrative agent
21 completed the full continuing education requirements specified
22 in s. 626.2815, the department shall remove the designation
23 from the agent's license.

24 Section 7. Section 626.094, Florida Statutes, is
25 amended to read:

26 626.094 "Insurance agency" defined.--An "insurance
27 agency" is a business location at which an individual, firm,
28 partnership, corporation, association, or other entity, except
29 for an employee of the individual, firm, partnership,
30 corporation, association, or other entity, and other than an
31 insurer as defined by s. 624.03 or an adjuster as defined by

1 s. 626.015 ~~626.101~~, engages in any activity or employs
2 individuals to engage in any activity which by law may be
3 performed only by a licensed insurance agent ~~or solicitor~~.

4 Section 8. Paragraphs (a) and (b) of subsection (1)
5 and subsection (2) of section 626.112, Florida Statutes, are
6 amended to read:

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

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

14 (b) Except as provided in subsection (6) or in
15 applicable department rules, and in addition to other conduct
16 described in this chapter with respect to particular types of
17 agents, a license as an insurance agent, service
18 representative, ~~solicitor~~, customer representative, or limited
19 customer representative is required in order to engage in the
20 solicitation of insurance. For purposes of this requirement,
21 as applicable to any of the license types described in this
22 section, the solicitation of insurance is the attempt to
23 persuade any person to purchase an insurance product by:

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

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

28 3. Making general or specific recommendations as to
29 insurance products;

30 4. Completing orders or applications for insurance
31 products; or

1 5. Comparing insurance products, advising as to
2 insurance matters, or interpreting policies or coverages.
3
4 However, an employee leasing company licensed pursuant to
5 chapter 468 which is seeking to enter into a contract with an
6 employer that identifies products and services offered to
7 employees may deliver proposals for the purchase of employee
8 leasing services to prospective clients of the employee
9 leasing company setting forth the terms and conditions of
10 doing business; classify employees as permitted by s. 468.529;
11 collect information from prospective clients and other sources
12 as necessary to perform due diligence on the prospective
13 client and to prepare a proposal for services; provide and
14 receive enrollment forms, plans, and other documents; and
15 discuss or explain in general terms the conditions,
16 limitations, options, or exclusions of insurance benefit plans
17 available to the client or employees of the employee leasing
18 company were the client to contract with the employee leasing
19 company. Any advertising materials or other documents
20 describing specific insurance coverages must identify and be
21 from a licensed insurer or its licensed agent or a licensed
22 and appointed agent employed by the employee leasing company.
23 The employee leasing company may not advise or inform the
24 prospective business client or individual employees of
25 specific coverage provisions, exclusions, or limitations of
26 particular plans. As to clients for which the employee leasing
27 company is providing services pursuant to s. 468.525(4), the
28 employee leasing company may engage in activities permitted by
29 ss. 626.7315, 626.7845, and 626.8305 ~~626.041, 626.051, and~~
30 ~~626.062~~, subject to the restrictions specified in those
31 sections. If a prospective client requests more specific

1 information concerning the insurance provided by the employee
2 leasing company, the employee leasing company must refer the
3 prospective business client to the insurer or its licensed
4 agent or to a licensed and appointed agent employed by the
5 employee leasing company.

6 (2) No agent ~~or~~, customer representative, ~~or~~ solicitor
7 shall solicit or otherwise transact as agent ~~or~~, customer
8 representative, ~~or~~ solicitor, or represent or hold himself or
9 herself out to be an agent ~~or~~, customer representative, ~~or~~
10 ~~solicitor~~ as to, any kind or kinds of insurance as to which he
11 or she is not then licensed and appointed.

12 Section 9. Subsections (1) and (5) of section 626.171,
13 Florida Statutes, are amended to read:

14 626.171 Application for license.--

15 (1) The department shall not issue a license as agent,
16 customer representative, adjuster, insurance agency, service
17 representative, managing general agent, or reinsurance
18 intermediary to any person except upon written application
19 therefor filed with it, qualification therefor, and payment in
20 advance of all applicable fees. Any such application shall be
21 made under the oath of the applicant and be signed by the
22 applicant. Beginning November 1, 2002, the department shall
23 accept the uniform application for nonresident agent
24 licensing. The department may adopt revised versions of the
25 uniform application by rule.

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 be accompanied by a set of the individual
30 applicant's fingerprints, or, if the applicant is not an
31 individual, by a set of the fingerprints of the sole

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

5 Section 10. Section 626.175, Florida Statutes, is
6 created to read:

7 626.175 Temporary licensing.--

8 (1) The department may issue a nonrenewable temporary
9 license for a period not to exceed 6 months authorizing
10 appointment of a general lines insurance agent or a life
11 agent, or an industrial fire or burglary agent, subject to the
12 conditions described in this section. The fees paid for a
13 temporary license and appointment shall be as specified in s.
14 624.501. Fees paid shall not be refunded after a temporary
15 license has been issued.

16 (a)1. In the case of a general lines agent, the
17 department may issue a temporary license to an employee, a
18 family member, a business associate, or a personal
19 representative of a licensed general lines agent for the
20 purpose of continuing or winding up the business affairs of
21 the agent or agency in the event the licensed agent has died
22 or become unable to perform his or her duties because of
23 military service or illness or other physical or mental
24 disability, subject to the following conditions:

25 a. No other individual connected with the agent's
26 business may be licensed as a general lines agent.

27 b. The proposed temporary licensee shall be qualified
28 for a regular general lines agent license under this code
29 except as to residence, examination, education, or experience.

30 c. Application for the temporary license shall have
31 been made by the applicant upon statements and affidavit filed

1 with the department on forms prescribed and furnished by the
2 department.

3 d. Under a temporary license and appointment, the
4 licensee shall not represent any insurer not last represented
5 by the agent being replaced and shall not be licensed or
6 appointed as to any additional kind, line, or class of
7 insurance other than those covered by the last existing agency
8 appointments of the replaced agent. If an insurer withdraws
9 from the agency during the temporary license period, the
10 temporary licensee may be appointed by another similar insurer
11 but only for the period remaining under the temporary license.

12 2. A regular general lines agent license may be issued
13 to a temporary licensee upon meeting the qualifications for a
14 general lines agent license under s. 626.731.

15 (b) In the case of a life agent, the department may
16 issue a temporary license:

17 1. To the executor or administrator of the estate of a
18 deceased individual licensed and appointed as a life agent at
19 the time of death;

20 2. To a surviving next of kin of the deceased
21 individual, if no administrator or executor has been appointed
22 and qualified; however, any license and appointment under this
23 subparagraph shall be canceled upon issuance of a license to
24 an executor or administrator under subparagraph 1.; or

25 3. To an individual otherwise qualified to be licensed
26 as an agent who has completed the educational or training
27 requirements prescribed in s. 626.7851 and has successfully
28 sat for the required examination prior to termination of such
29 6-month period. The department may issue this temporary
30 license only in the case of a life agent to represent an
31 insurer of the industrial or ordinary-combination class.

1 (c) In the case of a limited license authorizing
2 appointment as an industrial fire or burglary agent, the
3 department may issue a temporary license to an individual
4 otherwise qualified to be licensed as an agent who has
5 completed the educational or training requirements prescribed
6 in s. 626.732 and has successfully sat for the required
7 examination prior to termination of the 6-month period.

8 (2) If an absent or disabled agent being replaced
9 under a temporary license returns or becomes able to resume
10 the active conduct of the agency, or if the disposition of the
11 affairs of the agency of a deceased or mentally incompetent
12 agent is completed, or the temporary licensee has qualified
13 for a regular license, before expiration otherwise of the
14 temporary license, the temporary license shall terminate.

15 (3) If, during the 6-month temporary license and
16 appointment period, the applicant passes the licensing
17 examination, the temporary license shall terminate and a
18 license shall be issued by the department after payment of a
19 modification fee as prescribed in s. 624.501.

20 (4) An application for a temporary license shall be
21 made by the applicant upon statements and affidavit filed with
22 the department on forms prescribed and furnished by the
23 department.

24 (5) Except as provided in this section, the holder of
25 a temporary license shall be subject to the Florida Insurance
26 Code to the same extent as regularly licensed and appointed
27 agents.

28 (6) The department may limit the authority of any
29 temporary licensee in any way deemed necessary to protect
30 insureds and the public.

31

1 (7) The department may issue to an applicant only one
2 temporary license for each kind, line, or class of insurance
3 or a single temporary license covering multiple lines.

4 Section 11. Section 626.207, Florida Statutes, is
5 created to read:

6 626.207 Department rulemaking authority; waiting
7 periods for applicants; penalties against licensees.--

8 (1) The department shall adopt rules establishing
9 specific waiting periods for applicants to become eligible for
10 licensure following denial, suspension, or revocation pursuant
11 to s. 626.611, s. 626.621, s. 626.8437, s. 626.844, s.
12 626.935, s. 626.9917, s. 634.181, s. 634.191, s. 634.320, s.
13 634.321, s. 634.422, s. 634.423, s. 642.041, or s. 642.043.

14 The purpose of the waiting periods is to provide sufficient
15 time to demonstrate reformation of character and
16 rehabilitation. The waiting periods shall vary based on the
17 type of conduct and the length of time since the conduct
18 occurred and shall also be based on the probability that the
19 propensity to commit illegal conduct has been overcome. The
20 waiting periods may be adjusted based on aggravating and
21 mitigating factors established by rule and consistent with
22 this purpose.

23 (2) The department shall adopt rules establishing
24 specific penalties against licensees for violations of s.
25 626.611, s. 626.621, s. 626.8437, s. 626.844, s. 626.935, s.
26 626.9917, s. 634.181, s. 634.191, s. 634.320, s. 634.321, s.
27 634.422, s. 634.423, s. 642.041, or s. 642.043. The purpose
28 of the revocation or suspension is to provide a sufficient
29 penalty to deter future violations of the Florida Insurance
30 Code. The imposition of a revocation or the length of
31 suspension shall be based on the type of conduct and the

1 probability that the propensity to commit further illegal
2 conduct has been overcome at the time of eligibility for
3 relicensure. The revocation or the length of suspension may
4 be adjusted based on aggravating or mitigating factors,
5 established by rule and consistent with this purpose.

6 Section 12. Section 626.221, Florida Statutes, is
7 amended to read:

8 626.221 Examination requirement; exemptions.--

9 (1) The department shall not issue any license as
10 agent, ~~solicitor~~, customer representative, or adjuster to any
11 individual who has not qualified for, taken, and passed to the
12 satisfaction of the department a written examination of the
13 scope prescribed in s. 626.241.

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

16 (a) An applicant for renewal of appointment as an
17 agent, ~~solicitor~~, customer representative, or adjuster, unless
18 the department determines that an examination is necessary to
19 establish the competence or trustworthiness of such applicant.

20 (b) An applicant for limited license as agent for
21 personal accident insurance, baggage and motor vehicle excess
22 liability insurance, credit life or disability insurance,
23 credit insurance, credit property insurance, or in-transit and
24 storage personal property insurance.

25 (c) In the discretion of the department, an applicant
26 for reinstatement of license or appointment as an agent,
27 customer representative, or adjuster whose license has been
28 suspended within 2 years prior to the date of application or
29 written request for reinstatement.

30 (d) An applicant who, within 2 years prior to
31 application for license and appointment as an agent, customer

1 representative, or adjuster, was a full-time salaried employee
2 of the department and had continuously been such an employee
3 with responsible insurance duties for not less than 2 years
4 and who had been a licensee within 2 years prior to employment
5 by the department with the same class of license as that being
6 applied for.

7 (e) An individual who qualified as a ~~solicitor,~~
8 managing general agent, service representative, customer
9 representative, or all-lines adjuster by passing a general
10 lines agent's examination and subsequently was licensed and
11 appointed and has been actively engaged in all lines of
12 property and casualty insurance may, upon filing an
13 application for appointment, be licensed and appointed as a
14 general lines agent for the same kinds of business without
15 taking another examination if he or she holds any such
16 currently effective license referred to in this paragraph or
17 held the license within 24 months prior to the date of filing
18 the application with the department.

19 (f) A person who has been licensed and appointed by
20 the department as a public adjuster or independent adjuster,
21 or licensed and appointed either as an agent or company
22 adjuster as to all property, casualty, and surety insurances,
23 may be licensed and appointed as a company adjuster as to any
24 of such insurances, or as an independent adjuster or public
25 adjuster, without additional written examination if an
26 application for appointment is filed with the department
27 within 24 months following the date of cancellation or
28 expiration of the prior appointment.

29 (g) A person who has been licensed by the department
30 as an adjuster for motor vehicle, property and casualty,
31 workers' compensation, and health insurance may be licensed as

1 such an adjuster without additional written examination if his
2 or her application for appointment is filed with the
3 department within 24 months after cancellation or expiration
4 of the prior license.

5 (h) An applicant for temporary license, except as
6 provided in this code.

7 ~~(i) An applicant for license as a nonresident agent,~~
8 ~~if so provided in this code.~~

9 (i)(j) An applicant for a life or health license who
10 has received the designation of chartered life underwriter
11 (CLU) from the American College of Life Underwriters and who
12 has been engaged in the insurance business within the past 4
13 years, except that such an individual ~~a person~~ may be examined
14 on pertinent provisions of this code.

15 (j)(k) An applicant for license as a general lines
16 agent, ~~solicitor~~, customer representative, or adjuster who has
17 received the designation of chartered property and casualty
18 underwriter (CPCU) from the American Institute for Property
19 and Liability Underwriters and who has been engaged in the
20 insurance business within the past 4 years, except that such
21 an individual ~~a person~~ may be examined on pertinent provisions
22 of this code.

23 (k)(l) An applicant for license as a customer
24 representative who has the designation of Accredited Advisor
25 in Insurance (AAI) from the Insurance Institute of America,
26 the designation of Certified Insurance Counselor (CIC) from
27 the Society of Certified Insurance Service Counselors, the
28 designation of Accredited Customer Service Representative
29 (ACSR) from the Independent Insurance Agents of America, the
30 designation of Certified Professional Service Representative
31 (CPSR) from the National Association of Professional Insurance

1 Agents, the designation of Certified Insurance Service
2 Representative (CISR) from the Society of Certified Insurance
3 Service Representatives. Also, an applicant for license as a
4 customer representative who has the designation of Certified
5 Customer Service Representative (CCSR) from the Florida
6 Association of Insurance Agents, or the designation of
7 Registered Customer Service Representative (RCSR) from a
8 regionally accredited postsecondary institution in this state,
9 or the designation of Professional Customer Service
10 Representative (PCSR) from the Professional Career Institute,
11 whose curriculum has been approved by the department and whose
12 curriculum includes comprehensive analysis of basic property
13 and casualty lines of insurance and testing at least equal to
14 that of standard department testing for the customer
15 representative license. The department shall adopt rules
16 establishing standards for the approval of curriculum.

17 (1)~~(m)~~ An applicant for license as an adjuster who has
18 the designation of Accredited Claims Adjuster (ACA) from a
19 regionally accredited postsecondary institution in this state,
20 or the designation of Professional Claims Adjuster (PCA) from
21 the Professional Career Institute, whose curriculum has been
22 approved by the department and whose curriculum includes
23 comprehensive analysis of basic property and casualty lines of
24 insurance and testing at least equal to that of standard
25 department testing for the all-lines adjuster license. The
26 department shall adopt rules establishing standards for the
27 approval of curriculum.

28 (m) An applicant qualifying for a license transfer
29 under s. 626.292, if the applicant:

30 1. Has successfully completed the prelicensing
31 examination requirements in the applicant's previous state

1 which are substantially equivalent to the examination
2 requirements in this state, as determined by the Insurance
3 Commissioner of this state;
4 2. Has received the designation of chartered property
5 and casualty underwriter (CPCU) from the American Institute
6 for Property and Liability Underwriters and has been engaged
7 in the insurance business within the past 4 years if applying
8 to transfer a general lines agent license; or
9 3. Has received the designation of chartered life
10 underwriter (CLU) from the American College of Life
11 Underwriters and has been engaged in the insurance business
12 within the past 4 years, if applying to transfer a life or
13 health agent license.
14 (n) An applicant for a nonresident agent license, if
15 the applicant:
16 1. Has successfully completed prelicensing examination
17 requirements in the applicant's home state which are
18 substantially equivalent to the examination requirements in
19 this state, as determined by the Insurance Commissioner of
20 this state, as a requirement for obtaining a resident license
21 in his or her home state;
22 2. Held a general lines agent license, life agent
23 license, or health agent license prior to the time a written
24 examination was required;
25 3. Has received the designation of chartered property
26 and casualty underwriter (CPCU) from the American Institute
27 for Property and Liability Underwriters and has been engaged
28 in the insurance business within the past 4 years, if an
29 applicant for a nonresident license as a general lines agent;
30 or
31

1 4. Has received the designation of chartered life
2 underwriter (CLU) from the American College of Life
3 Underwriters and has been in the insurance business within the
4 past 4 years, if an applicant for a nonresident license as a
5 life agent or health agent.

6 (3) An individual who is already licensed as a
7 ~~solicitor or~~ customer representative shall not be licensed as
8 a general lines agent without application and examination for
9 such license.

10 Section 13. Paragraph (a) of subsection (3) of section
11 626.2815, Florida Statutes, is amended to read:

12 626.2815 Continuing education required; application;
13 exceptions; requirements; penalties.--

14 (3)(a) Each person subject to the provisions of this
15 section must, except as set forth in paragraphs (b) and (c),
16 complete a minimum of 28 hours of continuing education courses
17 every 2 years in basic or higher-level courses prescribed by
18 this section or in other courses approved by the department.
19 Each person subject to the provisions of this section must
20 complete, as part of their required number of continuing
21 education hours, a minimum of 2 hours of continuing education,
22 approved by the department, every 2 years on the subject
23 matter of unauthorized entities engaging in the business of
24 insurance. The scope of the topic of unauthorized entities
25 shall include the Florida Nonprofit Multiple Employer Welfare
26 Arrangement Act and the Employee Retirement Income Security
27 Act, 29 U.S.C. s. 1001, et seq., as it relates to the
28 provision of health insurance by employers to their employees
29 and the regulation thereof.

30 Section 14. Section 626.292, Florida Statutes, is
31 created to read:

1 626.292 Transfer of license from another state.--
2 (1) Any individual licensed in good standing in
3 another state may apply to the department to have the license
4 transferred to this state to obtain a Florida resident agent
5 license for the same lines of authority covered by the license
6 in the other state.
7 (2) To qualify for a license transfer, an individual
8 applicant must meet the following requirements:
9 (a) The individual shall become a resident of this
10 state.
11 (b) The individual shall have been licensed in another
12 state for a minimum of 1 year immediately preceding the date
13 the individual became a resident of this state.
14 (c) The individual shall submit a completed
15 application for this state which is received by the department
16 within 90 days after the date the individual became a resident
17 of this state, along with payment of the applicable fees set
18 forth in s. 624.501 and submission of the following documents:
19 1. A certification issued by the appropriate official
20 of the applicant's home state identifying the type of license
21 and lines of authority under the license and stating that, at
22 the time the license from the home state was cancelled, the
23 applicant was in good standing in that state or that the
24 state's Producer Database records, maintained by the National
25 Association of Insurance Commissioners, its affiliates, or
26 subsidiaries, indicate that the agent is or was licensed in
27 good standing for the line of authority requested.
28 2. A set of the individual applicant's fingerprints in
29 accordance with s. 626.171(5).
30 (d) The individual shall satisfy prelicensing
31 education requirements in this state, unless the completion of

1 prelicensing education requirements was a prerequisite for
2 licensure in the other state and the prelicensing education
3 requirements in the other state are substantially equivalent
4 to the prelicensing requirements of this state as determined
5 by the Insurance Commissioner of this state.

6 (e) The individual shall satisfy the examination
7 requirement under s. 626.221, unless exempt thereunder.

8 (3) An applicant satisfying the requirements for a
9 license transfer under subsection (2) shall be approved for
10 licensure in this state unless the department finds that
11 grounds exist under s. 626.611 or s. 626.621 for refusal,
12 suspension, or revocation of a license.

13 Section 15. Section 626.301, Florida Statutes, is
14 amended to read:

15 626.301 Form and contents of licenses, in
16 general.--Each license issued by the department shall be in
17 such form as the department may designate and contain ~~show~~ the
18 licensee's name, lines of authority ~~classes of insurance~~ the
19 licensee is authorized to transact, the licensee's personal
20 identification number, the date of issuance, and any other
21 information the department deems necessary to fully identify
22 the licensee and the authority being granted ~~the name of the~~
23 ~~licensee~~. The department may by rule require photographs of
24 applicants as a part of the licensing process.

25 Section 16. Paragraphs (b) and (f) of subsection (1)
26 of section 626.321, Florida Statutes, are amended to read:

27 626.321 Limited licenses.--

28 (1) The department shall issue to a qualified
29 individual, or a qualified individual or entity under
30 paragraphs (c), (d), and (e), a license as agent authorized to
31

1 transact a limited class of business in any of the following
2 categories:

3 (b) Industrial fire insurance or burglary
4 insurance.--License covering only industrial fire insurance or
5 burglary insurance. The applicant for such a license shall
6 pass a written examination covering such insurance. No
7 individual while so licensed shall hold a license as an agent
8 ~~or solicitor~~ as to any other or additional kind or class of
9 insurance coverage except as to life and health insurances.

10 (f) Credit insurance.--License covering only credit
11 insurance, as such insurance is defined in s. 624.605(1)(i),
12 and no individual or entity so licensed shall, during the same
13 period, hold a license as an agent ~~or solicitor~~ as to any
14 other or additional kind of life or health insurance with the
15 exception of credit life or disability insurance as defined in
16 paragraph (e). The same licensing provisions as outlined in
17 paragraph (e) apply to entities licensed as credit insurance
18 agents under this paragraph.

19 Section 17. Section 626.536, Florida Statutes, is
20 created to read:

21 626.536 Reporting of actions.--An agent shall submit
22 to the department, within 30 days after the final disposition
23 of any administrative action taken against the agent by a
24 governmental agency in this or any other state or jurisdiction
25 relating to the business of insurance, the sale of securities,
26 or activity involving fraud, dishonesty, trustworthiness, or
27 breach of a fiduciary duty, a copy of the order, consent to
28 order, or other relevant legal documents. The department may
29 adopt rules implementing the provisions of this section.

30 Section 18. Section 626.551, Florida Statutes, is
31 amended to read:

1 626.551 Notice of change of address, name.--Every
2 licensee shall notify the department in writing within 60 ~~30~~
3 days after a change of name, residence address, principal
4 business street address, or mailing address. Any licensed
5 agent who has moved his or her residence from this state shall
6 have his or her license and all appointments immediately
7 terminated by the department. Failure to notify the department
8 within the required time period shall result in a fine not to
9 exceed \$250 for the first offense and, for subsequent
10 offenses, a fine of not less than \$500 or suspension or
11 revocation of the license pursuant to s. 626.611 or s.
12 626.621.

13 Section 19. Section 626.727, Florida Statutes, is
14 amended to read:

15 626.727 Scope of this part.--This part applies only
16 to+

17 ~~(1) general lines agents, as defined in s. 626.041;~~

18 ~~(2) solicitors, as defined in s. 626.071;~~

19 ~~(3) customer representatives, as defined in s.~~

20 ~~626.072; and~~

21 ~~(4) service representatives, and as defined in s.~~

22 ~~626.081, or managing general agents, all as defined in s.~~

23 ~~626.015 s. 626.091.~~

24 Section 20. Section 626.729, Florida Statutes, is
25 amended to read:

26 626.729 "Industrial fire insurance" defined.--For the
27 purposes of this code, "industrial fire insurance" is
28 insurance against loss by fire of either buildings and other
29 structures or contents, which may include extended coverage;
30 windstorm insurance; basic limits owner's, landlord's, or
31 tenant's liability insurance with single limits of \$25,000;

1 comprehensive personal liability insurance with a single limit
2 of \$25,000; or burglary insurance, under which the premiums
3 are collected quarterly or more often and the face amount of
4 the insurance provided by the policy on one risk is not more
5 than \$50,000, including the contents of such buildings and
6 other structures, and the insurer issuing such policy is
7 operating under a system of collecting a debit by its agents.
8 A temporary license for an industrial fire or burglary agent
9 issued pursuant to s. 626.175 ~~626.740~~ shall be solely for the
10 purpose of collecting premiums and servicing in-force
11 policies, and such licensee shall not directly or indirectly
12 solicit, negotiate, or effect contracts of insurance.

13 Section 21. Subsections (1) and (2) of section
14 626.730, Florida Statutes, are amended to read:

15 626.730 Purpose of license.--

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

31

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

13 Section 22. Section 626.7315, Florida Statutes, is
14 created to read:

15 626.7315 Prohibition against the unlicensed
16 transaction of general lines insurance.--With respect to any
17 line of authority as defined in s. 626.015, no individual
18 shall, unless licensed as a general lines agent:

19 (1) Solicit insurance or procure applications
20 therefor;

21 (2) In this state, receive or issue a receipt for any
22 money on account of or for any insurer, or receive or issue a
23 receipt for money from other persons to be transmitted to any
24 insurer for a policy, contract, or certificate of insurance or
25 any renewal thereof, even though the policy, certificate, or
26 contract is not signed by him or her as agent or
27 representative of the insurer;

28 (3) Directly or indirectly represent himself or
29 herself to be an agent of any insurer or as an agent, to
30 collect or forward any insurance premium, or to solicit,
31 negotiate, effect, procure, receive, deliver, or forward,

1 directly or indirectly, any insurance contract or renewal
2 thereof or any endorsement relating to an insurance contract,
3 or attempt to effect the same, of property or insurable
4 business activities or interests, located in this state;

5 (4) 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, other than as a licensed attorney at law, relative
9 to insurance or insurance contracts, for fee, commission, or
10 other compensation, other than as a salaried bona fide
11 full-time employee so counseling and advising his or her
12 employer relative to the insurance interests of the employer
13 and of the subsidiaries or business affiliates of the
14 employer;

15 (5) In any way, directly or indirectly, make or cause
16 to be made, or attempt to make or cause to be made, any
17 contract of insurance for or on account of any insurer;

18 (6) Solicit, negotiate, or in any way, directly or
19 indirectly, effect insurance contracts, if a member of a
20 partnership or association, or a stockholder, officer, or
21 agent of a corporation which holds an agency appointment from
22 any insurer; or

23 (7) Receive or transmit applications for suretyship,
24 or receive for delivery bonds founded on applications
25 forwarded from this state, or otherwise procure suretyship to
26 be effected by a surety insurer upon the bonds of persons in
27 this state or upon bonds given to persons in this state.

28 Section 23. Subsection (1) of section 626.732, Florida
29 Statutes, is amended, and subsection (4) is added to said
30 section, to read:

31

1 626.732 Requirement as to knowledge, experience, or
2 instruction.--

3 (1) Except as provided in subsection (3), no applicant
4 for a license as a general lines agent, except for a chartered
5 property and casualty underwriter (CPCU), other than as to a
6 limited license as to baggage and motor vehicle excess
7 liability insurance, credit property insurance, credit
8 insurance, or in-transit and storage personal property
9 insurance, shall be qualified or licensed unless within the 4
10 years immediately preceding the date the application for
11 license is filed with the department the applicant has:

12 (a) Taught or successfully completed classroom courses
13 in insurance satisfactory to the department at a school,
14 college, or extension division thereof, approved by the
15 department;

16 (b) Completed a correspondence course in insurance
17 satisfactory to the department and regularly offered by
18 accredited institutions of higher learning in this state and,
19 except if he or she is applying for a limited license under s.
20 626.321, has had at least 6 months of responsible insurance
21 duties as a substantially full-time bona fide employee in all
22 lines of property and casualty insurance set forth in the
23 definition of general lines agent under s. 626.015 ~~s.~~
24 ~~626.041(1)~~; ~~or~~

25 (c) Completed at least 1 year in responsible insurance
26 duties as a substantially full-time bona fide employee in all
27 lines of property and casualty insurance, exclusive of
28 aviation and wet marine and transportation insurances but not
29 exclusive of boats of less than 36 feet in length or aircraft
30 not held out for hire, as set forth in the definition of a
31 general lines agent under s. 626.015 ~~s. 626.041(1)~~, without

1 the education requirement mentioned in paragraph (a) or
2 paragraph (b); or
3 (d)1. Completed at least 1 year of responsible
4 insurance duties as a licensed and appointed customer
5 representative in either commercial or personal lines of
6 property and casualty insurance and 40 hours of classroom
7 courses approved by the department covering the areas of
8 property, casualty, surety, health, and marine insurance; or
9 2. Completed at least 1 year of responsible insurance
10 duties as a licensed and appointed service representative in
11 either commercial or personal lines of property and casualty
12 insurance and 80 hours of classroom courses approved by the
13 department covering the areas of property, casualty, surety,
14 health, and marine insurance.
15 (4) Classroom and correspondence courses under
16 subsection (1) must include instruction on the subject matter
17 of unauthorized entities engaging in the business of
18 insurance. The scope of the topic of unauthorized entities
19 shall include the Florida Nonprofit Multiple-Employer Welfare
20 Arrangement Act and the Employee Retirement Income Security
21 Act, 29 U.S.C. s. 1001, et seq., as it relates to the
22 provision of health insurance by employers and the regulation
23 thereof.
24 Section 24. Effective July 1, 2002, subsections (4)
25 and (5) are added to section 626.738, Florida Statutes, to
26 read:
27 626.738 Solicitor's powers; agent's or agency's
28 responsibility.--
29 (4) The department shall not issue or renew solicitor
30 licenses on or after October 1, 2002. Effective 12:01 a.m.,
31 October 1, 2002, all solicitor licenses and appointments shall

1 be canceled by operation of law. Each solicitor licensee may
2 have his or her license converted to a general lines agent
3 license. No later than August 1, 2002, the department shall
4 notify existing solicitor licensees of the procedure for
5 converting their license to a general lines agent license,
6 including the requirement of a written request to have the
7 license converted and payment of any required fees. Upon
8 receipt of the written request and fee, the department shall
9 issue a general lines insurance agent license to the solicitor
10 licensee. Conversion of existing solicitor licenses to
11 general lines agent licenses shall be completed prior to
12 October 1, 2002.

13 (5) After the department converts the solicitor
14 license to a general lines agent license, the licensee shall
15 comply with all provisions of the Florida Insurance Code
16 pertaining to general lines agents.

17 Section 25. Section 626.741, Florida Statutes, is
18 amended to read:

19 626.741 Nonresident agents; licensing and
20 restrictions.--

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

24 (a) A nonresident general lines agent to an individual
25 licensed in his or her home state as a resident agent for the
26 same line of authority as a Florida resident general lines
27 agent and ~~who is~~ otherwise qualified therefor under the laws
28 of this state, but who is not a resident of this state, if by
29 the laws of the individual's home state ~~of the individual's~~
30 residence, residents of this state may be licensed in a
31

1 similar ~~like~~ manner as a nonresident agent of his or her home
2 state.

3 (b) A customer representative to an individual ~~who is~~
4 otherwise qualified therefor, who is not a resident of this
5 state, but ~~who~~ is a resident of a state sharing ~~that shares~~ a
6 common boundary with this state.

7 (2) The department may enter into reciprocal
8 agreements with the appropriate official of any other state
9 waiving the written examination of any applicant resident in
10 that other state if:

11 (a) In the applicant's home state, a resident of this
12 state is privileged to procure a general lines agent's license
13 upon compliance with the conditions specified in subsection
14 (1) and without discrimination as to fees or otherwise in
15 favor of the residents of the individual's home state.

16 (b) The appropriate official of the individual's home
17 state certifies that the applicant holds a currently valid
18 license as a resident agent in his or her home state for the
19 same line of authority as a general lines agent in this state.

20 (c) The applicant satisfies the examination
21 requirement under s. 626.221, or qualifies for an exemption
22 thereunder.

23 ~~(3)~~~~(2)~~ The department shall not, however, issue any
24 license and appointment to any nonresident who has an office
25 or place of business in this state, or who has any direct or
26 indirect pecuniary interest in any insurance agent, insurance
27 agency, or in any solicitor licensed as a resident of this
28 state; nor to any individual who does not, at the time of
29 issuance and throughout the existence of the Florida license,
30 hold a license as agent or broker issued by his or her home
31 ~~the state of his or her residence;~~ nor to any individual who

1 is employed by any insurer as a service representative or who
2 is a managing general agent in any state, whether or not also
3 licensed in another state as an agent or broker. The
4 foregoing requirement to hold a similar license in the
5 applicant's home state ~~of residence~~ does not apply to customer
6 representatives unless the home state licenses residents of
7 that state in a similar ~~like~~ manner. The prohibition against
8 having an office or place of business in this state does not
9 apply to customer representatives who are required to conduct
10 business solely within the confines of the office of a
11 licensed and appointed Florida resident general lines agent in
12 this state. The authority of such nonresident license is
13 limited to the specific lines of authority granted in the
14 license issued by the agent's home state ~~of residence~~ and
15 further limited to the specific lines authorized under the
16 nonresident license issued by this state. The department shall
17 have discretion to refuse to issue any license or appointment
18 to a nonresident when it has reason to believe that the
19 applicant by ruse or subterfuge is attempting to avoid the
20 intent and prohibitions contained in this subsection or to
21 believe that any of the grounds exist as for suspension or
22 revocation of license as set forth in ss. 626.611 and 626.621.

23 (4)~~(3)~~ Such a nonresident shall not directly or
24 indirectly solicit, negotiate, or effect insurance contracts
25 in this state unless accompanied by a countersigning agent,
26 resident in this state, on such risk.

27 (5)~~(4)~~(a) All insurance policies as defined in s.
28 627.402, written under the nonresident agent's license,
29 including those written or issued pursuant to the Surplus
30 Lines Law, part VIII, on risks or property located in this
31 state must be countersigned by a local agent resident of this

1 state; and it shall be the duty and responsibility of the
2 nonresident agent, and, if called upon to do so by the
3 countersigning agent, of the insurer likewise, to assure that
4 such resident local agent receives the same commission as
5 allowed by the home state ~~of residence~~ of the nonresident
6 agent, but in no event shall the resident local agent receive,
7 accept, or retain less than 50 percent of the usual Florida
8 local agent's commission or 50 percent of the nonresident
9 agent's commission, whichever is less, on policies of
10 insurance covering property as defined in s. 624.604 and
11 insurance covering in whole or in part real property and
12 tangible personal property, including property floater
13 policies. On all other policies of insurance, including
14 insurance covering motor vehicles, plate glass, burglary,
15 robbery, theft, larceny, boiler and machinery, workers'
16 compensation, fidelity and surety, bodily injury liability,
17 and property damage liability, in no event shall he or she
18 receive, accept, or retain less than 25 percent of the usual
19 Florida local agent's commission or 25 percent of the
20 nonresident agent's commission, whichever is less.

21 (b) The provisions of this subsection, with respect to
22 resident agent countersignature commission, shall not be
23 applicable to any contracts of insurance purchased by a person
24 whose premiums for insurance in the preceding year of such
25 purchase exceeded \$250,000 in the aggregate. Nothing herein
26 is intended to preclude the negotiation and payment of a
27 commission to the countersigning agent to compensate him or
28 her for services performed or to be performed.

29 (6)~~(5)~~ Any individual who holds a Florida nonresident
30 agent's license, upon becoming a resident of this state may,
31 for a period not to exceed 90 days, continue to transact

1 insurance in this state under the nonresident license and
2 appointment. Such individual must make application for
3 resident licensure and must become licensed as a resident
4 agent within 90 days of becoming a resident of this state.

5 (7)~~(6)~~ Upon becoming a resident of this state, an
6 individual who holds a Florida nonresident agent's license is
7 no longer eligible for licensure as a nonresident agent if
8 such individual fails to make application for a resident
9 license and become licensed as a resident agent within 90
10 days. His or her license and any appointments shall be
11 canceled immediately. He or she may apply for a resident
12 license pursuant to s. 626.731.

13 (8)~~(7)~~ Except as provided in this section and ss.
14 626.742 and 626.743, nonresident agents shall be subject to
15 the same requirements as apply to agents resident in this
16 state.

17 (9) If available, the department shall verify the
18 nonresident applicant's licensing status through the Producer
19 Database maintained by the National Association of Insurance
20 Commissioners, its affiliates, or subsidiaries.

21 Section 26. Subsection (6) of section 626.7454,
22 Florida Statutes, is amended to read:

23 626.7454 Managing general agents; duties of
24 insurers.--

25 (6) An insurer shall review its books and records on a
26 quarterly basis to determine if any producer has become a
27 managing general agent as defined in s. 626.015 ~~626.091~~. If
28 the insurer determines that a producer has become a managing
29 general agent, the insurer shall promptly notify the producer
30 and the department of such determination and the insurer and
31 producer must fully comply with the provisions of this section

1 and ss. 626.7451, 626.7452, and 626.7453 within 30 days after
2 such determination.

3

4 Subsections (1), (3), and (4) do not apply to a managing
5 general agent that is a controlled or controlling person.

6 Section 27. Section 626.7455, Florida Statutes, is
7 created to read:

8 626.7455 Managing general agent; responsibility of
9 insurer.--

10 (1) No insurer shall enter into an agreement with any
11 person to manage the business written in this state by the
12 general lines agents appointed by the insurer or appointed by
13 the managing general agent on behalf of the insurer unless the
14 person is properly licensed and appointed as a managing
15 general agent in this state. An insurer shall be responsible
16 for the acts of its managing general agent when the agent acts
17 within the scope of his or her authority.

18 (2) This section does not apply to surplus lines
19 insurance when written pursuant to the Surplus Lines Law, ss.
20 626.913-626.937.

21 Section 28. Section 626.779, Florida Statutes, is
22 amended to read:

23 626.779 "Life agent" defined.--For the purposes of
24 this part, a "life agent" is as defined in s. 626.015 ~~626.051~~.

25 Section 29. Section 626.7845, Florida Statutes, is
26 created to read:

27 626.7845 Prohibition against unlicensed transaction of
28 life insurance.--

29 (1) An individual may not solicit or sell variable
30 life insurance, variable annuity contracts, or any other
31 indeterminate value or variable contract as defined in s.

1 627.8015, unless the individual has successfully completed a
2 licensure examination relating to variable annuity contracts
3 authorized and approved by the department.

4 (2) Except as provided in s. 626.112(6), with respect
5 to any line of authority specified in s. 626.015(11), no
6 individual shall, unless licensed as a life agent:

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

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

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

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

20 Section 30. Subsections (1) and (2) of section
21 626.7851, Florida Statutes, are amended to read:

22 626.7851 Requirement as to knowledge, experience, or
23 instruction.--No applicant for a license as a life agent,
24 except for a chartered life underwriter (CLU), shall be
25 qualified or licensed unless within the 4 years immediately
26 preceding the date the application for a license is filed with
27 the department he or she has:

28 (1) Successfully completed 40 hours of classroom
29 courses in insurance satisfactory to the department at a
30 school or college, or extension division thereof, or other
31 authorized course of study, approved by the department.

1 Courses must include instruction on the subject matter of
2 unauthorized entities engaging in the business of insurance,
3 to include the Florida Nonprofit Multiple-Employer Welfare
4 Arrangement Act and the Employee Retirement Income Security
5 Act, 29 U.S.C. s. 1001, et seq., as it relates to the
6 provision of life insurance by employers to their employees
7 and the regulation thereof;

8 (2) Successfully completed a correspondence course in
9 insurance satisfactory to the department and regularly offered
10 by accredited institutions of higher learning in this state,
11 approved by the department. Courses must include instruction
12 on the subject matter of unauthorized entities engaging in the
13 business of insurance, to include the Florida Nonprofit
14 Multiple-Employer Welfare Arrangement Act and the Employee
15 Retirement Income Security Act, 29 U.S.C. s. 1001, et seq., as
16 it relates to the provision of life insurance by employers to
17 their employees and the regulation thereof;

18 Section 31. Subsection (1) of section 626.790, Florida
19 Statutes, is amended to read:

20 626.790 Temporary license; pending examination.--

21 (1) Each applicant for a life agent's license to
22 represent an insurer of the industrial or ordinary-combination
23 class may, upon payment of the required license and
24 appointment fees, have issued to him or her a temporary
25 license for a period not exceeding 6 months. The department
26 shall not issue a temporary license as to an ordinary class
27 agent, except as provided in s. 626.175 ~~626.791~~.

28 Section 32. Subsections (1) and (2) of section
29 626.792, Florida Statutes, are amended, and subsection (9) is
30 added to said section, to read:

31

1 626.792 Nonresident agents; licensing and
2 restrictions.--

3 (1) The department, upon written application and
4 payment of the fees specified in s. 624.501, may issue a
5 license as a nonresident life agent to an individual a person
6 not resident of this state, upon compliance with the
7 applicable provisions of this code, if that individual's home
8 ~~the state or province of Canada of such person's residence~~
9 will accord the same privilege to a resident of this state.

10 (2) The department may enter into reciprocal
11 agreements with the appropriate official of any other state or
12 province of Canada waiving the written examination of any
13 applicant resident in such other state or province if, in that
14 other state or province, a resident of this state is
15 privileged to procure a life insurance agent's license upon
16 the foregoing conditions and without discrimination as to fees
17 or otherwise in favor of the residents of such other state or
18 province and:

19 (a) A written examination, substantially equivalent to
20 the examination required by this state, is required of an
21 applicant for a life insurance agent's license in such other
22 state or province.†

23 (b) The appropriate official of the other state or
24 province certifies that the applicant holds a currently valid
25 license as a life insurance agent in such other state or
26 province and satisfies the examination requirement under s.
27 626.221 or is exempt under such section ~~either passed such a~~
28 ~~written examination or was the holder of a life insurance~~
29 ~~agent's license prior to the time a written examination was~~
30 ~~required; and~~

31

1 ~~(c) In such other state or province, a resident of~~
2 ~~this state is privileged to procure a life insurance agent's~~
3 ~~license upon the foregoing conditions and without~~
4 ~~discrimination as to fees or otherwise in favor of the~~
5 ~~residents of such other state or province.~~

6 (9) If available, the department shall verify the
7 nonresident applicant's licensing status through the Producer
8 Database maintained by the National Association of Insurance
9 Commissioners, its affiliates or subsidiaries.

10 Section 33. Section 626.8305, Florida Statutes, is
11 created to read:

12 626.8305 Prohibition against the unlicensed
13 transaction of health insurance.--Except as provided in s.
14 626.112(6), with respect to any line of authority specified in
15 s. 626.015(7), no individual shall, unless licensed as a
16 health agent:

17 (1) Solicit insurance or procure applications; or

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

23 (a) As a consulting actuary advising insurers; or

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

29 Section 34. Subsections (1) and (2) of section
30 626.8311, Florida Statutes, are amended to read:

31

1 626.8311 Requirement as to knowledge, experience, or
2 instruction.--No applicant for a license as a health agent,
3 except for a chartered life underwriter (CLU), shall be
4 qualified or licensed unless within the 4 years immediately
5 preceding the date the application for license is filed with
6 the department he or she has:

7 (1) Successfully completed 40 hours of classroom
8 courses in insurance satisfactory to the department at a
9 school or college, or extension division thereof, or other
10 authorized course of study, approved by the department.
11 Courses must include instruction on the subject matter of
12 unauthorized entities engaging in the business of insurance,
13 to include the Florida Nonprofit Multiple-Employer Welfare
14 Arrangement Act and the Employee Retirement Income Security
15 Act, 29 U.S.C. s. 1001, et seq., as it relates to the
16 provision of health insurance by employers to their employees
17 and the regulation thereof;

18 (2) Successfully completed a correspondence course in
19 insurance satisfactory to the department and regularly offered
20 by accredited institutions of higher learning in this state,
21 approved by the department. Courses must include instruction
22 on the subject matter of unauthorized entities engaging in the
23 business of insurance, to include the Florida Nonprofit
24 Multiple-Employer Welfare Arrangement Act and the Employee
25 Retirement Income Security Act, 29 U.S.C. s. 1001, et seq., as
26 it relates to the provision of health insurance by employers
27 to their employees and the regulation thereof;

28 Section 35. Subsections (1) and (2) of section
29 626.835, Florida Statutes, are amended, and subsection (9) is
30 added to said section, to read:

31

1 626.835 Nonresident agents; licensing and
2 restrictions.--

3 (1) The department, upon written application and
4 payment of the fees specified in s. 624.501, may issue a
5 license as a nonresident health agent to an individual ~~a~~
6 ~~person~~ not a resident of this state, if the state or province
7 of Canada of such individual's ~~person's~~ residence will accord
8 the same privilege to a resident of this state.

9 (2) The department may enter into reciprocal
10 agreements with the appropriate official of any other state or
11 province of Canada waiving the written examination of any
12 applicant resident in such other state or province if, in such
13 other state or province, a resident of this state is
14 privileged to procure a health insurance agent's license upon
15 the foregoing conditions and without discrimination as to fees
16 or otherwise in favor of the residents of such other state or
17 province and:

18 (a) A written examination, substantially equivalent to
19 the examination required by this state, is required of an
20 applicant for a health insurance agent's license in such other
21 state or province. ~~†~~

22 (b) The appropriate official of the other state or
23 province certifies that the applicant holds a currently valid
24 license as a health insurance agent in such other state or
25 province and satisfied the examination requirements under s.
26 626.221 or is exempt under such section ~~either has passed such~~
27 ~~a written examination or was the holder of a health insurance~~
28 ~~agent's license prior to the time a written examination was~~
29 ~~required; and~~

30 ~~(c) In such other state or province, a resident of~~
31 ~~this state is privileged to procure a health insurance agent's~~

1 ~~license upon the foregoing conditions and without~~
2 ~~discrimination as to fees or otherwise in favor of the~~
3 ~~residents of such other state or province.~~

4 (9) If available, the department shall verify the
5 producer's licensing status through the Producer Database
6 maintained by the National Association of Insurance
7 Commissioners, its affiliates or subsidiaries.

8 Section 36. Paragraph (b) of subsection (1) of section
9 626.8411, Florida Statutes, is amended to read:

10 626.8411 Application of Florida Insurance Code
11 provisions to title insurance agents or agencies.--

12 (1) The following provisions of part II, as applicable
13 to general lines agents or agencies, also apply to title
14 insurance agents or agencies:

15 (b) Section 626.175 ~~626.739~~, relating to temporary
16 licenses.

17 Section 37. Subsection (6) is added to section
18 626.852, Florida Statutes, to read:

19 626.852 Scope of this part.--

20 (6) This part does not apply to any person who adjusts
21 only multiple peril crop insurance or crop hail claims.

22 Section 38. Subsection (1) of section 626.902, Florida
23 Statutes, is amended to read:

24 626.902 Penalty for representing unauthorized
25 insurer.--

26 (1) In addition to any other penalties provided in the
27 insurance code:

28 (a) Any insurance agent licensed in this state who in
29 this state knowingly represents or aids an unauthorized
30 insurer in violation of s. 626.901 commits a felony

31

1 ~~misdeemeanor~~ of the third ~~second~~ degree, punishable as provided
2 in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

3 (b) Any person other than an insurance agent licensed
4 in this state who in this state represents or aids an
5 unauthorized insurer in violation of s. 626.901 commits a
6 felony of the third degree, punishable as provided in s.
7 775.082, s. 775.083, or s. 775.084.

8 (c) Any person who commits a subsequent violation of
9 this section commits a felony of the second degree, punishable
10 as provided in s. 775.082, s. 775.083, or s. 775.084.

11 Section 39. Subsection (2) of section 626.927, Florida
12 Statutes, is amended to read:

13 626.927 Licensing of surplus lines agent.--

14 (2) Any individual while licensed and appointed as a
15 managing general agent as defined in s. 626.015 ~~626.091~~, or
16 service representative as defined in s. 626.015 ~~626.081~~, and
17 who otherwise possesses all of the other qualifications of a
18 general lines agent under this code, and who has a minimum of
19 1 year's experience working for a licensed surplus lines agent
20 or who has successfully completed 60 class hours in surplus
21 and excess lines in a course approved by the department, may,
22 upon taking and successfully passing a written examination as
23 to surplus lines, as given by the department, be licensed as a
24 surplus lines agent solely for the purpose of placing with
25 surplus lines insurers property, marine, casualty, or surety
26 coverages originated by general lines agents; except that no
27 examination as for a general lines agent's license shall be
28 required of any managing general agent or service
29 representative who held a Florida surplus lines agent's
30 license as of January 1, 1959.

31

1 Section 40. Subsection (4) of section 626.992, Florida
2 Statutes, is amended to read:

3 626.992 Use of viatical settlement licensed brokers,
4 providers, and sales agents required.--

5 (4) A person may not perform the functions of a
6 viatical settlement sales agent unless licensed as a life
7 agent as defined in s. 626.015 ~~626.051~~ and as provided in this
8 chapter.

9 Section 41. Paragraph (b) of subsection (6) of section
10 629.401, Florida Statutes, is amended to read:

11 629.401 Insurance exchange.--

12 (6)

13 (b) In addition to the insurance laws specified in
14 paragraph (a), the department shall regulate the exchange
15 pursuant to the following powers, rights, and duties:

16 1. General examination powers.--The department shall
17 examine the affairs, transactions, accounts, records, and
18 assets of any security fund, exchange, members, and associate
19 brokers as often as it deems advisable. The examination may
20 be conducted by the accredited examiners of the department at
21 the offices of the entity or person being examined. The
22 department shall examine in like manner each prospective
23 member or associate broker applying for membership in an
24 exchange.

25 2. Departmental approval and applications of
26 underwriting members.--No underwriting member shall commence
27 operation without the approval of the department. Before
28 commencing operation, an underwriting member shall provide a
29 written application containing:

30 a. Name, type, and purpose of the underwriting member.

31

1 b. Name, residence address, business background, and
2 qualifications of each person associated or to be associated
3 in the formation or financing of the underwriting member.

4 c. Full disclosure of the terms of all understandings
5 and agreements existing or proposed among persons so
6 associated relative to the underwriting member, or the
7 formation or financing thereof, accompanied by a copy of each
8 such agreement or understanding.

9 d. Full disclosure of the terms of all understandings
10 and agreements existing or proposed for management or
11 exclusive agency contracts.

12 3. Investigation of underwriting member
13 applications.--In connection with any proposal to establish an
14 underwriting member, the department shall make an
15 investigation of:

16 a. The character, reputation, financial standing, and
17 motives of the organizers, incorporators, or subscribers
18 organizing the proposed underwriting member.

19 b. The character, financial responsibility, insurance
20 experience, and business qualifications of its proposed
21 officers.

22 c. The character, financial responsibility, business
23 experience, and standing of the proposed stockholders and
24 directors, or owners.

25 4. Notice of management changes.--An underwriting
26 member shall promptly give the department written notice of
27 any change among the directors or principal officers of the
28 underwriting member within 30 days after such change. The
29 department shall investigate the new directors or principal
30 officers of the underwriting member. The department's
31 investigation shall include an investigation of the character,

1 financial responsibility, insurance experience, and business
2 qualifications of any new directors or principal officers. As
3 a result of the investigation, the department may require the
4 underwriting member to replace any new directors or principal
5 officers.

6 5. Alternate financial statement.--In lieu of any
7 financial examination, the department may accept an audited
8 financial statement.

9 6. Correction and reconstruction of records.--If the
10 department finds any accounts or records to be inadequate, or
11 inadequately kept or posted, it may employ experts to
12 reconstruct, rewrite, post, or balance them at the expense of
13 the person or entity being examined if such person or entity
14 has failed to maintain, complete, or correct such records or
15 accounts after the department has given him or her or it
16 notice and reasonable opportunity to do so.

17 7. Obstruction of examinations.--Any person or entity
18 who or which willfully obstructs the department or its
19 examiner in an examination is guilty of a misdemeanor of the
20 second degree, punishable as provided in s. 775.082 or s.
21 775.083.

22 8. Filing of annual statement.--Each underwriting
23 member shall file with the department a full and true
24 statement of its financial condition, transactions, and
25 affairs. The statement shall be filed on or before March 1 of
26 each year, or within such extension of time as the department
27 for good cause grants, and shall be for the preceding calendar
28 year. The statement shall contain information generally
29 included in insurer financial statements prepared in
30 accordance with generally accepted insurance accounting
31 principles and practices and in a form generally utilized by

1 insurers for financial statements, sworn to by at least two
2 executive officers of the underwriting member. The form of the
3 financial statements shall be the approved form of the
4 National Association of Insurance Commissioners or its
5 successor organization. The department may by rule require
6 each insurer to submit any part of the information contained
7 in the financial statement in a computer-readable form
8 compatible with the department's electronic data processing
9 system. In addition to information furnished in connection
10 with its annual statement, an underwriting member must furnish
11 to the department as soon as reasonably possible such
12 information about its transactions or affairs as the
13 department requests in writing. All information furnished
14 pursuant to the department's request must be verified by the
15 oath of two executive officers of the underwriting member.

16 9. Record maintenance.--Each underwriting member shall
17 have and maintain its principal place of business in this
18 state and shall keep therein complete records of its assets,
19 transactions, and affairs in accordance with such methods and
20 systems as are customary for or suitable to the kind or kinds
21 of insurance transacted.

22 10. Examination of agents.--If the department has
23 reason to believe that any agent, as defined in s. 626.015
24 ~~626.041, s. 626.051, s. 626.062,~~ or s. 626.914, has violated
25 or is violating any provision of the insurance law, or upon
26 receipt of a written complaint signed by any interested person
27 indicating that any such violation may exist, the department
28 shall conduct such examination as it deems necessary of the
29 accounts, records, documents, and transactions pertaining to
30 or affecting the insurance affairs of such agent.

31

1 11. Written reports of department.--The department or
2 its examiner shall make a full and true written report of any
3 examination. The report shall contain only information
4 obtained from examination of the records, accounts, files, and
5 documents of or relative to the person or entity examined or
6 from testimony of individuals under oath, together with
7 relevant conclusions and recommendations of the examiner based
8 thereon. The department shall furnish a copy of the report to
9 the person or entity examined not less than 30 days prior to
10 filing the report in its office. If such person or entity so
11 requests in writing within such 30-day period, the department
12 shall grant a hearing with respect to the report and shall not
13 file the report until after the hearing and after such
14 modifications have been made therein as the department deems
15 proper.

16 12. Admissibility of reports.--The report of an
17 examination when filed shall be admissible in evidence in any
18 action or proceeding brought by the department against the
19 person or entity examined, or against his or her or its
20 officers, employees, or agents. The department or its
21 examiners may at any time testify and offer other proper
22 evidence as to information secured or matters discovered
23 during the course of an examination, whether or not a written
24 report of the examination has been either made, furnished, or
25 filed in the department.

26 13. Publication of reports.--After an examination
27 report has been filed, the department may publish the results
28 of any such examination in one or more newspapers published in
29 this state whenever it deems it to be in the public interest.

30 14. Consideration of examination reports by entity
31 examined.--After the examination report of an underwriting

1 member has been filed, an affidavit shall be filed with the
2 department, not more than 30 days after the report has been
3 filed, on a form furnished by the department and signed by the
4 person or a representative of any entity examined, stating
5 that the report has been read and that the recommendations
6 made in the report will be considered within a reasonable
7 time.

8 15. Examination costs.--Each person or entity examined
9 by the department shall pay to the department the expenses
10 incurred in such examination.

11 16. Exchange costs.--An exchange shall reimburse the
12 department for any expenses incurred by it relating to the
13 regulation of the exchange and its members, except as
14 specified in subparagraph 15.

15 17. Powers of examiners.--Any examiner appointed by
16 the department, as to the subject of any examination,
17 investigation, or hearing being conducted by him or her, may
18 administer oaths, examine and cross-examine witnesses, and
19 receive oral and documentary evidence, and shall have the
20 power to subpoena witnesses, compel their attendance and
21 testimony, and require by subpoena the production of books,
22 papers, records, files, correspondence, documents, or other
23 evidence which the examiner deems relevant to the inquiry. If
24 any person refuses to comply with any such subpoena or to
25 testify as to any matter concerning which he or she may be
26 lawfully interrogated, the Circuit Court of Leon County or the
27 circuit court of the county wherein such examination,
28 investigation, or hearing is being conducted, or of the county
29 wherein such person resides, on the department's application
30 may issue an order requiring such person to comply with the
31 subpoena and to testify; and any failure to obey such an order

1 of the court may be punished by the court as a contempt
2 thereof. Subpoenas shall be served, and proof of such service
3 made, in the same manner as if issued by a circuit court.
4 Witness fees and mileage, if claimed, shall be allowed the
5 same as for testimony in a circuit court.

6 18. False testimony.--Any person willfully testifying
7 falsely under oath as to any matter material to any
8 examination, investigation, or hearing shall upon conviction
9 thereof be guilty of perjury and shall be punished
10 accordingly.

11 19. Self-incrimination.--

12 a. If any person asks to be excused from attending or
13 testifying or from producing any books, papers, records,
14 contracts, documents, or other evidence in connection with any
15 examination, hearing, or investigation being conducted by the
16 department or its examiner, on the ground that the testimony
17 or evidence required of the person may tend to incriminate him
18 or her or subject him or her to a penalty or forfeiture, and
19 the person notwithstanding is directed to give such testimony
20 or produce such evidence, he or she shall, if so directed by
21 the department and the Department of Legal Affairs,
22 nonetheless comply with such direction; but the person shall
23 not thereafter be prosecuted or subjected to any penalty or
24 forfeiture for or on account of any transaction, matter, or
25 thing concerning which he or she may have so testified or
26 produced evidence, and no testimony so given or evidence so
27 produced shall be received against him or her upon any
28 criminal action, investigation, or proceeding; except that no
29 such person so testifying shall be exempt from prosecution or
30 punishment for any perjury committed by him or her in such
31 testimony, and the testimony or evidence so given or produced

1 shall be admissible against him or her upon any criminal
2 action, investigation, or proceeding concerning such perjury,
3 nor shall he or she be exempt from the refusal, suspension, or
4 revocation of any license, permission, or authority conferred,
5 or to be conferred, pursuant to the insurance law.

6 b. Any such individual may execute, acknowledge, and
7 file in the office of the department a statement expressly
8 waiving such immunity or privilege in respect to any
9 transaction, matter, or thing specified in such statement, and
10 thereupon the testimony of such individual or such evidence in
11 relation to such transaction, matter, or thing may be received
12 or produced before any judge or justice, court, tribunal,
13 grand jury, or otherwise; and if such testimony or evidence is
14 so received or produced, such individual shall not be entitled
15 to any immunity or privileges on account of any testimony so
16 given or evidence so produced.

17 20. Penalty for failure to testify.--Any person who
18 refuses or fails, without lawful cause, to testify relative to
19 the affairs of any member, associate broker, or other person
20 when subpoenaed and requested by the department to so testify,
21 as provided in subparagraph 17., shall, in addition to the
22 penalty provided in subparagraph 17., be guilty of a
23 misdemeanor of the second degree, punishable as provided in s.
24 775.082 or s. 775.083.

25 21. Name selection.--No underwriting member shall be
26 formed or authorized to transact insurance in this state under
27 a name which is the same as that of any authorized insurer or
28 is so nearly similar thereto as to cause or tend to cause
29 confusion or under a name which would tend to mislead as to
30 the type of organization of the insurer. Before incorporating
31 under or using any name, the underwriting syndicate or

1 proposed underwriting syndicate shall submit its name or
2 proposed name to the department for the approval of the
3 department.

4 22. Capitalization.--An underwriting member approved
5 on or after July 2, 1987, shall provide an initial paid-in
6 capital and surplus of \$3 million and thereafter shall
7 maintain a minimum policyholder surplus of \$2 million in order
8 to be permitted to write insurance. Underwriting members
9 approved prior to July 2, 1987, shall maintain a minimum
10 policyholder surplus of \$1 million. After June 29, 1988,
11 underwriting members approved prior to July 2, 1987, must
12 maintain a minimum policyholder surplus of \$1.5 million to
13 write insurance. After June 29, 1989, underwriting members
14 approved prior to July 2, 1987, must maintain a minimum
15 policyholder surplus of \$1.75 million to write insurance.
16 After December 30, 1989, all underwriting members, regardless
17 of the date they were approved, must maintain a minimum
18 policyholder surplus of \$2 million to write insurance. Except
19 for that portion of the paid-in capital and surplus which
20 shall be maintained in a security fund of an exchange, the
21 paid-in capital and surplus shall be invested by an
22 underwriting member in a manner consistent with ss.
23 625.301-625.340. The portion of the paid-in capital and
24 surplus in any security fund of an exchange shall be invested
25 in a manner limited to investments for life insurance
26 companies under the Florida insurance laws.

27 23. Limitations on coverage written.--

28 a. Limit of risk.--No underwriting member shall expose
29 itself to any loss on any one risk in an amount exceeding 10
30 percent of its surplus to policyholders. Any risk or portion
31 of any risk which shall have been reinsured in an assuming

1 reinsurer authorized or approved to do such business in this
2 state shall be deducted in determining the limitation of risk
3 prescribed in this section.

4 b. Restrictions on premiums written.--If the
5 department has reason to believe that the underwriting
6 member's ratio of actual or projected annual gross written
7 premiums to policyholder surplus exceeds 8 to 1 or the
8 underwriting member's ratio of actual or projected annual net
9 premiums to policyholder surplus exceeds 4 to 1, the
10 department may establish maximum gross or net annual premiums
11 to be written by the underwriting member consistent with
12 maintaining the ratios specified in this sub-subparagraph.

13 (I) Projected annual net or gross premiums shall be
14 based on the actual writings to date for the underwriting
15 member's current calendar year, its writings for the previous
16 calendar year, or both. Ratios shall be computed on an
17 annualized basis.

18 (II) For purposes of this sub-subparagraph, the term
19 "gross written premiums" means direct premiums written and
20 reinsurance assumed.

21 c. Surplus as to policyholders.--For the purpose of
22 determining the limitation on coverage written, surplus as to
23 policyholders shall be deemed to include any voluntary
24 reserves, or any part thereof, which are not required by or
25 pursuant to law and shall be determined from the last sworn
26 statement of such underwriting member with the department, or
27 by the last report or examination filed by the department,
28 whichever is more recent at the time of assumption of such
29 risk.

30 24. Unearned premium reserves.--All unearned premium
31 reserves for business written on the exchange shall be

1 calculated on a monthly or more frequent basis or on such
2 other basis as determined by the department; except that all
3 premiums on any marine or transportation insurance trip risk
4 shall be deemed unearned until the trip is terminated.

5 25. Loss reserves.--All underwriting members of an
6 exchange shall maintain loss reserves, including a reserve for
7 incurred but not reported claims. The reserves shall be
8 subject to review by the department, and, if loss experience
9 shows that an underwriting member's loss reserves are
10 inadequate, the department shall require the underwriting
11 member to maintain loss reserves in such additional amount as
12 is needed to make them adequate.

13 26. Distribution of profits.--An underwriting member
14 shall not distribute any profits in the form of cash or other
15 assets to owners except out of that part of its available and
16 accumulated surplus funds which is derived from realized net
17 operating profits on its business and realized capital gains.
18 In any one year such payments to owners shall not exceed 30
19 percent of such surplus as of December 31 of the immediately
20 preceding year, unless otherwise approved by the department.
21 No distribution of profits shall be made that would render an
22 underwriting member either impaired or insolvent.

23 27. Stock dividends.--A stock dividend may be paid by
24 an underwriting member out of any available surplus funds in
25 excess of the aggregate amount of surplus advanced to the
26 underwriting member under subparagraph 29.

27 28. Dividends from earned surplus.--A dividend
28 otherwise lawful may be payable out of an underwriting
29 member's earned surplus even though the total surplus of the
30 underwriting member is then less than the aggregate of its
31

1 past contributed surplus resulting from issuance of its
2 capital stock at a price in excess of the par value thereof.

3 29. Borrowing of money by underwriting members.--

4 a. An underwriting member may borrow money to defray
5 the expenses of its organization, provide it with surplus
6 funds, or for any purpose of its business, upon a written
7 agreement that such money is required to be repaid only out of
8 the underwriting member's surplus in excess of that stipulated
9 in such agreement. The agreement may provide for interest not
10 exceeding 15 percent simple interest per annum. The interest
11 shall or shall not constitute a liability of the underwriting
12 member as to its funds other than such excess of surplus, as
13 stipulated in the agreement. No commission or promotion
14 expense shall be paid in connection with any such loan. The
15 use of any surplus note and any repayments thereof shall be
16 subject to the approval of the department.

17 b. Money so borrowed, together with any interest
18 thereon if so stipulated in the agreement, shall not form a
19 part of the underwriting member's legal liabilities except as
20 to its surplus in excess of the amount thereof stipulated in
21 the agreement, nor be the basis of any setoff; but until
22 repayment, financial statements filed or published by an
23 underwriting member shall show as a footnote thereto the
24 amount thereof then unpaid, together with any interest thereon
25 accrued but unpaid.

26 30. Liquidation, rehabilitation, and
27 restrictions.--The department, upon a showing that a member or
28 associate broker of an exchange has met one or more of the
29 grounds contained in part I of chapter 631, may restrict sales
30 by type of risk, policy or contract limits, premium levels, or
31 policy or contract provisions; increase surplus or capital

1 requirements of underwriting members; issue cease and desist
2 orders; suspend or restrict a member's or associate broker's
3 right to transact business; place an underwriting member under
4 conservatorship or rehabilitation; or seek an order of
5 liquidation as authorized by part I of chapter 631.

6 31. Prohibited conduct.--The following acts by a
7 member, associate broker, or affiliated person shall
8 constitute prohibited conduct:

9 a. Fraud.

10 b. Fraudulent or dishonest acts committed by a member
11 or associate broker prior to admission to an exchange, if the
12 facts and circumstances were not disclosed to the department
13 upon application to become a member or associate broker.

14 c. Conduct detrimental to the welfare of an exchange.

15 d. Unethical or improper practices or conduct,
16 inconsistent with just and equitable principles of trade as
17 set forth in, but not limited to, ss. 626.951-626.9641 and
18 626.973.

19 e. Failure to use due diligence to ascertain the
20 insurance needs of a client or a principal.

21 f. Misstatements made under oath or upon an
22 application for membership on an exchange.

23 g. Failure to testify or produce documents when
24 requested by the department.

25 h. Willful violation of any law of this state.

26 i. Failure of an officer or principal to testify under
27 oath concerning a member, associate broker, or other person's
28 affairs as they relate to the operation of an exchange.

29 j. Violation of the constitution and bylaws of the
30 exchange.

31

1 32. Penalties for participating in prohibited
2 conduct.--

3 a. The department may order the suspension of further
4 transaction of business on the exchange of any member or
5 associate broker found to have engaged in prohibited conduct.
6 In addition, any member or associate broker found to have
7 engaged in prohibited conduct may be subject to reprimand,
8 censure, and/or a fine not exceeding \$25,000 imposed by the
9 department.

10 b. Any member which has an affiliated person who is
11 found to have engaged in prohibited conduct shall be subject
12 to involuntary withdrawal or in addition thereto may be
13 subject to suspension, reprimand, censure, and/or a fine not
14 exceeding \$25,000.

15 33. Reduction of penalties.--Any suspension,
16 reprimand, censure, or fine may be remitted or reduced by the
17 department on such terms and conditions as are deemed fair and
18 equitable.

19 34. Other offenses.--Any member or associate broker
20 that is suspended shall be deprived, during the period of
21 suspension, of all rights and privileges of a member or of an
22 associate broker and may be proceeded against by the
23 department for any offense committed either before or after
24 the date of suspension.

25 35. Reinstatement.--Any member or associate broker
26 that is suspended may be reinstated at any time on such terms
27 and conditions as the department may specify.

28 36. Remittance of fines.--Fines imposed under this
29 section shall be remitted to the department and shall be paid
30 into the Insurance Commissioner's Regulatory Trust Fund.

31

1 37. Failure to pay fines.--When a member or associate
2 broker has failed to pay a fine for 15 days after it becomes
3 payable, such member or associate broker shall be suspended,
4 unless the department has granted an extension of time to pay
5 such fine.

6 38. Changes in ownership or assets.--In the event of a
7 major change in the ownership or a major change in the assets
8 of an underwriting member, the underwriting member shall
9 report such change in writing to the department within 30 days
10 of the effective date thereof. The report shall set forth the
11 details of the change. Any change in ownership or assets of
12 more than 5 percent shall be considered a major change.

13 39. Retaliation.--

14 a. When by or pursuant to the laws of any other state
15 or foreign country any taxes, licenses, or other fees, in the
16 aggregate, and any fines, penalties, deposit requirements, or
17 other material obligations, prohibitions, or restrictions are
18 or would be imposed upon an exchange or upon the agents or
19 representatives of such exchange which are in excess of such
20 taxes, licenses, and other fees, in the aggregate, or which
21 are in excess of such fines, penalties, deposit requirements,
22 or other obligations, prohibitions, or restrictions directly
23 imposed upon similar exchanges or upon the agents or
24 representatives of such exchanges of such other state or
25 country under the statutes of this state, so long as such laws
26 of such other state or country continue in force or are so
27 applied, the same taxes, licenses, and other fees, in the
28 aggregate, or fines, penalties, deposit requirements, or other
29 material obligations, prohibitions, or restrictions of
30 whatever kind shall be imposed by the department upon the
31 exchanges, or upon the agents or representatives of such

1 exchanges, of such other state or country doing business or
2 seeking to do business in this state.

3 b. Any tax, license, or other obligation imposed by
4 any city, county, or other political subdivision or agency of
5 a state, jurisdiction, or foreign country on an exchange, or
6 on the agents or representatives on an exchange, shall be
7 deemed to be imposed by such state, jurisdiction, or foreign
8 country within the meaning of sub-subparagraph a.

9 40. Agents.--

10 a. Agents as defined in ss. 626.015 ~~626.041, 626.051,~~
11 ~~626.062~~, and 626.914 who are broker members or associate
12 broker members of an exchange shall be allowed only to place
13 on an exchange the same kind or kinds of business that the
14 agent is licensed to place pursuant to Florida law. Direct
15 Florida business as defined in s. 626.916 or s. 626.917 shall
16 be written through a broker member who is a surplus lines
17 agent as defined in s. 626.914. The activities of each broker
18 member or associate broker with regard to an exchange shall be
19 subject to all applicable provisions of the insurance laws of
20 this state, and all such activities shall constitute
21 transactions under his or her license as an insurance agent
22 for purposes of the Florida insurance law.

23 b. Premium payments and other requirements.--If an
24 underwriting member has assumed the risk as to a surplus lines
25 coverage and if the premium therefor has been received by the
26 surplus lines agent who placed such insurance, then in all
27 questions thereafter arising under the coverage as between the
28 underwriting member and the insured, the underwriting member
29 shall be deemed to have received the premium due to it for
30 such coverage; and the underwriting member shall be liable to
31 the insured as to losses covered by such insurance, and for

1 unearned premiums which may become payable to the insured upon
2 cancellation of such insurance, whether or not in fact the
3 surplus lines agent is indebted to the underwriting member
4 with respect to such insurance or for any other cause.

5 41. Improperly issued contracts, riders, and
6 endorsements.--

7 a. Any insurance policy, rider, or endorsement issued
8 by an underwriting member and otherwise valid which contains
9 any condition or provision not in compliance with the
10 requirements of this section shall not be thereby rendered
11 invalid, except as provided in s. 627.415, but shall be
12 construed and applied in accordance with such conditions and
13 provisions as would have applied had such policy, rider, or
14 endorsement been in full compliance with this section. In the
15 event an underwriting member issues or delivers any policy for
16 an amount which exceeds any limitations otherwise provided in
17 this section, the underwriting member shall be liable to the
18 insured or his or her beneficiary for the full amount stated
19 in the policy in addition to any other penalties that may be
20 imposed.

21 b. Any insurance contract delivered or issued for
22 delivery in this state governing a subject or subjects of
23 insurance resident, located, or to be performed in this state
24 which, pursuant to the provisions of this section, the
25 underwriting member may not lawfully insure under such a
26 contract shall be cancelable at any time by the underwriting
27 member, any provision of the contract to the contrary
28 notwithstanding; and the underwriting member shall promptly
29 cancel the contract in accordance with the request of the
30 department therefor. No such illegality or cancellation shall
31 be deemed to relieve the underwriting syndicate of any

1 liability incurred by it under the contract while in force or
2 to prohibit the underwriting syndicate from retaining the pro
3 rata earned premium thereon. This provision does not relieve
4 the underwriting syndicate from any penalty otherwise incurred
5 by the underwriting syndicate.

6 42. Satisfaction of judgments.--

7 a. Every judgment or decree for the recovery of money
8 heretofore or hereafter entered in any court of competent
9 jurisdiction against any underwriting member shall be fully
10 satisfied within 60 days from and after the entry thereof or,
11 in the case of an appeal from such judgment or decree, within
12 60 days from and after the affirmance of the judgment or
13 decree by the appellate court.

14 b. If the judgment or decree is not satisfied as
15 required under sub-subparagraph a., and proof of such failure
16 to satisfy is made by filing with the department a certified
17 transcript of the docket of the judgment or the decree
18 together with a certificate by the clerk of the court wherein
19 the judgment or decree remains unsatisfied, in whole or in
20 part, after the time provided in sub-subparagraph a., the
21 department shall forthwith prohibit the underwriting member
22 from transacting business. The department shall not permit
23 such underwriting member to write any new business until the
24 judgment or decree is wholly paid and satisfied and proof
25 thereof is filed with the department under the official
26 certificate of the clerk of the court wherein the judgment was
27 recovered, showing that the judgment or decree is satisfied of
28 record, and until the expenses and fees incurred in the case
29 are also paid by the underwriting syndicate.

30 43. Tender and exchange offers.--No person shall
31 conclude a tender offer or an exchange offer or otherwise

1 acquire 5 percent or more of the outstanding voting securities
2 of an underwriting member or controlling company or purchase 5
3 percent or more of the ownership of an underwriting member or
4 controlling company unless such person has filed with, and
5 obtained the approval of, the department and sent to such
6 underwriting member a statement setting forth:

7 a. The identity of, and background information on,
8 each person by whom, or on whose behalf, the acquisition is to
9 be made; and, if the acquisition is to be made by or on behalf
10 of a corporation, association, or trust, the identity of and
11 background information on each director, officer, trustee, or
12 other natural person performing duties similar to those of a
13 director, officer, or trustee for the corporation,
14 association, or trust.

15 b. The source and amount of the funds or other
16 consideration used, or to be used, in making the acquisition.

17 c. Any plans or proposals which such person may have
18 to liquidate such member, to sell its assets, or to merge or
19 consolidate it.

20 d. The percentage of ownership which such person
21 proposes to acquire and the terms of the offer or exchange, as
22 the case may be.

23 e. Information as to any contracts, arrangements, or
24 understandings with any party with respect to any securities
25 of such member or controlling company, including, but not
26 limited to, information relating to the transfer of any
27 securities, option arrangements, or puts or calls or the
28 giving or withholding of proxies, naming the party with whom
29 such contract, arrangements, or understandings have been
30 entered and giving the details thereof.

31

1 f. The department may disapprove any acquisition
2 subject to the provisions of this subparagraph by any person
3 or any affiliated person of such person who:

4 (I) Willfully violates this subparagraph;

5 (II) In violation of an order of the department issued
6 pursuant to sub-subparagraph j., fails to divest himself or
7 herself of any stock obtained in violation of this
8 subparagraph, or fails to divest himself or herself of any
9 direct or indirect control of such stock, within 25 days after
10 such order; or

11 (III) In violation of an order issued by the
12 department pursuant to sub-subparagraph j., acquires
13 additional stock of the underwriting member or controlling
14 company, or direct or indirect control of such stock, without
15 complying with this subparagraph.

16 g. The person or persons filing the statement required
17 by this subparagraph have the burden of proof. The department
18 shall approve any such acquisition if it finds, on the basis
19 of the record made during any proceeding or on the basis of
20 the filed statement if no proceeding is conducted, that:

21 (I) Upon completion of the acquisition, the
22 underwriting member will be able to satisfy the requirements
23 for the approval to write the line or lines of insurance for
24 which it is presently approved;

25 (II) The financial condition of the acquiring person
26 or persons will not jeopardize the financial stability of the
27 underwriting member or prejudice the interests of its
28 policyholders or the public;

29 (III) Any plan or proposal which the acquiring person
30 has, or acquiring persons have, made:

31

1 (A) To liquidate the insurer, sell its assets, or
2 merge or consolidate it with any person, or to make any other
3 major change in its business or corporate structure or
4 management; or

5 (B) To liquidate any controlling company, sell its
6 assets, or merge or consolidate it with any person, or to make
7 any major change in its business or corporate structure or
8 management which would have an effect upon the underwriting
9 member

10
11 is fair and free of prejudice to the policyholders of the
12 underwriting member or to the public;

13 (IV) The competence, experience, and integrity of
14 those persons who will control directly or indirectly the
15 operation of the underwriting member indicate that the
16 acquisition is in the best interest of the policyholders of
17 the underwriting member and in the public interest;

18 (V) The natural persons for whom background
19 information is required to be furnished pursuant to this
20 subparagraph have such backgrounds as to indicate that it is
21 in the best interests of the policyholders of the underwriting
22 member, and in the public interest, to permit such persons to
23 exercise control over such underwriting member;

24 (VI) The officers and directors to be employed after
25 the acquisition have sufficient insurance experience and
26 ability to assure reasonable promise of successful operation;

27 (VII) The management of the underwriting member after
28 the acquisition will be competent and trustworthy and will
29 possess sufficient managerial experience so as to make the
30 proposed operation of the underwriting member not hazardous to
31 the insurance-buying public;

1 (VIII) The management of the underwriting member after
2 the acquisition will not include any person who has directly
3 or indirectly through ownership, control, reinsurance
4 transactions, or other insurance or business relations
5 unlawfully manipulated the assets, accounts, finances, or
6 books of any insurer or underwriting member or otherwise acted
7 in bad faith with respect thereto;

8 (IX) The acquisition is not likely to be hazardous or
9 prejudicial to the underwriting member's policyholders or the
10 public; and

11 (X) The effect of the acquisition of control would not
12 substantially lessen competition in insurance in this state or
13 would not tend to create a monopoly therein.

14 h. No vote by the stockholder of record, or by any
15 other person, of any security acquired in contravention of the
16 provisions of this subparagraph is valid. Any acquisition of
17 any security contrary to the provisions of this subparagraph
18 is void. Upon the petition of the underwriting member or
19 controlling company, the circuit court for the county in which
20 the principal office of such underwriting member is located
21 may, without limiting the generality of its authority, order
22 the issuance or entry of an injunction or other order to
23 enforce the provisions of this subparagraph. There shall be a
24 private right of action in favor of the underwriting member or
25 controlling company to enforce the provisions of this
26 subparagraph. No demand upon the department that it perform
27 its functions shall be required as a prerequisite to any suit
28 by the underwriting member or controlling company against any
29 other person, and in no case shall the department be deemed a
30 necessary party to any action by such underwriting member or
31 controlling company to enforce the provisions of this

1 subparagraph. Any person who makes or proposes an acquisition
2 requiring the filing of a statement pursuant to this
3 subparagraph, or who files such a statement, shall be deemed
4 to have thereby designated the Insurance Commissioner, or his
5 or her assistant or deputy or another person in charge of his
6 or her office, as such person's agent for service of process
7 under this subparagraph and shall thereby be deemed to have
8 submitted himself or herself to the administrative
9 jurisdiction of the department and to the jurisdiction of the
10 circuit court.

11 i. Any approval by the department under this
12 subparagraph does not constitute a recommendation by the
13 department for an acquisition, tender offer, or exchange
14 offer. It is unlawful for a person to represent that the
15 department's approval constitutes a recommendation. A person
16 who violates the provisions of this sub-subparagraph is guilty
17 of a felony of the third degree, punishable as provided in s.
18 775.082, s. 775.083, or s. 775.084. The
19 statute-of-limitations period for the prosecution of an
20 offense committed under this sub-subparagraph is 5 years.

21 j. Upon notification to the department by the
22 underwriting member or a controlling company that any person
23 or any affiliated person of such person has acquired 5 percent
24 or more of the outstanding voting securities of the
25 underwriting member or controlling company without complying
26 with the provisions of this subparagraph, the department shall
27 order that the person and any affiliated person of such person
28 cease acquisition of any further securities of the
29 underwriting member or controlling company; however, the
30 person or any affiliated person of such person may request a
31 proceeding, which proceeding shall be convened within 7 days

1 after the rendering of the order for the sole purpose of
2 determining whether the person, individually or in connection
3 with any affiliated person of such person, has acquired 5
4 percent or more of the outstanding voting securities of an
5 underwriting member or controlling company. Upon the failure
6 of the person or affiliated person to request a hearing within
7 7 days, or upon a determination at a hearing convened pursuant
8 to this sub-subparagraph that the person or affiliated person
9 has acquired voting securities of an underwriting member or
10 controlling company in violation of this subparagraph, the
11 department may order the person and affiliated person to
12 divest themselves of any voting securities so acquired.

13 k.(I) The department shall, if necessary to protect
14 the public interest, suspend or revoke the certificate of
15 authority of any underwriting member or controlling company:

16 (A) The control of which is acquired in violation of
17 this subparagraph;

18 (B) That is controlled, directly or indirectly, by any
19 person or any affiliated person of such person who, in
20 violation of this subparagraph, has obtained control of an
21 underwriting member or controlling company; or

22 (C) That is controlled, directly or indirectly, by any
23 person who, directly or indirectly, controls any other person
24 who, in violation of this subparagraph, acquires control of an
25 underwriting member or controlling company.

26 (II) If any underwriting member is subject to
27 suspension or revocation pursuant to sub-sub-subparagraph (I),
28 the underwriting member shall be deemed to be in such
29 condition, or to be using or to have been subject to such
30 methods or practices in the conduct of its business, as to
31 render its further transaction of insurance presently or

1 prospectively hazardous to its policyholders, creditors, or
2 stockholders or to the public.

3 1.(I) For the purpose of this sub-sub-subparagraph,
4 the term "affiliated person" of another person means:

5 (A) The spouse of such other person;

6 (B) The parents of such other person and their lineal
7 descendants and the parents of such other person's spouse and
8 their lineal descendants;

9 (C) Any person who directly or indirectly owns or
10 controls, or holds with power to vote, 5 percent or more of
11 the outstanding voting securities of such other person;

12 (D) Any person 5 percent or more of the outstanding
13 voting securities of which are directly or indirectly owned or
14 controlled, or held with power to vote, by such other person;

15 (E) Any person or group of persons who directly or
16 indirectly control, are controlled by, or are under common
17 control with such other person; or any officer, director,
18 partner, copartner, or employee of such other person;

19 (F) If such other person is an investment company, any
20 investment adviser of such company or any member of an
21 advisory board of such company;

22 (G) If such other person is an unincorporated
23 investment company not having a board of directors, the
24 depositor of such company; or

25 (H) Any person who has entered into an agreement,
26 written or unwritten, to act in concert with such other person
27 in acquiring or limiting the disposition of securities of an
28 underwriting member or controlling company.

29 (II) For the purposes of this section, the term
30 "controlling company" means any corporation, trust, or
31

1 association owning, directly or indirectly, 25 percent or more
2 of the voting securities of one or more underwriting members.

3 m. The department is authorized to adopt, amend, or
4 repeal rules that are necessary to implement the provisions of
5 this subparagraph, pursuant to chapter 120.

6 44. Background information.--The information as to the
7 background and identity of each person about whom information
8 is required to be furnished pursuant to sub-subparagraph 43.a.
9 shall include, but shall not be limited to:

10 a. Such person's occupations, positions of employment,
11 and offices held during the past 10 years.

12 b. The principal business and address of any business,
13 corporation, or other organization in which each such office
14 was held or in which such occupation or position of employment
15 was carried on.

16 c. Whether, at any time during such 10-year period,
17 such person was convicted of any crime other than a traffic
18 violation.

19 d. Whether, during such 10-year period, such person
20 has been the subject of any proceeding for the revocation of
21 any license and, if so, the nature of such proceeding and the
22 disposition thereof.

23 e. Whether, during such 10-year period, such person
24 has been the subject of any proceeding under the federal
25 Bankruptcy Act or whether, during such 10-year period, any
26 corporation, partnership, firm, trust, or association in which
27 such person was a director, officer, trustee, partner, or
28 other official has been subject to any such proceeding, either
29 during the time in which such person was a director, officer,
30 trustee, partner, or other official, or within 12 months
31 thereafter.

1 f. Whether, during such 10-year period, such person
2 has been enjoined, either temporarily or permanently, by a
3 court of competent jurisdiction from violating any federal or
4 state law regulating the business of insurance, securities, or
5 banking, or from carrying out any particular practice or
6 practices in the course of the business of insurance,
7 securities, or banking, together with details of any such
8 event.

9 45. Security fund.--All underwriting members shall be
10 members of the security fund of any exchange.

11 46. Underwriting member defined.--Whenever the term
12 "underwriting member" is used in this subsection, it shall be
13 construed to mean "underwriting syndicate."

14 47. Offsets.--Any action, requirement, or constraint
15 imposed by the department shall reduce or offset similar
16 actions, requirements, or constraints of any exchange.

17 48. Restriction on member ownership.--

18 a. Investments existing prior to July 2, 1987.--The
19 investment in any member by brokers, agents, and
20 intermediaries transacting business on the exchange, and the
21 investment in any such broker, agent, or intermediary by any
22 member, directly or indirectly, shall in each case be limited
23 in the aggregate to less than 20 percent of the total
24 investment in such member, broker, agent, or intermediary, as
25 the case may be. After December 31, 1987, the aggregate
26 percent of the total investment in such member by any broker,
27 agent, or intermediary and the aggregate percent of the total
28 investment in any such broker, agent, or intermediary by any
29 member, directly or indirectly, shall not exceed 15 percent.
30 After June 30, 1988, such aggregate percent shall not exceed
31

1 10 percent and after December 31, 1988, such aggregate percent
2 shall not exceed 5 percent.

3 b. Investments arising on or after July 2, 1987.--The
4 investment in any underwriting member by brokers, agents, or
5 intermediaries transacting business on the exchange, and the
6 investment in any such broker, agent, or intermediary by any
7 underwriting member, directly or indirectly, shall in each
8 case be limited in the aggregate to less than 5 percent of the
9 total investment in such underwriting member, broker, agent,
10 or intermediary.

11 49. "Underwriting manager" defined.--"Underwriting
12 manager" as used in this subparagraph includes any person,
13 partnership, corporation, or organization providing any of the
14 following services to underwriting members of the exchange:

15 a. Office management and allied services, including
16 correspondence and secretarial services.

17 b. Accounting services, including bookkeeping and
18 financial report preparation.

19 c. Investment and banking consultations and services.

20 d. Underwriting functions and services including the
21 acceptance, rejection, placement, and marketing of risk.

22 50. Prohibition of underwriting manager
23 investment.--Any direct or indirect investment in any
24 underwriting manager by a broker member or any affiliated
25 person of a broker member or any direct or indirect investment
26 in a broker member by an underwriting manager or any
27 affiliated person of an underwriting manager is prohibited.
28 "Affiliated person" for purposes of this subparagraph is
29 defined in subparagraph 43.

30 51. An underwriting member may not accept reinsurance
31 on an assumed basis from an affiliate or a controlling

1 company, nor may a broker member or management company place
2 reinsurance from an affiliate or controlling company of theirs
3 with an underwriting member. "Affiliate and controlling
4 company" for purposes of this subparagraph is defined in
5 subparagraph 43.

6 52. Premium defined.--"Premium" is the consideration
7 for insurance, by whatever name called. Any "assessment" or
8 any "membership," "policy," "survey," "inspection," "service"
9 fee or charge or similar fee or charge in consideration for an
10 insurance contract is deemed part of the premium.

11 53. Rules.--The department shall promulgate rules
12 necessary for or as an aid to the effectuation of any
13 provision of this section.

14 Section 42. Subsection (7) of section 648.27, Florida
15 Statutes, is amended to read:

16 648.27 Licenses and appointments; general.--

17 (7) Any person who represents a surety company, whose
18 duties are restricted to bail bonds, and who comes under the
19 definition of "service representative" as provided in s.
20 626.015 ~~626.081~~ shall be licensed and appointed as a bail bond
21 agent.

22 Section 43. Paragraphs (b) and (c) of subsection (4)
23 of section 624.311, Florida Statutes, are amended to read:

24 624.311 Records; reproductions; destruction.--

25 (4) To facilitate the efficient use of floor space and
26 filing equipment in its offices, the department may destroy
27 the following records and documents pursuant to chapter 257:

28 (b) Agent, ~~solicitor~~, adjuster, and similar license
29 files, including license files of the Division of State Fire
30 Marshal, over 2 years old; except that the department shall
31 preserve by reproduction or otherwise a copy of the original

1 records upon the basis of which each such licensee qualified
2 for her or his initial license, except a competency
3 examination, and of any disciplinary proceeding affecting the
4 licensee;

5 (c) All agent, ~~solicitor~~, adjuster, and similar
6 license files and records, including original license
7 qualification records and records of disciplinary proceedings
8 5 years after a licensee has ceased to be qualified for a
9 license;

10 Section 44. Paragraphs (e) and (o) of subsection (1)
11 of section 624.523, Florida Statutes, are amended to read:

12 624.523 Insurance Commissioner's Regulatory Trust
13 Fund.--

14 (1) There is created in the State Treasury a trust
15 fund designated "Insurance Commissioner's Regulatory Trust
16 Fund" to which shall be credited all payments received on
17 account of the following items:

18 (e) All payments received on account of items provided
19 for under respective provisions of s. 624.501, as follows:

20 1. Subsection (1) (certificate of authority of
21 insurer).

22 2. Subsection (2) (charter documents of insurer).

23 3. Subsection (3) (annual license tax of insurer).

24 4. Subsection (4) (annual statement of insurer).

25 5. Subsection (5) (application fee for insurance
26 representatives).

27 6. The "appointment fee" portion of any appointment
28 provided for under paragraphs (6)(a) and (b) (insurance
29 representatives, property, marine, casualty and surety
30 insurance, and agents, ~~and solicitors~~).

31 7. Paragraph (6)(c) (nonresident agents).

- 1 8. Paragraph (6)(d) (service representatives).
- 2 9. The "appointment fee" portion of any appointment
3 provided for under paragraph (7)(a) (life insurance agents,
4 original appointment, and renewal or continuation of
5 appointment).
- 6 10. Paragraph (7)(b) (nonresident agent license).
- 7 11. The "appointment fee" portion of any appointment
8 provided for under paragraph (8)(a) (health insurance agents,
9 agent's appointment, and renewal or continuation fee).
- 10 12. Paragraph (8)(b) (nonresident agent appointment).
- 11 13. The "appointment fee" portion of any appointment
12 provided for under subsections (9) and (10) (limited licenses
13 and fraternal benefit society agents).
- 14 14. Subsection (11) (vending machines).
- 15 15. Subsection (12) (surplus lines agent).
- 16 16. Subsection (13) (adjusters' appointment).
- 17 17. Subsection (14) (examination fee).
- 18 18. Subsection (15) (temporary license and appointment
19 as agent or adjuster).
- 20 19. Subsection (16) (reissuance, reinstatement, etc.).
- 21 20. Subsection (17) (additional license continuation
22 fees).
- 23 21. Subsection (18) (filing application for permit to
24 form insurer).
- 25 22. Subsection (19) (license fee of rating
26 organization).
- 27 23. Subsection (20) (miscellaneous services).
- 28 24. Subsection (21) (insurance agencies).
- 29 (o) All state tax portions of agents' ~~and solicitors'~~
30 licenses collected under s. 624.501.
- 31

1 Section 45. Section 624.507, Florida Statutes, is
2 amended to read:

3 624.507 Municipal tax.--Municipal corporations may
4 require a tax of insurance agents ~~and solicitors~~ not to exceed
5 50 percent of the state tax specified as to such agents ~~and~~
6 ~~solicitors~~ under this part, and unless otherwise authorized by
7 law. Such a tax may be required only by a municipal
8 corporation within the boundaries of which is located the
9 agent's business office, or if no such office is required
10 under this code, by the municipal corporation of the agent's
11 place of residence.

12 Section 46. Subsections (1) and (3) of section
13 626.0428, Florida Statutes, are amended to read:

14 626.0428 Agency personnel powers, duties, and
15 limitations.--

16 (1) An individual employed by an agent or agency on
17 salary who devotes full time to clerical work, with incidental
18 taking of insurance applications or quoting or receiving
19 premiums on incoming inquiries in the office of the agent or
20 agency, is not deemed to be an agent or customer
21 representative, ~~or solicitor~~ if his or her compensation does
22 not include in whole or in part any commissions on such
23 business and is not related to the production of applications,
24 insurance, or premiums.

25 (3) No employee of an agent or agency may initiate
26 contact with any person for the purpose of soliciting
27 insurance unless licensed and appointed as a general lines
28 agent or customer representative, ~~or solicitor~~.

29 Section 47. Subsections (1) and (2) of section
30 626.112, Florida Statutes, are amended to read:

31

1 626.112 License and appointment required; agents,
2 customer representatives, solicitors, adjusters, insurance
3 agencies, service representatives, managing general agents.--

4 (1)(a) No person may be, act as, or advertise or hold
5 himself or herself out to be an insurance agent, customer
6 representative, ~~solicitor~~, or adjuster unless he or she is
7 currently licensed and appointed.

8 (b) Except as provided in subsection (6) or in
9 applicable department rules, and in addition to other conduct
10 described in this chapter with respect to particular types of
11 agents, a license as an insurance agent, service
12 representative, ~~solicitor~~, customer representative, or limited
13 customer representative is required in order to engage in the
14 solicitation of insurance. For purposes of this requirement,
15 as applicable to any of the license types described in this
16 section, the solicitation of insurance is the attempt to
17 persuade any person to purchase an insurance product by:

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

20 2. Distributing an invitation to contract to
21 prospective purchasers;

22 3. Making general or specific recommendations as to
23 insurance products;

24 4. Completing orders or applications for insurance
25 products; or

26 5. Comparing insurance products, advising as to
27 insurance matters, or interpreting policies or coverages.

28
29 However, an employee leasing company licensed pursuant to
30 chapter 468 which is seeking to enter into a contract with an
31 employer that identifies products and services offered to

1 employees may deliver proposals for the purchase of employee
2 leasing services to prospective clients of the employee
3 leasing company setting forth the terms and conditions of
4 doing business; classify employees as permitted by s. 468.529;
5 collect information from prospective clients and other sources
6 as necessary to perform due diligence on the prospective
7 client and to prepare a proposal for services; provide and
8 receive enrollment forms, plans, and other documents; and
9 discuss or explain in general terms the conditions,
10 limitations, options, or exclusions of insurance benefit plans
11 available to the client or employees of the employee leasing
12 company were the client to contract with the employee leasing
13 company. Any advertising materials or other documents
14 describing specific insurance coverages must identify and be
15 from a licensed insurer or its licensed agent or a licensed
16 and appointed agent employed by the employee leasing company.
17 The employee leasing company may not advise or inform the
18 prospective business client or individual employees of
19 specific coverage provisions, exclusions, or limitations of
20 particular plans. As to clients for which the employee leasing
21 company is providing services pursuant to s. 468.525(4), the
22 employee leasing company may engage in activities permitted by
23 ss. 626.041, 626.051, and 626.062, subject to the restrictions
24 specified in those sections. If a prospective client requests
25 more specific information concerning the insurance provided by
26 the employee leasing company, the employee leasing company
27 must refer the prospective business client to the insurer or
28 its licensed agent or to a licensed and appointed agent
29 employed by the employee leasing company.

30 (2) No agent or~~customer representative, or solicitor~~
31 shall solicit or otherwise transact as agent orcustomer

1 representative,~~or solicitor~~, or represent or hold himself or
2 herself out to be an agent orcustomer representative,~~or~~
3 ~~solicitor~~ as to, any kind or kinds of insurance as to which he
4 or she is not then licensed and appointed.

5 Section 48. Section 626.141, Florida Statutes, is
6 amended to read:

7 626.141 Violation not to affect validity of
8 insurance.--An insurance contract which is otherwise valid and
9 binding as between the parties thereto shall not be rendered
10 invalid by reason of having been solicited, handled, or
11 procured by or through an unlicensed agent orcustomer
12 representative,~~or solicitor~~ or an agent orcustomer
13 representative,~~or solicitor~~ who has not been appointed.

14 Section 49. Subsection (5) of section 626.171, Florida
15 Statutes, is amended to read:

16 626.171 Application for license.--

17 (5) An application for a license as an agent, customer
18 representative, ~~solicitor~~,adjuster, insurance agency, service
19 representative, managing general agent, or reinsurance
20 intermediary must be accompanied by a set of the individual
21 applicant's fingerprints, or, if the applicant is not an
22 individual, by a set of the fingerprints of the sole
23 proprietor, majority owner, partners, officers, and directors,
24 on a form adopted by rule of the department and accompanied by
25 the fingerprint processing fee set forth in s. 624.501. The
26 fingerprints shall be certified by a law enforcement officer.

27 Section 50. Subsections (1) and (3) of section
28 626.221, Florida Statutes, are amended to read:

29 626.221 Examination requirement; exemptions.--

30 (1) The department shall not issue any license as
31 agent, ~~solicitor~~,customer representative, or adjuster to any

1 individual who has not qualified for, taken, and passed to the
2 satisfaction of the department a written examination of the
3 scope prescribed in s. 626.241.

4 (3) An individual who is already licensed as a
5 ~~solicitor or~~ customer representative shall not be licensed as
6 a general lines agent without application and examination for
7 such license.

8 Section 51. Paragraph (d) of subsection (3) of section
9 626.2815, Florida Statutes, is amended to read:

10 626.2815 Continuing education required; application;
11 exceptions; requirements; penalties.--

12 (3)

13 (d) Any person who holds a license as a customer
14 representative, limited customer representative,
15 administrative agent, title agent, ~~solicitor~~, motor vehicle
16 physical damage and mechanical breakdown insurance agent, crop
17 or hail and multiple-peril crop insurance agent, or as an
18 industrial fire insurance or burglary insurance agent and who
19 is not a licensed life or health insurance agent, shall be
20 required to complete 14 hours of continuing education courses
21 every 2 years, except, for compliance periods beginning on
22 January 1, 1998, each licensee subject to this paragraph shall
23 be required to complete 10 hours of continuing education
24 courses every 2 years.

25 Section 52. Paragraphs (b) and (f) of subsection (1)
26 of section 626.321, Florida Statutes, are amended to read:

27 626.321 Limited licenses.--

28 (1) The department shall issue to a qualified
29 individual, or a qualified individual or entity under
30 paragraphs (c), (d), and (e), a license as agent authorized to
31

1 transact a limited class of business in any of the following
2 categories:

3 (b) Industrial fire insurance or burglary
4 insurance.--License covering only industrial fire insurance or
5 burglary insurance. The applicant for such a license shall
6 pass a written examination covering such insurance. No
7 individual while so licensed shall hold a license as an agent
8 ~~or solicitor~~ as to any other or additional kind or class of
9 insurance coverage except as to life and health insurances.

10 (f) Credit insurance.--License covering only credit
11 insurance, as such insurance is defined in s. 624.605(1)(i),
12 and no individual or entity so licensed shall, during the same
13 period, hold a license as an agent ~~or solicitor~~ as to any
14 other or additional kind of life or health insurance with the
15 exception of credit life or disability insurance as defined in
16 paragraph (e). The same licensing provisions as outlined in
17 paragraph (e) apply to entities licensed as credit insurance
18 agents under this paragraph.

19 Section 53. Subsections (5) and (6) of section
20 626.451, Florida Statutes, are amended to read:

21 626.451 Appointment of agent or other
22 representative.--

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

29 (6) Upon the filing of an information or indictment
30 against an agent, adjuster, service representative, ~~solicitor~~,
31 customer representative, or managing general agent, the state

1 attorney shall immediately furnish the department a certified
2 copy of the information or indictment.

3 Section 54. Subsection (1) of section 626.511, Florida
4 Statutes, is amended to read:

5 626.511 Reasons for termination; confidential
6 information.--

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

20 Section 55. Subsection (1) of section 626.521, Florida
21 Statutes, is amended to read:

22 626.521 Character, credit reports.--

23 (1) As to each applicant who for the first time in
24 this state is applying and qualifying for a license as agent,
25 ~~solicitor~~, adjuster, service representative, customer
26 representative, or managing general agent, the appointing
27 insurer or its manager or general agent in this state, in the
28 case of agents, or the appointing general lines agent, in the
29 case of ~~solicitors~~ or customer representatives, or the
30 employer, in the case of service representatives and of
31 adjusters who are not to be self-employed, shall

1 coincidentally with such appointment or employment secure and
2 thereafter keep on file a full detailed credit and character
3 report made by an established and reputable independent
4 reporting service, relative to the individual so appointed or
5 employed.

6 Section 56. Subsections (1) and (3) of section
7 626.561, Florida Statutes, are amended to read:

8 626.561 Reporting and accounting for funds.--

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

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

25 (a) If the funds diverted or misappropriated are \$300
26 or less, a misdemeanor of the first degree, punishable as
27 provided in s. 775.082 or s. 775.083.

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

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

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

8 Section 57. Subsection (1) of section 626.601, Florida
9 Statutes, is amended to read:

10 626.601 Improper conduct; inquiry; fingerprinting.--

11 (1) The department may, upon its own motion or upon a
12 written complaint signed by any interested person and filed
13 with the department, inquire into any alleged improper conduct
14 of any licensed agent, ~~solicitor~~, adjuster, service
15 representative, managing general agent, customer
16 representative, title insurance agent, title insurance agency,
17 continuing education course provider, instructor, school
18 official, or monitor group under this code. The department may
19 thereafter initiate an investigation of any such licensee if
20 it has reasonable cause to believe that the licensee has
21 violated any provision of the insurance code. During the
22 course of its investigation, the department shall contact the
23 licensee being investigated unless it determines that
24 contacting such person could jeopardize the successful
25 completion of the investigation or cause injury to the public.

26 Section 58. Section 626.611, Florida Statutes, is
27 amended to read:

28 626.611 Grounds for compulsory refusal, suspension, or
29 revocation of agent's, title agency's, ~~solicitor's,~~
30 adjuster's, customer representative's, service
31 representative's, or managing general agent's license or

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

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

12 (2) Material misstatement, misrepresentation, or fraud
13 in obtaining the license or appointment or in attempting to
14 obtain the license or appointment.

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

17 (4) If the license or appointment is willfully used,
18 or to be used, to circumvent any of the requirements or
19 prohibitions of this code.

20 (5) Willful misrepresentation of any insurance policy
21 or annuity contract or willful deception with regard to any
22 such policy or contract, done either in person or by any form
23 of dissemination of information or advertising.

24 (6) If, as an adjuster, or agent licensed and
25 appointed to adjust claims under this code, he or she has
26 materially misrepresented to an insured or other interested
27 party the terms and coverage of an insurance contract with
28 intent and for the purpose of effecting settlement of claim
29 for loss or damage or benefit under such contract on less
30 favorable terms than those provided in and contemplated by the
31 contract.

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

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

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

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

12 (11) Unlawfully rebating, attempting to unlawfully
13 rebate, or unlawfully dividing or offering to divide his or
14 her commission with another.

15 (12) Having obtained or attempted to obtain, or having
16 used or using, a license or appointment as agent or customer
17 representative, ~~or solicitor~~ for the purpose of soliciting or
18 handling "controlled business" as defined in s. 626.730 with
19 respect to general lines agents, s. 626.784 with respect to
20 life agents, and s. 626.830 with respect to health agents.

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

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

31

1 (15) Fraudulent or dishonest practice in submitting or
2 aiding or abetting any person in the submission of an
3 application for workers' compensation coverage under chapter
4 440 containing false or misleading information as to employee
5 payroll or classification for the purpose of avoiding or
6 reducing the amount of premium due for such coverage.

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

9 Section 59. Section 626.621, Florida Statutes, is
10 amended to read:

11 626.621 Grounds for discretionary refusal, suspension,
12 or revocation of agent's, ~~solicitor's~~, adjuster's, customer
13 representative's, service representative's, or managing
14 general agent's license or appointment.--The department may,
15 in its discretion, deny an application for, suspend, revoke,
16 or refuse to renew or continue the license or appointment of
17 any applicant, agent, ~~solicitor~~, adjuster, customer
18 representative, service representative, or managing general
19 agent, and it may suspend or revoke the eligibility to hold a
20 license or appointment of any such person, if it finds that as
21 to the applicant, licensee, or appointee any one or more of
22 the following applicable grounds exist under circumstances for
23 which such denial, suspension, revocation, or refusal is not
24 mandatory under s. 626.611:

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

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

31

1 (3) Violation of any lawful order or rule of the
2 department.

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

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

8 (6) In the conduct of business under the license or
9 appointment, engaging in unfair methods of competition or in
10 unfair or deceptive acts or practices, as prohibited under
11 part IX of this chapter, or having otherwise shown himself or
12 herself to be a source of injury or loss to the public or
13 detrimental to the public interest.

14 (7) Willful overinsurance of any property or health
15 insurance risk.

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

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

24 (10) Cheating on an examination required for licensure
25 or violating test center or examination procedures published
26 orally, in writing, or electronically at the test site by
27 authorized representatives of the examination program
28 administrator. Communication of test center and examination
29 procedures must be clearly established and documented.

30 (11) Failure to inform the department in writing
31 within 30 days after pleading guilty or nolo contendere to, or

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

7 (12) Knowingly aiding, assisting, procuring, advising,
8 or abetting any person in the violation of or to violate a
9 provision of the insurance code or any order or rule of the
10 department.

11 Section 60. Subsections (2) and (3) of section
12 626.641, Florida Statutes, are amended to read:

13 626.641 Duration of suspension or revocation.--

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

1 (3) If licenses as agent or,customer representative,
2 ~~or solicitor~~, or the eligibility to hold same, as to the same
3 individual have been revoked at two separate times, the
4 department shall not thereafter grant or issue any license
5 under this code as to such individual.

6 Section 61. Subsections (1) and (2) of section
7 626.651, Florida Statutes, are amended to read:

8 626.651 Effect of suspension, revocation upon
9 associated licenses and appointments and licensees and
10 appointees.--

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

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

27 Section 62. Subsections (1) and (2) of section
28 626.730, Florida Statutes, are amended to read:

29 626.730 Purpose of license.--

30 (1) The purpose of a license issued under this code to
31 a general lines agent or,customer representative,~~or~~

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

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

26 Section 63. Section 626.745, Florida Statutes, is
27 amended to read:

28 626.745 Service representatives, managing general
29 agents; managers; activities.--Individuals employed by
30 insurers or their managers, general agents, or representatives
31 as service representatives, and as managing general agents

1 employed for the purpose of or engaged in assisting agents ~~and~~
2 ~~solicitors~~ in negotiating and effecting contracts of
3 insurance, shall engage in such activities when, and only
4 when, accompanied by an agent ~~or solicitor~~ duly licensed and
5 appointed as a resident licensee and appointee under this
6 code.

7 Section 64. Paragraphs (h) and (u) of subsection (1)
8 of section 626.9541, Florida Statutes, are amended to read:

9 626.9541 Unfair methods of competition and unfair or
10 deceptive acts or practices defined.--

11 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR
12 DECEPTIVE ACTS.--The following are defined as unfair methods
13 of competition and unfair or deceptive acts or practices:

14 (h) Unlawful rebates.--

15 1. Except as otherwise expressly provided by law, or
16 in an applicable filing with the department, knowingly:

17 a. Permitting, or offering to make, or making, any
18 contract or agreement as to such contract other than as
19 plainly expressed in the insurance contract issued thereon;

20 b. Paying, allowing, or giving, or offering to pay,
21 allow, or give, directly or indirectly, as inducement to such
22 insurance contract, any unlawful rebate of premiums payable on
23 the contract, any special favor or advantage in the dividends
24 or other benefits thereon, or any valuable consideration or
25 inducement whatever not specified in the contract;

26 c. Giving, selling, or purchasing, or offering to
27 give, sell, or purchase, as inducement to such insurance
28 contract or in connection therewith, any stocks, bonds, or
29 other securities of any insurance company or other
30 corporation, association, or partnership, or any dividends or
31

1 profits accrued thereon, or anything of value whatsoever not
2 specified in the insurance contract.

3 2. Nothing in paragraph (g) or subparagraph 1. of this
4 paragraph shall be construed as including within the
5 definition of discrimination or unlawful rebates:

6 a. In the case of any contract of life insurance or
7 life annuity, paying bonuses to all policyholders or otherwise
8 abating their premiums in whole or in part out of surplus
9 accumulated from nonparticipating insurance; provided that any
10 such bonuses or abatement of premiums is fair and equitable to
11 all policyholders and for the best interests of the company
12 and its policyholders.

13 b. In the case of life insurance policies issued on
14 the industrial debit plan, making allowance to policyholders
15 who have continuously for a specified period made premium
16 payments directly to an office of the insurer in an amount
17 which fairly represents the saving in collection expenses.

18 c. Readjustment of the rate of premium for a group
19 insurance policy based on the loss or expense thereunder, at
20 the end of the first or any subsequent policy year of
21 insurance thereunder, which may be made retroactive only for
22 such policy year.

23 d. Issuance of life insurance policies or annuity
24 contracts at rates less than the usual rates of premiums for
25 such policies or contracts, as group insurance or employee
26 insurance as defined in this code.

27 e. Issuing life or disability insurance policies on a
28 salary savings, bank draft, preauthorized check, payroll
29 deduction, or other similar plan at a reduced rate reasonably
30 related to the savings made by the use of such plan.

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1 3.a. No title insurer, or any member, employee,
2 attorney, agent, agency, or solicitor thereof, shall pay,
3 allow, or give, or offer to pay, allow, or give, directly or
4 indirectly, as inducement to title insurance, or after such
5 insurance has been effected, any rebate or abatement of the
6 agent's, agency's, or title insurer's share of the premium or
7 any charge for related title services below the cost for
8 providing such services, or provide any special favor or
9 advantage, or any monetary consideration or inducement
10 whatever. Nothing herein contained shall preclude an
11 abatement in an attorney's fee charged for legal services.

12 b. Nothing in this subparagraph shall be construed as
13 prohibiting the payment of fees to attorneys at law duly
14 licensed to practice law in the courts of this state, for
15 professional services, or as prohibiting the payment of earned
16 portions of the premium to duly appointed agents or agencies
17 who actually perform services for the title insurer.

18 c. No insured named in a policy, or any other person
19 directly or indirectly connected with the transaction
20 involving the issuance of such policy, including, but not
21 limited to, any mortgage broker, real estate broker, builder,
22 or attorney, any employee, agent, agency, or representative,
23 ~~or solicitor~~ thereof, or any other person whatsoever, shall
24 knowingly receive or accept, directly or indirectly, any
25 rebate or abatement of said charge, or any monetary
26 consideration or inducement, other than as set forth in
27 sub-subparagraph b.

28 (u) False claims; obtaining or retaining money
29 dishonestly.--
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1 1. Any agent, physician, claimant, or other person who
2 causes to be presented to any insurer a false claim for
3 payment, knowing the same to be false; or

4 2. Any agent, ~~solicitor~~, collector, or other person
5 who represents any insurer or collects or does business
6 without the authority of the insurer, secures cash advances by
7 false statements, or fails to turn over when required, or
8 satisfactorily account for, all collections of such insurer,
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10 shall, in addition to the other penalties provided in this
11 act, be guilty of a misdemeanor of the second degree and, upon
12 conviction thereof, shall be subject to the penalties provided
13 by s. 775.082 or s. 775.083.

14 Section 65. Paragraph (b) of subsection (2) of section
15 627.776, Florida Statutes, is amended to read:

16 627.776 Applicability or inapplicability of Florida
17 Insurance Code provisions to title insurers.--

18 (2) The following provisions of this code do not apply
19 to title insurance:

20 (b) Part II of chapter 626 (general lines agents ~~and~~
21 ~~solicitors~~; qualifications and requirements).

22 Section 66. Section 631.155, Florida Statutes, is
23 amended to read:

24 631.155 Agents' balances; premiums and unearned
25 commissions.--Premiums and unearned commissions which have
26 been collected on behalf of an insurer by an agent, ~~solicitor~~,
27 agency, or other entity or person constitute an asset of the
28 insurer for which the agent, ~~solicitor~~, agency, or other
29 entity or person has a duty to account to the receiver and to
30 pay over amounts as may be due. The duty to account to the
31 receiver shall encompass all persons or entities involved in

1 the handling and transmittal of premium funds. An accounting
2 shall be provided to the receiver within 20 days after receipt
3 of a written demand for an accounting. If there is a dispute
4 regarding the accounting, the court shall hear and decide the
5 matter upon petition of the receiver. Compliance with this
6 section and payment of sums determined to be owed by the court
7 within 30 days of judgment, or within other payment terms
8 approved by the court, shall constitute requirements for
9 continued licensure of a person holding a license under the
10 Florida Insurance Code, and failure to comply with this
11 section shall be sufficient grounds for the license
12 revocation.

13 Section 67. Subsection (1) of section 631.341, Florida
14 Statutes, is amended to read:

15 631.341 Notice of insolvency to policyholders by
16 insurer, general agent, or agent.--

17 (1) The receiver shall, immediately after appointment
18 in any delinquency proceeding against an insurer in which the
19 policies have been canceled, give written notice of such
20 proceeding to each general agent and licensed agent of the
21 insurer in this state. Each general agent and licensed agent
22 of the insurer in this state shall forthwith give written
23 notice of such proceeding to all subagents, producing agents,
24 brokers, ~~solicitors~~, and service representatives writing
25 business through such general agent or licensed agent, whether
26 or not such subagents, producing agents, brokers, ~~solicitors~~,
27 and servicing representatives are licensed or permitted by the
28 insurer and whether or not they are operating under a written
29 agency contract.

30 Section 68. Section 634.318, Florida Statutes, is
31 amended to read:

1 634.318 License and appointment of sales
2 representatives.--Sales representatives for home warranty
3 associations and insurers shall be licensed, appointed,
4 renewed, continued, reinstated, or terminated in the same
5 manner as prescribed in chapter 626 for insurance
6 representatives in general, except they shall be exempt from
7 the fingerprinting, photo identification card, education, and
8 examination provisions. License, appointment, and other fees
9 shall be those as prescribed in s. 624.501. No employee or
10 sales representative of a home warranty association or insurer
11 may directly or indirectly solicit or negotiate insurance
12 contracts, or hold herself or himself out in any manner to be
13 an insurance agent ~~or solicitor~~, unless so qualified,
14 licensed, and appointed therefor under the insurance code. A
15 home warranty association is not required to be licensed as a
16 sales representative to solicit, sell, issue, or otherwise
17 transact the home warranty agreements issued by the home
18 warranty association.

19 Section 69. Subsections (3) and (4) of section 641.37,
20 Florida Statutes, are amended to read:

21 641.37 Prohibited activities; penalties.--

22 (3) Any agent or representative, ~~solicitor~~, examining
23 physician, applicant, or other person who knowingly makes any
24 false and fraudulent statements or representation in, or with
25 reference to, any application or negotiation for health
26 maintenance organization coverage is, in addition to any other
27 penalty provided by law, guilty of a misdemeanor of the first
28 degree, punishable as provided in s. 775.082 or s. 775.083.

29 (4) Any agent, representative, ~~solicitor~~, collector,
30 or other person who, while acting on behalf of a health
31 maintenance organization, receives or collects its funds or

1 premium payments and fails to satisfactorily account for or
2 turn over, when required, all such funds or payments is, in
3 addition to the other penalties provided for by law, guilty of
4 a misdemeanor of the second degree, punishable as provided in
5 s. 775.082 or s. 775.083.

6 Section 70. Section 642.041, Florida Statutes, is
7 amended to read:

8 642.041 Grounds for compulsory refusal, suspension, or
9 revocation of license or appointment of contracting sales
10 representatives.--The department shall, pursuant to the
11 insurance code, deny, suspend, revoke, or refuse to renew or
12 continue the license or appointment of any sales
13 representative or the license or appointment of any general
14 lines agent ~~or solicitor~~ if it finds that, as to the sales
15 representative or, general lines agent, ~~or solicitor~~, any one
16 or more of the following applicable grounds exist:

17 (1) Material misstatement, misrepresentation, or fraud
18 in obtaining or attempting to obtain a license or appointment.

19 (2) The license or appointment is willfully used, or
20 to be used, to circumvent any of the requirements or
21 prohibitions of ss. 642.011-642.049.

22 (3) Willful misrepresentation of any legal expense
23 contract or willful deception with regard to any such
24 contract, performed either in person or by any form of
25 dissemination of information or advertising.

26 (4) In the adjustment of claims, material
27 misrepresentation to a contract holder or other interested
28 party of the terms and coverage of a contract, with the intent
29 and for the purpose of settling such claim on less favorable
30 terms than those provided in and contemplated by the contract.
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1 (5) Demonstrated lack of fitness or trustworthiness to
2 engage in the business of legal expense insurance.

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

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

8 (8) Misappropriation, conversion, or unlawful
9 withholding of moneys belonging to an insurer or other person
10 and received in the conduct of business under the license or
11 appointment.

12 (9) Unlawfully rebating, or attempting to unlawfully
13 rebate, or unlawfully dividing, or offering to divide, his or
14 her commission with another.

15 (10) Willful failure to comply with, or willful
16 violation of, any proper order or rule of the department or
17 willful violation of any provision of ss. 642.011-642.049.

18 (11) Being found guilty of, or pleading guilty or nolo
19 contendere to, a felony or a crime punishable by imprisonment
20 of 1 year or more under the law of the United States of
21 America or any state thereof or under the law of any other
22 country which involves moral turpitude, without regard to
23 whether a judgment of conviction has been entered.

24 Section 71. Subsection (2) of section 624.505,
25 subsection (2) of section 626.727, sections 626.737 and
26 626.738, and subsection (2) of section 626.862, Florida
27 Statutes, and sections 626.031, 626.041, 626.051, 626.062,
28 626.071, 626.072, 626.081, 626.091, 626.094, 626.101, 626.102,
29 626.103, 626.104, 626.736, 626.737, 626.738, 626.739, 626.740,
30 626.790, and 626.791, Florida Statutes, are repealed.

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1 Section 72. Except as otherwise provided herein, this
2 act shall take effect October 1, 2002.

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5 HOUSE SUMMARY

6 Generally revises licensure requirements and procedures
7 for general lines insurance agents, life insurance
8 agents, and health insurance agents. See bill for
9 details.

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