

1
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 s.
12 626.785, F.S.; increasing a limitation on
13 authorized final disposition or burial
14 policies; amending ss. 626.7851 and 626.8311,
15 F.S.; specifying additional classroom and
16 correspondence course instruction requirements;
17 amending s. 626.852, F.S.; exempting from
18 insurance adjusters provisions persons
19 adjusting only multiple-peril crop insurance or
20 crop hail claims; amending s. 626.902, F.S.;
21 increasing a criminal penalty for representing
22 an unauthorized insurer; providing a penalty
23 for subsequent violations; amending ss. 624.11,
24 624.509, 626.094, 626.112, 626.321, 626.727,
25 626.729, 626.730, 626.7454, 626.779, 626.790,
26 626.8411, 626.927, 626.992, 629.401, and
27 648.27, F.S., to conform; amending s. 626.032,
28 F.S., relating to a definition of
29 administrative agent; amending ss. 624.311,
30 624.523, 624.507, 626.0428, 626.141, 626.112,
31 626.171, 626.221, 626.2815, 626.321, 626.451,

1 626.511, 626.521, 626.561, 626.601, 626.611,
2 626.621, 626.641, 626.651, 626.730, 626.745,
3 626.9541, 627.776, 631.155, 631.341, 634.318,
4 641.37, and 642.041, F.S., to conform;
5 repealing ss. 624.505(2), 626.727(2), 626.737,
6 626.738, and 626.862(2), F.S., to conform;
7 repealing ss. 626.031, 626.041, 626.051,
8 626.062, 626.071, 626.072, 626.081, 626.091,
9 626.094, 626.101, 626.102, 626.103, and
10 626.104, F.S., relating to definitions;
11 repealing ss. 626.736, 626.737, and 626.738,
12 F.S., relating to solicitors; repealing s.
13 626.739, F.S., relating to certain temporary
14 licenses; repealing s. 626.740, F.S., relating
15 to certain temporary limited licenses;
16 repealing ss. 626.790 and 626.791, F.S.,
17 relating to certain temporary licenses;
18 providing effective dates.

19

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

21

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

1 requirements of Subtitle C of the Gramm-Leach-Bliley Act,
2 while exercising its authority under that act to preserve
3 insurance consumer protection laws not inconsistent with these
4 requirements.

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

7 624.11 Compliance required.--

8 (2) Any risk retention group organized and existing
9 under the provisions of the Product Liability Risk Retention
10 Act of 1981 (Pub. L. No. 97-45), which has been licensed as an
11 insurance company and authorized to engage in the business of
12 insurance may transact insurance in this state and shall be
13 subject to the provisions of ss. 624.15, 624.316, 624.418,
14 624.421, 624.4211, 624.422, 624.509, ~~626.041~~, 626.112,
15 626.611, 626.621, 626.7315, 626.741, 626.932, 626.938,
16 626.9541, 627.351, and 627.915; part I of chapter 631; and all
17 other applicable provisions of the laws of this state. Any
18 such group formed in another jurisdiction shall furnish to the
19 department, upon request, a copy of any financial report
20 submitted by the group in the licensing jurisdiction.

21 Section 3. Paragraph (b) of subsection (5) of section
22 624.509, Florida Statutes, is amended to read:

23 624.509 Premium tax; rate and computation.--

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

29 (b) The term "employees" does not include independent
30 contractors or any person whose duties require that the person
31 hold a valid license under the Florida Insurance Code, except

1 persons defined in s. 626.015(1), (16), and (18)~~ss. 626.081,~~
2 ~~626.091, and 626.101.~~

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

5 626.015 Definitions.--As used in this part:

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

9 (2) "Administrative agent" means a life agent or
10 health agent who:

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

14 (b) Performs primarily administrative functions.

15 (c) Receives no insurance commissions.

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

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

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

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

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

31

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

3 (a) Property insurance.

4 (b) Casualty insurance, including commercial liability
5 insurance underwritten by a risk retention group, a commercial
6 self-insurance fund as defined in s. 624.462, or a workers'
7 compensation self-insurance fund established pursuant to s.
8 624.4621.

9 (c) Surety insurance.

10 (d) Health insurance, when transacted by an insurer
11 also represented by the same agent as to property or casualty
12 or surety insurance.

13 (e) Marine insurance.

14 (8) "Health agent" means an agent representing a
15 health maintenance organization or, as to health insurance
16 only, an insurer transacting health insurance.

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

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

30 (11) "License" means a document issued by the
31 department authorizing a person to be appointed to transact

1 insurance or adjust claims for the kind, line, or class of
2 insurance identified in the document.

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

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

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

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

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

31 1. Adjusts or pays claims.

- 1 2. Negotiates reinsurance on behalf of the insurer.
2 (b) The following persons shall not be considered
3 managing general agents:
4 1. An employee of the insurer.
5 2. A United States manager of the United States branch
6 of an alien insurer.
7 3. An underwriting manager managing all the insurance
8 operations of the insurer pursuant to a contract, who is under
9 the common control of the insurer subject to regulation under
10 ss. 628.801-628.803, and whose compensation is not based on
11 the volume of premiums written.
12 4. Administrators as defined by s. 626.88.
13 5. The attorney in fact authorized by and acting for
14 the subscribers of a reciprocal insurer under powers of
15 attorney.
16 (17) "Resident" means an individual domiciled and
17 residing in this state.
18 (18) "Service representative" means an individual
19 employed by an insurer or managing general agent for the
20 purpose of assisting a general lines agent in negotiating and
21 effecting insurance contracts when accompanied by a licensed
22 general lines agent. A service representative shall not be
23 simultaneously licensed as a general lines agent in this
24 state. This subsection does not apply to life insurance.
25 (19) "Uniform application" means the uniform
26 application of the National Association of Insurance
27 Commissioners for nonresident agent licensing, effective
28 January 15, 2001, or subsequent versions adopted by rule by
29 the department.
30 Section 5. Section 626.025, Florida Statutes, is
31 created to read:

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(7), 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 and appointments on or after October 1, 2002.
31 Effective 12:01 a.m., October 1, 2002, all solicitor licenses

1 and appointments shall be canceled by operation of law. Each
2 solicitor licensee may have his or her license converted to a
3 general lines agent license. No later than August 1, 2002,
4 the department shall notify existing solicitor licensees of
5 the procedure for converting their license to a general lines
6 agent license, including the requirement of a written request
7 to have the license converted and payment of any required
8 fees. Upon receipt of the written request and fee, the
9 department shall issue a general lines insurance agent license
10 to the solicitor licensee. Conversion of existing solicitor
11 licenses to general lines agent licenses shall be completed
12 prior to 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(12), 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. Paragraph (d) of subsection (1) of section
21 626.785, Florida Statutes, is amended to read:

22 626.785 Qualifications for license.--

23 (1) The department shall not grant or issue a license
24 as life agent to any individual found by it to be
25 untrustworthy or incompetent, or who does not meet the
26 following qualifications:

27 (d) Must not be a funeral director or direct disposer,
28 or an employee or representative thereof, or have an office
29 in, or in connection with, a funeral establishment, except
30 that a funeral establishment may contract with a life
31 insurance agent to sell a preneed contract as defined in

1 chapter 497. Notwithstanding other provisions of this chapter,
2 such insurance agent may sell limited policies of insurance
3 covering the expense of final disposition or burial of an
4 insured in an amount not to exceed ~~\$10,000~~\$7,500.

5 Section 31. Subsections (1) and (2) of section
6 626.7851, Florida Statutes, are amended to read:

7 626.7851 Requirement as to knowledge, experience, or
8 instruction.--No applicant for a license as a life agent,
9 except for a chartered life underwriter (CLU), shall be
10 qualified or licensed unless within the 4 years immediately
11 preceding the date the application for a license is filed with
12 the department he or she has:

13 (1) Successfully completed 40 hours of classroom
14 courses in insurance satisfactory to the department at a
15 school or college, or extension division thereof, or other
16 authorized course of study, approved by the department.
17 Courses must include instruction on the subject matter of
18 unauthorized entities engaging in the business of insurance,
19 to 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 life insurance by employers to their employees
23 and the regulation thereof;

24 (2) Successfully completed a correspondence course in
25 insurance satisfactory to the department and regularly offered
26 by accredited institutions of higher learning in this state,
27 approved by the department. Courses must include instruction
28 on the subject matter of unauthorized entities engaging in the
29 business of insurance, to include the Florida Nonprofit
30 Multiple-Employer Welfare Arrangement Act and the Employee
31 Retirement Income Security Act, 29 U.S.C. s. 1001, et seq., as

1 it relates to the provision of life insurance by employers to
2 their employees and the regulation thereof;

3 Section 32. Subsection (1) of section 626.790, Florida
4 Statutes, is amended to read:

5 626.790 Temporary license; pending examination.--

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

13 Section 33. Subsections (1) and (2) of section
14 626.792, Florida Statutes, are amended, and subsection (9) is
15 added to said section, to read:

16 626.792 Nonresident agents; licensing and
17 restrictions.--

18 (1) The department, upon written application and
19 payment of the fees specified in s. 624.501, may issue a
20 license as a nonresident life agent to an individual ~~a person~~
21 not resident of this state, upon compliance with the
22 applicable provisions of this code, if that individual's home
23 ~~the state or province of Canada of such person's residence~~
24 will accord the same privilege to a resident of this state.

25 (2) The department may enter into reciprocal
26 agreements with the appropriate official of any other state or
27 province of Canada waiving the written examination of any
28 applicant resident in such other state or province if, in that
29 other state or province, a resident of this state is
30 privileged to procure a life insurance agent's license upon
31 the foregoing conditions and without discrimination as to fees

1 or otherwise in favor of the residents of such other state or
2 province and:

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

7 (b) The appropriate official of the other state or
8 province certifies that the applicant holds a currently valid
9 license as a life insurance agent in such other state or
10 province and satisfies the examination requirement under s.
11 626.221 or is exempt under such section ~~either passed such a~~
12 ~~written examination or was the holder of a life insurance~~
13 ~~agent's license prior to the time a written examination was~~
14 ~~required; and~~

15 ~~(c) In such other state or province, a resident of~~
16 ~~this state is privileged to procure a life insurance agent's~~
17 ~~license upon the foregoing conditions and without~~
18 ~~discrimination as to fees or otherwise in favor of the~~
19 ~~residents of such other state or province.~~

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

24 Section 34. Section 626.8305, Florida Statutes, is
25 created to read:

26 626.8305 Prohibition against the unlicensed
27 transaction of health insurance.--Except as provided in s.
28 626.112(6), with respect to any line of authority specified in
29 s. 626.015(8), no individual shall, unless licensed as a
30 health agent:

31 (1) Solicit insurance or procure applications; or

1 (2) In this state, engage or hold himself or herself
2 out as engaging in the business of analyzing or abstracting
3 insurance policies or of counseling or advising or giving
4 opinions to persons relative to insurance contracts other
5 than:

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

7 (b) As to the counseling and advising of labor unions,
8 associations, trustees, employers, or other business entities,
9 the subsidiaries and affiliates of each, relative to their
10 interests and those of their members or employees under
11 insurance benefit plans.

12 Section 35. Subsections (1) and (2) of section
13 626.8311, Florida Statutes, are amended to read:

14 626.8311 Requirement as to knowledge, experience, or
15 instruction.--No applicant for a license as a health agent,
16 except for a chartered life underwriter (CLU), shall be
17 qualified or licensed unless within the 4 years immediately
18 preceding the date the application for license is filed with
19 the department he or she has:

20 (1) Successfully completed 40 hours of classroom
21 courses in insurance satisfactory to the department at a
22 school or college, or extension division thereof, or other
23 authorized course of study, approved by the department.
24 Courses must include instruction on the subject matter of
25 unauthorized entities engaging in the business of insurance,
26 to include the Florida Nonprofit Multiple-Employer Welfare
27 Arrangement Act and the Employee Retirement Income Security
28 Act, 29 U.S.C. s. 1001, et seq., as it relates to the
29 provision of health insurance by employers to their employees
30 and the regulation thereof;

31

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

11 Section 36. Subsections (1) and (2) of section
12 626.835, Florida Statutes, are amended, and subsection (9) is
13 added to said section, to read:

14 626.835 Nonresident agents; licensing and
15 restrictions.--

16 (1) The department, upon written application and
17 payment of the fees specified in s. 624.501, may issue a
18 license as a nonresident health agent to an individual ~~a~~
19 ~~person~~ not a resident of this state, if the state or province
20 of Canada of such individual's ~~person's~~ residence will accord
21 the same privilege to a resident of this state.

22 (2) The department may enter into reciprocal
23 agreements with the appropriate official of any other state or
24 province of Canada waiving the written examination of any
25 applicant resident in such other state or province if, in such
26 other state or province, a resident of this state is
27 privileged to procure a health insurance agent's license upon
28 the foregoing conditions and without discrimination as to fees
29 or otherwise in favor of the residents of such other state or
30 province and:

31

1 (a) A written examination, substantially equivalent to
2 the examination required by this state, is required of an
3 applicant for a health insurance agent's license in such other
4 state or province.†

5 (b) The appropriate official of the other state or
6 province certifies that the applicant holds a currently valid
7 license as a health insurance agent in such other state or
8 province and satisfied the examination requirements under s.
9 626.221 or is exempt under such section ~~either has passed such~~
10 ~~a written examination or was the holder of a health insurance~~
11 ~~agent's license prior to the time a written examination was~~
12 ~~required; and~~

13 (c) ~~In such other state or province, a resident of~~
14 ~~this state is privileged to procure a health insurance agent's~~
15 ~~license upon the foregoing conditions and without~~
16 ~~discrimination as to fees or otherwise in favor of the~~
17 ~~residents of such other state or province.~~

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

22 Section 37. Paragraph (b) of subsection (1) of section
23 626.8411, Florida Statutes, is amended to read:

24 626.8411 Application of Florida Insurance Code
25 provisions to title insurance agents or agencies.--

26 (1) The following provisions of part II, as applicable
27 to general lines agents or agencies, also apply to title
28 insurance agents or agencies:

29 (b) Section 626.175 ~~626.739~~, relating to temporary
30 licenses.

31

1 Section 38. Subsection (6) is added to section
2 626.852, Florida Statutes, to read:

3 626.852 Scope of this part.--

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

6 Section 39. Subsection (1) of section 626.902, Florida
7 Statutes, is amended to read:

8 626.902 Penalty for representing unauthorized
9 insurer.--

10 (1) In addition to any other penalties provided in the
11 insurance code:

12 (a) Any insurance agent licensed in this state who in
13 this state knowingly represents or aids an unauthorized
14 insurer in violation of s. 626.901 commits a felony
15 ~~misdemeanor~~ of the third ~~second~~ degree, punishable as provided
16 in s. 775.082, ~~or~~ s. 775.083, ~~or~~ s. 775.084.

17 (b) Any person other than an insurance agent licensed
18 in this state who in this state represents or aids an
19 unauthorized insurer in violation of s. 626.901 commits a
20 felony of the third degree, punishable as provided in s.
21 775.082, s. 775.083, or s. 775.084.

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

25 Section 40. Subsection (2) of section 626.927, Florida
26 Statutes, is amended to read:

27 626.927 Licensing of surplus lines agent.--

28 (2) Any individual while licensed and appointed as a
29 managing general agent as defined in s. 626.015 ~~626.091~~, or
30 service representative as defined in s. 626.015 ~~626.081~~, and
31 who otherwise possesses all of the other qualifications of a

1 general lines agent under this code, and who has a minimum of
2 1 year's experience working for a licensed surplus lines agent
3 or who has successfully completed 60 class hours in surplus
4 and excess lines in a course approved by the department, may,
5 upon taking and successfully passing a written examination as
6 to surplus lines, as given by the department, be licensed as a
7 surplus lines agent solely for the purpose of placing with
8 surplus lines insurers property, marine, casualty, or surety
9 coverages originated by general lines agents; except that no
10 examination as for a general lines agent's license shall be
11 required of any managing general agent or service
12 representative who held a Florida surplus lines agent's
13 license as of January 1, 1959.

14 Section 41. Subsection (4) of section 626.992, Florida
15 Statutes, is amended to read:

16 626.992 Use of viatical settlement licensed brokers,
17 providers, and sales agents required.--

18 (4) A person may not perform the functions of a
19 viatical settlement sales agent unless licensed as a life
20 agent as defined in s. 626.015 ~~626.051~~ and as provided in this
21 chapter.

22 Section 42. Paragraph (b) of subsection (6) of section
23 629.401, Florida Statutes, is amended to read:

24 629.401 Insurance exchange.--

25 (6)

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

29 1. General examination powers.--The department shall
30 examine the affairs, transactions, accounts, records, and
31 assets of any security fund, exchange, members, and associate

1 brokers as often as it deems advisable. The examination may
2 be conducted by the accredited examiners of the department at
3 the offices of the entity or person being examined. The
4 department shall examine in like manner each prospective
5 member or associate broker applying for membership in an
6 exchange.

7 2. Departmental approval and applications of
8 underwriting members.--No underwriting member shall commence
9 operation without the approval of the department. Before
10 commencing operation, an underwriting member shall provide a
11 written application containing:

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

13 b. Name, residence address, business background, and
14 qualifications of each person associated or to be associated
15 in the formation or financing of the underwriting member.

16 c. Full disclosure of the terms of all understandings
17 and agreements existing or proposed among persons so
18 associated relative to the underwriting member, or the
19 formation or financing thereof, accompanied by a copy of each
20 such agreement or understanding.

21 d. Full disclosure of the terms of all understandings
22 and agreements existing or proposed for management or
23 exclusive agency contracts.

24 3. Investigation of underwriting member
25 applications.--In connection with any proposal to establish an
26 underwriting member, the department shall make an
27 investigation of:

28 a. The character, reputation, financial standing, and
29 motives of the organizers, incorporators, or subscribers
30 organizing the proposed underwriting member.

31

1 b. The character, financial responsibility, insurance
2 experience, and business qualifications of its proposed
3 officers.

4 c. The character, financial responsibility, business
5 experience, and standing of the proposed stockholders and
6 directors, or owners.

7 4. Notice of management changes.--An underwriting
8 member shall promptly give the department written notice of
9 any change among the directors or principal officers of the
10 underwriting member within 30 days after such change. The
11 department shall investigate the new directors or principal
12 officers of the underwriting member. The department's
13 investigation shall include an investigation of the character,
14 financial responsibility, insurance experience, and business
15 qualifications of any new directors or principal officers. As
16 a result of the investigation, the department may require the
17 underwriting member to replace any new directors or principal
18 officers.

19 5. Alternate financial statement.--In lieu of any
20 financial examination, the department may accept an audited
21 financial statement.

22 6. Correction and reconstruction of records.--If the
23 department finds any accounts or records to be inadequate, or
24 inadequately kept or posted, it may employ experts to
25 reconstruct, rewrite, post, or balance them at the expense of
26 the person or entity being examined if such person or entity
27 has failed to maintain, complete, or correct such records or
28 accounts after the department has given him or her or it
29 notice and reasonable opportunity to do so.

30 7. Obstruction of examinations.--Any person or entity
31 who or which willfully obstructs the department or its

1 examiner in an examination is guilty of a misdemeanor of the
2 second degree, punishable as provided in s. 775.082 or s.
3 775.083.

4 8. Filing of annual statement.--Each underwriting
5 member shall file with the department a full and true
6 statement of its financial condition, transactions, and
7 affairs. The statement shall be filed on or before March 1 of
8 each year, or within such extension of time as the department
9 for good cause grants, and shall be for the preceding calendar
10 year. The statement shall contain information generally
11 included in insurer financial statements prepared in
12 accordance with generally accepted insurance accounting
13 principles and practices and in a form generally utilized by
14 insurers for financial statements, sworn to by at least two
15 executive officers of the underwriting member. The form of the
16 financial statements shall be the approved form of the
17 National Association of Insurance Commissioners or its
18 successor organization. The department may by rule require
19 each insurer to submit any part of the information contained
20 in the financial statement in a computer-readable form
21 compatible with the department's electronic data processing
22 system. In addition to information furnished in connection
23 with its annual statement, an underwriting member must furnish
24 to the department as soon as reasonably possible such
25 information about its transactions or affairs as the
26 department requests in writing. All information furnished
27 pursuant to the department's request must be verified by the
28 oath of two executive officers of the underwriting member.

29 9. Record maintenance.--Each underwriting member shall
30 have and maintain its principal place of business in this
31 state and shall keep therein complete records of its assets,

1 transactions, and affairs in accordance with such methods and
2 systems as are customary for or suitable to the kind or kinds
3 of insurance transacted.

4 10. Examination of agents.--If the department has
5 reason to believe that any agent, as defined in s. 626.015
6 ~~626.041, s. 626.051, s. 626.062,~~ or s. 626.914, has violated
7 or is violating any provision of the insurance law, or upon
8 receipt of a written complaint signed by any interested person
9 indicating that any such violation may exist, the department
10 shall conduct such examination as it deems necessary of the
11 accounts, records, documents, and transactions pertaining to
12 or affecting the insurance affairs of such agent.

13 11. Written reports of department.--The department or
14 its examiner shall make a full and true written report of any
15 examination. The report shall contain only information
16 obtained from examination of the records, accounts, files, and
17 documents of or relative to the person or entity examined or
18 from testimony of individuals under oath, together with
19 relevant conclusions and recommendations of the examiner based
20 thereon. The department shall furnish a copy of the report to
21 the person or entity examined not less than 30 days prior to
22 filing the report in its office. If such person or entity so
23 requests in writing within such 30-day period, the department
24 shall grant a hearing with respect to the report and shall not
25 file the report until after the hearing and after such
26 modifications have been made therein as the department deems
27 proper.

28 12. Admissibility of reports.--The report of an
29 examination when filed shall be admissible in evidence in any
30 action or proceeding brought by the department against the
31 person or entity examined, or against his or her or its

1 officers, employees, or agents. The department or its
2 examiners may at any time testify and offer other proper
3 evidence as to information secured or matters discovered
4 during the course of an examination, whether or not a written
5 report of the examination has been either made, furnished, or
6 filed in the department.

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

11 14. Consideration of examination reports by entity
12 examined.--After the examination report of an underwriting
13 member has been filed, an affidavit shall be filed with the
14 department, not more than 30 days after the report has been
15 filed, on a form furnished by the department and signed by the
16 person or a representative of any entity examined, stating
17 that the report has been read and that the recommendations
18 made in the report will be considered within a reasonable
19 time.

20 15. Examination costs.--Each person or entity examined
21 by the department shall pay to the department the expenses
22 incurred in such examination.

23 16. Exchange costs.--An exchange shall reimburse the
24 department for any expenses incurred by it relating to the
25 regulation of the exchange and its members, except as
26 specified in subparagraph 15.

27 17. Powers of examiners.--Any examiner appointed by
28 the department, as to the subject of any examination,
29 investigation, or hearing being conducted by him or her, may
30 administer oaths, examine and cross-examine witnesses, and
31 receive oral and documentary evidence, and shall have the

1 power to subpoena witnesses, compel their attendance and
2 testimony, and require by subpoena the production of books,
3 papers, records, files, correspondence, documents, or other
4 evidence which the examiner deems relevant to the inquiry. If
5 any person refuses to comply with any such subpoena or to
6 testify as to any matter concerning which he or she may be
7 lawfully interrogated, the Circuit Court of Leon County or the
8 circuit court of the county wherein such examination,
9 investigation, or hearing is being conducted, or of the county
10 wherein such person resides, on the department's application
11 may issue an order requiring such person to comply with the
12 subpoena and to testify; and any failure to obey such an order
13 of the court may be punished by the court as a contempt
14 thereof. Subpoenas shall be served, and proof of such service
15 made, in the same manner as if issued by a circuit court.
16 Witness fees and mileage, if claimed, shall be allowed the
17 same as for testimony in a circuit court.

18 18. False testimony.--Any person willfully testifying
19 falsely under oath as to any matter material to any
20 examination, investigation, or hearing shall upon conviction
21 thereof be guilty of perjury and shall be punished
22 accordingly.

23 19. Self-incrimination.--

24 a. If any person asks to be excused from attending or
25 testifying or from producing any books, papers, records,
26 contracts, documents, or other evidence in connection with any
27 examination, hearing, or investigation being conducted by the
28 department or its examiner, on the ground that the testimony
29 or evidence required of the person may tend to incriminate him
30 or her or subject him or her to a penalty or forfeiture, and
31 the person notwithstanding is directed to give such testimony

1 or produce such evidence, he or she shall, if so directed by
2 the department and the Department of Legal Affairs,
3 nonetheless comply with such direction; but the person shall
4 not thereafter be prosecuted or subjected to any penalty or
5 forfeiture for or on account of any transaction, matter, or
6 thing concerning which he or she may have so testified or
7 produced evidence, and no testimony so given or evidence so
8 produced shall be received against him or her upon any
9 criminal action, investigation, or proceeding; except that no
10 such person so testifying shall be exempt from prosecution or
11 punishment for any perjury committed by him or her in such
12 testimony, and the testimony or evidence so given or produced
13 shall be admissible against him or her upon any criminal
14 action, investigation, or proceeding concerning such perjury,
15 nor shall he or she be exempt from the refusal, suspension, or
16 revocation of any license, permission, or authority conferred,
17 or to be conferred, pursuant to the insurance law.

18 b. Any such individual may execute, acknowledge, and
19 file in the office of the department a statement expressly
20 waiving such immunity or privilege in respect to any
21 transaction, matter, or thing specified in such statement, and
22 thereupon the testimony of such individual or such evidence in
23 relation to such transaction, matter, or thing may be received
24 or produced before any judge or justice, court, tribunal,
25 grand jury, or otherwise; and if such testimony or evidence is
26 so received or produced, such individual shall not be entitled
27 to any immunity or privileges on account of any testimony so
28 given or evidence so produced.

29 20. Penalty for failure to testify.--Any person who
30 refuses or fails, without lawful cause, to testify relative to
31 the affairs of any member, associate broker, or other person

1 when subpoenaed and requested by the department to so testify,
2 as provided in subparagraph 17., shall, in addition to the
3 penalty provided in subparagraph 17., be guilty of a
4 misdemeanor of the second degree, punishable as provided in s.
5 775.082 or s. 775.083.

6 21. Name selection.--No underwriting member shall be
7 formed or authorized to transact insurance in this state under
8 a name which is the same as that of any authorized insurer or
9 is so nearly similar thereto as to cause or tend to cause
10 confusion or under a name which would tend to mislead as to
11 the type of organization of the insurer. Before incorporating
12 under or using any name, the underwriting syndicate or
13 proposed underwriting syndicate shall submit its name or
14 proposed name to the department for the approval of the
15 department.

16 22. Capitalization.--An underwriting member approved
17 on or after July 2, 1987, shall provide an initial paid-in
18 capital and surplus of \$3 million and thereafter shall
19 maintain a minimum policyholder surplus of \$2 million in order
20 to be permitted to write insurance. Underwriting members
21 approved prior to July 2, 1987, shall maintain a minimum
22 policyholder surplus of \$1 million. After June 29, 1988,
23 underwriting members approved prior to July 2, 1987, must
24 maintain a minimum policyholder surplus of \$1.5 million to
25 write insurance. After June 29, 1989, underwriting members
26 approved prior to July 2, 1987, must maintain a minimum
27 policyholder surplus of \$1.75 million to write insurance.
28 After December 30, 1989, all underwriting members, regardless
29 of the date they were approved, must maintain a minimum
30 policyholder surplus of \$2 million to write insurance. Except
31 for that portion of the paid-in capital and surplus which

1 shall be maintained in a security fund of an exchange, the
2 paid-in capital and surplus shall be invested by an
3 underwriting member in a manner consistent with ss.
4 625.301-625.340. The portion of the paid-in capital and
5 surplus in any security fund of an exchange shall be invested
6 in a manner limited to investments for life insurance
7 companies under the Florida insurance laws.

8 23. Limitations on coverage written.--

9 a. Limit of risk.--No underwriting member shall expose
10 itself to any loss on any one risk in an amount exceeding 10
11 percent of its surplus to policyholders. Any risk or portion
12 of any risk which shall have been reinsured in an assuming
13 reinsurer authorized or approved to do such business in this
14 state shall be deducted in determining the limitation of risk
15 prescribed in this section.

16 b. Restrictions on premiums written.--If the
17 department has reason to believe that the underwriting
18 member's ratio of actual or projected annual gross written
19 premiums to policyholder surplus exceeds 8 to 1 or the
20 underwriting member's ratio of actual or projected annual net
21 premiums to policyholder surplus exceeds 4 to 1, the
22 department may establish maximum gross or net annual premiums
23 to be written by the underwriting member consistent with
24 maintaining the ratios specified in this sub-subparagraph.

25 (I) Projected annual net or gross premiums shall be
26 based on the actual writings to date for the underwriting
27 member's current calendar year, its writings for the previous
28 calendar year, or both. Ratios shall be computed on an
29 annualized basis.

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1 (II) For purposes of this sub-subparagraph, the term
2 "gross written premiums" means direct premiums written and
3 reinsurance assumed.

4 c. Surplus as to policyholders.--For the purpose of
5 determining the limitation on coverage written, surplus as to
6 policyholders shall be deemed to include any voluntary
7 reserves, or any part thereof, which are not required by or
8 pursuant to law and shall be determined from the last sworn
9 statement of such underwriting member with the department, or
10 by the last report or examination filed by the department,
11 whichever is more recent at the time of assumption of such
12 risk.

13 24. Unearned premium reserves.--All unearned premium
14 reserves for business written on the exchange shall be
15 calculated on a monthly or more frequent basis or on such
16 other basis as determined by the department; except that all
17 premiums on any marine or transportation insurance trip risk
18 shall be deemed unearned until the trip is terminated.

19 25. Loss reserves.--All underwriting members of an
20 exchange shall maintain loss reserves, including a reserve for
21 incurred but not reported claims. The reserves shall be
22 subject to review by the department, and, if loss experience
23 shows that an underwriting member's loss reserves are
24 inadequate, the department shall require the underwriting
25 member to maintain loss reserves in such additional amount as
26 is needed to make them adequate.

27 26. Distribution of profits.--An underwriting member
28 shall not distribute any profits in the form of cash or other
29 assets to owners except out of that part of its available and
30 accumulated surplus funds which is derived from realized net
31 operating profits on its business and realized capital gains.

1 In any one year such payments to owners shall not exceed 30
2 percent of such surplus as of December 31 of the immediately
3 preceding year, unless otherwise approved by the department.
4 No distribution of profits shall be made that would render an
5 underwriting member either impaired or insolvent.

6 27. Stock dividends.--A stock dividend may be paid by
7 an underwriting member out of any available surplus funds in
8 excess of the aggregate amount of surplus advanced to the
9 underwriting member under subparagraph 29.

10 28. Dividends from earned surplus.--A dividend
11 otherwise lawful may be payable out of an underwriting
12 member's earned surplus even though the total surplus of the
13 underwriting member is then less than the aggregate of its
14 past contributed surplus resulting from issuance of its
15 capital stock at a price in excess of the par value thereof.

16 29. Borrowing of money by underwriting members.--
17 a. An underwriting member may borrow money to defray
18 the expenses of its organization, provide it with surplus
19 funds, or for any purpose of its business, upon a written
20 agreement that such money is required to be repaid only out of
21 the underwriting member's surplus in excess of that stipulated
22 in such agreement. The agreement may provide for interest not
23 exceeding 15 percent simple interest per annum. The interest
24 shall or shall not constitute a liability of the underwriting
25 member as to its funds other than such excess of surplus, as
26 stipulated in the agreement. No commission or promotion
27 expense shall be paid in connection with any such loan. The
28 use of any surplus note and any repayments thereof shall be
29 subject to the approval of the department.

30 b. Money so borrowed, together with any interest
31 thereon if so stipulated in the agreement, shall not form a

1 part of the underwriting member's legal liabilities except as
2 to its surplus in excess of the amount thereof stipulated in
3 the agreement, nor be the basis of any setoff; but until
4 repayment, financial statements filed or published by an
5 underwriting member shall show as a footnote thereto the
6 amount thereof then unpaid, together with any interest thereon
7 accrued but unpaid.

8 30. Liquidation, rehabilitation, and
9 restrictions.--The department, upon a showing that a member or
10 associate broker of an exchange has met one or more of the
11 grounds contained in part I of chapter 631, may restrict sales
12 by type of risk, policy or contract limits, premium levels, or
13 policy or contract provisions; increase surplus or capital
14 requirements of underwriting members; issue cease and desist
15 orders; suspend or restrict a member's or associate broker's
16 right to transact business; place an underwriting member under
17 conservatorship or rehabilitation; or seek an order of
18 liquidation as authorized by part I of chapter 631.

19 31. Prohibited conduct.--The following acts by a
20 member, associate broker, or affiliated person shall
21 constitute prohibited conduct:

22 a. Fraud.

23 b. Fraudulent or dishonest acts committed by a member
24 or associate broker prior to admission to an exchange, if the
25 facts and circumstances were not disclosed to the department
26 upon application to become a member or associate broker.

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

28 d. Unethical or improper practices or conduct,
29 inconsistent with just and equitable principles of trade as
30 set forth in, but not limited to, ss. 626.951-626.9641 and
31 626.973.

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

3 f. Misstatements made under oath or upon an
4 application for membership on an exchange.

5 g. Failure to testify or produce documents when
6 requested by the department.

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

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

11 j. Violation of the constitution and bylaws of the
12 exchange.

13 32. Penalties for participating in prohibited
14 conduct.--

15 a. The department may order the suspension of further
16 transaction of business on the exchange of any member or
17 associate broker found to have engaged in prohibited conduct.
18 In addition, any member or associate broker found to have
19 engaged in prohibited conduct may be subject to reprimand,
20 censure, and/or a fine not exceeding \$25,000 imposed by the
21 department.

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

27 33. Reduction of penalties.--Any suspension,
28 reprimand, censure, or fine may be remitted or reduced by the
29 department on such terms and conditions as are deemed fair and
30 equitable.

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1 34. Other offenses.--Any member or associate broker
2 that is suspended shall be deprived, during the period of
3 suspension, of all rights and privileges of a member or of an
4 associate broker and may be proceeded against by the
5 department for any offense committed either before or after
6 the date of suspension.

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

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

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

18 38. Changes in ownership or assets.--In the event of a
19 major change in the ownership or a major change in the assets
20 of an underwriting member, the underwriting member shall
21 report such change in writing to the department within 30 days
22 of the effective date thereof. The report shall set forth the
23 details of the change. Any change in ownership or assets of
24 more than 5 percent shall be considered a major change.

25 39. Retaliation.--

26 a. When by or pursuant to the laws of any other state
27 or foreign country any taxes, licenses, or other fees, in the
28 aggregate, and any fines, penalties, deposit requirements, or
29 other material obligations, prohibitions, or restrictions are
30 or would be imposed upon an exchange or upon the agents or
31 representatives of such exchange which are in excess of such

1 taxes, licenses, and other fees, in the aggregate, or which
2 are in excess of such fines, penalties, deposit requirements,
3 or other obligations, prohibitions, or restrictions directly
4 imposed upon similar exchanges or upon the agents or
5 representatives of such exchanges of such other state or
6 country under the statutes of this state, so long as such laws
7 of such other state or country continue in force or are so
8 applied, the same taxes, licenses, and other fees, in the
9 aggregate, or fines, penalties, deposit requirements, or other
10 material obligations, prohibitions, or restrictions of
11 whatever kind shall be imposed by the department upon the
12 exchanges, or upon the agents or representatives of such
13 exchanges, of such other state or country doing business or
14 seeking to do business in this state.

15 b. Any tax, license, or other obligation imposed by
16 any city, county, or other political subdivision or agency of
17 a state, jurisdiction, or foreign country on an exchange, or
18 on the agents or representatives on an exchange, shall be
19 deemed to be imposed by such state, jurisdiction, or foreign
20 country within the meaning of sub-subparagraph a.

21 40. Agents.--

22 a. Agents as defined in ss. 626.015 ~~626.041, 626.051,~~
23 ~~626.062~~, and 626.914 who are broker members or associate
24 broker members of an exchange shall be allowed only to place
25 on an exchange the same kind or kinds of business that the
26 agent is licensed to place pursuant to Florida law. Direct
27 Florida business as defined in s. 626.916 or s. 626.917 shall
28 be written through a broker member who is a surplus lines
29 agent as defined in s. 626.914. The activities of each broker
30 member or associate broker with regard to an exchange shall be
31 subject to all applicable provisions of the insurance laws of

1 this state, and all such activities shall constitute
2 transactions under his or her license as an insurance agent
3 for purposes of the Florida insurance law.

4 b. Premium payments and other requirements.--If an
5 underwriting member has assumed the risk as to a surplus lines
6 coverage and if the premium therefor has been received by the
7 surplus lines agent who placed such insurance, then in all
8 questions thereafter arising under the coverage as between the
9 underwriting member and the insured, the underwriting member
10 shall be deemed to have received the premium due to it for
11 such coverage; and the underwriting member shall be liable to
12 the insured as to losses covered by such insurance, and for
13 unearned premiums which may become payable to the insured upon
14 cancellation of such insurance, whether or not in fact the
15 surplus lines agent is indebted to the underwriting member
16 with respect to such insurance or for any other cause.

17 41. Improperly issued contracts, riders, and
18 endorsements.--

19 a. Any insurance policy, rider, or endorsement issued
20 by an underwriting member and otherwise valid which contains
21 any condition or provision not in compliance with the
22 requirements of this section shall not be thereby rendered
23 invalid, except as provided in s. 627.415, but shall be
24 construed and applied in accordance with such conditions and
25 provisions as would have applied had such policy, rider, or
26 endorsement been in full compliance with this section. In the
27 event an underwriting member issues or delivers any policy for
28 an amount which exceeds any limitations otherwise provided in
29 this section, the underwriting member shall be liable to the
30 insured or his or her beneficiary for the full amount stated
31

1 in the policy in addition to any other penalties that may be
2 imposed.

3 b. Any insurance contract delivered or issued for
4 delivery in this state governing a subject or subjects of
5 insurance resident, located, or to be performed in this state
6 which, pursuant to the provisions of this section, the
7 underwriting member may not lawfully insure under such a
8 contract shall be cancelable at any time by the underwriting
9 member, any provision of the contract to the contrary
10 notwithstanding; and the underwriting member shall promptly
11 cancel the contract in accordance with the request of the
12 department therefor. No such illegality or cancellation shall
13 be deemed to relieve the underwriting syndicate of any
14 liability incurred by it under the contract while in force or
15 to prohibit the underwriting syndicate from retaining the pro
16 rata earned premium thereon. This provision does not relieve
17 the underwriting syndicate from any penalty otherwise incurred
18 by the underwriting syndicate.

19 42. Satisfaction of judgments.--

20 a. Every judgment or decree for the recovery of money
21 heretofore or hereafter entered in any court of competent
22 jurisdiction against any underwriting member shall be fully
23 satisfied within 60 days from and after the entry thereof or,
24 in the case of an appeal from such judgment or decree, within
25 60 days from and after the affirmance of the judgment or
26 decree by the appellate court.

27 b. If the judgment or decree is not satisfied as
28 required under sub-subparagraph a., and proof of such failure
29 to satisfy is made by filing with the department a certified
30 transcript of the docket of the judgment or the decree
31 together with a certificate by the clerk of the court wherein

1 the judgment or decree remains unsatisfied, in whole or in
2 part, after the time provided in sub-subparagraph a., the
3 department shall forthwith prohibit the underwriting member
4 from transacting business. The department shall not permit
5 such underwriting member to write any new business until the
6 judgment or decree is wholly paid and satisfied and proof
7 thereof is filed with the department under the official
8 certificate of the clerk of the court wherein the judgment was
9 recovered, showing that the judgment or decree is satisfied of
10 record, and until the expenses and fees incurred in the case
11 are also paid by the underwriting syndicate.

12 43. Tender and exchange offers.--No person shall
13 conclude a tender offer or an exchange offer or otherwise
14 acquire 5 percent or more of the outstanding voting securities
15 of an underwriting member or controlling company or purchase 5
16 percent or more of the ownership of an underwriting member or
17 controlling company unless such person has filed with, and
18 obtained the approval of, the department and sent to such
19 underwriting member a statement setting forth:

20 a. The identity of, and background information on,
21 each person by whom, or on whose behalf, the acquisition is to
22 be made; and, if the acquisition is to be made by or on behalf
23 of a corporation, association, or trust, the identity of and
24 background information on each director, officer, trustee, or
25 other natural person performing duties similar to those of a
26 director, officer, or trustee for the corporation,
27 association, or trust.

28 b. The source and amount of the funds or other
29 consideration used, or to be used, in making the acquisition.
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1 c. Any plans or proposals which such person may have
2 to liquidate such member, to sell its assets, or to merge or
3 consolidate it.

4 d. The percentage of ownership which such person
5 proposes to acquire and the terms of the offer or exchange, as
6 the case may be.

7 e. Information as to any contracts, arrangements, or
8 understandings with any party with respect to any securities
9 of such member or controlling company, including, but not
10 limited to, information relating to the transfer of any
11 securities, option arrangements, or puts or calls or the
12 giving or withholding of proxies, naming the party with whom
13 such contract, arrangements, or understandings have been
14 entered and giving the details thereof.

15 f. The department may disapprove any acquisition
16 subject to the provisions of this subparagraph by any person
17 or any affiliated person of such person who:

18 (I) Willfully violates this subparagraph;

19 (II) In violation of an order of the department issued
20 pursuant to sub-subparagraph j., fails to divest himself or
21 herself of any stock obtained in violation of this
22 subparagraph, or fails to divest himself or herself of any
23 direct or indirect control of such stock, within 25 days after
24 such order; or

25 (III) In violation of an order issued by the
26 department pursuant to sub-subparagraph j., acquires
27 additional stock of the underwriting member or controlling
28 company, or direct or indirect control of such stock, without
29 complying with this subparagraph.

30 g. The person or persons filing the statement required
31 by this subparagraph have the burden of proof. The department

1 shall approve any such acquisition if it finds, on the basis
2 of the record made during any proceeding or on the basis of
3 the filed statement if no proceeding is conducted, that:

4 (I) Upon completion of the acquisition, the
5 underwriting member will be able to satisfy the requirements
6 for the approval to write the line or lines of insurance for
7 which it is presently approved;

8 (II) The financial condition of the acquiring person
9 or persons will not jeopardize the financial stability of the
10 underwriting member or prejudice the interests of its
11 policyholders or the public;

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

14 (A) To liquidate the insurer, sell its assets, or
15 merge or consolidate it with any person, or to make any other
16 major change in its business or corporate structure or
17 management; or

18 (B) To liquidate any controlling company, sell its
19 assets, or merge or consolidate it with any person, or to make
20 any major change in its business or corporate structure or
21 management which would have an effect upon the underwriting
22 member

23
24 is fair and free of prejudice to the policyholders of the
25 underwriting member or to the public;

26 (IV) The competence, experience, and integrity of
27 those persons who will control directly or indirectly the
28 operation of the underwriting member indicate that the
29 acquisition is in the best interest of the policyholders of
30 the underwriting member and in the public interest;

31

1 (V) The natural persons for whom background
2 information is required to be furnished pursuant to this
3 subparagraph have such backgrounds as to indicate that it is
4 in the best interests of the policyholders of the underwriting
5 member, and in the public interest, to permit such persons to
6 exercise control over such underwriting member;

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

10 (VII) The management of the underwriting member after
11 the acquisition will be competent and trustworthy and will
12 possess sufficient managerial experience so as to make the
13 proposed operation of the underwriting member not hazardous to
14 the insurance-buying public;

15 (VIII) The management of the underwriting member after
16 the acquisition will not include any person who has directly
17 or indirectly through ownership, control, reinsurance
18 transactions, or other insurance or business relations
19 unlawfully manipulated the assets, accounts, finances, or
20 books of any insurer or underwriting member or otherwise acted
21 in bad faith with respect thereto;

22 (IX) The acquisition is not likely to be hazardous or
23 prejudicial to the underwriting member's policyholders or the
24 public; and

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

28 h. No vote by the stockholder of record, or by any
29 other person, of any security acquired in contravention of the
30 provisions of this subparagraph is valid. Any acquisition of
31 any security contrary to the provisions of this subparagraph

1 is void. Upon the petition of the underwriting member or
2 controlling company, the circuit court for the county in which
3 the principal office of such underwriting member is located
4 may, without limiting the generality of its authority, order
5 the issuance or entry of an injunction or other order to
6 enforce the provisions of this subparagraph. There shall be a
7 private right of action in favor of the underwriting member or
8 controlling company to enforce the provisions of this
9 subparagraph. No demand upon the department that it perform
10 its functions shall be required as a prerequisite to any suit
11 by the underwriting member or controlling company against any
12 other person, and in no case shall the department be deemed a
13 necessary party to any action by such underwriting member or
14 controlling company to enforce the provisions of this
15 subparagraph. Any person who makes or proposes an acquisition
16 requiring the filing of a statement pursuant to this
17 subparagraph, or who files such a statement, shall be deemed
18 to have thereby designated the Insurance Commissioner, or his
19 or her assistant or deputy or another person in charge of his
20 or her office, as such person's agent for service of process
21 under this subparagraph and shall thereby be deemed to have
22 submitted himself or herself to the administrative
23 jurisdiction of the department and to the jurisdiction of the
24 circuit court.

25 i. Any approval by the department under this
26 subparagraph does not constitute a recommendation by the
27 department for an acquisition, tender offer, or exchange
28 offer. It is unlawful for a person to represent that the
29 department's approval constitutes a recommendation. A person
30 who violates the provisions of this sub-subparagraph is guilty
31 of a felony of the third degree, punishable as provided in s.

1 775.082, s. 775.083, or s. 775.084. The
2 statute-of-limitations period for the prosecution of an
3 offense committed under this sub-subparagraph is 5 years.

4 j. Upon notification to the department by the
5 underwriting member or a controlling company that any person
6 or any affiliated person of such person has acquired 5 percent
7 or more of the outstanding voting securities of the
8 underwriting member or controlling company without complying
9 with the provisions of this subparagraph, the department shall
10 order that the person and any affiliated person of such person
11 cease acquisition of any further securities of the
12 underwriting member or controlling company; however, the
13 person or any affiliated person of such person may request a
14 proceeding, which proceeding shall be convened within 7 days
15 after the rendering of the order for the sole purpose of
16 determining whether the person, individually or in connection
17 with any affiliated person of such person, has acquired 5
18 percent or more of the outstanding voting securities of an
19 underwriting member or controlling company. Upon the failure
20 of the person or affiliated person to request a hearing within
21 7 days, or upon a determination at a hearing convened pursuant
22 to this sub-subparagraph that the person or affiliated person
23 has acquired voting securities of an underwriting member or
24 controlling company in violation of this subparagraph, the
25 department may order the person and affiliated person to
26 divest themselves of any voting securities so acquired.

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

30 (A) The control of which is acquired in violation of
31 this subparagraph;

1 (B) That is controlled, directly or indirectly, by any
2 person or any affiliated person of such person who, in
3 violation of this subparagraph, has obtained control of an
4 underwriting member or controlling company; or

5 (C) That is controlled, directly or indirectly, by any
6 person who, directly or indirectly, controls any other person
7 who, in violation of this subparagraph, acquires control of an
8 underwriting member or controlling company.

9 (II) If any underwriting member is subject to
10 suspension or revocation pursuant to sub-sub-subparagraph (I),
11 the underwriting member shall be deemed to be in such
12 condition, or to be using or to have been subject to such
13 methods or practices in the conduct of its business, as to
14 render its further transaction of insurance presently or
15 prospectively hazardous to its policyholders, creditors, or
16 stockholders or to the public.

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

19 (A) The spouse of such other person;

20 (B) The parents of such other person and their lineal
21 descendants and the parents of such other person's spouse and
22 their lineal descendants;

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

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

29 (E) Any person or group of persons who directly or
30 indirectly control, are controlled by, or are under common
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1 control with such other person; or any officer, director,
2 partner, copartner, or employee of such other person;

3 (F) If such other person is an investment company, any
4 investment adviser of such company or any member of an
5 advisory board of such company;

6 (G) If such other person is an unincorporated
7 investment company not having a board of directors, the
8 depositor of such company; or

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

13 (II) For the purposes of this section, the term
14 "controlling company" means any corporation, trust, or
15 association owning, directly or indirectly, 25 percent or more
16 of the voting securities of one or more underwriting members.

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

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

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

26 b. The principal business and address of any business,
27 corporation, or other organization in which each such office
28 was held or in which such occupation or position of employment
29 was carried on.

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1 c. Whether, at any time during such 10-year period,
2 such person was convicted of any crime other than a traffic
3 violation.

4 d. Whether, during such 10-year period, such person
5 has been the subject of any proceeding for the revocation of
6 any license and, if so, the nature of such proceeding and the
7 disposition thereof.

8 e. Whether, during such 10-year period, such person
9 has been the subject of any proceeding under the federal
10 Bankruptcy Act or whether, during such 10-year period, any
11 corporation, partnership, firm, trust, or association in which
12 such person was a director, officer, trustee, partner, or
13 other official has been subject to any such proceeding, either
14 during the time in which such person was a director, officer,
15 trustee, partner, or other official, or within 12 months
16 thereafter.

17 f. Whether, during such 10-year period, such person
18 has been enjoined, either temporarily or permanently, by a
19 court of competent jurisdiction from violating any federal or
20 state law regulating the business of insurance, securities, or
21 banking, or from carrying out any particular practice or
22 practices in the course of the business of insurance,
23 securities, or banking, together with details of any such
24 event.

25 45. Security fund.--All underwriting members shall be
26 members of the security fund of any exchange.

27 46. Underwriting member defined.--Whenever the term
28 "underwriting member" is used in this subsection, it shall be
29 construed to mean "underwriting syndicate."
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1 47. Offsets.--Any action, requirement, or constraint
2 imposed by the department shall reduce or offset similar
3 actions, requirements, or constraints of any exchange.

4 48. Restriction on member ownership.--

5 a. Investments existing prior to July 2, 1987.--The
6 investment in any member by brokers, agents, and
7 intermediaries transacting business on the exchange, and the
8 investment in any such broker, agent, or intermediary by any
9 member, directly or indirectly, shall in each case be limited
10 in the aggregate to less than 20 percent of the total
11 investment in such member, broker, agent, or intermediary, as
12 the case may be. After December 31, 1987, the aggregate
13 percent of the total investment in such member by any broker,
14 agent, or intermediary and the aggregate percent of the total
15 investment in any such broker, agent, or intermediary by any
16 member, directly or indirectly, shall not exceed 15 percent.
17 After June 30, 1988, such aggregate percent shall not exceed
18 10 percent and after December 31, 1988, such aggregate percent
19 shall not exceed 5 percent.

20 b. Investments arising on or after July 2, 1987.--The
21 investment in any underwriting member by brokers, agents, or
22 intermediaries transacting business on the exchange, and the
23 investment in any such broker, agent, or intermediary by any
24 underwriting member, directly or indirectly, shall in each
25 case be limited in the aggregate to less than 5 percent of the
26 total investment in such underwriting member, broker, agent,
27 or intermediary.

28 49. "Underwriting manager" defined.--"Underwriting
29 manager" as used in this subparagraph includes any person,
30 partnership, corporation, or organization providing any of the
31 following services to underwriting members of the exchange:

- 1 a. Office management and allied services, including
2 correspondence and secretarial services.
- 3 b. Accounting services, including bookkeeping and
4 financial report preparation.
- 5 c. Investment and banking consultations and services.
- 6 d. Underwriting functions and services including the
7 acceptance, rejection, placement, and marketing of risk.
- 8 50. Prohibition of underwriting manager
9 investment.--Any direct or indirect investment in any
10 underwriting manager by a broker member or any affiliated
11 person of a broker member or any direct or indirect investment
12 in a broker member by an underwriting manager or any
13 affiliated person of an underwriting manager is prohibited.
14 "Affiliated person" for purposes of this subparagraph is
15 defined in subparagraph 43.
- 16 51. An underwriting member may not accept reinsurance
17 on an assumed basis from an affiliate or a controlling
18 company, nor may a broker member or management company place
19 reinsurance from an affiliate or controlling company of theirs
20 with an underwriting member. "Affiliate and controlling
21 company" for purposes of this subparagraph is defined in
22 subparagraph 43.
- 23 52. Premium defined.--"Premium" is the consideration
24 for insurance, by whatever name called. Any "assessment" or
25 any "membership," "policy," "survey," "inspection," "service"
26 fee or charge or similar fee or charge in consideration for an
27 insurance contract is deemed part of the premium.
- 28 53. Rules.--The department shall promulgate rules
29 necessary for or as an aid to the effectuation of any
30 provision of this section.
- 31

1 Section 43. Subsection (7) of section 648.27, Florida
2 Statutes, is amended to read:

3 648.27 Licenses and appointments; general.--

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

9 Section 44. Paragraphs (b) and (c) of subsection (4)
10 of section 624.311, Florida Statutes, are amended to read:

11 624.311 Records; reproductions; destruction.--

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

15 (b) Agent, ~~solicitor~~, adjuster, and similar license
16 files, including license files of the Division of State Fire
17 Marshal, over 2 years old; except that the department shall
18 preserve by reproduction or otherwise a copy of the original
19 records upon the basis of which each such licensee qualified
20 for her or his initial license, except a competency
21 examination, and of any disciplinary proceeding affecting the
22 licensee;

23 (c) All agent, ~~solicitor~~, adjuster, and similar
24 license files and records, including original license
25 qualification records and records of disciplinary proceedings
26 5 years after a licensee has ceased to be qualified for a
27 license;

28 Section 45. Paragraphs (e) and (o) of subsection (1)
29 of section 624.523, Florida Statutes, are amended to read:

30 624.523 Insurance Commissioner's Regulatory Trust
31 Fund.--

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

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

7 1. Subsection (1) (certificate of authority of
8 insurer).

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

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

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

12 5. Subsection (5) (application fee for insurance
13 representatives).

14 6. The "appointment fee" portion of any appointment
15 provided for under paragraphs (6)(a) and (b) (insurance
16 representatives, property, marine, casualty and surety
17 insurance, and ~~agents, and solicitors~~).

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

19 8. Paragraph (6)(d) (service representatives).

20 9. The "appointment fee" portion of any appointment
21 provided for under paragraph (7)(a) (life insurance agents,
22 original appointment, and renewal or continuation of
23 appointment).

24 10. Paragraph (7)(b) (nonresident agent license).

25 11. The "appointment fee" portion of any appointment
26 provided for under paragraph (8)(a) (health insurance agents,
27 agent's appointment, and renewal or continuation fee).

28 12. Paragraph (8)(b) (nonresident agent appointment).

29 13. The "appointment fee" portion of any appointment
30 provided for under subsections (9) and (10) (limited licenses
31 and fraternal benefit society agents).

- 1 14. Subsection (11) (vending machines).
2 15. Subsection (12) (surplus lines agent).
3 16. Subsection (13) (adjusters' appointment).
4 17. Subsection (14) (examination fee).
5 18. Subsection (15) (temporary license and appointment
6 as agent or adjuster).
7 19. Subsection (16) (reissuance, reinstatement, etc.).
8 20. Subsection (17) (additional license continuation
9 fees).
10 21. Subsection (18) (filing application for permit to
11 form insurer).
12 22. Subsection (19) (license fee of rating
13 organization).
14 23. Subsection (20) (miscellaneous services).
15 24. Subsection (21) (insurance agencies).
16 (o) All state tax portions of agents' ~~and solicitors'~~
17 licenses collected under s. 624.501.
18 Section 46. Section 624.507, Florida Statutes, is
19 amended to read:
20 624.507 Municipal tax.--Municipal corporations may
21 require a tax of insurance agents ~~and solicitors~~ not to exceed
22 50 percent of the state tax specified as to such agents ~~and~~
23 ~~solicitors~~ under this part, and unless otherwise authorized by
24 law. Such a tax may be required only by a municipal
25 corporation within the boundaries of which is located the
26 agent's business office, or if no such office is required
27 under this code, by the municipal corporation of the agent's
28 place of residence.
29 Section 47. Subsections (1) and (3) of section
30 626.0428, Florida Statutes, are amended to read:
31

1 626.0428 Agency personnel powers, duties, and
2 limitations.--

3 (1) An individual employed by an agent or agency on
4 salary who devotes full time to clerical work, with incidental
5 taking of insurance applications or quoting or receiving
6 premiums on incoming inquiries in the office of the agent or
7 agency, is not deemed to be an agent orcustomer
8 representative,~~or solicitor~~ if his or her compensation does
9 not include in whole or in part any commissions on such
10 business and is not related to the production of applications,
11 insurance, or premiums.

12 (3) No employee of an agent or agency may initiate
13 contact with any person for the purpose of soliciting
14 insurance unless licensed and appointed as a general lines
15 agent orcustomer representative,~~or solicitor~~.

16 Section 48. Subsections (1) and (2) of section
17 626.112, Florida Statutes, are amended to read:

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

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

25 (b) Except as provided in subsection (6) or in
26 applicable department rules, and in addition to other conduct
27 described in this chapter with respect to particular types of
28 agents, a license as an insurance agent, service
29 representative, ~~solicitor~~,customer representative, or limited
30 customer representative is required in order to engage in the
31 solicitation of insurance. For purposes of this requirement,

1 as applicable to any of the license types described in this
2 section, the solicitation of insurance is the attempt to
3 persuade any person to purchase an insurance product by:

- 4 1. Describing the benefits or terms of insurance
5 coverage, including premiums or rates of return;
- 6 2. Distributing an invitation to contract to
7 prospective purchasers;
- 8 3. Making general or specific recommendations as to
9 insurance products;
- 10 4. Completing orders or applications for insurance
11 products; or
- 12 5. Comparing insurance products, advising as to
13 insurance matters, or interpreting policies or coverages.

14

15 However, an employee leasing company licensed pursuant to
16 chapter 468 which is seeking to enter into a contract with an
17 employer that identifies products and services offered to
18 employees may deliver proposals for the purchase of employee
19 leasing services to prospective clients of the employee
20 leasing company setting forth the terms and conditions of
21 doing business; classify employees as permitted by s. 468.529;
22 collect information from prospective clients and other sources
23 as necessary to perform due diligence on the prospective
24 client and to prepare a proposal for services; provide and
25 receive enrollment forms, plans, and other documents; and
26 discuss or explain in general terms the conditions,
27 limitations, options, or exclusions of insurance benefit plans
28 available to the client or employees of the employee leasing
29 company were the client to contract with the employee leasing
30 company. Any advertising materials or other documents
31 describing specific insurance coverages must identify and be

1 from a licensed insurer or its licensed agent or a licensed
2 and appointed agent employed by the employee leasing company.
3 The employee leasing company may not advise or inform the
4 prospective business client or individual employees of
5 specific coverage provisions, exclusions, or limitations of
6 particular plans. As to clients for which the employee leasing
7 company is providing services pursuant to s. 468.525(4), the
8 employee leasing company may engage in activities permitted by
9 ss. 626.041, 626.051, and 626.062, subject to the restrictions
10 specified in those sections. If a prospective client requests
11 more specific information concerning the insurance provided by
12 the employee leasing company, the employee leasing company
13 must refer the prospective business client to the insurer or
14 its licensed agent or to a licensed and appointed agent
15 employed by the employee leasing company.

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

22 Section 49. Section 626.141, Florida Statutes, is
23 amended to read:

24 626.141 Violation not to affect validity of
25 insurance.--An insurance contract which is otherwise valid and
26 binding as between the parties thereto shall not be rendered
27 invalid by reason of having been solicited, handled, or
28 procured by or through an unlicensed agent or, customer
29 representative, ~~or solicitor~~ or an agent or, customer
30 representative, ~~or solicitor~~ who has not been appointed.

31

1 Section 50. Subsection (5) of section 626.171, Florida
2 Statutes, is amended to read:

3 626.171 Application for license.--

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

14 Section 51. Subsections (1) and (3) of section
15 626.221, Florida Statutes, are amended to read:

16 626.221 Examination requirement; exemptions.--

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

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

26 Section 52. Paragraph (d) of subsection (3) of section
27 626.2815, Florida Statutes, is amended to read:

28 626.2815 Continuing education required; application;
29 exceptions; requirements; penalties.--

30 (3)

31

1 (d) Any person who holds a license as a customer
2 representative, limited customer representative,
3 administrative agent, title agent, ~~solicitor~~, motor vehicle
4 physical damage and mechanical breakdown insurance agent, crop
5 or hail and multiple-peril crop insurance agent, or as an
6 industrial fire insurance or burglary insurance agent and who
7 is not a licensed life or health insurance agent, shall be
8 required to complete 14 hours of continuing education courses
9 every 2 years, except, for compliance periods beginning on
10 January 1, 1998, each licensee subject to this paragraph shall
11 be required to complete 10 hours of continuing education
12 courses every 2 years.

13 Section 53. Paragraphs (b) and (f) of subsection (1)
14 of section 626.321, Florida Statutes, are amended to read:

15 626.321 Limited licenses.--

16 (1) The department shall issue to a qualified
17 individual, or a qualified individual or entity under
18 paragraphs (c), (d), and (e), a license as agent authorized to
19 transact a limited class of business in any of the following
20 categories:

21 (b) Industrial fire insurance or burglary
22 insurance.--License covering only industrial fire insurance or
23 burglary insurance. The applicant for such a license shall
24 pass a written examination covering such insurance. No
25 individual while so licensed shall hold a license as an agent
26 ~~or solicitor~~ as to any other or additional kind or class of
27 insurance coverage except as to life and health insurances.

28 (f) Credit insurance.--License covering only credit
29 insurance, as such insurance is defined in s. 624.605(1)(i),
30 and no individual or entity so licensed shall, during the same
31 period, hold a license as an agent ~~or solicitor~~ as to any

1 other or additional kind of life or health insurance with the
2 exception of credit life or disability insurance as defined in
3 paragraph (e). The same licensing provisions as outlined in
4 paragraph (e) apply to entities licensed as credit insurance
5 agents under this paragraph.

6 Section 54. Subsections (5) and (6) of section
7 626.451, Florida Statutes, are amended to read:

8 626.451 Appointment of agent or other
9 representative.--

10 (5) Any law enforcement agency or state attorney's
11 office that is aware that an agent, adjuster, service
12 representative, ~~solicitor~~, customer representative, or
13 managing general agent has pleaded guilty or nolo contendere
14 to or has been found guilty of a felony shall notify the
15 department of such fact.

16 (6) Upon the filing of an information or indictment
17 against an agent, adjuster, service representative, ~~solicitor~~,
18 customer representative, or managing general agent, the state
19 attorney shall immediately furnish the department a certified
20 copy of the information or indictment.

21 Section 55. Subsection (1) of section 626.511, Florida
22 Statutes, is amended to read:

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

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

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

7 Section 56. Subsection (1) of section 626.521, Florida
8 Statutes, is amended to read:

9 626.521 Character, credit reports.--

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

24 Section 57. Subsections (1) and (3) of section
25 626.561, Florida Statutes, are amended to read:

26 626.561 Reporting and accounting for funds.--

27 (1) All premiums, return premiums, or other funds
28 belonging to insurers or others received by an agent, customer
29 representative, ~~solicitor~~, or adjuster in transactions under
30 his or her license are trust funds received by the licensee in
31 a fiduciary capacity. An agent shall keep the funds belonging

1 to each insurer for which he or she is not appointed, other
2 than a surplus lines insurer, in a separate account so as to
3 allow the department to properly audit such funds. The
4 licensee in the applicable regular course of business shall
5 account for and pay the same to the insurer, insured, or other
6 person entitled thereto.

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

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

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

19 (c) If the funds diverted or misappropriated are
20 \$20,000 or more, but less than \$100,000, a felony of the
21 second degree, punishable as provided in s. 775.082, s.
22 775.083, or s. 775.084.

23 (d) If the funds diverted or misappropriated are
24 \$100,000 or more, a felony of the first degree, punishable as
25 provided in s. 775.082, s. 775.083, or s. 775.084.

26 Section 58. Subsection (1) of section 626.601, Florida
27 Statutes, is amended to read:

28 626.601 Improper conduct; inquiry; fingerprinting.--

29 (1) The department may, upon its own motion or upon a
30 written complaint signed by any interested person and filed
31 with the department, inquire into any alleged improper conduct

1 of any licensed agent, ~~solicitor~~, adjuster, service
2 representative, managing general agent, customer
3 representative, title insurance agent, title insurance agency,
4 continuing education course provider, instructor, school
5 official, or monitor group under this code. The department may
6 thereafter initiate an investigation of any such licensee if
7 it has reasonable cause to believe that the licensee has
8 violated any provision of the insurance code. During the
9 course of its investigation, the department shall contact the
10 licensee being investigated unless it determines that
11 contacting such person could jeopardize the successful
12 completion of the investigation or cause injury to the public.

13 Section 59. Section 626.611, Florida Statutes, is
14 amended to read:

15 626.611 Grounds for compulsory refusal, suspension, or
16 revocation of agent's, title agency's, ~~solicitor's,~~
17 adjuster's, customer representative's, service
18 representative's, or managing general agent's license or
19 appointment.--The department shall deny an application for,
20 suspend, revoke, or refuse to renew or continue the license or
21 appointment of any applicant, agent, title agency, ~~solicitor,~~
22 adjuster, customer representative, service representative, or
23 managing general agent, and it shall suspend or revoke the
24 eligibility to hold a license or appointment of any such
25 person, if it finds that as to the applicant, licensee, or
26 appointee any one or more of the following applicable grounds
27 exist:

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

30
31

1 (2) Material misstatement, misrepresentation, or fraud
2 in obtaining the license or appointment or in attempting to
3 obtain the license or appointment.

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

6 (4) If the license or appointment is willfully used,
7 or to be used, to circumvent any of the requirements or
8 prohibitions of this code.

9 (5) Willful misrepresentation of any insurance policy
10 or annuity contract or willful deception with regard to any
11 such policy or contract, done either in person or by any form
12 of dissemination of information or advertising.

13 (6) If, as an adjuster, or agent licensed and
14 appointed to adjust claims under this code, he or she has
15 materially misrepresented to an insured or other interested
16 party the terms and coverage of an insurance contract with
17 intent and for the purpose of effecting settlement of claim
18 for loss or damage or benefit under such contract on less
19 favorable terms than those provided in and contemplated by the
20 contract.

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

23 (8) Demonstrated lack of reasonably adequate knowledge
24 and technical competence to engage in the transactions
25 authorized by the license or appointment.

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

28 (10) Misappropriation, conversion, or unlawful
29 withholding of moneys belonging to insurers or insureds or
30 beneficiaries or to others and received in conduct of business
31 under the license or appointment.

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

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

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

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

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

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

28 Section 60. Section 626.621, Florida Statutes, is
29 amended to read:

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

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

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

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

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

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

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

26 (6) In the conduct of business under the license or
27 appointment, engaging in unfair methods of competition or in
28 unfair or deceptive acts or practices, as prohibited under
29 part IX of this chapter, or having otherwise shown himself or
30 herself to be a source of injury or loss to the public or
31 detrimental to the public interest.

1 (7) Willful overinsurance of any property or health
2 insurance risk.

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

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

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

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

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

29 Section 61. Subsections (2) and (3) of section
30 626.641, Florida Statutes, are amended to read:

31 266.641 Duration of suspension or revocation.--

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

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

24 Section 62. Subsections (1) and (2) of section
25 626.651, Florida Statutes, are amended to read:

26 626.651 Effect of suspension, revocation upon
27 associated licenses and appointments and licensees and
28 appointees.--

29 (1) Upon suspension, revocation, or refusal to renew
30 or continue any one license of an agent or customer
31 representative, ~~or solicitor~~, or upon suspension or revocation

1 of eligibility to hold a license or appointment, the
2 department shall at the same time likewise suspend or revoke
3 all other licenses, appointments, or status of eligibility
4 held by the licensee or appointee under this code.

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

14 Section 63. Subsections (1) and (2) of section
15 626.730, Florida Statutes, are amended to read:

16 626.730 Purpose of license.--

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

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 64. Section 626.745, Florida Statutes, is
14 amended to read:

15 626.745 Service representatives, managing general
16 agents; managers; activities.--Individuals employed by
17 insurers or their managers, general agents, or representatives
18 as service representatives, and as managing general agents
19 employed for the purpose of or engaged in assisting agents ~~and~~
20 ~~solicitors~~ in negotiating and effecting contracts of
21 insurance, shall engage in such activities when, and only
22 when, accompanied by an agent ~~or solicitor~~ duly licensed and
23 appointed as a resident licensee and appointee under this
24 code.

25 Section 65. Paragraphs (h) and (u) of subsection (1)
26 of section 626.9541, Florida Statutes, are amended to read:

27 626.9541 Unfair methods of competition and unfair or
28 deceptive acts or practices defined.--

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

1 (h) Unlawful rebates.--

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

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

7 b. Paying, allowing, or giving, or offering to pay,
8 allow, or give, directly or indirectly, as inducement to such
9 insurance contract, any unlawful rebate of premiums payable on
10 the contract, any special favor or advantage in the dividends
11 or other benefits thereon, or any valuable consideration or
12 inducement whatever not specified in the contract;

13 c. Giving, selling, or purchasing, or offering to
14 give, sell, or purchase, as inducement to such insurance
15 contract or in connection therewith, any stocks, bonds, or
16 other securities of any insurance company or other
17 corporation, association, or partnership, or any dividends or
18 profits accrued thereon, or anything of value whatsoever not
19 specified in the insurance contract.

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

23 a. In the case of any contract of life insurance or
24 life annuity, paying bonuses to all policyholders or otherwise
25 abating their premiums in whole or in part out of surplus
26 accumulated from nonparticipating insurance; provided that any
27 such bonuses or abatement of premiums is fair and equitable to
28 all policyholders and for the best interests of the company
29 and its policyholders.

30 b. In the case of life insurance policies issued on
31 the industrial debit plan, making allowance to policyholders

1 who have continuously for a specified period made premium
2 payments directly to an office of the insurer in an amount
3 which fairly represents the saving in collection expenses.

4 c. Readjustment of the rate of premium for a group
5 insurance policy based on the loss or expense thereunder, at
6 the end of the first or any subsequent policy year of
7 insurance thereunder, which may be made retroactive only for
8 such policy year.

9 d. Issuance of life insurance policies or annuity
10 contracts at rates less than the usual rates of premiums for
11 such policies or contracts, as group insurance or employee
12 insurance as defined in this code.

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

17 3.a. No title insurer, or any member, employee,
18 attorney, agent, agency, or solicitor thereof, shall pay,
19 allow, or give, or offer to pay, allow, or give, directly or
20 indirectly, as inducement to title insurance, or after such
21 insurance has been effected, any rebate or abatement of the
22 agent's, agency's, or title insurer's share of the premium or
23 any charge for related title services below the cost for
24 providing such services, or provide any special favor or
25 advantage, or any monetary consideration or inducement
26 whatever. Nothing herein contained shall preclude an
27 abatement in an attorney's fee charged for legal services.

28 b. Nothing in this subparagraph shall be construed as
29 prohibiting the payment of fees to attorneys at law duly
30 licensed to practice law in the courts of this state, for
31 professional services, or as prohibiting the payment of earned

1 portions of the premium to duly appointed agents or agencies
2 who actually perform services for the title insurer.

3 c. No insured named in a policy, or any other person
4 directly or indirectly connected with the transaction
5 involving the issuance of such policy, including, but not
6 limited to, any mortgage broker, real estate broker, builder,
7 or attorney, any employee, agent, agency, or representative,
8 ~~or solicitor~~ thereof, or any other person whatsoever, shall
9 knowingly receive or accept, directly or indirectly, any
10 rebate or abatement of said charge, or any monetary
11 consideration or inducement, other than as set forth in
12 sub-subparagraph b.

13 (u) False claims; obtaining or retaining money
14 dishonestly.--

15 1. Any agent, physician, claimant, or other person who
16 causes to be presented to any insurer a false claim for
17 payment, knowing the same to be false; or

18 2. Any agent, ~~solicitor~~, collector, or other person
19 who represents any insurer or collects or does business
20 without the authority of the insurer, secures cash advances by
21 false statements, or fails to turn over when required, or
22 satisfactorily account for, all collections of such insurer,
23
24 shall, in addition to the other penalties provided in this
25 act, be guilty of a misdemeanor of the second degree and, upon
26 conviction thereof, shall be subject to the penalties provided
27 by s. 775.082 or s. 775.083.

28 Section 66. Paragraph (b) of subsection (2) of section
29 627.776, Florida Statutes, is amended to read:

30 627.776 Applicability or inapplicability of Florida
31 Insurance Code provisions to title insurers.--

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

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

5 Section 67. Section 631.155, Florida Statutes, is
6 amended to read:

7 631.155 Agents' balances; premiums and unearned
8 commissions.--Premiums and unearned commissions which have
9 been collected on behalf of an insurer by an agent, ~~solicitor~~,
10 agency, or other entity or person constitute an asset of the
11 insurer for which the agent, ~~solicitor~~, agency, or other
12 entity or person has a duty to account to the receiver and to
13 pay over amounts as may be due. The duty to account to the
14 receiver shall encompass all persons or entities involved in
15 the handling and transmittal of premium funds. An accounting
16 shall be provided to the receiver within 20 days after receipt
17 of a written demand for an accounting. If there is a dispute
18 regarding the accounting, the court shall hear and decide the
19 matter upon petition of the receiver. Compliance with this
20 section and payment of sums determined to be owed by the court
21 within 30 days of judgment, or within other payment terms
22 approved by the court, shall constitute requirements for
23 continued licensure of a person holding a license under the
24 Florida Insurance Code, and failure to comply with this
25 section shall be sufficient grounds for the license
26 revocation.

27 Section 68. Subsection (1) of section 631.341, Florida
28 Statutes, is amended to read:

29 631.341 Notice of insolvency to policyholders by
30 insurer, general agent, or agent.--

31

1 (1) The receiver shall, immediately after appointment
2 in any delinquency proceeding against an insurer in which the
3 policies have been canceled, give written notice of such
4 proceeding to each general agent and licensed agent of the
5 insurer in this state. Each general agent and licensed agent
6 of the insurer in this state shall forthwith give written
7 notice of such proceeding to all subagents, producing agents,
8 brokers, ~~solicitors~~, and service representatives writing
9 business through such general agent or licensed agent, whether
10 or not such subagents, producing agents, brokers, ~~solicitors~~,
11 and servicing representatives are licensed or permitted by the
12 insurer and whether or not they are operating under a written
13 agency contract.

14 Section 69. Section 634.318, Florida Statutes, is
15 amended to read:

16 634.318 License and appointment of sales
17 representatives.--Sales representatives for home warranty
18 associations and insurers shall be licensed, appointed,
19 renewed, continued, reinstated, or terminated in the same
20 manner as prescribed in chapter 626 for insurance
21 representatives in general, except they shall be exempt from
22 the fingerprinting, photo identification card, education, and
23 examination provisions. License, appointment, and other fees
24 shall be those as prescribed in s. 624.501. No employee or
25 sales representative of a home warranty association or insurer
26 may directly or indirectly solicit or negotiate insurance
27 contracts, or hold herself or himself out in any manner to be
28 an insurance agent ~~or solicitor~~, unless so qualified,
29 licensed, and appointed therefor under the insurance code. A
30 home warranty association is not required to be licensed as a
31 sales representative to solicit, sell, issue, or otherwise

1 transact the home warranty agreements issued by the home
2 warranty association.

3 Section 70. Subsections (3) and (4) of section 641.37,
4 Florida Statutes, are amended to read:

5 641.37 Prohibited activities; penalties.--

6 (3) Any agent or representative, ~~solicitor~~, examining
7 physician, applicant, or other person who knowingly makes any
8 false and fraudulent statements or representation in, or with
9 reference to, any application or negotiation for health
10 maintenance organization coverage is, in addition to any other
11 penalty provided by law, guilty of a misdemeanor of the first
12 degree, punishable as provided in s. 775.082 or s. 775.083.

13 (4) Any agent, representative, ~~solicitor~~, collector,
14 or other person who, while acting on behalf of a health
15 maintenance organization, receives or collects its funds or
16 premium payments and fails to satisfactorily account for or
17 turn over, when required, all such funds or payments is, in
18 addition to the other penalties provided for by law, guilty of
19 a misdemeanor of the second degree, punishable as provided in
20 s. 775.082 or s. 775.083.

21 Section 71. Section 642.041, Florida Statutes, is
22 amended to read:

23 642.041 Grounds for compulsory refusal, suspension, or
24 revocation of license or appointment of contracting sales
25 representatives.--The department shall, pursuant to the
26 insurance code, deny, suspend, revoke, or refuse to renew or
27 continue the license or appointment of any sales
28 representative or the license or appointment of any general
29 lines agent ~~or solicitor~~ if it finds that, as to the sales
30 representative or, general lines agent, ~~or solicitor~~, any one
31 or more of the following applicable grounds exist:

- 1 (1) Material misstatement, misrepresentation, or fraud
2 in obtaining or attempting to obtain a license or appointment.
- 3 (2) The license or appointment is willfully used, or
4 to be used, to circumvent any of the requirements or
5 prohibitions of ss. 642.011-642.049.
- 6 (3) Willful misrepresentation of any legal expense
7 contract or willful deception with regard to any such
8 contract, performed either in person or by any form of
9 dissemination of information or advertising.
- 10 (4) In the adjustment of claims, material
11 misrepresentation to a contract holder or other interested
12 party of the terms and coverage of a contract, with the intent
13 and for the purpose of settling such claim on less favorable
14 terms than those provided in and contemplated by the contract.
- 15 (5) Demonstrated lack of fitness or trustworthiness to
16 engage in the business of legal expense insurance.
- 17 (6) Demonstrated lack of adequate knowledge and
18 technical competence to engage in the transactions authorized
19 by the license or appointment.
- 20 (7) Fraudulent or dishonest practices in the conduct
21 of business under the license or appointment.
- 22 (8) Misappropriation, conversion, or unlawful
23 withholding of moneys belonging to an insurer or other person
24 and received in the conduct of business under the license or
25 appointment.
- 26 (9) Unlawfully rebating, or attempting to unlawfully
27 rebate, or unlawfully dividing, or offering to divide, his or
28 her commission with another.
- 29 (10) Willful failure to comply with, or willful
30 violation of, any proper order or rule of the department or
31 willful violation of any provision of ss. 642.011-642.049.

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

7 Section 72. Subsection (2) of section 624.505,
8 subsection (2) of section 626.727, sections 626.737 and
9 626.738, and subsection (2) of section 626.862, Florida
10 Statutes, and sections 626.031, 626.041, 626.051, 626.062,
11 626.071, 626.072, 626.081, 626.091, 626.094, 626.101, 626.102,
12 626.103, 626.104, 626.736, 626.737, 626.738, 626.739, 626.740,
13 626.790, and 626.791, Florida Statutes, are repealed.

14 Section 73. Except as otherwise provided herein, this
15 act shall take effect October 1, 2002.

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