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A bill to be entitled

An act relating to insurance agents; amending s. 624.425, F.S.; deleting a resident agent requirement for certain property, casualty, and surety insurers; amending s. 624.426, F.S., to conform; amending s. 626.025, F.S.; requiring surplus lines agents to comply with consumer protection laws; deleting provisions prohibiting certain actions by nonresident agents, to conform; amending s. 626.2815, F.S.; requiring nonresident licensees to complete continuing education courses relating to ethics and unauthorized entities engaging in the insurance business; amending s. 626.741, F.S.; deleting a prohibition against nonresident general lines agents having offices in this state; deleting related provisions to conform; specifying no requirement for nonresident agents to maintain an office in this state; requiring agencies in which a nonresident agent maintains or has a financial interest to be subject to requirements applicable to agencies of resident agents in the state; amending ss. 626.752 and 626.753, F.S., to conform; creating s. 626.9272, F.S.; providing requirements for the licensure of nonresident surplus lines agents; providing requirements, restrictions, and limitations; amending ss. 626.929 and 626.930, F.S., to conform; amending s. 626.933, F.S.; authorizing the Department of Financial Services to authorize the Florida Surplus Lines Service Office to file suit on behalf of the department; amending s. 626.935, F.S.; revising grounds for adverse actions against surplus lines agents and licensees; repealing s.

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30 626.792(3), F.S.; deleting a prohibition against
 31 nonresident life insurance agents having offices in this
 32 state; repealing s. 626.835(3), F.S.; deleting a
 33 prohibition against nonresident health insurance agents
 34 having offices in this state; providing an effective date.
 35

36 Be It Enacted by the Legislature of the State of Florida:
 37

38 Section 1. Subsections (1) and (2) of section 624.425,
 39 Florida Statutes, are amended to read:

40 624.425 ~~Resident~~ Agent ~~and~~ countersignature required,
 41 property, casualty, surety insurance.--

42 (1) Except as stated in s. 624.426, no authorized
 43 property, casualty, or surety insurer shall assume direct
 44 liability as to a subject of insurance resident, located, or to
 45 be performed in this state unless the policy or contract of
 46 insurance is issued by or through, and is countersigned by, an a
 47 ~~local producing agent who is a resident of this state,~~ regularly
 48 commissioned and licensed currently as an agent and appointed as
 49 an agent for the insurer under this code. If two or more
 50 authorized insurers issue a single policy of insurance against
 51 legal liability for loss or damage to person or property caused
 52 by the nuclear energy hazard, or a single policy insuring
 53 against loss or damage to property by radioactive contamination,
 54 whether or not also insuring against one or more other perils
 55 proper to insure against in this state, such policy if otherwise
 56 lawful may be countersigned on behalf of all of the insurers by
 57 a licensed and appointed ~~resident~~ agent of any insurer appearing
 58 thereon. The producing ~~Such~~ agent shall receive on each policy

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59 or contract the full and usual commission allowed and paid by
 60 the insurer to its agents on business written or transacted by
 61 them for the insurer.

62 (2) If any subject of insurance referred to in subsection
 63 (1) is insured under a policy, or contract, or certificate of
 64 renewal or continuation thereof, issued in another state and
 65 covering also property and risks outside this state, a
 66 certificate evidencing such insurance as to subjects located,
 67 resident, or to be performed in this state, shall be issued by
 68 or through and shall be countersigned by the insurer's
 69 commissioned and appointed ~~local~~ producing agent ~~resident in~~
 70 ~~this state in the same manner and subject to the same conditions~~
 71 ~~as is provided in subsection (1) as to policies and contracts;~~
 72 ~~except that the compensation to be paid to the agent may relate~~
 73 ~~only to the Florida portion of the insurance risks represented~~
 74 ~~by such policy or contract.~~

75 Section 2. Subsection (5) of section 624.426, Florida
 76 Statutes, is amended to read:

77 624.426 Exceptions to ~~resident agent~~ and countersignature
 78 law.--Section 624.425 does not apply to:

79 (5) Policies of insurance issued by insurers whose agents
 80 represent, as to property, casualty, and surety insurance, only
 81 one company or group of companies under common ownership ~~and for~~
 82 ~~which a Florida resident agent is the agent of record~~ and the
 83 application has been lawfully submitted to the insurer.

84 Section 3. Subsections (8) and (9) of section 626.025,
 85 Florida Statutes, are amended, and present subsections (10)
 86 through (16) of said section are renumbered as subsections (9)
 87 through (15), respectively, to read:

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88 626.025 Consumer protections.--To transact insurance,
89 agents shall comply with consumer protection laws, including the
90 following, as applicable:

91 (8) Requirements for licensure of resident and nonresident
92 agents in s. 626.112, s. 626.321, s. 626.731, s. 626.741, s.
93 626.785, s. 626.792, s. 626.831, ~~or~~ s. 626.835, or s. 626.927.

94 ~~(9) The prohibition against nonresident agents having a
95 place of business in the state, a pecuniary interest in an
96 insurance business in the state, or a financial interest in an
97 insurance agency in the state, under s. 626.741, s. 626.792, or
98 s. 626.835.~~

99 Section 4. Paragraph (j) of subsection (3) of section
100 626.2815, Florida Statutes, is amended to read:

101 626.2815 Continuing education required; application;
102 exceptions; requirements; penalties.--

103 (3)

104 (j) A nonresident who must complete continuing education
105 requirements in his or her home state may use the home state
106 requirements to meet this state's continuing education
107 requirements as well, if the resident's state recognizes
108 reciprocity with this state's continuing education requirements.
109 A nonresident whose home state does not have a continuing
110 education requirement but is licensed for the same class of
111 business in another state which does have a continuing education
112 requirement may comply with this section by furnishing proof of
113 compliance with the other state's requirement if that state has
114 a reciprocal agreement with this state relative to continuing
115 education. A nonresident whose home state does not have such
116 continuing education requirements, and who is not licensed as a

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117 nonresident agent in a state that has continuing education
 118 requirements and reciprocates with this state, must meet the
 119 continuing education requirements of this state. Each
 120 nonresident must complete, as part of his or her required
 121 continuing education, 3 hours every 2 years on the subject
 122 matter of ethics and a minimum of 2 hours every 2 years on the
 123 subject matter of unauthorized entities engaging in the business
 124 of insurance.

125 Section 5. Subsections (3), (4), and (5) of section
 126 626.741, Florida Statutes, are amended, subsections (6) through
 127 (9) of said section are renumbered as subsections (4) through
 128 (7), respectively, and present subsection (8) of said section is
 129 amended, to read:

130 626.741 Nonresident agents; licensing and restrictions.--

131 (3) The department shall not, however, issue any license
 132 and appointment to any ~~nonresident who has an office or place of~~
 133 ~~business in this state, or who has any direct or indirect~~
 134 ~~pecuniary interest in any insurance agent or insurance agency~~
 135 ~~licensed as a resident of this state; nor to any individual who~~
 136 does not, at the time of issuance and throughout the existence
 137 of the Florida license, hold a license as agent or broker issued
 138 by his or her home state; nor to any individual who is employed
 139 by any insurer as a service representative or who is a managing
 140 general agent in any state, whether or not also licensed in
 141 another state as an agent or broker. The foregoing requirement
 142 to hold a similar license in the applicant's home state does not
 143 apply to customer representatives unless the home state licenses
 144 residents of that state in a similar manner. ~~The prohibition~~
 145 ~~against having an office or place of business in this state does~~

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146 ~~not apply to customer representatives who are required to~~
147 ~~conduct business solely within the confines of the office of a~~
148 ~~licensed and appointed Florida resident general lines agent in~~
149 ~~this state.~~ The authority of such nonresident license is limited
150 to the specific lines of authority granted in the license issued
151 by the agent's home state and further limited to the specific
152 lines authorized under the nonresident license issued by this
153 state. The department shall have discretion to refuse to issue
154 any license or appointment to a nonresident when it has reason
155 to believe that ~~the applicant by ruse or subterfuge is~~
156 ~~attempting to avoid the intent and prohibitions contained in~~
157 ~~this subsection or to believe that~~ any of the grounds exist as
158 for suspension, denial, or revocation of license as set forth in
159 ss. 626.611 and 626.621.

160 ~~(4) Such a nonresident shall not directly or indirectly~~
161 ~~solicit, negotiate, or effect insurance contracts in this state~~
162 ~~unless accompanied by a countersigning agent, resident in this~~
163 ~~state, on such risk.~~

164 ~~(5)(a) All insurance policies as defined in s. 627.402,~~
165 ~~written under the nonresident agent's license, including those~~
166 ~~written or issued pursuant to the Surplus Lines Law, part VIII,~~
167 ~~on risks or property located in this state must be countersigned~~
168 ~~by a local agent resident of this state; and it shall be the~~
169 ~~duty and responsibility of the nonresident agent, and, if called~~
170 ~~upon to do so by the countersigning agent, of the insurer~~
171 ~~likewise, to assure that such resident local agent receives the~~
172 ~~same commission as allowed by the home state of the nonresident~~
173 ~~agent, but in no event shall the resident local agent receive,~~
174 ~~accept, or retain less than 50 percent of the usual Florida~~

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175 ~~local agent's commission or 50 percent of the nonresident~~
 176 ~~agent's commission, whichever is less, on policies of insurance~~
 177 ~~covering property as defined in s. 624.604 and insurance~~
 178 ~~covering in whole or in part real property and tangible personal~~
 179 ~~property, including property floater policies. On all other~~
 180 ~~policies of insurance, including insurance covering motor~~
 181 ~~vehicles, plate glass, burglary, robbery, theft, larceny, boiler~~
 182 ~~and machinery, workers' compensation, fidelity and surety,~~
 183 ~~bodily injury liability, and property damage liability, in no~~
 184 ~~event shall he or she receive, accept, or retain less than 25~~
 185 ~~percent of the usual Florida local agent's commission or 25~~
 186 ~~percent of the nonresident agent's commission, whichever is~~
 187 ~~less.~~

188 ~~(b) The provisions of this subsection, with respect to~~
 189 ~~resident agent countersignature commission, shall not be~~
 190 ~~applicable to any contracts of insurance purchased by a person~~
 191 ~~whose premiums for insurance in the preceding year of such~~
 192 ~~purchase exceeded \$250,000 in the aggregate. Nothing herein is~~
 193 ~~intended to preclude the negotiation and payment of a commission~~
 194 ~~to the countersigning agent to compensate him or her for~~
 195 ~~services performed or to be performed.~~

196 ~~(6)(8)~~ Except as provided in this section and ss. 626.742
 197 and 626.743, nonresident agents shall be subject to the same
 198 requirements as apply to agents resident in this state. However,
 199 nonresident agents are not required to maintain an insurance
 200 agency in this state. If a nonresident agent does maintain or
 201 have a financial interest in an insurance agency in this state,
 202 the agency is subject to the same requirements that apply to
 203 agencies of resident agents in this state.

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204 Section 6. Paragraph (a) of subsection (3) of section
 205 626.752, Florida Statutes, is amended to read:

206 626.752 Exchange of business.--

207 (3)(a) An insurer may furnish to ~~resident Florida~~ general
 208 lines agents who are not appointed by the insurer its forms,
 209 coverage documents, binders, applications, and other incidental
 210 supplies only for the purposes set forth in this section and
 211 only to the extent necessary to facilitate the writing of
 212 exchange of business pursuant to this section. The insurer shall
 213 assign a unique brokering agent's register number to each agent
 214 not appointed with the insurer but furnished with the insurer's
 215 forms, coverage documents, binders, applications, and other
 216 incidental supplies.

217 Section 7. Subsections (1) and (3) of section 626.753,
 218 Florida Statutes, are amended to read:

219 626.753 Sharing commissions; penalty.--

220 (1)(a) An agent may divide or share in commissions only
 221 with other agents appointed and licensed to write the same kind
 222 or kinds of insurance.

223 ~~(b) A resident agent and a nonresident agent, subject to~~
 224 ~~the provisions of s. 626.741, may divide among themselves~~
 225 ~~commissions as to kinds of insurance for which both are~~
 226 ~~appointed and licensed.~~

227 (b)(e) This section shall not be construed to prevent the
 228 payment or receipt of renewal commissions or other deferred
 229 commissions or pensions to or by any person solely because such
 230 person has ceased to hold a license to act as an insurance
 231 agent, and shall not prevent the payment of renewal commissions
 232 or other deferred commissions to any incorporated insurance

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233 agency solely because any of its stockholders has ceased to hold
 234 a license to act as an insurance agent.

235 (3) A ~~resident~~ general lines agent may share commissions
 236 derived from the sale of crop hail or multiple-peril crop
 237 insurance with a production credit association organized under
 238 12 U.S.C.A. ss. 2071-2077 or a federal land bank association
 239 organized under U.S.C.A. ss. 2091-2098 if the association has
 240 specifically approved the insurance activity by its employees.
 241 The amount of commission to be shared shall be determined by the
 242 general lines agent and the company paying the commission.

243 Section 8. Section 626.9272, Florida Statutes, is created
 244 to read:

245 626.9272 Licensing of nonresident surplus lines agents.--

246 (1) The department may, upon written application and the
 247 payment of the fees specified in s. 624.501, issue a nonresident
 248 surplus lines agent license to a nonresident individual licensed
 249 in his or her home state as a resident general lines agent and a
 250 resident surplus lines agent and otherwise qualified under the
 251 laws of this state if, under the laws of the individual's home
 252 state, residents of this state may be licensed in a similar
 253 manner as a nonresident surplus lines agent in that state.

254 (2) The department may not issue a license unless the
 255 applicant satisfies the same licensing requirements under s.
 256 626.927 as required of a resident surplus lines agent. The
 257 department may refuse to issue such license or appointment when
 258 the department has reason to believe that any of the grounds
 259 exist for denial, suspension, or revocation of a license as set
 260 forth in ss. 626.611 and 626.621.

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261 (3) The authority of a nonresident license is limited to
 262 the specific lines of authority granted in the license issued by
 263 the agent's home state and the lines authorized under the
 264 nonresident license by this state.

265 (4) Any individual who holds a nonresident agent's
 266 license, upon becoming a resident of this state, may, for a
 267 period not to exceed 90 days, operate under the nonresident
 268 license and appointment but must become licensed as a resident
 269 agent within that time to continue transacting business in this
 270 state after the 90-day period.

271 (5) Except as provided in this section, nonresident
 272 surplus lines agents are subject to the requirements that apply
 273 to resident surplus lines agents in this state, including ss.
 274 626.913-626.937.

275 (6) If available, the department shall verify a
 276 nonresident applicant's licensing status through the producer
 277 database maintained by the National Association of Insurance
 278 Commissioners, its affiliates, or its subsidiaries.

279 Section 9. Subsection (1) of section 626.929, Florida
 280 Statutes, is amended to read:

281 626.929 Origination, acceptance, placement of surplus
 282 lines business.--

283 (1) A ~~resident~~ general lines agent while licensed and
 284 appointed as a surplus lines agent under this part may originate
 285 surplus lines business and may accept surplus lines business
 286 from any other originating Florida-licensed general lines agent
 287 appointed and licensed as to the kinds of insurance involved and
 288 may compensate such agent therefor.

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289 Section 10. Subsection (1) of section 626.930, Florida
 290 Statutes, is amended to read:

291 626.930 Records of surplus lines agent.--

292 (1) Each surplus lines agent shall keep in his or her
 293 office in this state, or in the agent's state of residence for a
 294 nonresident who does not have an office in this state, a full
 295 and true record for a period of 5 years of each surplus lines
 296 contract, including applications and all certificates, cover
 297 notes, and other forms of confirmation of insurance coverage and
 298 any substitutions thereof or endorsements thereto relative to
 299 said contract procured by the agent and showing such of the
 300 following items as may be applicable:

- 301 (a) Amount of the insurance and perils insured against;
- 302 (b) Brief general description of property insured and
 303 where located;
- 304 (c) Gross premium charged;
- 305 (d) Return premium paid, if any;
- 306 (e) Rate of premium charged upon the several items of
 307 property;
- 308 (f) Effective date of the contract, and the terms thereof;
- 309 (g) Name and post office address of the insured;
- 310 (h) Name and home-office address of the insurer;
- 311 (i) Amount collected from the insured; and
- 312 (j) Other information as may be required by the
 313 department.

314 Section 11. Section 626.933, Florida Statutes, is amended
 315 to read:

316 626.933 Collection of tax and service fee.--If the tax or
 317 service fee payable by a surplus lines agent under this Surplus

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318 Lines Law is not so paid within the time prescribed, the same
 319 shall be recoverable in a suit brought by the department against
 320 the surplus lines agent and the surety or sureties on the bond
 321 filed by the surplus lines agent under s. 626.928. The
 322 department may authorize the Florida Surplus Lines Service
 323 Office to file suit on behalf of the department. All costs and
 324 expenses incurred in a suit brought by the office that are not
 325 recoverable from the agent or surety shall be borne by the
 326 office.

327 Section 12. Paragraphs (a), (b), and (j) of subsection (1)
 328 of section 626.935, Florida Statutes, are amended to read:

329 626.935 Suspension, revocation, or refusal of surplus
 330 lines agent's license.--

331 (1) The department shall deny an application for, suspend,
 332 revoke, or refuse to renew the appointment of a surplus lines
 333 agent and all other licenses and appointments held by the
 334 licensee under this code, upon any of the following grounds:

335 (a) Removal of the licensee's office from the licensee's
 336 state of residence.

337 (b) Removal of the accounts and records of his or her
 338 surplus lines business from this state or the licensee's state
 339 of residence during the period when such accounts and records
 340 are required to be maintained under s. 626.930.

341 (j) For any other applicable cause for which the license
 342 of a general lines agent could be suspended, revoked, or refused
 343 under s. 626.611 or s. 626.621.

344 Section 13. Subsection (3) of section 626.792, Florida
 345 Statutes, is repealed:

346 626.792 Nonresident agents; licensing and restrictions.--

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347 ~~(3) No such applicant or licensee shall have a place of~~
 348 ~~business in this state, nor be an officer, director,~~
 349 ~~stockholder, or partner in any corporation or partnership doing~~
 350 ~~business in this state as a life insurance agency.~~

351 Section 14. Subsection (3) of section 626.835, Florida
 352 Statutes, is repealed:

353 626.835 Nonresident agents; licensing and restrictions.--

354 ~~(3) No such applicant or licensee shall have a place of~~
 355 ~~business in this state, nor be an officer, director,~~
 356 ~~stockholder, or partner in any corporation or partnership doing~~
 357 ~~business in this state as a health insurance agency.~~

358 Section 15. This act shall take effect July 1, 2004.