

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative Berfield offered the following:

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3 **Amendment to Amendment (467323) (with title amendment)**

4 Between lines 725 and 726, insert:

5 Section 43. Subsection (2) of section 624.318, Florida
6 Statutes, is amended to read:

7 624.318 Conduct of examination or investigation; access to
8 records; correction of accounts; appraisals.--

9 (2) Every person being examined or investigated, and its
10 officers, attorneys, employees, agents, and representatives,
11 shall make freely available to the department or office or its
12 examiners or investigators the accounts, records, documents,
13 files, information, assets, and matters in their possession or
14 control relating to the subject of the examination or
15 investigation. An agent who provides other products or services
16 or maintains customer information not related to insurance must

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17 maintain records relating to insurance products and transactions
18 separately if necessary to give the department or office access
19 to such records. If records relating to the insurance
20 transactions are maintained by an agent on premises owned or
21 operated by a third party, the agent and the third party must
22 provide access to the records by the department or office. If
23 any person refuses to provide copies of records, accounts,
24 documents, files, or information requested by the department or
25 office or its examiners or investigators under this subsection,
26 the department or office, or its examiners or investigators, may
27 photocopy or scan the materials.

28 Section 44. Subsection (20) of section 624.501, Florida
29 Statutes, is amended to read:

30 624.501 Filing, license, appointment, and miscellaneous
31 fees.--The department, commission, or office, as appropriate,
32 shall collect in advance, and persons so served shall pay to it
33 in advance, fees, licenses, and miscellaneous charges as
34 follows:

35 (20) ~~Insurance agency or~~ Adjusting firm, original or
36 renewal 3-year license....\$60.00

37 Section 45. Subsection (1) of section 626.016, Florida
38 Statutes, is amended to read:

39 626.016 Powers and duties of department, commission, and
40 office.--

41 (1) The powers and duties of the Chief Financial Officer
42 and the department specified in this part apply only with
43 respect to insurance agents, insurance agencies, managing
44 general agents, reinsurance intermediaries, viatical settlement

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45 brokers, customer representatives, service representatives, and
46 agencies.

47 Section 46. Subsection (7) of section 626.112, Florida
48 Statutes, is amended to read:

49 626.112 License and appointment required; agents, customer
50 representatives, adjusters, insurance agencies, service
51 representatives, managing general agents.--

52 (7)(a) Effective October 1, 2005, no individual, firm,
53 partnership, corporation, association, or any other entity shall
54 act in its own name or under a trade name, directly or
55 indirectly, as an insurance agency, ~~when required to be licensed~~
56 ~~by this subsection~~, unless it complies with s. 626.172 with
57 respect to possessing an insurance agency license or
58 registration for each place of business at which it engages in
59 any activity which may be performed only by a licensed insurance
60 agent. Each insurance agency that was engaged in the business of
61 transacting insurance in this state prior to January 1, 2001,
62 and is wholly owned by insurance agents currently licensed and
63 appointed under this chapter, each incorporated agency whose
64 voting shares are traded on a securities exchange, and each
65 insurance agency whose primary function is offering insurance as
66 a service or member benefit to members of a nonprofit
67 corporation may file an application for registration in lieu of
68 licensure in accordance with s. 626.172(3). An agency engaged in
69 business before October 1, 2005, shall file an application for
70 licensure or registration on or before October 1, 2005.

71 1. If an agency is required to be licensed but fails to
72 file an application for licensure in accordance with this

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73 section, the department shall impose on the agency an
74 administrative penalty in an amount of up to \$10,000.

75 2. If an agency is eligible for registration but fails to
76 file an application for registration or an application for
77 licensure in accordance with this section, the department shall
78 impose on the agency an administrative penalty in an amount of
79 up to \$5,000.

80 (b) A registered ~~An~~ insurance agency shall, as a condition
81 precedent to continuing business, obtain an insurance agency
82 license if the department finds that, with respect to any
83 majority owner, partner, manager, director, officer, or other
84 person who manages or controls the agency, any person has
85 ~~subsequent to the effective date of this act:~~

86 1. Been found guilty of, or has pleaded guilty or nolo
87 contendere to, a felony in this state or any other state
88 relating to the business of insurance or to an insurance agency,
89 without regard to whether a judgment of conviction has been
90 entered by the court having jurisdiction of the cases.

91 2. Employed any individual in a managerial capacity or in
92 a capacity dealing with the public who is under an order of
93 revocation or suspension issued by the department. An insurance
94 agency may request, on forms prescribed by the department,
95 verification of any person's license status. If a request is
96 mailed within 5 working days after an employee is hired, and the
97 employee's license is currently suspended or revoked, the agency
98 shall not be required to obtain a license, if the unlicensed
99 person's employment is immediately terminated.

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100 3. Operated the agency or permitted the agency to be
101 operated in violation of s. 626.747.

102 4. With such frequency as to have made the operation of
103 the agency hazardous to the insurance-buying public or other
104 persons:

105 a. Solicited or handled controlled business. This
106 subparagraph shall not prohibit the licensing of any lending or
107 financing institution or creditor, with respect to insurance
108 only, under credit life or disability insurance policies of
109 borrowers from the institutions, which policies are subject to
110 part IX of chapter 627.

111 b. Misappropriated, converted, or unlawfully withheld
112 moneys belonging to insurers, insureds, beneficiaries, or others
113 and received in the conduct of business under the license.

114 c. Unlawfully rebated, attempted to unlawfully rebate, or
115 unlawfully divided or offered to divide commissions with
116 another.

117 d. Misrepresented any insurance policy or annuity
118 contract, or used deception with regard to any policy or
119 contract, done either in person or by any form of dissemination
120 of information or advertising.

121 e. Violated any provision of this code or any other law
122 applicable to the business of insurance in the course of dealing
123 under the license.

124 f. Violated any lawful order or rule of the department.

125 g. Failed or refused, upon demand, to pay over to any
126 insurer he or she represents or has represented any money coming
127 into his or her hands belonging to the insurer.

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128 h. Violated the provision against twisting as defined in
129 s. 626.9541(1)(1).

130 i. In the conduct of business, engaged in unfair methods
131 of competition or in unfair or deceptive acts or practices, as
132 prohibited under part IX of this chapter.

133 j. Willfully overinsured any property insurance risk.

134 k. Engaged in fraudulent or dishonest practices in the
135 conduct of business arising out of activities related to
136 insurance or the insurance agency.

137 l. Demonstrated lack of fitness or trustworthiness to
138 engage in the business of insurance arising out of activities
139 related to insurance or the insurance agency.

140 m. Authorized or knowingly allowed individuals to transact
141 insurance who were not then licensed as required by this code.

142 5. Knowingly employed any person who within the preceding
143 3 years has had his or her relationship with an agency
144 terminated in accordance with paragraph(d).

145 6. Willfully circumvented the requirements or prohibitions
146 of this code.

147 ~~(c) An agency required to be licensed in accordance with~~
148 ~~paragraph (b) shall remain so licensed for a period of 3 years~~
149 ~~from the date of licensure unless the license is suspended or~~
150 ~~revoked in accordance with law. The department may revoke or~~
151 ~~suspend the agency authority to do business for activities~~
152 ~~occurring during the time the agency is licensed, regardless of~~
153 ~~whether the licensing period has terminated.~~

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154 ~~(d) Notwithstanding the provisions of this subsection, no~~
155 ~~insurance agency shall be required to apply for an agency~~
156 ~~license if such agency can prove to the department that:~~

157 ~~1. The agency is severing its relationship with each~~
158 ~~majority owner, partner, manager, director, officer, or other~~
159 ~~person who managed or controlled such agency and who violated~~
160 ~~any of the provisions of paragraph (b).~~

161 ~~2. No such majority owner, partner, manager, director,~~
162 ~~officer, or other person who managed such agency is to be~~
163 ~~affiliated with such agency in any capacity for a period of 3~~
164 ~~years from the date of such severance.~~

165 Section 47. Section 626.171, Florida Statutes, is amended
166 to read:

167 626.171 Application for license as agent, customer
168 representative, adjuster, service representative, managing
169 general agent, or reinsurance intermediary.--

170 (1) The department or office shall not issue a license as
171 agent, customer representative, adjuster, ~~insurance agency,~~
172 service representative, managing general agent, or reinsurance
173 intermediary to any person except upon written application
174 therefor filed with it, qualification therefor, and payment in
175 advance of all applicable fees. Any such application shall be
176 made under the oath of the applicant and be signed by the
177 applicant. ~~Beginning November 1, 2002,~~ The department shall
178 accept the uniform application for nonresident agent licensing.
179 The department may adopt revised versions of the uniform
180 application by rule.

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

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182 (a) His or her full name, age, social security number,
183 residence address, business address, and mailing address.

184 (b) Proof that he or she has completed or is in the
185 process of completing any required prelicensing course.

186 (c) Whether he or she has been refused or has voluntarily
187 surrendered or has had suspended or revoked a license to solicit
188 insurance by the department or by the supervising officials of
189 any state.

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

194 (e) Proof that the applicant meets the requirements for
195 the type of license for which he or she is applying.

196 (f) Such other or additional information as the department
197 or office may deem proper to enable it to determine the
198 character, experience, ability, and other qualifications of the
199 applicant to hold himself or herself out to the public as an
200 insurance representative.

201 ~~(3) An application for an insurance agency license shall~~
202 ~~be signed by the owner or owners of the agency. If the agency is~~
203 ~~incorporated, the application shall be signed by the president~~
204 ~~and secretary of the corporation.~~

205 (3)(4) Each application shall be accompanied by payment of
206 any applicable fee.

207 (4)(5) An application for a license as an agent, customer
208 representative, adjuster, ~~insurance agency~~, service
209 representative, managing general agent, or reinsurance

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210 intermediary must be accompanied by a set of the individual
211 applicant's fingerprints, or, if the applicant is not an
212 individual, by a set of the fingerprints of the sole proprietor,
213 majority owner, partners, officers, and directors, on a form
214 adopted by rule of the department or commission and accompanied
215 by the fingerprint processing fee set forth in s. 624.501.
216 Fingerprints shall be used to investigate the applicant's
217 qualifications pursuant to s. 626.201. The fingerprints shall be
218 taken by a law enforcement agency or other department-approved
219 entity.

220 ~~(5)(6)~~ The application for license filing fee prescribed
221 in s. 624.501 is not subject to refund.

222 ~~(6)(7)~~ Pursuant to the federal Personal Responsibility and
223 Work Opportunity Reconciliation Act of 1996, each party is
224 required to provide his or her social security number in
225 accordance with this section. Disclosure of social security
226 numbers obtained through this requirement shall be limited to
227 the purpose of administration of the Title IV-D program for
228 child support enforcement.

229 Section 48. Section 626.172, Florida Statutes, is amended
230 to read:

231 626.172 Application for insurance agency license.--

232 (1) The department may issue a license as an insurance
233 agency to any person only after such person files a written
234 application with the department and qualifies for such license.
235 ~~If any majority owner, partner, officer, or director of an~~
236 ~~insurance agency:~~

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237 ~~(a) Has been found guilty of, or has pleaded guilty or~~
238 ~~nolo contendere to, a felony relating to the business of~~
239 ~~insurance in this state or any other state or federal court,~~
240 ~~regardless of whether a judgment of conviction has been entered~~
241 ~~by the court having jurisdiction of such cases; or~~

242 ~~(b) Has been denied a license relating to the business of~~
243 ~~insurance, or has had his or her license to practice or conduct~~
244 ~~any regulated profession, business, or vocation relating to the~~
245 ~~business of insurance revoked or suspended, by this or any other~~
246 ~~state, any nation, any possession or district of the United~~
247 ~~States, or any court, or any lawful agency thereof;~~

248
249 ~~the insurance agency and any subsidiary or branch thereof shall~~
250 ~~obtain a license from the department pursuant to this section.~~

251 (2) An application for an insurance agency license shall
252 be signed by the owner or owners of the agency. If the agency is
253 incorporated, the application shall be signed by the president
254 and secretary of the corporation. The application for an
255 insurance agency license shall include:

256 (a) The name of each majority owner, partner, officer, and
257 director of the insurance agency.

258 (b) The residence address of each person required to be
259 listed in the application under paragraph (a).

260 (c) The name of the insurance agency and its principal
261 business address.

262 (d) The location of each agency office and the name under
263 which each agency office conducts or will conduct business.

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264 (e) The name of each agent to be in full-time charge of an
265 agency office and specification of which office.

266 (f) Fingerprints for each of the following:

267 1. A sole proprietor;

268 2. Each partner;

269 3. Each owner of an unincorporated agency;

270 4. Each owner who directs or participates in the
271 management or control of an incorporated agency whose shares are
272 not traded on a securities exchange;

273 5. Each owner of 10 percent or more of the voting shares
274 of a corporation which are traded on a securities exchange who
275 directs or participates in the management or control of an
276 incorporated agency;

277 6. The president, senior vice-presidents, treasurer,
278 secretary, and directors of the agency; and

279 7. Any other person who directs or participates in the
280 management or control of the agency, whether through the
281 ownership of voting securities, by contract, or otherwise.

282
283 Fingerprints must be taken by a law enforcement agency or other
284 entity approved by the department and must be accompanied by the
285 fingerprint processing fee specified in s. 624.501. However,
286 fingerprints need not be filed for any individual who is
287 currently licensed and appointed under this chapter. ~~The name of~~
288 any person to whom subsection (1) applies.

289 (g) Such additional information as the department requires
290 by promulgated rule to ascertain the trustworthiness and
291 competence of persons required to be listed on the application

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292 and to ascertain that such persons meet the requirements of this
293 code. However, the department may not require that credit or
294 character reports be submitted for persons required to be listed
295 on the application.

296 (h) Beginning July 1, 2004, the department shall accept
297 the uniform application for nonresident agency licensure. The
298 department may adopt by rule revised versions of the uniform
299 application.

300 (3) The department shall issue a registration as an
301 insurance agency to any agency that files a written application
302 with the department and qualifies for registration. The
303 application for registration shall require the agency to provide
304 the same information required for an agency licensed under
305 subsection (2), the agent identification number for each owner
306 who is a licensed agent, proof that the agency qualifies for
307 registration as provided in s. 626.112(7), and any other
308 additional information the department determines is necessary to
309 demonstrate that the agency qualifies for registration; except
310 paragraph (2)(f) shall not apply to corporations whose voting
311 shares are traded on a securities exchange. The application must
312 be signed by the owner or owners of the agency. If the agency is
313 incorporated, the application must be signed by the president
314 and the secretary of the corporation. An agent who owns the
315 agency need not file fingerprints with the department if the
316 agent obtained a license under this chapter, and the license is
317 currently valid.

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318 (a) If an application for registration is denied, the
319 agency must file an application for licensure no later than 30
320 days after the date of the denial of registration.

321 (b) A registered insurance agency must file an application
322 for licensure no later than 30 days after the date that any
323 person who is not a licensed and appointed agent in this state
324 acquires any ownership interest in the agency. If an agency
325 fails to file an application for licensure in compliance with
326 this paragraph, the department shall impose an administrative
327 penalty in an amount of up to \$5,000 on the agency.

328 (c) Sections 626.6115 and 626.6215 do not apply to
329 agencies registered under this subsection.

330 (4) The department shall issue a license or registration
331 to each agency upon approval of the application and each agency
332 shall display the license or registration prominently in a
333 manner that makes it clearly visible to any customer or
334 potential customer who enters the agency.

335 Section 49. Section 626.191, Florida Statutes, is amended
336 to read:

337 626.191 Repeated applications.--The failure of an
338 applicant to secure a license upon an application shall not
339 preclude the applicant ~~him or her~~ from applying again as many
340 times as desired, but the department or office shall not give
341 consideration to or accept any further application by the same
342 individual for a similar license dated or filed within 30 days
343 subsequent to the date the department or office denied the last
344 application, except as provided in s. 626.281.

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345 Section 50. Subsection (1) of section 626.201, Florida
346 Statutes, is amended to read:

347 626.201 Investigation.--

348 (1) The department or office may propound any reasonable
349 interrogatories in addition to those contained in the
350 application, to any applicant for license or appointment, or on
351 any renewal, reinstatement, or continuation thereof, relating to
352 the applicant's ~~his or her~~ qualifications, residence,
353 prospective place of business, and any other matter which, in
354 the opinion of the department or office, is deemed necessary or
355 advisable for the protection of the public and to ascertain the
356 applicant's qualifications.

357 Section 51. Section 626.221, Florida Statutes, is amended
358 to read:

359 626.221 Examination requirement; exemptions.--

360 (1) The department or office shall not issue any license
361 as agent, customer representative, or adjuster to any individual
362 who has not qualified for, taken, and passed to the satisfaction
363 of the department or office a written examination of the scope
364 prescribed in s. 626.241.

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

367 (a) An applicant for renewal of appointment as an agent,
368 customer representative, or adjuster, unless the department or
369 office determines that an examination is necessary to establish
370 the competence or trustworthiness of such applicant.

371 (b) An applicant for limited license as agent for personal
372 accident insurance, baggage and motor vehicle excess liability

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373 insurance, credit life or disability insurance, credit
374 insurance, credit property insurance, in-transit and storage
375 personal property insurance, or communications equipment
376 property insurance or communication equipment inland marine
377 insurance.

378 (c) In the discretion of the department or office, an
379 applicant for reinstatement of license or appointment as an
380 agent, customer representative, or adjuster whose license has
381 been suspended within 2 years prior to the date of application
382 or written request for reinstatement.

383 (d) An applicant who, within 2 years prior to application
384 for license and appointment as an agent, customer
385 representative, or adjuster, was a full-time salaried employee
386 of the department or office and had continuously been such an
387 employee with responsible insurance duties for not less than 2
388 years and who had been a licensee within 2 years prior to
389 employment by the department or office with the same class of
390 license as that being applied for.

391 ~~(e) An individual who qualified as a managing general~~
392 ~~agent, service representative, customer representative, or all-~~
393 ~~lines adjuster by passing a general lines agent's examination~~
394 ~~and subsequently was licensed and appointed and has been~~
395 ~~actively engaged in all lines of property and casualty insurance~~
396 ~~may, upon filing an application for appointment, be licensed and~~
397 ~~appointed as a general lines agent for the same kinds of~~
398 ~~business without taking another examination if he or she holds~~
399 ~~any such currently effective license referred to in this~~

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400 ~~paragraph or held the license within 48 months prior to the date~~
401 ~~of filing the application with the department.~~

402 ~~(e)(f)~~ A person who has been licensed and appointed as a
403 public adjuster, ~~or independent adjuster, or licensed and~~
404 ~~appointed either as an agent or company adjuster as to all~~
405 property, casualty, and surety insurances, may be licensed and
406 appointed as a company adjuster ~~as to any of such insurances, or~~
407 ~~as an independent, adjuster or public adjuster, for these types~~
408 of insurance without additional written examination if an
409 application for licensure ~~appointment~~ is filed with the office
410 within 48 months following the date of cancellation or
411 expiration of the prior appointment.

412 ~~(f)(g)~~ A person who has been licensed as an adjuster for
413 motor vehicle, property and casualty, workers' compensation, and
414 health insurance may be licensed as such an adjuster without
415 additional written examination if his or her application for
416 licensure ~~appointment~~ is filed with the office within 48 months
417 after cancellation or expiration of the prior license.

418 ~~(g)(h)~~ An applicant for temporary license, except as
419 provided in this code.

420 ~~(h)(i)~~ An applicant for a life or health license who has
421 received the designation of chartered life underwriter (CLU)
422 from the American College of Life Underwriters and who has been
423 engaged in the insurance business within the past 4 years,
424 except that such an individual may be examined on pertinent
425 provisions of this code.

426 ~~(i)(j)~~ An applicant for license as a general lines agent,
427 customer representative, or adjuster who has received the

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428 designation of chartered property and casualty underwriter
429 (CPCU) from the American Institute for Property and Liability
430 Underwriters and who has been engaged in the insurance business
431 within the past 4 years, except that such an individual may be
432 examined on pertinent provisions of this code.

433 (j)~~(k)~~ An applicant for license as a customer
434 representative who has the designation of Accredited Advisor in
435 Insurance(AAI) from the Insurance Institute of America, the
436 designation of Certified Insurance Counselor (CIC) from the
437 Society of Certified Insurance Service Counselors, the
438 designation of Accredited Customer Service Representative(ACSR)
439 from the Independent Insurance Agents of America, the
440 designation of Certified Professional Service Representative
441 (CPSR) from the National Foundation for Certified Professional
442 Service Representatives, the designation of Certified Insurance
443 Service Representative (CISR) from the Society of Certified
444 Insurance Service Representatives. Also, an applicant for
445 license as a customer representative who has the designation of
446 Certified Customer Service Representative (CCSR) from the
447 Florida Association of Insurance Agents, or the designation of
448 Registered Customer Service Representative(RCSR) from a
449 regionally accredited postsecondary institution in this state,
450 or the designation of Professional Customer Service
451 Representative (PCSR) from the Professional Career Institute,
452 whose curriculum has been approved by the department and whose
453 curriculum includes comprehensive analysis of basic property and
454 casualty lines of insurance and testing at least equal to that
455 of standard department testing for the customer representative

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456 license. The department shall adopt rules establishing standards
457 for the approval of curriculum.

458 ~~(k)(1)~~ An applicant for license as an adjuster who has the
459 designation of Accredited Claims Adjuster (ACA) from a
460 regionally accredited postsecondary institution in this state,
461 or the designation of Professional Claims Adjuster (PCA) from
462 the Professional Career Institute, whose curriculum has been
463 approved by the office and whose curriculum includes
464 comprehensive analysis of basic property and casualty lines of
465 insurance and testing at least equal to that of standard office
466 testing for the all-lines adjuster license. The commission shall
467 adopt rules establishing standards for the approval of
468 curriculum.

469 ~~(l)(m)~~ An applicant qualifying for a license transfer
470 under s. 626.292, if the applicant:

471 1. Has successfully completed the prelicensing examination
472 requirements in the applicant's previous state which are
473 substantially equivalent to the examination requirements in this
474 state, as determined by the department;

475 2. Has received the designation of chartered property and
476 casualty underwriter (CPCU) from the American Institute for
477 Property and Liability Underwriters and has been engaged in the
478 insurance business within the past 4 years if applying to
479 transfer a general lines agent license; or

480 3. Has received the designation of chartered life
481 underwriter (CLU) from the American College of Life Underwriters
482 and has been engaged in the insurance business within the past 4
483 years, if applying to transfer a life or health agent license.

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484 (n) An applicant for a nonresident agent license, if the
485 applicant:

486 1. Has successfully completed prelicensing examination
487 requirements in the applicant's home state which are
488 substantially equivalent to the examination requirements in this
489 state, as determined by the department, as a requirement for
490 obtaining a resident license in his or her home state;

491 2. Held a general lines agent license, life agent license,
492 or health agent license prior to the time a written examination
493 was required;

494 3. Has received the designation of chartered property and
495 casualty underwriter (CPCU) from the American Institute for
496 Property and Liability Underwriters and has been engaged in the
497 insurance business within the past 4 years, if an applicant for
498 a nonresident license as a general lines agent; or

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

504 (3) An individual who is already licensed as a customer
505 representative shall not be licensed as a general lines agent
506 without application and examination for such license.

507 Section 52. Subsections (1) and (2) of section 626.342,
508 Florida Statutes, are amended to read:

509 626.342 Furnishing supplies to unlicensed life, health, or
510 general lines agent prohibited; civil liability.--

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511 (1) An insurer, a managing general agent, an insurance
512 agency, or an agent, directly or through any representative, may
513 not furnish to any agent any blank forms, applications,
514 stationery, or other supplies to be used in soliciting,
515 negotiating, or effecting contracts of insurance on its behalf
516 unless such blank forms, applications, stationery, or other
517 supplies relate to a class of business with respect to which the
518 agent is licensed and appointed, whether for that insurer or
519 another insurer.

520 (2) Any insurer, general agent, insurance agency, or agent
521 who furnishes any of the supplies specified in subsection (1) to
522 any agent or prospective agent not appointed to represent the
523 insurer and who accepts from or writes any insurance business
524 for such agent or agency is subject to civil liability to any
525 insured of such insurer to the same extent and in the same
526 manner as if such agent or prospective agent had been appointed
527 or authorized by the insurer or such agent to act in its or his
528 or her behalf. The provisions of this subsection do not apply to
529 insurance risk apportionment plans under s. 627.351.

530 Section 53. Section 626.382, Florida Statutes, is amended
531 to read:

532 626.382 Continuation, expiration of license; insurance
533 agencies.--The license of any insurance agency shall be issued
534 for a period of 3 years, ~~subject to the payment of the fees~~
535 ~~prescribed in s. 624.501~~, and shall continue in force until
536 canceled, suspended, revoked, or otherwise terminated. Renewal
537 requests shall be made by submitting to the department a form
538 adopted by departmental rule.

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539 Section 54. Subsection (3) of section 626.451, Florida
540 Statutes, is amended to read:

541 626.451 Appointment of agent or other representative.--

542 (3) By authorizing the effectuation of the appointment of
543 an agent, adjuster, service representative, customer
544 representative, or managing general agent the appointing entity
545 is thereby certifying to the department that it is willing to be
546 bound by the acts of the agent, adjuster, service
547 representative, customer representative, or managing general
548 agent, within the scope of the licensee's employment or
549 appointment.

550 Section 55. Section 626.536, Florida Statutes, is amended
551 to read:

552 626.536 Reporting of actions.--Each ~~An~~ agent and insurance
553 agency shall submit to the department, within 30 days after the
554 final disposition of any administrative action taken against the
555 agent by a governmental agency in this or any other state or
556 jurisdiction relating to the business of insurance, the sale of
557 securities, or activity involving fraud, dishonesty,
558 trustworthiness, or breach of a fiduciary duty, a copy of the
559 order, consent to order, or other relevant legal documents. The
560 department may adopt rules implementing the provisions of this
561 section.

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

564 626.561 Reporting and accounting for funds.--

565 (1) All premiums, return premiums, or other funds
566 belonging to insurers or others received by an insurance agency,

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567 agent, customer representative, or adjuster in transactions
568 under the ~~his or her~~ license are trust funds received by the
569 licensee in a fiduciary capacity. An agent or insurance agency
570 shall keep the funds belonging to each insurer for which an
571 agent ~~he or she~~ is not appointed, other than a surplus lines
572 insurer, in a separate account so as to allow the department or
573 office to properly audit such funds. The licensee in the
574 applicable regular course of business shall account for and pay
575 the same to the insurer, insured, or other person entitled
576 thereto.

577 (3) Any insurance agency, agent, customer representative,
578 or adjuster who, not being lawfully entitled thereto, either
579 temporarily or permanently diverts or misappropriates such funds
580 or any portion thereof or deprives the other person of a benefit
581 therefrom commits the offense specified below:

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

585 (b) If the funds diverted or misappropriated are more than
586 \$300, but less than \$20,000, a felony of the third degree,
587 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

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594 Section 57. Subsections (1) and (2) of section 626.572,
595 Florida Statutes, are amended to read:

596 626.572 Rebating; when allowed.--

597 (1) No insurance agency or agent shall rebate any portion
598 of a ~~his or her~~ commission except as follows:

599 (a) The rebate shall be available to all insureds in the
600 same actuarial class.

601 (b) The rebate shall be in accordance with a rebating
602 schedule filed by the agent with the insurer issuing the policy
603 to which the rebate applies.

604 (c) The rebating schedule shall be uniformly applied in
605 that all insureds who purchase the same policy through the agent
606 for the same amount of insurance receive the same percentage
607 rebate.

608 (d) Rebates shall not be given to an insured with respect
609 to a policy purchased from an insurer that prohibits its agents
610 from rebating commissions.

611 (e) The rebate schedule is prominently displayed in public
612 view in the agent's place of doing business and a copy is
613 available to insureds on request at no charge.

614 (f) The age, sex, place of residence, race, nationality,
615 ethnic origin, marital status, or occupation of the insured or
616 location of the risk is not utilized in determining the
617 percentage of the rebate or whether a rebate is available.

618 (2) The insurance agency or agent shall maintain a copy of
619 all rebate schedules for the most recent 5 years and their
620 effective dates.

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

623 626.601 Improper conduct; inquiry; fingerprinting.--

624 (1) The department or office may, upon its own motion or
625 upon a written complaint signed by any interested person and
626 filed with the department or office, inquire into any alleged
627 improper conduct of any licensed insurance agency, agent,
628 adjuster, service representative, managing general agent,
629 customer representative, title insurance agent, title insurance
630 agency, continuing education course provider, instructor, school
631 official, or monitor group under this code. The department or
632 office may thereafter initiate an investigation of any such
633 licensee if it has reasonable cause to believe that the licensee
634 has violated any provision of the insurance code. During the
635 course of its investigation, the department or office shall
636 contact the licensee being investigated unless it determines
637 that contacting such person could jeopardize the successful
638 completion of the investigation or cause injury to the public.

639 Section 59. Section 626.602, Florida Statutes, is created
640 to read:

641 626.602 Insurance agency names; disapproval.--The
642 department may disapprove the use of any true or fictitious
643 name, other than the bona fide natural name of an individual, by
644 any insurance agency on any of the following grounds:

645 (1) The name is an interference with or is too similar to
646 a name already filed and in use by another agency or insurer;

647 (2) The use of the name may mislead the public in any
648 respect;

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649 (3) The name states or implies that the agency is an
650 insurer, motor club, hospital service plan, state or federal
651 agency, charitable organization, or entity that primarily
652 provides advice and counsel rather than sells or solicits
653 insurance, or is entitled to engage in insurance activities not
654 permitted under licenses held or applied for; or

655 (4) The name states or implies that the agency is an
656 underwriter. This subsection does not prevent a natural person
657 who is a life agent from describing himself or herself as an
658 underwriter or from using the designation "chartered life
659 underwriter" or who is a general lines agent from using the
660 designation "chartered property and casualty underwriter," if
661 the person is entitled to use such terms to describe himself or
662 herself.

663 Section 60. Section 626.6115, Florida Statutes, is amended
664 to read:

665 626.6115 Grounds for compulsory refusal, suspension, or
666 revocation of insurance agency license.--The department shall
667 deny, suspend, revoke, or refuse to continue the license of any
668 insurance agency if it finds, as to any insurance agency or as
669 to any majority owner, partner, manager, director, officer, or
670 other person who manages or controls such agency, that any
671 ~~either one or both~~ of the following applicable grounds exist:

672 (1) Lack by the agency of one or more of the
673 qualifications for the license as specified in this code;-

674 (2) Material misstatement, misrepresentation, or fraud in
675 obtaining the license or in attempting to obtain the license; or

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676 (3) Denial, suspension, or revocation of a license to
677 practice or conduct any regulated profession, business, or
678 vocation relating to the business of insurance by this state,
679 any other state, any nation, any possession or district of the
680 United States, any court, or any lawful agency thereof. However,
681 grounds for administrative action against a licensed agency do
682 not in and of themselves constitute grounds for action against
683 any other licensed agency, including an agency that owns, is
684 under common ownership with, or is owned by, in whole or in
685 part, the agency for which grounds for administrative action
686 exist.

687 Section 61. Subsection (6) is added to section 626.6215,
688 Florida Statutes, to read:

689 626.6215 Grounds for discretionary refusal, suspension, or
690 revocation of insurance agency license.--The department may, in
691 its discretion, deny, suspend, revoke, or refuse to continue the
692 license of any insurance agency if it finds, as to any insurance
693 agency or as to any majority owner, partner, manager, director,
694 officer, or other person who manages or controls such insurance
695 agency, that any one or more of the following applicable grounds
696 exist:

697 (6) Failure to take corrective action or report a
698 violation to the department within 30 days after an individual
699 licensee's violation is known or should have been known by one
700 or more of the partners, officers, or managers acting on behalf
701 of the agency. However, grounds for administrative action
702 against a licensed agency do not in and of themselves constitute
703 grounds for action against any other licensed agency, including

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704 an agency that owns, is under common ownership with, or is owned
705 by, in whole or in part, the agency for which grounds for
706 administrative action exist.

707 Section 62. Subsections (1) and (2) of section 626.641,
708 Florida Statutes, are amended to read:

709 626.641 Duration of suspension or revocation.--

710 (1) The department or office shall, in its order
711 suspending a license or appointment or in its order suspending
712 the eligibility of a person to hold or apply for such license or
713 appointment, specify the period during which the suspension is
714 to be in effect; but such period shall not exceed 2 years. The
715 license, appointment, or eligibility shall remain suspended
716 during the period so specified, subject, however, to any
717 rescission or modification of the order by the department or
718 office, or modification or reversal thereof by the court, prior
719 to expiration of the suspension period. A license, appointment,
720 or eligibility which has been suspended shall not be reinstated
721 except upon request for such reinstatement; but the department
722 or office shall not grant such reinstatement if it finds that
723 the circumstance or circumstances for which the license,
724 appointment, or eligibility was suspended still exist or are
725 likely to recur or if grounds exist to deny the license or
726 appointment pursuant to s. 626.611, s. 626.6115, s. 626.621, or
727 s. 626.6215.

728 (2) No person or appointee under any license or
729 appointment revoked by the department or office, nor any person
730 whose eligibility to hold same has been revoked by the
731 department or office, shall have the right to apply for another

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732 license or appointment under this code within 2 years from the
733 effective date of such revocation or, if judicial review of such
734 revocation is sought, within 2 years from the date of final
735 court order or decree affirming the revocation. An applicant for
736 another license or appointment pursuant to this subsection must
737 qualify for licensure in the same manner as a first-time
738 applicant and is subject to denial of the application pursuant
739 to s. 626.611, s. 626.6115, s. 626.621, or s. 626.6215. The
740 department or office shall not, however, grant a new license or
741 appointment or reinstate eligibility to hold such license or
742 appointment if it finds that the circumstance or circumstances
743 for which the eligibility was revoked or for which the previous
744 license or appointment was revoked still exist or are likely to
745 recur; if an individual's license as agent or customer
746 representative or eligibility to hold same has been revoked upon
747 the ground specified in s. 626.611(12), the department or office
748 shall refuse to grant or issue any new license or appointment so
749 applied for.

750 Section 63. Section 626.7315, Florida Statutes, is amended
751 to read:

752 626.7315 Prohibition against the unlicensed transaction of
753 general lines insurance.--With respect to any line of authority
754 as defined in s. 626.015(5)~~(6)~~, no individual shall, unless
755 licensed as a general lines agent:

756 (1) Solicit insurance or procure applications therefor;

757 (2) In this state, receive or issue a receipt for any
758 money on account of or for any insurer, or receive or issue a
759 receipt for money from other persons to be transmitted to any

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760 insurer for a policy, contract, or certificate of insurance or
761 any renewal thereof, even though the policy, certificate, or
762 contract is not signed by him or her as agent or representative
763 of the insurer, except as provided in s. 626.0428(1);

764 (3) Directly or indirectly represent himself or herself to
765 be an agent of any insurer or as an agent, to collect or forward
766 any insurance premium, or to solicit, negotiate, effect,
767 procure, receive, deliver, or forward, directly or indirectly,
768 any insurance contract or renewal thereof or any endorsement
769 relating to an insurance contract, or attempt to effect the
770 same, of property or insurable business activities or interests,
771 located in this state;

772 (4) In this state, engage or hold himself or herself out
773 as engaging in the business of analyzing or abstracting
774 insurance policies or of counseling or advising or giving
775 opinions, other than as a licensed attorney at law, relative to
776 insurance or insurance contracts, for fee, commission, or other
777 compensation, other than as a salaried bona fide full-time
778 employee so counseling and advising his or her employer relative
779 to the insurance interests of the employer and of the
780 subsidiaries or business affiliates of the employer;

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

784 (6) Solicit, negotiate, or in any way, directly or
785 indirectly, effect insurance contracts, if a member of a
786 partnership or association, or a stockholder, officer, or agent

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787 of a corporation which holds an agency appointment from any
788 insurer; or

789 (7) Receive or transmit applications for suretyship, or
790 receive for delivery bonds founded on applications forwarded
791 from this state, or otherwise procure suretyship to be effected
792 by a surety insurer upon the bonds of persons in this state or
793 upon bonds given to persons in this state.

794 Section 64. Subsection (1) of section 626.7351, Florida
795 Statutes, is amended to read:

796 626.7351 Qualifications for customer representative's
797 license.--The department shall not grant or issue a license as
798 customer representative to any individual found by it to be
799 untrustworthy or incompetent, or who does not meet each of the
800 following qualifications:

801 (1) The applicant is a natural person 18 years of age or
802 older.

803 Section 65. Paragraph (c) of subsection (2) of section
804 626.292, Florida Statutes, is amended to read:

805 626.292 Transfer of license from another state.--

806 (2) To qualify for a license transfer, an individual
807 applicant must meet the following requirements:

808 (c) The individual shall submit a completed application
809 for this state which is received by the department within 90
810 days after the date the individual became a resident of this
811 state, along with payment of the applicable fees set forth in s.
812 624.501 and submission of the following documents:

813 1. A certification issued by the appropriate official of
814 the applicant's home state identifying the type of license and

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815 lines of authority under the license and stating that, at the
816 time the license from the home state was canceled, the applicant
817 was in good standing in that state or that the state's Producer
818 Database records, maintained by the National Association of
819 Insurance Commissioners, its affiliates, or subsidiaries,
820 indicate that the agent is or was licensed in good standing for
821 the line of authority requested.

822 2. A set of the individual applicant's fingerprints in
823 accordance with s. 626.171(4)(5).

824 Section 66. Section 626.592, Florida Statutes, is
825 repealed.

826 Section 67. Subsection (1) of section 626.747, Florida
827 Statutes, is amended to read:

828 626.747 Branch agencies.--

829 (1) Each branch place of business established by an agent
830 or agency, firm, corporation, or association shall be in the
831 active full-time charge of a licensed general lines agent who is
832 appointed to represent one or more insurers. Any agent or
833 agency, firm, corporation, or association which has established
834 one or more branch places of business shall be required to have
835 at least one licensed general lines agent or life or health
836 agent who is appointed to represent one or more insurers at each
837 location of the agency, including its headquarters location.

838
839 ===== T I T L E A M E N D M E N T =====

840 After line 791, insert:
841 amending s. 624.318, F.S.; authorizing the Department of
842 Financial Services and the Office of Insurance Regulation to

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843 scan or photocopy records, accounts, documents, files, or other
844 materials under specified circumstances; amending s. 624.501,
845 F.S.; clarifying a license fee; amending s. 626.016, F.S.;
846 subjecting insurance agencies to regulation by the Chief
847 Financial Officer; amending s. 626.112, F.S.; delaying the
848 effective date by which agencies must obtain a license;
849 providing that an agency may file for registration in lieu of
850 licensure, under specified conditions; imposing a fine on any
851 agency that fails to timely apply for licensure or registration;
852 deleting provisions requiring certain licensed agencies to
853 remain licensed under certain circumstances, providing for
854 revocation or suspension of licenses, and exceptions from
855 certain license application requirements; amending s. 626.171,
856 F.S.; specifying licensure and registration application
857 requirements for insurance entities other than insurance
858 agencies; deleting a provision applying to insurance agencies;
859 amending s. 626.172, F.S.; revising insurance agency licensure
860 application requirements; amending s. 626.191, F.S.; clarifying
861 repeated application provisions; amending s. 626.201, F.S.;
862 clarifying a department-authorized interrogatories provision;
863 amending s. 626.221, F.S.; deleting provisions that permit
864 certain persons who previously qualified as managing general
865 agents, service or customer representatives, or all-lines
866 adjusters to be licensed as general lines agents without an
867 examination; providing for certain adjusters to be relicensed
868 without examination; amending s. 626.342, F.S.; including
869 insurance agencies under provisions prohibiting furnishing
870 supplies to certain unlicensed agents and imposing civil

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HOUSE AMENDMENT

Bill No. CS/SB 2588

Amendment No. (for drafter's use only)

871 liability under certain circumstances; amending s. 626.382,
872 F.S.; requiring licensure renewal application forms to be
873 adopted; amending s. 626.451, F.S.; clarifying the effect of
874 appointment; amending s. 626.536, F.S.; including insurance
875 agencies under an action-reporting requirement; amending s.
876 626.561, F.S.; including insurance agencies under provisions
877 providing funds reporting and accounting requirements and
878 imposing criminal penalties; amending s. 626.572, F.S.;
879 including insurance agencies under provisions prohibiting
880 rebating; amending s. 626.601, F.S.; including insurance
881 agencies under provisions authorizing the department to inquire
882 into improper conduct; creating s. 626.602, F.S.; authorizing
883 the Department of Financial Services to disapprove the use of
884 certain names under certain circumstances; amending s. 626.6115,
885 F.S.; providing an additional ground for the department to take
886 compulsory adverse insurance agency license actions; providing
887 that grounds for adverse action against a licensed agency do not
888 necessarily constitute grounds for adverse action against
889 another licensed agency, even if there is common ownership;
890 amending s. 626.6215, F.S.; providing an additional ground for
891 the department to take discretionary adverse insurance agency
892 license actions; providing that grounds for adverse action
893 against a licensed agency do not necessarily constitute grounds
894 for adverse action against another licensed agency, even if
895 there is common ownership; amending s. 626.641, F.S.; providing
896 additional criteria for duration of license suspensions or
897 revocations; amending s. 626.7315, F.S.; correcting a cross
898 reference; amending s. 626.7351, F.S.; providing an age

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HOUSE AMENDMENT

Bill No. CS/SB 2588

Amendment No. (for drafter's use only)

899 requirement for customer representatives; amending s. 626.292,
900 F.S.; correcting cross references; repealing s. 626.592, F.S.,
901 relating to primary agents; amending s. 626.747, F.S.; requiring
902 each branch agency to have a licensed general lines agent or
903 life or health agents;

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