

1 A bill to be entitled
2 An act relating to insurance agents and agencies; amending
3 s. 624.317, F.S.; including insurance agencies among
4 entities the Department of Financial Services is
5 authorized to investigate; amending s. 624.501, F.S.;
6 clarifying a license fee; amending s. 626.016, F.S.;
7 including insurance agencies among entities subject to
8 regulation by the Chief Financial Officer; amending s.
9 626.022, F.S.; providing application; amending s. 626.025,
10 F.S.; correcting cross references; amending s. 626.112,
11 F.S.; delaying the effective date by which agencies must
12 obtain a license; providing that an agency may file for
13 registration in lieu of licensure, under specified
14 conditions; imposing a fine on any agency that fails to
15 timely apply for licensure or registration; deleting
16 certain agency licensure requirement provisions; amending
17 s. 626.171, F.S.; specifying licensure and registration
18 application requirements for insurance entities other than
19 insurance agencies; deleting a provision applying to
20 insurance agency license application requirements;
21 amending s. 626.172, F.S.; revising insurance agency
22 licensure application requirements; providing procedures
23 and limitations; providing duties of the department;
24 amending ss. 626.292 and 626.321, F.S.; correcting cross
25 references, to conform; amending s. 626.342, F.S.;
26 including insurance agencies under provisions prohibiting
27 furnishing supplies to certain unlicensed agents and
28 imposing civil liability under certain circumstances;

29 | amending s. 626.382, F.S.; providing for renewal of
30 | licenses; amending s. 626.536, F.S.; including insurance
31 | agencies under an action reporting requirement; amending
32 | s. 626.561, F.S.; including insurance agencies under
33 | provisions providing funds reporting and accounting
34 | requirements and imposing criminal penalties; amending s.
35 | 626.572, F.S.; including insurance agencies under
36 | provisions prohibiting rebating under certain
37 | circumstances; amending s. 626.601, F.S.; including
38 | insurance agencies under provisions authorizing the
39 | department to inquire into improper conduct; creating s.
40 | 626.602, F.S.; authorizing the department to disapprove
41 | the use of certain names under certain circumstances;
42 | amending s. 626.6115, F.S.; providing an additional ground
43 | for the department to take compulsory adverse insurance
44 | agency license actions; providing that the existence of
45 | grounds for adverse action against a licensed agency does
46 | not constitute grounds for adverse action against another
47 | licensed agency; amending s. 626.6215, F.S.; providing an
48 | additional ground for the department to take discretionary
49 | adverse insurance agency license actions; providing that
50 | the existence of grounds for adverse action against a
51 | licensed agency does not constitute grounds for adverse
52 | action against another licensed agency; amending s.
53 | 626.747, F.S.; revising agent requirements for branch
54 | agencies to include life or health agents; amending ss.
55 | 626.7355 and 626.8411, F.S.; deleting cross references, to

56 conform; repealing s. 626.592, F.S., relating to primary
 57 agents; providing an effective date.

58

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

60

61 Section 1. Subsection (1) of section 624.317, Florida
 62 Statutes, is amended to read:

63 624.317 Investigation of agents, agencies, adjusters,
 64 administrators, service companies, and others.--If it has reason
 65 to believe that any person has violated or is violating any
 66 provision of this code, or upon the written complaint signed by
 67 any interested person indicating that any such violation may
 68 exist:

69 (1) The department shall conduct such investigation as it
 70 deems necessary of the accounts, records, documents, and
 71 transactions pertaining to or affecting the insurance affairs of
 72 any general agent, surplus lines agent, adjuster, managing
 73 general agent, insurance agent, insurance agency, customer
 74 representative, service representative, or other person subject
 75 to its jurisdiction, subject to the requirements of s. 626.601.

76 Section 2. Subsection (20) of section 624.501, Florida
 77 Statutes, is amended to read:

78 624.501 Filing, license, appointment, and miscellaneous
 79 fees.--The department, commission, or office, as appropriate,
 80 shall collect in advance, and persons so served shall pay to it
 81 in advance, fees, licenses, and miscellaneous charges as
 82 follows:

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

85 Section 3. Subsection (1) of section 626.016, Florida
 86 Statutes, is amended to read:

87 626.016 Powers and duties of department, commission, and
 88 office.--

89 (1) The powers and duties of the Chief Financial Officer
 90 and the department specified in this part apply only with
 91 respect to insurance agents, insurance agencies, managing
 92 general agents, insurance adjusters, reinsurance intermediaries,
 93 viatical settlement brokers, customer representatives, service
 94 representatives, and agencies.

95 Section 4. Subsection (4) is added to section 626.022,
 96 Florida Statutes, to read:

97 626.022 Scope of part.--

98 (4) Provisions of this part that apply to general lines
 99 agents and applicants also apply to personal lines agents and
 100 applicants, except where otherwise provided.

101 Section 5. Subsections (7) and (12) of section 626.025,
 102 Florida Statutes, are amended, and subsections (13), (14), and
 103 (15) of said section are renumbered as subsections (12), (13),
 104 and (14), respectively, to read:

105 626.025 Consumer protections.--To transact insurance,
 106 agents shall comply with consumer protection laws, including the
 107 following, as applicable:

108 (7) Required licensure or registration of ~~certain~~
 109 insurance agencies under s. 626.112 ~~626.172~~.

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110 ~~(12) Designation of a primary agent by an insurance agency~~
111 ~~under s. 626.592.~~

112 Section 6. Subsection (7) of section 626.112, Florida
113 Statutes, is amended to read:

114 626.112 License and appointment required; agents, customer
115 representatives, adjusters, insurance agencies, service
116 representatives, managing general agents.--

117 (7)(a) Effective October 1, 2006, no individual, firm,
118 partnership, corporation, association, or any other entity shall
119 act in its own name or under a trade name, directly or
120 indirectly, as an insurance agency, ~~when required to be licensed~~
121 ~~by this subsection,~~ unless it complies with s. 626.172 with
122 respect to possessing an insurance agency license for each place
123 of business at which it engages in any activity which may be
124 performed only by a licensed insurance agent. Each agency
125 engaged in business in this state before January 1, 2001, which
126 is wholly owned by insurance agents currently licensed and
127 appointed under this chapter, each incorporated agency whose
128 voting shares are traded on a securities exchange, and each
129 agency whose primary function is offering insurance as a service
130 or member benefit to members of a nonprofit corporation may file
131 an application for registration in lieu of licensure in
132 accordance with s. 626.172(3). Each agency engaged in business
133 before October 1, 2006, shall file an application for licensure
134 or registration on or before October 1, 2006.

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

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

139 2. If an agency is eligible for registration but fails to
 140 file an application for registration or an application for
 141 licensure in accordance with this section, the department shall
 142 impose on the agency an administrative penalty in an amount of
 143 up to \$5,000.

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

150 1. Been found guilty of, or has pleaded guilty or nolo
 151 contendere to, a felony in this state or any other state
 152 relating to the business of insurance or to an insurance agency,
 153 without regard to whether a judgment of conviction has been
 154 entered by the court having jurisdiction of the cases.

155 2. Employed any individual in a managerial capacity or in
 156 a capacity dealing with the public who is under an order of
 157 revocation or suspension issued by the department. An insurance
 158 agency may request, on forms prescribed by the department,
 159 verification of any person's license status. If a request is
 160 mailed within 5 working days after an employee is hired, and the
 161 employee's license is currently suspended or revoked, the agency
 162 shall not be required to obtain a license, if the unlicensed
 163 person's employment is immediately terminated.

164 3. Operated the agency or permitted the agency to be
165 operated in violation of s. 626.747.

166 4. With such frequency as to have made the operation of
167 the agency hazardous to the insurance-buying public or other
168 persons:

169 a. Solicited or handled controlled business. This
170 subparagraph shall not prohibit the licensing of any lending or
171 financing institution or creditor, with respect to insurance
172 only, under credit life or disability insurance policies of
173 borrowers from the institutions, which policies are subject to
174 part IX of chapter 627.

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

178 c. Unlawfully rebated, attempted to unlawfully rebate, or
179 unlawfully divided or offered to divide commissions with
180 another.

181 d. Misrepresented any insurance policy or annuity
182 contract, or used deception with regard to any policy or
183 contract, done either in person or by any form of dissemination
184 of information or advertising.

185 e. Violated any provision of this code or any other law
186 applicable to the business of insurance in the course of dealing
187 under the license.

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

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

192 h. Violated the provision against twisting as defined in
 193 s. 626.9541(1)(1).

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

197 j. Willfully overinsured any property insurance risk.

198 k. Engaged in fraudulent or dishonest practices in the
 199 conduct of business arising out of activities related to
 200 insurance or the insurance agency.

201 l. Demonstrated lack of fitness or trustworthiness to
 202 engage in the business of insurance arising out of activities
 203 related to insurance or the insurance agency.

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

206 5. Knowingly employed any person who within the preceding
 207 3 years has had his or her relationship with an agency
 208 terminated in accordance with paragraph (d).

209 6. Willfully circumvented the requirements or prohibitions
 210 of this code.

211 ~~(c) An agency required to be licensed in accordance with~~
 212 ~~paragraph (b) shall remain so licensed for a period of 3 years~~
 213 ~~from the date of licensure unless the license is suspended or~~
 214 ~~revoked in accordance with law. The department may revoke or~~
 215 ~~suspend the agency authority to do business for activities~~
 216 ~~occurring during the time the agency is licensed, regardless of~~
 217 ~~whether the licensing period has terminated.~~

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

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

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

229 Section 7. Section 626.171, Florida Statutes, is amended
 230 to read:

231 626.171 Application for license as an agent, customer
 232 representative, adjuster, service representative, managing
 233 general agent, or reinsurance intermediary.--

234 (1) The department shall not issue a license as an agent,
 235 customer representative, adjuster, ~~insurance agency,~~ service
 236 representative, managing general agent, or reinsurance
 237 intermediary to any person except upon written application
 238 therefor filed with it, qualification therefor, and payment in
 239 advance of all applicable fees. Any such application shall be
 240 made under the oath of the applicant and be signed by the
 241 applicant. ~~Beginning November 1, 2002,~~ The department shall
 242 accept the uniform application for nonresident agent licensing.
 243 The department may adopt revised versions of the uniform
 244 application by rule.

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

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

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

250 (c) Whether he or she has been refused or has voluntarily
 251 surrendered or has had suspended or revoked a license to solicit
 252 insurance by the department or by the supervising officials of
 253 any state.

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

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

260 (f) Such other or additional information as the department
 261 may deem proper to enable it to determine the character,
 262 experience, ability, and other qualifications of the applicant
 263 to hold himself or herself out to the public as an insurance
 264 representative.

265 ~~(3) An application for an insurance agency license shall~~
 266 ~~be signed by the owner or owners of the agency. If the agency is~~
 267 ~~incorporated, the application shall be signed by the president~~
 268 ~~and secretary of the corporation.~~

269 (3)~~(4)~~ Each application shall be accompanied by payment of
 270 any applicable fee.

271 (4)~~(5)~~ An application for a license as an agent, customer
 272 representative, adjuster, ~~insurance agency~~, service
 273 representative, managing general agent, or reinsurance

274 intermediary must be accompanied by a set of the individual
 275 applicant's fingerprints, or, if the applicant is not an
 276 individual, by a set of the fingerprints of the sole proprietor,
 277 majority owner, partners, officers, and directors, on a form
 278 adopted by rule of the department and accompanied by the
 279 fingerprint processing fee set forth in s. 624.501. Fingerprints
 280 shall be used to investigate the applicant's qualifications
 281 pursuant to s. 626.201. The fingerprints shall be taken by a law
 282 enforcement agency or other department-approved entity.

283 ~~(5)(6)~~ The application for license filing fee prescribed
 284 in s. 624.501 is not subject to refund.

285 ~~(6)(7)~~ Pursuant to the federal Personal Responsibility and
 286 Work Opportunity Reconciliation Act of 1996, each party is
 287 required to provide his or her social security number in
 288 accordance with this section. Disclosure of social security
 289 numbers obtained through this requirement shall be limited to
 290 the purpose of administration of the Title IV-D program for
 291 child support enforcement.

292 Section 8. Section 626.172, Florida Statutes, is amended
 293 to read:

294 626.172 Application for insurance agency license.--

295 (1) The department may issue a license as an insurance
 296 agency to any person only after such person files a written
 297 application with the department and qualifies for such license.
 298 ~~If any majority owner, partner, officer, or director of an~~
 299 ~~insurance agency:~~

300 ~~(a) Has been found guilty of, or has pleaded guilty or~~
 301 ~~nolo contendere to, a felony relating to the business of~~

302 ~~insurance in this state or any other state or federal court,~~
 303 ~~regardless of whether a judgment of conviction has been entered~~
 304 ~~by the court having jurisdiction of such cases; or~~

305 ~~(b) Has been denied a license relating to the business of~~
 306 ~~insurance, or has had his or her license to practice or conduct~~
 307 ~~any regulated profession, business, or vocation relating to the~~
 308 ~~business of insurance revoked or suspended, by this or any other~~
 309 ~~state, any nation, any possession or district of the United~~
 310 ~~States, or any court, or any lawful agency thereof;~~

311
 312 ~~the insurance agency and any subsidiary or branch thereof shall~~
 313 ~~obtain a license from the department pursuant to this section.~~

314 (2) An application for an insurance agency license shall
 315 be signed by the owner or owners of the agency. If the agency is
 316 incorporated, the application shall be signed by the president
 317 and secretary of the corporation. The application for an
 318 insurance agency license shall include:

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

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

323 (c) The name of the insurance agency and its principal
 324 business address.

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

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

329 (f) The fingerprints of each of the following:

- 330 1. A sole proprietor.
 331 2. Each partner.
 332 3. Each owner of an unincorporated agency.
 333 4. Each owner who directs or participates in the
 334 management or control of an incorporated agency whose shares are
 335 not traded on a securities exchange.
 336 5. Each owner of 10 percent or more of the voting shares
 337 of a corporation which are traded on a securities exchange who
 338 directs or participates in the management or control of an
 339 incorporated agency.
 340 6. The president, senior vice-presidents, treasurer,
 341 secretary, and directors of the agency.
 342 7. Any other person who directs or participates in the
 343 management or control of the agency, whether through the
 344 ownership of voting securities, by contract, or otherwise.

345
 346 Fingerprints must be taken by a law enforcement agency or other
 347 entity approved by the department and must be accompanied by the
 348 fingerprint processing fee specified in s. 624.501. However,
 349 fingerprints need not be filed for any individual who is
 350 currently licensed and appointed under this chapter. This
 351 paragraph does not apply to corporations whose voting shares are
 352 traded on a securities exchange.

353 ~~The name of any person to whom subsection (1) applies.~~

354 (g) Such additional information as the department requires
 355 by ~~promulgated~~ rule to ascertain the trustworthiness and
 356 competence of persons required to be listed on the application
 357 and to ascertain that such persons meet the requirements of this

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358 code. However, the department may not require that credit or
359 character reports be submitted for persons required to be listed
360 on the application.

361 (h) Beginning October 1, 2005, the department shall accept
362 the uniform application for nonresident agency licensure. The
363 department may adopt by rule revised versions of the uniform
364 application.

365 (3) The department shall issue a registration as an
366 insurance agency to any agency that files a written application
367 with the department and qualifies for registration. The
368 application for registration shall require the agency to provide
369 the same information required for an agency licensed under
370 subsection (2), the agent identification number for each owner
371 who is a licensed agent, proof that the agency qualifies for
372 registration as provided in s. 626.112(7), and any other
373 additional information that the department determines is
374 necessary in order to demonstrate that the agency qualifies for
375 registration. The application must be signed by the owner or
376 owners of the agency. If the agency is incorporated, the
377 application must be signed by the president and the secretary of
378 the corporation. An agent who owns the agency need not file
379 fingerprints with the department if the agent obtained a license
380 under this chapter, and the license is currently valid.

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

384 (b) A registered insurance agency must file an application
385 for licensure no later than 30 days after the date that any

386 person who is not a licensed and appointed agent in this state
387 acquires any ownership interest in the agency. If an agency
388 fails to file an application for licensure in compliance with
389 this paragraph, the department shall impose an administrative
390 penalty in an amount of up to \$5,000 on the agency.

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

393 (4) The department shall issue a license or registration
394 to each agency upon approval of the application and each agency
395 shall display the license or registration prominently in a
396 manner that makes it clearly visible to any customer or
397 potential customer who enters the agency.

398 Section 9. Paragraph (c) of subsection (2) of section
399 626.292, Florida Statutes, is amended to read:

400 626.292 Transfer of license from another state.--

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

403 (c) The individual shall submit a completed application
404 for this state which is received by the department within 90
405 days after the date the individual became a resident of this
406 state, along with payment of the applicable fees set forth in s.
407 624.501 and submission of the following documents:

408 1. A certification issued by the appropriate official of
409 the applicant's home state identifying the type of license and
410 lines of authority under the license and stating that, at the
411 time the license from the home state was canceled, the applicant
412 was in good standing in that state or that the state's Producer
413 Database records, maintained by the National Association of

414 Insurance Commissioners, its affiliates, or subsidiaries,
 415 indicate that the agent is or was licensed in good standing for
 416 the line of authority requested.

417 2. A set of the individual applicant's fingerprints in
 418 accordance with s. 626.171~~(4)~~(5).

419 Section 10. Paragraph (d) of subsection (1) and paragraph
 420 (a) of subsection (2) and of section 626.321, Florida Statutes,
 421 are amended to read:

422 626.321 Limited licenses.--

423 (1) The department shall issue to a qualified individual,
 424 or a qualified individual or entity under paragraphs (c), (d),
 425 (e), and (i), a license as agent authorized to transact a
 426 limited class of business in any of the following categories:

427 (d) Baggage and motor vehicle excess liability insurance.-
 428 -

429 1. License covering only insurance of personal effects
 430 except as provided in subparagraph 2. The license may be issued
 431 only:

432 a. To a full-time salaried employee of a common carrier or
 433 a full-time salaried employee or owner of a transportation
 434 ticket agency, which person is engaged in the sale or handling
 435 of transportation of baggage and personal effects of travelers,
 436 and may authorize the sale of such insurance only in connection
 437 with such transportation; or

438 b. To the full-time salaried employee of a licensed
 439 general lines agent or to a business entity that offers motor
 440 vehicles for rent or lease if insurance sales activities
 441 authorized by the license are in connection with and incidental

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442 to the rental of a motor vehicle. An entity applying for a
 443 license under this sub-subparagraph:

444 (I) Is required to submit only one application for a
 445 license under s. 626.171. The requirements of s. 626.171~~(4)~~(5)
 446 shall apply only to the officers and directors of the entity
 447 submitting the application.

448 (II) Is required to obtain a license for each office,
 449 branch office, or place of business making use of the entity's
 450 business name by applying to the department for the license on a
 451 simplified application form developed by rule of the department
 452 for this purpose.

453 (III) Is required to pay the applicable fees for a license
 454 as prescribed in s. 624.501, be appointed under s. 626.112, and
 455 pay the prescribed appointment fee under s. 624.501. A licensed
 456 and appointed entity shall be directly responsible and
 457 accountable for all acts of the licensee's employees.

458
 459 The purchaser of baggage insurance shall be provided written
 460 information disclosing that the insured's homeowner's policy may
 461 provide coverage for loss of personal effects and that the
 462 purchase of such insurance is not required in connection with
 463 the purchase of tickets or in connection with the lease or
 464 rental of a motor vehicle.

465 2. A business entity that offers motor vehicles for rent
 466 or lease, may include lessees under a master contract providing
 467 coverage to the lessor or may transact excess motor vehicle
 468 liability insurance providing coverage in excess of the standard
 469 liability limits provided by the lessor in its lease to a person

470 renting or leasing a motor vehicle from the licensee's employer
 471 for liability arising in connection with the negligent operation
 472 of the leased or rented motor vehicle, provided that the lease
 473 or rental agreement is for not more than 30 days; that the
 474 lessee is not provided coverage for more than 30 consecutive
 475 days per lease period, and, if the lease is extended beyond 30
 476 days, the coverage may be extended one time only for a period
 477 not to exceed an additional 30 days; that the lessee is given
 478 written notice that his or her personal insurance policy
 479 providing coverage on an owned motor vehicle may provide
 480 additional excess coverage; and that the purchase of the
 481 insurance is not required in connection with the lease or rental
 482 of a motor vehicle. The excess liability insurance may be
 483 provided to the lessee as an additional insured on a policy
 484 issued to the licensee's employer.

485 3. A business entity that offers motor vehicles for rent
 486 or lease, may, as an agent of an insurer, transact insurance
 487 that provides coverage for the liability of the lessee to the
 488 lessor for damage to the leased or rented motor vehicle if:

489 a. The lease or rental agreement is for not more than 30
 490 days; or the lessee is not provided coverage for more than 30
 491 consecutive days per lease period, but, if the lease is extended
 492 beyond 30 days, the coverage may be extended one time only for a
 493 period not to exceed an additional 30 days;

494 b. The lessee is given written notice that his or her
 495 personal insurance policy that provides coverage on an owned
 496 motor vehicle may provide such coverage with or without a
 497 deductible; and

498 c. The purchase of the insurance is not required in
 499 connection with the lease or rental of a motor vehicle.

500 (2) An entity applying for a license under this section is
 501 required to:

502 (a) Submit only one application for a license under s.
 503 626.171. The requirements of s. 626.171(4)~~(5)~~ shall only apply
 504 to the officers and directors of the entity submitting the
 505 application.

506 Section 11. Subsections (1) and (2) of section 626.342,
 507 Florida Statutes, are amended to read:

508 626.342 Furnishing supplies to unlicensed life, health, or
 509 general lines agent prohibited; civil liability.--

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

519 (2) Any insurer, general agent, insurance agency, or agent
 520 who furnishes any of the supplies specified in subsection (1) to
 521 any agent or prospective agent not appointed to represent the
 522 insurer and who accepts from or writes any insurance business
 523 for such agent or agency is subject to civil liability to any
 524 insured of such insurer to the same extent and in the same
 525 manner as if such agent or prospective agent had been appointed

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526 or authorized by the insurer or such agent to act in its or his
 527 or her behalf. The provisions of this subsection do not apply to
 528 insurance risk apportionment plans under s. 627.351.

529 Section 12. Section 626.382, Florida Statutes, is amended
 530 to read:

531 626.382 Continuation, expiration of license; insurance
 532 agencies.--The license of any insurance agency shall be issued
 533 for a period of 3 years, ~~subject to the payment of the fees~~
 534 ~~prescribed in s. 624.501,~~ and shall continue in force until
 535 canceled, suspended, revoked, or otherwise terminated. A license
 536 may be renewed by submitting a renewal request to the department
 537 on a form adopted by department rule.

538 Section 13. Section 626.536, Florida Statutes, is amended
 539 to read:

540 626.536 Reporting of actions.--Each ~~An~~ agent and insurance
 541 agency shall submit to the department, within 30 days after the
 542 final disposition of any administrative action taken against the
 543 agent by a governmental agency in this or any other state or
 544 jurisdiction relating to the business of insurance, the sale of
 545 securities, or activity involving fraud, dishonesty,
 546 trustworthiness, or breach of a fiduciary duty, a copy of the
 547 order, consent to order, or other relevant legal documents. The
 548 department may adopt rules implementing the provisions of this
 549 section.

550 Section 14. Subsections (1) and (3) of section 626.561,
 551 Florida Statutes, are amended to read:

552 626.561 Reporting and accounting for funds.--

553 (1) All premiums, return premiums, or other funds
 554 belonging to insurers or others received by an agent, insurance
 555 agency, customer representative, or adjuster in transactions
 556 under the ~~his or her~~ license are trust funds received by the
 557 licensee in a fiduciary capacity. An agent or insurance agency
 558 shall keep the funds belonging to each insurer for which an
 559 agent ~~he or she~~ is not appointed, other than a surplus lines
 560 insurer, in a separate account so as to allow the department or
 561 office to properly audit such funds. The licensee in the
 562 applicable regular course of business shall account for and pay
 563 the same to the insurer, insured, or other person entitled
 564 thereto.

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

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

573 (b) If the funds diverted or misappropriated are more than
 574 \$300, but less than \$20,000, a felony of the third degree,
 575 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

582 Section 15. Subsections (1) and (2) of section 626.572,
 583 Florida Statutes, are amended to read:

584 626.572 Rebating; when allowed.--

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

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

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

592 (c) The rebating schedule shall be uniformly applied in
 593 that all insureds who purchase the same policy through the agent
 594 for the same amount of insurance receive the same percentage
 595 rebate.

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

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

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

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

609 Section 16. Subsection (1) of section 626.601, Florida
 610 Statutes, is amended to read:

611 626.601 Improper conduct; inquiry; fingerprinting.--

612 (1) The department or office may, upon its own motion or
 613 upon a written complaint signed by any interested person and
 614 filed with the department or office, inquire into any alleged
 615 improper conduct of any licensed insurance agency, agent,
 616 adjuster, service representative, managing general agent,
 617 customer representative, title insurance agent, title insurance
 618 agency, continuing education course provider, instructor, school
 619 official, or monitor group under this code. The department or
 620 office may thereafter initiate an investigation of any such
 621 licensee if it has reasonable cause to believe that the licensee
 622 has violated any provision of the insurance code. During the
 623 course of its investigation, the department or office shall
 624 contact the licensee being investigated unless it determines
 625 that contacting such person could jeopardize the successful
 626 completion of the investigation or cause injury to the public.

627 Section 17. Section 626.602, Florida Statutes, is created
 628 to read:

629 626.602 Insurance agency names; disapproval.--The
 630 department may disapprove the use of any true or fictitious
 631 name, other than the bona fide natural name of an individual, by
 632 any insurance agency on any of the following grounds:

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

635 (2) The use of the name may mislead the public in any
 636 respect;

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

643 (4) The name states or implies that the agency is an
 644 underwriter. This subsection does not prevent a natural person
 645 who is a life agent from describing himself or herself as an
 646 underwriter or from using the designation "chartered life
 647 underwriter" or who is a general lines agent from using the
 648 designation "chartered property and casualty underwriter," if
 649 the person is entitled to use such terms to describe himself or
 650 herself.

651 Section 18. Section 626.6115, Florida Statutes, is amended
 652 to read:

653 626.6115 Grounds for compulsory refusal, suspension, or
 654 revocation of insurance agency license.--The department shall
 655 deny, suspend, revoke, or refuse to continue the license of any
 656 insurance agency if it finds, as to any insurance agency or as
 657 to any majority owner, partner, manager, director, officer, or
 658 other person who manages or controls such agency, that any
 659 ~~either one or both~~ of the following applicable grounds exist:

- 660 (1) Lack by the agency of one or more of the
- 661 qualifications for the license as specified in this code.
- 662 (2) Material misstatement, misrepresentation, or fraud in
- 663 obtaining the license or in attempting to obtain the license.
- 664 (3) Denial, suspension, or revocation of a license to
- 665 practice or conduct any regulated profession, business, or
- 666 vocation relating to the business of insurance by this state,
- 667 any other state, any nation, any possession or district of the
- 668 United States, any court, or any lawful agency thereof. However,
- 669 the existence of grounds for administrative action against a
- 670 licensed agency does not constitute grounds for action against
- 671 any other licensed agency, including an agency that owns, is
- 672 under common ownership with, or is owned by, in whole or in
- 673 part, the agency for which grounds for administrative action
- 674 exist.

675 Section 19. Subsection (6) is added to section 626.6215,
 676 Florida Statutes, to read:

677 626.6215 Grounds for discretionary refusal, suspension, or
 678 revocation of insurance agency license.--The department may, in
 679 its discretion, deny, suspend, revoke, or refuse to continue the
 680 license of any insurance agency if it finds, as to any insurance
 681 agency or as to any majority owner, partner, manager, director,
 682 officer, or other person who manages or controls such insurance
 683 agency, that any one or more of the following applicable grounds
 684 exist:

- 685 (6) Failure to take corrective action or report a
- 686 violation to the department within 30 days after an individual
- 687 licensee's violation is known or should have been known by one

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688 or more of the partners, officers, or managers acting on behalf
689 of the agency. However, the existence of grounds for
690 administrative action against a licensed agency does not
691 constitute grounds for action against any other licensed agency,
692 including an agency that owns, is under common ownership with,
693 or is owned by, in whole or in part, the agency for which
694 grounds for administrative action exist.

695 Section 20. Subsection (2) of section 626.7355, Florida
696 Statutes, is amended to read:

697 626.7355 Temporary license as customer representative
698 pending examination.--

699 (2) There must be no more than one temporary customer
700 representative licensee in the general lines agency location
701 where the temporary licensee is housed and the temporary
702 licensee shall be housed wholly and completely within the actual
703 confines of the office of the agent or agency whom he or she
704 represents. ~~Such agency must be in compliance with the~~
705 ~~provisions of s. 626.592, commonly referred to as the Primary~~
706 ~~Agent Law, for the most recent reporting period.~~ No such
707 temporary licensee may be employed from any location except
708 where his or her designated supervising general lines agent
709 spends his or her full time. No general lines agency location
710 may employ more than two temporary customer representative
711 licensees in one calendar year.

712 Section 21. Subsection (1) of section 626.747, Florida
713 Statutes, is amended to read:

714 626.747 Branch agencies.--

715 (1) Each branch place of business established by an agent
716 or agency, firm, corporation, or association shall be in the
717 active full-time charge of a licensed general lines agent who is
718 appointed to represent one or more insurers. Any agent or
719 agency, firm, corporation, or association which has established
720 one or more branch places of business shall be required to have
721 at least one licensed general lines agent or life or health
722 agent who is appointed to represent one or more insurers at each
723 location of the agency, including its headquarters location.

724 Section 22. Paragraph (d) of subsection (2) of section
725 626.8411, Florida Statutes, is amended to read:

726 626.8411 Application of Florida Insurance Code provisions
727 to title insurance agents or agencies.--

728 (2) The following provisions of part I do not apply to
729 title insurance agents or title insurance agencies:

730 ~~(d) Section 626.592, relating to primary agents.~~

731 Section 23. Section 626.592, Florida Statutes, is
732 repealed.

733 Section 24. This act shall take effect October 1, 2005.