

CHAMBER ACTION

1 The Commerce Council recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to insurance agents and agencies; creating
7 s. 624.1275, F.S.; proscribing state agencies and
8 political subdivisions from prohibiting or excluding
9 licensed insurance agents from competing or negotiating
10 for certain insurance products or plans; providing a
11 definition; amending s. 624.317, F.S.; including insurance
12 agencies among entities the Department of Financial
13 Services is authorized to investigate; amending s.
14 624.318, F.S.; authorizing the department or the Office of
15 Insurance Regulation to electronically scan certain
16 information for certain purposes; providing application;
17 amending s. 624.501, F.S.; clarifying a license fee;
18 amending s. 626.015, F.S.; revising definitions; amending
19 s. 626.016, F.S.; including insurance agencies among
20 entities subject to regulation by the Chief Financial
21 Officer; amending s. 626.025, F.S.; correcting cross
22 references; amending s. 626.112, F.S.; delaying the
23 effective date by which agencies must obtain a license;

24 providing that an agency may file for registration in lieu
 25 of licensure under specified conditions; imposing a fine
 26 on any agency that fails to timely apply for licensure or
 27 registration; deleting certain agency licensure
 28 requirement provisions; amending s. 626.171, F.S.;
 29 specifying licensure and registration application
 30 requirements for insurance entities other than insurance
 31 agencies; deleting a provision applying to insurance
 32 agency license application requirements; amending s.
 33 626.172, F.S.; revising insurance agency licensure
 34 application requirements; providing procedures and
 35 limitations; providing duties of the department; amending
 36 s. 626.221, F.S.; revising exceptions to certain
 37 examination requirements; amending s. 626.2815, F.S.;
 38 revising certain continuing education requirements;
 39 amending ss. 626.292 and 626.321, F.S.; correcting cross
 40 references, to conform; amending s. 626.342, F.S.;
 41 including insurance agencies under provisions prohibiting
 42 furnishing supplies to certain unlicensed agents and
 43 imposing civil liability under certain circumstances;
 44 amending s. 626.382, F.S.; providing for renewal of
 45 licenses; amending s. 626.451, F.S.; clarifying
 46 application of a provision relating to authorizing
 47 effectuation of certain appointments; amending s. 626.536,
 48 F.S.; including insurance agencies under an action
 49 reporting requirement; amending s. 626.561, F.S.;
 50 including insurance agencies under provisions providing
 51 funds reporting and accounting requirements and imposing

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52 | criminal penalties; amending s. 626.572, F.S.; including
53 | insurance agencies under provisions prohibiting rebating
54 | under certain circumstances; creating s. 626.594, F.S.;
55 | prohibiting insurance producers and affiliates from
56 | accepting or receiving compensation from insurers or third
57 | parties for certain purposes under certain circumstances;
58 | providing an exception relating to certain disclosures;
59 | providing requirements; providing construction; specifying
60 | that disclosures need not be made by certain persons;
61 | providing definitions; amending s. 626.601, F.S.;
62 | including insurance agencies under provisions authorizing
63 | the department to inquire into improper conduct; creating
64 | s. 626.602, F.S.; authorizing the department to disapprove
65 | the use of certain names under certain circumstances;
66 | providing construction; amending s. 626.6115, F.S.;
67 | providing an additional ground for the department to take
68 | compulsory adverse insurance agency license actions;
69 | providing that the existence of grounds for adverse action
70 | against a licensed agency does not constitute grounds for
71 | adverse action against another licensed agency; amending
72 | s. 626.621, F.S.; clarifying a ground for certain adverse
73 | actions against certain licenses or appointments; amending
74 | s. 626.6215, F.S.; providing an additional ground for the
75 | department to take discretionary adverse insurance agency
76 | license actions; providing that the existence of grounds
77 | for adverse action against a licensed agency does not
78 | constitute grounds for adverse action against another
79 | licensed agency; amending s. 626.641, F.S.; specifying

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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80 requests for reinstatements that are subject to denial and
 81 certain waiting periods; requiring applicants for
 82 additional licenses or appointments to apply and qualify;
 83 providing for denial of such applications; amending s.
 84 626.7351, F.S.; specifying an age requirement for
 85 applicants for a customer representative's license;
 86 amending s. 626.747, F.S.; revising agent requirements for
 87 branch agencies to include life or health agents; amending
 88 ss. 626.7355 and 626.8411, F.S.; deleting cross
 89 references, to conform; amending s. 626.854, F.S.;
 90 providing definitions; specifying prohibited activities
 91 for public adjusters; limiting a public adjuster's
 92 commissions; providing requirements for public adjusters'
 93 contracts; providing general ethical requirements for
 94 public adjusters; specifying limitations; limiting the
 95 authority of a public adjuster to adjust total loss
 96 claims; amending s. 626.9541, F.S.; prohibiting certain
 97 persons from receiving unearned premiums from flood
 98 insurance carriers; providing that falsely representing a
 99 contract to be a contract of reinsurance is an unfair
 100 trade practice; amending s. 648.50, F.S.; clarifying a
 101 provision relating to adverse actions against licenses and
 102 appointments; repealing s. 626.592, F.S., relating to
 103 primary agents; providing an effective date.

104
 105 Be It Enacted by the Legislature of the State of Florida:

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107 Section 1. Section 624.1275, Florida Statutes, is created
108 to read:

109 624.1275 Insurance agents; prohibited exclusion from
110 public bidding and negotiations.--A licensed insurance agent may
111 not be prohibited or excluded from competing or negotiating for
112 any insurance product or plan purchased, provided, or endorsed
113 by a state agency or any political subdivision of this state on
114 the basis of the compensation or contractual or employment
115 arrangement granted to the agent by an employer, insurer, or
116 licensed agency. The term "political subdivision" has the same
117 meaning set forth in s. 1.01.

118 Section 2. Subsection (1) of section 624.317, Florida
119 Statutes, is amended to read:

120 624.317 Investigation of agents, agencies, adjusters,
121 administrators, service companies, and others.--If it has reason
122 to believe that any person has violated or is violating any
123 provision of this code, or upon the written complaint signed by
124 any interested person indicating that any such violation may
125 exist:

126 (1) The department shall conduct such investigation as it
127 deems necessary of the accounts, records, documents, and
128 transactions pertaining to or affecting the insurance affairs of
129 any general agent, surplus lines agent, adjuster, managing
130 general agent, insurance agent, insurance agency, customer
131 representative, service representative, or other person subject
132 to its jurisdiction, subject to the requirements of s. 626.601.

133 Section 3. Subsection (7) is added to section 624.318,
134 Florida Statutes, to read:

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135 624.318 Conduct of examination or investigation; access to
136 records; correction of accounts; appraisals.--

137 (7)(a) The department or office or its examiners or
138 investigators may electronically scan accounts, records,
139 documents, files, and information, relating to the subject of
140 the examination or investigation, in the possession or control
141 of the person being examined or investigated.

142 (b) The provisions of this subsection are applicable to
143 all investigations and examinations authorized by any provision
144 of the Florida Insurance Code.

145 Section 4. Subsection (20) of section 624.501, Florida
146 Statutes, is amended to read:

147 624.501 Filing, license, appointment, and miscellaneous
148 fees.--The department, commission, or office, as appropriate,
149 shall collect in advance, and persons so served shall pay to it
150 in advance, fees, licenses, and miscellaneous charges as
151 follows:

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

154 Section 5. Subsections (7) and (16) of section 626.015,
155 Florida Statutes, are amended to read:

156 626.015 Definitions.--As used in this part:

157 (7) "Home state" means the District of Columbia and any
158 state or territory of the United States in which an insurance
159 agent maintains his or her principal place of residence or
160 principal place of business and is licensed to act as an
161 insurance agent.

162 (16) "Resident" means an individual whose home state is
 163 the State of Florida ~~domiciled and residing in this state.~~

164 Section 6. Subsection (1) of section 626.016, Florida
 165 Statutes, is amended to read:

166 626.016 Powers and duties of department, commission, and
 167 office.--

168 (1) The powers and duties of the Chief Financial Officer
 169 and the department specified in this part apply only with
 170 respect to insurance agents, insurance agencies, managing
 171 general agents, insurance adjusters, reinsurance intermediaries,
 172 viatical settlement brokers, customer representatives, service
 173 representatives, and agencies.

174 Section 7. Subsections (7) and (12) of section 626.025,
 175 Florida Statutes, are amended, and subsections (13), (14), and
 176 (15) of said section are renumbered as subsections (12), (13),
 177 and (14), respectively, to read:

178 626.025 Consumer protections.--To transact insurance,
 179 agents shall comply with consumer protection laws, including the
 180 following, as applicable:

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

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

185 Section 8. Subsection (7) of section 626.112, Florida
 186 Statutes, is amended to read:

187 626.112 License and appointment required; agents, customer
 188 representatives, adjusters, insurance agencies, service
 189 representatives, managing general agents.--

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190 (7)(a) Effective October 1, 2006, no individual, firm,
 191 partnership, corporation, association, or any other entity shall
 192 act in its own name or under a trade name, directly or
 193 indirectly, as an insurance agency, ~~when required to be licensed~~
 194 ~~by this subsection,~~ unless it complies with s. 626.172 with
 195 respect to possessing an insurance agency license for each place
 196 of business at which it engages in any activity which may be
 197 performed only by a licensed insurance agent. Each agency
 198 engaged in business in this state before January 1, 2003, which
 199 is wholly owned by insurance agents currently licensed and
 200 appointed under this chapter, each incorporated agency whose
 201 voting shares are traded on a securities exchange, and each
 202 agency whose primary function is offering insurance as a service
 203 or member benefit to members of a nonprofit corporation may file
 204 an application for registration in lieu of licensure in
 205 accordance with s. 626.172(3). Each agency engaged in business
 206 before October 1, 2006, shall file an application for licensure
 207 or registration on or before October 1, 2006.

208 1. If an agency is required to be licensed but fails to
 209 file an application for licensure in accordance with this
 210 section, the department shall impose on the agency an
 211 administrative penalty in an amount of up to \$10,000.

212 2. If an agency is eligible for registration but fails to
 213 file an application for registration or an application for
 214 licensure in accordance with this section, the department shall
 215 impose on the agency an administrative penalty in an amount of
 216 up to \$5,000.

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

223 1. Been found guilty of, or has pleaded guilty or nolo
 224 contendere to, a felony in this state or any other state
 225 relating to the business of insurance or to an insurance agency,
 226 without regard to whether a judgment of conviction has been
 227 entered by the court having jurisdiction of the cases.

228 2. Employed any individual in a managerial capacity or in
 229 a capacity dealing with the public who is under an order of
 230 revocation or suspension issued by the department. An insurance
 231 agency may request, on forms prescribed by the department,
 232 verification of any person's license status. If a request is
 233 mailed within 5 working days after an employee is hired, and the
 234 employee's license is currently suspended or revoked, the agency
 235 shall not be required to obtain a license, if the unlicensed
 236 person's employment is immediately terminated.

237 3. Operated the agency or permitted the agency to be
 238 operated in violation of s. 626.747.

239 4. With such frequency as to have made the operation of
 240 the agency hazardous to the insurance-buying public or other
 241 persons:

242 a. Solicited or handled controlled business. This
 243 subparagraph shall not prohibit the licensing of any lending or
 244 financing institution or creditor, with respect to insurance

245 | only, under credit life or disability insurance policies of
 246 | borrowers from the institutions, which policies are subject to
 247 | part IX of chapter 627.

248 | b. Misappropriated, converted, or unlawfully withheld
 249 | moneys belonging to insurers, insureds, beneficiaries, or others
 250 | and received in the conduct of business under the license.

251 | c. Unlawfully rebated, attempted to unlawfully rebate, or
 252 | unlawfully divided or offered to divide commissions with
 253 | another.

254 | d. Misrepresented any insurance policy or annuity
 255 | contract, or used deception with regard to any policy or
 256 | contract, done either in person or by any form of dissemination
 257 | of information or advertising.

258 | e. Violated any provision of this code or any other law
 259 | applicable to the business of insurance in the course of dealing
 260 | under the license.

261 | f. Violated any lawful order or rule of the department.

262 | g. Failed or refused, upon demand, to pay over to any
 263 | insurer he or she represents or has represented any money coming
 264 | into his or her hands belonging to the insurer.

265 | h. Violated the provision against twisting as defined in
 266 | s. 626.9541(1)(1).

267 | i. In the conduct of business, engaged in unfair methods
 268 | of competition or in unfair or deceptive acts or practices, as
 269 | prohibited under part IX of this chapter.

270 | j. Willfully overinsured any property insurance risk.

271 k. Engaged in fraudulent or dishonest practices in the
272 conduct of business arising out of activities related to
273 insurance or the insurance agency.

274 1. Demonstrated lack of fitness or trustworthiness to
275 engage in the business of insurance arising out of activities
276 related to insurance or the insurance agency.

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

279 5. Knowingly employed any person who within the preceding
280 3 years has had his or her relationship with an agency
281 terminated in accordance with paragraph (d).

282 6. Willfully circumvented the requirements or prohibitions
283 of this code.

284 ~~(c) An agency required to be licensed in accordance with~~
285 ~~paragraph (b) shall remain so licensed for a period of 3 years~~
286 ~~from the date of licensure unless the license is suspended or~~
287 ~~revoked in accordance with law. The department may revoke or~~
288 ~~suspend the agency authority to do business for activities~~
289 ~~occurring during the time the agency is licensed, regardless of~~
290 ~~whether the licensing period has terminated.~~

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

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

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

302 Section 9. Section 626.171, Florida Statutes, is amended
 303 to read:

304 626.171 Application for license as an agent, customer
 305 representative, adjuster, service representative, managing
 306 general agent, or reinsurance intermediary.--

307 (1) The department shall not issue a license as an agent,
 308 customer representative, adjuster, ~~insurance agency,~~ service
 309 representative, managing general agent, or reinsurance
 310 intermediary to any person except upon written application
 311 therefor filed with it, qualification therefor, and payment in
 312 advance of all applicable fees. Any such application shall be
 313 made under the oath of the applicant and be signed by the
 314 applicant. ~~Beginning November 1, 2002,~~ The department shall
 315 accept the uniform application for nonresident agent licensing.
 316 The department may adopt revised versions of the uniform
 317 application by rule.

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

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

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

323 (c) Whether he or she has been refused or has voluntarily
 324 surrendered or has had suspended or revoked a license to solicit

325 insurance by the department or by the supervising officials of
326 any state.

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

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

333 (f) Such other or additional information as the department
334 may deem proper to enable it to determine the character,
335 experience, ability, and other qualifications of the applicant
336 to hold himself or herself out to the public as an insurance
337 representative.

338 ~~(3) An application for an insurance agency license shall~~
339 ~~be signed by the owner or owners of the agency. If the agency is~~
340 ~~incorporated, the application shall be signed by the president~~
341 ~~and secretary of the corporation.~~

342 (3)(4) Each application shall be accompanied by payment of
343 any applicable fee.

344 (4)(5) An application for a license as an agent, customer
345 representative, adjuster, ~~insurance agency~~, service
346 representative, managing general agent, or reinsurance
347 intermediary must be accompanied by a set of the individual
348 applicant's fingerprints, or, if the applicant is not an
349 individual, by a set of the fingerprints of the sole proprietor,
350 majority owner, partners, officers, and directors, on a form
351 adopted by rule of the department and accompanied by the
352 fingerprint processing fee set forth in s. 624.501. Fingerprints

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353 shall be used to investigate the applicant's qualifications
354 pursuant to s. 626.201. The fingerprints shall be taken by a law
355 enforcement agency or other department-approved entity.

356 ~~(5)(6)~~ The application for license filing fee prescribed
357 in s. 624.501 is not subject to refund.

358 ~~(6)(7)~~ Pursuant to the federal Personal Responsibility and
359 Work Opportunity Reconciliation Act of 1996, each party is
360 required to provide his or her social security number in
361 accordance with this section. Disclosure of social security
362 numbers obtained through this requirement shall be limited to
363 the purpose of administration of the Title IV-D program for
364 child support enforcement.

365 Section 10. Section 626.172, Florida Statutes, is amended
366 to read:

367 626.172 Application for insurance agency license.--

368 (1) The department may issue a license as an insurance
369 agency to any person only after such person files a written
370 application with the department and qualifies for such license.

371 ~~If any majority owner, partner, officer, or director of an~~
372 ~~insurance agency:~~

373 ~~(a) Has been found guilty of, or has pleaded guilty or~~
374 ~~nolo contendere to, a felony relating to the business of~~
375 ~~insurance in this state or any other state or federal court,~~
376 ~~regardless of whether a judgment of conviction has been entered~~
377 ~~by the court having jurisdiction of such cases; or~~

378 ~~(b) Has been denied a license relating to the business of~~
379 ~~insurance, or has had his or her license to practice or conduct~~
380 ~~any regulated profession, business, or vocation relating to the~~

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381 ~~business of insurance revoked or suspended, by this or any other~~
 382 ~~state, any nation, any possession or district of the United~~
 383 ~~States, or any court, or any lawful agency thereof;~~

384
 385 ~~the insurance agency and any subsidiary or branch thereof shall~~
 386 ~~obtain a license from the department pursuant to this section.~~

387 (2) An application for an insurance agency license shall
 388 be signed by the owner or owners of the agency. If the agency is
 389 incorporated, the application shall be signed by the president
 390 and secretary of the corporation. The application for an
 391 insurance agency license shall include:

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

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

396 (c) The name of the insurance agency and its principal
 397 business address.

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

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

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

403 1. A sole proprietor.

404 2. Each partner.

405 3. Each owner of an unincorporated agency.

406 4. Each owner who directs or participates in the
 407 management or control of an incorporated agency whose shares are
 408 not traded on a securities exchange.

409 5. The president, senior vice-presidents, treasurer,
 410 secretary, and directors of the agency.

411 6. Any other person who directs or participates in the
 412 management or control of the agency, whether through the
 413 ownership of voting securities, by contract, or otherwise.

414
 415 Fingerprints must be taken by a law enforcement agency or other
 416 entity approved by the department and must be accompanied by the
 417 fingerprint processing fee specified in s. 624.501. Fingerprints
 418 shall be processed in accordance with s. 624.34. However,
 419 fingerprints need not be filed for any individual who is
 420 currently licensed and appointed under this chapter. This
 421 paragraph does not apply to corporations whose voting shares are
 422 traded on a securities exchange. ~~The name of any person to whom~~
 423 subsection (1) applies.

424 (g) Such additional information as the department requires
 425 by ~~promulgated~~ rule to ascertain the trustworthiness and
 426 competence of persons required to be listed on the application
 427 and to ascertain that such persons meet the requirements of this
 428 code. However, the department may not require that credit or
 429 character reports be submitted for persons required to be listed
 430 on the application.

431 (h) Beginning October 1, 2005, the department shall accept
 432 the uniform application for nonresident agency licensure. The
 433 department may adopt by rule revised versions of the uniform
 434 application.

435 (3) The department shall issue a registration as an
 436 insurance agency to any agency that files a written application

437 with the department and qualifies for registration. The
438 application for registration shall require the agency to provide
439 the same information required for an agency licensed under
440 subsection (2); the agent identification number for each owner
441 who is a licensed agent; proof that the agency qualifies for
442 registration as provided in s. 626.112(7); and any other
443 additional information that the department determines is
444 necessary in order to demonstrate that the agency qualifies for
445 registration. The application must be signed by the owner or
446 owners of the agency. If the agency is incorporated, the
447 application must be signed by the president and the secretary of
448 the corporation. An agent who owns the agency need not file
449 fingerprints with the department if the agent obtained a license
450 under this chapter, and the license is currently valid.

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

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

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

463 (4) The department shall issue a license or registration
464 to each agency upon approval of the application and each agency

465 shall display the license or registration prominently in a
 466 manner that makes it clearly visible to any customer or
 467 potential customer who enters the agency.

468 Section 11. Subsection (2) of section 626.221, Florida
 469 Statutes, is amended to read:

470 626.221 Examination requirement; exemptions.--

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

473 (a) An applicant for renewal of appointment as an agent,
 474 customer representative, or adjuster, unless the department
 475 determines that an examination is necessary to establish the
 476 competence or trustworthiness of such applicant.

477 (b) An applicant for limited license as agent for personal
 478 accident insurance, baggage and motor vehicle excess liability
 479 insurance, credit life or disability insurance, credit
 480 insurance, credit property insurance, in-transit and storage
 481 personal property insurance, or communications equipment
 482 property insurance or communication equipment inland marine
 483 insurance.

484 (c) In the discretion of the department, an applicant for
 485 reinstatement of license or appointment as an agent, customer
 486 representative, or adjuster whose license has been suspended
 487 within 2 years prior to the date of application or written
 488 request for reinstatement.

489 (d) An applicant who, within 2 years prior to application
 490 for license and appointment as an agent, customer
 491 representative, or adjuster, was a full-time salaried employee
 492 of the department and had continuously been such an employee

493 | with responsible insurance duties for not less than 2 years and
 494 | who had been a licensee within 2 years prior to employment by
 495 | the department with the same class of license as that being
 496 | applied for.

497 | ~~(e) An individual who qualified as a managing general~~
 498 | ~~agent, service representative, customer representative, or all-~~
 499 | ~~lines adjuster by passing a general lines agent's examination~~
 500 | ~~and subsequently was licensed and appointed and has been~~
 501 | ~~actively engaged in all lines of property and casualty insurance~~
 502 | ~~may, upon filing an application for appointment, be licensed and~~
 503 | ~~appointed as a general lines agent for the same kinds of~~
 504 | ~~business without taking another examination if he or she holds~~
 505 | ~~any such currently effective license referred to in this~~
 506 | ~~paragraph or held the license within 48 months prior to the date~~
 507 | ~~of filing the application with the department.~~

508 | (e)(f) A person who has been licensed and appointed as a
 509 | public adjuster, ~~or~~ independent adjuster, or ~~licensed and~~
 510 | ~~appointed either as an agent or~~ company adjuster, as to all
 511 | property, casualty, and surety insurances, may be licensed and
 512 | appointed as a company, ~~adjuster as to any of such insurances,~~
 513 | ~~or as an independent, adjuster~~ or public adjuster, as to such
 514 | kinds of insurance, without additional written examination if an
 515 | application for licensure ~~appointment~~ is filed with the
 516 | department within 48 months following the date of cancellation
 517 | or expiration of the prior appointment.

518 | (f)(g) A person who has been licensed as an adjuster for
 519 | motor vehicle, property and casualty, workers' compensation, and
 520 | health insurance may be licensed as such an adjuster without

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521 additional written examination if his or her application for
522 licensure ~~appointment~~ is filed with the department within 48
523 months after cancellation or expiration of the prior license.

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

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

532 (i)~~(j)~~ An applicant for license as a general lines agent,
533 customer representative, or adjuster who has received the
534 designation of chartered property and casualty underwriter
535 (CPCU) from the American Institute for Property and Liability
536 Underwriters and who has been engaged in the insurance business
537 within the past 4 years, except that such an individual may be
538 examined on pertinent provisions of this code.

539 (j)~~(k)~~ An applicant for license as a customer
540 representative who has the designation of Accredited Advisor in
541 Insurance (AAI) from the Insurance Institute of America, the
542 designation of Certified Insurance Counselor (CIC) from the
543 Society of Certified Insurance Service Counselors, the
544 designation of Accredited Customer Service Representative (ACSR)
545 from the Independent Insurance Agents of America, the
546 designation of Certified Professional Service Representative
547 (CPSR) from the National Foundation for Certified Professional
548 Service Representatives, the designation of Certified Insurance

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549 Service Representative (CISR) from the Society of Certified
 550 Insurance Service Representatives. Also, an applicant for
 551 license as a customer representative who has the designation of
 552 Certified Customer Service Representative (CCSR) from the
 553 Florida Association of Insurance Agents, or the designation of
 554 Registered Customer Service Representative (RCSR) from a
 555 regionally accredited postsecondary institution in this state,
 556 or the designation of Professional Customer Service
 557 Representative (PCSR) from the Professional Career Institute,
 558 whose curriculum has been approved by the department and whose
 559 curriculum includes comprehensive analysis of basic property and
 560 casualty lines of insurance and testing at least equal to that
 561 of standard department testing for the customer representative
 562 license. The department shall adopt rules establishing standards
 563 for the approval of curriculum.

564 (k)~~(l)~~ An applicant for license as an adjuster who has the
 565 designation of Accredited Claims Adjuster (ACA) from a
 566 regionally accredited postsecondary institution in this state,
 567 or the designation of Professional Claims Adjuster (PCA) from
 568 the Professional Career Institute, whose curriculum has been
 569 approved by the department and whose curriculum includes
 570 comprehensive analysis of basic property and casualty lines of
 571 insurance and testing at least equal to that of standard
 572 department testing for the all-lines adjuster license. The
 573 department shall adopt rules establishing standards for the
 574 approval of curriculum.

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

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577 | 1. Has successfully completed the prelicensing examination
578 | requirements in the applicant's previous state which are
579 | substantially equivalent to the examination requirements in this
580 | state, as determined by the department;

581 | 2. Has received the designation of chartered property and
582 | casualty underwriter (CPCU) from the American Institute for
583 | Property and Liability Underwriters and has been engaged in the
584 | insurance business within the past 4 years if applying to
585 | transfer a general lines agent license; or

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

590 | (m)~~(n)~~ An applicant for a nonresident agent license, if
591 | the applicant:

592 | 1. Has successfully completed prelicensing examination
593 | requirements in the applicant's home state which are
594 | substantially equivalent to the examination requirements in this
595 | state, as determined by the department, as a requirement for
596 | obtaining a resident license in his or her home state;

597 | 2. Held a general lines agent license, life agent license,
598 | or health agent license prior to the time a written examination
599 | was required;

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

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

610 Section 12. Paragraphs (a), (b), (c), and (d) of
611 subsection (3) of section 626.2815, Florida Statutes, are
612 amended to read:

613 626.2815 Continuing education required; application;
614 exceptions; requirements; penalties.--

615 (3)(a) Each person subject to the provisions of this
616 section must, except as set forth in paragraphs (b), ~~and~~ (c),
617 and (d), complete a minimum of 24 hours of continuing education
618 courses every 2 years in basic or higher-level courses
619 prescribed by this section or in other courses approved by the
620 department. Each person subject to the provisions of this
621 section must complete, as part of his or her required number of
622 continuing education hours, 3 hours of continuing education,
623 approved by the department, every 2 years on the subject matter
624 of ethics.

625 (b) ~~For compliance periods beginning on January 1, 1998,~~ A
626 person who has been licensed for a period of 6 or more years
627 must complete 20 hours every 2 years in intermediate or
628 advanced-level courses prescribed by this section or in other
629 courses approved by the department.

630 (c) A licensee who has been licensed for 25 years or more
631 and is a CLU or a CPCU or has a Bachelor of Science degree in
632 risk management or insurance with evidence of 18 or more

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633 semester hours in upper-level insurance-related courses must
 634 complete 10 ~~12~~ hours of continuing education courses every 2
 635 years in courses prescribed by this section or in other courses
 636 approved by the department, ~~except, for compliance periods~~
 637 ~~beginning January 1, 1998, the licensees described in this~~
 638 ~~paragraph shall be required to complete 10 hours of continuing~~
 639 ~~education courses every 2 years.~~

640 (d) Any person who holds a license as a customer
 641 representative, limited customer representative, title agent,
 642 motor vehicle physical damage and mechanical breakdown insurance
 643 agent, crop or hail and multiple-peril crop insurance agent, or
 644 as an industrial fire insurance or burglary insurance agent and
 645 who is not a licensed life or health insurance agent, shall be
 646 required to complete 10 ~~12~~ hours of continuing education courses
 647 every 2 years, ~~except, for compliance periods beginning on~~
 648 ~~January 1, 1998, each licensee subject to this paragraph shall~~
 649 ~~be required to complete 10 hours of continuing education courses~~
 650 ~~every 2 years.~~

651 Section 13. Paragraph (c) of subsection (2) of section
 652 626.292, Florida Statutes, is amended to read:

653 626.292 Transfer of license from another state.--

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

656 (c) The individual shall submit a completed application
 657 for this state which is received by the department within 90
 658 days after the date the individual became a resident of this
 659 state, along with payment of the applicable fees set forth in s.
 660 624.501 and submission of the following documents:

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661 1. A certification issued by the appropriate official of
 662 the applicant's home state identifying the type of license and
 663 lines of authority under the license and stating that, at the
 664 time the license from the home state was canceled, the applicant
 665 was in good standing in that state or that the state's Producer
 666 Database records, maintained by the National Association of
 667 Insurance Commissioners, its affiliates, or subsidiaries,
 668 indicate that the agent is or was licensed in good standing for
 669 the line of authority requested.

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

672 Section 14. Paragraph (d) of subsection (1) and paragraph
 673 (a) of subsection (2) of section 626.321, Florida Statutes, are
 674 amended to read:

675 626.321 Limited licenses.--

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

680 (d) Baggage and motor vehicle excess liability
 681 insurance.--

682 1. License covering only insurance of personal effects
 683 except as provided in subparagraph 2. The license may be issued
 684 only:

685 a. To a full-time salaried employee of a common carrier or
 686 a full-time salaried employee or owner of a transportation
 687 ticket agency, which person is engaged in the sale or handling
 688 of transportation of baggage and personal effects of travelers,

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689 and may authorize the sale of such insurance only in connection
690 with such transportation; or

691 b. To the full-time salaried employee of a licensed
692 general lines agent or to a business entity that offers motor
693 vehicles for rent or lease if insurance sales activities
694 authorized by the license are in connection with and incidental
695 to the rental of a motor vehicle. An entity applying for a
696 license under this sub-subparagraph:

697 (I) Is required to submit only one application for a
698 license under s. 626.171. The requirements of s. 626.171~~(4)~~(5)
699 shall apply only to the officers and directors of the entity
700 submitting the application.

701 (II) Is required to obtain a license for each office,
702 branch office, or place of business making use of the entity's
703 business name by applying to the department for the license on a
704 simplified application form developed by rule of the department
705 for this purpose.

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

711
712 The purchaser of baggage insurance shall be provided written
713 information disclosing that the insured's homeowner's policy may
714 provide coverage for loss of personal effects and that the
715 purchase of such insurance is not required in connection with

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716 | the purchase of tickets or in connection with the lease or
717 | rental of a motor vehicle.

718 | 2. A business entity that offers motor vehicles for rent
719 | or lease, may include lessees under a master contract providing
720 | coverage to the lessor or may transact excess motor vehicle
721 | liability insurance providing coverage in excess of the standard
722 | liability limits provided by the lessor in its lease to a person
723 | renting or leasing a motor vehicle from the licensee's employer
724 | for liability arising in connection with the negligent operation
725 | of the leased or rented motor vehicle, provided that the lease
726 | or rental agreement is for not more than 30 days; that the
727 | lessee is not provided coverage for more than 30 consecutive
728 | days per lease period, and, if the lease is extended beyond 30
729 | days, the coverage may be extended one time only for a period
730 | not to exceed an additional 30 days; that the lessee is given
731 | written notice that his or her personal insurance policy
732 | providing coverage on an owned motor vehicle may provide
733 | additional excess coverage; and that the purchase of the
734 | insurance is not required in connection with the lease or rental
735 | of a motor vehicle. The excess liability insurance may be
736 | provided to the lessee as an additional insured on a policy
737 | issued to the licensee's employer.

738 | 3. A business entity that offers motor vehicles for rent
739 | or lease, may, as an agent of an insurer, transact insurance
740 | that provides coverage for the liability of the lessee to the
741 | lessor for damage to the leased or rented motor vehicle if:

742 | a. The lease or rental agreement is for not more than 30
743 | days; or the lessee is not provided coverage for more than 30

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744 consecutive days per lease period, but, if the lease is extended
745 beyond 30 days, the coverage may be extended one time only for a
746 period not to exceed an additional 30 days;

747 b. The lessee is given written notice that his or her
748 personal insurance policy that provides coverage on an owned
749 motor vehicle may provide such coverage with or without a
750 deductible; and

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

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

755 (a) Submit only one application for a license under s.
756 626.171. The requirements of s. 626.171~~(4)~~~~(5)~~ shall only apply
757 to the officers and directors of the entity submitting the
758 application.

759 Section 15. Subsections (1) and (2) of section 626.342,
760 Florida Statutes, are amended to read:

761 626.342 Furnishing supplies to unlicensed life, health, or
762 general lines agent prohibited; civil liability.--

763 (1) An insurer, a managing general agent, an insurance
764 agency, or an agent, directly or through any representative, may
765 not furnish to any agent any blank forms, applications,
766 stationery, or other supplies to be used in soliciting,
767 negotiating, or effecting contracts of insurance on its behalf
768 unless such blank forms, applications, stationery, or other
769 supplies relate to a class of business with respect to which the
770 agent is licensed and appointed, whether for that insurer or
771 another insurer.

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772 (2) Any insurer, general agent, insurance agency, or agent
 773 who furnishes any of the supplies specified in subsection (1) to
 774 any agent or prospective agent not appointed to represent the
 775 insurer and who accepts from or writes any insurance business
 776 for such agent or agency is subject to civil liability to any
 777 insured of such insurer to the same extent and in the same
 778 manner as if such agent or prospective agent had been appointed
 779 or authorized by the insurer or such agent to act in its or his
 780 or her behalf. The provisions of this subsection do not apply to
 781 insurance risk apportionment plans under s. 627.351.

782 Section 16. Section 626.382, Florida Statutes, is amended
 783 to read:

784 626.382 Continuation, expiration of license; insurance
 785 agencies.--The license of any insurance agency shall be issued
 786 for a period of 3 years, ~~subject to the payment of the fees~~
 787 ~~prescribed in s. 624.501~~, and shall continue in force until
 788 canceled, suspended, revoked, or otherwise terminated. A license
 789 may be renewed by submitting a renewal request to the department
 790 on a form adopted by department rule.

791 Section 17. Subsection (3) of section 626.451, Florida
 792 Statutes, is amended to read:

793 626.451 Appointment of agent or other representative.--

794 (3) By authorizing the effectuation of the appointment of
 795 an agent, adjuster, service representative, customer
 796 representative, or managing general agent the appointing entity
 797 is thereby certifying to the department that it is willing to be
 798 bound by the acts of the agent, adjuster, service
 799 representative, customer representative, or managing general

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800 agent, within the scope of the licensee's employment or
801 appointment.

802 Section 18. Section 626.536, Florida Statutes, is amended
803 to read:

804 626.536 Reporting of actions.--Each ~~An~~ agent and insurance
805 agency shall submit to the department, within 30 days after the
806 final disposition of any administrative action taken against the
807 agent by a governmental agency in this or any other state or
808 jurisdiction relating to the business of insurance, the sale of
809 securities, or activity involving fraud, dishonesty,
810 trustworthiness, or breach of a fiduciary duty, a copy of the
811 order, consent to order, or other relevant legal documents. The
812 department may adopt rules implementing the provisions of this
813 section.

814 Section 19. Subsections (1) and (3) of section 626.561,
815 Florida Statutes, are amended to read:

816 626.561 Reporting and accounting for funds.--

817 (1) All premiums, return premiums, or other funds
818 belonging to insurers or others received by an agent, insurance
819 agency, customer representative, or adjuster in transactions
820 under the ~~his or her~~ license are trust funds received by the
821 licensee in a fiduciary capacity. An agent or insurance agency
822 shall keep the funds belonging to each insurer for which an
823 agent ~~he or she~~ is not appointed, other than a surplus lines
824 insurer, in a separate account so as to allow the department or
825 office to properly audit such funds. The licensee in the
826 applicable regular course of business shall account for and pay

827 | the same to the insurer, insured, or other person entitled
828 | thereto.

829 | (3) Any agent, insurance agency, customer representative,
830 | or adjuster who, not being lawfully entitled thereto, either
831 | temporarily or permanently diverts or misappropriates such funds
832 | or any portion thereof or deprives the other person of a benefit
833 | therefrom commits the offense specified below:

834 | (a) If the funds diverted or misappropriated are \$300 or
835 | less, a misdemeanor of the first degree, punishable as provided
836 | in s. 775.082 or s. 775.083.

837 | (b) If the funds diverted or misappropriated are more than
838 | \$300, but less than \$20,000, a felony of the third degree,
839 | punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

846 | Section 20. Subsections (1) and (2) of section 626.572,
847 | Florida Statutes, are amended to read:

848 | 626.572 Rebating; when allowed.--

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

851 | (a) The rebate shall be available to all insureds in the
852 | same actuarial class.

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

856 (c) The rebating schedule shall be uniformly applied in
857 that all insureds who purchase the same policy through the agent
858 for the same amount of insurance receive the same percentage
859 rebate.

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

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

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

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

873 Section 21. Section 626.594, Florida Statutes, is created
874 to read:

875 626.594 Disclosure of producer compensation.--

876 (1) Whenever any insurance producer or an affiliate of the
877 producer legally receives any compensation from a customer for
878 the placement of insurance or represents the customer with
879 respect to that placement, such producer or any affiliate may
880 not accept or receive any compensation from an insurer or other

881 third party related to that placement of insurance unless the
 882 producer has, prior to the customer's purchase of insurance:

883 (a) Obtained the customer's documented acknowledgment that
 884 such compensation will be received by the producer or affiliate.

885 (b) Disclosed the amount of compensation received from the
 886 insurer or other third party for that placement. If the amount
 887 of compensation is not known at the time of disclosure, the
 888 producer shall disclose the specific method for calculating the
 889 compensation, the nature of the consideration if other than
 890 monetary, and, if possible, a reasonable estimate of the amount.
 891 The required disclosure must be made in a separate document
 892 signed and retained by the insured that contains the heading
 893 "Important Information Concerning Compensation Received By Your
 894 Agent" or similar heading that clearly indicates the subject of
 895 the disclosure. If insurance coverage is purchased
 896 telephonically, the disclosure document need not be signed by
 897 the customer but must be transmitted to the customer at the time
 898 coverage is effectuated.

899
 900 For purposes of this subsection, an agent placing insurance
 901 coverage pursuant to s. 626.752, s. 626.793, or s. 626.837 shall
 902 not be considered to be representing the customer with respect
 903 to that placement.

904 (2) A person shall not be considered a customer for
 905 purposes of this section if the person is:

906 (a) A participant or beneficiary of an employee benefit
 907 plan and individual coverage is not solicited by the producer;

908 (b) Covered by a group or blanket insurance policy or
 909 group annuity contract sold, solicited, or negotiated by the
 910 insurance producer or affiliate if the producer did not solicit
 911 the purchase of insurance by individual insureds; or

912 (c) An authorized or eligible insurer.

913 (3) The disclosures provided for by this section need not
 914 be made by a person licensed as an insurance producer who acts
 915 only as an intermediary between an insurer and the customer's
 916 producer, including, but not limited to, a managing general
 917 agent, a sales manager, or wholesale broker.

918 (4) For purposes of this section, the term:

919 (a) "Affiliate" means a person that controls, is
 920 controlled by, or is under common control with the producer or
 921 that has a contractual relationship with the producer relating
 922 to the placement of insurance.

923 (b) "Compensation received from an insurer or other third
 924 party" means payments, commissions, fees, awards, overrides,
 925 bonuses, contingent commissions, loans, stock options, gifts,
 926 prizes, or any other form of valuable consideration, whether or
 927 not payable pursuant to a written agreement. The term also
 928 includes any agreement to reinsure business in a manner that in
 929 any way benefits the producer or affiliate or any other
 930 agreement to act in a manner that provides a financial benefit
 931 to the producer.

932 (c) "Compensation from the customer" does not include any
 933 fee or similar expense as provided in s. 626.7451(11), s.
 934 627.7295(5)(a), s. 627.7295(5)(b), or s. 627.744(4).

935 (d) "Documented acknowledgement" means the customer's
 936 written consent obtained prior to the customer's purchase of
 937 insurance. In the case of a purchase over the telephone or by
 938 electronic means for which written consent cannot reasonably be
 939 obtained, consent documented by the producer shall be
 940 acceptable.

941 (e) "Producer" means any person required to be licensed
 942 under the insurance code to sell, solicit, or negotiate
 943 insurance.

944 Section 22. Subsection (1) of section 626.601, Florida
 945 Statutes, is amended to read:

946 626.601 Improper conduct; inquiry; fingerprinting.--

947 (1) The department or office may, upon its own motion or
 948 upon a written complaint signed by any interested person and
 949 filed with the department or office, inquire into any alleged
 950 improper conduct of any licensed insurance agency, agent,
 951 adjuster, service representative, managing general agent,
 952 customer representative, title insurance agent, title insurance
 953 agency, continuing education course provider, instructor, school
 954 official, or monitor group under this code. The department or
 955 office may thereafter initiate an investigation of any such
 956 licensee if it has reasonable cause to believe that the licensee
 957 has violated any provision of the insurance code. During the
 958 course of its investigation, the department or office shall
 959 contact the licensee being investigated unless it determines
 960 that contacting such person could jeopardize the successful
 961 completion of the investigation or cause injury to the public.

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962 Section 23. Section 626.602, Florida Statutes, is created
963 to read:

964 626.602 Insurance agency names; disapproval.--The
965 department may disapprove the use of any true or fictitious
966 name, other than the bona fide natural name of an individual, by
967 any insurance agency on any of the following grounds:

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

970 (2) The use of the name may mislead the public in any
971 respect; or

972 (3) The name states or implies that the agency is an
973 insurer, motor club, hospital service plan, state or federal
974 agency, charitable organization, or entity that primarily
975 provides advice and counsel rather than sells or solicits
976 insurance, or is entitled to engage in insurance activities not
977 permitted under licenses held or applied for. This provision
978 does not prohibit the use of the word "state" or "states" in the
979 name of the agency and the use of such words in the name of the
980 agency does not imply that the agency is a state agency.

981 Section 24. Section 626.6115, Florida Statutes, is amended
982 to read:

983 626.6115 Grounds for compulsory refusal, suspension, or
984 revocation of insurance agency license.--The department shall
985 deny, suspend, revoke, or refuse to continue the license of any
986 insurance agency if it finds, as to any insurance agency or as
987 to any majority owner, partner, manager, director, officer, or
988 other person who manages or controls such agency, that any
989 ~~either one or both~~ of the following applicable grounds exist:

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- 990 (1) Lack by the agency of one or more of the
- 991 qualifications for the license as specified in this code.
- 992 (2) Material misstatement, misrepresentation, or fraud in
- 993 obtaining the license or in attempting to obtain the license.
- 994 (3) Denial, suspension, or revocation of a license to
- 995 practice or conduct any regulated profession, business, or
- 996 vocation relating to the business of insurance by this state,
- 997 any other state, any nation, any possession or district of the
- 998 United States, any court, or any lawful agency thereof. However,
- 999 the existence of grounds for administrative action against a
- 1000 licensed agency does not constitute grounds for action against
- 1001 any other licensed agency, including an agency that owns, is
- 1002 under common ownership with, or is owned by, in whole or in
- 1003 part, the agency for which grounds for administrative action
- 1004 exist.

1005 Section 25. Subsection (6) of section 626.621, Florida
1006 Statutes, is amended to read:

1007 626.621 Grounds for discretionary refusal, suspension, or
1008 revocation of agent's, adjuster's, customer representative's,
1009 service representative's, or managing general agent's license or
1010 appointment.--The department may, in its discretion, deny an
1011 application for, suspend, revoke, or refuse to renew or continue
1012 the license or appointment of any applicant, agent, adjuster,
1013 customer representative, service representative, or managing
1014 general agent, and it may suspend or revoke the eligibility to
1015 hold a license or appointment of any such person, if it finds
1016 that as to the applicant, licensee, or appointee any one or more
1017 of the following applicable grounds exist under circumstances

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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1018 | for which such denial, suspension, revocation, or refusal is not
1019 | mandatory under s. 626.611:

1020 | (6) In the conduct of business under the license or
1021 | appointment, engaging in unfair methods of competition or in
1022 | unfair or deceptive acts or practices, as prohibited under part
1023 | IX of this chapter, or having otherwise shown himself or herself
1024 | to be a source of injury or loss to the public ~~or detrimental to~~
1025 | ~~the public interest.~~

1026 | Section 26. Subsection (6) is added to section 626.6215,
1027 | Florida Statutes, to read:

1028 | 626.6215 Grounds for discretionary refusal, suspension, or
1029 | revocation of insurance agency license.--The department may, in
1030 | its discretion, deny, suspend, revoke, or refuse to continue the
1031 | license of any insurance agency if it finds, as to any insurance
1032 | agency or as to any majority owner, partner, manager, director,
1033 | officer, or other person who manages or controls such insurance
1034 | agency, that any one or more of the following applicable grounds
1035 | exist:

1036 | (6) Failure to take corrective action or report a
1037 | violation to the department within 30 days after an individual
1038 | licensee's violation is known or should have been known by one
1039 | or more of the partners, officers, or managers acting on behalf
1040 | of the agency. However, the existence of grounds for
1041 | administrative action against a licensed agency does not
1042 | constitute grounds for action against any other licensed agency,
1043 | including an agency that owns, is under common ownership with,
1044 | or is owned by, in whole or in part, the agency for which
1045 | grounds for administrative action exist.

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1046 Section 27. Subsections (1) and (2) of section 626.641,
 1047 Florida Statutes, are amended to read:
 1048 626.641 Duration of suspension or revocation.--
 1049 (1) The department shall, in its order suspending a
 1050 license or appointment or in its order suspending the
 1051 eligibility of a person to hold or apply for such license or
 1052 appointment, specify the period during which the suspension is
 1053 to be in effect; but such period shall not exceed 2 years. The
 1054 license, appointment, or eligibility shall remain suspended
 1055 during the period so specified, subject, however, to any
 1056 rescission or modification of the order by the department, or
 1057 modification or reversal thereof by the court, prior to
 1058 expiration of the suspension period. A license, appointment, or
 1059 eligibility which has been suspended shall not be reinstated
 1060 except upon request for such reinstatement and, in the case of a
 1061 second suspension, completion of continuing education courses
 1062 prescribed and approved by the department ~~or office~~; but the
 1063 department shall not grant such reinstatement if it finds that
 1064 the circumstance or circumstances for which the license,
 1065 appointment, or eligibility was suspended still exist or are
 1066 likely to recur. In addition, a request for reinstatement is
 1067 subject to denial and subject to a waiting period prior to
 1068 approval on the same grounds that apply to applications for
 1069 licensure pursuant to ss. 626.207, 626.611, and 626.621.
 1070 (2) No person or appointee under any license or
 1071 appointment revoked by the department, nor any person whose
 1072 eligibility to hold same has been revoked by the department,
 1073 shall have the right to apply for another license or appointment

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1074 | under this code within 2 years from the effective date of such
 1075 | revocation or, if judicial review of such revocation is sought,
 1076 | within 2 years from the date of final court order or decree
 1077 | affirming the revocation. An applicant for another license or
 1078 | appointment pursuant to this subsection must apply and qualify
 1079 | for licensure and appointment in the same manner as a first-time
 1080 | applicant, and the application may be denied on the same grounds
 1081 | that apply to first-time applicants for licensure pursuant to
 1082 | ss. 626.207, 626.611, and 626.621. In addition, the department
 1083 | shall not, ~~however,~~ grant a new license or appointment or
 1084 | reinstate eligibility to hold such license or appointment if it
 1085 | finds that the circumstance or circumstances for which the
 1086 | eligibility was revoked or for which the previous license or
 1087 | appointment was revoked still exist or are likely to recur; if
 1088 | an individual's license as agent or customer representative or
 1089 | eligibility to hold same has been revoked upon the ground
 1090 | specified in s. 626.611(12), the department shall refuse to
 1091 | grant or issue any new license or appointment so applied for.

1092 | Section 28. Subsection (1) of section 626.7351, Florida
 1093 | Statutes, is amended to read:

1094 | 626.7351 Qualifications for customer representative's
 1095 | license.--The department shall not grant or issue a license as
 1096 | customer representative to any individual found by it to be
 1097 | untrustworthy or incompetent, or who does not meet each of the
 1098 | following qualifications:

1099 | (1) The applicant is a natural person who is at least 18
 1100 | years of age.

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1101 Section 29. Subsection (2) of section 626.7355, Florida
1102 Statutes, is amended to read:

1103 626.7355 Temporary license as customer representative
1104 pending examination.--

1105 (2) There must be no more than one temporary customer
1106 representative licensee in the general lines agency location
1107 where the temporary licensee is housed and the temporary
1108 licensee shall be housed wholly and completely within the actual
1109 confines of the office of the agent or agency whom he or she
1110 represents. ~~Such agency must be in compliance with the~~
1111 ~~provisions of s. 626.592, commonly referred to as the Primary~~
1112 ~~Agent Law, for the most recent reporting period.~~ No such
1113 temporary licensee may be employed from any location except
1114 where his or her designated supervising general lines agent
1115 spends his or her full time. No general lines agency location
1116 may employ more than two temporary customer representative
1117 licensees in one calendar year.

1118 Section 30. Subsection (1) of section 626.747, Florida
1119 Statutes, is amended to read:

1120 626.747 Branch agencies.--

1121 (1) Each branch place of business established by an agent
1122 or agency, firm, corporation, or association shall be in the
1123 active full-time charge of a licensed general lines agent who is
1124 appointed to represent one or more insurers. Any agent or
1125 agency, firm, corporation, or association which has established
1126 one or more branch places of business shall be required to have
1127 at least one licensed general lines agent or life or health

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1128 agent who is appointed to represent one or more insurers at each
1129 location of the agency, including its headquarters location.

1130 Section 31. Paragraph (d) of subsection (2) of section
1131 626.8411, Florida Statutes, is amended to read:

1132 626.8411 Application of Florida Insurance Code provisions
1133 to title insurance agents or agencies.--

1134 (2) The following provisions of part I do not apply to
1135 title insurance agents or title insurance agencies:

1136 ~~(d) Section 626.592, relating to primary agents.~~

1137 Section 32. Section 626.854, Florida Statutes, is amended
1138 to read:

1139 626.854 "Public adjuster" defined; prohibitions;
1140 requirements.--The Legislature finds that it is necessary for
1141 the protection of the public to regulate public insurance
1142 adjusters and to prevent the unauthorized practice of law.

1143 (1) DEFINITIONS.--For purposes of this section, the term:

1144 (a)1. A "Public adjuster" means ~~is~~ any person, except a
1145 duly licensed attorney at law as hereinafter in s. 626.860
1146 provided, who, for money, commission, or any other thing of
1147 value, prepares, completes, or files an insurance claim form for
1148 an insured or third-party claimant or who, for money,
1149 commission, or any other thing of value, acts or aids in any
1150 manner on behalf of an insured or third-party claimant in
1151 negotiating for or effecting the settlement of a claim or claims
1152 for loss or damage covered by an insurance contract or who
1153 advertises for employment as an adjuster of such claims, and
1154 also includes any person who, for money, commission, or any

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1155 other thing of value, solicits, investigates, or adjusts such
1156 claims on behalf of any such public adjuster.

1157 ~~2.(2)~~ This definition does not apply to:

1158 ~~a.(a)~~ A licensed health care provider or employee thereof
1159 who prepares or files a health insurance claim form on behalf of
1160 a patient.

1161 ~~b.(b)~~ A person who files a health claim on behalf of
1162 another and does so without compensation.

1163 (b) "Insured" includes only the policyholder and any
1164 beneficiaries named or similarly identified in the policy.

1165 (2) PROHIBITIONS.--

1166 ~~(a)(3)~~ A public adjuster may not give legal advice. A
1167 public adjuster may not act on behalf of or aid any person in
1168 negotiating or settling a claim relating to bodily injury,
1169 death, or noneconomic damages, and may not receive a fee under
1170 the contract of representation for any unfair claims practices
1171 violations, for tort claims, for statutory interest, costs, and
1172 attorneys fees, or for extra-contractual damages unrelated to
1173 the damages under the policy.

1174 (b) A public adjuster may not restrict or prevent an
1175 insurer, company or independent adjuster, attorney,
1176 investigator, or any other person acting on behalf of the
1177 insurer from having reasonable access at reasonable times to an
1178 insured or claimant or to the insured property which is the
1179 subject of a claim.

1180 (3) LIMITS ON COMMISSIONS.--

1181 (a) As to any one loss or occurrence, a public adjuster
1182 may not charge, agree to, or accept as compensation or

1183 reimbursement any payment, commission, fee, or other thing of
 1184 value equal to or greater than 10 percent of any insurance
 1185 settlement or proceeds. The department may, however, adopt a
 1186 rule specifying higher limits on public adjuster commissions
 1187 than the 10 percent limit specified in this paragraph.

1188 (b) Prior to settlement of a claim, a public adjuster may
 1189 not require, demand, or accept any fee, retainer, compensation,
 1190 deposit, or other thing of value.

1191 (4) CONTRACT REQUIREMENTS.--

1192 (a) A public adjuster shall provide a true and complete
 1193 copy of any contracts with an insured or claimant, including any
 1194 revised or supplemental contracts, to the insurer and its
 1195 representatives handling the claim immediately upon providing
 1196 notice of representation to the insurer and throughout the
 1197 claims handling process.

1198 (b) A public adjuster shall ensure that all contracts for
 1199 his or her services are in writing and comply with the following
 1200 requirements:

1201 1. The contract shall legibly state the full name of the
 1202 public adjuster signing the contract, as specified in the
 1203 department records.

1204 2. The contract shall be signed by the public adjuster who
 1205 solicited the contract. If the public adjuster is licensed by
 1206 the department as an emergency public adjuster, the contract
 1207 shall also show the emergency public adjuster's:

1208 a. Permanent home address and home telephone number.

1209 b. Permanent home state business address and telephone
 1210 number.

1211 c. Florida department license number.
 1212 3. The contract shall show:
 1213 a. The insured's full name and street address.
 1214 b. The address of the loss.
 1215 c. A brief description of the loss.
 1216 d. The name of the insurer and, if available, the policy
 1217 number.
 1218 4. The contract shall be signed by the insured or claimant
 1219 and shall show the date on which the insured or claimant signed
 1220 the contract and the county in which it was executed or signed.
 1221 5.a. The contract shall show the full amount of
 1222 compensation to the public adjuster.
 1223 b. If the compensation is based on a share of the
 1224 insurance settlement, the contract shall show the exact
 1225 percentage.
 1226 c. The contract shall specify any costs to be reimbursed
 1227 to the public adjuster out of the proceeds, including
 1228 specification by type and an estimate of the dollar amount.
 1229 (c) Compensation provisions in a public adjuster's
 1230 contract shall not be redacted in any copy provided to an
 1231 insurer. Any such redaction constitutes an omission of material
 1232 fact in violation of s. 626.9541(1)(e)2.
 1233 (5) GENERAL ETHICAL REQUIREMENTS.--Public adjusters shall
 1234 comply with the following requirements:
 1235 (a) A public adjuster shall not undertake the adjustment
 1236 of any claim concerning whether he or she is not currently
 1237 competent and knowledgeable as to the terms and conditions of

1238 the insurance coverage or which otherwise exceeds his or her
 1239 expertise.

1240 (b) A person may not represent:

1241 1. As a public adjuster, any person or entity whose claim
 1242 the public adjuster had previously adjusted while acting as an
 1243 adjuster representing any insurer or independent adjusting firm.

1244 2. As a company or independent adjuster, himself or
 1245 herself, or any insurer or independent adjusting firm, against
 1246 any person or entity that he or she previously represented as a
 1247 public adjuster.

1248 (c)1. A public adjuster may not represent or imply to any
 1249 client or potential client that insurers, company adjusters, or
 1250 independent adjusters routinely attempt to, or do in fact,
 1251 deprive claimants of their full rights under an insurance
 1252 policy.

1253 2. An insurer, independent adjuster, or company adjuster
 1254 may not represent or imply to any claimant that engaging a
 1255 public adjuster will delay or have other adverse effect upon the
 1256 settlement of a claim.

1257 (d)1. A public adjuster, while so licensed in the
 1258 department's records, may not represent or act as a company
 1259 adjuster, independent adjuster, or general lines agent.

1260 2. An independent adjuster, company adjuster, or general
 1261 lines agent, while so licensed in the department's records, may
 1262 not represent or act as a public adjuster.

1263 (e)1. A public adjuster's contract with a client shall be
 1264 revocable or cancelable by the insured or claimant, without

1265 penalty or obligation, for at least 14 days after the day the
 1266 contract is entered into.

1267 2. The public adjuster shall disclose in writing to the
 1268 insured or claimant that the insured or claimant has the right
 1269 to cancel with prompt notice within the revocation period.

1270 3. If the insured or claimant elects to cancel the
 1271 contract, the insured or claimant shall provide prompt notice to
 1272 the public adjuster.

1273 4. Nothing in this paragraph shall be construed to prevent
 1274 an insured or claimant from pursuing any civil remedy after the
 1275 expiration of the revocation period.

1276 (f)1. A public adjuster shall not enter into a contract or
 1277 accept a power of attorney which vests in the public adjuster
 1278 the effective authority to choose the persons who are to perform
 1279 repair work.

1280 2. A public adjuster shall ensure that if a contractor,
 1281 architect, engineer, or other licensed professional is used in
 1282 formulating estimates or otherwise participates in the
 1283 adjustment of a claim, the professional must be licensed by the
 1284 Department of Business and Professional Regulation.

1285 (g) A public adjuster shall ensure that all contracts for
 1286 the public adjuster's services are in writing and set forth all
 1287 terms and conditions of the engagement.

1288 (6) TOTAL LOSS CLAIMS.--A public adjuster may not
 1289 knowingly enter into a contract to adjust a residential property
 1290 claim subsequent to an insurer declaring the property a total
 1291 loss, or when the property is an obvious total loss, unless the
 1292 services to be provided by the public adjuster can reasonably be

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1293 expected to result in the insured or claimant obtaining an
 1294 insurance settlement, net of the public adjuster's compensation,
 1295 in excess of what the insured or claimant would have obtained
 1296 without the services of the public adjuster.

1297 ~~(4) For purposes of this section, the term "insured"~~
 1298 ~~includes only the policyholder and any beneficiaries named or~~
 1299 ~~similarly identified in the policy.~~

1300 Section 33. Paragraph (1) of subsection (1) of section
 1301 626.9541, Florida Statutes, is amended, and paragraph (cc) is
 1302 added to said subsection, to read:

1303 626.9541 Unfair methods of competition and unfair or
 1304 deceptive acts or practices defined.--

1305 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
 1306 ACTS.--The following are defined as unfair methods of
 1307 competition and unfair or deceptive acts or practices:

1308 (1) Twisting.--Knowingly making any misleading
 1309 representations or incomplete or fraudulent comparisons or
 1310 fraudulent material omissions of or with respect to any
 1311 insurance policies, including those of the National Flood
 1312 Insurance Program or its successors, or insurers for the purpose
 1313 of inducing, or tending to induce, any person to lapse, forfeit,
 1314 surrender, terminate, retain, pledge, assign, borrow on, or
 1315 convert any insurance policy, including those of the National
 1316 Flood Insurance Program or its successors, or to take out a
 1317 policy of insurance in another insurer. It is a violation of
 1318 this paragraph for any individual or entity to receive direct
 1319 payment from the National Flood Insurance Program, the Federal
 1320 Emergency Management Agency, or any write-your-own flood carrier

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1321 of any unearned premium due a policyholder except an individual
 1322 who is a relative of any such policyholder.

1323 (cc) Representing that a contract is an insurance or
 1324 reinsurance contract and transfers risk when the primary purpose
 1325 and effect of the contract is other than transfer of risk.

1326 Section 34. Subsection (2) of section 648.50, Florida
 1327 Statutes, is amended to read:

1328 648.50 Effect of suspension, revocation upon associated
 1329 licenses and licensees.--

1330 (2) In case of the suspension or revocation of the license
 1331 or appointment, or the eligibility to hold a license or
 1332 appointment, of any bail bond agent, the license, appointment,
 1333 or eligibility of any and all bail bond agents who are members
 1334 of a bail bond agency, whether incorporated or unincorporated,
 1335 and any and all temporary bail bond agents ~~or runners~~ employed
 1336 by such bail bond agency, who knowingly are parties to the act
 1337 which formed the ground for the suspension or revocation may
 1338 likewise be suspended or revoked.

1339 Section 35. Section 626.592, Florida Statutes, is
 1340 repealed.

1341 Section 36. This act shall take effect October 1, 2005.