

1                   A bill to be entitled  
2           An act relating to insurance; amending s. 626.112, F.S.;  
3           authorizing certain agencies designated as a branch office  
4           to file an application for registration in lieu of  
5           licensure; amending s. 626.221, F.S.; providing an  
6           exemption from the required written examination to certain  
7           applicants for licensure as a claims adjuster; amending s.  
8           626.7851, F.S.; authorizing certain programs to offer  
9           correspondence courses to applicants for licensure as a  
10          life insurance agent; amending s. 626.8311, F.S.;  
11          authorizing certain programs to offer correspondence  
12          courses to applicants for licensure as a health insurance  
13          agent; amending s. 626.747, F.S.; authorizing certain  
14          licensed agents to be the agent in charge of branch  
15          locations under certain circumstances; amending s.  
16          626.865, F.S.; requiring public adjusters to maintain  
17          their surety bond unimpaired for a certain period;  
18          amending s. 626.869, F.S.; authorizing an extension of  
19          time to complete continuing education requirements for  
20          public adjusters; amending s. 626.8698, F.S.; designating  
21          the Department of Financial Services as the appropriate  
22          agency responsible for disciplinary action against public  
23          adjusters; amending s. 626.921, F.S.; providing that the  
24          department is responsible for approval of the surplus  
25          lines agent manual; amending s. 626.9531, F.S.; revising  
26          requirements for identification of insurers, agents, and  
27          insurance contracts; specifying absence of liability and  
28          prohibiting causes of action against certain agents for

29 |       insolvency of certain entities under certain  
30 |       circumstances; providing definitions; amending s.  
31 |       626.9611, F.S.; requiring that the department and  
32 |       Financial Services Commission adopt rules prohibiting the  
33 |       use of unfair and deceptive practices in the sale of  
34 |       insurance to members of the United States Armed Forces;  
35 |       providing limitations; providing an appropriation;  
36 |       providing effective dates.

37 |

38 | Be It Enacted by the Legislature of the State of Florida:

39 |

40 |       Section 1. Paragraph (a) of subsection (7) of section  
41 |       626.112, Florida Statutes, is amended to read:

42 |       626.112 License and appointment required; agents, customer  
43 |       representatives, adjusters, insurance agencies, service  
44 |       representatives, managing general agents.--

45 |       (7) (a) Effective October 1, 2006, no individual, firm,  
46 |       partnership, corporation, association, or any other entity shall  
47 |       act in its own name or under a trade name, directly or  
48 |       indirectly, as an insurance agency, unless it complies with s.  
49 |       626.172 with respect to possessing an insurance agency license  
50 |       for each place of business at which it engages in any activity  
51 |       which may be performed only by a licensed insurance agent. Each  
52 |       agency engaged in business in this state before January 1, 2003,  
53 |       which is wholly owned by insurance agents currently licensed and  
54 |       appointed under this chapter, each incorporated agency whose  
55 |       voting shares are traded on a securities exchange, each agency  
56 |       designated and subject to supervision and inspection as a branch

57 office under the rules of the National Association of Securities  
 58 Dealers, and each agency whose primary function is offering  
 59 insurance as a service or member benefit to members of a  
 60 nonprofit corporation may file an application for registration  
 61 in lieu of licensure in accordance with s. 626.172(3). Each  
 62 agency engaged in business before October 1, 2006, shall file an  
 63 application for licensure or registration on or before October  
 64 1, 2006.

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

69 2. If an agency is eligible for registration but fails to  
 70 file an application for registration or an application for  
 71 licensure in accordance with this section, the department shall  
 72 impose on the agency an administrative penalty in an amount of  
 73 up to \$5,000.

74 Section 2. Paragraph (k) of subsection (2) of section  
 75 626.221, Florida Statutes, is amended to read:

76 626.221 Examination requirement; exemptions.--

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

79 (k) An applicant for license as an independent or company  
 80 employee adjuster who has the designation of Accredited Claims  
 81 Adjuster (ACA) from a regionally accredited postsecondary  
 82 institution in this state, Professional Claims Adjuster (PCA)  
 83 from the Professional Career Institute, Professional Property  
 84 Insurance Adjuster (PPIA) from the HurriClaim Training Academy,

85 Certified Adjuster (CA) from ALL LINES Training, or Certified  
86 Claims Adjuster (CCA) from the Association of Property and  
87 Casualty Claims Professionals whose curriculum has been approved  
88 by the department and whose curriculum includes comprehensive  
89 analysis of basic property and casualty lines of insurance and  
90 testing at least equal to that of standard department testing  
91 for the all-lines adjuster license. The department shall adopt  
92 rules establishing standards for the approval of curriculum.

93 Section 2. Subsection (2) of section 626.7851, Florida  
94 Statutes, is amended to read:

95 626.7851 Requirement as to knowledge, experience, or  
96 instruction.--No applicant for a license as a life agent, except  
97 for a chartered life underwriter (CLU), shall be qualified or  
98 licensed unless within the 4 years immediately preceding the  
99 date the application for a license is filed with the department  
100 he or she has:

101 (2) Successfully completed a correspondence course in  
102 insurance, 3 hours of which shall be on the subject matter of  
103 ethics, satisfactory to the department and regularly offered by  
104 accredited institutions of higher learning in this state or by  
105 independent programs of study, approved by the department.  
106 Courses must include instruction on the subject matter of  
107 unauthorized entities engaging in the business of insurance, to  
108 include the Florida Nonprofit Multiple-Employer Welfare  
109 Arrangement Act and the Employee Retirement Income Security Act,  
110 29 U.S.C. ss. 1001 et seq., as it relates to the provision of  
111 life insurance by employers to their employees and the  
112 regulation thereof;

113 Section 3. Subsection (2) of section 626.8311, Florida  
 114 Statutes, is amended to read:

115 626.8311 Requirement as to knowledge, experience, or  
 116 instruction.--No applicant for a license as a health agent,  
 117 except for a chartered life underwriter (CLU), shall be  
 118 qualified or licensed unless within the 4 years immediately  
 119 preceding the date the application for license is filed with the  
 120 department he or she has:

121 (2) Successfully completed a correspondence course in  
 122 insurance, 3 hours of which shall be on the subject matter of  
 123 ethics, satisfactory to the department and regularly offered by  
 124 accredited institutions of higher learning in this state or by  
 125 independent programs of study, approved by the department.  
 126 Courses must include instruction on the subject matter of  
 127 unauthorized entities engaging in the business of insurance, to  
 128 include the Florida Nonprofit Multiple-Employer Welfare  
 129 Arrangement Act and the Employee Retirement Income Security Act,  
 130 29 U.S.C. ss. 1001 et seq., as it relates to the provision of  
 131 health insurance by employers to their employees and the  
 132 regulation thereof;

133 Section 4. Effective January 1, 2008, subsection (1) of  
 134 section 626.747, Florida Statutes, is amended to read:

135 626.747 Branch agencies.--

136 (1) (a) Each branch place of business established by an  
 137 agent or agency, firm, corporation, or association shall be in  
 138 the active full-time charge of a licensed general lines agent or  
 139 life or health agent who is appointed to represent one or more  
 140 insurers. Any agent or agency, firm, corporation, or association

141 which has established one or more branch places of business  
 142 shall be required to have at least one licensed general lines  
 143 agent who is appointed to represent one or more insurers at each  
 144 location of the agency including its headquarters location.

145 (b) Notwithstanding paragraph (a), the licensed agent in  
 146 charge of an insurance agency may also be the agent in charge of  
 147 additional branch office locations of the agency if insurance  
 148 activities requiring licensure as an insurance agent do not  
 149 occur at any location when the agent is not physically present  
 150 and unlicensed employees at the location do not engage in any  
 151 insurance activities requiring licensure as an insurance agent  
 152 or customer service representative.

153 Section 5. Subsection (2) of section 626.865, Florida  
 154 Statutes, is amended to read:

155 626.865 Public adjuster's qualifications, bond.--

156 (2) At the time of application for license as a public  
 157 adjuster, the applicant shall file with the department a bond  
 158 executed and issued by a surety insurer authorized to transact  
 159 such business in this state, in the amount of \$50,000,  
 160 conditioned for the faithful performance of his or her duties as  
 161 a public adjuster under the license for which the applicant has  
 162 applied, and thereafter maintain the bond unimpaired throughout  
 163 the existence of the license and for at least 1 year after  
 164 termination of the license ~~for~~. The bond shall be in favor of  
 165 the department and shall specifically authorize recovery by the  
 166 department of the damages sustained in case the licensee is  
 167 guilty of fraud or unfair practices in connection with his or  
 168 her business as public adjuster. The aggregate liability of the

169 surety for all such damages shall in no event exceed the amount  
 170 of the bond. Such bond shall not be terminated unless at least  
 171 30 days' written notice is given to the licensee and filed with  
 172 the department.

173 Section 6. Paragraph (c) of subsection (4) of section  
 174 626.869, Florida Statutes, is amended to read:

175 626.869 License, adjusters.--

176 (4)

177 (c) The department shall adopt rules necessary to  
 178 implement and administer the continuing education requirements  
 179 of this subsection. For good cause shown, the department may  
 180 grant an extension of time during which the requirements imposed  
 181 by this section may be completed, but such extension of time may  
 182 not exceed 1 year.

183 Section 7. Subsection (1) of section 626.8698, Florida  
 184 Statutes, is amended to read:

185 626.8698 Disciplinary guidelines for public  
 186 adjusters.--The department may deny, suspend, or revoke the  
 187 license of a public adjuster, and administer a fine not to  
 188 exceed \$5,000 per act, for any of the following:

189 (1) Violating any provision of this chapter or a rule or  
 190 order of the department ~~office or commission~~;

191 Section 8. Paragraphs (a) and (c) of section 626.921,  
 192 Florida Statutes, are amended to read:

193 626.921 Florida Surplus Lines Service Office.--

194 (5) (a) The association shall submit to the office a plan  
 195 of operation, and any amendments thereto, to provide operating  
 196 procedures for the administration of the service office. The

197 plan of operation and any amendments thereto shall become  
198 effective upon approval by order of the office. The association  
199 shall submit to the department an agents' manual, and any  
200 amendments thereto, which shall provide administrative  
201 procedures that surplus lines insurance agents must follow with  
202 respect to their duties to the service office. The manual shall  
203 be prepared in cooperation with the department, and any changes,  
204 updates, or amendments shall be submitted to the department  
205 before distribution. The manual shall be approved by order of  
206 the department.

207 (c) All surplus lines agents licensed in this state must  
208 comply with the plan of operation and the agent's manual.

209 Section 9. Section 626.9531, Florida Statutes, is amended  
210 to read:

211 626.9531 Identification of insurers, agents, and insurance  
212 contracts.--

213 (1) Advertising materials and other communications  
214 developed by insurers, or other risk bearing entities authorized  
215 under this code and approved by the office to do business in  
216 this state, regarding insurance products shall clearly indicate  
217 that the communication relates to insurance products. When  
218 soliciting or selling insurance products, agents shall clearly  
219 indicate to prospective insureds that they are acting as  
220 insurance agents with regard to insurance products and  
221 identified insurers, or other risk bearing entities authorized  
222 under this code and approved by the office to do business in  
223 this state.



224       (2) There shall be no liability on the part of, and no  
 225 cause of action of any nature shall arise against, any licensed  
 226 and appointed insurance agent for the insolvency of any risk  
 227 bearing entity when such entity has been duly authorized or  
 228 approved by the office to do business in this state. However if  
 229 the licensed and appointed agent was a controlling producer, as  
 230 defined in s. 626.7491(2), of the risk bearing entity within 2  
 231 years preceding the insolvency, the agent is subject to penalty  
 232 as provided in s. 626.7491(8).

233       (3) For the purposes of this section, the term "risk  
 234 bearing entity" means a reciprocal insurer as defined in s.  
 235 629.021, a commercial self-insurance fund as defined in s.  
 236 624.462, a group self-insurance fund as defined in s. 624.4621,  
 237 a local government self-insurance fund as defined in s.  
 238 624.4622, a self-insured public utility as defined in s.  
 239 624.46225, or an independent educational institution self-  
 240 insurance fund as defined in s. 624.4623. For the purposes of  
 241 this section, the term "risk bearing entity" does not include an  
 242 authorized insurer as defined in s. 624.09.

243       Section 10. Section 626.9611, Florida Statutes, is amended  
 244 to read:

245       626.9611 Rules.--

246       (1) The department or commission may, in accordance with  
 247 chapter 120, adopt reasonable rules as are necessary or proper  
 248 to identify specific methods of competition or acts or practices  
 249 which are prohibited by s. 626.9541 or s. 626.9551, but the  
 250 rules shall not enlarge upon or extend the provisions of ss.  
 251 626.9541 and 626.9551.

252           (2) The department and the commission shall, in accordance  
253 with chapter 120, adopt rules to protect members of the United  
254 States Armed Forces from dishonest or predatory insurance sales  
255 practices by insurers and insurance agents. The rules shall  
256 identify specific false, misleading, deceptive, or unfair  
257 methods of competition, acts, or practices which are prohibited  
258 by s. 626.9541 or s. 626.9551. The rules shall be based upon  
259 model rules or model laws adopted by the National Association of  
260 Insurance Commissioners which identify certain insurance  
261 practices involving the solicitation or sale of insurance and  
262 annuities to members of the United States Armed Forces which are  
263 false, misleading, deceptive, or unfair.

264           Section 11. For the 2007-2008 fiscal year, the sum of  
265 \$132,000 in nonrecurring funds is appropriated from the  
266 Insurance Regulatory Trust Fund to the Department of Financial  
267 Services for computer system changes necessary to implement the  
268 provisions of s. 626.747, Florida Statutes.

269           Section 12. Except as otherwise expressly provided in this  
270 act, this act shall take effect July 1, 2007.