



Bill No. CS for SB 2702

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1 licensed and appointed under this chapter, each incorporated  
 2 agency whose voting shares are traded on a securities  
 3 exchange, each agency designated and subject to supervision  
 4 and inspection as a branch office under the rules of the  
 5 National Association of Securities Dealers, and each agency  
 6 whose primary function is offering insurance as a service or  
 7 member benefit to members of a nonprofit corporation may file  
 8 an application for registration in lieu of licensure in  
 9 accordance with s. 626.172(3). Each agency engaged in business  
 10 before October 1, 2006, shall file an application for  
 11 licensure or registration on or before October 1, 2006.

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

16         2. If an agency is eligible for registration but fails  
 17 to file an application for registration or an application for  
 18 licensure in accordance with this section, the department  
 19 shall impose on the agency an administrative penalty in an  
 20 amount of up to \$5,000.

21         Section 2. Paragraph (k) of subsection (2) of section  
 22 626.221, Florida Statutes, is amended to read:

23         626.221 Examination requirement; exemptions.--

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

26         (k) An applicant for license as an independent or  
 27 company employee adjuster who has the designation of  
 28 Accredited Claims Adjuster (ACA) from a regionally accredited  
 29 postsecondary institution in this state, Professional Claims  
 30 Adjuster (PCA) from the Professional Career Institute,  
 31 Professional Property Insurance Adjuster (PPIA) from the

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1 HurriClaim Training Academy, Certified Adjuster (CA) from  
 2 All-Lines Training, or Certified Claims Adjuster (CCA) from  
 3 the Association of Property and Casualty Claims Professionals  
 4 whose curriculum has been approved by the department and whose  
 5 curriculum includes comprehensive analysis of basic property  
 6 and casualty lines of insurance and testing at least equal to  
 7 that of standard department testing for the all-lines adjuster  
 8 license. The department shall adopt rules establishing  
 9 standards for the approval of curriculum.

10 Section 3. Section 626.7851, Florida Statutes, is  
 11 amended to read:

12 626.7851 Requirement as to knowledge, experience, or  
 13 instruction.--No applicant for a license as a life agent,  
 14 except for a chartered life underwriter (CLU), shall be  
 15 qualified or licensed unless within the 4 years immediately  
 16 preceding the date the application for a license is filed with  
 17 the department he or she has:

18 (1) Successfully completed 40 hours of classroom  
 19 courses in insurance, 3 hours of which shall be on the subject  
 20 matter of ethics, satisfactory to the department at a school  
 21 or college, or extension division thereof, or other authorized  
 22 course of study, approved by the department. Courses must  
 23 include instruction on the subject matter of unauthorized  
 24 entities engaging in the business of insurance, to include the  
 25 Florida Nonprofit Multiple-Employer Welfare Arrangement Act  
 26 and the Employee Retirement Income Security Act, 29 U.S.C. ss.  
 27 1001 et seq., as it relates to the provision of life insurance  
 28 by employers to their employees and the regulation thereof;

29 (2) Successfully completed a correspondence course in  
 30 insurance, 3 hours of which shall be on the subject matter of  
 31 ethics, satisfactory to the department and regularly offered

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1 by accredited institutions of higher learning in this state or  
2 by independent programs of study, approved by the department.

3 Courses must include instruction on the subject matter of  
4 unauthorized entities engaging in the business of insurance,  
5 to include the Florida Nonprofit Multiple-Employer Welfare  
6 Arrangement Act and the Employee Retirement Income Security  
7 Act, 29 U.S.C. ss. 1001 et seq., as it relates to the  
8 provision of life insurance by employers to their employees  
9 and the regulation thereof;

10 (3) Held an active license in life, or life and  
11 health, insurance in another state. This provision may not be  
12 utilized unless the other state grants reciprocal treatment to  
13 licensees formerly licensed in Florida; or

14 (4) Been employed by the department or office for at  
15 least 1 year, full time in life or life and health insurance  
16 regulatory matters and who was not terminated for cause, and  
17 application for examination is made within 90 days after the  
18 date of termination of his or her employment with the  
19 department or office.

20 Section 4. Section 626.8311, Florida Statutes, is  
21 amended to read:

22 626.8311 Requirement as to knowledge, experience, or  
23 instruction.--No applicant for a license as a health agent,  
24 except for a chartered life underwriter (CLU), shall be  
25 qualified or licensed unless within the 4 years immediately  
26 preceding the date the application for license is filed with  
27 the department he or she has:

28 (1) Successfully completed 40 hours of classroom  
29 courses in insurance, 3 hours of which shall be on the subject  
30 matter of ethics, satisfactory to the department at a school  
31 or college, or extension division thereof, or other authorized

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1 course of study, approved by the department. Courses must  
 2 include instruction on the subject matter of unauthorized  
 3 entities engaging in the business of insurance, to include the  
 4 Florida Nonprofit Multiple-Employer Welfare Arrangement Act  
 5 and the Employee Retirement Income Security Act, 29 U.S.C. ss.  
 6 1001 et seq., as it relates to the provision of health  
 7 insurance by employers to their employees and the regulation  
 8 thereof;

9 (2) Successfully completed a correspondence course in  
 10 insurance, 3 hours of which shall be on the subject matter of  
 11 ethics, satisfactory to the department and regularly offered  
 12 by accredited institutions of higher learning in this state or  
 13 by independent programs of study, approved by the department.  
 14 Courses must include instruction on the subject matter of  
 15 unauthorized entities engaging in the business of insurance,  
 16 to include the Florida Nonprofit Multiple-Employer Welfare  
 17 Arrangement Act and the Employee Retirement Income Security  
 18 Act, 29 U.S.C. ss. 1001 et seq., as it relates to the  
 19 provision of health insurance by employers to their employees  
 20 and the regulation thereof;

21 (3) Held an active license in health, or life and  
 22 health, insurance in another state. This provision may not be  
 23 utilized unless the other state grants reciprocal treatment to  
 24 licensees formerly licensed in Florida; or

25 (4) Been employed by the department or office for at  
 26 least 1 year, full time in health insurance regulatory matters  
 27 and who was not terminated for cause, and application for  
 28 examination is made within 90 days after the date of  
 29 termination of his or her employment with the department or  
 30 office.

31 Section 5. Effective January 1, 2008, subsection (1)

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1 of section 626.747, Florida Statutes, is amended to read:

2 626.747 Branch agencies.--

3 (1)(a) Each branch place of business established by an  
4 agent or agency, firm, corporation, or association shall be in  
5 the active full-time charge of a licensed general lines agent  
6 or life or health agent who is appointed to represent one or  
7 more insurers. Any agent or agency, firm, corporation, or  
8 association which has established one or more branch places of  
9 business shall be required to have at least one licensed  
10 general lines agent who is appointed to represent one or more  
11 insurers at each location of the agency including its  
12 headquarters location.

13 (b) Notwithstanding paragraph (a), the licensed agent  
14 in charge of an insurance agency may also be the agent in  
15 charge of additional branch office locations of the agency if  
16 insurance activities requiring licensure as an insurance agent  
17 do not occur at any location when the agent is not physically  
18 present and unlicensed employees at the location do not engage  
19 in any insurance activities requiring licensure as an  
20 insurance agent or customer service representative.

21 Section 6. Subsection (2) of section 626.865, Florida  
22 Statutes, is amended to read:

23 626.865 Public adjuster's qualifications, bond.--

24 (2) At the time of application for license as a public  
25 adjuster, the applicant shall file with the department a bond  
26 executed and issued by a surety insurer authorized to transact  
27 such business in this state, in the amount of \$50,000,  
28 conditioned for the faithful performance of his or her duties  
29 as a public adjuster under the license for which the applicant  
30 has applied, and thereafter maintain the bond unimpaired  
31 throughout the existence of the license and for at least 1

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1 year after termination of the license ~~for~~. The bond shall be  
 2 in favor of the department and shall specifically authorize  
 3 recovery by the department of the damages sustained in case  
 4 the licensee is guilty of fraud or unfair practices in  
 5 connection with his or her business as public adjuster. The  
 6 aggregate liability of the surety for all such damages shall  
 7 in no event exceed the amount of the bond. Such bond shall  
 8 not be terminated unless at least 30 days' written notice is  
 9 given to the licensee and filed with the department.

10 Section 7. Paragraph (c) of subsection (4) of section  
 11 626.869, Florida Statutes, is amended to read:

12 626.869 License, adjusters.--

13 (4)

14 (c) The department shall adopt rules necessary to  
 15 implement and administer the continuing education requirements  
 16 of this subsection. For good cause shown, the department may  
 17 grant an extension of time during which the requirements  
 18 imposed by this section may be completed, but such extension  
 19 of time may not exceed 1 year.

20 Section 8. Section 626.8698, Florida Statutes, is  
 21 amended to read:

22 626.8698 Disciplinary guidelines for public  
 23 adjusters.--The department may deny, suspend, or revoke the  
 24 license of a public adjuster, and administer a fine not to  
 25 exceed \$5,000 per act, for any of the following:

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

28 (2) Receiving payment or anything of value as a result  
 29 of an unfair or deceptive practice;

30 (3) Receiving or accepting any fee, kickback, or other  
 31 thing of value pursuant to any agreement or understanding,

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1 oral or otherwise; entering into a split-fee arrangement with  
2 another person who is not a public adjuster; or being  
3 otherwise paid or accepting payment for services that have not  
4 been performed;

5 (4) Violating s. 316.066 or s. 817.234;

6 (5) Soliciting or otherwise taking advantage of a  
7 person who is vulnerable, emotional, or otherwise upset as the  
8 result of a trauma, accident, or other similar occurrence; or

9 (6) Violating any ethical rule of the department.

10 Section 9. Paragraphs (a) and (c) of section 626.921,  
11 Florida Statutes, are amended to read:

12 626.921 Florida Surplus Lines Service Office.--

13 (5)(a) The association shall submit to the office a  
14 plan of operation, and any amendments thereto, to provide  
15 operating procedures for the administration of the service  
16 office. The plan of operation and any amendments thereto shall  
17 become effective upon approval by order of the office. The  
18 association shall submit to the department an agents' manual,  
19 and any amendments thereto, which shall provide administrative  
20 procedures that surplus lines insurance agents must follow  
21 with respect to their duties to the service office. The manual  
22 shall be prepared in cooperation with the department, and any  
23 changes, updates, or amendments shall be submitted to the  
24 department before distribution. The manual shall be approved  
25 by order of the department.

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

28 Section 10. Section 626.9611, Florida Statutes, is  
29 amended to read:

30 626.9611 Rules.--

31 (1) The department or commission may, in accordance



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1 with chapter 120, adopt reasonable rules as are necessary or  
2 proper to identify specific methods of competition or acts or  
3 practices which are prohibited by s. 626.9541 or s. 626.9551,  
4 but the rules shall not enlarge upon or extend the provisions  
5 of ss. 626.9541 and 626.9551.

6 (2) The department and the commission shall, in  
7 accordance with chapter 120, adopt rules to protect members of  
8 the United States Armed Forces from dishonest or predatory  
9 insurance sales practices by insurers and insurance agents.  
10 The rules shall identify specific false, misleading,  
11 deceptive, or unfair methods of competition, acts, or  
12 practices which are prohibited by s. 626.9541 or s. 626.9551.  
13 The rules shall be based upon model rules or model laws  
14 adopted by the National Association of Insurance Commissioners  
15 which identify certain insurance practices involving the  
16 solicitation or sale of insurance and annuities to members of  
17 the United States Armed Forces which are false, misleading,  
18 deceptive, or unfair.

19 Section 11. For the 2007-2008 fiscal year, the sum of  
20 \$132,000 in nonrecurring funds is appropriated from the  
21 Insurance Regulatory Trust Fund to the Department of Financial  
22 Services for computer system changes necessary to implement  
23 the provisions of s. 626.747, Florida Statutes.

24 Section 12. Section 626.9531, Florida Statutes, is  
25 amended to read:

26 626.9531 Identification of insurers, agents, and  
27 insurance contracts.--

28 (1) Advertising materials and other communications  
29 developed by insurers, or other risk bearing entities  
30 authorized under this code and approved by the office to do  
31 business in this state, regarding insurance products shall

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1 clearly indicate that the communication relates to insurance  
 2 products. When soliciting or selling insurance products,  
 3 agents shall clearly indicate to prospective insureds that  
 4 they are acting as insurance agents with regard to insurance  
 5 products and identified insurers, or other risk bearing  
 6 entities authorized under this code and approved by the office  
 7 to do business in this state.

8       (2) There shall be no liability to the insured on the  
 9 part of, and no cause of action of any nature shall arise  
 10 against, any licensed and appointed insurance agent for the  
 11 insolvency of any risk bearing entity when such entity has  
 12 been duly authorized or approved by the office to do business  
 13 in this state. However if the licensed and appointed agent was  
 14 a controlling producer, as defined in s. 626.7491(2), of the  
 15 risk bearing entity within 2 years preceding the insolvency,  
 16 the agent is subject to penalty as provided in s. 626.7491(8).

17       (3) For the purposes of this section, the term "risk  
 18 bearing entity" means a reciprocal insurer as defined in s.  
 19 629.021, a commercial self-insurance fund as defined in s.  
 20 624.462, a group self-insurance fund as defined in s.  
 21 624.4621, a local government self-insurance fund as defined in  
 22 s. 624.4622, a self-insured public utility as defined in s.  
 23 624.46225, or an independent educational institution  
 24 self-insurance fund as defined in s. 624.4623. For the  
 25 purposes of this section, the term "risk bearing entity" does  
 26 not include an authorized insurer as defined in s. 624.09.

27       Section 13. Except as otherwise expressly provided in  
 28 this act, this act shall take effect July 1, 2007.

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1 ===== T I T L E    A M E N D M E N T =====

2 And the title is amended as follows:

3           Delete everything before the enacting clause

4

5 and insert:

6                           A bill to be entitled

7           An act relating to insurance representatives;  
8           amending s. 626.112, F.S.; authorizing certain  
9           agencies designated as a branch office to file  
10          an application for registration in lieu of  
11          licensure; amending s. 626.221, F.S.; providing  
12          an exemption from the required written  
13          examination to certain applicants for licensure  
14          as a claims adjuster; amending s. 626.7851,  
15          F.S.; authorizing certain programs to offer  
16          correspondence courses to applicants for  
17          licensure as a life insurance agent; amending  
18          s. 626.8311, F.S.; authorizing certain programs  
19          to offer correspondence courses to applicants  
20          for licensure as a health insurance agent;  
21          amending s. 626.747, F.S.; authorizing certain  
22          licensed agents to be the agent in charge of  
23          branch locations under certain circumstances;  
24          amending s. 626.865, F.S.; requiring public  
25          adjusters to maintain their surety bond  
26          unimpaired for a certain period; amending s.  
27          626.869, F.S.; authorizing an extension of time  
28          to complete continuing education requirements  
29          for public adjusters; amending s. 626.8698,  
30          F.S.; designating the Department of Financial  
31          Services as the appropriate agency responsible

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1 for disciplinary action against public  
2 adjusters; amending s. 626.921, F.S.; providing  
3 that the department is responsible for approval  
4 of the surplus lines agent manual; amending s.  
5 626.9611, F.S.; requiring that the department  
6 adopt rules prohibiting the use of unfair and  
7 deceptive practices in the sale of insurance to  
8 members of the United States Armed Forces;  
9 providing limitations; providing an  
10 appropriation; amending s. 626.9531, F.S.;  
11 revising requirements for identification of  
12 insurers, agents, and insurance contracts;  
13 specifying absence of liability and prohibiting  
14 causes of action against certain agents for  
15 insolvency of certain entities under certain  
16 circumstances; providing definitions; providing  
17 effective dates.

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