

Bill No. SB 1098



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CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
3/11/2008	.	
	.	
	.	

1 The Committee on Banking and Insurance (Gaetz) recommended the
 2 following **amendment**:

3
 4 **Senate Amendment (with title amendment)**

5 Delete everything after the enacting clause
 6 and insert:

7 Section 1. Subsection (5) of section 624.501, Florida
 8 Statutes, is amended to read:

9 624.501 Filing, license, appointment, and miscellaneous
 10 fees.--The department, commission, or office, as appropriate,
 11 shall collect in advance, and persons so served shall pay to it
 12 in advance, fees, licenses, and miscellaneous charges as
 13 follows:

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14 (5) All insurance representatives, application for
15 license, application for reinstatement of suspended license,
16 each filing, filing fee....\$50.00

17 Section 2. Subsection (1) of section 626.015, Florida
18 Statutes, is amended to read:

19 626.015 Definitions.--As used in this part:

20 (1) "Adjuster" means a public adjuster as defined in s.
21 626.854, public adjuster apprentice as defined in s. 626.8541,
22 independent adjuster as defined in s. 626.855, or company
23 employee adjuster as defined in s. 626.856.

24 Section 3. Paragraphs (c), (e), and (f) of subsection (2)
25 of section 626.221, Florida Statutes, are amended to read:

26 626.221 Examination requirement; exemptions.--

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

29 (c) In the discretion of the department, an applicant for
30 reinstatement of license or appointment as an agent, customer
31 representative, company employee adjuster, or independent
32 adjuster whose license has been suspended within 4 years prior
33 to the date of application or written request for reinstatement.

34 (e) A person who has been licensed and appointed as an a
35 ~~public adjuster,~~ independent adjuster, or company employee
36 adjuster as to all property, casualty, and surety insurances,
37 may be licensed and appointed as a company employee or,
38 independent, ~~or public adjuster,~~ as to these kinds of insurance,
39 without additional written examination if an application for
40 licensure is filed with the department within 48 months

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41 following the date of cancellation or expiration of the prior
42 appointment.

43 (f) A person who has been licensed as a company employee
44 or independent ~~an~~ adjuster for motor vehicle, property and
45 casualty, workers' compensation, and health insurance may be
46 licensed as such an adjuster without additional written
47 examination if his or her application for licensure is filed
48 with the department within 48 months after cancellation or
49 expiration of the prior license.

50 Section 4. Subsection (6) of section 626.241, Florida
51 Statutes, is amended to read:

52 626.241 Scope of examination.--

53 (6) In order to reflect the differences between adjusting
54 claims for an insurer and adjusting claims for an insured, the
55 department shall create an examination for applicants seeking
56 licensure as a public adjuster and a separate examination for
57 applicants seeking licensure as a company employee adjuster or
58 independent adjuster. Examinations given applicants for license
59 as an all-lines adjuster shall cover adjusting in all lines of
60 insurance, other than life and annuity; or, in accordance with
61 the application for the license, the examination may be limited
62 to adjusting in:

- 63 (a) Automobile physical damage insurance;
- 64 (b) Property and casualty insurance;
- 65 (c) Workers' compensation insurance; or
- 66 (d) Health insurance.

67 Section 5. Subsection (1) of section 626.641, Florida
68 Statutes, is amended to read:

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69 626.641 Duration of suspension or revocation.--

70 (1) The department shall, in its order suspending a
71 license or appointment or in its order suspending the
72 eligibility of a person to hold or apply for such license or
73 appointment, specify the period during which the suspension is
74 to be in effect; but such period shall not exceed 2 years. The
75 license, appointment, or eligibility shall remain suspended
76 during the period so specified, subject, however, to any
77 rescission or modification of the order by the department, or
78 modification or reversal thereof by the court, prior to
79 expiration of the suspension period. A license, appointment, or
80 eligibility that ~~which~~ has been suspended shall not be
81 reinstated except upon the filing and approval of an application
82 for request for such reinstatement and, in the case of a second
83 suspension, completion of continuing education courses
84 prescribed and approved by the department; but the department
85 shall not approve an application for grant ~~such~~ reinstatement if
86 it finds that the circumstance or circumstances for which the
87 license, appointment, or eligibility was suspended still exist
88 or are likely to recur. In addition, an application a request
89 for reinstatement is subject to denial and subject to a waiting
90 period prior to approval on the same grounds that apply to
91 applications for licensure pursuant to ss. 626.207, 626.611, ~~and~~
92 626.621, and 626.8698.

93 Section 6. Effective October 1, 2008, subsections (5),
94 (6), (7), (8), (9), (10), (11), (12), and (13) are added to
95 section 626.854, Florida Statutes, to read:

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96 626.854 "Public adjuster" defined; prohibitions.--The
97 Legislature finds that it is necessary for the protection of the
98 public to regulate public insurance adjusters and to prevent the
99 unauthorized practice of law.

100 (5) A public adjuster may not directly or indirectly
101 through any other individual or entity solicit an insured or
102 claimant by any means between the hours of 9 p.m. and 8 a.m.

103 (6) A public adjuster may not directly or indirectly
104 through any other individual or entity engage in face-to-face or
105 telephonic solicitation or enter into a contract with any
106 insured or claimant under an insurance policy until at least 72
107 hours after the occurrence of an event that may be the subject
108 of a claim under the insurance policy unless contact is
109 initiated by the insured or claimant.

110 (7) A client may cancel a public adjuster's contract to
111 adjust a claim without penalty or obligation within 3 business
112 days after the date on which the contract is executed or within
113 3 business days after the date on which the client has notified
114 the insurer of the claim, by phone or in writing, whichever is
115 later. The public adjuster shall disclose to the client his or
116 her right to cancel the contract and advise the client that
117 notice of cancellation must be submitted in writing and sent by
118 certified mail, return receipt requested, or other form of
119 mailing which provides proof thereof, to the public adjuster at
120 the address specified in the contract. However, when the event
121 is a storm declared to be a hurricane by the National Hurricane
122 Center, this provision applies for a period of 14 business days.

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123 (8) It is an unfair and deceptive insurance trade practice
124 pursuant to s. 626.9541 for a public adjuster or any other
125 person to circulate or disseminate any advertisement,
126 announcement, or statement containing any assertion,
127 representation, or statement with respect to the business of
128 insurance which is untrue, deceptive, or misleading.

129 (9) A public adjuster, a public adjuster apprentice, or
130 any person or entity acting on behalf of a public adjuster or
131 public adjuster apprentice may not give or offer to give a
132 monetary loan or advance to a client or prospective client.

133 (10) A public adjuster, public adjuster apprentice, or any
134 individual or entity acting on behalf of a public adjuster or
135 public adjuster apprentice may not give or offer to give,
136 directly or indirectly, any article of merchandise having a
137 value in excess of \$25 to any individual for the purpose of
138 advertising or as an inducement to entering into a contract with
139 a public adjuster.

140 (11) For any claim under a residential or commercial
141 residential property insurance policy, a public adjuster may not
142 charge, agree to, or accept any compensation, payment,
143 commission, fee, or other thing of value:

144 (a) Based on any claim payments for additional living
145 expenses;

146 (b) Based on the amount of a claim payment or payment
147 offer by the insurer which occurred before the date on which the
148 adjuster and the insured executed a contract with regard to the
149 claim;



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150 (c) Greater than 15 percent of the amount of an insurance
151 claim payment by the insurer for claims that do not arise out of
152 a storm declared to be a hurricane by the National Hurricane
153 Center; or

154 (d) Greater than 10 percent of the amount of an insurance
155 claim payment by the insurer for claims based on and made
156 subsequent to a storm declared to be a hurricane by the National
157 Hurricane Center; except that, if a public adjuster and an
158 insured execute a contract providing for the adjuster to reopen
159 or file a supplemental claim that seeks additional payments on
160 behalf of an insured or claimant for a claim that has been
161 previously paid or settled, the amount may be up to 15 percent
162 of the amount of the claim payments made by the insurer after
163 the date of the execution of the contract to reopen or file a
164 supplemental claim.

165 (12) If a public adjuster enters into a contract with an
166 insured or claimant to reopen a claim or to file a supplemental
167 claim that seeks additional payments for a claim that has been
168 previously paid or settled, the public adjuster may not base any
169 charge, compensation, payment, commission, or fee on the
170 previous settlement or previous claim payments.

171 (13) A public adjuster may not charge, agree to, or accept
172 any compensation, payment, commission, fee, or other thing of
173 value based on any full or partial insurance settlement or
174 insurance claim payment by the insurer, or any portion of any
175 payment by the insurer:

176 (a) Equal to more than 15 percent of the amount of any
177 full or partial insurance settlement or claim payment by the

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178 insurer. However, this paragraph does not apply to claims that
179 arise out of a storm declared to be a hurricane by the National
180 Hurricane Center.

181 (b) With regard to claims arising out of a storm declared
182 to be a hurricane by the National Hurricane Center:

183 1. Equal to more than 10 percent of the amount of any full
184 or partial insurance settlement or insurance claim payment by
185 the insurer on the initial claim; or

186 2. Equal to more than 15 percent of the amount of any full
187 or partial insurance settlement or insurance claim payment by
188 the insurer if a public adjuster reopens the initial claim or
189 files a supplemental claim that seeks additional payments on
190 behalf of an insured or claimant for a claim that has been
191 previously paid or settled.

192 Section 7. Section 626.8541, Florida Statutes, is created
193 to read:

194 626.8541 "Public adjuster apprentice" defined.--The term
195 "public adjuster apprentice" means any individual who is
196 employed by a licensed and appointed all-lines public adjuster
197 in good standing with the department or a public adjusting firm
198 that employs at least one licensed and appointed all-lines
199 public adjuster in good standing with the department to assist
200 an all-lines public adjuster in conducting business under the
201 license and who satisfies the requirements of s. 626.8651.

202 Section 8. Subsection (1) of section 626.865, Florida
203 Statutes, is amended, and subsection (3) is added to that
204 section, to read:

205 626.865 Public adjuster's qualifications, bond.--

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206 (1) The department shall issue a license to an applicant
207 for a public adjuster's license upon determining that the
208 applicant has paid the applicable fees specified in s. 624.501
209 and possesses the following qualifications:

210 (a) Is a natural person at least 18 years of age.

211 (b) Is a United States citizen or legal alien who
212 possesses work authorization from the United States Bureau of
213 Citizenship and Immigration Services and a bona fide resident of
214 this state.

215 (c) Is trustworthy and has such business reputation as
216 would reasonably assure that the applicant will conduct his or
217 her business as insurance adjuster fairly and in good faith and
218 without detriment to the public.

219 (d) 1. In the past 4 years has had 2 years of sufficient
220 experience involving the adjusting of damages or losses under
221 insurance contracts, other than life and annuity contracts, as a
222 licensed and appointed general lines insurance agent or as a
223 licensed and appointed all-lines or property and casualty
224 company employee adjuster or independent adjuster; , training, or
225 instruction concerning the adjusting of damages or losses under
226 insurance contracts, other than life and annuity contracts,

227 2. Has successfully completed 12 semester hours or 18
228 quarter hours in courses on insurance, other than life and
229 annuity contracts, at an accredited institution of higher
230 learning; or

231 3. Has completed 12 months of employment as a public
232 adjuster apprentice in accordance with s. 626.8651.



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233 (e) Is sufficiently informed as to the terms and effects
234 of the provisions of those types of insurance contracts, and
235 possesses adequate knowledge of the laws of this state relating
236 to such contracts as to enable and qualify him or her to engage
237 in the business of insurance adjuster fairly and without injury
238 to the public or any member thereof with whom the applicant may
239 have business as a public adjuster.

240 (f)~~(e)~~ Has passed the ~~any~~ required written examination.

241 (3) The department may not issue a license as a public
242 adjuster to any individual who has not passed the examination
243 for a public adjuster's license. Any individual who is applying
244 for reinstatement of a license after completion of a period of
245 suspension and any individual who is applying for a new license
246 after termination, cancellation, revocation, or expiration of a
247 prior license as a public adjuster must pass the examination
248 required for licensure as a public adjuster after approval of
249 the application for reinstatement or for a new license
250 regardless of whether the applicant passed an examination prior
251 to issuance of the license that was suspended, terminated,
252 cancelled, revoked, or expired.

253 Section 9. Section 626.8651, Florida Statutes, is created
254 to read:

255 626.8651 Public adjuster apprentice license;
256 qualifications.--

257 (1) If, upon the basis of a completed application for
258 license as a public adjuster apprentice and such further inquiry
259 or investigation as the department may make concerning an
260 applicant, the department is satisfied that the applicant is



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261 qualified and that all pertinent fees have been paid, it shall
262 approve the application.

263 (2) If, upon the basis of the completed application and
264 such further inquiry or investigation, the department finds the
265 applicant to be lacking in any one or more of the required
266 qualifications for licensure as a public adjuster apprentice,
267 the department shall deny the application and notify the
268 applicant, stating the grounds for denial.

269 (3) The department shall issue a license as a public
270 adjuster apprentice if the applicant meets the following
271 qualifications:

272 (a) The applicant is a natural person at least 18 years of
273 age.

274 (b) The applicant is a United States citizen or legal
275 alien who possesses work authorization from the United States
276 Bureau of Citizenship and Immigration Services and is a resident
277 of this state.

278 (c) The applicant is trustworthy and has such business
279 reputation as would reasonably assure that the applicant will
280 conduct business as a public adjuster apprentice fairly and in
281 good faith and without detriment to the public.

282 (d) The applicant has had sufficient experience, training,
283 or instruction concerning the adjusting of damages or losses
284 under insurance contracts, other than life and annuity
285 contracts, is sufficiently informed as to the terms and effects
286 of the provisions of those types of insurance contracts, and
287 possesses adequate knowledge of the laws of this state relating
288 to such contracts as to enable and qualify him or her to engage

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289 in business as a public adjuster apprentice fairly and without
290 injury to the public. The department may adopt rules that
291 establish standards for the experience, training, or instruction
292 requirements.

293 (4) (a) The application must be accompanied by an affidavit
294 verifying proposed employment and the applicant's
295 trustworthiness and qualifications on a form prescribed by the
296 department and executed by the proposed employer. The proposed
297 employer must be a licensed and appointed public adjuster in
298 good standing with the department or a public adjuster firm that
299 employs at least one licensed and appointed public adjuster in
300 good standing with the department.

301 (b) All applicable license fees, as prescribed in s.
302 624.501, must be paid in full before issuance of the license.

303 (5) At the time of application for license as a public
304 adjuster apprentice, the applicant shall file with the
305 department a bond executed and issued by a surety insurer
306 authorized to transact such business in this state, in the
307 amount of \$50,000, conditioned for the faithful performance of
308 his or her duties as a public adjuster apprentice under the
309 license for which the applicant has applied, and thereafter
310 maintain the bond unimpaired throughout the existence of the
311 license and for at least 1 year after termination of the
312 license. The bond shall be in favor of the department and shall
313 specifically authorize recovery by the department of the damages
314 sustained in case the licensee is guilty of fraud or unfair
315 practices in connection with his or her business as a public
316 adjuster apprentice. The aggregate liability of the surety for

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317 all such damages may not exceed the amount of the bond, and the
318 bond may not be terminated by the issuing insurer unless written
319 notice of at least 30 days is given to the licensee and filed
320 with the department.

321 (6) A public adjuster apprentice must complete at a
322 minimum 100 hours of employment per month for 12 months of
323 employment under the supervision of a licensed and appointed
324 all-lines public adjuster in order to qualify for licensure as a
325 public adjuster. The department may adopt rules that establish
326 standards for the employment requirements.

327 (7) The supervising public adjuster is responsible and
328 accountable for the acts of a public adjuster apprentice which
329 are related to transacting business as a public adjuster
330 apprentice.

331 (8) The apprentice license is effective for 18 months
332 unless it expires due to lack of maintaining an appointment; is
333 surrendered by the licensee; is terminated, suspended, or
334 revoked by the department; or is cancelled by the department
335 upon issuance of a public adjuster license. The department may
336 not issue a public adjuster apprentice license to any individual
337 who has held such a license in this state within 2 years after
338 expiration, surrender, termination, revocation, or cancellation
339 of the license.

340 (9) After completing the requirements for employment as a
341 public adjuster apprentice, the licensee may file an application
342 for a public adjuster license. The applicant and supervising
343 public adjuster or public adjusting firm must each file a sworn
344 affidavit, on a form prescribed by the department, verifying

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345 that the employment of the public adjuster apprentice meets the
346 requirements of this section.

347 (10) A public adjuster apprentice licensed under this
348 section may not perform any of the functions for which a public
349 adjuster's license is required after expiration of the public
350 adjuster apprentice license without having obtained a public
351 adjuster license.

352 (11) A public adjuster apprentice has the same authority
353 as the licensed public adjuster or public adjusting firm that
354 employs the apprentice except that an apprentice may not execute
355 contracts for the services of a public adjuster or public
356 adjusting firm and may not solicit contracts for the services
357 except under the direct supervision and guidance of the
358 supervisory public adjuster. An individual may not be, act as,
359 or hold himself or herself out to be a public adjuster
360 apprentice unless the individual is licensed and holds a current
361 appointment by a licensed public all-lines adjuster or a public
362 adjusting firm that employs a licensed all-lines public
363 adjuster.

364 Section 10. Effective October 1, 2008, section 626.869,
365 Florida Statutes, is amended to read:

366 626.869 License, adjusters; continuing education.--

367 (1) An applicant for a license as an adjuster may qualify
368 and his or her license when issued may cover adjusting in any
369 one of the following classes of insurance:

370 (a) All lines of insurance except life and annuities.

371 (b) Motor vehicle physical damage insurance.

372 (c) Property and casualty insurance.



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373 (d) Workers' compensation insurance.

374 (e) Health insurance.

375 (2) All individuals who on October 1, 1990, hold an
376 adjuster's license and appointment limited to fire and allied
377 lines, including marine or casualty or boiler and machinery, may
378 remain licensed and appointed under the limited license and may
379 renew their appointment, but no license or appointment which has
380 been terminated, not renewed, suspended, or revoked shall be
381 reinstated, and no new or additional licenses or appointments
382 shall be issued.

383 (3) The applicant's application for license shall specify
384 which of the foregoing classes of business the application for
385 license is to cover.

386 (4) (a) Any individual holding a license as a company
387 employee adjuster or independent adjuster for 24 consecutive
388 months or longer must, beginning in his or her birth month and
389 every 2 years thereafter, have completed 24 hours of courses, 2
390 hours of which relate to ethics, in subjects designed to inform
391 the licensee regarding the current insurance laws of this state,
392 so as to enable him or her to engage in business as an insurance
393 adjuster fairly and without injury to the public and to adjust
394 all claims in accordance with the policy or contract and the
395 laws of this state.

396 (b) Any individual holding a license as a public adjuster
397 for 24 consecutive months or longer, beginning in their birth
398 month and every 2 years thereafter, must have completed 24 hours
399 of courses, 2 hours of which relate to ethics, in subjects
400 designed to inform the licensee regarding the current laws of

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401 this state pertaining to all lines of insurance other than life
402 and annuities, the current laws of this state pertaining to the
403 duties and responsibilities of public adjusters as set forth in
404 this part, and the current rules of the department which are
405 applicable to public adjusters and standard or representative
406 policy forms used by insurers, other than forms for life
407 insurance and annuities, so as to enable him or her to engage in
408 business as an adjuster fairly and without injury to the public
409 and to adjust all claims in accordance with the policy or
410 contract and laws of this state. In order to receive credit for
411 continuing education courses, public adjusters must take courses
412 that are specifically designed for public adjusters and approved
413 by the department.

414 (c) The department shall adopt rules necessary to
415 implement and administer the continuing education requirements
416 of this subsection. For good cause shown, the department may
417 grant an extension of time during which the requirements imposed
418 by this section may be completed, but such extension of time may
419 not exceed 1 year.

420 (d) A nonresident adjuster who has met the continuing
421 education requirement of his or her home state and whose home
422 state gives credit to a resident of this state on the same basis
423 satisfies the continuing education requirement of this state. A
424 nonresident agent whose home state does not have a continuing
425 education requirement equivalent to our state must meet the
426 continuing education requirement of this state.

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427 (5) The regulation of continuing education for licensees,
428 course providers, instructors, school officials, and monitor
429 groups shall be as provided for in s. 626.2816.

430 Section 11. Effective October 1, 2008, section 626.8698,
431 Florida Statutes, is amended to read:

432 626.8698 Disciplinary guidelines for public adjusters and
433 public adjuster apprentices.--The department may deny, suspend,
434 or revoke the license of a public adjuster or public adjuster
435 apprentice, and administer a fine not to exceed \$5,000 per act,
436 for any of the following:

437 (1) Violating any provision of this chapter or a rule or
438 order of the department;

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

441 (3) Receiving or accepting any fee, kickback, or other
442 thing of value pursuant to any agreement or understanding, oral
443 or otherwise; entering into a split-fee arrangement with another
444 person who is not a public adjuster; or being otherwise paid or
445 accepting payment for services that have not been performed;

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

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

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

451 Section 12. Subsection (4) is added to section 626.870,
452 Florida Statutes, to read:

453 626.870 Application for license.--

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454 (4) A license, appointment, or eligibility that has been
455 suspended may not be reinstated except upon the filing and
456 approval of an application for reinstatement in accordance with
457 s. 626.641. In addition, for reinstatement of a public
458 adjuster's license, appointment, or eligibility, the individual
459 must pass the public adjuster licensing examination. An
460 application for reinstatement must be accompanied by any
461 applicable examination fee. Successful completion of the
462 examination does not entitle the applicant to have a license
463 reinstated. The application is subject to denial pursuant to ss.
464 626.207, 626.611, 626.621, and 626.8698. If the department
465 approves an application for reinstatement, the applicant shall
466 be notified that the license will be reinstated upon payment by
467 the applicant of the reinstatement fee contained in s.
468 624.501(15).

469 Section 13. Paragraphs (b) and (e) of subsection (1) and
470 paragraphs (b) and (c) of subsection (2) of section 626.8732,
471 Florida Statutes, are amended, and subsection (6) is added to
472 that section, to read:

473 626.8732 Nonresident public adjuster's qualifications,
474 bond.--

475 (1) The department shall, upon application therefor, issue
476 a license to an applicant for a nonresident public adjuster's
477 license upon determining that the applicant has paid the
478 applicable license fees required under s. 624.501 and:

479 (b) Has passed to the satisfaction of the department a
480 written Florida public adjuster's examination of the scope

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481 ~~prescribed in s. 626.241(6); however, the requirement for such~~
482 ~~an examination does not apply to any of the following:~~

483 ~~1. An applicant who is licensed as a resident public~~
484 ~~adjuster in his or her state of residence, when that state~~
485 ~~requires the passing of a written examination in order to obtain~~
486 ~~the license and a reciprocal agreement with the appropriate~~
487 ~~official of that state has been entered into by the department;~~
488 ~~or~~

489 ~~2. An applicant who is licensed as a nonresident public~~
490 ~~adjuster in a state other than his or her state of residence~~
491 ~~when the state of licensure requires the passing of a written~~
492 ~~examination in order to obtain the license and a reciprocal~~
493 ~~agreement with the appropriate official of the state of~~
494 ~~licensure has been entered into by the department.~~

495 (e) Has been licensed and employed as a public adjuster in
496 the applicant's state of residence on a continual basis for the
497 past 3 years, or, if the applicant's state of residence does not
498 issue licenses to individuals who act as public adjusters, the
499 applicant has been licensed and employed as a resident insurance
500 company or independent adjuster, insurance agent, insurance
501 broker, or other insurance representative in his or her state of
502 residence or any other state on a continual basis for the past 3
503 years. This paragraph does not apply to individuals who are
504 licensed to transact only life insurance and annuity business
505 ~~had sufficient experience, training, or instruction concerning~~
506 ~~the adjusting of damages or losses under insurance contracts,~~
507 ~~other than life and annuity contracts; is sufficiently informed~~
508 ~~as to the terms and effects of the provisions of those types of~~

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509 ~~insurance contracts; and possesses adequate knowledge of the~~
510 ~~laws of this state relating to such contracts as to enable and~~
511 ~~qualify him or her to engage in the business of insurance~~
512 ~~adjuster fairly and without injury to the public or any member~~
513 ~~thereof with whom he or she may have business as a public~~
514 ~~adjuster.~~

515 (2) The applicant shall furnish the following with his or
516 her application:

517 (b) If currently licensed as a resident public adjuster in
518 the applicant's state of residence, a certificate or letter of
519 authorization from the licensing authority of the applicant's
520 state of residence, stating that the applicant holds a current
521 or comparable license to act as a public adjuster and has held
522 the license continuously for the past 3 years. The certificate
523 or letter of authorization must be signed by the insurance
524 commissioner or his or her deputy or the appropriate licensing
525 official and must disclose whether the adjuster has ever had any
526 license or eligibility to hold any license declined, denied,
527 suspended, revoked, or placed on probation or whether an
528 administrative fine or penalty has been levied against the
529 adjuster and, if so, the reason for the action.

530 (c) If the applicant's state of residence does not require
531 licensure as a public adjuster and the applicant has been
532 licensed as a resident insurance adjuster, agent, broker, or
533 other insurance representative in his or her state of residence
534 or any other state ~~within the past 3 years~~, a certificate or
535 letter of authorization from the licensing authority stating
536 that the applicant holds ~~or has held~~ a license to act as such an

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537 insurance adjuster, agent, or other insurance representative and
538 has held the license continuously for the past 3 years. The
539 certificate or letter of authorization must be signed by the
540 insurance commissioner or his or her deputy or the appropriate
541 licensing official and must disclose whether or not the
542 adjuster, agent, or other insurance representative has ever had
543 any license or eligibility to hold any license declined, denied,
544 suspended, revoked, or placed on probation or whether an
545 administrative fine or penalty has been levied against the
546 adjuster and, if so, the reason for the action.

547 (6) If available, the department shall verify the
548 nonresident applicant's licensing status through the producer
549 database maintained by the National Association of Insurance
550 Commissioners or its affiliates or subsidiaries.

551 Section 14. Effective October 1, 2008, section 626.8796,
552 Florida Statutes, is created to read:

553 626.8796 Public adjuster contracts; fraud statement.--All
554 contracts for public adjuster services must be in writing and
555 must prominently display the following statement on the first
556 page of the contract: "Any person who knowingly and with intent
557 to injure, defraud, or deceive any insurer files a statement of
558 claim or proof of loss containing any false, incomplete, or
559 misleading information commits a felony of the third degree."

560 Section 15. Effective October 1, 2008, section 626.8797,
561 Florida Statutes, is created to read:

562 626.8797 Public adjusters; proof of loss
563 certification.--If an insurance policy requires an insured or
564 claimant to file a written proof of loss containing an estimate



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565 of the costs to repair or replace damaged property, a public
566 adjuster under contract to adjust the claim for the insured or
567 claimant must affirm, under oath given by a notary public, the
568 proof of loss by signing the following statement: "I, . . . , do
569 solemnly, sincerely, and truly declare and affirm that I have
570 reviewed the estimate of the cost of repair or replacement of
571 damaged property as set forth in this proof of loss, in my best
572 judgment the estimated costs are reasonable, and, to the best of
573 my knowledge, the proof of loss does not contain any false,
574 incomplete, or misleading information." If this statement is not
575 printed on the proof-of-loss form, the adjuster shall add the
576 statement to the form or attach a separate page containing the
577 signed statement to the form. Pursuant to s. 817.234, any person
578 who, with the intent to injure, defraud, or deceive any insurer,
579 prepares, presents, or causes to be presented a proof of loss in
580 support of a claim under an insurance policy knowing that the
581 proof of loss contains any false, incomplete, or misleading
582 information concerning any fact or thing material to the claim,
583 commits a felony of the third degree, punishable as provided in
584 s. 775.082, s. 775.803, or s. 775.084.

585 Section 16. Except as otherwise expressly provided in this
586 act and except for this section, which shall take effect October
587 1, 2008, this act shall take effect January 1, 2009.

588
589 ===== T I T L E A M E N D M E N T =====

590 And the title is amended as follows:

591 Delete everything before the enacting clause
592 and insert:

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593 A bill to be entitled
594 An act relating to insurance adjusters; amending s.
595 624.501, F.S.; providing for filing fees for an
596 application for reinstatement of a suspended license;
597 amending s. 626.015, F.S.; redefining the term "adjuster"
598 to include a public adjuster apprentice; amending s.
599 626.221, F.S.; providing that certain company employee
600 adjusters and independent adjusters seeking reinstatement
601 of a suspended license are not required to take an
602 examination; amending s. 626.241, F.S.; requiring that the
603 Department of Financial Services create an examination for
604 applicants seeking licensure as a public adjuster and a
605 separate examination for applicants seeking licensure as a
606 company employee adjuster or independent adjuster;
607 amending s. 626.641, F.S.; providing that a suspended
608 license may not be reinstated unless the individual
609 seeking reinstatement files an application for
610 reinstatement which is subsequently approved by the
611 department; prohibiting the department from approving such
612 an application under certain circumstances; amending s.
613 626.854, F.S.; prohibiting a public adjuster from
614 soliciting or entering into a contract with any insured or
615 claimant under an insurance policy for a specified period
616 after the occurrence of an event that may be the subject
617 of a claim; providing an exception; providing that a
618 public adjuster's contract to adjust a claim may be
619 canceled by the client without penalty within a specified
620 period after the execution of the contract; requiring that



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621 a public adjuster disclose to a client his or her right to
622 cancel a contract by specified means; prohibiting a public
623 adjuster, apprentice, or his or her agent from giving or
624 offering a monetary loan or an article in excess of a
625 specified value to a client or prospective client;
626 providing that a public adjuster may not charge, agree to,
627 or accept a fee, payment, commission, or any compensation
628 based on any claim payments for additional living expenses
629 or based on the amount of a claim payment or payment offer
630 by the insurer which occurred before the date on which the
631 adjuster and insured executed a contract with regard to
632 the claim; providing restrictions on the fees and
633 compensation that may be charged or accepted by a public
634 adjuster with regard to claims involving residential or
635 commercial policies that do or do not arise from
636 hurricanes; prohibiting a public adjuster from basing any
637 charge, fee, payment, commission, or compensation relating
638 to a supplemental claim on the corresponding previous
639 settlement or claim payment; limiting the amount of
640 compensation that may be charged, agreed to, or accepted
641 by a public adjuster to a specified amount; providing an
642 exception; providing that it is an unfair and deceptive
643 insurance trade practice for a public adjuster or any
644 other person to circulate or disseminate any
645 advertisement, announcement, or statement containing any
646 assertion, representation, or statement with respect to
647 the business of insurance which is untrue, deceptive, or
648 misleading; creating s. 626.8541, F.S.; defining the term

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649 "public adjuster apprentice"; amending s. 626.865, F.S.;

650 providing qualifications that an applicant must possess

651 before the issuance of a license by the department;

652 requiring that certain persons applying for a license

653 after the completion of a period of suspension,

654 termination, cancellation, revocation, or expiration must

655 pass the examination required for licensure as a public

656 adjuster; creating s. 626.8651, F.S.; providing

657 requirements for licensure as a public adjuster

658 apprentice; requiring that the department approve an

659 application under certain circumstances; requiring that

660 the department deny an application under certain

661 circumstances; requiring that an application be

662 accompanied by an affidavit verifying certain information;

663 requiring that all license fees be paid before the

664 department issues a license; requiring the applicant to

665 file a bond in a specified amount in favor of the

666 department; providing for termination of the bond;

667 requiring that the apprentice's work be supervised by a

668 licensed adjuster in good standing; authorizing the

669 department to adopt rules governing employment

670 requirements; providing that the supervising adjuster is

671 responsible for the acts of the apprentice; providing a

672 period of effectiveness for an apprentice license;

673 providing that an individual licensed as an apprentice may

674 file an application for licensure as a public adjuster

675 after a specified period of employment as an apprentice;

676 requiring that a sworn affidavit containing certain

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677 information accompany such application; prohibiting an
678 apprentice from performing any functions for which a
679 license is required after the expiration of his or her
680 license for apprenticeship without first obtaining a
681 license to work as a public adjuster; limiting the
682 authority of a public adjuster apprentice; amending s.
683 626.869, F.S.; providing for continuing education for
684 company employee adjusters, independent adjusters, and
685 public adjusters; providing for the satisfaction of
686 continuing education requirements for nonresident
687 adjusters; amending s. 626.8698, F.S.; providing
688 disciplinary guidelines for public adjusters and public
689 adjuster apprentices; amending s. 626.870, F.S.; providing
690 requirements for the reinstatement of a suspended license,
691 an appointment, or eligibility; providing for the
692 notification of denial or approval of an application for
693 reinstatement; amending s. 626.8732, F.S.; revising
694 requirements for licensure as a nonresident public
695 adjuster; providing exceptions to such requirements;
696 requiring that an applicant for licensure as a nonresident
697 public adjuster provide certain information with his or
698 her application; requiring that the department verify the
699 nonresident applicant's licensing status; creating ss.
700 626.8796 and 626.8797, F.S.; requiring that all contracts
701 for services by a public adjuster be in writing and
702 contain a specified statement regarding fraud; providing
703 that any person who knowingly and with intent to injure,
704 defraud, or deceive any insurer or who files a statement

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705 of claim or proof of loss containing any false,
706 incomplete, or misleading information commits a felony of
707 the third degree; providing a statement that must be
708 signed by a public adjuster for claims under a policy
709 requiring the filing of a written proof of loss containing
710 an estimate of the costs to repair or replace damaged
711 property; providing that it is a felony of the third
712 degree for any person who, with the intent to injure,
713 defraud, or deceive any insurer, prepares, presents, or
714 causes to be presented a proof of loss in support of a
715 claim under an insurance policy knowing that the proof of
716 loss contains any false, incomplete, or misleading
717 information concerning any fact or thing material to the
718 claim; providing effective dates.