

By the Committee on Banking and Insurance; and Senator Fasano

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1 A bill to be entitled

2 An act relating to insurance adjusters; amending s.
3 624.501, F.S.; providing for filing fees for an
4 application for reinstatement of a suspended license;
5 amending s. 626.015, F.S.; redefining the term "adjuster"
6 to include a public adjuster apprentice; amending s.
7 626.221, F.S.; providing that certain company employee
8 adjusters and independent adjusters seeking reinstatement
9 of a suspended license are not required to take an
10 examination; amending s. 626.241, F.S.; requiring that the
11 Department of Financial Services create an examination for
12 applicants seeking licensure as a public adjuster and a
13 separate examination for applicants seeking licensure as a
14 company employee adjuster or independent adjuster;
15 amending s. 626.641, F.S.; providing that a suspended
16 license may not be reinstated unless the individual
17 seeking reinstatement files an application for
18 reinstatement which is subsequently approved by the
19 department; prohibiting the department from approving such
20 an application under certain circumstances; amending s.
21 626.854, F.S.; prohibiting a public adjuster from
22 soliciting or entering into a contract with any insured or
23 claimant under an insurance policy for a specified period
24 after the occurrence of an event that may be the subject
25 of a claim; providing an exception; providing that a
26 public adjuster's contract to adjust a claim may be
27 canceled by the client without penalty within a specified
28 period after the execution of the contract; requiring that
29 a public adjuster disclose to a client his or her right to

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30 | cancel a contract by specified means; prohibiting a public
31 | adjuster, apprentice, or his or her agent from giving or
32 | offering a monetary loan or an article in excess of a
33 | specified value to a client or prospective client;
34 | providing that a public adjuster may not charge, agree to,
35 | or accept a fee, payment, commission, or any compensation
36 | based on any claim payments for additional living expenses
37 | or based on the amount of a claim payment or payment offer
38 | by the insurer which occurred before the date on which the
39 | adjuster and insured executed a contract with regard to
40 | the claim; providing restrictions on the fees and
41 | compensation that may be charged or accepted by a public
42 | adjuster with regard to claims involving residential or
43 | commercial policies that do or do not arise from
44 | hurricanes; prohibiting a public adjuster from basing any
45 | charge, fee, payment, commission, or compensation relating
46 | to a supplemental claim on the corresponding previous
47 | settlement or claim payment; providing that it is an
48 | unfair and deceptive insurance trade practice for a public
49 | adjuster or any other person to circulate or disseminate
50 | any advertisement, announcement, or statement containing
51 | any assertion, representation, or statement with respect
52 | to the business of insurance which is untrue, deceptive,
53 | or misleading; creating s. 626.8541, F.S.; defining the
54 | term "public adjuster apprentice"; amending s. 626.865,
55 | F.S.; providing qualifications that an applicant must
56 | possess before the issuance of a license by the
57 | department; requiring that certain persons applying for a
58 | license after the completion of a period of suspension,

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59 | termination, cancellation, revocation, or expiration must
60 | pass the examination required for licensure as a public
61 | adjuster; creating s. 626.8651, F.S.; providing
62 | requirements for licensure as a public adjuster
63 | apprentice; requiring that the department approve an
64 | application under certain circumstances; requiring that
65 | the department deny an application under certain
66 | circumstances; requiring that an application be
67 | accompanied by an affidavit verifying certain information;
68 | requiring that all license fees be paid before the
69 | department issues a license; requiring the applicant to
70 | file a bond in a specified amount in favor of the
71 | department; providing for termination of the bond;
72 | requiring that the apprentice's work be supervised by a
73 | licensed adjuster in good standing; authorizing the
74 | department to adopt rules governing employment
75 | requirements; providing that the supervising adjuster is
76 | responsible for the acts of the apprentice; providing a
77 | period of effectiveness for an apprentice license;
78 | providing that an individual licensed as an apprentice may
79 | file an application for licensure as a public adjuster
80 | after a specified period of employment as an apprentice;
81 | requiring that a sworn affidavit containing certain
82 | information accompany such application; prohibiting an
83 | apprentice from performing any functions for which a
84 | license is required after the expiration of his or her
85 | license for apprenticeship without first obtaining a
86 | license to work as a public adjuster; limiting the
87 | authority of a public adjuster apprentice; amending s.

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88 626.869, F.S.; providing for continuing education for
89 company employee adjusters, independent adjusters, and
90 public adjusters; providing for the satisfaction of
91 continuing education requirements for nonresident
92 adjusters; amending s. 626.8698, F.S.; providing
93 disciplinary guidelines for public adjusters and public
94 adjuster apprentices; amending s. 626.870, F.S.; providing
95 requirements for the reinstatement of a suspended license,
96 an appointment, or eligibility; providing for the
97 notification of denial or approval of an application for
98 reinstatement; amending s. 626.8732, F.S.; revising
99 requirements for licensure as a nonresident public
100 adjuster; providing exceptions to such requirements;
101 requiring that an applicant for licensure as a nonresident
102 public adjuster provide certain information with his or
103 her application; requiring that the department verify the
104 nonresident applicant's licensing status; creating ss.
105 626.8796 and 626.8797, F.S.; requiring that all contracts
106 for services by a public adjuster be in writing and
107 contain a specified statement regarding fraud; providing
108 that any person who knowingly and with intent to injure,
109 defraud, or deceive any insurer or who files a statement
110 of claim or proof of loss containing any false,
111 incomplete, or misleading information commits a felony of
112 the third degree; providing a statement that must be
113 signed by a public adjuster for claims under a policy
114 requiring the filing of a written proof of loss containing
115 an estimate of the costs to repair or replace damaged
116 property; providing that it is a felony of the third

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117 degree for any person who, with the intent to injure,
118 defraud, or deceive any insurer, prepares, presents, or
119 causes to be presented a proof of loss in support of a
120 claim under an insurance policy knowing that the proof of
121 loss contains any false, incomplete, or misleading
122 information concerning any fact or thing material to the
123 claim; providing effective dates.

124
125 Be It Enacted by the Legislature of the State of Florida:

126
127 Section 1. Subsection (5) of section 624.501, Florida
128 Statutes, is amended to read:

129 624.501 Filing, license, appointment, and miscellaneous
130 fees.--The department, commission, or office, as appropriate,
131 shall collect in advance, and persons so served shall pay to it
132 in advance, fees, licenses, and miscellaneous charges as follows:

133 (5) All insurance representatives, application for license,
134 application for reinstatement of suspended license, each filing,
135 filing fee....\$50.00

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

138 626.015 Definitions.--As used in this part:

139 (1) "Adjuster" means a public adjuster as defined in s.
140 626.854, public adjuster apprentice as defined in s. 626.8541,
141 independent adjuster as defined in s. 626.855, or company
142 employee adjuster as defined in s. 626.856.

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

145 626.221 Examination requirement; exemptions.--

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

148 (c) In the discretion of the department, an applicant for
149 reinstatement of license or appointment as an agent, customer
150 representative, company employee adjuster, or independent
151 adjuster whose license has been suspended within 4 years prior to
152 the date of application or written request for reinstatement.

153 (e) A person who has been licensed and appointed as an a
154 public adjuster, ~~independent adjuster~~, or company employee
155 adjuster as to all property, casualty, and surety insurances, may
156 be licensed and appointed as a company employee or, ~~independent~~,
157 ~~or public~~ adjuster, as to these kinds of insurance, without
158 additional written examination if an application for licensure is
159 filed with the department within 48 months following the date of
160 cancellation or expiration of the prior appointment.

161 (f) A person who has been licensed as a company employee or
162 independent ~~an~~ adjuster for motor vehicle, property and casualty,
163 workers' compensation, and health insurance may be licensed as
164 such an adjuster without additional written examination if his or
165 her application for licensure is filed with the department within
166 48 months after cancellation or expiration of the prior license.

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

169 626.241 Scope of examination.--

170 (6) In order to reflect the differences between adjusting
171 claims for an insurer and adjusting claims for an insured, the
172 department shall create an examination for applicants seeking
173 licensure as a public adjuster and a separate examination for
174 applicants seeking licensure as a company employee adjuster or

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175 independent adjuster. Examinations given applicants for license
176 as an all-lines adjuster shall cover adjusting in all lines of
177 insurance, other than life and annuity; or, in accordance with
178 the application for the license, the examination may be limited
179 to adjusting in:

- 180 (a) Automobile physical damage insurance;
181 (b) Property and casualty insurance;
182 (c) Workers' compensation insurance; or
183 (d) Health insurance.

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

186 626.641 Duration of suspension or revocation.--

187 (1) The department shall, in its order suspending a license
188 or appointment or in its order suspending the eligibility of a
189 person to hold or apply for such license or appointment, specify
190 the period during which the suspension is to be in effect; but
191 such period shall not exceed 2 years. The license, appointment,
192 or eligibility shall remain suspended during the period so
193 specified, subject, however, to any rescission or modification of
194 the order by the department, or modification or reversal thereof
195 by the court, prior to expiration of the suspension period. A
196 license, appointment, or eligibility that ~~which~~ has been
197 suspended shall not be reinstated except upon the filing and
198 approval of an application for ~~request for such~~ reinstatement
199 and, in the case of a second suspension, completion of continuing
200 education courses prescribed and approved by the department; but
201 the department shall not approve an application for ~~grant such~~
202 reinstatement if it finds that the circumstance or circumstances
203 for which the license, appointment, or eligibility was suspended

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204 still exist or are likely to recur. In addition, an application a
205 ~~request~~ for reinstatement is subject to denial and subject to a
206 waiting period prior to approval on the same grounds that apply
207 to applications for licensure pursuant to ss. 626.207, 626.611,
208 ~~and~~ 626.621, and 626.8698.

209 Section 6. Effective October 1, 2008, subsections (5), (6),
210 (7), (8), (9), (10), (11), and (12) are added to section 626.854,
211 Florida Statutes, to read:

212 626.854 "Public adjuster" defined; prohibitions.--The
213 Legislature finds that it is necessary for the protection of the
214 public to regulate public insurance adjusters and to prevent the
215 unauthorized practice of law.

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

219 (6) A public adjuster may not directly or indirectly
220 through any other individual or entity engage in face-to-face or
221 telephonic solicitation or enter into a contract with any insured
222 or claimant under an insurance policy until at least 72 hours
223 after the occurrence of an event that may be the subject of a
224 claim under the insurance policy unless contact is initiated by
225 the insured or claimant.

226 (7) A client may cancel a public adjuster's contract to
227 adjust a claim without penalty or obligation within 3 business
228 days after the date on which the contract is executed or within 3
229 business days after the date on which the client has notified the
230 insurer of the claim, by phone or in writing, whichever is later.
231 The public adjuster shall disclose to the client his or her right
232 to cancel the contract and advise the client that notice of

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233 cancellation must be submitted in writing and sent by certified
234 mail, return receipt requested, or other form of mailing which
235 provides proof thereof, to the public adjuster at the address
236 specified in the contract. However, when the event is a storm
237 declared to be a hurricane by the National Hurricane Center, this
238 provision applies for a period of 14 business days.

239 (8) It is an unfair and deceptive insurance trade practice
240 pursuant to s. 626.9541 for a public adjuster or any other person
241 to circulate or disseminate any advertisement, announcement, or
242 statement containing any assertion, representation, or statement
243 with respect to the business of insurance which is untrue,
244 deceptive, or misleading.

245 (9) A public adjuster, a public adjuster apprentice, or any
246 person or entity acting on behalf of a public adjuster or public
247 adjuster apprentice may not give or offer to give a monetary loan
248 or advance to a client or prospective client.

249 (10) A public adjuster, public adjuster apprentice, or any
250 individual or entity acting on behalf of a public adjuster or
251 public adjuster apprentice may not give or offer to give,
252 directly or indirectly, any article of merchandise having a
253 value in excess of \$25 to any individual for the purpose of
254 advertising or as an inducement to entering into a contract with
255 a public adjuster.

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

260 (a) Based on any claim payments for additional living
261 expenses;

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262 (b) Based on the amount of a claim payment or payment offer
263 by the insurer which occurred before the date on which the
264 adjuster and the insured executed a contract with regard to the
265 claim;

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

270 (d) Greater than 10 percent of the amount of an insurance
271 claim payment by the insurer for claims based on and made
272 subsequent to a storm declared to be a hurricane by the National
273 Hurricane Center; except that, if a public adjuster and an
274 insured execute a contract providing for the adjuster to reopen
275 or file a supplemental claim that seeks additional payments on
276 behalf of an insured or claimant for a claim that has been
277 previously paid or settled, the amount may be up to 15 percent of
278 the amount of the claim payments made by the insurer after the
279 date of the execution of the contract to reopen or file a
280 supplemental claim.

281 (12) If a public adjuster enters into a contract with an
282 insured or claimant to reopen a claim or to file a supplemental
283 claim that seeks additional payments for a claim that has been
284 previously paid or settled, the public adjuster may not base any
285 charge, compensation, payment, commission, or fee on the previous
286 settlement or previous claim payments.

287 Section 7. Section 626.8541, Florida Statutes, is created
288 to read:

289 626.8541 "Public adjuster apprentice" defined.--The term
290 "public adjuster apprentice" means any individual who is employed

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291 by a licensed and appointed all-lines public adjuster in good
292 standing with the department or a public adjusting firm that
293 employs at least one licensed and appointed all-lines public
294 adjuster in good standing with the department to assist an all-
295 lines public adjuster in conducting business under the license
296 and who satisfies the requirements of s. 626.8651.

297 Section 8. Subsection (1) of section 626.865, Florida
298 Statutes, is amended, and subsection (3) is added to that
299 section, to read:

300 626.865 Public adjuster's qualifications, bond.--

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

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

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

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

313 (d) 1. In the past 4 years has had 2 years of sufficient
314 experience involving the adjusting of damages or losses under
315 insurance contracts, other than life and annuity contracts, as a
316 licensed and appointed general lines insurance agent or as a
317 licensed and appointed all-lines or property and casualty company
318 employee adjuster or independent adjuster; ~~training, or~~
319 ~~instruction concerning the adjusting of damages or losses under~~

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320 ~~insurance contracts, other than life and annuity contracts,~~

321 2. Has successfully completed 12 semester hours or 18
322 quarter hours in courses on insurance, other than life and
323 annuity contracts, at an accredited institution of higher
324 learning; or

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

327 (e) is sufficiently informed as to the terms and effects of
328 the provisions of those types of insurance contracts, and
329 possesses adequate knowledge of the laws of this state relating
330 to such contracts as to enable and qualify him or her to engage
331 in the business of insurance adjuster fairly and without injury
332 to the public or any member thereof with whom the applicant may
333 have business as a public adjuster.

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

335 (3) The department may not issue a license as a public
336 adjuster to any individual who has not passed the examination for
337 a public adjuster's license. Any individual who is applying for
338 reinstatement of a license after completion of a period of
339 suspension and any individual who is applying for a new license
340 after termination, cancellation, revocation, or expiration of a
341 prior license as a public adjuster must pass the examination
342 required for licensure as a public adjuster after approval of the
343 application for reinstatement or for a new license regardless of
344 whether the applicant passed an examination prior to issuance of
345 the license that was suspended, terminated, cancelled, revoked,
346 or expired.

347 Section 9. Section 626.8651, Florida Statutes, is created
348 to read:

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349 626.8651 Public adjuster apprentice license;
350 qualifications.--

351 (1) If, upon the basis of a completed application for
352 license as a public adjuster apprentice and such further inquiry
353 or investigation as the department may make concerning an
354 applicant, the department is satisfied that the applicant is
355 qualified and that all pertinent fees have been paid, it shall
356 approve the application.

357 (2) If, upon the basis of the completed application and
358 such further inquiry or investigation, the department finds the
359 applicant to be lacking in any one or more of the required
360 qualifications for licensure as a public adjuster apprentice, the
361 department shall deny the application and notify the applicant,
362 stating the grounds for denial.

363 (3) The department shall issue a license as a public
364 adjuster apprentice if the applicant meets the following
365 qualifications:

366 (a) The applicant is a natural person at least 18 years of
367 age.

368 (b) The applicant is a United States citizen or legal alien
369 who possesses work authorization from the United States Bureau of
370 Citizenship and Immigration Services and is a resident of this
371 state.

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

376 (d) The applicant has had sufficient experience, training,
377 or instruction concerning the adjusting of damages or losses

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378 under insurance contracts, other than life and annuity contracts,
379 is sufficiently informed as to the terms and effects of the
380 provisions of those types of insurance contracts, and possesses
381 adequate knowledge of the laws of this state relating to such
382 contracts as to enable and qualify him or her to engage in
383 business as a public adjuster apprentice fairly and without
384 injury to the public. The department may adopt rules that
385 establish standards for the experience, training, or instruction
386 requirements.

387 (4) (a) The application must be accompanied by an affidavit
388 verifying proposed employment and the applicant's trustworthiness
389 and qualifications on a form prescribed by the department and
390 executed by the proposed employer. The proposed employer must be
391 a licensed and appointed public adjuster in good standing with
392 the department or a public adjuster firm that employs at least
393 one licensed and appointed public adjuster in good standing with
394 the department.

395 (b) All applicable license fees, as prescribed in s.
396 624.501, must be paid in full before issuance of the license.

397 (5) At the time of application for license as a public
398 adjuster apprentice, the applicant shall file with the department
399 a bond executed and issued by a surety insurer authorized to
400 transact such business in this state, in the amount of \$50,000,
401 conditioned for the faithful performance of his or her duties as
402 a public adjuster apprentice under the license for which the
403 applicant has applied, and thereafter maintain the bond
404 unimpaired throughout the existence of the license and for at
405 least 1 year after termination of the license. The bond shall be
406 in favor of the department and shall specifically authorize

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407 recovery by the department of the damages sustained in case the
408 licensee is guilty of fraud or unfair practices in connection
409 with his or her business as a public adjuster apprentice. The
410 aggregate liability of the surety for all such damages may not
411 exceed the amount of the bond, and the bond may not be terminated
412 by the issuing insurer unless written notice of at least 30 days
413 is given to the licensee and filed with the department.

414 (6) A public adjuster apprentice must complete at a minimum
415 100 hours of employment per month for 12 months of employment
416 under the supervision of a licensed and appointed all-lines
417 public adjuster in order to qualify for licensure as a public
418 adjuster. The department may adopt rules that establish standards
419 for the employment requirements.

420 (7) The supervising public adjuster is responsible and
421 accountable for the acts of a public adjuster apprentice which
422 are related to transacting business as a public adjuster
423 apprentice.

424 (8) The apprentice license is effective for 18 months
425 unless it expires due to lack of maintaining an appointment; is
426 surrendered by the licensee; is terminated, suspended, or revoked
427 by the department; or is cancelled by the department upon
428 issuance of a public adjuster license. The department may not
429 issue a public adjuster apprentice license to any individual who
430 has held such a license in this state within 2 years after
431 expiration, surrender, termination, revocation, or cancellation
432 of the license.

433 (9) After completing the requirements for employment as a
434 public adjuster apprentice, the licensee may file an application
435 for a public adjuster license. The applicant and supervising

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436 public adjuster or public adjusting firm must each file a sworn
437 affidavit, on a form prescribed by the department, verifying that
438 the employment of the public adjuster apprentice meets the
439 requirements of this section.

440 (10) A public adjuster apprentice licensed under this
441 section may not perform any of the functions for which a public
442 adjuster's license is required after expiration of the public
443 adjuster apprentice license without having obtained a public
444 adjuster license.

445 (11) A public adjuster apprentice has the same authority
446 as the licensed public adjuster or public adjusting firm that
447 employs the apprentice except that an apprentice may not execute
448 contracts for the services of a public adjuster or public
449 adjusting firm and may not solicit contracts for the services
450 except under the direct supervision and guidance of the
451 supervisory public adjuster. An individual may not be, act as, or
452 hold himself or herself out to be a public adjuster apprentice
453 unless the individual is licensed and holds a current appointment
454 by a licensed public all-lines adjuster or a public adjusting
455 firm that employs a licensed all-lines public adjuster.

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

458 626.869 License, adjusters; continuing education.--

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

- 462 (a) All lines of insurance except life and annuities.
463 (b) Motor vehicle physical damage insurance.
464 (c) Property and casualty insurance.

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465 (d) Workers' compensation insurance.

466 (e) Health insurance.

467 (2) All individuals who on October 1, 1990, hold an
468 adjuster's license and appointment limited to fire and allied
469 lines, including marine or casualty or boiler and machinery, may
470 remain licensed and appointed under the limited license and may
471 renew their appointment, but no license or appointment which has
472 been terminated, not renewed, suspended, or revoked shall be
473 reinstated, and no new or additional licenses or appointments
474 shall be issued.

475 (3) The applicant's application for license shall specify
476 which of the foregoing classes of business the application for
477 license is to cover.

478 (4) (a) Any individual holding a license as a company
479 employee adjuster or independent adjuster for 24 consecutive
480 months or longer must, beginning in his or her birth month and
481 every 2 years thereafter, have completed 24 hours of courses, 2
482 hours of which relate to ethics, in subjects designed to inform
483 the licensee regarding the current insurance laws of this state,
484 so as to enable him or her to engage in business as an insurance
485 adjuster fairly and without injury to the public and to adjust
486 all claims in accordance with the policy or contract and the laws
487 of this state.

488 (b) Any individual holding a license as a public adjuster
489 for 24 consecutive months or longer, beginning in their birth
490 month and every 2 years thereafter, must have completed 24 hours
491 of courses, 2 hours of which relate to ethics, in subjects
492 designed to inform the licensee regarding the current laws of
493 this state pertaining to all lines of insurance other than life

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494 and annuities, the current laws of this state pertaining to the
495 duties and responsibilities of public adjusters as set forth in
496 this part, and the current rules of the department which are
497 applicable to public adjusters and standard or representative
498 policy forms used by insurers, other than forms for life
499 insurance and annuities, so as to enable him or her to engage in
500 business as an adjuster fairly and without injury to the public
501 and to adjust all claims in accordance with the policy or
502 contract and laws of this state. In order to receive credit for
503 continuing education courses, public adjusters must take courses
504 that are specifically designed for public adjusters and approved
505 by the department.

506 (c) The department shall adopt rules necessary to implement
507 and administer the continuing education requirements of this
508 subsection. For good cause shown, the department may grant an
509 extension of time during which the requirements imposed by this
510 section may be completed, but such extension of time may not
511 exceed 1 year.

512 (d) A nonresident adjuster who has met the continuing
513 education requirement of his or her home state and whose home
514 state gives credit to a resident of this state on the same basis
515 satisfies the continuing education requirement of this state. A
516 nonresident agent whose home state does not have a continuing
517 education requirement equivalent to our state must meet the
518 continuing education requirement of this state.

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

522 Section 11. Effective October 1, 2008, section 626.8698,

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523 Florida Statutes, is amended to read:

524 626.8698 Disciplinary guidelines for public adjusters and
525 public adjuster apprentices.--The department may deny, suspend,
526 or revoke the license of a public adjuster or public adjuster
527 apprentice, and administer a fine not to exceed \$5,000 per act,
528 for any of the following:

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

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

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

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

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

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

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

545 626.870 Application for license.--

546 (4) A license, appointment, or eligibility that has been
547 suspended may not be reinstated except upon the filing and
548 approval of an application for reinstatement in accordance with
549 s. 626.641. In addition, for reinstatement of a public adjuster's
550 license, appointment, or eligibility, the individual must pass
551 the public adjuster licensing examination. An application for

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552 reinstatement must be accompanied by any applicable examination
553 fee. Successful completion of the examination does not entitle
554 the applicant to have a license reinstated. The application is
555 subject to denial pursuant to ss. 626.207, 626.611, 626.621, and
556 626.8698. If the department approves an application for
557 reinstatement, the applicant shall be notified that the license
558 will be reinstated upon payment by the applicant of the
559 reinstatement fee contained in s. 624.501(15).

560 Section 13. Paragraphs (b) and (e) of subsection (1) and
561 paragraphs (b) and (c) of subsection (2) of section 626.8732,
562 Florida Statutes, are amended, and subsection (6) is added to
563 that section, to read:

564 626.8732 Nonresident public adjuster's qualifications,
565 bond.--

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

570 (b) Has passed to the satisfaction of the department a
571 written Florida public adjuster's examination of the scope
572 prescribed in s. 626.241(6); ~~however, the requirement for such an~~
573 ~~examination does not apply to any of the following:~~

574 ~~1. An applicant who is licensed as a resident public~~
575 ~~adjuster in his or her state of residence, when that state~~
576 ~~requires the passing of a written examination in order to obtain~~
577 ~~the license and a reciprocal agreement with the appropriate~~
578 ~~official of that state has been entered into by the department;~~
579 ~~or~~

580 ~~2. An applicant who is licensed as a nonresident public~~

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581 ~~adjuster in a state other than his or her state of residence when~~
582 ~~the state of licensure requires the passing of a written~~
583 ~~examination in order to obtain the license and a reciprocal~~
584 ~~agreement with the appropriate official of the state of licensure~~
585 ~~has been entered into by the department.~~

586 (e) Has been licensed and employed as a public adjuster in
587 the applicant's state of residence on a continual basis for the
588 past 3 years, or, if the applicant's state of residence does not
589 issue licenses to individuals who act as public adjusters, the
590 applicant has been licensed and employed as a resident insurance
591 company or independent adjuster, insurance agent, insurance
592 broker, or other insurance representative in his or her state of
593 residence or any other state on a continual basis for the past 3
594 years. This paragraph does not apply to individuals who are
595 licensed to transact only life insurance and annuity business ~~had~~
596 ~~sufficient experience, training, or instruction concerning the~~
597 ~~adjusting of damages or losses under insurance contracts, other~~
598 ~~than life and annuity contracts; is sufficiently informed as to~~
599 ~~the terms and effects of the provisions of those types of~~
600 ~~insurance contracts; and possesses adequate knowledge of the laws~~
601 ~~of this state relating to such contracts as to enable and qualify~~
602 ~~him or her to engage in the business of insurance adjuster fairly~~
603 ~~and without injury to the public or any member thereof with whom~~
604 ~~he or she may have business as a public adjuster.~~

605 (2) The applicant shall furnish the following with his or
606 her application:

607 (b) If currently licensed as a resident public adjuster in
608 the applicant's state of residence, a certificate or letter of
609 authorization from the licensing authority of the applicant's

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610 state of residence, stating that the applicant holds a current or
611 comparable license to act as a public adjuster and has held the
612 license continuously for the past 3 years. The certificate or
613 letter of authorization must be signed by the insurance
614 commissioner or his or her deputy or the appropriate licensing
615 official and must disclose whether the adjuster has ever had any
616 license or eligibility to hold any license declined, denied,
617 suspended, revoked, or placed on probation or whether an
618 administrative fine or penalty has been levied against the
619 adjuster and, if so, the reason for the action.

620 (c) If the applicant's state of residence does not require
621 licensure as a public adjuster and the applicant has been
622 licensed as a resident insurance adjuster, agent, broker, or
623 other insurance representative in his or her state of residence
624 or any other state ~~within the past 3 years~~, a certificate or
625 letter of authorization from the licensing authority stating that
626 the applicant holds ~~or has held~~ a license to act as such an
627 insurance adjuster, agent, or other insurance representative and
628 has held the license continuously for the past 3 years. The
629 certificate or letter of authorization must be signed by the
630 insurance commissioner or his or her deputy or the appropriate
631 licensing official and must disclose whether or not the adjuster,
632 agent, or other insurance representative has ever had any license
633 or eligibility to hold any license declined, denied, suspended,
634 revoked, or placed on probation or whether an administrative fine
635 or penalty has been levied against the adjuster and, if so, the
636 reason for the action.

637 (6) If available, the department shall verify the
638 nonresident applicant's licensing status through the producer

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639 database maintained by the National Association of Insurance
640 Commissioners or its affiliates or subsidiaries.

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

643 626.8796 Public adjuster contracts; fraud statement.--All
644 contracts for public adjuster services must be in writing and
645 must prominently display the following statement on the first
646 page of the contract: "Any person who knowingly and with intent
647 to injure, defraud, or deceive any insurer files a statement of
648 claim or proof of loss containing any false, incomplete, or
649 misleading information commits a felony of the third degree."

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

652 626.8797 Public adjusters; proof of loss certification.--If
653 an insurance policy requires an insured or claimant to file a
654 written proof of loss containing an estimate of the costs to
655 repair or replace damaged property, a public adjuster under
656 contract to adjust the claim for the insured or claimant must
657 affirm, under oath given by a notary public, the proof of loss by
658 signing the following statement: "I, . . . , do solemnly, sincerely,
659 and truly declare and affirm that I have reviewed the estimate of
660 the cost of repair or replacement of damaged property as set
661 forth in this proof of loss, in my best judgment the estimated
662 costs are reasonable, and, to the best of my knowledge, the proof
663 of loss does not contain any false, incomplete, or misleading
664 information." If this statement is not printed on the proof-of-
665 loss form, the adjuster shall add the statement to the form or
666 attach a separate page containing the signed statement to the
667 form. Pursuant to s. 817.234, any person who, with the intent to

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668 injure, defraud, or deceive any insurer, prepares, presents, or
669 causes to be presented a proof of loss in support of a claim
670 under an insurance policy knowing that the proof of loss contains
671 any false, incomplete, or misleading information concerning any
672 fact or thing material to the claim, commits a felony of the
673 third degree, punishable as provided in s. 775.082, s. 775.803,
674 or s. 775.084.

675 Section 16. Except as otherwise expressly provided in this
676 act and except for this section, which shall take effect October
677 1, 2008, this act shall take effect January 1, 2009.