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1                   A bill to be entitled  
2           An act relating to insurance; amending s. 624.46226, F.S.;  
3           revising provisions authorizing public housing authorities  
4           to form self-insurance funds; specifying requirements;  
5           providing a definition; providing construction relating to  
6           self-insurance funds; providing for application of certain  
7           provisions of law to premiums, contributions, and  
8           assessments of public authority's self-insurance funds;  
9           specifying an alternative tax rate; providing for  
10          application of certain provisions of law to public  
11          authority's self-insurance funds not meeting certain  
12          requirements; amending s. 624.501, F.S.; providing for  
13          filing fees for an application for reinstatement of a  
14          suspended license; amending s. 626.015, F.S.; redefining  
15          the term "adjuster" to include a public adjuster  
16          apprentice; amending s. 626.221, F.S.; providing that  
17          certain company employee adjusters and independent  
18          adjusters seeking reinstatement of a suspended license are  
19          not required to take an examination; amending s. 626.241,  
20          F.S.; requiring that the Department of Financial Services  
21          create an examination for applicants seeking licensure as  
22          a public adjuster and a separate examination for  
23          applicants seeking licensure as a company employee  
24          adjuster or independent adjuster; providing that an  
25          examination on worker's compensation insurance or health  
26          insurance may not be required for public adjusters;  
27          amending s. 626.641, F.S.; providing that a suspended  
28          license may not be reinstated unless the individual  
29          seeking reinstatement files an application for

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30 reinstatement which is subsequently approved by the  
31 department; prohibiting the department from approving such  
32 an application under certain circumstances; amending s.  
33 626.854, F.S.; prohibiting a public adjuster from  
34 soliciting or entering into a contract with any insured or  
35 claimant under an insurance policy for a specified period  
36 after the occurrence of an event that may be the subject  
37 of a claim; providing an exception; providing that a  
38 public adjuster's contract to adjust a claim may be  
39 canceled by the client without penalty within a specified  
40 period after the execution of the contract; requiring that  
41 a public adjuster disclose to a client his or her right to  
42 cancel a contract by specified means; providing an  
43 exception during a state of emergency; specifying an  
44 unfair and deceptive insurance trade practice; prohibiting  
45 a public adjuster, apprentice, or his or her agent from  
46 giving or offering a monetary loan or an article in excess  
47 of a specified value to a client or prospective client;  
48 prohibiting a public adjuster from basing any charge, fee,  
49 payment, commission, or compensation relating to a  
50 supplemental claim on the corresponding previous  
51 settlement or claim payment; prohibiting a public adjuster  
52 from charging, agreeing to, or accepting a fee, payment,  
53 commission, or any compensation in excess of certain  
54 amounts; providing application; requiring public adjusters  
55 to provide claimants or insureds a written estimate of  
56 certain losses relating to claims for payment of insurance  
57 proceeds; requiring adjusters to retain estimates for a  
58 specified time and make estimates available to claimants,

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59 insureds, and the department; creating s. 626.8541, F.S.;  
60 defining the term "public adjuster apprentice"; amending  
61 s. 626.865, F.S.; providing qualifications that an  
62 applicant must possess before the issuance of a license by  
63 the department; requiring that certain persons applying  
64 for a license after the completion of a period of  
65 suspension, termination, cancellation, revocation, or  
66 expiration must pass the examination required for  
67 licensure as a public adjuster; creating s. 626.8651,  
68 F.S.; providing requirements for licensure as a public  
69 adjuster apprentice; requiring that the department approve  
70 an application under certain circumstances; requiring that  
71 all license fees be paid before the department issues a  
72 license; requiring the applicant to file a bond in a  
73 specified amount in favor of the department; providing for  
74 termination of the bond; requiring that the apprentice's  
75 work be supervised by a licensed adjuster in good  
76 standing; authorizing the department to adopt rules  
77 governing employment requirements; providing that the  
78 supervising adjuster is responsible for the acts of the  
79 apprentice; providing a period of effectiveness for an  
80 apprentice license; providing that an individual licensed  
81 as an apprentice may file an application for licensure as  
82 a public adjuster after a specified period of employment  
83 as an apprentice; requiring that a sworn affidavit  
84 containing certain information accompany such application;  
85 prohibiting an apprentice from performing any functions  
86 for which a license is required after the expiration of  
87 his or her license for apprenticeship without first

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88 obtaining a license to work as a public adjuster; limiting  
89 the authority of a public adjuster apprentice; amending s.  
90 626.869, F.S.; providing that an examination on worker's  
91 compensation insurance or health insurance may not be  
92 required for public adjusters; providing for continuing  
93 education for company employee adjusters, independent  
94 adjusters, and public adjusters; providing for the  
95 satisfaction of continuing education requirements for  
96 nonresident adjusters; amending s. 626.8698, F.S.;  
97 providing disciplinary guidelines for public adjusters and  
98 public adjuster apprentices; amending s. 626.870, F.S.;  
99 providing requirements for the reinstatement of a  
100 suspended license, an appointment, or eligibility;  
101 providing for the notification of approval of an  
102 application for reinstatement; amending s. 626.8732, F.S.;  
103 revising requirements for licensure as a nonresident  
104 public adjuster; providing exceptions to such  
105 requirements; requiring that an applicant for licensure as  
106 a nonresident public adjuster provide certain information  
107 with his or her application; requiring that the department  
108 verify the nonresident applicant's licensing status;  
109 creating s. 626.8796, F.S.; requiring that all contracts  
110 for services by a public adjuster be in writing and  
111 contain a specified statement regarding fraud; creating s.  
112 626.8797, F.S.; requiring that proof of loss statements  
113 contain a specified statement regarding fraud; amending s.  
114 624.443, F.S.; authorizing the Office of Insurance  
115 Regulation to waive the requirement that each multiple-  
116 employer welfare arrangement maintain its principal place

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117 of business in this state if the arrangement meets certain  
118 specified conditions and has a minimum specified fund  
119 balance at the time of licensure; amending s. 395.106,  
120 F.S.; expanding authority for certain hospitals to form an  
121 alliance for certain purposes; authorizing reinsurance  
122 companies to issue coverage to certain self-insuring  
123 alliances under certain circumstances; providing for  
124 considering certain alliances as insurers for certain  
125 purposes; providing for alliance reinsurance contracts to  
126 receive the same tax treatment as reinsurance contracts  
127 issued to insurance companies; providing an exception;  
128 amending s. 627.351, F.S.; clarifying the right of certain  
129 parties to discover underwriting and claims file records;  
130 authorizing the corporation to release such records as it  
131 deems necessary; amending s. 627.94073, F.S.; revising  
132 provisions requiring that insurers notify policyholders of  
133 the right to designate a secondary addressee to receive a  
134 notice of termination of long-term care insurance  
135 policies; requiring that a canceled long-term care policy  
136 be reinstated if the policyholder failed to pay the  
137 premium due to an extended confinement in a hospital,  
138 skilled nursing facility, or assisted living facility;  
139 providing for application; amending s. 626.9543, F.S.;  
140 extending the period within which certain insurers must  
141 permit claims from a Holocaust victim or from a  
142 beneficiary, descendent, or heir of such a victim;  
143 extending the period within which certain actions brought  
144 by such a victim, descendent, or heir seeking proceeds of  
145 certain insurance policies may not be dismissed; amending

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146 s. 627.736, F.S.; revising the schedule of maximum charges  
147 on which an insurer may base a limited reimbursement for  
148 certain medical services, supplies, and care for injured  
149 persons covered by personal injury protection; specifying  
150 a minimum amount for the applicable fee schedule or  
151 payment limitation under Medicare for such reimbursements;  
152 providing legislative intent relating to certain Uniform  
153 Commercial Code insurance products; authorizing title  
154 insurers to petition for a rate deviation for certain  
155 insurance products under certain circumstances; providing  
156 criteria for the Office of Insurance Regulation; amending  
157 s. 215.555, F.S.; extending for an additional year the  
158 offer of reimbursement coverage for specified insurers;  
159 revising the qualifying criteria for such insurers;  
160 revising provisions to conform; amending s. 626.221, F.S.;  
161 expanding the list of applicants eligible for exemption  
162 from certain examination requirements; amending s.  
163 626.2815, F.S.; expanding application of certain  
164 continuing education requirements; providing limited  
165 exceptions to compliance with continuing education  
166 requirements as a condition precedent to certain  
167 appointments; providing an exception to certain  
168 examination monitoring requirements; providing exception  
169 requirements; amending s. 626.381, F.S.; authorizing  
170 appointing entities to require appointees to attend  
171 certain training and education programs for certain  
172 purposes; providing an exception; limiting an appointing  
173 entity's appointment authority; prohibiting appointments  
174 to be contingent upon an appointee's attendance at certain

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175 courses; requiring Citizens Property Insurance Corporation  
176 to electronically report certain claims data and histories  
177 to certain consumer reporting agencies; providing  
178 effective dates.

179  
180 Be It Enacted by the Legislature of the State of Florida:

181  
182 Section 1. Section 624.443, Florida Statutes, is amended to  
183 read:

184 624.443 Place of business; maintenance of records.--Each  
185 arrangement shall have and maintain its principal place of  
186 business in this state and shall therein make available to the  
187 office complete records of its assets, transactions, and affairs  
188 in accordance with such methods and systems as are customary for,  
189 or suitable to, the kind or kinds of business transacted. The  
190 office may waive this requirement if an arrangement has been  
191 operating in another state for at least 25 years, has been  
192 licensed in such state for at least 10 years, and has a minimum  
193 fund balance of \$25 million at the time of licensure.

194 Section 2. Subsection (1) of section 395.106, Florida  
195 Statutes, is amended, and subsection (5) is added to that  
196 section, to read:

197 395.106 Risk pooling by certain hospitals and hospital  
198 systems.--

199 (1) Notwithstanding any other provision of law, any two or  
200 more hospitals licensed in this state and located in this state  
201 may form an alliance for the purpose of pooling and spreading  
202 liabilities of its members relative to property exposure,   
203 implementing self-insurance coverage for its members, or securing

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204 such property insurance coverage for the benefit of its members,  
205 provided an alliance that is created:

206 (a) Has annual premiums in excess of \$3 million.

207 (b) Maintains a continuing program of premium calculation  
208 and evaluation and reserve evaluation to protect the financial  
209 stability of the alliance in an amount and manner determined by  
210 consultants using catastrophic (CAT) modeling criteria or other  
211 risk-estimating methodologies, including those used by qualified  
212 and independent actuaries.

213 (c) Causes to be prepared annually a fiscal year-end  
214 financial statement based upon generally accepted accounting  
215 principles and audited by an independent certified public  
216 accountant within 6 months after the end of the fiscal year.

217 (d) Has a governing body comprised entirely of member  
218 entities whose representatives on such governing body are  
219 specified by the organizational documents of the alliance.

220 (5) Reinsurance companies complying with s. 624.610 may  
221 issue coverage directly to an alliance self-insuring its  
222 liabilities under this section. An alliance purchasing  
223 reinsurance shall be considered an insurer for the sole purpose  
224 of entering into such reinsurance contracts. Contracts of  
225 reinsurance issued to an alliance under this section shall  
226 receive the same tax treatment as reinsurance contracts issued to  
227 insurance companies. However, the purchase of reinsurance  
228 coverage by an alliance self-insuring pursuant to this section  
229 shall not be construed as authorizing an alliance to otherwise  
230 act as an insurer.

231 Section 3. Paragraph (w) of subsection (6) of section  
232 627.351, Florida Statutes, is amended to read:



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233 627.351 Insurance risk apportionment plans.--

234 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

235 (w)1. The following records of the corporation are  
236 confidential and exempt from the provisions of s. 119.07(1) and  
237 s. 24(a), Art. I of the State Constitution:

238 a. Underwriting files, except that a policyholder or an  
239 applicant shall have access to his or her own underwriting files.  
240 Confidential and exempt underwriting file records may also be  
241 released to other governmental agencies upon written request and  
242 demonstration of need; such records held by the receiving agency  
243 remain confidential and exempt as provided herein.

244 b. Claims files, until termination of all litigation and  
245 settlement of all claims arising out of the same incident,  
246 although portions of the claims files may remain exempt, as  
247 otherwise provided by law. Confidential and exempt claims file  
248 records may be released to other governmental agencies upon  
249 written request and demonstration of need; such records held by  
250 the receiving agency remain confidential and exempt as provided  
251 ~~for~~ herein.

252 c. Records obtained or generated by an internal auditor  
253 pursuant to a routine audit, until the audit is completed, or if  
254 the audit is conducted as part of an investigation, until the  
255 investigation is closed or ceases to be active. An investigation  
256 is considered "active" while the investigation is being conducted  
257 with a reasonable, good faith belief that it could lead to the  
258 filing of administrative, civil, or criminal proceedings.

259 d. Matters reasonably encompassed in privileged attorney-  
260 client communications.

261 e. Proprietary information licensed to the corporation

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262 under contract and the contract provides for the confidentiality  
263 of such proprietary information.

264 f. All information relating to the medical condition or  
265 medical status of a corporation employee which is not relevant to  
266 the employee's capacity to perform his or her duties, except as  
267 otherwise provided in this paragraph. Information that ~~which~~ is  
268 exempt shall include, but is not limited to, information relating  
269 to workers' compensation, insurance benefits, and retirement or  
270 disability benefits.

271 g. Upon an employee's entrance into the employee assistance  
272 program, a program to assist any employee who has a behavioral or  
273 medical disorder, substance abuse problem, or emotional  
274 difficulty which affects the employee's job performance, all  
275 records relative to that participation shall be confidential and  
276 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I  
277 of the State Constitution, except as otherwise provided in s.  
278 112.0455(11).

279 h. Information relating to negotiations for financing,  
280 reinsurance, depopulation, or contractual services, until the  
281 conclusion of the negotiations.

282 i. Minutes of closed meetings regarding underwriting files,  
283 and minutes of closed meetings regarding an open claims file  
284 until termination of all litigation and settlement of all claims  
285 with regard to that claim, except that information otherwise  
286 confidential or exempt by law shall ~~will~~ be redacted.

287 2. If ~~When~~ an authorized insurer is considering  
288 underwriting a risk insured by the corporation, relevant  
289 underwriting files and confidential claims files may be released  
290 to the insurer provided the insurer agrees in writing, notarized

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291 and under oath, to maintain the confidentiality of such files. If  
292 ~~When~~ a file is transferred to an insurer that file is no longer a  
293 public record because it is not held by an agency subject to the  
294 provisions of the public records law. Underwriting files and  
295 confidential claims files may also be released to staff ~~of~~ and  
296 the board of governors of the market assistance plan established  
297 pursuant to s. 627.3515, who must retain the confidentiality of  
298 such files, except such files may be released to authorized  
299 insurers that are considering assuming the risks to which the  
300 files apply, provided the insurer agrees in writing, notarized  
301 and under oath, to maintain the confidentiality of such files.  
302 Finally, the corporation or the board or staff of the market  
303 assistance plan may make the following information obtained from  
304 underwriting files and confidential claims files available to  
305 licensed general lines insurance agents: name, address, and  
306 telephone number of the residential property owner or insured;  
307 location of the risk; rating information; loss history; and  
308 policy type. The receiving licensed general lines insurance agent  
309 must retain the confidentiality of the information received.

310 3. A policyholder who has filed suit against the  
311 corporation has the right to discover the contents of his or her  
312 own claims file to the same extent that discovery of such  
313 contents would be available from a private insurer in litigation  
314 as provided by the Florida Rules of Civil Procedure, the Florida  
315 Evidence Code, and other applicable law. Pursuant to subpoena, a  
316 third party has the right to discover the contents of an  
317 insured's or applicant's underwriting or claims file to the same  
318 extent that discovery of such contents would be available from a  
319 private insurer by subpoena as provided by the Florida Rules of

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320 Civil Procedure, the Florida Evidence Code, and other applicable  
321 law, and subject to any confidentiality protections requested by  
322 the corporation and agreed to by the seeking party or ordered by  
323 the court. The corporation may release confidential underwriting  
324 and claims file contents and information as it deems necessary  
325 and appropriate to underwrite or service insurance policies and  
326 claims, subject to any confidentiality protections deemed  
327 necessary and appropriate by the corporation.

328 4.2. Portions of meetings of the corporation are exempt  
329 from the provisions of s. 286.011 and s. 24(b), Art. I of the  
330 State Constitution wherein confidential underwriting files or  
331 confidential open claims files are discussed. All portions of  
332 corporation meetings which are closed to the public shall be  
333 recorded by a court reporter. The court reporter shall record the  
334 times of commencement and termination of the meeting, all  
335 discussion and proceedings, the names of all persons present at  
336 any time, and the names of all persons speaking. No portion of  
337 any closed meeting shall be off the record. Subject to the  
338 provisions hereof and s. 119.07(1)(e)-(g), the court reporter's  
339 notes of any closed meeting shall be retained by the corporation  
340 for a minimum of 5 years. A copy of the transcript, less any  
341 exempt matters, of any closed meeting wherein claims are  
342 discussed shall become public as to individual claims after  
343 settlement of the claim.

344 Section 4. Section 624.46226, Florida Statutes, is amended  
345 to read:

346 624.46226 Public housing authorities self-insurance funds;  
347 exemption for taxation and assessments.--

348 (1) Notwithstanding any other provision of law, any two or

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349 more public housing authorities in the state as defined in  
350 chapter 421 may form ~~also create~~ a self-insurance fund for the  
351 purpose of pooling and spreading liabilities of its members as to  
352 any one or combination of casualty risk or ~~self-insuring~~ real or  
353 personal property risk of every kind and every interest in such  
354 property against loss or damage from any hazard or cause and  
355 against any loss consequential to such loss or damage, provided  
356 the self-insurance fund that is created: ~~all the provisions of s.~~  
357 624.4622 are met.

358 (a) Has annual normal premiums in excess of \$5 million.

359 (b) Uses a qualified actuary to determine rates using  
360 accepted actuarial principles and annually submits to the office  
361 a certification by the actuary that the rates are actuarially  
362 sound and are not inadequate, as defined in s. 627.062.

363 (c) Uses a qualified actuary to establish reserves for loss  
364 and loss adjustment expenses and annually submits to the office a  
365 certification by the actuary that the loss and loss adjustment  
366 expense reserves are adequate. If the actuary determines that  
367 reserves are not adequate, the fund shall file with the office a  
368 remedial plan for increasing the reserves or otherwise addressing  
369 the financial condition of the fund, subject to a determination  
370 by the office that the fund will operate on an actuarially sound  
371 basis and the fund does not pose a significant risk of  
372 insolvency.

373 (d) Maintains a continuing program of excess insurance  
374 coverage and reserve evaluation to protect the financial  
375 stability of the fund in an amount and manner determined by a  
376 qualified and independent actuary. At a minimum, this program  
377 must:

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378 1. Purchase excess insurance from authorized insurance  
379 carriers or eligible surplus lines insurers.

380 2. Retain a per-loss occurrence that does not exceed  
381 \$350,000.

382 (e) Submits to the office annually an audited fiscal year-  
383 end financial statement by an independent certified public  
384 accountant within 6 months after the end of the fiscal year.

385 (f) Has a governing body which is comprised entirely of  
386 commissioners of public housing authorities that are members of  
387 the public housing authority self-insurance fund or persons  
388 appointed by the commissioners of public housing authorities that  
389 are members of the public housing authority self-insurance fund.

390 (g) Uses knowledgeable persons or business entities to  
391 administer or service the fund in the areas of claims  
392 administration, claims adjusting, underwriting, risk management,  
393 loss control, policy administration, financial audit, and legal  
394 areas. Such persons must meet all applicable requirements of law  
395 for state licensure and must have at least 5 years' experience  
396 with commercial self-insurance funds formed under s. 624.462,  
397 self-insurance funds formed under s. 624.4622, or domestic  
398 insurers.

399 (h) Submits to the office copies of contracts used for its  
400 members that clearly establish the liability of each member for  
401 the obligations of the fund.

402 (i) Annually submits to the office a certification by the  
403 governing body of the fund that, to the best of its knowledge,  
404 the requirements of this section are met.

405 (2) As used in this section, the term "qualified actuary"  
406 means an actuary that is a member of the Casualty Actuarial

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407 Society or the American Academy of Actuaries.

408 (3) A public housing authority's self-insurance fund that  
409 meets the requirements of this section is not:

410 (a) An insurer for purposes of participation in or coverage  
411 by any insurance guaranty association established by chapter 631;  
412 or

413 (b) Subject to s. 624.4621 and is not required to file any  
414 report with the department under s. 440.38(2)(b) that is uniquely  
415 required of group self-insurer funds qualified under s. 624.4621.

416 (4) Premiums, contributions, and assessments received by a  
417 public housing authority's self-insurance fund are subject to ss.  
418 624.509(1) and (2) and 624.5092, except that the tax rate shall  
419 be 1.6 percent of the gross amount of such premiums,  
420 contributions, and assessments.

421 (5) If any of the requirements of subsection (1) are not  
422 met, a public housing authority's self-insurance fund is subject  
423 to the requirements of s. 624.4621 if the fund provides only  
424 workers' compensation coverage or is subject to the requirements  
425 of ss. 624.460-624.488 if the fund provides coverage for other  
426 property, casualty, or surety risks.

427 (6)~~(2)~~ Any public housing authority in the state as defined  
428 in chapter 421 that is a member of a self-insurance fund pursuant  
429 to this section shall be exempt from the assessments imposed  
430 under ss. 215.555, 627.351 and 631.57.

431 Section 5. Effective January 1, 2009, subsection (5) of  
432 section 624.501, Florida Statutes, is amended to read:

433 624.501 Filing, license, appointment, and miscellaneous  
434 fees.--The department, commission, or office, as appropriate,  
435 shall collect in advance, and persons so served shall pay to it

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436 in advance, fees, licenses, and miscellaneous charges as follows:

437 (5) All insurance representatives, application for license,  
438 application for reinstatement of suspended license, each filing,  
439 filing fee....\$50.00

440 Section 6. Effective January 1, 2009, subsection (1) of  
441 section 626.015, Florida Statutes, is amended to read:

442 626.015 Definitions.--As used in this part:

443 (1) "Adjuster" means a public adjuster as defined in s.  
444 626.854, public adjuster apprentice as defined in s. 626.8541,  
445 independent adjuster as defined in s. 626.855, or company  
446 employee adjuster as defined in s. 626.856.

447 Section 7. Effective January 1, 2009, paragraphs (c), (e),  
448 and (f) of subsection (2) of section 626.221, Florida Statutes,  
449 are amended to read:

450 626.221 Examination requirement; exemptions.--

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

453 (c) In the discretion of the department, an applicant for  
454 reinstatement of license or appointment as an agent, customer  
455 representative, company employee adjuster, or independent  
456 adjuster whose license has been suspended within 4 years prior to  
457 the date of application or written request for reinstatement.

458 (e) A person who has been licensed and appointed as an a  
459 ~~public adjuster~~, independent adjuster~~,~~ or company employee  
460 adjuster as to all property, casualty, and surety insurances~~,~~ may  
461 be licensed and appointed as a company employee adjuster or  
462 ~~independent, or public adjuster~~, as to these kinds of insurance,  
463 without additional written examination if an application for  
464 licensure is filed with the department within 48 months following



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465 the date of cancellation or expiration of the prior appointment.

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

473 Section 8. Effective January 1, 2009, subsection (6) of  
474 section 626.241, Florida Statutes, is amended to read:

475 626.241 Scope of examination.--

476 (6) In order to reflect the differences between adjusting  
477 claims for an insurer and adjusting claims for an insured, the  
478 department shall create an examination for applicants seeking  
479 licensure as a public adjuster and a separate examination for  
480 applicants seeking licensure as a company employee adjuster or  
481 independent adjuster. Examinations given applicants for license  
482 as an all-lines adjuster shall cover adjusting in all lines of  
483 insurance, other than life and annuity; or, in accordance with  
484 the application for the license, the examination may be limited  
485 to adjusting in:

- 486 (a) Automobile physical damage insurance;  
487 (b) Property and casualty insurance;  
488 (c) Workers' compensation insurance; or  
489 (d) Health insurance.

490

491 No examination on worker's compensation insurance or health  
492 insurance shall be required for public adjusters.

493 Section 9. Effective January 1, 2009, subsection (1) of

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494 section 626.641, Florida Statutes, is amended to read:

495 626.641 Duration of suspension or revocation.--

496 (1) The department shall, in its order suspending a license  
497 or appointment or in its order suspending the eligibility of a  
498 person to hold or apply for such license or appointment, specify  
499 the period during which the suspension is to be in effect; but  
500 such period shall not exceed 2 years. The license, appointment,  
501 or eligibility shall remain suspended during the period so  
502 specified, subject, however, to any rescission or modification of  
503 the order by the department, or modification or reversal thereof  
504 by the court, prior to expiration of the suspension period. A  
505 license, appointment, or eligibility that ~~which~~ has been  
506 suspended shall not be reinstated except upon the filing and  
507 approval of an application for ~~request for such~~ reinstatement  
508 and, in the case of a second suspension, completion of continuing  
509 education courses prescribed and approved by the department; but  
510 the department shall not approve an application for ~~grant such~~  
511 reinstatement if it finds that the circumstance or circumstances  
512 for which the license, appointment, or eligibility was suspended  
513 still exist or are likely to recur. In addition, an application a  
514 ~~request~~ for reinstatement is subject to denial and subject to a  
515 waiting period prior to approval on the same grounds that apply  
516 to applications for licensure pursuant to ss. 626.207, 626.611,  
517 and 626.621, and 626.8698.

518 Section 10. Effective October 1, 2008, subsections (5)  
519 through (12) are added to section 626.854, Florida Statutes, to  
520 read:

521 626.854 "Public adjuster" defined; prohibitions.--The  
522 Legislature finds that it is necessary for the protection of the

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523 public to regulate public insurance adjusters and to prevent the  
524 unauthorized practice of law.

525 (5) A public adjuster may not directly or indirectly  
526 through any other person or entity solicit an insured or claimant  
527 by any means except on Monday through Saturday of each week and  
528 only between the hours of 8 a.m. and 8 p.m. on those days.

529 (6) A public adjuster may not directly or indirectly  
530 through any other person or entity initiate contact or engage in  
531 face-to-face or telephonic solicitation or enter into a contract  
532 with any insured or claimant under an insurance policy until at  
533 least 48 hours after the occurrence of an event that may be the  
534 subject of a claim under the insurance policy unless contact is  
535 initiated by the insured or claimant.

536 (7) An insured or claimant may cancel a public adjuster's  
537 contract to adjust a claim without penalty or obligation within 3  
538 business days after the date on which the contract is executed or  
539 within 3 business days after the date on which the insured or  
540 claimant has notified the insurer of the claim, by phone or in  
541 writing, whichever is later. The public adjuster's contract shall  
542 disclose to the insured or claimant his or her right to cancel  
543 the contract and advise the insured or claimant that notice of  
544 cancellation must be submitted in writing and sent by certified  
545 mail, return receipt requested, or other form of mailing which  
546 provides proof thereof, to the public adjuster at the address  
547 specified in the contract; provided, during any state of  
548 emergency as declared by the Governor and for a period of 1 year  
549 after the date of loss, the insured or claimant shall have 5  
550 business days after the date on which the contract is executed to  
551 cancel a public adjuster's contract.

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552       (8) It is an unfair and deceptive insurance trade practice  
553 pursuant to s. 626.9541 for a public adjuster or any other person  
554 to circulate or disseminate any advertisement, announcement, or  
555 statement containing any assertion, representation, or statement  
556 with respect to the business of insurance which is untrue,  
557 deceptive, or misleading.

558       (9) A public adjuster, a public adjuster apprentice, or any  
559 person or entity acting on behalf of a public adjuster or public  
560 adjuster apprentice may not give or offer to give a monetary loan  
561 or advance to a client or prospective client.

562       (10) A public adjuster, public adjuster apprentice, or any  
563 individual or entity acting on behalf of a public adjuster or  
564 public adjuster apprentice may not give or offer to give,  
565 directly or indirectly, any article of merchandise having a value  
566 in excess of \$25 to any individual for the purpose of advertising  
567 or as an inducement to entering into a contract with a public  
568 adjuster.

569       (11) (a) If a public adjuster enters into a contract with an  
570 insured or claimant to reopen a claim or to file a supplemental  
571 claim that seeks additional payments for a claim that has been  
572 previously paid in part or in full or settled by the insurer, the  
573 public adjuster may not charge, agree to, or accept any  
574 compensation, payment, commission, fee, or other thing of value  
575 based on a previous settlement or previous claim payments by the  
576 insurer for the same cause of loss. The charge, compensation,  
577 payment, commission, fee, or other thing of value may be based  
578 only on the claim payments or settlement obtained through the  
579 work of the public adjuster after entering into the contract with  
580 the insured or claimant. The contracts described in this

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581 paragraph are not subject to the limitations in paragraph (b).

582 (b) A public adjuster may not charge, agree to, or accept  
583 any compensation, payment, commission, fee, or other thing of  
584 value in excess of:

585 1. Ten percent of the amount of insurance claim payments by  
586 the insurer for claims based on events that are the subject of a  
587 declaration of a state of emergency by the Governor. This  
588 provision applies to claims made during the period of 1 year  
589 after the declaration of emergency.

590 2. Twenty percent of the amount of all other insurance  
591 claim payments.

592 (12) Each public adjuster shall provide to the claimant or  
593 insured a written estimate of the loss to assist in the  
594 submission of a proof of loss or any other claim for payment of  
595 insurance proceeds. The public adjuster shall retain such written  
596 estimate for at least 5 years and shall make such estimate  
597 available to the claimant or insured and the department upon  
598 request.

599  
600 The provisions of subsections (5)-(12) apply only to residential  
601 property insurance policies and condominium association policies  
602 as defined in s. 718.111(11).

603 Section 11. Effective January 1, 2009, section 626.8541,  
604 Florida Statutes, is created to read:

605 626.8541 Public adjuster apprentice.--

606 (1) A "public adjuster apprentice" is any person who is not  
607 a licensed public adjuster, who is employed by or has a contract  
608 with a licensed and appointed public adjuster in good standing  
609 with the department or a public adjusting firm that employs at

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610 least one licensed and appointed public adjuster in good standing  
611 with the department to assist a public adjuster in conducting  
612 business under the license, and who satisfies the requirements of  
613 s. 626.8651.

614 (2) A public adjuster apprentice must work with a licensed  
615 and appointed public adjuster for a period of 12 months as set  
616 forth in this section, and who otherwise is in full compliance  
617 with this chapter, prior to being eligible for appointment as a  
618 licensed public adjuster.

619 Section 12. Effective January 1, 2009, paragraph (e) of  
620 subsection (1) of section 626.865, Florida Statutes, is amended,  
621 and subsection (3) is added to that section, to read:

622 626.865 Public adjuster's qualifications, bond.--

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

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

628 (3) The department may not issue a license as a public  
629 adjuster to any individual who has not passed the examination for  
630 a public adjuster's license. Any individual who is applying for  
631 reinstatement of a license after completion of a period of  
632 suspension and any individual who is applying for a new license  
633 after termination, cancellation, revocation, or expiration of a  
634 prior license as a public adjuster must pass the examination  
635 required for licensure as a public adjuster after approval of the  
636 application for reinstatement or for a new license regardless of  
637 whether the applicant passed an examination prior to issuance of  
638 the license that was suspended, terminated, canceled, revoked, or

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639 expired.

640 Section 13. Effective January 1, 2009, section 626.8651,  
641 Florida Statutes, is created to read:

642 626.8651 Public adjuster apprentice license;  
643 qualifications.--

644 (1) The department shall issue a license as a public  
645 adjuster apprentice to an applicant who is:

646 (a) A natural person at least 18 years of age.

647 (b) A United States citizen or legal alien who possesses  
648 work authorization from the United States Bureau of Citizenship  
649 and Immigration Services and is a resident of this state.

650 (c) Trustworthy and has such business reputation as would  
651 reasonably ensure that the applicant will conduct business as a  
652 public adjuster apprentice fairly and in good faith and without  
653 detriment to the public.

654 (2) All applicable license fees, as prescribed in s.  
655 624.501, must be paid in full before issuance of the license.

656 (3) At the time of application for license as a public  
657 adjuster apprentice, the applicant shall file with the department  
658 a bond executed and issued by a surety insurer authorized to  
659 transact such business in this state in the amount of \$50,000,  
660 conditioned upon the faithful performance of his or her duties as  
661 a public adjuster apprentice under the license for which the  
662 applicant has applied, and thereafter maintain the bond  
663 unimpaired throughout the existence of the license and for at  
664 least 1 year after termination of the license. The bond shall be  
665 in favor of the department and shall specifically authorize  
666 recovery by the department of the damages sustained in case the  
667 licensee commits fraud or unfair practices in connection with his

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668 or her business as a public adjuster apprentice. The aggregate  
669 liability of the surety for all such damages may not exceed the  
670 amount of the bond, and the bond may not be terminated by the  
671 issuing insurer unless written notice of at least 30 days is  
672 given to the licensee and filed with the department.

673 (4) A public adjuster apprentice shall complete at a  
674 minimum 100 hours of employment per month for 12 months of  
675 employment under the supervision of a licensed and appointed all-  
676 lines public adjuster in order to qualify for licensure as a  
677 public adjuster. The department may adopt rules that establish  
678 standards for such employment requirements.

679 (5) A supervising public adjuster shall be responsible and  
680 accountable for the acts of a public adjuster apprentice which  
681 are related to transacting business as a public adjuster  
682 apprentice.

683 (6) An apprentice license is effective for 18 months unless  
684 the license expires due to lack of maintaining an appointment; is  
685 surrendered by the licensee; is terminated, suspended, or revoked  
686 by the department; or is canceled by the department upon issuance  
687 of a public adjuster license. The department may not issue a  
688 public adjuster apprentice license to any individual who has held  
689 such a license in this state within 2 years after expiration,  
690 surrender, termination, revocation, or cancellation of the  
691 license.

692 (7) After completing the requirements for employment as a  
693 public adjuster apprentice, the licensee may file an application  
694 for a public adjuster license. The applicant and supervising  
695 public adjuster or public adjusting firm must each file a sworn  
696 affidavit, on a form prescribed by the department, verifying that



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697 the employment of the public adjuster apprentice meets the  
698 requirements of this section.

699 (8) In no event shall a public adjuster apprentice licensed  
700 under this section perform any of the functions for which a  
701 public adjuster's license is required after expiration of the  
702 public adjuster apprentice license without having obtained a  
703 public adjuster license.

704 (9) A public adjuster apprentice has the same authority as  
705 the licensed public adjuster or public adjusting firm that  
706 employs the apprentice except that an apprentice may not execute  
707 contracts for the services of a public adjuster or public  
708 adjusting firm and may not solicit contracts for the services  
709 except under the direct supervision and guidance of the  
710 supervisory public adjuster. An individual may not be, act as, or  
711 hold himself or herself out to be a public adjuster apprentice  
712 unless the individual is licensed and holds a current appointment  
713 by a licensed public all-lines adjuster or a public adjusting  
714 firm that employs a licensed all-lines public adjuster.

715 Section 14. Effective October 1, 2008, subsections (1) and  
716 (4) of section 626.869, Florida Statutes, are amended to read:

717 626.869 License, adjusters; continuing education.--

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

- 721 (a) All lines of insurance except life and annuities.
- 722 (b) Motor vehicle physical damage insurance.
- 723 (c) Property and casualty insurance.
- 724 (d) Workers' compensation insurance.
- 725 (e) Health insurance.

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726  
727 No examination on worker's compensation insurance or health  
728 insurance shall be required for public adjusters.

729 (4) (a) Any individual holding a license as a company  
730 employee adjuster or independent adjuster for 24 consecutive  
731 months or longer must, beginning in his or her birth month and  
732 every 2 years thereafter, have completed 24 hours of courses, 2  
733 hours of which relate to ethics, in subjects designed to inform  
734 the licensee regarding the current insurance laws of this state,  
735 so as to enable him or her to engage in business as an insurance  
736 adjuster fairly and without injury to the public and to adjust  
737 all claims in accordance with the policy or contract and the laws  
738 of this state.

739 (b) Any individual holding a license as a public adjuster  
740 for 24 consecutive months or longer, beginning in their birth  
741 month and every 2 years thereafter, must have completed 24 hours  
742 of courses, 2 hours of which relate to ethics, in subjects  
743 designed to inform the licensee regarding the current laws of  
744 this state pertaining to all lines of insurance other than life  
745 and annuities, the current laws of this state pertaining to the  
746 duties and responsibilities of public adjusters as set forth in  
747 this part, and the current rules of the department applicable to  
748 public adjusters and standard or representative policy forms used  
749 by insurers, other than forms for life insurance and annuities,  
750 so as to enable him or her to engage in business as an adjuster  
751 fairly and without injury to the public and to adjust all claims  
752 in accordance with the policy or contract and laws of this state.  
753 In order to receive credit for continuing education courses,  
754 public adjusters must take courses that are specifically designed

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755 for public adjusters and approved by the department, provided,  
756 however, no continuing education course shall be required for  
757 public adjusters for worker's compensation insurance or health  
758 insurance.

759 (c) The department shall adopt rules necessary to implement  
760 and administer the continuing education requirements of this  
761 subsection. For good cause shown, the department may grant an  
762 extension of time during which the requirements imposed by this  
763 section may be completed, but such extension of time may not  
764 exceed 1 year.

765 (d) A nonresident public adjuster must complete the  
766 continuing education requirements provided by this section;  
767 provided, a nonresident public adjuster may meet the requirements  
768 of this section if the continuing education requirements of the  
769 nonresident public adjuster's home state are determined to be  
770 substantially comparable to the requirements of this state's  
771 continuing education requirements and if the resident's state  
772 recognizes reciprocity with this state's continuing education  
773 requirements. A nonresident public adjuster whose home state does  
774 not have such continuing education requirements for adjusters,  
775 and who is not licensed as a nonresident adjuster in a state that  
776 has continuing education requirements and reciprocates with this  
777 state, must meet the continuing education requirements of this  
778 section.

779 Section 15. Effective October 1, 2008, section 626.8698,  
780 Florida Statutes, is amended to read:

781 626.8698 Disciplinary guidelines for public adjusters and  
782 public adjuster apprentices.--The department may deny, suspend,  
783 or revoke the license of a public adjuster or public adjuster

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784 apprentice, and administer a fine not to exceed \$5,000 per act,  
785 for any of the following:

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

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

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

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

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

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

800 Section 16. Effective January 1, 2009, subsection (4) is  
801 added to section 626.870, Florida Statutes, to read:

802 626.870 Application for license.--

803 (4) A license, an appointment, or eligibility that has been  
804 suspended may not be reinstated except upon the filing and  
805 approval of an application for reinstatement in accordance with  
806 s. 626.641. In addition, for reinstatement of a public adjuster's  
807 license, appointment, or eligibility, the individual must pass  
808 the public adjuster licensing examination. An application for  
809 reinstatement must be accompanied by any applicable examination  
810 fee. Successful completion of the examination does not entitle  
811 the applicant to have a license reinstated. The application is  
812 subject to denial pursuant to ss. 626.207, 626.611, 626.621, and

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813 626.8698. If the department approves an application for  
814 reinstatement, the applicant shall be notified that the license  
815 will be reinstated upon payment by the applicant of the  
816 reinstatement fee contained in s. 624.501(15).

817 Section 17. Effective January 1, 2009, paragraphs (b) and  
818 (e) of subsection (1) and paragraphs (b) and (c) of subsection  
819 (2) of section 626.8732, Florida Statutes, are amended, and  
820 subsection (6) is added to that section, to read:

821 626.8732 Nonresident public adjuster's qualifications,  
822 bond.--

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

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

831 ~~1. An applicant who is licensed as a resident public~~  
832 ~~adjuster in his or her state of residence, when that state~~  
833 ~~requires the passing of a written examination in order to obtain~~  
834 ~~the license and a reciprocal agreement with the appropriate~~  
835 ~~official of that state has been entered into by the department;~~  
836 ~~or~~

837 ~~2. An applicant who is licensed as a nonresident public~~  
838 ~~adjuster in a state other than his or her state of residence when~~  
839 ~~the state of licensure requires the passing of a written~~  
840 ~~examination in order to obtain the license and a reciprocal~~  
841 ~~agreement with the appropriate official of the state of licensure~~

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842 ~~has been entered into by the department.~~

843       (e) Has been licensed and employed as a public adjuster in  
844 the applicant's state of residence on a continual basis for the  
845 past 3 years, or, if the applicant's state of residence does not  
846 issue licenses to individuals who act as public adjusters, the  
847 applicant has been licensed and employed as a resident insurance  
848 company or independent adjuster, insurance agent, insurance  
849 broker, or other insurance representative in his or her state of  
850 residence or any other state on a continual basis for the past 3  
851 years. This paragraph does not apply to individuals who are  
852 licensed to transact only life insurance and annuity business had  
853 ~~sufficient experience, training, or instruction concerning the~~  
854 ~~adjusting of damages or losses under insurance contracts, other~~  
855 ~~than life and annuity contracts; is sufficiently informed as to~~  
856 ~~the terms and effects of the provisions of those types of~~  
857 ~~insurance contracts; and possesses adequate knowledge of the laws~~  
858 ~~of this state relating to such contracts as to enable and qualify~~  
859 ~~him or her to engage in the business of insurance adjuster fairly~~  
860 ~~and without injury to the public or any member thereof with whom~~  
861 ~~he or she may have business as a public adjuster.~~

862       (2) The applicant shall furnish the following with his or  
863 her application:

864       (b) If currently licensed as a resident public adjuster in  
865 the applicant's state of residence, a certificate or letter of  
866 authorization from the licensing authority of the applicant's  
867 state of residence, stating that the applicant holds a current or  
868 comparable license to act as a public adjuster and has held the  
869 license continuously for the past 3 years. The certificate or  
870 letter of authorization must be signed by the insurance

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871 commissioner or his or her deputy or the appropriate licensing  
872 official and must disclose whether the adjuster has ever had any  
873 license or eligibility to hold any license declined, denied,  
874 suspended, revoked, or placed on probation or whether an  
875 administrative fine or penalty has been levied against the  
876 adjuster and, if so, the reason for the action.

877 (c) If the applicant's state of residence does not require  
878 licensure as a public adjuster and the applicant has been  
879 licensed as a resident insurance adjuster, agent, broker, or  
880 other insurance representative in his or her state of residence  
881 or any other state ~~within the past 3 years~~, a certificate or  
882 letter of authorization from the licensing authority stating that  
883 the applicant holds or has held a license to act as such an  
884 insurance adjuster, agent, or other insurance representative and  
885 has held the license continuously for the past 3 years. The  
886 certificate or letter of authorization must be signed by the  
887 insurance commissioner or his or her deputy or the appropriate  
888 licensing official and must disclose whether or not the adjuster,  
889 agent, or other insurance representative has ever had any license  
890 or eligibility to hold any license declined, denied, suspended,  
891 revoked, or placed on probation or whether an administrative fine  
892 or penalty has been levied against the adjuster and, if so, the  
893 reason for the action.

894 (6) If available, the department shall verify the  
895 nonresident applicant's licensing status through the producer  
896 database maintained by the National Association of Insurance  
897 Commissioners or its affiliates or subsidiaries.

898 Section 18. Effective October 1, 2008, section 626.8796,  
899 Florida Statutes, is created to read:

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900       626.8796 Public adjuster contracts; fraud statement.--All  
901 contracts for public adjuster services must be in writing and  
902 must prominently display the following statement on the contract:  
903 "Pursuant to s. 817.234, Florida Statutes, any person who, with  
904 the intent to injure, defraud, or deceive any insurer or insured,  
905 prepares, presents, or causes to be presented a proof of loss or  
906 estimate of cost or repair of damaged property in support of a  
907 claim under an insurance policy knowing that the proof of loss or  
908 estimate of claim or repairs contains any false, incomplete, or  
909 misleading information concerning any fact or thing material to  
910 the claim commits a felony of the third degree, punishable as  
911 provided in s. 775.082, s. 775.803, or s. 775.084, Florida  
912 Statutes."

913       Section 19. Effective October 1, 2008, section 626.8797,  
914 Florida Statutes, is created to read:

915       626.8797 Proof of loss; fraud statement.--All proof of loss  
916 statements must prominently display the following statement:  
917 "Pursuant to s. 817.234, Florida Statutes, any person who, with  
918 the intent to injure, defraud, or deceive any insurer or insured,  
919 prepares, presents, or causes to be presented a proof of loss or  
920 estimate of cost or repair of damaged property in support of a  
921 claim under an insurance policy knowing that the proof of loss or  
922 estimate of claim or repairs contains any false, incomplete, or  
923 misleading information concerning any fact or thing material to  
924 the claim commits a felony of the third degree, punishable as  
925 provided in s. 775.082, s. 775.803, or s. 775.084, Florida  
926 Statutes."

927       Section 20. Effective January 1, 2009, and applicable to  
928 policies issued or renewed on or after that date, section



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929 627.94073, Florida Statutes, is amended to read:

930 627.94073 Notice of cancellation; grace period.--

931 (1) A long-term care policy shall provide that the insured  
932 is entitled to a grace period of not less than 30 days, within  
933 which payment of any premium after the first may be made. The  
934 insurer may require payment of an interest charge not in excess  
935 of 8 percent per year for the number of days elapsing before the  
936 payment of the premium, during which period the policy shall  
937 continue in force. If the policy becomes a claim during the grace  
938 period before the overdue premium is paid, the amount of such  
939 premium or premiums with interest not in excess of 8 percent per  
940 year may be deducted in any settlement under the policy.

941 (2) A long-term care policy may not be canceled for  
942 nonpayment of premium unless, after expiration of the grace  
943 period in subsection (1), and at least 30 days prior to the  
944 effective date of such cancellation, the insurer has mailed a  
945 notification of possible lapse in coverage to the policyholder  
946 and to a specified secondary addressee if such addressee has been  
947 designated in writing by name and address by the policyholder.  
948 For policies issued or renewed on or after October 1, 1996, the  
949 insurer shall notify the policyholder, at least once annually  
950 ~~every 2 years~~, of the right to designate a secondary addressee.  
951 The applicant has the right to designate at least one person who  
952 is to receive the notice of termination, in addition to the  
953 insured. Designation shall not constitute acceptance of any  
954 liability on the third party for services provided to the  
955 insured. The form used for the written designation must provide  
956 space clearly designated for listing at least one person. The  
957 form must also inform the policyholder to update any change made

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958 to the address of the secondary addressee. The designation shall  
959 include each person's full name and home address. In the case of  
960 an applicant who elects not to designate an additional person,  
961 the waiver shall state: "Protection against unintended lapse.--I  
962 understand that I have the right to designate at least one person  
963 other than myself to receive notice of lapse or termination of  
964 this long-term care or limited benefit insurance policy for  
965 nonpayment of premium. I understand that notice will not be given  
966 until 30 days after a premium is due and unpaid. I elect NOT to  
967 designate any person to receive such notice." Notice of possible  
968 lapse in coverage due to nonpayment of premium shall be given by  
969 United States Postal Service proof of mailing or certified or  
970 registered mail to the policyholder and secondary designee at the  
971 address shown in the policy or the last known address provided to  
972 the insurer. ~~first class United States mail, postage prepaid, and~~  
973 Notice may not be given until 30 days after a premium is due and  
974 unpaid. Notice shall be deemed to have been given as of 5 days  
975 after the date of mailing.

976 (3) If a policy is canceled due to nonpayment of premium,  
977 the policyholder is ~~shall be~~ entitled to have the policy  
978 reinstated if, within a period of not less than 5 months after  
979 the date of cancellation, the policyholder or any secondary  
980 addressee designated pursuant to subsection (2) demonstrates that  
981 the failure to pay the premium when due was unintentional and due  
982 to the policyholder's cognitive impairment, ~~or~~ loss of functional  
983 capacity, or continuous confinement in a hospital, skilled  
984 nursing facility, or assisted living facility for a period in  
985 excess of 60 days ~~of the policyholder.~~ Policy reinstatement shall  
986 be subject to payment of overdue premiums. The standard of proof

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987 of cognitive impairment or loss of functional capacity shall not  
988 be more stringent than the benefit eligibility criteria for  
989 cognitive impairment or the loss of functional capacity, if any,  
990 contained in the policy and certificate. The insurer may require  
991 payment of an interest charge not in excess of 8 percent per year  
992 for the number of days elapsing before the payment of the  
993 premium, during which period the policy shall continue in force  
994 if the demonstration of cognitive impairment is made. If the  
995 policy becomes a claim during the 180-day period before the  
996 overdue premium is paid, the amount of the premium or premiums  
997 with interest not in excess of 8 percent per year may be deducted  
998 in any settlement under the policy.

999 (4) When the policyholder or certificateholder pays premium  
1000 for a long-term care insurance policy or certificate policy  
1001 through a payroll or pension deduction plan, the requirements in  
1002 subsection (2) need not be met until 60 days after the  
1003 policyholder or certificateholder is no longer on such a payment  
1004 plan. The application or enrollment form for such policies or  
1005 certificates shall clearly indicate the payment plan selected by  
1006 the applicant.

1007 Section 21. Paragraph (c) of subsection (5) and subsection  
1008 (6) of section 626.9543, Florida Statutes, are amended to read:  
1009 626.9543 Holocaust victims.--

1010 (5) PROOF OF A CLAIM.--Any insurer doing business in this  
1011 state, in receipt of a claim from a Holocaust victim or from a  
1012 beneficiary, descendant, or heir of a Holocaust victim, shall:

1013 (c) Permit claims irrespective of any statute of  
1014 limitations or notice requirements imposed by any insurance  
1015 policy issued, provided the claim is submitted on or before July

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1016 1, 2018 ~~within 10 years after the effective date of this section.~~

1017 (6) STATUTE OF LIMITATIONS.--Notwithstanding any law or  
1018 agreement among the parties to an insurance policy to the  
1019 contrary, any action brought by Holocaust victims or by a  
1020 beneficiary, heir, or a descendant of a Holocaust victim seeking  
1021 proceeds of an insurance policy issued or in effect between 1920  
1022 and 1945, inclusive, shall not be dismissed for failure to comply  
1023 with the applicable statute of limitations or laches provided the  
1024 action is commenced on or before July 1, 2018 ~~within 10 years~~  
1025 ~~after the effective date of this section.~~

1026 Section 22. Paragraph (a) of subsection (5) of section  
1027 627.736, Florida Statutes, is amended to read:

1028 627.736 Required personal injury protection benefits;  
1029 exclusions; priority; claims.--

1030 (5) CHARGES FOR TREATMENT OF INJURED PERSONS.--

1031 (a)1. Any physician, hospital, clinic, or other person or  
1032 institution lawfully rendering treatment to an injured person for  
1033 a bodily injury covered by personal injury protection insurance  
1034 may charge the insurer and injured party only a reasonable amount  
1035 pursuant to this section for the services and supplies rendered,  
1036 and the insurer providing such coverage may pay for such charges  
1037 directly to such person or institution lawfully rendering such  
1038 treatment, if the insured receiving such treatment or his or her  
1039 guardian has countersigned the properly completed invoice, bill,  
1040 or claim form approved by the office upon which such charges are  
1041 to be paid for as having actually been rendered, to the best  
1042 knowledge of the insured or his or her guardian. In no event,  
1043 however, may such a charge be in excess of the amount the person  
1044 or institution customarily charges for like services or supplies.

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1045 With respect to a determination of whether a charge for a  
1046 particular service, treatment, or otherwise is reasonable,  
1047 consideration may be given to evidence of usual and customary  
1048 charges and payments accepted by the provider involved in the  
1049 dispute, and reimbursement levels in the community and various  
1050 federal and state medical fee schedules applicable to automobile  
1051 and other insurance coverages, and other information relevant to  
1052 the reasonableness of the reimbursement for the service,  
1053 treatment, or supply.

1054 2. The insurer may limit reimbursement to 80 percent of the  
1055 following schedule of maximum charges:

1056 a. For emergency transport and treatment by providers  
1057 licensed under chapter 401, 200 percent of Medicare.

1058 b. For emergency services and care provided by a hospital  
1059 licensed under chapter 395, 75 percent of the hospital's usual  
1060 and customary charges.

1061 c. For emergency services and care as defined by s.  
1062 395.002(10) provided in a facility licensed under chapter 395  
1063 rendered by a physician or dentist, and related hospital  
1064 inpatient services rendered by a physician or dentist, the usual  
1065 and customary charges in the community.

1066 d. For hospital inpatient services, other than emergency  
1067 services and care, 200 percent of the Medicare Part A prospective  
1068 payment applicable to the specific hospital providing the  
1069 inpatient services.

1070 e. For hospital outpatient services, other than emergency  
1071 services and care, 200 percent of the Medicare Part A Ambulatory  
1072 Payment Classification for the specific hospital providing the  
1073 outpatient services.

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1074 f. For all other medical services, supplies, and care, 200  
1075 percent of the allowable amount under the participating  
1076 physicians schedule of applicable Medicare Part B ~~fee schedule~~.  
1077 However, if such services, supplies, or care is not reimbursable  
1078 under Medicare Part B, the insurer may limit reimbursement to 80  
1079 percent of the maximum reimbursable allowance under workers'  
1080 compensation, as determined under s. 440.13 and rules adopted  
1081 thereunder which are in effect at the time such services,  
1082 supplies, or care is provided. Services, supplies, or care that  
1083 is not reimbursable under Medicare or workers' compensation is  
1084 not required to be reimbursed by the insurer.

1085 3. For purposes of subparagraph 2., the applicable fee  
1086 schedule or payment limitation under Medicare is the fee schedule  
1087 or payment limitation in effect at the time the services,  
1088 supplies, or care was rendered and for the area in which such  
1089 services were rendered, except that it may not be less than the  
1090 allowable amount under the participating physicians schedule  
1091 ~~applicable 2007~~ Medicare Part B for 2007 ~~fee schedule~~ for medical  
1092 services, supplies, and care subject to Medicare Part B.

1093 4. Subparagraph 2. does not allow the insurer to apply any  
1094 limitation on the number of treatments or other utilization  
1095 limits that apply under Medicare or workers' compensation. An  
1096 insurer that applies the allowable payment limitations of  
1097 subparagraph 2. must reimburse a provider who lawfully provided  
1098 care or treatment under the scope of his or her license,  
1099 regardless of whether such provider would be entitled to  
1100 reimbursement under Medicare due to restrictions or limitations  
1101 on the types or discipline of health care providers who may be  
1102 reimbursed for particular procedures or procedure codes.

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1103           5. If an insurer limits payment as authorized by  
1104 subparagraph 2., the person providing such services, supplies, or  
1105 care may not bill or attempt to collect from the insured any  
1106 amount in excess of such limits, except for amounts that are not  
1107 covered by the insured's personal injury protection coverage due  
1108 to the coinsurance amount or maximum policy limits.

1109           Section 23. The Legislature finds that the Uniform  
1110 Commercial Code insurance product authorized by section 1 of  
1111 Chapter 2005-153, Laws of Florida, will open new markets in this  
1112 state and will result in generation of new revenue for the state.  
1113 Accordingly, title insurers may petition for a rate deviation as  
1114 provided by s. 627.783, Florida Statutes, for the uniform  
1115 commercial code insurance product. In determining whether to  
1116 approve such petition for a rate deviation for the uniform  
1117 commercial code insurance product, the office shall be guided by  
1118 standards for national rates for the product currently being  
1119 offered in other states.

1120           Section 24. Paragraph (b) of subsection (4) of section  
1121 215.555, Florida Statutes, is amended to read:

1122           215.555 Florida Hurricane Catastrophe Fund.--

1123           (4) REIMBURSEMENT CONTRACTS.--

1124           (b)1. The contract shall contain a promise by the board to  
1125 reimburse the insurer for 45 percent, 75 percent, or 90 percent  
1126 of its losses from each covered event in excess of the insurer's  
1127 retention, plus 5 percent of the reimbursed losses to cover loss  
1128 adjustment expenses.

1129           2. The insurer must elect one of the percentage coverage  
1130 levels specified in this paragraph and may, upon renewal of a  
1131 reimbursement contract, elect a lower percentage coverage level

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1132 if no revenue bonds issued under subsection (6) after a covered  
1133 event are outstanding, or elect a higher percentage coverage  
1134 level, regardless of whether or not revenue bonds are  
1135 outstanding. All members of an insurer group must elect the same  
1136 percentage coverage level. Any joint underwriting association,  
1137 risk apportionment plan, or other entity created under s. 627.351  
1138 must elect the 90-percent coverage level.

1139 3. The contract shall provide that reimbursement amounts  
1140 shall not be reduced by reinsurance paid or payable to the  
1141 insurer from other sources.

1142 4. Notwithstanding any other provision contained in this  
1143 section, the board shall make available to insurers that  
1144 purchased coverage provided by this subparagraph in 2007 ~~2006~~,  
1145 insurers qualifying as limited apportionment companies under s.  
1146 627.351(6)(c), and insurers that have been ~~were~~ approved to  
1147 participate in ~~2006 or that are approved in 2007~~ for the  
1148 Insurance Capital Build-Up Incentive Program pursuant to s.  
1149 215.5595~~7~~, a contract or contract addendum that provides an  
1150 additional amount of reimbursement coverage of up to \$10 million.  
1151 The premium to be charged for this additional reimbursement  
1152 coverage shall be 50 percent of the additional reimbursement  
1153 coverage provided, which shall include one prepaid reinstatement.  
1154 The minimum retention level that an eligible participating  
1155 insurer must retain associated with this additional coverage  
1156 layer is 30 percent of the insurer's surplus as of December 31,  
1157 2007 ~~2006~~. This coverage shall be in addition to all other  
1158 coverage that may be provided under this section. The coverage  
1159 provided by the fund under this subparagraph shall be in addition  
1160 to the claims-paying capacity as defined in subparagraph (c)1.,



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1161 but only with respect to those insurers that select the  
1162 additional coverage option and meet the requirements of this  
1163 subparagraph. The claims-paying capacity with respect to all  
1164 other participating insurers and limited apportionment companies  
1165 that do not select the additional coverage option shall be  
1166 limited to their reimbursement premium's proportionate share of  
1167 the actual claims-paying capacity otherwise defined in  
1168 subparagraph (c)1. and as provided for under the terms of the  
1169 reimbursement contract. Coverage provided in the reimbursement  
1170 contract shall ~~will~~ not be affected by the additional premiums  
1171 paid by participating insurers exercising the additional coverage  
1172 option allowed in this subparagraph. This subparagraph expires on  
1173 May 31, 2009 ~~2008~~.

1174 Section 25. Effective January 1, 2009, paragraph (j) of  
1175 subsection (2) of section 626.221, Florida Statutes, is amended  
1176 to read:

1177 626.221 Examination requirement; exemptions.--

1178 (2) However, no such examination shall be necessary in any  
1179 of the following cases:

1180 (j) An applicant for license as a customer representative  
1181 who has earned the designation of Accredited Advisor in Insurance  
1182 (AAI) from the Insurance Institute of America, the designation of  
1183 Certified Insurance Counselor (CIC) from the Society of Certified  
1184 Insurance Service Counselors, the designation of Accredited  
1185 Customer Service Representative (ACSR) from the Independent  
1186 Insurance Agents of America, the designation of Certified  
1187 Professional Service Representative (CPSR) from the National  
1188 Foundation for Certified Professional Service Representatives,  
1189 the designation of Certified Insurance Service Representative

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1190 (CISR) from the Society of Certified Insurance Service  
1191 Representatives. Also, an applicant for license as a customer  
1192 representative who has earned an associate's degree or bachelor's  
1193 degree from an accredited college or university with at least 9  
1194 academic hours of property and casualty insurance curriculum, or  
1195 the equivalent, or has earned the designation of Certified  
1196 Customer Service Representative (CCSR) from the Florida  
1197 Association of Insurance Agents, or the designation of Registered  
1198 Customer Service Representative (RCSR) from a regionally  
1199 accredited postsecondary institution in this state, or the  
1200 designation of Professional Customer Service Representative  
1201 (PCSR) from the Professional Career Institute, whose curriculum  
1202 has been approved by the department and whose curriculum includes  
1203 comprehensive analysis of basic property and casualty lines of  
1204 insurance and testing at least equal to that of standard  
1205 department testing for the customer representative license. The  
1206 department shall adopt rules establishing standards for the  
1207 approval of curriculum.

1208 Section 26. Subsection (2), paragraph (f) of subsection  
1209 (3), and paragraph (j) of subsection (4) of section 626.2815,  
1210 Florida Statutes, are amended to read:

1211 626.2815 Continuing education required; application;  
1212 exceptions; requirements; penalties.--

1213 (2) Except as otherwise provided in this section, the  
1214 provisions of this section apply to persons licensed to engage in  
1215 the sale of insurance in this state for all lines of insurance  
1216 for which an examination is required for licensing and to each  
1217 insurer, employer, or appointing entity, including, but not  
1218 limited to, those created or existing pursuant to s. 627.351. The

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1219 provisions of this section shall not apply to any person holding  
1220 a license for the sale of any line of insurance for which an  
1221 examination is not required by the laws of this state, nor shall  
1222 the provisions of this section apply to any limited license as  
1223 the department may exempt by rule.

1224 (3)

1225 (f) 1. Except as provided in subparagraph 2., compliance  
1226 with continuing education requirements is a condition precedent  
1227 to the issuance, continuation, reinstatement, or renewal of any  
1228 appointment subject to this section.

1229 2.a. An appointing entity, except one that appoints  
1230 individuals who are employees or exclusive independent  
1231 contractors of the appointing entity, may not require, directly  
1232 or indirectly, as a condition of such appointment or the  
1233 continuation of such appointment, the taking of an approved  
1234 course or program by any appointee or potential appointee that is  
1235 not of the appointee's choosing.

1236 b. Any entity created or existing pursuant to s. 627.351  
1237 may require employees to take training of any type relevant to  
1238 their employment but may not require appointees who are not  
1239 employees to take any approved course or program unless the  
1240 course or program deals solely with the appointing entity's  
1241 internal procedures or products or with subjects substantially  
1242 unique to the appointing entity.

1243 (4) The following courses may be completed in order to meet  
1244 the continuing education course requirements:

1245 (j) Any course, including courses relating to agency  
1246 management or errors and omissions, developed or sponsored by any  
1247 authorized insurer or recognized agents' association or insurance

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1248 trade association or any independent study program of  
1249 instruction, subject to approval by the department, qualifies for  
1250 the equivalency of the number of classroom hours assigned thereto  
1251 by the department. However, unless otherwise provided in this  
1252 section, continuing education hours may not be credited toward  
1253 meeting the requirements of this section unless the course is  
1254 provided by classroom instruction or results in a monitored  
1255 examination. A monitored examination is not required for:

1256 1. An independent study program of instruction ~~that is~~  
1257 presented through interactive, online technology that the  
1258 department determines has sufficient internal testing to validate  
1259 the student's full comprehension of the materials presented; or  
1260 2. An independent study program of instruction presented on  
1261 paper or in printed material that imposes a final closed book  
1262 examination that meets the requirements of the department's rule  
1263 for self-study courses. The examination may be taken without a  
1264 proctor provided the student presents to the provider a sworn  
1265 affidavit certifying that the student did not consult any written  
1266 materials or receive outside assistance of any kind or from any  
1267 person, directly or indirectly, while taking the examination. If  
1268 the student is an employee of an agency or corporate entity, the  
1269 student's supervisor or a manager or owner of the agency or  
1270 corporate entity must also sign the sworn affidavit. If the  
1271 student is self-employed, a sole proprietor, or a partner, or if  
1272 the examination is administered online, the sworn affidavit must  
1273 also be signed by a disinterested third party. The sworn  
1274 affidavit must be received by the approved provider prior to  
1275 reporting continuing education credits to the department.

1276 Section 27. Subsections (6) and (7) of section 626.381,

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1277 Florida Statutes, are renumbered as subsections (8) and (9),  
1278 respectively, and new subsections (6) and (7) are added to that  
1279 section to read:

1280       626.381 Renewal, continuation, reinstatement, or  
1281 termination of appointment.--

1282       (6) An appointing entity may require an appointee to attend  
1283 training and education programs of the appointing entity in order  
1284 for the appointee to receive a new appointment or maintain an  
1285 existing appointment. However, an appointing entity may not  
1286 require, directly or indirectly, any appointee to attend any  
1287 training programs that are wholly or partially approved for  
1288 general continuing education credit as provided in s. 626.2815.

1289       (7) Each appointing entity may appoint only those persons  
1290 who have met the continuing education requirements of the license  
1291 necessary for such appointment as provided in s. 626.2815.  
1292 However, an appointing entity may not make or allow, directly or  
1293 indirectly, the appointment of any appointee or potential  
1294 appointee to be contingent, in whole or in part, on any  
1295 appointee's attendance at any course that is approved, in whole  
1296 or in part, for continuing education credit pursuant to s.  
1297 626.2815.

1298       Section 28. Upon the request of a consumer reporting  
1299 agency, as defined by the federal Fair Credit Reporting Act, 15  
1300 U.S.C. 1681 et seq., which consumer reporting agency is on  
1301 compliance with the confidentiality requirements of such act, the  
1302 Citizens Property Insurance Corporation shall electronically  
1303 report claims data and histories to such consumer reporting  
1304 agency which maintains a database of similar data for use in  
1305 connection with the underwriting of insurance involving a

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1306 | consumer.

1307 |       Section 29. Except as otherwise expressly provided in this

1308 | act, this act shall take effect July 1, 2008.