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1
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. ~~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.