

By Senator Deutch

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1 A bill to be entitled

2 An act relating to insurance; requiring a specified amount
3 of contributions paid to the Florida Retirement System to
4 be distributed to the Florida Hurricane Catastrophe Fund
5 for certain purposes; providing criteria for the
6 reimbursement of such distributions; amending s. 626.221,
7 F.S.; expanding the list of applicants eligible for
8 exemption from certain examination requirements; amending
9 s. 626.2815, F.S.; revising certain continuing education
10 applicability requirements; prohibiting certain entities
11 from imposing certain continuing education requirements;
12 providing exceptions and limitations; providing an
13 exception to certain examination monitoring requirements;
14 providing exception requirements; revising duties of a
15 continuing education advisory board; amending s. 626.311,
16 F.S.; authorizing agents qualifying as unaffiliated
17 insurance consultants to transact insurance business
18 within the scope of the agent's license; providing a
19 definition; providing requirements for qualifying or
20 continuing to qualify as an unaffiliated insurance
21 consultant; specifying prohibited activities for
22 unaffiliated insurance consultants; amending s. 626.381,
23 F.S.; authorizing appointing entities to impose certain
24 training program requirements; providing a limitation;
25 limiting appointment authority of appointing entities to
26 persons meeting continuing education requirements;
27 prohibiting appointments contingent upon certain
28 continuing education course attendance; providing an
29 effective date.

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31 Be It Enacted by the Legislature of the State of Florida:
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33 Section 1. Effective June 1, 2008, an amount equal to the
34 lesser of 5 percent of the annual accumulated employee
35 contributions paid to the Florida Retirement System or 10 percent
36 of the Florida Hurricane Catastrophe Fund exposure shall be
37 deducted from the annual accumulated employee contributions of
38 the Florida Retirement System and distributed to the Florida
39 Hurricane Catastrophe Fund. Underwriting profits from the Florida
40 Hurricane Catastrophe Fund shall be used to make annual interest
41 payments to the Florida Retirement System at the 1-year London
42 Interbank Offered Rate. In a year in which the Florida Hurricane
43 Catastrophe Fund experiences a loss, interest shall accrue on the
44 Florida Retirement System investment, and the Florida Hurricane
45 Catastrophe Fund shall pay back this interest to the Florida
46 Retirement System in the next year that the Florida Hurricane
47 Catastrophe Fund experiences a profit.

48 Section 2. Paragraph (j) of subsection (2) of section
49 626.221, Florida Statutes, is amended to read:

50 626.221 Examination requirement; exemptions.--

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

53 (j) An applicant for license as a customer representative
54 who has earned the designation of Accredited Advisor in Insurance
55 (AAI) from the Insurance Institute of America, the designation of
56 Certified Insurance Counselor (CIC) from the Society of Certified
57 Insurance Service Counselors, the designation of Accredited
58 Customer Service Representative (ACSR) from the Independent

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59 Insurance Agents of America, the designation of Certified
60 Professional Service Representative (CPSR) from the National
61 Foundation for Certified Professional Service Representatives,
62 the designation of Certified Insurance Service Representative
63 (CISR) from the Society of Certified Insurance Service
64 Representatives. Also, an applicant for license as a customer
65 representative who has earned an Associate of Arts degree,
66 Associate of Science degree, or Associate of Applied Science
67 degree in insurance from an accredited college or university with
68 at least 9 academic hours of property and casualty insurance
69 curriculum, or has earned the designation of Certified Customer
70 Service Representative (CCSR) from the Florida Association of
71 Insurance Agents, or the designation of Registered Customer
72 Service Representative (RCSR) from a regionally accredited
73 postsecondary institution in this state, or the designation of
74 Professional Customer Service Representative (PCSR) from the
75 Professional Career Institute, whose curriculum has been approved
76 by the department and whose curriculum includes comprehensive
77 analysis of basic property and casualty lines of insurance and
78 testing at least equal to that of standard department testing for
79 the customer representative license. The department shall adopt
80 rules establishing standards for the approval of curriculum.

81 Section 3. Subsection (2), paragraph (f) of subsection (3),
82 paragraph (j) of subsection (4), and paragraph (a) of subsection
83 (6) of section 626.2815, Florida Statutes, are amended to read:

84 626.2815 Continuing education required; application;
85 exceptions; requirements; penalties.--

86 (2) Except as otherwise provided in this section, the
87 provisions of this section apply to persons licensed to engage in

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88 the sale of insurance in this state for all lines of insurance
89 for which an examination is required for licensing and to any
90 insurer, employer, or appointing entity, including those created
91 or existing pursuant to s. 627.351. The provisions of this
92 section shall not apply to any person holding a license for the
93 sale of any line of insurance for which an examination is not
94 required by the laws of this state, nor shall the provisions of
95 this section apply to any limited license as the department may
96 exempt by rule.

97 (3)

98 (f) Compliance with continuing education requirements is a
99 condition precedent to the issuance, continuation, reinstatement,
100 or renewal of any appointment subject to this section.

101 1. An appointing entity, except those that appoint
102 individuals who are employees or exclusive independent
103 contractors of the appointing entity, may not require, directly
104 or indirectly, as a condition of such appointment or the
105 continuation of such appointment, the taking of an approved
106 course or program by any appointee or potential appointee that is
107 not of the appointee's choosing.

108 2. Any entity created or existing pursuant to s. 627.351
109 may require employees to take training of any type relevant to
110 their employment but may not require appointees who are not also
111 employees to take any approved course or program unless the
112 course or program deals solely with the appointing entity's
113 internal procedures or products or subjects substantially unique
114 to the appointing entity.

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

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117 (j) Any course, including courses relating to agency
118 management or errors and omissions, developed or sponsored by any
119 authorized insurer or recognized agents' association or insurance
120 trade association or any independent study program of
121 instruction, subject to approval by the department, qualifies for
122 the equivalency of the number of classroom hours assigned thereto
123 by the department. However, unless otherwise provided in this
124 section, continuing education hours may not be credited toward
125 meeting the requirements of this section unless the course is
126 provided by classroom instruction or results in a monitored
127 examination. A monitored examination is not required for:

128 1. An independent study program of instruction that is
129 presented through interactive, online technology that the
130 department determines has sufficient internal testing to validate
131 the student's full comprehension of the materials presented; or
132 2. An independent study program of instruction presented by
133 correspondence for insurance agents and adjusters that imposes a
134 final closed book examination that meets the requirements of the
135 department's rule for self-study courses. The examination may be
136 taken without a proctor provided the student presents to the
137 department a sworn affidavit certifying that the student did not
138 consult any written materials or receive outside assistance of
139 any kind or from any person, directly or indirectly, while taking
140 the examination. If the student is an employee of an agency or
141 corporate entity, the student's supervisor or a manager or owner
142 of the agency or corporate entity must also sign the sworn
143 affidavit. If the student is self-employed, a sole proprietor, or
144 a partner, or if the examination is administered online, the
145 sworn affidavit must also be signed by a disinterested third

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146 party. The sworn affidavit must be received by the approved
147 provider prior to reporting continuing education credits to the
148 department.

149 (6) (a) There is created an 11-member continuing education
150 advisory board to be appointed by the Chief Financial Officer.
151 Appointments shall be for terms of 4 years. The purpose of the
152 board is to advise the department in determining standards by
153 which courses may be evaluated and categorized as basic,
154 intermediate, or advanced, and to advise on issues related to
155 appointments based upon appointees meeting continuing education
156 requirements. The board shall submit recommendations to the
157 department of changes needed in such criteria not less frequently
158 than every 2 years. The department shall require all approved
159 course providers to submit courses for approval to the department
160 using the criteria. All materials, brochures, and advertisements
161 related to the approved courses must specify the level assigned
162 to the course.

163 Section 4. Subsection (7) is added to section 626.311,
164 Florida Statutes, to read:

165 626.311 Scope of license.--

166 (7) Subject to the limitations of paragraph (c) and
167 notwithstanding any other provisions of this chapter, an agent
168 who qualifies as an unaffiliated insurance consultant pursuant to
169 paragraphs (a) and (b) shall be authorized to transact insurance
170 within the scope of his or her agent's license.

171 (a) For purposes of this subsection, the term "unaffiliated
172 insurance consultant" means a person who is not affiliated with
173 any insurer and chooses to practice as an independent insurance

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174 consultant providing objective advice to the buyers of insurance
175 and who:

176 1. Is licensed as an agent with respect to the type of
177 insurance for which he or she transacts the business of
178 insurance.

179 2. Is not appointed by an insurer or other authorized
180 appointing authority.

181 3. Does not sell or service insurance on behalf of any
182 insurer, or sell or service insurance on behalf of any insurance
183 agent or insurance agency, in connection with the sale or service
184 on behalf of an insurer or by the insurance agent or insurance
185 agency.

186 4. Does not receive any commission or any other form of
187 direct or indirect compensation from any insurer for the sale or
188 servicing of insurance on behalf of such insurer, or receive any
189 commission or any other form of direct or indirect compensation
190 from any insurance agent or insurance agency, in connection with
191 the sale or servicing of insurance on behalf of an insurer or by
192 the insurance agent or insurance agency.

193 5. Has provided the department with evidence that he or
194 she:

195 a. Has been licensed as an agent for a minimum of 2 years
196 with respect to the type of insurance for which he or she will
197 transact;

198 b. With respect to a general lines agent, holds a Chartered
199 Property Casualty Underwriter (CPCU), Associate in Risk
200 Management (ARM), Accredited Advisor in Insurance (AAI), or
201 Certified Insurance Counselor (CIC) designation;

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202 c. With respect to a life or health agent, holds a
203 Chartered Life Underwriter (CLU) or Certified Employee Benefit
204 Specialist (CEBS) designation;

205 d. Has earned a bachelor's or graduate degree in risk
206 management or insurance from an accredited college or university;

207 e. Has taught a course in risk management or insurance as a
208 professor at an accredited college or university;

209 f. Is a member of The Florida Bar; or

210 g. Meets any other requirements the department may deem
211 proper to enable the department to determine the character,
212 experience, ability, and other qualifications of the person to
213 hold himself or herself out to the public as an unaffiliated
214 insurance consultant.

215 (b)1. A person may not initially qualify as an unaffiliated
216 insurance consultant:

217 a. Except upon written request for such qualification made
218 in a form acceptable to the department under the oath of, and
219 signed by, him or her, submitted to and filed with the department
220 certifying that he or she meets the definition of an unaffiliated
221 insurance consultant pursuant to paragraph (a).

222 b. Except upon payment in advance by such person of all
223 applicable fees. For the purposes of this provision, the
224 applicable fee shall be twice the amount of the fee that would
225 apply to an insurer for an agent's original appointment. If the
226 applicant has more than one agent's license, a separate fee shall
227 be paid for each license for which the person seeks to qualify as
228 an unaffiliated insurance consultant.

229 2. As a condition to continued qualification as an
230 unaffiliated insurance consultant, the person shall:

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231 a. On a biennial basis submit a request for the
232 continuation of such qualification in a form acceptable to the
233 department under the oath of, and signed by, him or her,
234 submitted to and filed with the department certifying that he or
235 she meets the definition of an unaffiliated insurance consultant
236 under paragraph (a).

237 b. Shall pay all applicable fees. For the purposes of this
238 provision, the applicable fee shall be twice the amount of the
239 fee that would apply to an insurer for the continuation of an
240 agent's original appointment. If the unaffiliated insurance
241 consultant has more than one license, a separate fee shall be
242 paid for each license for which the person seeks to continue to
243 qualify as an unaffiliated insurance consultant.

244 (c) An unaffiliated insurance consultant may not:

245 1. Hold himself or herself out as acting as the agent for
246 an insurer;

247 2. Act as a countersigning agent for an insurer; or

248 3. Hold himself or herself out as replacing the need for an
249 appointed agent in the placement or sale of insurance.

250 Section 5. Subsections (6) and (7) of section 626.381,
251 Florida Statutes, are renumbered as subsections (8) and (9),
252 respectively, and new subsections (6) and (7) are added to that
253 section to read:

254 626.381 Renewal, continuation, reinstatement, or
255 termination of appointment.--

256 (6) An appointing entity may require any appointee to
257 attend training programs exclusively on the internal procedures
258 of the appointing entity or exclusively on products substantially
259 unique to the appointing entity, in order for the appointee to

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260 receive a new appointment or maintain an existing appointment.
261 However, an appointing entity may not require, directly or
262 indirectly, any appointee to attend any training programs that
263 are wholly or partially approved for general continuing education
264 credit as described in s. 626.2815.

265 (7) Each appointing entity may appoint only those persons
266 who have met the continuing education requirements of the license
267 necessary for such appointment as described in s. 626.2815.
268 However, an appointing entity may not make or allow, directly or
269 indirectly, any appointment of any appointee or potential
270 appointee to be contingent, in whole or in part, on any
271 appointee's attendance at any course that is approved, in whole
272 or in part, for continuing education credit pursuant to s.
273 626.2815.

274 Section 6. This act shall take effect June 1, 2008.