

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 list of applicants eligible for exemption  
8           from certain examination requirements; amending s.  
9           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.

31 Be It Enacted by the Legislature of the State of Florida:

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  
 36 percent of the Florida Hurricane Catastrophe Fund exposure shall  
 37 be deducted from the annual accumulated employee contributions  
 38 of the Florida Retirement System and distributed to the Florida  
 39 Hurricane Catastrophe Fund. Underwriting profits from the  
 40 Florida Hurricane Catastrophe Fund shall be used to make annual  
 41 interest payments to the Florida Retirement System at the 1-year  
 42 London Interbank Offered Rate. In a year in which the Florida  
 43 Hurricane Catastrophe Fund experiences a loss, interest shall  
 44 accrue on the Florida Retirement System investment, and the  
 45 Florida Hurricane Catastrophe Fund shall pay back this interest  
 46 to the Florida Retirement System in the next year that the  
 47 Florida Hurricane 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  
 55 Insurance (AAI) from the Insurance Institute of America, the

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

82 Section 3. Subsection (2), paragraph (f) of subsection  
83 (3), paragraph (j) of subsection (4), and paragraph (a) of

84 subsection (6) of section 626.2815, Florida Statutes, are  
 85 amended to read:

86 626.2815 Continuing education required; application;  
 87 exceptions; requirements; penalties.--

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

99 (3)

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

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

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

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

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

132           1. An independent study program of instruction that is  
 133 presented through interactive, online technology that the  
 134 department determines has sufficient internal testing to  
 135 validate the student's full comprehension of the materials  
 136 presented; or

137           2. An independent study program of instruction presented  
 138 by correspondence for insurance agents and adjusters that

139 imposes a final closed book examination that meets the  
140 requirements of the department's rule for self-study courses.  
141 The examination may be taken without a proctor provided the  
142 student presents to the department a sworn affidavit certifying  
143 that the student did not consult any written materials or  
144 receive outside assistance of any kind or from any person,  
145 directly or indirectly, while taking the examination. If the  
146 student is an employee of an agency or corporate entity, the  
147 student's supervisor or a manager or owner of the agency or  
148 corporate entity must also sign the sworn affidavit. If the  
149 student is self-employed, a sole proprietor, or a partner, or if  
150 the examination is administered online, the sworn affidavit must  
151 also be signed by a disinterested third party. The sworn  
152 affidavit must be received by the approved provider prior to  
153 reporting continuing education credits to the department.

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

166 advertisements related to the approved courses must specify the  
167 level assigned to the course.

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

170 626.311 Scope of license.--

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

176 (a) For purposes of this subsection, the term  
177 "unaffiliated insurance consultant" means a person who is not  
178 affiliated with any insurer and chooses to practice as an  
179 independent insurance consultant providing objective advice to  
180 the buyers of insurance and who:

181 1. Is licensed as an agent with respect to the type of  
182 insurance for which he or she transacts the business of  
183 insurance.

184 2. Is not appointed by an insurer or other authorized  
185 appointing authority.

186 3. Does not sell or service insurance on behalf of any  
187 insurer, or sell or service insurance on behalf of any insurance  
188 agent or insurance agency, in connection with the sale or  
189 service on behalf of an insurer or by the insurance agent or  
190 insurance agency.

191 4. Does not receive any commission or any other form of  
192 direct or indirect compensation from any insurer for the sale or  
193 servicing of insurance on behalf of such insurer, or receive any

194 commission or any other form of direct or indirect compensation  
195 from any insurance agent or insurance agency, in connection with  
196 the sale or servicing of insurance on behalf of an insurer or by  
197 the insurance agent or insurance agency.

198 5. Has provided the department with evidence that he or  
199 she:

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

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

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

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

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

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

216 g. Meets any other requirements the department may deem  
217 proper to enable the department to determine the character,  
218 experience, ability, and other qualifications of the person to  
219 hold himself or herself out to the public as an unaffiliated  
220 insurance consultant.

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

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

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

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

237 a. On a biennial basis submit a request for the  
238 continuation of such qualification in a form acceptable to the  
239 department under the oath of, and signed by, him or her,  
240 submitted to and filed with the department certifying that he or  
241 she meets the definition of an unaffiliated insurance consultant  
242 under paragraph (a).

243 b. Shall pay all applicable fees. For the purposes of this  
244 provision, the applicable fee shall be twice the amount of the  
245 fee that would apply to an insurer for the continuation of an  
246 agent's original appointment. If the unaffiliated insurance  
247 consultant has more than one license, a separate fee shall be

248 paid for each license for which the person seeks to continue to  
 249 qualify as an unaffiliated insurance consultant.

250 (c) An unaffiliated insurance consultant may not:

251 1. Hold himself or herself out as acting as the agent for  
 252 an insurer;

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

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

256 Section 5. Subsections (6) and (7) of section 626.381,  
 257 Florida Statutes, are renumbered as subsections (8) and (9),  
 258 respectively, and new subsections (6) and (7) are added to that  
 259 section to read:

260 626.381 Renewal, continuation, reinstatement, or  
 261 termination of appointment.--

262 (6) An appointing entity may require any appointee to  
 263 attend training programs exclusively on the internal procedures  
 264 of the appointing entity or exclusively on products  
 265 substantially unique to the appointing entity, in order for the  
 266 appointee to receive a new appointment or maintain an existing  
 267 appointment. However, an appointing entity may not require,  
 268 directly or indirectly, any appointee to attend any training  
 269 programs that are wholly or partially approved for general  
 270 continuing education credit as described in s. 626.2815.

271 (7) Each appointing entity may appoint only those persons  
 272 who have met the continuing education requirements of the  
 273 license necessary for such appointment as described in s.  
 274 626.2815. However, an appointing entity may not make or allow,  
 275 directly or indirectly, any appointment of any appointee or

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276 potential appointee to be contingent, in whole or in part, on  
277 any appointee's attendance at any course that is approved, in  
278 whole or in part, for continuing education credit pursuant to s.  
279 626.2815.

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