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LEGISLATIVE ACTION

Senate

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House

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Floor: 17/AD/2R

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04/27/2009 05:46 PM

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Senator Baker moved the following:

Senate Amendment (with title amendment)

Between lines 966 and 967

insert:

Section 3. Subsection (13) is added to section 626.854,
Florida Statutes, to read:

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

(13) A public adjuster, public adjuster apprentice, or any
person acting on behalf of a public adjuster or apprentice may



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13 not accept referrals of business from any person with whom the
14 public adjuster conducts business if there is any form or manner
15 of agreement to compensate the person, whether directly or
16 indirectly, for referring business to the public adjuster. A
17 public adjuster may not compensate any person, except for
18 another public adjuster, whether directly or indirectly, for the
19 principal purpose of referring business to the public adjuster.
20

21 The provisions of subsections (5)-(13) ~~subsections (5)-(12)~~
22 apply only to residential property insurance policies and
23 condominium association policies as defined in s. 718.111(11).

24 Section 4. Subsection (7) is added to section 627.7011,
25 Florida Statutes, to read:

26 627.7011 Homeowners' policies; offer of replacement cost
27 coverage and law and ordinance coverage.—

28 (7) This section does not prohibit an insurer from
29 exercising its right to repair damaged property in compliance
30 with its policy and s. 627.702(7).

31 Section 5. Subsection (1) of section 626.865, Florida
32 Statutes, is amended to read:

33 626.865 Public adjuster's qualifications, bond.—

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

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

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



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

46 (d) Has had sufficient experience, training, or instruction
47 concerning the adjusting of damages or losses under insurance
48 contracts, other than life and annuity contracts, is
49 sufficiently informed as to the terms and effects of the
50 provisions of those types of insurance contracts, and possesses
51 adequate knowledge of the laws of this state relating to such
52 contracts as to enable and qualify him or her to engage in the
53 business of insurance adjuster fairly and without injury to the
54 public or any member thereof with whom the applicant may have
55 business as a public adjuster.

56 ~~(e) Has passed the required written examination.~~

57 Section 6. Section 626.8651, Florida Statutes, is amended
58 to read:

59 626.8651 Public adjuster apprentice license;
60 qualifications.-

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

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

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

67 (c) Trustworthy and has such business reputation as would
68 reasonably ensure that the applicant will conduct business as a
69 public adjuster apprentice fairly and in good faith and without
70 detriment to the public.



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71 (2) All applicable license fees, as prescribed in s.
72 624.501, must be paid in full before issuance of the license.

73 (3) An applicant must pass the required written examination
74 before a license may be issued.

75 (4) An applicant must have received designation as an
76 Accredited Claims Adjuster (ACA) after completion of training
77 that qualifies the applicant to engage in the business of a
78 public adjuster apprentice fairly and without injury to the
79 public. Such training and instruction must address adjusting
80 damages and losses under insurance contracts, the terms and
81 effects of insurance contracts, and knowledge of the laws of
82 this state relating to insurance contracts.

83 (5) At the time of application for license as a public
84 adjuster apprentice, the applicant shall file with the
85 department a bond executed and issued by a surety insurer
86 authorized to transact such business in this state in the amount
87 of \$50,000, conditioned upon the faithful performance of his or
88 her duties as a public adjuster apprentice under the license for
89 which the applicant has applied, and thereafter maintain the
90 bond unimpaired throughout the existence of the license and for
91 at least 1 year after termination of the license. The bond shall
92 be in favor of the department and shall specifically authorize
93 recovery by the department of the damages sustained in case the
94 licensee commits fraud or unfair practices in connection with
95 his or her business as a public adjuster apprentice. The
96 aggregate liability of the surety for all such damages may not
97 exceed the amount of the bond, and the bond may not be
98 terminated by the issuing insurer unless written notice of at
99 least 30 days is given to the licensee and filed with the



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100 department.

101 ~~(6)-(4)~~ A public adjuster apprentice shall complete at a
102 minimum 100 hours of employment per month for 12 months of
103 employment under the supervision of a licensed and appointed
104 all-lines public adjuster in order to qualify for licensure as a
105 public adjuster. The department may adopt rules that establish
106 standards for such employment requirements.

107 ~~(7)-(5)~~ An appointing public adjusting firm may not maintain
108 more than 12 public adjuster apprentices simultaneously.
109 However, a supervising public adjuster may not shall be
110 responsible for more than 3 public adjuster apprentices
111 simultaneously and shall be accountable for the acts of all a
112 public adjuster apprentices apprentice which are related to
113 transacting business as a public adjuster apprentice.

114 ~~(8)-(6)~~ An apprentice license is effective for 18 months
115 unless the license expires due to lack of maintaining an
116 appointment; is surrendered by the licensee; is terminated,
117 suspended, or revoked by the department; or is canceled by the
118 department upon issuance of a public adjuster license. The
119 department may not issue a public adjuster apprentice license to
120 any individual who has held such a license in this state within
121 2 years after expiration, surrender, termination, revocation, or
122 cancellation of the license.

123 ~~(9)-(7)~~ After completing the requirements for employment as
124 a public adjuster apprentice, the licensee may file an
125 application for a public adjuster license. The applicant and
126 supervising public adjuster or public adjusting firm must each
127 file a sworn affidavit, on a form prescribed by the department,
128 verifying that the employment of the public adjuster apprentice



129 meets the requirements of this section.

130 ~~(10)(8)~~ In no event shall a public adjuster apprentice
131 licensed under this section perform any of the functions for
132 which a public adjuster's license is required after expiration
133 of the public adjuster apprentice license without having
134 obtained a public adjuster license.

135 ~~(11)(9)~~ A public adjuster apprentice has the same authority
136 as the licensed public adjuster or public adjusting firm that
137 employs the apprentice except that an apprentice may not execute
138 contracts for the services of a public adjuster or public
139 adjusting firm and may not solicit contracts for the services
140 except under the direct supervision and guidance of the
141 supervisory public adjuster. An individual may not be, act as,
142 or hold himself or herself out to be a public adjuster
143 apprentice unless the individual is licensed and holds a current
144 appointment by a licensed public all-lines adjuster or a public
145 adjusting firm that employs a licensed all-lines public
146 adjuster.

147
148 ===== T I T L E A M E N D M E N T =====

149 And the title is amended as follows:

150 Delete line 44

151 and insert:

152 the Legislative Budget Commission; amending s. 626.854, F.S.;
153 prohibiting a public adjuster from accepting referrals for
154 compensation from a person with whom the public adjuster
155 conducts business; prohibiting a public adjuster from
156 compensating a person other than a public adjuster for
157 referrals; amending s. 627.7011, F.S.; providing that an insurer



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158 may repair damaged property in compliance with its policy;
159 amending s. 626.865, F.S.; deleting a requirement that an
160 applicant for a license as a public adjuster pass a written
161 examination as a prerequisite to licensure; amending s.
162 626.8651, F.S.; requiring an applicant for a public adjuster
163 apprentice license to pass a written exam and receive an
164 Accredited Claims Adjuster designation and related training
165 before licensure; limiting the number of public adjuster
166 apprentices that may be maintained by a single public adjusting
167 firm or supervised by a public adjuster; amending s.