

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Budget Committee

BILL: CS/SB 938

INTRODUCER: Banking and Insurance Committee and Senator Richter

SUBJECT: Insurance Agents and Adjusters

DATE: February 20, 2012 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Knudson</u>	<u>Burgess</u>	<u>BI</u>	Fav/CS
2.	<u>Betta</u>	<u>DeLoach</u>	<u>BGA</u>	Favorable
3.	<u>Betta</u>	<u>Rhodes</u>	<u>BC</u>	Pre-meeting
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

Senate Bill 938 substantially revises the Licensing Procedures Law for insurance agents, adjusters, and limited lines licensees.

The bill creates the new licensure classification of all-lines adjuster to replace the current licensure classifications of independent adjuster and company employee adjuster. The classifications of independent adjuster and all-lines adjuster are converted to appointment types for licensed all-lines adjusters. New licensure classifications for non-resident all-lines adjusters and temporary independent all-lines adjusters are also created.

Effective October 1, 2014, the bill substantially revises the continuing education requirements for licensees. Each licensee will be required to complete a 7-hour update course every 2 years. Topics covered in the course must include insurance law updates, ethics, disciplinary trends and case studies, insurance industry trends, premium discounts, suitability of products and services, and other topics the DFS determines are relevant to the licensee. The remainder of the continuing education requirement may be satisfied by taking approved elected courses.

The bill also consolidates and revises a number of limited insurance licenses:

- Repeals the licenses for resident and non-resident Motor Vehicle Physical Damage & Mechanical Breakdown Insurance (existing licensees may maintain such licenses);
- Creates a new Credit Insurance licensure category, which will subsume the limited licenses for credit life and disability, credit property, mortgage guaranty, and credit disability.
- Creates a new non-resident credit insurance category to replace the non-resident credit life and disability and the non-resident mortgage guaranty insurance licenses.
- Creates a new license for portable electronics insurance that covers only loss, theft, mechanical failure, malfunction, or damage for portable electronics. The new license classification replaces the limited license for communications equipment.

The bill repeals the \$200 annual administrative surcharge that title insurance agencies pay to the Department of Financial Services. Also repealed is the annual \$3 additional county tax that is applied to the business locations of resident insurance agents that are outside the agent's home county.

The bill also does the following:

- Expands the classifications of agents who can solicit and bind coverage from licensed general lines agents to all licensed agents. This will permit life agents, health agents, title agents, and other types of licensed agents to solicit and bind coverage.
- Allows third parties to complete the application for licensure.
- Prohibits applicants from taking a licensure exam more than 5 times in a 12-month period.
- Authorizes granting a waiver from the continuing education requirements to active duty military that cannot comply with those requirements and submit a written request for waiver.
- Eliminates the Continuing Education Advisory Board designed to advise the DFS on the classification of continuing education courses.
- Allows all-lines adjusters to transfer their licenses from other states to Florida.
- Requires all licensees to report to the department any final agency action in Florida or other jurisdictions relating to insurance, securities, fraud, or breach of fiduciary duty.
- Authorizes the department to refuse, suspend, or revoke a license or appointment for failure to comply with civil, criminal or administrative action taken by the child support enforcement program.
- Repeals the application of s. 626.175, F.S., (temporary agent licensure) to title insurance agents but applies s. 626.749, F.S., (place of business in residence) and s. 626.172, F.S. (agent in full-time charge) to such agents or agencies.
- Repeals the security deposit or bind requirement for title insurance agencies.
- Removes the requirement that the Clerk of Court furnish to the DFS and OIR notice of a bail bond forfeiture judgment and expands from 35 to 60 days the time before which the clerk must inform the OIR and county sheriff of the failure to pay a bail bond forfeiture judgment.

This bill substantially amends the following sections of the Florida Statutes: 624.501, 624.505, 626.015, 626.0428, 626.171, 626.191, 626.221, 626.231, 626.241, 626.251, 626.281, 626.2815, 626.292, 626.311, 626.321, 626.342, 626.381, 626.536, 626.551, 626.621, 626.641, 626.651, 626.730, 626.732, 626.8411, 626.8418, 626.855, 626.856, 626.8584, 626.863, 626.864, 626.865, 626.866, 626.869, 626.8697, 626.872, 626.8734, 626.8736, 626.874, 626.875, 626.876, 626.927, 626.933, 626.935, 627.952, 635.051, 648.38, 648.385, and 903.27

The bill creates the following sections of the Florida Statutes: 626.8548.

The bill repeals the following sections of the Florida Statutes: 626.858, 626.867, 626.873, and 626.928.

II. Present Situation:

Licensure of Insurance Representatives and Operations

The Licensing Procedures Law (Chapter 626, F.S.) requires the licensure of various insurance field representatives such as insurance agencies, insurance agents, adjusters, managing general agents, customer representatives, and service agents. No person may act as or hold himself or herself out to be an insurance agent, insurance adjuster, customer representative, service representative or managing general agent unless that person is currently licensed by the Department of Financial Services (DFS) and has been appointed by an appropriate appointing entity or person. An appointment occurs when an insurer or employer gives a licensee authority to transact insurance or adjust claims on behalf of the insurer or employer.¹

To obtain licensure, agents, adjusters, customer representatives, service representatives, managing general agents, and reinsurance intermediaries must apply for licensure with the department and provide identifying information (name, age, social security number; etc); proof of completing required pre-licensing courses; information regarding any license refusals, suspensions, or revocations; and fingerprints.² Licensure as an agent, customer representative, or adjuster also requires passing an examination approved by the department that is designed to test the applicant's ability, competence and knowledge of the kinds of insurance and transactions the prospective licensee will handle.³ The department is required to deny, suspend, revoke or refuse to renew licenses as required in statute, but is also provided discretion to fine the licensee in addition to or instead of taking such action of the license.⁴

The general lines agent or customer representative license authorizes the licensee to transact all property, marine, casualty, and surety lines (except bail bonds).⁵ A general lines agent licensee also covers health insurance if such insurance is included in the agent's appointment by an insurer as to which the licensee is also appointed as an agent for property and casualty insurance. Licensed agents are required to comply with various consumer protection provisions in the Licensing Procedures Law including meeting the qualifications for licensure, compliance with continuing education requirements, and submission of fingerprints.⁶

¹ Section 626.015(3), F.S.

² Section 626.171, F.S.

³ See Section 626.221, F.S., s. 626.231, F.S., and s. 626.241, F.S.

⁴ See Section 626.611, F.S., through s. 626.681, F.S.

⁵ Section 626.311, F.S.

⁶ See Section 626.025, F.S.

Continuing Education Requirements

Licensees who sell or solicit the sale of insurance are subject to continuing education requirements.⁷ Licensees must generally complete 24 hours of continuing education courses every 2 years, of which 3 hours must be related to ethics and 1 hour must be related to property insurance hurricane mitigation discounts. Persons with greater levels of experience are subject to lower continuing education requirements. For instance, a person who has been licensed for at least 6 years is only required to complete 20 hours of continuing education. Similarly, holders of more limited licenses such as for a customer representative, title agent, or other specified limited licensees are only required to complete 10 hours of continuing education requirements every 2 years.⁸

Limited Licensees

Limited licenses are available that authorize the agent to transact a limited class of business. There are 10 general categories of limited license:⁹

- Motor vehicle physical damage and mechanical breakdown insurance;
- Industrial fire or burglary insurance;
- Travel insurance;
- Motor vehicle rental insurance;
- Credit life or disability insurance;
- Credit insurance;
- Credit property insurance;
- Crop hail and multiple-peril crop insurance;
- In transit and storage personal property insurance;
- Communications equipment insurance and service warranties.¹⁰

If an entity, rather than an individual, applies for limited licensure, the entity must obtain a license for each office, branch office, or place of business.

Appointments

In addition to licensure, the Licensing Procedures Law requires agents, adjusters, service representatives, customer representatives, and managing general agents to be appointed by an appointing entity or person. Each appointment must be filed with the DFS and certifies that the licensed appointee is qualified to engage in the insurance business and that the appointing entity or person is willing to be bound by the acts of the appointee.¹¹ An appointment continues until suspended, revoked, or terminated, but is subject to renewal during the appointee's birth month

⁷ Section 626.2815, F.S.

⁸ See s. 626.2815(3)(e), F.S.

⁹ Section 626.321, F.S.

¹⁰ See s. 626.321(1)(i), F.S. There are three types of communications equipment insurance: communications equipment property insurance, communications equipment inland marine insurance, and communications equipment service warranty agreement sales.

¹¹ Section 626.451, F.S.

(if a natural person) or license date (if an entity) every 24 months thereafter and the payment of a renewal appointment fee.¹²

Title Insurance Administrative Surcharge

Each title insurer and title insurance agency is subject to an annual administrative surcharge.¹³ Each title insurer must pay to the Office of Insurance Regulation (OIR) an administrative surcharge of \$200.00, for each licensed title insurance agency and retail office of the insurer in existence on January 1 of each calendar year. Similarly, each licensed title insurance agency must pay the Department of Financial Services an administrative surcharge of \$200 annually.

III. Effect of Proposed Changes:

Section 1. Amends s. 624.501, F.S., eliminating the \$200 annual administrative surcharge paid by each licensed title insurance agency to the Department of Financial Services.

Section 2. Amends s. 627.505(1), F.S., revising the \$3 county tax paid by each insurer for each agent. The tax will only be applied once for each agent's place of business. Under current law, the tax is applied multiple times if the agent maintains places of business in multiple counties.

Section 3. Amends s. 626.015, F.S., revising the definition of "adjuster" to include "all lines adjuster," a new classification created in the bill. The new definition deletes the classifications of independent adjuster and company employee adjuster, which are subsumed within the new all-lines adjuster classification. The definition of "home state" is also amended to include adjusters, which will authorize the DFS to obtain from adjusters the state where the adjuster maintains a principal place of business.

Section 4. Amends s. 626.0428, F.S., expanding the classifications of agents who can solicit and bind coverage from licensed general lines agents to all licensed agents. This will permit life agents, health agents, title agents, and other types of licensed agents to solicit and bind coverage.

Section 5. Amends s. 626.171, F.S., regarding the licensure process for agents, customer representatives, adjusters, service representatives, managing general agents, and reinsurance intermediaries in the following ways:

- Allows third parties to complete the application for licensure. The applicant remains responsible for ensuring the accuracy of the information on the application.
- Alters the application for licensure to require the applicant to state the method being used to meet pre-licensing educational and experience requirements, rather than requiring proof of completing such requirements. Representatives from the DFS assert the change is designed to allow applicants to apply for licensure before completing the pre-licensure requirements rather than having to wait until completing those requirements.
- Deletes the department's authority to accept revisions of the uniform application for nonresident agent licensing by rule.

¹² Section 626.381, F.S.

¹³ Section 624.501(5), F.S.

Section 6. Technically amends s. 626.191, F.S.

Section 7. Amends s. 626.221(2), F.S., to incorporate the new licensure classifications created by the bill into the exemptions from the requirement of passing a licensing examination.

- The exemption for limited licensure applicants will include travel insurance, motor vehicle rental insurance, credit insurance, in-transit and storage personal property insurance, and portable electronics.
- The exemption for applicants suspended in the past 4 years will apply to “adjusters,” rather than just company employee and independent adjusters. The change will include public adjusters, which may not be intended.
- The exemption for adjusters who were appointed in the past 48 months will apply to all-lines adjusters.
- The exemption for adjusters who have obtained specified accreditations will apply to resident and nonresident all-lines adjusters.

Section 8. Amends s. 626.231(2), F.S., to specify that applicants for licensure must provide their dates of birth and to specify that applicants who take a licensure examination before applying for licensure may apply to take the licensure examination via websites of vendors who administer the exam.

Section 9. Amends s. 626.241, F.S., which provides the requirements for the topics to be included within an examination to obtain licensure as an all-lines adjuster. The bill removes authorization for specific examinations focusing on automobile physical damage insurance, property and casualty insurance, workers’ compensation insurance, or health insurance. Instead, all examinations will cover adjusting in all-lines of insurance, other life insurance and annuities.

Section 10. Amends s. 626.521(1), F.S., to authorize notice of the time and place of a licensure exam to be e-mailed to the applicant, rather than sent via regular mail.

Section 11. Amends s. 626.281, F.S., to prohibit applicants from taking a licensure examination more than 5 times in a 12-month period.

Section 12. Amends s. 626.2815, F.S., and applies to adjusters the continuing education requirements for agents. This section of the bill makes the following changes to those requirements:

- Authorizes granting a waiver from the continuing education requirements to active duty military that cannot comply with those requirements and submit a written request for waiver.
- Requires entities providing continuing education courses to report to the DFS all licensees who successfully completed the course within 15 days, rather than 30 days, and deletes a \$1 fee that accompanied the list of attendees.
- Authorizes the department to immediately terminate agents or adjusters who have not met continuing education requirements. Current law only permits the nonrenewal of agent licenses.
- Eliminates the Continuing Education Advisory Board designed to advise the DFS on the classification of continuing education courses.

Section 13. Effective October 1, 2014, amends s. 626.2815, F.S., by substantially revising the continuing education requirements for licensees. Each licensee will be required to complete a 7-hour update course every 2 years. The course must be approved by the department and be specific to the license held by the licensee. Topics covered in the course must include insurance law updates, ethics, disciplinary trends and case studies, insurance industry trends, premium discounts, suitability of products and services, and other topics the DFS determines are relevant to the licensee. Licensees with multiple insurance licenses need only complete the 7 hour course for one of the licenses held.

Licensees are authorized to satisfy the remainder of their continuing education requirements by taking approved elective courses. Elective courses for public adjusters must be specifically designed for public adjusters and approved by the DFS. Licensees must meet the statutory requirements every 2 years. The total hour requirements for various categories of licensure are:

- Generally, licensees must complete 24 hours of courses, 17 of which may be electives.
- Licensees who have held a license for 6 or more years must complete 20 hours of courses, 13 of which may be electives.
- Licensees who have held a license for 25 years or more and are designated as a Chartered Life Underwriter (CLU), Chartered Property & Casualty Underwriter (CPCU), or Bachelor of Science in risk management or insurance must complete 10 hours of courses, 3 of which may be electives.
- Customer representative, limited customer representative, title agent, and industrial fire insurance or burglary insurance agents who do not hold a license as a life or health agent must complete 10 hours, 3 of which may be electives. This requirement will no longer apply to motor vehicle physical damage and mechanical breakdown insurance agents, or crop or hail and multiple peril crop insurance agents.
- Bail bond agents must complete 14 hours of courses, 7 of which may be electives.
- Eliminates the requirements that an individual holding a license to solicit or sell life or health insurance and a license to solicit or sell property, casualty, surety, or surplus lines insurance must complete courses in life and health insurance for one-half of the total hours required and courses in property, casualty, surety, or surplus lines insurance for the other half of the total hours required.

Section 14. Amends s. 626.292, F.S., to allow all-lines adjusters to transfer their licenses from other states to Florida. Current law permits agents to do so, but not adjusters. All lines adjusters are exempted from the requirement to complete prelicensing education requirements unless completing prelicensing education was a prerequisite for licensure in the state the adjuster is transferring from.

Section 15. Amends s. 626.311, F.S., regarding the scope of license to include the licensure classifications created by the bill.

Section 16. Amends s. 626.321, F.S., by revising the following limited licenses:

Motor vehicle physical damage and mechanical breakdown insurance – Limited licenses will not be issued effective October 1, 2012. Current holders of the license and appointment may renew them. However, if the limited license is terminated, suspended, or revoked, it may not be reinstated.

Credit insurance – The credit insurance limited license is expanded to include credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection (GAP) coverage, and other forms of insurance offered in connection with an extension of credit which is limited to extinguishing all or part of the credit obligation. Effective October 1, 2012, the various types of licenses will be converted to a credit insurance license.

Crop hail and multiple-peril crop insurance – Amends the definition of such insurance to comply with the National Association of Insurance Commissioners' Producer Licensing Model Act.

Portable electronics insurance – Creates a new license for property insurance or inland marine insurance that covers only loss, theft, mechanical failure, malfunction, or damage for portable electronics. The new license classification replaces the limited license for communications equipment. The portable electronics insurance limited license may be issued to (1) employees or authorized representatives of a licensed general lines agent or (2) the lead business location of a retail vendor that sells portable electronics insurance and has a contractual relationship with a general lines agent. Licensees are exempted from having to submit fingerprints to the department, which is otherwise required as a condition of obtaining licensure from the department. Definitions of "portable electronics" and "portable electronics transaction" are also created.

Licensees may bill and collect the premium for the purchase of portable electronics insurance if (1) the insurance is included with the purchase or lease of portable electronics or related services and that fact is disclosed to the purchaser, (2) premiums are incidental to other fees being collected and remitted to the insurer or supervising entity within 60 days of receipt, and (3) all funds are held in trust by the licensee as a fiduciary for the benefit for the insurer.

The bill eliminates the requirement that employees, agents, and authorized representatives selling such insurance be licensed. Instead, employees or authorized representatives will be authorized to sell such insurance if all of the following conditions are met:

- The insurance is offered or sold at a licensed location or a branch location of the licensee appointed by the licensed lead business location or its appointing insurers;
- The insurer issuing the insurance directly supervises the sale of insurance or appoints a general lines agent to supervise the sale of such insurance; and
- Written material providing required information to customers are made available at each location where such insurance is sold. The written material must notify the reader that portable electronics insurance may duplicate coverage, need not be purchased, summarize the terms of the insurance, identify the insurer and supervising entity, summarize the claim filing process, and state that coverage may be cancelled at any time and receive a refund of unearned premium.

Unlicensed sellers of portable electronics insurance cannot receive commissions on the sale of coverage, but may include compensation for selling such insurance as part of a compensation plan that provides supplemental compensation for selling noninsurance products in addition to a regular salary or hourly wages. The terms for terminating or modifying the policy are those

contained in the policy. Notice required by the policy or by law may be made by electronic means if the insurer or licensee maintains proof that the notice or correspondence was sent.

A “branch location” is defined as any physical location in Florida at which a licensee offers its products or services for sale. Branch locations may obtain a single appointment from the lead business location licensee and pay an appointment fee prescribed in s. 624.501, F.S. In order for the branch location to obtain such an appointment, the lead business location must have a single appointment from each insurer or warranty association represented and its appointment must apply to the lead business location and all branch locations. Branch location appointments must be initially renewed on the first anniversary of licensure of the lead business location that occurs more than 24 months after the initial appointment and every 24 months thereafter. The renewal fee for branch location appointments is \$30 per appointment.

Section 17. Technically amends s. 626.342, F.S., regarding the prohibition against providing supplies to unlicensed agents.

Section 18. Amends s. 626.381, F.S., revising the date on which the appointment of an entity appointee is renewed to the month the original appointment was issued.

Section 19. Amends s. 626.536, F.S., expanding the requirement to report to the department any final agency action in Florida or other jurisdictions relating to insurance, securities, fraud, or breach of fiduciary duty. All licensees (agents and adjusters) will be required to submit the report, instead of only agents under current law. The bill also states that reporting must be provided for final action by an “other regulatory agency” in addition to a “governmental agency” as required under current law. The bill continues to apply the section to insurance agencies.

Section 20. Amends s. 626.551, F.S., reducing from 60 days to 30 days the time that licensees have to notify the department of a change of name or address. The bill also authorizes the department to discipline insurance agencies as well as agents and adjusters, and grants rulemaking authority to the department to enforce the section.

Section 21. Amends s. 626.621, F.S., authorizing the department to refuse, suspend, or revoke the license or appointment of applicants, agents, adjusters, customer representatives, service representatives, or managing general agents for failure to comply with civil, criminal or administrative action taken by the child support enforcement program. Under the child support program, the Florida Department of Revenue may petition a court to file an order with the Division of Agent and Agency Services to deny or suspend an agents license under s. 61.13015, F.S.

Section 22. Amends s. 626.641(4), F.S., to clarify that a former licensee or appointee whose license has been suspended or revoked may not engage in transactions requiring a license until the license has been reinstated or a new license has been issued.

Section 23. Amends s. 626.651(1), F.S., allowing the department to deny, suspend, or revoke a license of any licensee or applicant, thus applying the section to adjusters and other licensees. Current law limits the application of this section to insurance agents and customer representatives.

Section 24. Amends s. 626.730(4), F.S., regarding the purpose of licenses to refer to the new limited licensure category of credit insurance created by the bill.

Section 25. Amends s. 626.732, F.S., exempting limited license lines from the knowledge, experience, and educational requirements for licensure as a general lines agent. The section also places the requirements for licensure as a personal lines agent into a separate subsection to provide further clarity.

Section 26. Amends s. 626.8411, F.S., containing statutory provisions that apply to title insurance agents or agencies. The bill repeals the application of s. 626.175, F.S., (temporary agent licensure) to title insurance agents but applies s. 626.749, F.S., (place of business in residence) and s. 626.172, F.S. (agent in full-time charge) to such agents or agencies.

Section 27. Amends s. 626.8418, F.S., to repeal the security deposit or bond requirement for title insurance agencies. Under current law each title insurance agency must deposit with the department securities or a security bond with a value of at least \$35,000. The security deposit proceeds are for the benefit of insurers damaged by a violation by the title insurance agency of its contract with the appointing insurer.

Section 28. Creates s. 626.8548, F.S., defining an “all-lines adjuster” as a person who, on behalf of insurers, ascertains and determines the amount of any claim, loss, or damage payable under an insurance contract or tries to settle claims, losses or damage. The all-lines adjuster may be self-employed, employed by an insurer or its wholly owned subsidiary, or an independent adjusting firm or other independent adjuster. Section 34 of the bill eliminates the license types of independent adjuster and company employee adjuster; replacing them with the all-lines adjuster license.

Section 29. Amends s. 626.855, F.S., converting “independent adjusters” from a separate license type to a form of appointment. An independent adjuster is defined as a licensed all-lines adjuster that is appointed and employed by an independent adjusting firm or other independent adjuster.

Section 30. Amends s. 626.856, F.S., converting “company employee adjusters” from a separate license type to a form of appointment. A company employee adjuster is defined as a licensed all-lines adjuster that is appointed and employed on an insurer’s staff of adjuster or a wholly owned subsidiary of the insurer.

Section 31. Repeals s. 626.867, F.S., which defines a “nonresident company employee adjuster.”

Section 32. Amends s. 626.8584, F.S., defining “nonresident all-lines adjuster” as a person who (1) is not a Florida resident, (2) is an adjuster licensed in his or her state of residence for all lines of insurance except for life and annuities, or, if a resident of a state that does not license such adjusters, meets the qualifications for a non-resident all-lines adjuster in s. 626.8734, F.S., and (3) is licensed as an all-lines adjuster and self-appointed or appointed and employed by an independent adjusting firm or other independent adjuster, by an admitted insurer or its wholly owned subsidiary, or by other insurers under common control or ownership of an admitted insurer.

Section 33. Amends s. 626.863, F.S., making conforming changes to the new licensure and appointment adjuster classifications created by the bill.

Section 34. Amends s. 626.864, F.S., creating the “all-lines adjuster” licensure and deleting the licenses for independent adjusters and company employee adjusters. All-lines adjusters cannot be concurrently licensed as a public adjuster and are prohibited from accepting appointments as an independent adjuster and company employee adjuster concurrently.

Section 35. Amends s. 626.865, F.S., containing the requirements for licensure as a public adjuster by requiring the applicant to be a licensed public adjuster apprentice pursuant to s. 626.8651, F.S.

Section 36. Amends s. 626.866, F.S., which will now contain the qualifications for licensure as an all-lines adjuster rather than an independent adjuster, which is no longer a license type under the bill. The qualifications are the same as those under current law for independent adjusters, except that all lines adjuster may be exempt from the examination requirements pursuant to s. 626.221, F.S.

Section 37. Repeals s. 626.867, F.S., which contains the qualifications for licensure as a company employee adjuster license. The section is being repealed because that licensure type is being replaced by the all-lines adjuster license.

Section 38. Amends s. 626.869, F.S., to specify that all-lines adjusters may adjust all lines of insurance except life and annuities. As of October 1, 2012, no new limited licenses for motor vehicle physical damage and mechanical breakdown, property and casualty, workers’ compensation, or health insurance will be issued, though existing license holders will be able to renew such appointments. All-lines adjusters and public adjusters must complete the continuing education requirements contained in s. 626.2815, F.S., thus adjusters will be subject to the same continuing education requirements as agents. The separate continuing education requirements for adjusters contained in this section are repealed.

Section 39. Amends s. 626.8697, F.S., to provide that the DFS may refuse, suspend, or revoke an adjusting firm license for violation of a department rule. Current law only authorizes such action for the violation of an OIR or Financial Services Commission rule.

Section 40. Amends s. 626.872, F.S., revising the requirements for issuance of a temporary adjuster’s license to conform to the new all-lines adjuster license. The application for a temporary all-lines adjuster license will no longer need to be accompanied by a certificate of employment and a report on the applicant’s moral character and integrity completed by the employer.

Section 41. Repeals s. 626.873, F.S., containing the qualifications for licensure as a nonresident company employee adjuster, a license type that will no longer exist. Instead, such adjusters will be classified as nonresident all-lines adjusters, whose requirements are contained in s. 626.8734, F.S.

Section 42. Amends s. 626.8734, F.S., to provide qualifications for licensure as a nonresident all-lines adjuster. Qualifications are the same as those for a nonresident independent adjuster under current law with the following revisions:

- Pass a written Florida all-lines adjuster exam or is licensed as a nonresident all-lines adjuster or an all-lines adjuster in the applicant's home state (if that state has a reciprocal licensure agreement with Florida);
- Be licensed as an all-lines adjuster;
- Be self-appointed or employed and appointed by an independent adjusting firm or other independent adjuster, is an employee of an admitted Florida insurer or other insurers under common control and ownership of such insurer;
- Be appointed as an independent adjuster or company employee adjuster;
- Waives the requirement to provide a certificate or letter from the insurance commissioner of applicant's home state verifying an existing all-lines adjuster license or other specified licensure (if an all-lines adjuster license is unavailable in that state) if the applicant's licensure status can be verified through the NAIC Producer Database;
- Nonresident independent adjuster appointees need only submit once an affidavit certifying the licensee understands the insurance laws and rules of Florida and the provisions of contracts to be negotiated. Current law requires an annual affidavit.

Section 43. Amends s. 626.8736, F.S., revising the service of process requirements for nonresident public adjusters to reflect the new licensure for all-lines adjusters and apply the requirements to such adjusters appointed as independent adjusters.

Section 44. Amends s. 626.874, F.S., regarding catastrophe or emergency adjuster to reflect the new licensure for all-lines resident adjusters.

Section 45. Amends s. 626.875, F.S., regarding records maintained by independent adjusters to reflect that an independent adjuster is now a type of appointment for all-lines adjusters rather than a separate license type.

Section 46. Amends s. 626.876, F.S., which prohibits all-lines adjusters appointed as an independent adjuster from being simultaneously employed by multiple adjusters or independent adjuster firms or corporations.

Section 47. Amends s. 626.927, F.S., to conform to the repeal of s. 626.928, F.S. The exemption from examination for persons holding a surplus lines agent's license as of January 1, 1959, is also repealed.

Section 48. Repeals s. 626.928, F.S., which currently requires surplus lines agents to file with the department a \$50,000 surety bond in favor of the department.

Section 49. Amends s. 626.933, F.S., providing a conforming change to the repeal of the surety bond requirement in s. 626.928, F.S.

Section 50. Amends s. 626.935, F.S., providing a conforming change to the repeal of the surety bond requirement in s. 626.928, F.S.

Section 51. Amends s. 627.952, F.S., to maintain the requirement that risk retention and purchasing group agents maintain a \$50,000 surety bond with the department. The amended language is necessary due to the repeal of s. 626.928, F.S.

Section 52. Amends s. 635.051, F.S., repealing the mortgage guaranty insurance agent license and instead requiring persons transacting mortgage guaranty insurance to obtain credit insurance licensure. Effective October 1, 2012, all existing mortgage guaranty agent licenses will be converted to credit insurance agent licenses.

Section 53. Amends s. 648.38, F.S., to allow the department to notify applicants for bail bond agent licensure by e-mail the time and place of the licensure examination.

Section 54. Amends s. 648.385, F.S., deleting the continuing education requirements for bail bond agents because such requirements will be contained in s. 626.2815, F.S.

Section 55. Amends s. 903.27, F.S., to remove the requirement that the Clerk of Court furnish to the DFS and OIR notice of a bail bond forfeiture judgment. The bill also expands from 35 to 60 days the time before which the clerk must inform the OIR and county sheriff of the failure to pay a bail bond forfeiture judgment, removes the requirement that the clerk notify the DFS, and requires the clerk to provide two certified copies of the transcript of the docket of the judgment. Current law does not specify that the copies of the judgment must be certified and include a transcript of the docket of the judgment.

Section 56. The bill is effective October 1, 2012, except as otherwise provided.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Title insurance agencies will no longer be subject to the administrative surcharge in s. 624.501, F.S. The DFS estimates that this will result in approximately \$300,000 to \$400,000 savings for such entities statewide.

C. Government Sector Impact:

The Bill Analysis & Fiscal Impact Statement provided by the Department of Financial Services estimates that repealing the requirement for title insurance agencies to pay the administrative surcharge will reduce the revenue deposited in the Insurance Regulatory Trust Fund by approximately \$300,000 to \$400,000. In 2011, the surcharge generated approximately \$952,000, of which title insurers paid approximately \$526,800. The department has indicated this is not a significant impact.

The DFS also estimates that combining the credit lines of insurance and mortgage guaranty insurance licenses will result in the loss of approximately \$12,000 annually in license and appointment fees. Elimination of the county tax for additional business locations outside the county of residence will have an insignificant fiscal impact as only \$60 was collected statewide during the 2010 – 2011 fiscal year.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Banking and Insurance on January 9, 2012:**

The committee substitute (CS) reinstates two consumer protections that were inadvertently deleted from the bill. It requires the newly created 7 hour mandatory continuing education course for agents to include instruction on premium discounts for consumers and reinstates the requirement that life insurance agents take a 3 hour course on the suitability of annuity and life insurance contracts. The CS increases applicants taking the agent licensure exam 5 chances to pass the exam, instead of 3 under the bill originally filed. The strike all also corrects a number of technical deficiencies and internal inconsistencies.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
