

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Insurance & Banking
 2 Subcommittee

3 Representative Passidomo offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Paragraph (a) of subsection (1) of section
 8 626.8412, Florida Statutes, is amended to read:

9 626.8412 License and appointments required.—

10 (1) Except as otherwise provided in this part:

11 (a) Title insurance may be sold only by a licensed and
 12 appointed title insurance agent employed by a licensed and
 13 appointed title insurance agency or employed by a title insurer.

14 Section 2. Section 626.8413, Florida Statutes, is amended
 15 to read:

16 626.8413 Title insurance agents; certain names
 17 prohibited.—After October 1, 2014 ~~1985~~, a title insurance agent

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18 or title insurance agency may as defined in s. 626.841 shall not
19 adopt a name that ~~which~~ contains the words "title insurance,"
20 "title company," "title guaranty," or "title guarantee," unless
21 such words are followed by the word "agent" or "agency" in the
22 same size and type as the words preceding it ~~them~~. This section
23 does not apply to a title insurer acting as an agent for another
24 title insurer if both insurers hold active certificates of
25 authority to transact title insurance business in this state and
26 if both insurers are acting under the names designated on such
27 certificates.

28 Section 3. Section 626.8417, Florida Statutes, is amended
29 to read:

30 626.8417 Title insurance agent licensure; exemptions.—

31 (1) A person may not act as a title insurance agent ~~as~~
32 ~~defined in s. 626.841~~ until a valid title insurance agent's
33 license has been issued to that person by the department.

34 (2) An application for license as a title insurance agent
35 shall be filed with the department on ~~printed~~ forms furnished by
36 the department.

37 (3) The department may ~~shall~~ not grant or issue a license
38 as a title insurance agent to an ~~any~~ individual who is found by
39 the department ~~it~~ to be untrustworthy or incompetent, who does
40 not meet the qualifications for examination specified in s.
41 626.8414, or who does not meet the following qualifications:

42 (a) Within the 4 years immediately preceding the date of
43 the application for license, the applicant must have completed a

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44 40-hour classroom course in title insurance, 3 hours of which
45 are ~~shall be~~ on the subject matter of ethics, as approved by the
46 department, or must have had at least 12 months of experience in
47 responsible title insurance duties, under the supervision of a
48 licensed title insurance agent, title insurer, or attorney while
49 working in the title insurance business as a substantially full-
50 time, bona fide employee of a title insurance agency, title
51 insurance agent, title insurer, or attorney who conducts real
52 estate closing transactions and issues title insurance policies
53 but who is exempt from licensure under subsection (4) ~~pursuant to~~
54 ~~paragraph (4)(a)~~. If an applicant's qualifications are based
55 upon the periods of employment at responsible title insurance
56 duties, the applicant must submit, with the license application
57 ~~for license on a form prescribed by the department, an the~~
58 affidavit of the applicant and of the employer affirming ~~setting~~
59 ~~forth~~ the period of such employment, that the employment was
60 substantially full time, and giving a brief abstract of the
61 nature of the duties performed by the applicant.

62 (b) The applicant must have passed any examination for
63 licensure required under s. 626.221.

64 (4)~~(a)~~ Title insurers or attorneys duly admitted to
65 practice law in this state and in good standing with The Florida
66 Bar are exempt from the provisions of this chapter relating ~~with~~
67 ~~regard~~ to title insurance licensing and appointment
68 requirements.

69 (5)~~(b)~~ An insurer may designate a corporate officer of the

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70 insurer to occasionally issue and countersign binders,
71 commitments, and policies of title insurance ~~policies, or~~
72 ~~guarantees of title~~. The A designated officer is exempt from the
73 provisions of this chapter relating ~~with regard~~ to title
74 insurance licensing and appointment requirements while the
75 officer is acting within the scope of the designation.

76 ~~(6)(e)~~ If an attorney owns ~~or attorneys own~~ a corporation
77 or other legal entity that ~~which~~ is doing business as a title
78 insurance agency, other than an entity engaged in the active
79 practice of law, the agency must be licensed and appointed as a
80 title insurance agent.

81 Section 4. Section 626.8418, Florida Statutes, is amended
82 to read:

83 626.8418 Application for title insurance agency license.-
84 Before ~~Prior to~~ doing business in this state as a title
85 insurance agency, ~~a title insurance agency must meet all of the~~
86 ~~following requirements:~~

87 ~~(1)~~ The applicant must file with the department an
88 application for a license as a title insurance agency, on
89 ~~printed~~ forms furnished by the department, which ~~that~~ includes
90 all of the following:

91 ~~(1)(a)~~ The name of each majority owner, partner, officer,
92 and director of the title insurance agency.

93 ~~(2)(b)~~ The residence address of each person required to be
94 listed under subsection (1) ~~paragraph (a)~~.

95 ~~(3)(c)~~ The name of the title insurance agency and its

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96 principal business address.

97 ~~(4)(d)~~ The location of each title insurance agency office
98 and the name under which each agency office conducts or will
99 conduct business.

100 ~~(5)(e)~~ The name of each title insurance agent to be in
101 full-time charge of a title insurance ~~an~~ agency office and
102 specification of which office.

103 ~~(6)(f)~~ Such additional information as the department
104 requires by rule to ascertain the trustworthiness and competence
105 of persons required to be listed on the application and to
106 ascertain that such persons meet the requirements of this code.

107 ~~(2) The applicant must have deposited with the department~~
108 ~~securities of the type eligible for deposit under s. 625.52 and~~
109 ~~having at all times a market value of not less than \$35,000. In~~
110 ~~place of such deposit, the title insurance agency may post a~~
111 ~~surety bond of like amount payable to the department for the~~
112 ~~benefit of any appointing insurer damaged by a violation by the~~
113 ~~title insurance agency of its contract with the appointing~~
114 ~~insurer. If a properly documented claim is timely filed with the~~
115 ~~department by a damaged title insurer, the department may remit~~
116 ~~an appropriate amount of the deposit or the proceeds that are~~
117 ~~received from the surety in payment of the claim. The required~~
118 ~~deposit or bond must be made by the title insurance agency, and~~
119 ~~a title insurer may not provide the deposit or bond directly or~~
120 ~~indirectly on behalf of the title insurance agency. The deposit~~
121 ~~or bond must secure the performance by the title insurance~~

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122 ~~agency of its duties and responsibilities under the issuing~~
123 ~~agency contracts with each title insurer for which it is~~
124 ~~appointed. The agency may exchange or substitute other~~
125 ~~securities of like quality and value for securities on deposit,~~
126 ~~may receive the interest and other income accruing on such~~
127 ~~securities, and may inspect the deposit at all reasonable times.~~
128 ~~Such deposit or bond must remain unimpaired as long as the title~~
129 ~~insurance agency continues in business in this state and until 1~~
130 ~~year after termination of all title insurance agency~~
131 ~~appointments held by the title insurance agency. The title~~
132 ~~insurance agency is entitled to the return of the deposit or~~
133 ~~bond together with accrued interest after such year has passed,~~
134 ~~if no claim has been made against the deposit or bond. If a~~
135 ~~surety bond is unavailable generally, the department may adopt~~
136 ~~rules for alternative methods to comply with this subsection.~~
137 ~~With respect to such alternative methods for compliance, the~~
138 ~~department must be guided by the past business performance and~~
139 ~~good reputation and character of the proposed title insurance~~
140 ~~agency. A surety bond is deemed to be unavailable generally if~~
141 ~~the prevailing annual premium exceeds 25 percent of the~~
142 ~~principal amount of the bond.~~

143 Section 5. Paragraphs (a), (b), and (c) of subsection (1)
144 of section 626.8419, Florida Statutes, are amended to read:

145 626.8419 Appointment of title insurance agency.—

146 (1) The title insurer engaging or employing the title
147 insurance agency must file with the department, on forms

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148 furnished by the department, an application certifying that the
149 proposed title insurance agency meets all of the following
150 requirements:

151 (a) The title insurance agency has ~~must have~~ obtained a
152 fidelity bond in an amount of at least, ~~not less than~~ \$50,000,
153 acceptable to the insurer appointing the agency. If a fidelity
154 bond is unavailable generally, the department shall ~~must~~ adopt
155 rules for alternative methods to comply with this paragraph.

156 (b) The title insurance agency must have obtained errors
157 and omissions insurance in an amount acceptable to the insurer
158 appointing the agency. The amount of the coverage must be at
159 least ~~may not be less than~~ \$250,000 per claim and an aggregate
160 limit with a deductible no greater than \$10,000. If errors and
161 omissions insurance is unavailable generally, the department
162 shall ~~must~~ adopt rules for alternative methods that ~~to~~ comply
163 with this paragraph.

164 (c) ~~Notwithstanding s. 626.8418(2),~~ The ~~the~~ title
165 insurance agency must have obtained a surety bond in an amount
166 of at least ~~not less than~~ \$35,000 made payable to the title
167 insurer or title insurers appointing the agency. The surety bond
168 must be for the benefit of any appointing title insurer damaged
169 by a violation by the title insurance agency of its contract
170 with the appointing title insurer. If the surety bond is payable
171 to multiple title insurers, the surety bond must provide that
172 each title insurer is to be notified if ~~in the event~~ a claim is
173 made upon the surety bond or the bond is terminated.

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174 Section 6. Subsections (3) and (4) of section 626.8437,
175 Florida Statutes, are amended to read:

176 626.8437 Grounds for denial, suspension, revocation, or
177 refusal to renew license or appointment.—The department shall
178 deny, suspend, revoke, or refuse to renew or continue the
179 license or appointment of any title insurance agent or agency,
180 and it shall suspend or revoke the eligibility to hold a license
181 or appointment of such person, if it finds that as to the
182 applicant, licensee, appointee, or any principal thereof, any
183 one or more of the following grounds exist:

184 (3) Willful misrepresentation of any title insurance
185 policy, ~~guarantee of title, binder,~~ or commitment, or willful
186 deception with regard to any such policy, ~~guarantee, binder,~~ or
187 commitment, done ~~either~~ in person or by any form of
188 dissemination of information or advertising.

189 (4) Demonstrated lack of fitness or trustworthiness to
190 represent a title insurer in the issuance of its commitments or
191 ~~binders,~~ policies of title insurance, ~~or guarantees of title.~~

192 Section 7. Subsection (3) is added to section 627.778,
193 Florida Statutes, to read:

194 627.778 Limit of risk.—

195 (3) Only contract remedies are available for the breach of
196 a duty which arises solely from the terms of a contract of title
197 insurance or an instrument issued pursuant to section
198 627.786(3), Florida Statutes.

199 Section 8. Subsection (2) of section 627.7845, Florida

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200 Statutes, is amended to read:

201 627.7845 Determination of insurability required;
202 preservation of evidence of title search and examination.-

203 (2) The title insurer shall cause the evidence of the
204 determination of insurability and the reasonable title search or
205 search of the records of a Uniform Commercial Code filing office
206 to be preserved and retained in its files or in the files of its
207 title insurance agent or agency for at least ~~a period of not~~
208 ~~less than~~ 7 years after the title insurance commitment or title
209 insurance policy, ~~or guarantee of title~~ was issued. The title
210 insurer or its agent or agency must produce the evidence
211 required to be maintained under ~~by~~ this subsection at its
212 offices upon the demand of the office. Instead of retaining the
213 original evidence, the title insurer or its ~~the title insurance~~
214 agent or agency may, in the regular course of business,
215 establish a system under which all or part of the evidence is
216 recorded, copied, or reproduced by any photographic,
217 photostatic, microfilm, microcard, miniature photographic, or
218 other process that ~~which~~ accurately reproduces or forms a
219 durable medium for reproducing the original.

220 Section 9. This act shall take effect July 1, 2014.

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T I T L E A M E N D M E N T

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226 Remove everything before the enacting clause and insert:
227 A bill to be entitled
228 An act relating to title insurance; amending s. 626.8412, F.S.;
229 specifying that only a licensed and appointed agent or agency is
230 authorized to sell title insurance; amending s. 626.8413, F.S.;
231 providing additional limitations on the name that a title
232 insurance agent or agency may adopt; providing applicability;
233 amending s. 626.8417, F.S.; conforming provisions to changes
234 made by the act; amending s. 626.8418, F.S.; revising the
235 application requirements for a title insurance agency license;
236 deleting certain bonding requirements and procedures; amending
237 s. 626.8419, F.S.; conforming provisions to changes made by the
238 act; amending s. 626.8437, F.S.; revising terms relating to
239 grounds for actions against a licensee or appointee; amending s.
240 627.778, F.S.; limiting the remedies available for the breach of
241 duty arising from a title insurance contract; amending s.
242 627.7845, F.S.; revising terms relating to determination of
243 insurability and preservation of evidence of title search and
244 examination; providing effective dates.