

By Senator Galvano

26-00588B-14

2014570__

1 A bill to be entitled
 2 An act relating to title insurance; amending s.
 3 626.8412, F.S.; specifying that only a licensed and
 4 appointed agent or agency is authorized to sell title
 5 insurance; amending s. 626.8413, F.S.; providing
 6 additional limitations on the name that a title
 7 insurance agent or agency may adopt; providing
 8 applicability; amending s. 626.8417, F.S.; conforming
 9 provisions to changes made by the act; amending s.
 10 626.8418, F.S.; revising the application requirements
 11 for a title insurance agency license; deleting certain
 12 bonding requirements and procedures; amending s.
 13 626.8419, F.S.; conforming provisions to changes made
 14 by the act; amending s. 626.8437, F.S.; revising terms
 15 relating to grounds for actions against a licensee or
 16 appointee; amending s. 627.778, F.S.; limiting the
 17 remedies available for the breach of duty arising from
 18 a title insurance contract; amending s. 627.7845,
 19 F.S.; revising terms relating to determination of
 20 insurability and preservation of evidence of title
 21 search and examination; providing effective dates.

22
 23 Be It Enacted by the Legislature of the State of Florida:

24
 25 Section 1. Paragraph (a) of subsection (1) of section
 26 626.8412, Florida Statutes, is amended to read:
 27 626.8412 License and appointments required.-
 28 (1) Except as otherwise provided in this part:
 29 (a) Title insurance may be sold only by a licensed and

26-00588B-14

2014570__

30 appointed title insurance agent employed by a licensed and
31 appointed title insurance agency or employed by a title insurer.

32 Section 2. Effective October 1, 2014, section 626.8413,
33 Florida Statutes, is amended to read:

34 626.8413 Title insurance agents; certain names prohibited.—
35 After October 1, 2014 ~~1985~~, a title insurance agent or title
36 insurance agency may as defined in s. 626.841 shall not adopt a
37 name that ~~which~~ contains the words "title insurance," "title
38 company," "title guaranty," or "title guarantee," unless such
39 words are followed by the word "agent" or "agency" in the same
40 size and type as the words preceding it ~~them~~. This section does
41 not apply to a title insurer acting as an agent for another
42 title insurer if both insurers hold active certificates of
43 authority to transact title insurance business in this state and
44 if both insurers are acting under the names designated on such
45 certificates.

46 Section 3. Section 626.8417, Florida Statutes, is amended
47 to read:

48 626.8417 Title insurance agent licensure; exemptions.—

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

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

55 (3) The department may ~~shall~~ not grant or issue a license
56 as a title insurance agent to an ~~any~~ individual who is found by
57 the department ~~it~~ to be untrustworthy or incompetent, who does
58 not meet the qualifications for examination specified in s.

26-00588B-14

2014570__

59 626.8414, or who does not meet the following qualifications:

60 (a) Within the 4 years immediately preceding the date of
61 the application for license, the applicant must have completed a
62 40-hour classroom course in title insurance, 3 hours of which
63 are ~~shall be~~ on the subject matter of ethics, as approved by the
64 department, or must have had at least 12 months of experience in
65 responsible title insurance duties under the supervision of a
66 licensed title insurance agent, title insurer, or attorney while
67 working in the title insurance business as a substantially full-
68 time, bona fide employee of a title insurance agency, title
69 insurance agent, title insurer, or attorney who conducts real
70 estate closing transactions and issues title insurance policies
71 but who is exempt from licensure under subsection (4) pursuant
72 to paragraph (4)(a). If an applicant's qualifications are based
73 upon the periods of employment at responsible title insurance
74 duties, the applicant must submit, with the license application
75 ~~for license on a form prescribed by the department, an~~ the
76 affidavit of the applicant and of the employer affirming ~~setting~~
77 ~~forth~~ the period of such employment, that the employment was
78 substantially full time, and giving a brief abstract of the
79 nature of the duties performed by the applicant.

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

82 (4)~~(a)~~ Title insurers or attorneys duly admitted to
83 practice law in this state and in good standing with The Florida
84 Bar are exempt from the provisions of this chapter relating ~~with~~
85 ~~regard~~ to title insurance licensing and appointment
86 requirements.

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

26-00588B-14

2014570__

88 insurer to occasionally issue and countersign binders,
89 commitments, and policies of title insurance ~~policies, or~~
90 ~~guarantees of title~~. The A designated officer is exempt from the
91 provisions of this chapter relating ~~with regard~~ to title
92 insurance licensing and appointment requirements while the
93 officer is acting within the scope of the designation.

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

99 Section 4. Section 626.8418, Florida Statutes, is amended
100 to read:

101 626.8418 Application for title insurance agency license.—
102 Before ~~Prior to~~ doing business in this state as a title
103 insurance agency, ~~a title insurance agency must meet all of the~~
104 ~~following requirements:~~

105 ~~(1)~~ the applicant must file with the department an
106 application for a license as a title insurance agency, on
107 ~~printed~~ forms furnished by the department, which ~~that~~ includes
108 all of the following:

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

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

113 (3) ~~(c)~~ The name of the title insurance agency and its
114 principal business address.

115 (4) ~~(d)~~ The location of each title insurance agency office
116 and the name under which each agency office conducts or will

26-00588B-14

2014570__

117 conduct business.

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

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

125 ~~(2) The applicant must have deposited with the department~~
126 ~~securities of the type eligible for deposit under s. 625.52 and~~
127 ~~having at all times a market value of not less than \$35,000. In~~
128 ~~place of such deposit, the title insurance agency may post a~~
129 ~~surety bond of like amount payable to the department for the~~
130 ~~benefit of any appointing insurer damaged by a violation by the~~
131 ~~title insurance agency of its contract with the appointing~~
132 ~~insurer. If a properly documented claim is timely filed with the~~
133 ~~department by a damaged title insurer, the department may remit~~
134 ~~an appropriate amount of the deposit or the proceeds that are~~
135 ~~received from the surety in payment of the claim. The required~~
136 ~~deposit or bond must be made by the title insurance agency, and~~
137 ~~a title insurer may not provide the deposit or bond directly or~~
138 ~~indirectly on behalf of the title insurance agency. The deposit~~
139 ~~or bond must secure the performance by the title insurance~~
140 ~~agency of its duties and responsibilities under the issuing~~
141 ~~agency contracts with each title insurer for which it is~~
142 ~~appointed. The agency may exchange or substitute other~~
143 ~~securities of like quality and value for securities on deposit,~~
144 ~~may receive the interest and other income accruing on such~~
145 ~~securities, and may inspect the deposit at all reasonable times.~~

26-00588B-14

2014570__

146 ~~Such deposit or bond must remain unimpaired as long as the title~~
147 ~~insurance agency continues in business in this state and until 1~~
148 ~~year after termination of all title insurance agency~~
149 ~~appointments held by the title insurance agency. The title~~
150 ~~insurance agency is entitled to the return of the deposit or~~
151 ~~bond together with accrued interest after such year has passed,~~
152 ~~if no claim has been made against the deposit or bond. If a~~
153 ~~surety bond is unavailable generally, the department may adopt~~
154 ~~rules for alternative methods to comply with this subsection.~~
155 ~~With respect to such alternative methods for compliance, the~~
156 ~~department must be guided by the past business performance and~~
157 ~~good reputation and character of the proposed title insurance~~
158 ~~agency. A surety bond is deemed to be unavailable generally if~~
159 ~~the prevailing annual premium exceeds 25 percent of the~~
160 ~~principal amount of the bond.~~

161 Section 5. Paragraphs (a) through (c) of subsection (1) of
162 section 626.8419, Florida Statutes, are amended to read:

163 626.8419 Appointment of title insurance agency.—

164 (1) The title insurer engaging or employing the title
165 insurance agency must file with the department, on forms
166 furnished by the department, an application certifying that the
167 proposed title insurance agency meets all of the following
168 requirements:

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

174 (b) The title insurance agency must have obtained errors

26-00588B-14

2014570__

175 and omissions insurance in an amount acceptable to the insurer
176 appointing the agency. The amount of the coverage must be at
177 least ~~may not be less than~~ \$250,000 per claim and an aggregate
178 limit with a deductible no greater than \$10,000. If errors and
179 omissions insurance is unavailable generally, the department
180 shall ~~must~~ adopt rules for alternative methods that ~~to~~ comply
181 with this paragraph.

182 (c) ~~Notwithstanding s. 626.8418(2),~~ The title insurance
183 agency must have obtained a surety bond in an amount of at least
184 ~~not less than~~ \$35,000 made payable to the title insurer or title
185 insurers appointing the agency. The surety bond must be for the
186 benefit of any appointing title insurer damaged by a violation
187 by the title insurance agency of its contract with the
188 appointing title insurer. If the surety bond is payable to
189 multiple title insurers, the surety bond must provide that each
190 title insurer is to be notified if ~~in the event~~ a claim is made
191 upon the surety bond or the bond is terminated.

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

194 626.8437 Grounds for denial, suspension, revocation, or
195 refusal to renew license or appointment.—The department shall
196 deny, suspend, revoke, or refuse to renew or continue the
197 license or appointment of any title insurance agent or agency,
198 and it shall suspend or revoke the eligibility to hold a license
199 or appointment of such person, if it finds that as to the
200 applicant, licensee, appointee, or any principal thereof, any
201 one or more of the following grounds exist:

202 (3) Willful misrepresentation of any title insurance
203 policy, ~~guarantee of title, binder,~~ or commitment, or willful

26-00588B-14

2014570__

204 deception with regard to ~~any~~ such policy, ~~guarantee, binder, or~~
205 commitment, done ~~either~~ in person or by any form of
206 dissemination of information or advertising.

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

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

212 627.778 Limit of risk.—

213 (3) Only contract remedies are available for the breach of
214 a duty which arises solely from the terms of a contract of title
215 insurance.

216 Section 8. Subsection (2) of section 627.7845, Florida
217 Statutes, is amended to read:

218 627.7845 Determination of insurability required;
219 preservation of evidence of title search and examination.—

220 (2) The title insurer shall cause the evidence of the
221 determination of insurability and the reasonable title search or
222 search of the records of a Uniform Commercial Code filing office
223 to be preserved and retained in its files or in the files of its
224 title insurance agent or agency for at least ~~a period of not~~
225 ~~less than~~ 7 years after the title insurance commitment or, title
226 insurance policy, ~~or guarantee of title~~ was issued. The title
227 insurer or its agent or agency must produce the evidence
228 required to be maintained under ~~by~~ this subsection at its
229 offices upon the demand of the office. Instead of retaining the
230 original evidence, the title insurer or its ~~the title insurance~~
231 agent or agency may, in the regular course of business,
232 establish a system under which all or part of the evidence is

26-00588B-14

2014570__

233 recorded, copied, or reproduced by any photographic,
234 photostatic, microfilm, microcard, miniature photographic, or
235 other process that ~~which~~ accurately reproduces or forms a
236 durable medium for reproducing the original.

237 Section 9. Except as otherwise expressly provided in this
238 act, this act shall take effect July 1, 2014.