

By the Committee on Banking and Insurance; and Senator Galvano

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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. 627.782, F.S.;
19 revising the date that certain information relating to
20 title insurance rates must be submitted to the Office
21 of Insurance Regulation by title insurance agencies
22 and insurers; amending s. 627.7845, F.S.; revising
23 terms relating to determination of insurability and
24 preservation of evidence of title search and
25 examination; providing effective dates.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Paragraph (a) of subsection (1) of section

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30 626.8412, Florida Statutes, is amended to read:

31 626.8412 License and appointments required.-

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

33 (a) Title insurance may be sold only by a licensed and
34 appointed title insurance agent employed by a licensed and
35 appointed title insurance agency or employed by a title insurer.

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

38 626.8413 Title insurance agents; certain names prohibited.-

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

50 Section 3. Section 626.8417, Florida Statutes, is amended
51 to read:

52 626.8417 Title insurance agent licensure; exemptions.-

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

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

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59 (3) The department may ~~shall~~ not grant or issue a license
60 as a title insurance agent to an ~~any~~ individual who is found by
61 the department ~~it~~ to be untrustworthy or incompetent, who does
62 not meet the qualifications for examination specified in s.
63 626.8414, or who does not meet the following qualifications:

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

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

86 (4) ~~(a)~~ Title insurers or attorneys duly admitted to
87 practice law in this state and in good standing with The Florida

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88 Bar are exempt from the provisions of this chapter relating with
89 ~~regard~~ to title insurance licensing and appointment
90 requirements.

91 (5)~~(b)~~ An insurer may designate a corporate officer of the
92 insurer to occasionally issue and countersign binders,
93 commitments, and policies of title insurance ~~policies, or~~
94 ~~guarantees of title~~. The A designated officer is exempt from the
95 provisions of this chapter relating with ~~regard~~ to title
96 insurance licensing and appointment requirements while the
97 officer is acting within the scope of the designation.

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

103 Section 4. Section 626.8418, Florida Statutes, is amended
104 to read:

105 626.8418 Application for title insurance agency license.—
106 Before ~~Prior to~~ doing business in this state as a title
107 insurance agency, ~~a title insurance agency must meet all of the~~
108 ~~following requirements:~~

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

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

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

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117 (3)~~(e)~~ The name of the title insurance agency and its
118 principal business address.

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

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

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

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

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

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

167 626.8419 Appointment of title insurance agency.-

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

173 (a) The title insurance agency has ~~must have~~ obtained a
174 fidelity bond in an amount of at least, ~~not less than~~ \$50,000,

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175 acceptable to the insurer appointing the agency. If a fidelity
176 bond is unavailable generally, the department shall ~~must~~ adopt
177 rules for alternative methods to comply with this paragraph.

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

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

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

198 626.8437 Grounds for denial, suspension, revocation, or
199 refusal to renew license or appointment.—The department shall
200 deny, suspend, revoke, or refuse to renew or continue the
201 license or appointment of any title insurance agent or agency,
202 and it shall suspend or revoke the eligibility to hold a license
203 or appointment of such person, if it finds that as to the

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204 applicant, licensee, appointee, or any principal thereof, any
205 one or more of the following grounds exist:

206 (3) Willful misrepresentation of any title insurance
207 policy, ~~guarantee of title, binder,~~ or commitment, or willful
208 deception with regard to ~~any~~ such policy, ~~guarantee, binder,~~ or
209 commitment, done ~~either~~ in person or by any form of
210 dissemination of information or advertising.

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

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

216 627.778 Limit of risk.—

217 (3) Only contract remedies are available for the breach of
218 a duty which arises solely from the terms of a contract of title
219 insurance or an instrument issued pursuant to s. 627.786(3).

220 Section 8. Subsection (8) of section 627.782, Florida
221 Statutes, is amended to read:

222 627.782 Adoption of rates.—

223 (8) Each title insurance agency and insurer licensed to do
224 business in this state and each insurer's direct or retail
225 business in this state shall maintain and submit information,
226 including revenue, loss, and expense data, as the office
227 determines necessary to assist in the analysis of title
228 insurance premium rates, title search costs, and the condition
229 of the title insurance industry in this state. Such ~~This~~
230 information shall ~~must~~ be transmitted to the office annually by
231 May ~~March~~ 31 of the year after the reporting year. The
232 commission shall adopt rules relating to ~~regarding~~ the

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233 collection and analysis of the data from the title insurance
234 industry.

235 Section 9. Subsection (2) of section 627.7845, Florida
236 Statutes, is amended to read:

237 627.7845 Determination of insurability required;
238 preservation of evidence of title search and examination.—

239 (2) The title insurer shall cause the evidence of the
240 determination of insurability and the reasonable title search or
241 search of the records of a Uniform Commercial Code filing office
242 to be preserved and retained in its files or in the files of its
243 title insurance agent or agency for at least ~~a period of not~~
244 ~~less than~~ 7 years after the title insurance commitment or, title
245 insurance policy, ~~or guarantee of title~~ was issued. The title
246 insurer or its agent or agency must produce the evidence
247 required to be maintained under ~~by~~ this subsection at its
248 offices upon the demand of the office. Instead of retaining the
249 original evidence, the title insurer or its ~~the title insurance~~
250 agent or agency may, in the regular course of business,
251 establish a system under which all or part of the evidence is
252 recorded, copied, or reproduced by any photographic,
253 photostatic, microfilm, microcard, miniature photographic, or
254 other process that ~~which~~ accurately reproduces or forms a
255 durable medium for reproducing the original.

256 Section 10. Except as otherwise expressly provided in this
257 act, this act shall take effect July 1, 2014.