

Amendment No. 1

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| WITHDRAWN | 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: Commerce Committee
 2 Representative Giallombardo offered the following:

3
 4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6 Section 1. Present subsections (35) through (38) of section
 7 494.001, Florida Statutes, are redesignated as subsections (36)
 8 through (39), respectively, a new subsection (35) is added to
 9 that section, and subsection (3) of that section is amended, to
 10 read:

11 494.001 Definitions.—As used in this chapter, the term:

12 (3) "Branch office" means a location, other than a mortgage
 13 broker's or mortgage lender's principal place of business or
 14 remote location:

15 (a) The address of which appears on business cards,
 16 stationery, or advertising used by the licensee in connection

Amendment No. 1

17 with business conducted under this chapter;

18 (b) At which the licensee's name, advertising or
19 promotional materials, or signage suggests that mortgage loans
20 are originated, negotiated, funded, or serviced; or

21 (c) At which mortgage loans are originated, negotiated,
22 funded, or serviced by a licensee.

23 (35) "Remote location" means a location, other than a
24 principal place of business or a branch office, at which a loan
25 originator of a licensee may conduct business. A licensee may
26 allow loan originators to work from remote locations if:

27 (a) The licensee has written policies and procedures for
28 supervision of loan originators working from remote locations.

29 (b) Access to company platforms and customer information is
30 in accordance with the licensee's comprehensive written
31 information security plan.

32 (c) An in-person customer interaction does not occur at a
33 loan originator's residence unless such residence is a licensed
34 location.

35 (d) Physical records are not maintained at a remote
36 location.

37 (e) Customer interactions and conversations about consumers
38 will be in compliance with federal and state information
39 security requirements, including applicable provisions under the
40 Gramm-Leach-Bliley Act and the Safeguards Rule established by
41 the Federal Trade Commission, set forth at 16 C.F.R. part 314,
42 as such requirements may be amended from time to time.

Amendment No. 1

43 (f) A loan originator working at a remote location accesses
44 the company's secure systems or documents, including a cloud-
45 based system, directly from any out-of-office device such as a
46 laptop, phone, desktop computer, or tablet, through a virtual
47 private network or system that ensures secure connectivity and
48 that requires passwords or other forms of authentication to
49 access.

50 (g) The licensee ensures that appropriate security updates,
51 patches, or other alterations to the security of all devices
52 used at remote locations are installed and maintained.

53 (h) The licensee is able to remotely lock or erase company-
54 related contents of any device or otherwise remotely limit all
55 access to a company's secure systems.

56 (i) The registry's record of a loan originator who works
57 from a remote location designates the principal place of
58 business as the loan originator's registered location, or the
59 loan originator has elected a licensed branch office as a
60 registered location.

61 Section 2. Subsection (1) of section 494.0067, Florida
62 Statutes, is amended to read:

63 494.0067 Requirements of mortgage lenders.—

64 (1) A mortgage lender that makes mortgage loans on real
65 estate in this state shall transact business from a principal
66 place of business, branch office, or remote location. Each
67 principal place of business, and each branch office, and remote
68 location shall be operated under the full charge, control, and

Amendment No. 1

69 supervision of the licensee pursuant to this part.

70 Section 3. Section 501.2042, Florida Statutes, is created
71 to read:

72 501.2042 Unlawful acts and practices by online crowd-
73 funding campaigns.-

74 (1) As used in this section, the term:

75 (a) "Crowd-funding campaign" means an online fundraising
76 initiative that is intended to receive monetary donations from
77 donors and is created by an organizer in the interest of a
78 beneficiary.

79 (b) "Crowd-funding platform" means an entity doing business
80 in this state which provides an online medium for the creation
81 and facilitation of a crowd-funding campaign.

82 (c) "Disaster" has the same meaning as 252.34 (2)

83 (d) "Organizer" means a person who:

84 1. Resides or is domiciled in this state; and

85 2. Has an account on a crowd-funding platform and has
86 created a crowd-funding campaign either as a beneficiary or on
87 behalf of a beneficiary, regardless of whether the beneficiary
88 or the crowd-funding campaign has received donations.

89 (1) For crowd-funding campaigns related to and arising out
90 of a declared disaster, a crowd-funding platform must:

91 (a) Collect and retain, for one year after the date of the
92 declared disaster, the name, e-mail address, phone number, and
93 state of residence of the organizer.

94 (b) Require the organizer to indicate, on the crowd-

Amendment No. 1

95 funding campaign, the state in which they are located.

96 (c) Cooperate with any investigation by or in partnership
97 with law enforcement.

98 (d) Clearly display and direct donors to fundraisers that
99 comply with the crowd-funding platform's terms of service.

100 (2) When an organizer arranges a crowd-funding campaign
101 related to and arising out of a declared disaster, the organizer
102 must attest that:

103 (a) All information provided in connection with a crowd-
104 funding campaign is accurate, complete and not likely to deceive
105 users.

106 (b) All donations contributed to the crowd-funding
107 campaign will be used solely as described in the materials the
108 organizer posts or provides on the crowd-funding platform.

109 Section 4. Section 520.23, Florida Statutes, is amended to
110 read:

111 520.23 Disclosures required.—Each agreement governing the
112 sale or lease of a distributed energy generation system shall,
113 at a minimum, include a written statement printed in at least
114 12-point type that is separate from the agreement, is separately
115 acknowledged by the buyer or lessee, and includes the following
116 information and disclosures, if applicable:

117 (1) The name, address, telephone number, and e-mail address
118 of the buyer or lessee.

119 (2) The name, address, telephone number, e-mail address,
120 and valid state contractor license number of the person

Amendment No. 1

121 responsible for installing the distributed energy generation
122 system.

123 (3) The name, address, telephone number, e-mail address,
124 and valid state contractor license number of the distributed
125 energy generation system maintenance provider, if different from
126 the person responsible for installing the distributed energy
127 generation system.

128 (4) The customer contact center phone number for the
129 Department of Business and Professional Regulation.

130 (5)~~(4)~~ A written statement indicating whether the
131 distributed energy generation system is being purchased or
132 leased.

133 (a) If the distributed energy generation system will be
134 leased, the written statement must include a disclosure in
135 substantially the following form: "You are entering into an
136 agreement to lease a distributed energy generation system. You
137 will lease (not own) the system installed on your property."

138 (b) If the distributed energy generation system will be
139 purchased, the written statement must include a disclosure in
140 substantially the following form: "You are entering into an
141 agreement to purchase a distributed energy generation system.
142 You will own (not lease) the system installed on your property."

143 (6)~~(5)~~ The total cost to be paid by the buyer or lessee,
144 including any interest, installation fees, document preparation
145 fees, service fees, or other fees.

146 (7)~~(6)~~ A payment schedule, including any amounts owed at

Amendment No. 1

147 contract signing, at the commencement of installation, at the
148 completion of installation, and any final payments. If the
149 distributed energy generation system is being leased, the
150 written statement must include the frequency and amount of each
151 payment due under the lease and the total estimated lease
152 payments over the term of the lease.

153 ~~(8)-(7)~~ Each state or federal tax incentive or rebate, if
154 any, relied upon by the seller in determining the price of the
155 distributed energy generation system.

156 ~~(9)-(8)~~ A description of the assumptions used to calculate
157 any savings estimates provided to the buyer or lessee, and if
158 such estimates are provided, a statement in substantially the
159 following form: "It is important to understand that future
160 electric utility rates are estimates only. Your future electric
161 utility rates may vary."

162 ~~(10)-(9)~~ A description of any one-time or recurring fees,
163 including, but not limited to, estimated system removal fees,
164 maintenance fees, Internet connection fees, and automated
165 clearinghouse fees. If late fees may apply, the description must
166 describe the circumstances triggering such late fees.

167 ~~(11)-(10)~~ A statement notifying the buyer whether the
168 distributed energy generation system is being financed and, if
169 so, a statement in substantially the following form: "If your
170 system is financed, carefully read any agreements and/or
171 disclosure forms provided by your lender. This statement does
172 not contain the terms of your financing agreement. If you have

Amendment No. 1

173 any questions about your financing agreement, contact your
174 finance provider before signing a contract.”

175 (12)~~(11)~~ A statement notifying the buyer whether the seller
176 is assisting in arranging financing of the distributed energy
177 generation system and, if so, a statement in substantially the
178 following form: “If your system is financed, carefully read any
179 agreements and/or disclosure forms provided by your lender. This
180 statement does not contain the terms of your financing
181 agreement. If you have any questions about your financing
182 agreement, contact your finance provider before signing a
183 contract.”

184 (13)~~(12)~~ A provision notifying the buyer or lessee of the
185 right to rescind the agreement for a period of at least 3
186 business days after the agreement is signed. This subsection
187 does not apply to a contract to sell or lease a distributed
188 energy generation system in a solar community in which the
189 entire community has been marketed as a solar community and all
190 of the homes in the community are intended to have a distributed
191 energy generation system, or a solar community in which the
192 developer has incorporated solar technology for purposes of
193 meeting the Florida Building Code in s. 553.73.

194 (14)~~(13)~~ A description of the distributed energy generation
195 system design assumptions, including the make and model of the
196 major components, system size, estimated first-year energy
197 production, and estimated annual energy production decreases,
198 including the overall percentage degradation over the estimated

Amendment No. 1

199 life of the distributed energy generation system, and the status
200 of utility compensation for excess energy generated by the
201 system at the time of contract signing. A seller who provides a
202 warranty or guarantee of the energy production output of the
203 distributed energy generation system may provide a description
204 of such warranty or guarantee in lieu of a description of the
205 system design and components.

206 ~~(15)-(14)~~ A description of any performance or production
207 guarantees.

208 ~~(16)-(15)~~ A description of the ownership and transferability
209 of any tax credits, rebates, incentives, or renewable energy
210 certificates associated with the distributed energy generation
211 system, including a disclosure as to whether the seller will
212 assign or sell any associated renewable energy certificates to a
213 third party.

214 ~~(17)-(16)~~ A statement in substantially the following form:
215 "You are responsible for property taxes on property you own.
216 Consult a tax professional to understand any tax liability or
217 eligibility for any tax credits that may result from the
218 purchase of your distributed energy generation system."

219 ~~(18)-(17)~~ The approximate start and completion dates for the
220 installation of the distributed energy generation system.

221 ~~(19)-(18)~~ A disclosure as to whether maintenance and repairs
222 of the distributed energy generation system are included in the
223 purchase price.

224 ~~(20)-(19)~~ A disclosure as to whether any warranty or

Amendment No. 1

225 maintenance obligations related to the distributed energy
226 generation system may be sold or transferred by the seller to a
227 third party and, if so, a statement in substantially the
228 following form: "Your contract may be assigned, sold, or
229 transferred without your consent to a third party who will be
230 bound to all the terms of the contract. If a transfer occurs,
231 you will be notified if this will change the address or phone
232 number to use for system maintenance or repair requests."

233 (21)~~(20)~~ If the distributed energy generation system will
234 be purchased, a disclosure notifying the buyer of the
235 requirements for interconnecting the system to the utility
236 system.

237 (22)~~(21)~~ A disclosure notifying the buyer or lessee of the
238 party responsible for obtaining interconnection approval.

239 (23)~~(22)~~ A description of any roof warranties.

240 (24) A statement in substantially the following form: "You
241 should consider the age and remaining life of your roof prior to
242 installing a distributed energy generation system. Replacement
243 of your roof may require reinstallment of the distributed energy
244 generation system."

245 (25)~~(23)~~ A disclosure notifying the lessee whether the
246 seller will insure a leased distributed energy generation system
247 against damage or loss and, if applicable, the circumstances
248 under which the seller will not insure the system against damage
249 or loss.

250 (26)~~(24)~~ A statement, ~~if applicable,~~ in substantially the

Amendment No. 1

251 following form: "You are responsible for obtaining insurance
252 policies or coverage for any loss of or damage to the system.
253 Consult an insurance professional to understand how to protect
254 against the risk of loss or damage to the system."

255 (27) A statement in substantially the following form:
256 "Placing a distributed energy generation system on your roof may
257 impact your future insurance premiums. You are responsible for
258 contacting your insurance carrier, prior to entering into a
259 purchase or lease agreement, to confirm whether your current
260 policy or coverage will need to be modified upon installing the
261 distributed energy generation system onto your dwelling."

262 (28)~~(25)~~ A disclosure notifying the buyer or lessee whether
263 the seller or lessor will place a lien on the buyer's or
264 lessee's home or other property as a result of entering into a
265 purchase or lease agreement for the distributed energy
266 generation system.

267 (29)~~(26)~~ A disclosure notifying the buyer or lessee whether
268 the seller or lessor will file a fixture filing or a State of
269 Florida Uniform Commercial Code Financing Statement Form (UCC-1)
270 on the distributed energy generation system.

271 (30)~~(27)~~ A disclosure identifying whether the agreement
272 contains any restrictions on the buyer's or lessee's ability to
273 modify or transfer ownership of a distributed energy generation
274 system, including whether any modification or transfer is
275 subject to review or approval by a third party.

276 (31)~~(28)~~ A disclosure as to whether the lease agreement may

Amendment No. 1

277 be transferred to a purchaser upon sale of the home or real
278 property to which the system is affixed, and any conditions for
279 such transfer.

280 ~~(32)~~ (29) A blank section that allows the seller to provide
281 additional relevant disclosures or explain disclosures made
282 elsewhere in the disclosure form.

283

284 The requirement to provide a written statement under this
285 section may be satisfied by the electronic delivery of a
286 document within 24 hours after execution of the written
287 statement containing the required statement if the intended
288 recipient of the electronic document affirmatively acknowledges
289 its receipt. An electronic document satisfies the font and other
290 formatting standards required for the written statement if the
291 format and the relative size of characters of the electronic
292 document are reasonably similar to those required in the written
293 document or if the information is otherwise displayed in a
294 reasonably conspicuous manner.

295 Section 5. Subsection (6) of section 560.111, Florida
296 Statutes, is amended to read:

297 560.111 Prohibited acts.—

298 (6) A person who knowingly and willfully violates s.
299 560.309(11) or s. 560.310(2)(d) commits a felony of the third
300 degree, punishable as provided in s. 775.082, s. 775.083, or s.
301 775.084.

302 Section 6. Subsection (11) is added to section 560.309,

Amendment No. 1

303 Florida Statutes, to read:

304 560.309 Conduct of business.—

305 (11) A licensee may not cash corporate checks where the
306 aggregate face amount of all corporate checks cashed for each
307 payee exceeds 200 percent of the payee's workers' compensation
308 policy payroll amount during the same dates as the workers'
309 compensation policy coverage period.

310 Section 7. Section 626.602, Florida Statutes, is amended to
311 read:

312 626.602 Insurance agency and adjusting firm names;
313 disapproval.—The department may disapprove the use of any true
314 or fictitious name, other than the bona fide natural name of an
315 individual, by any insurance agency or adjusting firm on any of
316 the following grounds:

317 (1) The name interferes with or is too similar to a name
318 already filed and in use by another agency, adjusting firm, or
319 insurer.

320 (2) The use of the name may mislead the public in any
321 respect.

322 (3) The name states or implies that the agency or adjusting
323 firm is an insurer, motor club, hospital service plan, state or
324 federal agency, charitable organization, or entity that
325 primarily provides advice and counsel rather than sells or
326 solicits insurance, settles claims, or is entitled to engage in
327 insurance activities not permitted under licenses held or
328 applied for. This provision does not prohibit the use of the

923275 - h1185-strike.docx

Published On: 4/15/2023 4:21:46 PM

Amendment No. 1

329 word "state" or "states" in the name of the agency. The use of
330 the word "state" or "states" in the name of an agency or
331 adjusting firm does not in and of itself imply that the agency
332 or adjusting firm is a state agency.

333 (4) The name contains the word "Medicare" or "Medicaid." ~~An~~
334 ~~insurance agency whose name contains the word "Medicare" or~~
335 ~~"Medicaid" but which is licensed as of July 1, 2021, may~~
336 ~~continue to use that name until June 30, 2023, provided that the~~
337 ~~agency's license remains valid. If the agency's license expires~~
338 ~~or is suspended or revoked, the agency may not be relicensed~~
339 ~~using that name.~~ Licenses for agencies with names containing
340 either of these words automatically expire on July 1, 2023,
341 unless these words are removed from the name.

342 Section 8. Section 626.854, Florida Statutes, is amended to
343 read:

344 626.854 "Public adjuster" defined; prohibitions.—The
345 Legislature finds that it is necessary for the protection of the
346 public to regulate public insurance adjusters and to prevent the
347 unauthorized practice of law.

348 (1) A "public adjuster" is any person, except a duly
349 licensed attorney at law as exempted under s. 626.860, who, for
350 money, commission, or any other thing of value, directly or
351 indirectly prepares, completes, or files an insurance claim for
352 an insured or third-party claimant, regardless of how that
353 person describes or presents his or her services, or who, for
354 money, commission, or any other thing of value, acts on behalf

Amendment No. 1

355 of, or aids an insured or third-party claimant in negotiating
356 for or effecting the settlement of a claim or claims for loss or
357 damage covered by an insurance contract, regardless of how that
358 person describes or presents his or her services, or who
359 advertises for employment as an adjuster of such claims. The
360 term also includes any person who, for money, commission, or any
361 other thing of value, directly or indirectly solicits,
362 investigates, or adjusts such claims on behalf of a public
363 adjuster, an insured, or a third-party claimant. The term does
364 not include a person who photographs or inventories damaged
365 personal property or business personal property or a person
366 performing duties under another professional license, if such
367 person does not otherwise solicit, adjust, investigate, or
368 negotiate for or attempt to effect the settlement of a claim.

369 (2) This definition does not apply to:

370 (a) A licensed health care provider or employee thereof who
371 prepares or files a health insurance claim form on behalf of a
372 patient.

373 (b) A licensed health insurance agent who assists an
374 insured with coverage questions, medical procedure coding
375 issues, balance billing issues, understanding the claims filing
376 process, or filing a claim, as such assistance relates to
377 coverage under a health insurance policy.

378 (c) A person who files a health claim on behalf of another
379 and does so without compensation.

380 (3) A public adjuster may not give legal advice or act on

Amendment No. 1

381 behalf of or aid any person in negotiating or settling a claim
382 relating to bodily injury, death, or noneconomic damages.

383 (4) For purposes of this section, the term "insured"
384 includes only the policyholder and any beneficiaries named or
385 similarly identified in the policy.

386 (5) A public adjuster may not directly or indirectly
387 through any other person or entity solicit an insured or
388 claimant by any means except on Monday through Saturday of each
389 week and only between the hours of 8 a.m. and 8 p.m. on those
390 days.

391 (6) When entering a contract for adjuster services after
392 July 1, 2023, a public adjuster:

393 (a) may not collect a fee for services on payments made to
394 a named insured unless they have a written contract with the
395 named insured, or the named insured's legal representative.

396 (b) May not contract for services to be provided by a third
397 party on behalf of the named insured or in pursuit of settlement
398 of the named insureds claim, if the cost of those services is to
399 be borne by the named insured, unless the named insured agrees
400 in writing to procure these services and such agreement is
401 entered into subsequent to the date of the contract for public
402 adjusting services.

403 (c) If a public adjuster contracts with a third-party
404 service provider to assist with the settlement of the named
405 insured's claim, without first obtaining the insured's written
406 consent, payment of the third party's fees must be made by the

Amendment No. 1

407 public adjuster and may not be charged back to the named
408 insured.

409 (d) If a public adjuster represents anyone other than the
410 named insured in a claim, the public adjuster fees shall be paid
411 by the third party and may not be charged back to the named
412 insured.

413 (7)~~(6)~~ An insured or claimant may cancel a public
414 adjuster's contract to adjust a claim without penalty or
415 obligation within 10 days after the date on which the contract
416 is executed. If the contract was entered into based on events
417 that are the subject of a declaration of a state of emergency by
418 the Governor, an insured or claimant may cancel the public
419 adjuster's contract to adjust a claim without penalty or
420 obligation within 30 days after the date of loss or 10 days
421 after the date on which the contract is executed, whichever is
422 longer. The public adjuster's contract must contain the
423 following language in minimum 18-point bold type immediately
424 before the space reserved in the contract for the signature of
425 the insured or claimant: "You, the insured, may cancel this
426 contract for any reason without penalty or obligation to you
427 within 10 days after the date of this contract. If this contract
428 was entered into based on events that are the subject of a
429 declaration of a state of emergency by the Governor, you may
430 cancel this contract for any reason without penalty or
431 obligation to you within 30 days after the date of loss or 10
432 days after the date on which the contract is executed, whichever

923275 - h1185-strike.docx

Published On: 4/15/2023 4:21:46 PM

Amendment No. 1

433 is longer. You may also cancel the contract without penalty or
434 obligation to you if I, as your public adjuster, fail to provide
435 you and your insurer a copy of a written estimate within 60 days
436 of the execution of the contract, unless the failure to provide
437 the estimate within 60 days is caused by factors beyond my
438 control, in accordance with s. 626.854(14)(b), Florida Statutes.
439 The 60-day cancellation period for failure to provide a written
440 estimate shall cease on the date I have provided you with the
441 written estimate.” The ~~by providing~~ notice of cancellation shall
442 be provided to ... (name of public adjuster) ..., submitted in
443 writing and sent by certified mail, return receipt requested, or
444 other form of mailing that provides proof thereof, at the
445 address specified in the contract.

446 ~~(8)-(7)~~ It is an unfair and deceptive insurance trade
447 practice pursuant to s. 626.9541 for a public adjuster or any
448 other person to circulate or disseminate any advertisement,
449 announcement, or statement containing any assertion,
450 representation, or statement with respect to the business of
451 insurance which is untrue, deceptive, or misleading.

452 (a) The following statements, made in any public adjuster's
453 advertisement or solicitation, are considered deceptive or
454 misleading:

455 1. A statement or representation that invites an insured
456 policyholder to submit a claim when the policyholder does not
457 have covered damage to insured property.

458 2. A statement or representation that invites an insured

Amendment No. 1

459 policyholder to submit a claim by offering monetary or other
460 valuable inducement.

461 3. A statement or representation that invites an insured
462 policyholder to submit a claim by stating that there is "no
463 risk" to the policyholder by submitting such claim.

464 4. A statement or representation, or use of a logo or
465 shield, that implies or could mistakenly be construed to imply
466 that the solicitation was issued or distributed by a
467 governmental agency or is sanctioned or endorsed by a
468 governmental agency.

469 (b) For purposes of this paragraph, the term "written
470 advertisement" includes only newspapers, magazines, flyers, and
471 bulk mailers. The following disclaimer, which is not required to
472 be printed on standard size business cards, must be added in
473 bold print and capital letters in typeface no smaller than the
474 typeface of the body of the text to all written advertisements
475 by a public adjuster:

476
477 "THIS IS A SOLICITATION FOR BUSINESS. IF YOU HAVE HAD
478 A CLAIM FOR AN INSURED PROPERTY LOSS OR DAMAGE AND YOU
479 ARE SATISFIED WITH THE PAYMENT BY YOUR INSURER, YOU
480 MAY DISREGARD THIS ADVERTISEMENT."

481
482 (9)~~(8)~~ A public adjuster, a public adjuster apprentice, or
483 any person or entity acting on behalf of a public adjuster or
484 public adjuster apprentice may not give or offer to give a

Amendment No. 1

485 monetary loan or advance to a client or prospective client.

486 ~~(10)~~⁽⁹⁾ A public adjuster, public adjuster apprentice, or
487 any individual or entity acting on behalf of a public adjuster
488 or public adjuster apprentice may not give or offer to give,
489 directly or indirectly, any article of merchandise having a
490 value in excess of \$25 to any individual for the purpose of
491 advertising or as an inducement to entering into a contract with
492 a public adjuster.

493 ~~(10)~~⁽¹¹⁾ (a) If a public adjuster enters into a contract
494 with an insured or claimant to reopen a claim or file a
495 supplemental claim that seeks additional payments for a claim
496 that has been previously paid in part or in full or settled by
497 the insurer, the public adjuster may not charge, agree to, or
498 accept from any source compensation, payment, commission, fee,
499 or any other thing of value based on a previous settlement or
500 previous claim payments by the insurer for the same cause of
501 loss. The charge, compensation, payment, commission, fee, or any
502 other thing of value must be based only on the claim payments or
503 settlements paid to the insured, exclusive of attorney fees and
504 costs, obtained through the work of the public adjuster after
505 entering into the contract with the insured or claimant.
506 Compensation for the reopened or supplemental claim may not
507 exceed 20 percent of the reopened or supplemental claim payment.
508 In no event shall the contracts described in this paragraph
509 exceed the limitations in paragraph (b).

510 (b) A public adjuster may not charge, agree to, or accept

Amendment No. 1

511 from any source compensation, payment, commission, fee, or any
512 other thing of value in excess of:

513 1. Ten percent of the amount of insurance claim payments or
514 settlements, exclusive of attorney fees and costs, paid to the
515 insured by the insurer for claims based on events that are the
516 subject of a declaration of a state of emergency by the
517 Governor. This provision applies to claims made during the year
518 after the declaration of emergency. After that year, the
519 limitations in subparagraph 2. apply.

520 2. Twenty percent of the amount of insurance claim payments
521 or settlements, exclusive of attorney fees and costs, paid to
522 the insured by the insurer for claims that are not based on
523 events that are the subject of a declaration of a state of
524 emergency by the Governor.

525 3. One percent of the amount of insurance claim payments or
526 settlements, paid to the insured by the insurer for any coverage
527 part of the policy where the claim payment or written agreement
528 by the insurer to pay is equal to or greater than the policy
529 limit for that part of the policy, if the payment or written
530 commitment to pay is provided within 14 days after the date of
531 loss or within 10 days after the date on which the public
532 adjusting contract is executed, whichever is later.

533 4. Zero percent of the amount of insurance claim payments
534 or settlements, paid to the insured by the insurer for any
535 coverage part of the policy where the claim payment or written
536 agreement by the insurer to pay occurs before the date on which

923275 - h1185-strike.docx

Published On: 4/15/2023 4:21:46 PM

Amendment No. 1

537 the public adjusting contract is executed.

538 (c) Insurance claim payments made by the insurer do not
539 include policy deductibles, and public adjuster compensation may
540 not be based on the deductible portion of a claim.

541 (d) Public adjuster compensation may not be based on
542 amounts attributable to additional living expenses, unless such
543 compensation is affirmatively agreed to in a separate agreement
544 that includes a disclosure in substantially the following form:
545 "I agree to retain and compensate the public adjuster for
546 adjusting my additional living expenses and securing payment
547 from my insurer for amounts attributable to additional living
548 expenses payable under the policy issued on my (home/mobile
549 home/condominium unit)."

550 (e) Public adjuster rate of compensation may not be
551 increased based solely on the fact that the claim is litigated.

552 (f) Any maneuver, shift, or device through which the limits
553 on compensation set forth in this subsection are exceeded is a
554 violation of this chapter punishable as provided under s.
555 626.8698.

556 (12) (a) ~~(11)~~ Each public adjuster must provide to the
557 claimant or insured a written estimate of the loss to assist in
558 the submission of a proof of loss or any other claim for payment
559 of insurance proceeds within 60 days after the date of the
560 contract. The written estimate must include an itemized, per-
561 unit estimate of the repairs, including itemized information on
562 equipment, materials, labor, and supplies, in accordance with

923275 - h1185-strike.docx

Published On: 4/15/2023 4:21:46 PM

Amendment No. 1

563 accepted industry standards. The public adjuster shall retain
564 such written estimate for at least 5 years and shall make the
565 estimate available to the claimant or insured, the insurer, and
566 the department upon request.

567 (b) An insured may cancel the contract with no additional
568 penalties or fees charged by the public adjuster if such an
569 estimate is not provided within 60 days after executing the
570 contract, subject to the cancellation notice requirement in this
571 section, unless the failure to provide the estimate within 60
572 days is caused by factors beyond the control of the public
573 adjuster. The cancellation period shall cease on the date the
574 public adjuster provides the written estimate to the insured.

575 (13)-(12) A public adjuster, public adjuster apprentice, or
576 any person acting on behalf of a public adjuster or apprentice
577 may not accept referrals of business from any person with whom
578 the public adjuster conducts business if there is any form or
579 manner of agreement to compensate the person, directly or
580 indirectly, for referring business to the public adjuster. A
581 public adjuster may not compensate any person, except for
582 another public adjuster, directly or indirectly, for the
583 principal purpose of referring business to the public adjuster.

584 (14)-(13) A company employee adjuster, independent adjuster,
585 attorney, investigator, or other persons acting on behalf of an
586 insurer that needs access to an insured or claimant or to the
587 insured property that is the subject of a claim must provide at
588 least 48 hours' notice to the insured or claimant, public

923275 - h1185-strike.docx

Published On: 4/15/2023 4:21:46 PM

Amendment No. 1

589 adjuster, or legal representative before scheduling a meeting
590 with the claimant or an onsite inspection of the insured
591 property. The insured or claimant may deny access to the
592 property if the notice has not been provided. The insured or
593 claimant may waive the 48-hour notice.

594 (15)~~(14)~~ The public adjuster must ensure that prompt notice
595 is given of the claim to the insurer, the public adjuster's
596 contract is provided to the insurer, the property is available
597 for inspection of the loss or damage by the insurer, and the
598 insurer is given an opportunity to interview the insured
599 directly about the loss and claim. The insurer must be allowed
600 to obtain necessary information to investigate and respond to
601 the claim.

602 (a) The insurer may not exclude the public adjuster from
603 its in-person meetings with the insured. The insurer shall meet
604 or communicate with the public adjuster in an effort to reach
605 agreement as to the scope of the covered loss under the
606 insurance policy. The public adjuster shall meet or communicate
607 with the insurer in an effort to reach agreement as to the scope
608 of the covered loss under the insurance policy. This section
609 does not impair the terms and conditions of the insurance policy
610 in effect at the time the claim is filed.

611 (b) A public adjuster may not restrict or prevent an
612 insurer, company employee adjuster, independent adjuster,
613 attorney, investigator, or other person acting on behalf of the
614 insurer from having reasonable access at reasonable times to any

Amendment No. 1

615 insured or claimant or to the insured property that is the
616 subject of a claim.

617 (c) A public adjuster may not act or fail to reasonably act
618 in any manner that obstructs or prevents an insurer or insurer's
619 adjuster from timely conducting an inspection of any part of the
620 insured property for which there is a claim for loss or damage.
621 The public adjuster representing the insureds may be present for
622 the insurer's inspection, but if the unavailability of the
623 public adjuster otherwise delays the insurer's timely inspection
624 of the property, the public adjuster or the insureds must allow
625 the insurer to have access to the property without the
626 participation or presence of the public adjuster or insureds in
627 order to facilitate the insurer's prompt inspection of the loss
628 or damage.

629 ~~(16)~~~~(15)~~ A licensed contractor under part I of chapter 489,
630 or a subcontractor of such licensee, may not advertise, solicit,
631 offer to handle, handle, or perform public adjuster services as
632 provided in subsection (1) unless licensed and compliant as a
633 public adjuster under this chapter. The prohibition against
634 solicitation does not preclude a contractor from suggesting or
635 otherwise recommending to a consumer that the consumer consider
636 contacting his or her insurer to determine if the proposed
637 repair is covered under the consumer's insurance policy, except
638 as it relates to solicitation prohibited in s. 489.147. In
639 addition, the contractor may discuss or explain a bid for
640 construction or repair of covered property with the residential

Amendment No. 1

641 property owner who has suffered loss or damage covered by a
642 property insurance policy, or the insurer of such property, if
643 the contractor is doing so for the usual and customary fees
644 applicable to the work to be performed as stated in the contract
645 between the contractor and the insured.

646 ~~(17)-(16)~~ A public adjuster shall not acquire any interest
647 in salvaged property, except with the written consent and
648 permission of the insured through a signed affidavit.

649 ~~(18)-(17)~~ A public adjuster, a public adjuster apprentice,
650 or a person acting on behalf of an adjuster or apprentice may
651 not enter into a contract or accept a power of attorney that
652 vests in the public adjuster, the public adjuster apprentice, or
653 the person acting on behalf of the adjuster or apprentice the
654 effective authority to choose the persons or entities that will
655 perform repair work in a property insurance claim or provide
656 goods or services that will require the insured or third-party
657 claimant to expend funds in excess of those payable to the
658 public adjuster under the terms of the contract for adjusting
659 services.

660 ~~(19)-(18)~~ Subsections ~~(5)-(18)~~ ~~(5)-(17)~~ apply only to
661 residential property insurance policies and condominium unit
662 owner policies as described in s. 718.111(11).

663 ~~(20)-(19)~~ Except as otherwise provided in this chapter, no
664 person, except an attorney at law or a licensed public adjuster,
665 may for money, commission, or any other thing of value, directly
666 or indirectly:

923275 - h1185-strike.docx

Published On: 4/15/2023 4:21:46 PM

Amendment No. 1

667 (a) Prepare, complete, or file an insurance claim for an
668 insured or a third-party claimant;

669 (b) Act on behalf of or aid an insured or a third-party
670 claimant in negotiating for or effecting the settlement of a
671 claim for loss or damage covered by an insurance contract;

672 (c) Offer to initiate or negotiate a claim on behalf of an
673 insured;

674 (d) Advertise services that require a license as a public
675 adjuster; or

676 (e) Solicit, investigate, or adjust a claim on behalf of a
677 public adjuster, an insured, or a third-party claimant.

678 (21)~~(20)~~ The department may take administrative actions and
679 impose fines against any persons performing claims adjusting,
680 soliciting, or any other services described in this section
681 without the licensure required under this section or s. 626.112.

682 (22)~~(21)~~ A public adjuster, public adjuster apprentice, or
683 public adjusting firm that solicits a claim and does not enter
684 into a contract with an insured or a third-party claimant
685 pursuant to paragraph (11)(a) ~~(10)(a)~~ may not charge an insured
686 or a third-party claimant or receive payment by any other source
687 for any type of service related to the insured or third-party
688 claimant's claim.

689 (23)(a)~~(22)(a)~~ Any following act by a public adjuster, a
690 public adjuster apprentice, or a person acting on behalf of a
691 public adjuster or public adjuster apprentice is prohibited and
692 shall result in discipline as applicable under this part:

Amendment No. 1

693 1. Offering to a residential property owner a rebate, gift,
694 gift card, cash, coupon, waiver of any insurance deductible, or
695 any other thing of value in exchange for:

696 a. Allowing a contractor, a public adjuster, a public
697 adjuster apprentice, or a person acting on behalf of a public
698 adjuster or public adjuster apprentice to conduct an inspection
699 of the residential property owner's roof; or

700 b. Making an insurance claim for damage to the residential
701 property owner's roof.

702 2. Offering, delivering, receiving, or accepting any
703 compensation, inducement, or reward for the referral of any
704 services for which property insurance proceeds would be used for
705 roofing repairs or replacement.

706 (b) Notwithstanding the fine set forth in s. 626.8698, a
707 public adjuster or public adjuster apprentice may be subject to
708 a fine not to exceed \$10,000 per act for a violation of this
709 subsection and a fine not to exceed \$20,000 per act for a
710 violation of this subsection that occurs during a state of
711 emergency declared by executive order or proclamation of the
712 Governor pursuant to s. 252.36.

713 (c) A person who engages in an act prohibited by this
714 subsection and who is not a public adjuster or a public adjuster
715 apprentice, or is not otherwise exempt from licensure, is guilty
716 of the unlicensed practice of public adjusting and may be:

717 1. Subject to all applicable penalties set forth in this
718 part.

Amendment No. 1

719 2. Notwithstanding subparagraph 1., subject to a fine not
720 to exceed \$10,000 per act for a violation of this subsection and
721 a fine not to exceed \$20,000 per act for a violation of this
722 subsection that occurs during a state of emergency declared by
723 executive order or proclamation of the Governor pursuant to s.
724 252.36.

725 Section 9. Section 626.860, Florida Statutes, is amended to
726 read:

727 626.860 Attorneys at law; exemption.—Attorneys at law duly
728 licensed to practice law in the courts of this state, and in
729 good standing with The Florida Bar, shall not be required to be
730 licensed under ~~the provisions of~~ this code to authorize them to
731 adjust or participate in the adjustment of any claim, loss, or
732 damage arising under policies or contracts of insurance. This
733 exemption does not extend to the employees, interns, volunteers,
734 or contractors of an attorney or of a law firm.

735 Section 10. Section 626.875, Florida Statutes, is amended
736 to read:

737 626.875 Office and records.—

738 (1) (a) Each appointed independent adjuster and licensed
739 public adjuster must maintain a place of business in this state
740 which is accessible to the public and keep therein the usual and
741 customary records pertaining to transactions under the license.
742 This provision does not prohibit maintenance of such an office
743 in the home of the licensee.

744 (b) A license issued under this chapter must at all times

Amendment No. 1

745 be posted in a conspicuous place in the principal place of
746 business of the license holder. If the licensee is conducting
747 business away from the place of business such that the license
748 cannot be posted, the licensee shall have such license in his or
749 her actual possession at the time of carrying on such business.

750 (2) The records of the adjuster relating to a particular
751 claim or loss shall be so retained in the adjuster's place of
752 business for a period of not less than 5 years after completion
753 of the adjustment and shall be available for inspection by the
754 department between the hours of 8 a.m. and 5 p.m., Monday
755 through Friday, excluding state holidays. This provision shall
756 not be deemed to prohibit return or delivery to the insurer or
757 insured of documents furnished to or prepared by the adjuster
758 and required by the insurer or insured to be returned or
759 delivered thereto. At a minimum, the following records must be
760 maintained for a period of not less than 5 years:

761 (a) Name, address, telephone number, and e-mail address of
762 the insured, and the name of the attorney representing the
763 insured, if applicable.

764 (b) The date, location, and amount of the loss.

765 (c) An unaltered copy of the executed disclosure document
766 required by s. 626.8796.

767 (d) An unaltered copy of the executed public adjuster
768 contract required by s. 626.8796.

769 (e) A copy of the estimate of damages provided to the
770 insurer.

923275 - h1185-strike.docx

Published On: 4/15/2023 4:21:46 PM

Amendment No. 1

771 (f) The name of the insurer; the name of the claims
772 representative of the insurer; and the amount, expiration date,
773 and number of each policy under which the loss is covered.

774 (g) An itemized statement of the recoveries by the insured
775 from the sources known to the adjuster.

776 (h) An itemized statement of all compensation received by
777 the public adjuster from any source in connection with the loss.

778 (i) A register of all money received, deposited, disbursed,
779 and withdrawn in connection with a transaction with the insured,
780 including fees, transfers, and disbursements in connection with
781 the loss.

782 Section 11. Section 626.8796, Florida Statutes, is amended
783 to read:

784 626.8796 Public adjuster contracts; disclosure statement;
785 fraud statement.—

786 (1) All contracts for public adjuster services must be in
787 writing in at least 12-point type, be titled "Public Adjuster
788 Contract," and prominently display the following statement on
789 the contract in minimum 18-point bold type before the space
790 reserved in the contract for the signature of the insured:

791 "Pursuant to s. 817.234, Florida Statutes, any person who, with
792 the intent to injure, defraud, or deceive an insurer or insured,
793 prepares, presents, or causes to be presented a proof of loss or
794 estimate of cost or repair of damaged property in support of a
795 claim under an insurance policy knowing that the proof of loss
796 or estimate of claim or repairs contains false, incomplete, or

Amendment No. 1

797 misleading information concerning any fact or thing material to
798 the claim commits a felony of the third degree, punishable as
799 provided in s. 775.082, s. 775.083, or s. 775.084, Florida
800 Statutes.”

801 (2) A public adjuster contract relating to a property and
802 casualty claim must contain the full name, permanent business
803 address, phone number, e-mail address, and license number of the
804 public adjuster; the full name of the public adjusting firm; and
805 the insured’s full name, ~~and~~ street address, phone number, and
806 e-mail address, together with a brief description of the loss.
807 The contract must state the percentage of compensation for the
808 public adjuster’s services in minimum 18-point bold type before
809 the space reserved in the contract for the signature of the
810 insured; the type of claim, including an emergency claim,
811 nonemergency claim, or supplemental claim; the initials of the
812 named insured on each page that does not contain the insured’s
813 signature; the signatures of the public adjuster and all named
814 insureds; and the signature date. If all of the named insureds’
815 signatures are not available, the public adjuster must submit an
816 affidavit signed by the available named insureds attesting that
817 they have authority to enter into the contract and settle all
818 claim issues on behalf of the named insureds. An unaltered copy
819 of the executed contract must be remitted to the insured at the
820 time of execution and to the insurer, or the insurer’s
821 representative within 7 ~~30~~ days after execution. A public
822 adjusting firm that adjusts claims primarily for commercial

923275 - h1185-strike.docx

Published On: 4/15/2023 4:21:46 PM

Amendment No. 1

823 entities with operations in more than one state and that does
824 not directly or indirectly perform adjusting services for
825 insurers or individual homeowners is deemed to comply with the
826 requirements of this subsection if, at the time a proof of loss
827 is submitted, the public adjusting firm remits to the insurer an
828 affidavit signed by the public adjuster or public adjuster
829 apprentice that identifies:

830 (a) The full name, permanent business address, phone
831 number, e-mail address, and license number of the public
832 adjuster or public adjuster apprentice.

833 (b) The full name of the public adjusting firm.

834 (c) The insured's full name, ~~and~~ street address, phone
835 number, and e-mail address, together with a brief description of
836 the loss.

837 (d) An attestation that the compensation for public
838 adjusting services will not exceed the limitations provided by
839 law.

840 (e) The type of claim, including an emergency claim,
841 nonemergency claim, or supplemental claim.

842 (3) The public adjuster shall not receive compensation for
843 services provided prior to the date the insured receives an
844 unaltered copy of the executed contract or the date executed
845 contract is submitted to the insurer. Proof of receipt by the
846 insured and proof of submission to the insurer must be
847 maintained by the public adjuster for not less than five years.

848 (4) The insured may rescind the contract for public

Amendment No. 1

849 adjuster services if the public adjuster has not submitted a
850 written estimate to the insurer within 60 days after executing
851 the contract, unless the failure to provide the written estimate
852 within 60 days is caused by factors beyond the public adjuster's
853 control.

854 (5) The cancellation period for failure to provide a
855 written estimate terminates on the date the estimate is
856 provided.

857 (6) Before the signing of the contract, the public adjuster
858 shall provide the insured with a separate disclosure document to
859 be signed by the insured, on a form adopted by the department,
860 regarding the claim process which accomplishes the following:

861 (a) Defines the following types of adjusters who may be
862 involved in the claim process: company adjuster, independent
863 adjuster, and public adjuster.

864 (b) Explains that the public adjuster is not a
865 representative or employee of the insurer.

866 (c) Explains that the insured is not required to hire a
867 public adjuster, but has a right to do so.

868 (d) Explains that an insured has a right to initiate direct
869 communications with the insured's attorney, the insurer, the
870 company adjuster, the insurer's attorney, or any person
871 regarding the settlement of the insured's claim.

872 (e) Explains that the public adjuster's salary, fee,
873 commission, or other consideration to be paid to a public
874 adjuster is the insured's responsibility.

923275 - h1185-strike.docx

Published On: 4/15/2023 4:21:46 PM

Amendment No. 1

875 (f) Explains that the public adjuster is required to
876 provide the insured an unaltered copy of the executed contract
877 at the time of execution.

878 (g) Explains that if the contract was entered into based on
879 events that are the subject of a declaration of a state of
880 emergency by the Governor, an insured or a claimant may cancel
881 the public adjuster's contract to adjust a claim without penalty
882 or obligation within 30 days after the date of loss or 10 days
883 after the date on which the contract is executed, whichever is
884 longer.

885 (h) The public adjuster shall provide an unaltered copy of
886 the executed disclosure document to the insured at the time of
887 execution.

888 (7) A contract that does not comply with this section is
889 invalid and unenforceable.

890 (8) The department may adopt rules pursuant to ss.
891 120.536(1) and 120.54 to implement this section, including rules
892 to adopt forms required by this section.

893 Section 12. Section 626.8797, Florida Statutes, is amended
894 to read:

895 626.8797 Proof of loss; fraud statement.—All proof-of-loss
896 statements must prominently display the following statement in
897 minimum 18-point bold type before the space reserved in the
898 contract for the signature of the insured: "Pursuant to s.
899 817.234, Florida Statutes, any person who, with the intent to
900 injure, defraud, or deceive any insurer or insured, prepares,

923275 - h1185-strike.docx

Published On: 4/15/2023 4:21:46 PM

Amendment No. 1

901 presents, or causes to be presented a proof of loss or estimate
902 of cost or repair of damaged property in support of a claim
903 under an insurance policy knowing that the proof of loss or
904 estimate of claim or repairs contains any false, incomplete, or
905 misleading information concerning any fact or thing material to
906 the claim commits a felony of the third degree, punishable as
907 provided in s. 775.082, s. 775.083, or s. 775.084, Florida
908 Statutes."

909 Section 13. Paragraph (a) of subsection (1) of section
910 626.9541, Florida Statutes, is amended to read:

911 626.9541 Unfair methods of competition and unfair or
912 deceptive acts or practices defined.—

913 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
914 ACTS.—The following are defined as unfair methods of competition
915 and unfair or deceptive acts or practices:

916 (a) *Misrepresentations and false advertising of insurance*
917 *policies.*—Knowingly making, issuing, circulating, or causing to
918 be made, issued, or circulated, any estimate, illustration,
919 circular, statement, sales presentation, omission, comparison,
920 or property and casualty certificate of insurance altered after
921 being issued, which:

922 1. Misrepresents the benefits, advantages, conditions, or
923 terms of any insurance policy.

924 2. Misrepresents the dividends or share of the surplus to
925 be received on any insurance policy.

926 3. Makes any false or misleading statements as to the

923275 - h1185-strike.docx

Published On: 4/15/2023 4:21:46 PM

Amendment No. 1

927 dividends or share of surplus previously paid on any insurance
928 policy.

929 4. Is misleading, or is a misrepresentation, as to the
930 financial condition of any person or as to the legal reserve
931 system upon which any life insurer operates.

932 5. Uses any name or title of any insurance policy or class
933 of insurance policies misrepresenting the true nature thereof.

934 6. Is a misrepresentation for the purpose of inducing, or
935 tending to induce, the lapse, forfeiture, exchange, conversion,
936 or surrender of any insurance policy.

937 7. Is a misrepresentation for the purpose of effecting a
938 pledge or assignment of, or effecting a loan against, any
939 insurance policy.

940 8. Misrepresents any insurance policy as being shares of
941 stock or misrepresents ownership interest in the company.

942 9. Uses any advertisement that would mislead or otherwise
943 cause a reasonable person to believe mistakenly that the state
944 or the Federal Government is responsible for the insurance sales
945 activities of any person or stands behind any person's credit or
946 that any person, the state, or the Federal Government guarantees
947 any returns on insurance products or is a source of payment of
948 any insurance obligation of or sold by any person.

949 10. Fails to disclose a third party that receives
950 royalties, referral fees, or other remuneration for sponsorship,
951 marketing, or use of third-party branding for a policy of health
952 insurance as defined in s. 624.603.

923275 - h1185-strike.docx

Published On: 4/15/2023 4:21:46 PM

Amendment No. 1

953 Section 14. Paragraph (c) of subsection (2) of section
954 627.4025, Florida Statutes, is amended, and paragraph (d) is
955 added to that subsection, to read:

956 627.4025 Residential coverage and hurricane coverage
957 defined.—

958 (2) As used in policies providing residential coverage:

959 (c) "Hurricane" for purposes of paragraphs (a) and (b)
960 means a storm system that has been declared to be a hurricane by
961 the National Hurricane Center of the National Weather Service.
962 The duration of the hurricane includes the time period, in
963 Florida:

964 1. Beginning at the time a ~~hurricane watch or~~ hurricane
965 warning is issued for any part of Florida by the National
966 Hurricane Center of the National Weather Service; and

967 ~~2. Continuing for the time period during which the~~
968 ~~hurricane conditions exist anywhere in Florida; and~~

969 ~~3.~~ Ending 72 hours following the termination of the last
970 hurricane watch or hurricane warning issued for any part of
971 Florida by the National Hurricane Center of the National Weather
972 Service.

973 (d) "Hurricane deductible" means the deductible applicable
974 to loss caused by a hurricane.

975 Section 15. Paragraph (b) of subsection (1) and paragraph
976 (b) of subsection (2) of section 627.4133, Florida Statutes, are
977 amended to read:

978 627.4133 Notice of cancellation, nonrenewal, or renewal

Amendment No. 1

979 premium.—

980 (1) Except as provided in subsection (2):

981 (b) An insurer issuing a policy providing coverage for
982 property, casualty, except mortgage guaranty, surety, or marine
983 insurance, other than motor vehicle insurance subject to s.
984 627.728 or s. 627.7281, shall give the first-named insured
985 written notice of cancellation or termination other than
986 nonrenewal at least 45 days prior to the effective date of the
987 cancellation or termination, including in the written notice the
988 reason or reasons for the cancellation or termination, except
989 that:

990 1. When cancellation is for nonpayment of premium, at least
991 10 days' written notice of cancellation accompanied by the
992 reason therefor shall be given. As used in this subparagraph and
993 s. 440.42(3), the term "nonpayment of premium" means failure of
994 the named insured to discharge when due any of her or his
995 obligations in connection with the payment of premiums on a
996 policy or any installment of such premium, whether the premium
997 is payable directly to the insurer or its agent or indirectly
998 under any premium finance plan or extension of credit, or
999 failure to maintain membership in an organization if such
1000 membership is a condition precedent to insurance coverage.
1001 "Nonpayment of premium" also means the failure of a financial
1002 institution to honor an insurance applicant's check after
1003 delivery to a licensed agent for payment of a premium, even if
1004 the agent has previously delivered or transferred the premium to

923275 - h1185-strike.docx

Published On: 4/15/2023 4:21:46 PM

Amendment No. 1

1005 the insurer. If a dishonored check represents the initial
1006 premium payment, the contract and all contractual obligations
1007 shall be void ab initio unless the nonpayment is cured within
1008 the earlier of 5 days after actual notice by certified mail is
1009 received by the applicant or 15 days after notice is sent to the
1010 applicant by certified mail or registered mail, and if the
1011 contract is void, any premium received by the insurer from a
1012 third party shall be refunded to that party in full; and

1013 2. When such cancellation or termination occurs during the
1014 first 60 ~~90~~ days during which the insurance is in force and the
1015 insurance is canceled or terminated for reasons other than
1016 nonpayment of premium, at least 20 days' written notice of
1017 cancellation or termination accompanied by the reason therefor
1018 shall be given except where there has been a material
1019 misstatement or misrepresentation or failure to comply with the
1020 underwriting requirements established by the insurer.

1021
1022 After the policy has been in effect for 60 ~~90~~ days, no such
1023 policy shall be canceled by the insurer except when there has
1024 been a material misstatement, a nonpayment of premium, a failure
1025 to comply with underwriting requirements established by the
1026 insurer within 60 ~~90~~ days of the date of effectuation of
1027 coverage, or a substantial change in the risk covered by the
1028 policy or when the cancellation is for all insureds under such
1029 policies for a given class of insureds. This subsection does not
1030 apply to individually rated risks having a policy term of less

923275 - h1185-strike.docx

Published On: 4/15/2023 4:21:46 PM

Amendment No. 1

1031 than 90 days.

1032 (d) Notwithstanding subparagraph (b), Citizens Property
1033 Insurance Corporation in underwriting risks that, prior to the
1034 date of the application, were most recently insured by an
1035 insurer that has been placed in receivership under ch. 631, may
1036 immediately cancel a policy insuring such risk that is in effect
1037 for 90 days or less for material misrepresentation or failure to
1038 comply with underwriting requirements established before the
1039 effectuation of coverage.

1040 (2) With respect to any personal lines or commercial
1041 residential property insurance policy, including, but not
1042 limited to, any homeowner, mobile home owner, farmowner,
1043 condominium association, condominium unit owner, apartment
1044 building, or other policy covering a residential structure or
1045 its contents:

1046 (b) The insurer shall give the first-named insured written
1047 notice of nonrenewal, cancellation, or termination at least 120
1048 days before the effective date of the nonrenewal, cancellation,
1049 or termination. The notice must include the reason for the
1050 nonrenewal, cancellation, or termination, except that:

1051 1. If cancellation is for nonpayment of premium, at least
1052 10 days' written notice of cancellation accompanied by the
1053 reason therefor must be given. As used in this subparagraph, the
1054 term "nonpayment of premium" means failure of the named insured
1055 to discharge when due her or his obligations for paying the
1056 premium on a policy or an installment of such premium, whether

Amendment No. 1

1057 the premium is payable directly to the insurer or its agent or
1058 indirectly under a premium finance plan or extension of credit,
1059 or failure to maintain membership in an organization if such
1060 membership is a condition precedent to insurance coverage. The
1061 term also means the failure of a financial institution to honor
1062 an insurance applicant's check after delivery to a licensed
1063 agent for payment of a premium even if the agent has previously
1064 delivered or transferred the premium to the insurer. If a
1065 dishonored check represents the initial premium payment, the
1066 contract and all contractual obligations are void ab initio
1067 unless the nonpayment is cured within the earlier of 5 days
1068 after actual notice by certified mail is received by the
1069 applicant or 15 days after notice is sent to the applicant by
1070 certified mail or registered mail. If the contract is void, any
1071 premium received by the insurer from a third party must be
1072 refunded to that party in full.

1073 2. If cancellation or termination occurs during the first
1074 60 ~~90~~ days the insurance is in force and the insurance is
1075 canceled or terminated for reasons other than nonpayment of
1076 premium, at least 20 days' written notice of cancellation or
1077 termination accompanied by the reason therefor must be given
1078 unless there has been a material misstatement or
1079 misrepresentation or a failure to comply with the underwriting
1080 requirements established by the insurer.

1081 3. After the policy has been in effect for 60 ~~90~~ days, the
1082 policy may not be canceled by the insurer unless there has been

Amendment No. 1

1083 a material misstatement; a nonpayment of premium; a failure to
1084 comply, within 60 ~~90~~ days after the date of effectuation of
1085 coverage, with underwriting requirements established by the
1086 insurer before the date of effectuation of coverage; or a
1087 substantial change in the risk covered by the policy or unless
1088 the cancellation is for all insureds under such policies for a
1089 given class of insureds. This subparagraph does not apply to
1090 individually rated risks that have a policy term of less than 90
1091 days.

1092 4. After a policy or contract has been in effect for more
1093 than 60 ~~90~~ days, the insurer may not cancel or terminate the
1094 policy or contract based on credit information available in
1095 public records.

1096 5. A policy that is nonrenewed by Citizens Property
1097 Insurance Corporation, pursuant to s. 627.351(6), for a policy
1098 that has been assumed by an authorized insurer offering
1099 replacement coverage to the policyholder is exempt from the
1100 notice requirements of paragraph (a) and this paragraph. In such
1101 cases, the corporation must give the named insured written
1102 notice of nonrenewal at least 45 days before the effective date
1103 of the nonrenewal.

1104 6. Notwithstanding any other provision of law, an insurer
1105 may cancel or nonrenew a property insurance policy after at
1106 least 45 days' notice if the office finds that the early
1107 cancellation of some or all of the insurer's policies is
1108 necessary to protect the best interests of the public or

923275 - h1185-strike.docx

Published On: 4/15/2023 4:21:46 PM

Amendment No. 1

1109 policyholders and the office approves the insurer's plan for
1110 early cancellation or nonrenewal of some or all of its policies.
1111 The office may base such finding upon the financial condition of
1112 the insurer, lack of adequate reinsurance coverage for hurricane
1113 risk, or other relevant factors. The office may condition its
1114 finding on the consent of the insurer to be placed under
1115 administrative supervision pursuant to s. 624.81 or to the
1116 appointment of a receiver under chapter 631.

1117 7. A policy covering both a home and a motor vehicle may be
1118 nonrenewed for any reason applicable to the property or motor
1119 vehicle insurance after providing 90 days' notice.

1120 Section 16. Effective January 1, 2024, section 627.4554,
1121 Florida Statutes, is amended to read:

1122 627.4554 Suitability in annuity transactions ~~investments.~~

1123 (1) PURPOSE.—The purpose of this section is to require
1124 agents to act in the best interest of the consumer when making a
1125 recommendation of an annuity and to require insurers to
1126 establish and maintain a system to supervise so set forth
1127 ~~standards and procedures for making recommendations to consumers~~
1128 ~~which result in transactions involving annuity products, and to~~
1129 ~~establish a system for supervising such recommendations in order~~
1130 ~~to ensure that the insurance needs and financial objectives of~~
1131 consumers are effectively ~~appropriately~~ addressed at the time of
1132 the transaction.

1133 (2) SCOPE.—This section applies to any sale or
1134 recommendation of ~~made to a consumer to purchase, exchange, or~~

923275 - h1185-strike.docx

Published On: 4/15/2023 4:21:46 PM

Amendment No. 1

1135 ~~replace an annuity by an insurer or its agent, and which results~~
1136 ~~in the purchase, exchange, or replacement recommended.~~

1137 (3) DEFINITIONS.—As used in this section, the term:

1138 (a) "Agent" means a person or entity required to be
1139 licensed under the laws of this state to sell, solicit, or
1140 negotiate insurance, including annuities. For purposes of this
1141 section, the term includes an insurer when no agent is involved
1142 ~~has the same meaning as provided in s. 626.015.~~

1143 (b) "Annuity" means an insurance product under state law
1144 which is individually solicited, whether classified as an
1145 individual or group annuity.

1146 (c) "Cash compensation" means any discount, concession,
1147 fee, service fee, commission, sales charge, loan, override, or
1148 cash benefit received by an agent from an insurer or
1149 intermediary or directly from the consumer in connection with
1150 the recommendation or sale of an annuity.

1151 (d) "Consumer profile information" means information that
1152 is reasonably appropriate to determine whether a recommendation
1153 addresses the consumer's financial situation, insurance needs,
1154 and financial objectives, including, at a minimum, the
1155 following:

1156 1. Age.

1157 2. Annual income.

1158 3. Financial situation and needs, including debts and other
1159 obligations.

1160 4. Financial experience.

923275 - h1185-strike.docx

Published On: 4/15/2023 4:21:46 PM

Amendment No. 1

- 1161 5. Insurance needs.
- 1162 6. Financial objectives.
- 1163 7. Intended use of the annuity.
- 1164 8. Financial time horizon.
- 1165 9. Existing assets or financial products, including
1166 investment, annuity, and insurance holdings.
- 1167 10. Liquidity needs.
- 1168 11. Liquid net worth.
- 1169 12. Risk tolerance, including, but not limited to,
1170 willingness to accept nonguaranteed elements in the annuity.
- 1171 13. Financial resources used to fund the annuity.
- 1172 14. Tax status.
- 1173 ~~(e)~~ "FINRA" means the Financial Industry Regulatory
1174 Authority or a succeeding agency.
- 1175 ~~(f)~~~~(d)~~ "Insurer" has the same meaning as provided in s.
1176 624.03.
- 1177 (g) "Intermediary" means an entity contracted directly with
1178 an insurer or with another entity contracted with an insurer to
1179 facilitate the sale of the insurer's annuities by agents.
- 1180 (h) "Material conflict of interest" means a financial
1181 interest of the agent in the sale of an annuity which a
1182 reasonable person would expect to influence the impartiality of
1183 a recommendation. The term does not include cash compensation or
1184 noncash compensation.
- 1185 (i) "Noncash compensation" means any form of compensation
1186 that is not cash compensation, including, but not limited to,

923275 - h1185-strike.docx

Published On: 4/15/2023 4:21:46 PM

Amendment No. 1

1187 health insurance, office rent, office support, and retirement
1188 benefits.

1189 (j) "Nonguaranteed elements" means the premiums; credited
1190 interest rates, including any bonus; benefits; values;
1191 dividends; noninterest-based credits; charges; or elements of
1192 formulas used to determine any of these, which are subject to
1193 company discretion and are not guaranteed at issue. An element
1194 is considered nonguaranteed if any of the underlying
1195 nonguaranteed elements are used in its calculation.

1196 (k)~~(e)~~ "Recommendation" means advice provided by an insurer
1197 or its agent to an individual a consumer which was intended to
1198 result or does result which would result in a the purchase, an
1199 exchange, or a replacement of an annuity in accordance with that
1200 advice. The term does not include general communication to the
1201 public, generalized customer services, assistance or
1202 administrative support, general educational information and
1203 tools, prospectuses, or other product and sales material.

1204 (l)~~(f)~~ "Replacement" means a transaction in which a new
1205 annuity policy or contract is to be purchased and it is known or
1206 should be known to the proposing insurer or its agent, or to the
1207 proposing insurer whether or not an agent is involved, that by
1208 reason of such transaction an existing annuity or other
1209 insurance policy has been or is to be any of the following or
1210 contract will be:

1211 1. Lapsed, forfeited, surrendered or partially surrendered,
1212 assigned to the replacing insurer, or otherwise terminated;

923275 - h1185-strike.docx

Published On: 4/15/2023 4:21:46 PM

Amendment No. 1

1213 2. Converted to reduced paid-up insurance, continued as
1214 extended term insurance, or otherwise reduced in value due to
1215 the use of nonforfeiture benefits or other policy values;

1216 3. Amended so as to effect a reduction in benefits or the
1217 term for which coverage would otherwise remain in force or for
1218 which benefits would be paid;

1219 4. Reissued with a reduction in cash value; or

1220 5. Used in a financed purchase.

1221 (m) "SEC" means the United States Securities and Exchange
1222 Commission.

1223 ~~(g) "Suitability information" means information related to~~
1224 ~~the consumer which is reasonably appropriate to determine the~~
1225 ~~suitability of a recommendation made to the consumer, including~~
1226 ~~the following:~~

1227 ~~1. Age;~~

1228 ~~2. Annual income;~~

1229 ~~3. Financial situation and needs, including the financial~~
1230 ~~resources used for funding the annuity;~~

1231 ~~4. Financial experience;~~

1232 ~~5. Financial objectives;~~

1233 ~~6. Intended use of the annuity;~~

1234 ~~7. Financial time horizon;~~

1235 ~~8. Existing assets, including investment and life insurance~~
1236 ~~holdings;~~

1237 ~~9. Liquidity needs;~~

1238 ~~10. Liquid net worth;~~

923275 - h1185-strike.docx

Published On: 4/15/2023 4:21:46 PM

Amendment No. 1

1239 ~~11. Risk tolerance; and~~
1240 ~~12. Tax status.~~
1241 (4) EXEMPTIONS.—Unless otherwise specifically included,
1242 this section does not apply to transactions involving:
1243 (a) Direct-response solicitations where there is no
1244 recommendation based on information collected from the consumer
1245 pursuant to this section;
1246 (b) Contracts used to fund:
1247 1. An employee pension or welfare benefit plan that is
1248 covered by the federal Employee Retirement and Income Security
1249 Act;
1250 2. A plan described by s. 401(a), s. 401(k), s. 403(b), s.
1251 408(k), or s. 408(p) of the Internal Revenue Code, if
1252 established or maintained by an employer;
1253 3. A government or church plan defined in s. 414 of the
1254 Internal Revenue Code, a government or church welfare benefit
1255 plan, or a deferred compensation plan of a state or local
1256 government or tax-exempt organization under s. 457 of the
1257 Internal Revenue Code; or
1258 4. A nonqualified deferred compensation arrangement
1259 established or maintained by an employer or plan sponsor;
1260 (c)5. Settlements or assumptions of liabilities associated
1261 with personal injury litigation or a dispute or claim-resolution
1262 process; or
1263 (d)6. Formal prepaid funeral contracts.
1264 (5) DUTIES OF INSURERS AND AGENTS.—

923275 - h1185-strike.docx

Published On: 4/15/2023 4:21:46 PM

Page 49 of 79

Amendment No. 1

1265 (a) An agent, when making a recommendation of an annuity,
1266 shall act in the best interest of the consumer under the
1267 circumstances known at the time the recommendation is made,
1268 without placing the financial interest of the agent or insurer
1269 ahead of the consumer's interest. An agent has acted in the best
1270 interest of the consumer if the agent has satisfied the
1271 following obligations regarding care, disclosure, conflict of
1272 interest, and documentation:

1273 1.a. The agent, in making a recommendation, shall exercise
1274 reasonable diligence, care, and skill to:

1275 (I) Know the financial situation, insurance needs, and
1276 financial objectives of the customer.

1277 (II) Understand the available options after making a
1278 reasonable inquiry into options available to the agent.

1279 (III) Have a reasonable basis to believe the recommended
1280 option effectively addresses the consumer's financial situation,
1281 insurance needs, and financial objectives over the life of the
1282 product, as evaluated in light of the consumer profile
1283 information.

1284 (IV) Communicate the reason or reasons for the
1285 recommendation.

1286 b. The requirements of sub-subparagraph a. include:

1287 (I) Making reasonable efforts to obtain consumer profile
1288 information from the consumer before the recommendation of an
1289 annuity.

1290 (II) Requiring an agent to consider the types of products

Amendment No. 1

1291 the agent is authorized and licensed to recommend or sell which
1292 address the consumer's financial situation, insurance needs, and
1293 financial objectives. This does not require analysis or
1294 consideration of any products outside the authority and license
1295 of the agent or other possible alternative products or
1296 strategies available in the market at the time of the
1297 recommendation. Agents shall be held to standards applicable to
1298 agents with similar authority and licensure.

1299 (III) Having a reasonable basis to believe the consumer
1300 would benefit from certain features of the annuity, such as
1301 annuitization, death or living benefit, or other insurance-
1302 related features.

1303 c. The requirements of this subsection do not create a
1304 fiduciary obligation or relationship and only create a
1305 regulatory obligation as provided in this section.

1306 d. The consumer profile information, characteristics of the
1307 insurer, and product costs, rates, benefits, and features are
1308 those factors generally relevant in making a determination
1309 whether an annuity effectively addresses the consumer's
1310 financial situation, insurance needs, and financial objectives,
1311 but the level of importance of each factor under the care
1312 obligation of this paragraph may vary depending on the facts and
1313 circumstances of a particular case. However, each factor may not
1314 be considered in isolation.

1315 e. The requirements under sub-subparagraph a. apply to the
1316 particular annuity as a whole and the underlying subaccounts to

923275 - h1185-strike.docx

Published On: 4/15/2023 4:21:46 PM

Amendment No. 1

1317 which funds are allocated at the time of purchase or exchange of
1318 an annuity, and riders and similar product enhancements, if any.

1319 f. Sub-subparagraph a. does not require that the annuity
1320 with the lowest one-time occurrence compensation structure or
1321 multiple occurrence compensation structure shall necessarily be
1322 recommended.

1323 g. Sub-subparagraph a. does not require the agent to have
1324 ongoing monitoring obligations under the care obligation,
1325 although such an obligation may be separately owed under the
1326 terms of a fiduciary, consulting, investment, advising, or
1327 financial planning agreement between the consumer and the agent.

1328 h. In the case of an exchange or replacement of an annuity,
1329 the agent shall consider the whole transaction, which includes
1330 taking into consideration whether:

1331 (I) The consumer will incur a surrender charge; be subject
1332 to the commencement of a new surrender period; lose existing
1333 benefits, such as death, living, or other contractual benefits;
1334 or be subject to increased fees, investment advisory fees, or
1335 charges for riders and similar product enhancements.

1336 (II) The replacing product would substantially benefit the
1337 consumer in comparison to the replaced product over the life of
1338 the product.

1339 (III) The consumer has had another annuity exchange or
1340 replacement and, in particular, an exchange or replacement
1341 within the preceding 60 months.

1342 i. This section does not require an agent to obtain any

Amendment No. 1

1343 license other than an agent license with the appropriate line of
1344 authority to sell, solicit, or negotiate insurance in this
1345 state, including, but not limited to, any securities license, in
1346 order to fulfill the duties and obligations contained in this
1347 section; provided, the agent does not give advice or provide
1348 services that are otherwise subject to securities laws or engage
1349 in any other activity requiring other professional licenses.

1350 2.a. Before the recommendation or sale of an annuity, the
1351 agent shall prominently disclose to the consumer, on a form
1352 substantially similar to that posted on the office website as
1353 Appendix A, related to an insurance agent disclosure for
1354 annuities:

1355 (I) A description of the scope and terms of the
1356 relationship with the consumer and the role of the agent in the
1357 transaction.

1358 (II) An affirmative statement on whether the agent is
1359 licensed and authorized to sell the following products:

1360 (A) Fixed annuities.

1361 (B) Fixed indexed annuities.

1362 (C) Variable annuities.

1363 (D) Life insurance.

1364 (E) Mutual funds.

1365 (F) Stocks and bonds.

1366 (G) Certificates of deposit.

1367 (III) An affirmative statement describing the insurers for
1368 which the agent is authorized, contracted, or appointed, or

Amendment No. 1

1369 otherwise able to sell insurance products, using the following
1370 descriptions:

1371 (A) From one insurer;

1372 (B) From two or more insurers; or

1373 (C) From two or more insurers, although primarily
1374 contracted with one insurer.

1375 (IV) A description of the sources and types of cash
1376 compensation and noncash compensation to be received by the
1377 agent, including whether the agent is to be compensated for the
1378 sale of a recommended annuity by commission as part of premium
1379 or other remuneration received from the insurer, intermediary,
1380 or other agent, or by fee as a result of a contract for advice
1381 or consulting services.

1382 (V) A notice of the consumer's right to request additional
1383 information regarding cash compensation described in sub-
1384 paragraph b.

1385 b. Upon request of the consumer or the consumer's
1386 designated representative, the agent shall disclose:

1387 (I) A reasonable estimate of the amount of cash
1388 compensation to be received by the agent, which may be stated as
1389 a range of amounts or percentages.

1390 (II) Whether the cash compensation is a one-time or
1391 multiple occurrence amount; and if a multiple occurrence amount,
1392 the frequency and amount of the occurrence, which may be stated
1393 as a range of amounts or percentages. ~~When recommending the~~
1394 ~~purchase or exchange of an annuity to a consumer which results~~

923275 - h1185-strike.docx

Published On: 4/15/2023 4:21:46 PM

Amendment No. 1

1395 ~~in an insurance transaction or series of insurance transactions,~~
1396 ~~the agent, or the insurer where no agent is involved, must have~~
1397 ~~reasonable grounds for believing that the recommendation is~~
1398 ~~suitable for the consumer, based on the consumer's suitability~~
1399 ~~information, and that there is a reasonable basis to believe all~~
1400 ~~of the following:~~

1401 c.1. Before or at the time of the recommendation or sale of
1402 an annuity, the agent shall have a reasonable basis to believe
1403 the consumer has been reasonably informed of various features of
1404 the annuity, such as the potential surrender period and
1405 surrender charge; potential tax penalty if the consumer sells,
1406 exchanges, surrenders, or annuitizes the annuity; mortality and
1407 expense fees; any annual fees; investment advisory fees;
1408 potential charges for and features of riders or other options of
1409 the annuity; limitations on interest returns; potential changes
1410 in nonguaranteed elements of the annuity; insurance and
1411 investment components; and market risk.

1412 ~~2. The consumer would benefit from certain features of the~~
1413 ~~annuity, such as tax-deferred growth, annuitization, or the~~
1414 ~~death or living benefit.~~

1415 3. An agent shall identify and avoid or reasonably manage
1416 and disclose material conflicts of interest, including material
1417 conflicts of interest related to an ownership interest.

1418 4. An agent shall at the time of the recommendation or
1419 sale:

1420 a. Make a written record of any recommendation and the

Amendment No. 1

1421 basis for the recommendation, subject to this section.

1422 b. Obtain a consumer-signed statement on a form
1423 substantially similar to that posted on the office website as
1424 Appendix B, related to a consumer's refusal to provide
1425 information, documenting:

1426 (I) A customer's refusal to provide the consumer profile
1427 information, if any.

1428 (II) A customer's understanding of the ramifications of not
1429 providing his or her consumer profile information or providing
1430 insufficient consumer profile information.

1431 c. Obtain a consumer-signed statement on a form
1432 substantially similar to that posted on the office website as
1433 Appendix C, related to a consumer's decision to purchase an
1434 annuity not based on a recommendation, acknowledging the annuity
1435 transaction is not recommended if a customer decides to enter
1436 into an annuity transaction that is not based on the agent's
1437 recommendation.

1438 5. Any requirement applicable to an agent under this
1439 subsection applies to every agent who has exercised material
1440 control or influence in the making of a recommendation and has
1441 received direct compensation as a result of the recommendation
1442 or sale, regardless of whether the agent has had any direct
1443 contact with the consumer. Activities such as providing or
1444 delivering marketing or education materials, product wholesaling
1445 or other back office product support, and general supervision of
1446 an agent do not, in and of themselves, constitute material

923275 - h1185-strike.docx

Published On: 4/15/2023 4:21:46 PM

Amendment No. 1

1447 control or influence.

1448 ~~3. The particular annuity as a whole, the underlying~~
1449 ~~subaccounts to which funds are allocated at the time of purchase~~
1450 ~~or exchange of the annuity, and riders and similar product~~
1451 ~~enhancements, if any, are suitable; and, in the case of an~~
1452 ~~exchange or replacement, the transaction as a whole is suitable~~
1453 ~~for the particular consumer based on his or her suitability~~
1454 ~~information.~~

1455 ~~4. In the case of an exchange or replacement of an annuity,~~
1456 ~~the exchange or replacement is suitable after considering~~
1457 ~~whether the consumer:~~

1458 ~~a. Will incur a surrender charge; be subject to the~~
1459 ~~commencement of a new surrender period; lose existing benefits,~~
1460 ~~such as death, living, or other contractual benefits; or be~~
1461 ~~subject to increased fees, investment advisory fees, or charges~~
1462 ~~for riders and similar product enhancements;~~

1463 ~~b. Would benefit from product enhancements and~~
1464 ~~improvements; and~~

1465 ~~c. Has had another annuity exchange or replacement,~~
1466 ~~including an exchange or replacement within the preceding 36~~
1467 ~~months.~~

1468 ~~(b) Before executing a purchase, exchange, or replacement~~
1469 ~~of an annuity resulting from a recommendation, an insurer or its~~
1470 ~~agent must make reasonable efforts to obtain the consumer's~~
1471 ~~suitability information. The information shall be collected on~~
1472 ~~form DFS-H1-1980, which is hereby incorporated by reference, and~~

923275 - h1185-strike.docx

Published On: 4/15/2023 4:21:46 PM

Amendment No. 1

1473 ~~completed and signed by the applicant and agent. Questions~~
1474 ~~requesting this information must be presented in at least 12-~~
1475 ~~point type and be sufficiently clear so as to be readily~~
1476 ~~understandable by both the agent and the consumer. A true and~~
1477 ~~correct executed copy of the form must be provided by the agent~~
1478 ~~to the insurer, or to the person or entity that has contracted~~
1479 ~~with the insurer to perform this function as authorized by this~~
1480 ~~section, within 10 days after execution of the form, and shall~~
1481 ~~be provided to the consumer no later than the date of delivery~~
1482 ~~of the contract or contracts.~~

1483 ~~(c) Except as provided under paragraph (d), an insurer may~~
1484 ~~not issue an annuity recommended to a consumer unless there is a~~
1485 ~~reasonable basis to believe the annuity is suitable based on the~~
1486 ~~consumer's suitability information.~~

1487 ~~(b)1.(d) Except as provided under subparagraph 2., An~~
1488 ~~insurer's issuance of an annuity must be reasonable based on all~~
1489 ~~the circumstances actually known to the insurer at the time the~~
1490 ~~annuity is issued. However, an insurer or its agent does not~~
1491 ~~have ~~does not have~~ an obligation to a consumer related to an~~
1492 ~~annuity transaction under subparagraph (a)1. paragraph (a) or~~
1493 ~~paragraph (c) if:~~

1494 ~~a.1.~~ A recommendation has not been made;

1495 ~~b.2.~~ A recommendation was made and is later found to have
1496 been based on materially inaccurate information provided by the
1497 consumer;

1498 ~~c.3.~~ A consumer refuses to provide relevant consumer

Amendment No. 1

1499 profile suitability information and the annuity transaction is
1500 not recommended; or

1501 ~~d.4.~~ A consumer decides to enter into an annuity
1502 transaction that is not based on a recommendation of the an
1503 ~~insurer or its agent.~~

1504 2. An insurer's issuance of an annuity subject to
1505 subparagraph 1. must be reasonable under all the circumstances
1506 actually known to the insurer at the time the annuity is issued.

1507 (c)1. Except as permitted under paragraph (b), an insurer
1508 may not issue an annuity recommended to a consumer unless there
1509 is a reasonable basis to believe the annuity would effectively
1510 address the particular consumer's financial situation, insurance
1511 needs, and financial objectives based on the consumer's consumer
1512 profile information.

1513 ~~(c) At the time of sale, the agent or the agent's~~
1514 ~~representative must:~~

1515 ~~1. Make a record of any recommendation made to the consumer~~
1516 ~~pursuant to paragraph (a);~~

1517 ~~2. Obtain the consumer's signed statement documenting his~~
1518 ~~or her refusal to provide suitability information, if~~
1519 ~~applicable; and~~

1520 ~~3. Obtain the consumer's signed statement acknowledging~~
1521 ~~that an annuity transaction is not recommended if he or she~~
1522 ~~decides to enter into an annuity transaction that is not based~~
1523 ~~on the insurer's or its agent's recommendation, if applicable.~~

1524 ~~(f) Before executing a replacement or exchange of an~~

Amendment No. 1

1525 ~~annuity contract resulting from a recommendation, the agent must~~
1526 ~~provide on form DFS-H1-1981, which is hereby incorporated by~~
1527 ~~reference, information that compares the differences between the~~
1528 ~~existing annuity contract and the annuity contract being~~
1529 ~~recommended in order to determine the suitability of the~~
1530 ~~recommendation and its benefit to the consumer. A true and~~
1531 ~~correct executed copy of this form must be provided by the agent~~
1532 ~~to the insurer, or to the person or entity that has contracted~~
1533 ~~with the insurer to perform this function as authorized by this~~
1534 ~~section, within 10 days after execution of the form, and must be~~
1535 ~~provided to the consumer no later than the date of delivery of~~
1536 ~~the contract or contracts.~~

1537 2.(g) An insurer shall establish and maintain a supervision
1538 system that is reasonably designed to achieve the insurer's and
1539 its agent's compliance with this section, including, but not
1540 limited to, the following:-

1541 ~~1. Such system must include, but is not limited to:~~

1542 a. The insurer shall establish and maintain ~~Maintaining~~
1543 reasonable procedures to inform its agents of the requirements
1544 of this section and incorporating those requirements into
1545 relevant agent training manuals.†

1546 b. The insurer shall establish and maintain ~~Establishing~~
1547 standards for agent product training and shall establish and
1548 maintain reasonable procedures to require its agents to comply
1549 with the requirements of subsection (6).†

1550 c. The insurer shall provide ~~Providing~~ product-specific

Amendment No. 1

1551 training and training materials that explain all material
1552 features of its annuity products to its agents.†

1553 d. The insurer shall establish and maintain ~~Maintaining~~
1554 procedures for the review of each recommendation before issuance
1555 of an annuity which are designed to ensure that there is a
1556 reasonable basis to determine the recommended annuity would
1557 effectively address the particular consumer's financial
1558 situation, insurance needs, and financial objectives ~~for~~
1559 ~~determining that a recommendation is suitable~~. Such review
1560 procedures may use a screening system for identifying selected
1561 transactions for additional review and may be accomplished
1562 electronically or through other means, including, but not
1563 limited to, physical review. Such electronic or other system may
1564 be designed to require additional review only of those
1565 transactions identified for additional review using established
1566 selection criteria.†

1567 e. The insurer shall establish and maintain ~~Maintaining~~
1568 reasonable procedures to detect recommendations that are not in
1569 compliance with paragraphs (a), (b), (d), and (e). This may
1570 include, but is not limited to, ~~suitable, such as~~ confirmation
1571 of consumer profile suitability information, systematic customer
1572 surveys, agent and consumer interviews, confirmation letters,
1573 agent statements or attestations, and internal monitoring
1574 programs. This sub-subparagraph does not prevent an insurer from
1575 using sampling procedures or from confirming the consumer
1576 profile suitability information after the issuance or delivery

923275 - h1185-strike.docx

Published On: 4/15/2023 4:21:46 PM

Amendment No. 1

1577 of the annuity.~~;~~ and

1578 f. The insurer shall establish and maintain reasonable
1579 procedures to assess, prior to or upon issuance or delivery of
1580 an annuity, whether an agent has provided to the consumer the
1581 information required to be provided under this subsection.

1582 g. The insurer shall establish and maintain reasonable
1583 procedures to identify and address suspicious consumer refusals
1584 to provide consumer profile information.

1585 h. The insurer shall establish and maintain reasonable
1586 procedures to identify and eliminate any sales contests, sales
1587 quotas, bonuses, and noncash compensation that are based on the
1588 sales of specific annuities within a limited period of time. The
1589 requirements of this sub-subparagraph are not intended to
1590 prohibit the receipt of health insurance, office rents, office
1591 support, retirement benefits, or other employee benefits by
1592 employees, as long as those benefits are not based upon the
1593 volume of sales of a specific annuity within a limited period of
1594 time.

1595 ~~i.f.~~ The insurer shall annually provide ~~providing~~ a written
1596 report to senior managers, including the senior manager who is
1597 responsible for audit functions, which details a review, along
1598 with appropriate testing, which is reasonably designed to
1599 determine the effectiveness of the supervision system, the
1600 exceptions found, and corrective action taken or recommended, if
1601 any.

1602 ~~3.2.~~ An insurer is not required to include in its

Amendment No. 1

1603 supervision system:

1604 a. Agent recommendations to consumers of products other
1605 than the annuities offered by the insurer; or

1606 b. Consideration of or comparison to options available to
1607 the agent or compensation relating to those options other than
1608 annuities or other products offered by the insurer.

1609 4.3. An insurer may contract for performance of a function,
1610 including maintenance of procedures, required under subparagraph
1611 1.

1612 a. An insurer's supervision system under this subsection
1613 shall include supervision of contractual performance under this
1614 subsection, which includes, but is ~~If an insurer contracts for~~
1615 ~~the performance of a function, the insurer must include the~~
1616 ~~supervision of contractual performance as part of those~~
1617 ~~procedures listed in subparagraph 1. These include, but are not~~
1618 limited to:

1619 (I) Monitoring and, as appropriate, conducting audits to
1620 ensure that the contracted function is properly performed; and

1621 (II) Annually obtaining a certification from a senior
1622 manager who has responsibility for the contracted function that
1623 the manager has a reasonable basis to represent, and does
1624 represent, ~~for representing~~ that the function is being properly
1625 performed.

1626 b. An insurer is responsible for taking appropriate
1627 corrective action and may be subject to sanctions and penalties
1628 pursuant to subsection (8) ~~(7)~~ regardless of whether the insurer

Amendment No. 1

1629 contracts for performance of a function and regardless of the
1630 insurer's compliance with sub-subparagraph a.

1631 ~~(d)(h)~~ Neither an agent nor an insurer shall ~~may not~~
1632 ~~dissuade, or attempt to dissuade,~~ a consumer from:

1633 1. Truthfully responding to an insurer's request for
1634 confirmation of consumer profile suitability information;

1635 2. Filing a complaint; or

1636 3. Cooperating with the investigation of a complaint.

1637 ~~(e)1.(i)~~ Recommendations and sales made in compliance with
1638 comparable standards shall ~~FINRA requirements pertaining to the~~
1639 ~~suitability and supervision of annuity transactions~~ satisfy the
1640 requirements of this section. This applies to all
1641 recommendations and FINRA broker-dealer sales of variable
1642 annuities made by financial professionals in compliance with
1643 business rules, controls, and procedures that satisfy a
1644 comparable standard even if such standard would not otherwise
1645 apply to the product or recommendation at issue ~~and fixed~~
1646 ~~annuities if the suitability and supervision is similar to those~~
1647 ~~applied to variable annuity sales.~~ However, this paragraph does
1648 not limit the ability of the office or the department to
1649 investigate and enforce, ~~including investigate, the provisions~~
1650 ~~of~~ this section.

1651 2. Subparagraph 1. does not limit the insurer's obligation
1652 to comply with subparagraph (c)1., although the insurer may base
1653 its analysis on information received from either the financial
1654 professional or the entity supervising the financial

Amendment No. 1

1655 professional.

1656 3. For subparagraph 1. ~~this paragraph~~ to apply, an insurer
1657 must:

1658 a.1. Monitor relevant conduct of the financial professional
1659 seeking to rely on subparagraph 1. or the entity responsible for
1660 supervising the financial professional, such as the financial
1661 professional's broker-dealer or an investment adviser registered
1662 under federal or state securities law, ~~the FINRA member broker-~~
1663 ~~dealer~~ using information collected in the normal course of an
1664 insurer's business; and

1665 b.2. Provide to the entity responsible for supervising the
1666 financial professional seeking to rely on subparagraph 1., such
1667 as the financial professional's broker-dealer or investment
1668 adviser registered under federal or state securities laws, ~~FINRA~~
1669 ~~member broker-dealer~~ information and reports that are reasonably
1670 appropriate to assist such entity ~~the FINRA member broker-dealer~~
1671 in maintaining its supervision system.

1672 4. For purposes of this paragraph, the term:

1673 a. "Comparable standards" means:

1674 (I) With respect to broker-dealers and registered
1675 representatives of broker-dealers, applicable SEC and FINRA
1676 rules pertaining to best interest obligations and supervision of
1677 annuity recommendations and sales, including, but not limited
1678 to, Regulation Best Interest, 17 C.F.R. s. 240.151-1, and any
1679 amendments or successor regulations thereto;

1680 (II) With respect to investment advisers registered under

Amendment No. 1

1681 federal or state securities laws or investment adviser
1682 representatives, the fiduciary duties and all other requirements
1683 imposed on such investment advisers or investment adviser
1684 representatives by contract or under the Investment Advisers Act
1685 of 1940 or applicable state securities laws, including, but not
1686 limited to, Form ADV and interpretations; and

1687 (III) With respect to plan fiduciaries or fiduciaries, the
1688 duties, obligations, prohibitions, and all other requirements
1689 attendant to such status under the Employee Retirement Income
1690 Security Act of 1974 or the Internal Revenue Code and any
1691 amendments or successor statutes thereto.

1692 b. "Financial professional" means an agent that is
1693 regulated and acting as:

1694 (I) A broker-dealer registered under federal or state
1695 securities laws or a registered representative of a broker-
1696 dealer;

1697 (II) An investment adviser registered under federal or
1698 state securities laws or an investment adviser representative
1699 associated with the federal or state registered investment
1700 adviser; or

1701 (III) A plan fiduciary under s. 3(21) of the Employee
1702 Retirement Income Security Act of 1974 or fiduciary under s.
1703 4975(e)(3) of the Internal Revenue Code or any amendments or
1704 successor statutes thereto.

1705 (6) AGENT TRAINING.—

1706 (a) An agent shall not solicit the sale of an annuity

Amendment No. 1

1707 product unless the agent has adequate knowledge of the product
1708 to recommend the annuity and the agent is in compliance with the
1709 insurer's standards for product training. An agent may rely on
1710 insurer-provided, product-specific training standards and
1711 materials to comply with this subsection.

1712 (b)1.a. An agent who engages in the sale of annuity
1713 products shall complete a one-time 4-hour training course. This
1714 requirement is not part of an agent's continuing education
1715 requirement in s. 626.2815; however, if a course provider
1716 submits and receives approval from the department, the course is
1717 eligible for continuing education credit pursuant to s.
1718 626.2815.

1719 b. Agents who hold a life insurance line of authority on
1720 January 1, 2024, and who desire to sell annuities shall complete
1721 the requirements of this subsection by July 1, 2024. Individuals
1722 who obtain a life insurance line of authority after January 1,
1723 2024, may not engage in the sale of annuities until the annuity
1724 training course required under this subsection has been
1725 completed.

1726 2. The minimum length of the training required under this
1727 subsection is 4 hours.

1728 3. The training required under this subsection shall
1729 include information on the following topics:

1730 a. The types of annuities and various classifications of
1731 annuities.

1732 b. Identification of the parties to an annuity.

923275 - h1185-strike.docx

Published On: 4/15/2023 4:21:46 PM

Amendment No. 1

1733 c. How product-specific annuity contract features affect
1734 consumers.

1735 d. The application of income taxation of qualified and
1736 nonqualified annuities.

1737 e. The primary uses of annuities.

1738 f. The appropriate standard of conduct, sales practices,
1739 replacement, and disclosure requirements.

1740 4. Providers of courses intended to comply with this
1741 subsection shall cover all topics listed in the prescribed
1742 outline and shall not present any marketing information or
1743 provide training on sales techniques or provide specific
1744 information about a particular insurer's products. Additional
1745 topics may be offered in conjunction with and in addition to the
1746 required outline.

1747 5. An agent who has completed an annuity training course
1748 before January 1, 2024, shall, by July 1, 2024, complete either:

1749 a. A new 4-hour training course; or

1750 b. An additional 1-hour training course on appropriate
1751 sales practices, replacement, and disclosure requirements under
1752 this section.

1753 6. Annuity training courses may be conducted and completed
1754 by classroom or self-study methods.

1755 7. Providers of annuity training shall issue certificates
1756 of completion.

1757 8. The satisfaction of the training requirements of another
1758 state that are substantially similar to the provisions of this

Amendment No. 1

1759 subsection shall be deemed to satisfy the training requirements
1760 of this subsection in this state.

1761 9. The satisfaction of the training requirements of any
1762 course or courses with components substantially similar to the
1763 provisions of this subsection shall be deemed to satisfy the
1764 training requirements of this subsection in this state.

1765 10. An insurer shall verify that an agent has completed the
1766 annuity training course required under this subsection before
1767 allowing the agent to sell an annuity product for that insurer.

1768 (7)(6) RECORDKEEPING.-

1769 (a) Insurers and agents must maintain or be able to make
1770 available to the office or department records of the information
1771 collected from the consumer and other information used in making
1772 the recommendations that were the basis for insurance
1773 transactions for 5 years after the insurance transaction is
1774 completed by the insurer. An insurer may maintain the
1775 documentation on behalf of its agent.

1776 (b) Records required to be maintained under this subsection
1777 may be maintained in paper, photographic, microprocess,
1778 magnetic, mechanical, or electronic media, or by any process
1779 that accurately reproduces the actual document.

1780 (8)(7) COMPLIANCE MITIGATION; PENALTIES.-

1781 (a) An insurer is responsible for compliance with this
1782 section. If a violation occurs because of the action or inaction
1783 of the insurer or its agent which results in harm to a consumer,
1784 the office may order the insurer to take reasonably appropriate

Amendment No. 1

1785 corrective action for the consumer and may impose appropriate
1786 penalties and sanctions.

1787 (b) The department may order:

1788 1. An ~~insurance~~ agent to take reasonably appropriate
1789 corrective action for a consumer harmed by a violation of this
1790 section by the ~~insurance~~ agent, including monetary restitution
1791 of penalties or fees incurred by the consumer, and impose
1792 appropriate penalties and sanctions.

1793 2. A managing general agency or insurance agency that
1794 employs or contracts with an ~~insurance~~ agent to sell or solicit
1795 the sale of annuities to consumers to take reasonably
1796 appropriate corrective action for a consumer harmed by a
1797 violation of this section by the ~~insurance~~ agent.

1798 (c) In addition to any other penalty authorized under
1799 chapter 626, the department shall order an insurance agent to
1800 pay restitution to a consumer who has been deprived of money by
1801 the agent's misappropriation, conversion, or unlawful
1802 withholding of moneys belonging to the consumer in the course of
1803 a transaction involving annuities. The amount of restitution
1804 required to be paid may not exceed the amount misappropriated,
1805 converted, or unlawfully withheld. This paragraph does not limit
1806 or restrict a person's right to seek other remedies as provided
1807 by law.

1808 (d) Any applicable penalty under the Florida Insurance Code
1809 for a violation of this section shall be reduced or eliminated
1810 according to a schedule adopted by the office or the department,

923275 - h1185-strike.docx

Published On: 4/15/2023 4:21:46 PM

Amendment No. 1

1811 as appropriate, if corrective action for the consumer was taken
1812 promptly after a violation was discovered.

1813 (e) A violation of this section does not create or imply a
1814 private cause of action.

1815 ~~(9)~~ ~~(8)~~ PROHIBITED CHARGES.—An annuity contract issued to a
1816 senior consumer age 65 or older may not contain a surrender or
1817 deferred sales charge for a withdrawal of money from an annuity
1818 exceeding 10 percent of the amount withdrawn. The charge shall
1819 be reduced so that no surrender or deferred sales charge exists
1820 after the end of the 10th policy year or 10 years after the date
1821 of each premium payment if multiple premiums are paid, whichever
1822 is later. This subsection does not apply to annuities purchased
1823 by an accredited investor, as defined in Regulation D as adopted
1824 by the United States Securities and Exchange Commission, or to
1825 those annuities specified in paragraph (4) (b).

1826 ~~(10)~~ ~~(9)~~ RULES.—The department and the commission may adopt
1827 rules to administer this section. The department may adopt by
1828 rule the forms prescribed in the National Association of
1829 Insurance Commissioners Suitability in Annuity Transactions
1830 Model Regulation Appendix A - Insurance Agent (Producer)
1831 Disclosure for Annuities, Appendix B - Consumer Refusal to
1832 Provide Information, and Appendix C - Consumer Decision to
1833 Purchase an Annuity Not Based on a Recommendation.

1834 Section 17. Subsection (5) is added to section 627.70132,
1835 Florida Statutes, to read:

1836 627.70132 Notice of property insurance claim.—

923275 - h1185-strike.docx

Published On: 4/15/2023 4:21:46 PM

Amendment No. 1

1837 (5) For loss assessment claims made under s. 627.714, the
1838 notice of claim must be given to the insurer in accordance with
1839 the terms of the policy within 3 years of the date of loss.

1840 Section 18. Paragraph (b) of subsection (8) of section
1841 634.041, Florida Statutes, is amended to read:

1842 634.041 Qualifications for license.—To qualify for and hold
1843 a license to issue service agreements in this state, a service
1844 agreement company must be in compliance with this part, with
1845 applicable rules of the commission, with related sections of the
1846 Florida Insurance Code, and with its charter powers and must
1847 comply with the following:

1848 (8)

1849 (b) A service agreement company does not have to establish
1850 and maintain an unearned premium reserve if it secures and
1851 maintains contractual liability insurance in accordance with the
1852 following:

1853 1. Coverage of 100 percent of the claim exposure is
1854 obtained from an insurer approved by the office, which holds a
1855 certificate of authority under s. 624.401 to do business within
1856 this state, or secured through a risk retention group, which is
1857 authorized to do business within this state under s. 627.943 or
1858 s. 627.944. Such insurer or risk retention group must maintain a
1859 surplus as regards policyholders of at least \$15 million.

1860 2. If the service agreement company does not meet its
1861 contractual obligations, the contractual liability insurance
1862 policy binds its issuer to pay or cause to be paid to the

Amendment No. 1

1863 service agreement holder all legitimate claims and cancellation
1864 refunds for all service agreements issued by the service
1865 agreement company while the policy was in effect. This
1866 requirement also applies to those service agreements for which
1867 no premium has been remitted to the insurer.

1868 3. If the issuer of the contractual liability policy is
1869 fulfilling the service agreements covered by the contractual
1870 liability policy and the service agreement holder cancels the
1871 service agreement, the issuer must make a full refund of
1872 unearned premium to the consumer, subject to the cancellation
1873 fee provisions of s. 634.121(3). The sales representative and
1874 agent must refund to the contractual liability policy issuer
1875 their unearned pro rata commission.

1876 4. The policy may not be canceled, terminated, or
1877 nonrenewed by the insurer or the service agreement company
1878 unless a 90-day written notice thereof has been given to the
1879 office by the insurer before the date of the cancellation,
1880 termination, or nonrenewal.

1881 5. The service agreement company must provide the office
1882 with the claims statistics.

1883 6. A policy issued in compliance with this paragraph may
1884 either pay 100 percent of claims as they are incurred, or 100
1885 percent of claims due in the event of the failure of the service
1886 agreement company to pay such claims when due.

1887
1888 All funds or premiums remitted to an insurer by a motor vehicle

Amendment No. 1

1889 service agreement company under this part shall remain in the
1890 care, custody, and control of the insurer and shall be counted
1891 as an asset of the insurer; provided, however, this requirement
1892 does not apply when the insurer and the motor vehicle service
1893 agreement company are affiliated companies and members of an
1894 insurance holding company system. If the motor vehicle service
1895 agreement company chooses to comply with this paragraph but also
1896 maintains a reserve to pay claims, such reserve shall only be
1897 considered an asset of the covered motor vehicle service
1898 agreement company and may not be simultaneously counted as an
1899 asset of any other entity.

1900 Section 19. Paragraphs (d), (e), and (f) of subsection (17)
1901 of section 634.401, Florida Statutes, are amended to read:

1902 634.401 Definitions.—As used in this part, the term:

1903 (17) "Manufacturer" means any entity or its affiliate
1904 which:

1905 ~~(d) Maintains outstanding debt obligations, if any, rated~~
1906 ~~in the top four rating categories by a recognized rating~~
1907 ~~service;~~

1908 (d) ~~(e)~~ Has and maintains at all times, a minimum net worth
1909 of at least \$100 ~~\$10~~ million as evidenced by certified financial
1910 statements prepared by an independent certified public
1911 accountant in accordance with generally accepted accounting
1912 principles; and

1913 (e) ~~(f)~~ Is authorized to do business in this state.

1914 Section 20. Paragraph (a) of subsection (7) of section

Amendment No. 1

1915 634.406, Florida Statutes, is amended to read:

1916 634.406 Financial requirements.—

1917 (7) An association licensed under this part and holding no
1918 other license under part I or part II of this chapter is not
1919 required to establish an unearned premium reserve or maintain
1920 contractual liability insurance and may allow its premiums to
1921 exceed the ratio to net assets limitation of this section if the
1922 association complies with the following:

1923 (a) The association or, if the association is a direct or
1924 indirect wholly owned subsidiary of a parent corporation, its
1925 parent corporation has, and maintains at all times, a minimum
1926 net worth of at least \$100 million and provides the office with
1927 the following:

1928 1. A copy of the association's annual audited financial
1929 statements or the audited consolidated financial statements of
1930 the association's parent corporation, prepared by an independent
1931 certified public accountant in accordance with generally
1932 accepted accounting principles, which clearly demonstrate the
1933 net worth of the association or its parent corporation to be
1934 \$100 million and a quarterly written certification to the office
1935 that such entity continues to maintain the net worth required
1936 under this paragraph.

1937 2. The association's, or its parent corporation's, Form 10-
1938 K, Form 10-Q, or Form 20-F as filed with the United States
1939 Securities and Exchange Commission or such other documents
1940 required to be filed with a recognized stock exchange, which

923275 - h1185-strike.docx

Published On: 4/15/2023 4:21:46 PM

Amendment No. 1

1941 shall be provided on a quarterly and annual basis within 10 days
1942 after the last date each such report must be filed with the
1943 Securities and Exchange Commission, the National Association of
1944 Security Dealers Automated Quotation system, or other recognized
1945 stock exchange.

1946
1947 Failure to timely file the documents required under this
1948 paragraph may, at the discretion of the office, subject the
1949 association to suspension or revocation of its license under
1950 this part. ~~An association or parent corporation demonstrating~~
1951 ~~compliance with subparagraphs 1. and 2. must maintain~~
1952 ~~outstanding debt obligations, if any, rated in the top four~~
1953 ~~rating categories by a recognized rating service.~~

1954 Section 21. Except as otherwise expressly provided in this
1955 act, this act shall take effect July 1, 2023.

1956
1957 -----

1958 **T I T L E A M E N D M E N T**

1959 Remove everything before the enacting clause and insert:
1960 An act relating to consumer protection; amending s. 494.001,
1961 F.S.; revising the definition of the term "branch office";
1962 defining the term "remote location"; authorizing a licensee
1963 under ch. 494, F.S., to allow loan originators to work from
1964 remote locations if specified conditions are met; amending s.
1965 494.0067, F.S.; specifying that mortgage lenders may transact
1966 business from branch offices and remote locations; providing a

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1185 (2023)

Amendment No. 1

1967 requirement for operating remote locations; creating s.
1968 501.2042, F.S.; defining terms; providing requirements for
1969 organizers of crowd-funding campaigns related to disasters and
1970 for crowd-funding platforms; amending s. 520.23, F.S.; revising
1971 disclosure requirements for agreements governing the sale or
1972 lease of a distributed energy generation system; amending s.
1973 560.111, F.S.; providing a criminal penalty; amending s.
1974 560.309, F.S.; prohibiting a licensee under ch. 560, F.S., from
1975 cashing corporate checks for certain payees where the aggregate
1976 face amount exceeds a specified amount; amending s. 626.551,
1977 F.S.; revising the timeframe in which an insurance
1978 representative must notify the Department of Financial Services
1979 of certain changes in information; amending s. 626.602, F.S.;
1980 providing applicability of provisions relating to the
1981 disapproval of insurance agency names to adjusting firm names;
1982 revising grounds on which such names may be disapproved by the
1983 department; deleting an obsolete provision; amending s. 626.854,
1984 F.S.; revising the definition of the term "public adjuster";
1985 prohibiting public adjusters from contracting with anyone other
1986 than the named insured without the insured's written consent;
1987 specifying a penalty for noncompliance; specifying timeframes in
1988 which an insured or a claimant may cancel a public adjuster's
1989 contract without penalty or contract under certain
1990 circumstances; revising requirements for public adjusters'
1991 contracts; specifying requirements for public adjusters if the

923275 - h1185-strike.docx

Published On: 4/15/2023 4:21:46 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1185 (2023)

Amendment No. 1

1992 insurer, within a certain timeframe, pays or commits in writing
1993 to pay to the insured the policy limit of the policy; specifying
1994 limitations on commissions received by public adjusters;
1995 amending s. 626.860, F.S.; providing that an attorney's
1996 exemption from public adjuster licensure requirements does not
1997 apply to certain persons; amending s. 626.875, F.S.; revising
1998 recordkeeping requirements for appointed independent adjusters
1999 and licensed public adjusters; amending s. 626.8796, F.S.;
2000 revising requirements for public adjuster contracts; specifying
2001 requirements for and prohibitions on public adjusters relating
2002 to such contracts; providing construction; authorizing the
2003 department to adopt rules; amending s. 626.8797, F.S.; revising
2004 a fraud statement requirement in proof-of-loss statements;
2005 amending s. 626.9541, F.S.; adding an unfair or deceptive
2006 insurance act relating to health insurance policies; amending s.
2007 627.4025, F.S.; revising the definition of the term "hurricane,"
2008 and defining the term "hurricane deductible," as used in
2009 policies providing residential coverage; amending s. 627.4133,
2010 F.S.; revising conditions that apply to a specified notice
2011 requirement for, and a limitation on, the cancellation or
2012 termination of certain insurance policies; amending s. 627.4554,
2013 F.S.; revising legislative purpose; revising applicability;
2014 revising and defining terms; revising and specifying duties of
2015 insurers and agents relating to the recommendation and sale of
2016 annuity investments; specifying comparable standards that comply

923275 - h1185-strike.docx

Published On: 4/15/2023 4:21:46 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1185 (2023)

Amendment No. 1

2017 | with such requirements; specifying agent training requirements;
2018 | providing and revising construction; authorizing the department
2019 | to adopt certain forms by rule; amending s. 634.041, F.S.;
2020 | specifying authorized methods of paying claims for motor vehicle
2021 | service agreements; amending s. 634.401, F.S.; revising the
2022 | definition of the term "manufacturer" for purposes of part III
2023 | of ch. 634, F.S.; amending s. 634.406, F.S.; deleting a debt
2024 | obligation rating requirement for certain service warranty
2025 | associations or parent corporations; providing effective dates.

923275 - h1185-strike.docx

Published On: 4/15/2023 4:21:46 PM

Page 79 of 79