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2023 Legislature

1  
2 An act relating to consumer protection; amending s.  
3 494.001, F.S.; revising the definition of the term  
4 "branch office"; defining the term "remote location";  
5 authorizing a licensee under ch. 494, F.S., to allow  
6 loan originators to work from remote locations if  
7 specified conditions are met; amending s. 494.0067,  
8 F.S.; specifying that mortgage lenders may transact  
9 business from branch offices and remote locations;  
10 providing a requirement for operating remote  
11 locations; creating s. 501.2042, F.S.; defining terms;  
12 providing requirements for organizers of crowd-funding  
13 campaigns related to disasters and for crowd-funding  
14 platforms; amending s. 520.23, F.S.; revising  
15 disclosure requirements for agreements governing the  
16 sale or lease of a distributed energy generation  
17 system; amending s. 560.111, F.S.; providing a  
18 criminal penalty; amending s. 560.309, F.S.;  
19 prohibiting a licensee under ch. 560, F.S., from  
20 cashing corporate checks for certain payees where the  
21 aggregate face amount exceeds a specified amount;  
22 amending s. 626.602, F.S.; providing applicability of  
23 provisions relating to the disapproval of insurance  
24 agency names to adjusting firm names; revising grounds  
25 on which such names may be disapproved by the

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

26 department; deleting an obsolete provision; amending  
27 s. 626.854, F.S.; revising the definition of the term  
28 "public adjuster"; prohibiting public adjusters from  
29 contracting with anyone other than the named insured  
30 without the insured's written consent; specifying a  
31 penalty for noncompliance; specifying timeframes in  
32 which an insured or a claimant may cancel a public  
33 adjuster's contract without penalty or contract under  
34 certain circumstances; revising requirements for  
35 public adjusters' contracts; specifying limitations on  
36 commissions received by public adjusters; amending s.  
37 626.875, F.S.; revising recordkeeping requirements for  
38 appointed independent adjusters and licensed public  
39 adjusters; amending s. 626.8796, F.S.; revising  
40 requirements for public adjuster contracts; specifying  
41 requirements for and prohibitions on public adjusters  
42 relating to such contracts; providing construction;  
43 authorizing the department to adopt rules; amending s.  
44 626.8797, F.S.; revising a fraud statement requirement  
45 in proof-of-loss statements; amending s. 626.9541,  
46 F.S.; adding an unfair or deceptive insurance act  
47 relating to health insurance policies; amending s.  
48 627.4025, F.S.; revising the definition of the term  
49 "hurricane," and defining the term "hurricane  
50 deductible," as used in policies providing residential

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

51 coverage; amending s. 627.4133, F.S.; revising  
 52 conditions that apply to a specified notice  
 53 requirement for, and a limitation on, the cancellation  
 54 or termination of certain insurance policies;  
 55 authorizing the Citizens Property Insurance  
 56 Corporation to cancel certain policies of insurers  
 57 placed in receivership; amending s. 627.4554, F.S.;  
 58 revising legislative purpose; revising applicability;  
 59 revising and defining terms; revising and specifying  
 60 duties of insurers and agents relating to the  
 61 recommendation and sale of annuity investments;  
 62 specifying comparable standards that comply with such  
 63 requirements; specifying agent training requirements;  
 64 providing and revising construction; authorizing the  
 65 department to adopt certain forms by rule; amending s.  
 66 634.041, F.S.; specifying authorized methods of paying  
 67 claims for motor vehicle service agreements; amending  
 68 s. 634.401, F.S.; revising the definition of the term  
 69 "manufacturer" for purposes of part III of ch. 634,  
 70 F.S.; amending s. 634.406, F.S.; deleting a debt  
 71 obligation rating requirement for certain service  
 72 warranty associations or parent corporations;  
 73 providing an effective date.

74  
 75 Be It Enacted by the Legislature of the State of Florida:

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

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

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

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

(a) The address of which appears on business cards, stationery, or advertising used by the licensee in connection with business conducted under this chapter;

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

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

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

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

(b) Access to company platforms and customer information

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

101 is in accordance with the licensee's comprehensive written  
102 information security plan.

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

106 (d) Physical records are not maintained at a remote  
107 location.

108 (e) Customer interactions and conversations about  
109 consumers will be in compliance with federal and state  
110 information security requirements, including applicable  
111 provisions under the Gramm-Leach-Bliley Act and the Safeguards  
112 Rule established by the Federal Trade Commission, set forth at  
113 16 C.F.R. part 314, as such requirements may be amended from  
114 time to time.

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

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

125 (h) The licensee is able to remotely lock or erase

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

126 company-related contents of any device or otherwise remotely  
 127 limit all access to a company's secure systems.

128 (i) The registry's record of a loan originator who works  
 129 from a remote location designates the principal place of  
 130 business as the loan originator's registered location, or the  
 131 loan originator has elected a licensed branch office as a  
 132 registered location.

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

135 494.0067 Requirements of mortgage lenders.—

136 (1) A mortgage lender that makes mortgage loans on real  
 137 estate in this state shall transact business from a principal  
 138 place of business, branch office, or remote location. Each  
 139 principal place of business, ~~and each~~ branch office, and remote  
 140 location shall be operated under the full charge, control, and  
 141 supervision of the licensee pursuant to this part.

142 Section 3. Section 501.2042, Florida Statutes, is created  
 143 to read:

144 501.2042 Unlawful acts and practices by online crowd-  
 145 funding campaigns.—

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

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

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

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

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

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

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

157 2. Has an account on a crowd-funding platform and has  
 158 created a crowd-funding campaign either as a beneficiary or on  
 159 behalf of a beneficiary, regardless of whether the beneficiary  
 160 or the crowd-funding campaign has received donations.

161 a. For crowd-funding campaigns related to and arising out  
 162 of a declared disaster, a crowd-funding platform must:

163 (I) Collect and retain, for one year after the date of the  
 164 declared disaster, the name, e-mail address, phone number, and  
 165 state of residence of the organizer.

166 (II) Require the organizer to indicate, on the crowd-  
 167 funding campaign, the state in which they are located.

168 (III) Cooperate with any investigation by or in  
 169 partnership with law enforcement.

170 (IV) Clearly display and direct donors to fundraisers that  
 171 comply with the crowd-funding platform's terms of service.

172 b. When an organizer arranges a crowd-funding campaign  
 173 related to and arising out of a declared disaster, the organizer  
 174 must attest that:

175 (I) All information provided in connection with a crowd-

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

176 funding campaign is accurate, complete, and not likely to  
 177 deceive users.

178 (II) All donations contributed to the crowd-funding  
 179 campaign will be used solely as described in the materials the  
 180 organizer posts or provides on the crowd-funding platform.

181 Section 4. Section 520.23, Florida Statutes, is amended to  
 182 read:

183 520.23 Disclosures required.—Each agreement governing the  
 184 sale or lease of a distributed energy generation system shall,  
 185 at a minimum, include a written statement printed in at least  
 186 12-point type that is separate from the agreement, is separately  
 187 acknowledged by the buyer or lessee, and includes the following  
 188 information and disclosures, if applicable:

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

191 (2) The name, address, telephone number, e-mail address,  
 192 and valid state contractor license number of the person  
 193 responsible for installing the distributed energy generation  
 194 system.

195 (3) The name, address, telephone number, e-mail address,  
 196 and valid state contractor license number of the distributed  
 197 energy generation system maintenance provider, if different from  
 198 the person responsible for installing the distributed energy  
 199 generation system.

200 (4) The customer contact center phone number for the

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

201 Department of Business and Professional Regulation.

202 (5)~~(4)~~ A written statement indicating whether the  
 203 distributed energy generation system is being purchased or  
 204 leased.

205 (a) If the distributed energy generation system will be  
 206 leased, the written statement must include a disclosure in  
 207 substantially the following form: "You are entering into an  
 208 agreement to lease a distributed energy generation system. You  
 209 will lease (not own) the system installed on your property."

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

215 (6)~~(5)~~ The total cost to be paid by the buyer or lessee,  
 216 including any interest, installation fees, document preparation  
 217 fees, service fees, or other fees.

218 (7)~~(6)~~ A payment schedule, including any amounts owed at  
 219 contract signing, at the commencement of installation, at the  
 220 completion of installation, and any final payments. If the  
 221 distributed energy generation system is being leased, the  
 222 written statement must include the frequency and amount of each  
 223 payment due under the lease and the total estimated lease  
 224 payments over the term of the lease.

225 (8)~~(7)~~ Each state or federal tax incentive or rebate, if

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CS/CS/HB 1185, Engrossed 2

2023 Legislature

226 any, relied upon by the seller in determining the price of the  
 227 distributed energy generation system.

228 (9)~~(8)~~ A description of the assumptions used to calculate  
 229 any savings estimates provided to the buyer or lessee, and if  
 230 such estimates are provided, a statement in substantially the  
 231 following form: "It is important to understand that future  
 232 electric utility rates are estimates only. Your future electric  
 233 utility rates may vary."

234 (10)~~(9)~~ A description of any one-time or recurring fees,  
 235 including, but not limited to, estimated system removal fees,  
 236 maintenance fees, Internet connection fees, and automated  
 237 clearinghouse fees. If late fees may apply, the description must  
 238 describe the circumstances triggering such late fees.

239 (11)~~(10)~~ A statement notifying the buyer whether the  
 240 distributed energy generation system is being financed and, if  
 241 so, a statement in substantially the following form: "If your  
 242 system is financed, carefully read any agreements and/or  
 243 disclosure forms provided by your lender. This statement does  
 244 not contain the terms of your financing agreement. If you have  
 245 any questions about your financing agreement, contact your  
 246 finance provider before signing a contract."

247 (12)~~(11)~~ A statement notifying the buyer whether the  
 248 seller is assisting in arranging financing of the distributed  
 249 energy generation system and, if so, a statement in  
 250 substantially the following form: "If your system is financed,

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

251 | carefully read any agreements and/or disclosure forms provided  
 252 | by your lender. This statement does not contain the terms of  
 253 | your financing agreement. If you have any questions about your  
 254 | financing agreement, contact your finance provider before  
 255 | signing a contract."

256 |       (13)~~(12)~~ A provision notifying the buyer or lessee of the  
 257 | right to rescind the agreement for a period of at least 3  
 258 | business days after the agreement is signed. This subsection  
 259 | does not apply to a contract to sell or lease a distributed  
 260 | energy generation system in a solar community in which the  
 261 | entire community has been marketed as a solar community and all  
 262 | of the homes in the community are intended to have a distributed  
 263 | energy generation system, or a solar community in which the  
 264 | developer has incorporated solar technology for purposes of  
 265 | meeting the Florida Building Code in s. 553.73.

266 |       (14)~~(13)~~ A description of the distributed energy  
 267 | generation system design assumptions, including the make and  
 268 | model of the major components, system size, estimated first-year  
 269 | energy production, and estimated annual energy production  
 270 | decreases, including the overall percentage degradation over the  
 271 | estimated life of the distributed energy generation system, and  
 272 | the status of utility compensation for excess energy generated  
 273 | by the system at the time of contract signing. A seller who  
 274 | provides a warranty or guarantee of the energy production output  
 275 | of the distributed energy generation system may provide a

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

276 description of such warranty or guarantee in lieu of a  
277 description of the system design and components.

278 ~~(15)-(14)~~ A description of any performance or production  
279 guarantees.

280 ~~(16)-(15)~~ A description of the ownership and  
281 transferability of any tax credits, rebates, incentives, or  
282 renewable energy certificates associated with the distributed  
283 energy generation system, including a disclosure as to whether  
284 the seller will assign or sell any associated renewable energy  
285 certificates to a third party.

286 ~~(17)-(16)~~ A statement in substantially the following form:  
287 "You are responsible for property taxes on property you own.  
288 Consult a tax professional to understand any tax liability or  
289 eligibility for any tax credits that may result from the  
290 purchase of your distributed energy generation system."

291 ~~(18)-(17)~~ The approximate start and completion dates for  
292 the installation of the distributed energy generation system.

293 ~~(19)-(18)~~ A disclosure as to whether maintenance and  
294 repairs of the distributed energy generation system are included  
295 in the purchase price.

296 ~~(20)-(19)~~ A disclosure as to whether any warranty or  
297 maintenance obligations related to the distributed energy  
298 generation system may be sold or transferred by the seller to a  
299 third party and, if so, a statement in substantially the  
300 following form: "Your contract may be assigned, sold, or

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

301 transferred without your consent to a third party who will be  
 302 bound to all the terms of the contract. If a transfer occurs,  
 303 you will be notified if this will change the address or phone  
 304 number to use for system maintenance or repair requests."

305 (21)~~(20)~~ If the distributed energy generation system will  
 306 be purchased, a disclosure notifying the buyer of the  
 307 requirements for interconnecting the system to the utility  
 308 system.

309 (22)~~(21)~~ A disclosure notifying the buyer or lessee of the  
 310 party responsible for obtaining interconnection approval.

311 (23)~~(22)~~ A description of any roof warranties.

312 (24) A statement in substantially the following form: "You  
 313 should consider the age and remaining life of your roof prior to  
 314 installing a distributed energy generation system. Replacement  
 315 of your roof may require reinstallation of the distributed energy  
 316 generation system."

317 (25)~~(23)~~ A disclosure notifying the lessee whether the  
 318 seller will insure a leased distributed energy generation system  
 319 against damage or loss and, if applicable, the circumstances  
 320 under which the seller will not insure the system against damage  
 321 or loss.

322 (26)~~(24)~~ A statement, ~~if applicable,~~ in substantially the  
 323 following form: "You are responsible for obtaining insurance  
 324 policies or coverage for any loss of or damage to the system.  
 325 Consult an insurance professional to understand how to protect

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

326 | against the risk of loss or damage to the system."

327 |       (27) A statement in substantially the following form:

328 | "Placing a distributed energy generation system on your roof may  
 329 | impact your future insurance premiums. You are responsible for  
 330 | contacting your insurance carrier, prior to entering into a  
 331 | purchase or lease agreement, to confirm whether your current  
 332 | policy or coverage will need to be modified upon installing the  
 333 | distributed energy generation system onto your dwelling."

334 |       ~~(28)~~~~(25)~~ A disclosure notifying the buyer or lessee  
 335 | whether the seller or lessor will place a lien on the buyer's or  
 336 | lessee's home or other property as a result of entering into a  
 337 | purchase or lease agreement for the distributed energy  
 338 | generation system.

339 |       ~~(29)~~~~(26)~~ A disclosure notifying the buyer or lessee  
 340 | whether the seller or lessor will file a fixture filing or a  
 341 | State of Florida Uniform Commercial Code Financing Statement  
 342 | Form (UCC-1) on the distributed energy generation system.

343 |       ~~(30)~~~~(27)~~ A disclosure identifying whether the agreement  
 344 | contains any restrictions on the buyer's or lessee's ability to  
 345 | modify or transfer ownership of a distributed energy generation  
 346 | system, including whether any modification or transfer is  
 347 | subject to review or approval by a third party.

348 |       ~~(31)~~~~(28)~~ A disclosure as to whether the lease agreement  
 349 | may be transferred to a purchaser upon sale of the home or real  
 350 | property to which the system is affixed, and any conditions for

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

351 such transfer.

352 ~~(32)-(29)~~ A blank section that allows the seller to provide  
 353 additional relevant disclosures or explain disclosures made  
 354 elsewhere in the disclosure form.

355  
 356 The requirement to provide a written statement under this  
 357 section may be satisfied by the electronic delivery of a  
 358 document within 24 hours after execution of the written  
 359 statement containing the required statement if the intended  
 360 recipient of the electronic document affirmatively acknowledges  
 361 its receipt. An electronic document satisfies the font and other  
 362 formatting standards required for the written statement if the  
 363 format and the relative size of characters of the electronic  
 364 document are reasonably similar to those required in the written  
 365 document or if the information is otherwise displayed in a  
 366 reasonably conspicuous manner.

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

369 560.111 Prohibited acts.—

370 (6) A person who knowingly and willfully violates s.  
 371 560.309(11) or s. 560.310(2)(d) commits a felony of the third  
 372 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 373 775.084.

374 Section 6. Subsection (11) is added to section 560.309,  
 375 Florida Statutes, to read:

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

376 560.309 Conduct of business.—

377 (11) A licensee may not cash corporate checks where the  
 378 aggregate face amount of all corporate checks cashed for each  
 379 payee exceeds 200 percent of the payee's workers' compensation  
 380 policy payroll amount during the same dates as the workers'  
 381 compensation policy coverage period.

382 Section 7. Section 626.602, Florida Statutes, is amended  
 383 to read:

384 626.602 Insurance agency and adjusting firm names;  
 385 disapproval.—The department may disapprove the use of any true  
 386 or fictitious name, other than the bona fide natural name of an  
 387 individual, by any insurance agency or adjusting firm on any of  
 388 the following grounds:

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

392 (2)The use of the name may mislead the public in any  
 393 respect.

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

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

401 word "state" or "states" in the name of the agency. The use of  
402 the word "state" or "states" in the name of an agency or  
403 adjusting firm does not in and of itself imply that the agency  
404 or adjusting firm is a state agency.

405 (4) The name contains the word "Medicare" or "Medicaid."  
406 ~~An insurance agency whose name contains the word "Medicare" or~~  
407 ~~"Medicaid" but which is licensed as of July 1, 2021, may~~  
408 ~~continue to use that name until June 30, 2023, provided that the~~  
409 ~~agency's license remains valid. If the agency's license expires~~  
410 ~~or is suspended or revoked, the agency may not be relicensed~~  
411 ~~using that name.~~ Licenses for agencies with names containing  
412 either of these words automatically expire on July 1, 2023,  
413 unless these words are removed from the name.

414 Section 8. Section 626.854, Florida Statutes, is amended  
415 to read:

416 626.854 "Public adjuster" defined; prohibitions.—The  
417 Legislature finds that it is necessary for the protection of the  
418 public to regulate public insurance adjusters and to prevent the  
419 unauthorized practice of law.

420 (1) A "public adjuster" is any person, except a duly  
421 licensed attorney at law as exempted under s. 626.860, who, for  
422 money, commission, or any other thing of value, directly or  
423 indirectly prepares, completes, or files an insurance claim for  
424 an insured or third-party claimant, regardless of how that  
425 person describes or presents his or her services, or who, for

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

426 | money, commission, or any other thing of value, acts on behalf  
 427 | of, or aids an insured or third-party claimant in negotiating  
 428 | for or effecting the settlement of a claim or claims for loss or  
 429 | damage covered by an insurance contract, regardless of how that  
 430 | person describes or presents his or her services, or who  
 431 | advertises for employment as an adjuster of such claims. The  
 432 | term also includes any person who, for money, commission, or any  
 433 | other thing of value, directly or indirectly solicits,  
 434 | investigates, or adjusts such claims on behalf of a public  
 435 | adjuster, an insured, or a third-party claimant. The term does  
 436 | not include a person who photographs or inventories damaged  
 437 | personal property or business personal property or a person  
 438 | performing duties under another professional license, if such  
 439 | person does not otherwise solicit, adjust, investigate, or  
 440 | negotiate for or attempt to effect the settlement of a claim.

441 |         (2) This definition does not apply to:

442 |             (a) A licensed health care provider or employee thereof  
 443 | who prepares or files a health insurance claim form on behalf of  
 444 | a patient.

445 |             (b) A licensed health insurance agent who assists an  
 446 | insured with coverage questions, medical procedure coding  
 447 | issues, balance billing issues, understanding the claims filing  
 448 | process, or filing a claim, as such assistance relates to  
 449 | coverage under a health insurance policy.

450 |             (c) A person who files a health claim on behalf of another

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

451 and does so without compensation.

452 (3) A public adjuster may not give legal advice or act on  
 453 behalf of or aid any person in negotiating or settling a claim  
 454 relating to bodily injury, death, or noneconomic damages.

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

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

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

465 (a) May not collect a fee for services on payments made to  
 466 a named insured unless they have a written contract with the  
 467 named insured, or the named insured's legal representative.

468 (b) May not contract for services to be provided by a  
 469 third party on behalf of the named insured or in pursuit of  
 470 settlement of the named insureds claim, if the cost of those  
 471 services is to be borne by the named insured, unless the named  
 472 insured agrees in writing to procure these services and such  
 473 agreement is entered into subsequent to the date of the contract  
 474 for public adjusting services.

475 (c) If a public adjuster contracts with a third-party

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

476 service provider to assist with the settlement of the named  
 477 insured's claim, without first obtaining the insured's written  
 478 consent, payment of the third party's fees must be made by the  
 479 public adjuster and may not be charged back to the named  
 480 insured.

481 (d) If a public adjuster represents anyone other than the  
 482 named insured in a claim, the public adjuster fees shall be paid  
 483 by the third party and may not be charged back to the named  
 484 insured.

485 (7)-(6) An insured or claimant may cancel a public  
 486 adjuster's contract to adjust a claim without penalty or  
 487 obligation within 10 days after the date on which the contract  
 488 is executed. If the contract was entered into based on events  
 489 that are the subject of a declaration of a state of emergency by  
 490 the Governor, an insured or claimant may cancel the public  
 491 adjuster's contract to adjust a claim without penalty or  
 492 obligation within 30 days after the date of loss or 10 days  
 493 after the date on which the contract is executed, whichever is  
 494 longer. The public adjuster's contract must contain the  
 495 following language in minimum 18-point bold type immediately  
 496 before the space reserved in the contract for the signature of  
 497 the insured or claimant:

498 "You, the insured, may cancel this contract for any reason  
 499 without penalty or obligation to you within 10 days after  
 500 the date of this contract. If this contract was entered

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

501 into based on events that are the subject of a declaration  
 502 of a state of emergency by the Governor, you may cancel  
 503 this contract for any reason without penalty or obligation  
 504 to you within 30 days after the date of loss or 10 days  
 505 after the date on which the contract is executed, whichever  
 506 is longer. You may also cancel the contract without penalty  
 507 or obligation to you if I, as your public adjuster, fail to  
 508 provide you and your insurer a copy of a written estimate  
 509 within 60 days of the execution of the contract, unless the  
 510 failure to provide the estimate within 60 days is caused by  
 511 factors beyond my control, in accordance with s.  
 512 627.70131(5)(a)2., Florida Statutes. The 60-day  
 513 cancellation period for failure to provide a written  
 514 estimate shall cease on the date I have provided you with  
 515 the written estimate." The ~~by providing~~ notice of  
 516 cancellation shall be provided to ...(name of public  
 517 adjuster)..., submitted in writing and sent by certified  
 518 mail, return receipt requested, or other form of mailing  
 519 that provides proof thereof, at the address specified in  
 520 the contract.

521 ~~(8)-(7)~~ It is an unfair and deceptive insurance trade  
 522 practice pursuant to s. 626.9541 for a public adjuster or any  
 523 other person to circulate or disseminate any advertisement,  
 524 announcement, or statement containing any assertion,  
 525 representation, or statement with respect to the business of

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CS/CS/HB 1185, Engrossed 2

2023 Legislature

526 insurance which is untrue, deceptive, or misleading.

527 (a) The following statements, made in any public  
 528 adjuster's advertisement or solicitation, are considered  
 529 deceptive or misleading:

530 1. A statement or representation that invites an insured  
 531 policyholder to submit a claim when the policyholder does not  
 532 have covered damage to insured property.

533 2. A statement or representation that invites an insured  
 534 policyholder to submit a claim by offering monetary or other  
 535 valuable inducement.

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

539 4. A statement or representation, or use of a logo or  
 540 shield, that implies or could mistakenly be construed to imply  
 541 that the solicitation was issued or distributed by a  
 542 governmental agency or is sanctioned or endorsed by a  
 543 governmental agency.

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

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CS/CS/HB 1185, Engrossed 2

2023 Legislature

551  
 552 "THIS IS A SOLICITATION FOR BUSINESS. IF YOU HAVE HAD  
 553 A CLAIM FOR AN INSURED PROPERTY LOSS OR DAMAGE AND YOU  
 554 ARE SATISFIED WITH THE PAYMENT BY YOUR INSURER, YOU  
 555 MAY DISREGARD THIS ADVERTISEMENT."  
 556

557 (9)~~(8)~~ A public adjuster, a public adjuster apprentice, or  
 558 any person or entity acting on behalf of a public adjuster or  
 559 public adjuster apprentice may not give or offer to give a  
 560 monetary loan or advance to a client or prospective client.

561 (10)~~(9)~~ A public adjuster, public adjuster apprentice, or  
 562 any individual or entity acting on behalf of a public adjuster  
 563 or public adjuster apprentice may not give or offer to give,  
 564 directly or indirectly, any article of merchandise having a  
 565 value in excess of \$25 to any individual for the purpose of  
 566 advertising or as an inducement to entering into a contract with  
 567 a public adjuster.

568 (11) (a)~~(10)~~~~(a)~~ If a public adjuster enters into a contract  
 569 with an insured or claimant to reopen a claim or file a  
 570 supplemental claim that seeks additional payments for a claim  
 571 that has been previously paid in part or in full or settled by  
 572 the insurer, the public adjuster may not charge, agree to, or  
 573 accept from any source compensation, payment, commission, fee,  
 574 or any other thing of value based on a previous settlement or  
 575 previous claim payments by the insurer for the same cause of

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CS/CS/HB 1185, Engrossed 2

2023 Legislature

576 loss. The charge, compensation, payment, commission, fee, or any  
 577 other thing of value must be based only on the claim payments or  
 578 settlements paid to the insured, exclusive of attorney fees and  
 579 costs, obtained through the work of the public adjuster after  
 580 entering into the contract with the insured or claimant.  
 581 Compensation for the reopened or supplemental claim may not  
 582 exceed 20 percent of the reopened or supplemental claim payment.  
 583 In no event shall the contracts described in this paragraph  
 584 exceed the limitations in paragraph (b).

585 (b) A public adjuster may not charge, agree to, or accept  
 586 from any source compensation, payment, commission, fee, or any  
 587 other thing of value in excess of:

588 1. Ten percent of the amount of insurance claim payments  
 589 or settlements, exclusive of attorney fees and costs, paid to  
 590 the insured by the insurer for claims based on events that are  
 591 the subject of a declaration of a state of emergency by the  
 592 Governor. This provision applies to claims made during the year  
 593 after the declaration of emergency. After that year, the  
 594 limitations in subparagraph 2. apply.

595 2. Twenty percent of the amount of insurance claim  
 596 payments or settlements, exclusive of attorney fees and costs,  
 597 paid to the insured by the insurer for claims that are not based  
 598 on events that are the subject of a declaration of a state of  
 599 emergency by the Governor.

600 3. One percent of the amount of insurance claim payments

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CS/CS/HB 1185, Engrossed 2

2023 Legislature

601 or settlements, paid to the insured by the insurer for any  
 602 coverage part of the policy where the claim payment or written  
 603 agreement by the insurer to pay is equal to or greater than the  
 604 policy limit for that part of the policy, if the payment or  
 605 written commitment to pay is provided within 14 days after the  
 606 date of loss or within 10 days after the date on which the  
 607 public adjusting contract is executed, whichever is later.

608 4. Zero percent of the amount of insurance claim payments  
 609 or settlements, paid to the insured by the insurer for any  
 610 coverage part of the policy where the claim payment or written  
 611 agreement by the insurer to pay occurs before the date on which  
 612 the public adjusting contract is executed.

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

616 (d) Public adjuster compensation may not be based on  
 617 amounts attributable to additional living expenses, unless such  
 618 compensation is affirmatively agreed to in a separate agreement  
 619 that includes a disclosure in substantially the following form:  
 620 "I agree to retain and compensate the public adjuster for  
 621 adjusting my additional living expenses and securing payment  
 622 from my insurer for amounts attributable to additional living  
 623 expenses payable under the policy issued on my (home/mobile  
 624 home/condominium unit)."

625 (e) Public adjuster rate of compensation may not be

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CS/CS/HB 1185, Engrossed 2

2023 Legislature

626 increased based solely on the fact that the claim is litigated.

627 (f) Any maneuver, shift, or device through which the  
 628 limits on compensation set forth in this subsection are exceeded  
 629 is a violation of this chapter punishable as provided under s.  
 630 626.8698.

631 (12) (a) ~~(11)~~ Each public adjuster must provide to the  
 632 claimant or insured a written estimate of the loss to assist in  
 633 the submission of a proof of loss or any other claim for payment  
 634 of insurance proceeds within 60 days after the date of the  
 635 contract. The written estimate must include an itemized, per-  
 636 unit estimate of the repairs, including itemized information on  
 637 equipment, materials, labor, and supplies, in accordance with  
 638 accepted industry standards. The public adjuster shall retain  
 639 such written estimate for at least 5 years and shall make the  
 640 estimate available to the claimant or insured, the insurer, and  
 641 the department upon request.

642 (b) An insured may cancel the contract with no additional  
 643 penalties or fees charged by the public adjuster if such an  
 644 estimate is not provided within 60 days after executing the  
 645 contract, subject to the cancellation notice requirement in this  
 646 section, unless the failure to provide the estimate within 60  
 647 days is caused by factors beyond the control of the public  
 648 adjuster. The cancellation period shall cease on the date the  
 649 public adjuster provides the written estimate to the insured.

650 (13) ~~(12)~~ A public adjuster, public adjuster apprentice, or

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CS/CS/HB 1185, Engrossed 2

2023 Legislature

651 any person acting on behalf of a public adjuster or apprentice  
 652 may not accept referrals of business from any person with whom  
 653 the public adjuster conducts business if there is any form or  
 654 manner of agreement to compensate the person, directly or  
 655 indirectly, for referring business to the public adjuster. A  
 656 public adjuster may not compensate any person, except for  
 657 another public adjuster, directly or indirectly, for the  
 658 principal purpose of referring business to the public adjuster.

659 (14)~~(13)~~ A company employee adjuster, independent  
 660 adjuster, attorney, investigator, or other persons acting on  
 661 behalf of an insurer that needs access to an insured or claimant  
 662 or to the insured property that is the subject of a claim must  
 663 provide at least 48 hours' notice to the insured or claimant,  
 664 public adjuster, or legal representative before scheduling a  
 665 meeting with the claimant or an onsite inspection of the insured  
 666 property. The insured or claimant may deny access to the  
 667 property if the notice has not been provided. The insured or  
 668 claimant may waive the 48-hour notice.

669 (15)~~(14)~~ The public adjuster must ensure that prompt  
 670 notice is given of the claim to the insurer, the public  
 671 adjuster's contract is provided to the insurer, the property is  
 672 available for inspection of the loss or damage by the insurer,  
 673 and the insurer is given an opportunity to interview the insured  
 674 directly about the loss and claim. The insurer must be allowed  
 675 to obtain necessary information to investigate and respond to

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CS/CS/HB 1185, Engrossed 2

2023 Legislature

676 | the claim.

677 |       (a) The insurer may not exclude the public adjuster from  
 678 | its in-person meetings with the insured. The insurer shall meet  
 679 | or communicate with the public adjuster in an effort to reach  
 680 | agreement as to the scope of the covered loss under the  
 681 | insurance policy. The public adjuster shall meet or communicate  
 682 | with the insurer in an effort to reach agreement as to the scope  
 683 | of the covered loss under the insurance policy. This section  
 684 | does not impair the terms and conditions of the insurance policy  
 685 | in effect at the time the claim is filed.

686 |       (b) A public adjuster may not restrict or prevent an  
 687 | insurer, company employee adjuster, independent adjuster,  
 688 | attorney, investigator, or other person acting on behalf of the  
 689 | insurer from having reasonable access at reasonable times to any  
 690 | insured or claimant or to the insured property that is the  
 691 | subject of a claim.

692 |       (c) A public adjuster may not act or fail to reasonably  
 693 | act in any manner that obstructs or prevents an insurer or  
 694 | insurer's adjuster from timely conducting an inspection of any  
 695 | part of the insured property for which there is a claim for loss  
 696 | or damage. The public adjuster representing the insureds may be  
 697 | present for the insurer's inspection, but if the unavailability  
 698 | of the public adjuster otherwise delays the insurer's timely  
 699 | inspection of the property, the public adjuster or the insureds  
 700 | must allow the insurer to have access to the property without

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CS/CS/HB 1185, Engrossed 2

2023 Legislature

701 the participation or presence of the public adjuster or insureds  
 702 in order to facilitate the insurer's prompt inspection of the  
 703 loss or damage.

704 (16)~~(15)~~ A licensed contractor under part I of chapter  
 705 489, or a subcontractor of such licensee, may not advertise,  
 706 solicit, offer to handle, handle, or perform public adjuster  
 707 services as provided in subsection (1) unless licensed and  
 708 compliant as a public adjuster under this chapter. The  
 709 prohibition against solicitation does not preclude a contractor  
 710 from suggesting or otherwise recommending to a consumer that the  
 711 consumer consider contacting his or her insurer to determine if  
 712 the proposed repair is covered under the consumer's insurance  
 713 policy, except as it relates to solicitation prohibited in s.  
 714 489.147. In addition, the contractor may discuss or explain a  
 715 bid for construction or repair of covered property with the  
 716 residential property owner who has suffered loss or damage  
 717 covered by a property insurance policy, or the insurer of such  
 718 property, if the contractor is doing so for the usual and  
 719 customary fees applicable to the work to be performed as stated  
 720 in the contract between the contractor and the insured.

721 (17)~~(16)~~ A public adjuster shall not acquire any interest  
 722 in salvaged property, except with the written consent and  
 723 permission of the insured through a signed affidavit.

724 (18)~~(17)~~ A public adjuster, a public adjuster apprentice,  
 725 or a person acting on behalf of an adjuster or apprentice may

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CS/CS/HB 1185, Engrossed 2

2023 Legislature

726 | not enter into a contract or accept a power of attorney that  
 727 | vests in the public adjuster, the public adjuster apprentice, or  
 728 | the person acting on behalf of the adjuster or apprentice the  
 729 | effective authority to choose the persons or entities that will  
 730 | perform repair work in a property insurance claim or provide  
 731 | goods or services that will require the insured or third-party  
 732 | claimant to expend funds in excess of those payable to the  
 733 | public adjuster under the terms of the contract for adjusting  
 734 | services.

735 |        (19)~~(18)~~ Subsections (5)-(18) ~~(5)-(17)~~ apply only to  
 736 | residential property insurance policies and condominium unit  
 737 | owner policies as described in s. 718.111(11).

738 |        (20)~~(19)~~ Except as otherwise provided in this chapter, no  
 739 | person, except an attorney at law or a licensed public adjuster,  
 740 | may for money, commission, or any other thing of value, directly  
 741 | or indirectly:

742 |           (a) Prepare, complete, or file an insurance claim for an  
 743 | insured or a third-party claimant;

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

747 |           (c) Offer to initiate or negotiate a claim on behalf of an  
 748 | insured;

749 |           (d) Advertise services that require a license as a public  
 750 | adjuster; or

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CS/CS/HB 1185, Engrossed 2

2023 Legislature

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

753 ~~(21)-(20)~~ The department may take administrative actions  
 754 and impose fines against any persons performing claims  
 755 adjusting, soliciting, or any other services described in this  
 756 section without the licensure required under this section or s.  
 757 626.112.

758 ~~(22)-(21)~~ A public adjuster, public adjuster apprentice, or  
 759 public adjusting firm that solicits a claim and does not enter  
 760 into a contract with an insured or a third-party claimant  
 761 pursuant to paragraph (11)(a) ~~(10)(a)~~ may not charge an insured  
 762 or a third-party claimant or receive payment by any other source  
 763 for any type of service related to the insured or third-party  
 764 claimant's claim.

765 ~~(23)(a)-(22)(a)~~ Any following act by a public adjuster, a  
 766 public adjuster apprentice, or a person acting on behalf of a  
 767 public adjuster or public adjuster apprentice is prohibited and  
 768 shall result in discipline as applicable under this part:

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

772 a. Allowing a contractor, a public adjuster, a public  
 773 adjuster apprentice, or a person acting on behalf of a public  
 774 adjuster or public adjuster apprentice to conduct an inspection  
 775 of the residential property owner's roof; or

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CS/CS/HB 1185, Engrossed 2

2023 Legislature

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

778           2. Offering, delivering, receiving, or accepting any  
779 compensation, inducement, or reward for the referral of any  
780 services for which property insurance proceeds would be used for  
781 roofing repairs or replacement.

782           (b) Notwithstanding the fine set forth in s. 626.8698, a  
783 public adjuster or public adjuster apprentice may be subject to  
784 a fine not to exceed \$10,000 per act for a violation of this  
785 subsection and a fine not to exceed \$20,000 per act for a  
786 violation of this subsection that occurs during a state of  
787 emergency declared by executive order or proclamation of the  
788 Governor pursuant to s. 252.36.

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

793           1. Subject to all applicable penalties set forth in this  
794 part.

795           2. Notwithstanding subparagraph 1., subject to a fine not  
796 to exceed \$10,000 per act for a violation of this subsection and  
797 a fine not to exceed \$20,000 per act for a violation of this  
798 subsection that occurs during a state of emergency declared by  
799 executive order or proclamation of the Governor pursuant to s.  
800 252.36.

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

801 Section 9. Section 626.875, Florida Statutes, is amended  
 802 to read:

803 626.875 Office and records.—

804 (1)(a) Each appointed independent adjuster and licensed  
 805 public adjuster must maintain a place of business in this state  
 806 which is accessible to the public and keep therein the usual and  
 807 customary records pertaining to transactions under the license.  
 808 This provision does not prohibit maintenance of such an office  
 809 in the home of the licensee.

810 (b) A license issued under this chapter must at all times  
 811 be posted in a conspicuous place in the principal place of  
 812 business of the license holder. If the licensee is conducting  
 813 business away from the place of business such that the license  
 814 cannot be posted, the licensee shall have such license in his or  
 815 her actual possession at the time of carrying on such business.

816 (2) The records of the adjuster relating to a particular  
 817 claim or loss shall be so retained in the adjuster's place of  
 818 business for a period of not less than 5 years after completion  
 819 of the adjustment and shall be available for inspection by the  
 820 department between the hours of 8 a.m. and 5 p.m., Monday  
 821 through Friday, excluding state holidays. This provision shall  
 822 not be deemed to prohibit return or delivery to the insurer or  
 823 insured of documents furnished to or prepared by the adjuster  
 824 and required by the insurer or insured to be returned or  
 825 delivered thereto. At a minimum, the following records must be

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CS/CS/HB 1185, Engrossed 2

2023 Legislature

826 maintained for a period of not less than 5 years:

827 (a) Name, address, telephone number, and e-mail address of

828 the insured, and the name of the attorney representing the

829 insured, if applicable.

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

831 (c) An unaltered copy of the executed disclosure document

832 required by s. 626.8796.

833 (d) An unaltered copy of the executed public adjuster

834 contract required by s. 626.8796.

835 (e) A copy of the estimate of damages provided to the

836 insurer.

837 (f) The name of the insurer; the name of the claims

838 representative of the insurer; and the amount, expiration date,

839 and number of each policy under which the loss is covered.

840 (g) An itemized statement of the recoveries by the insured

841 from the sources known to the adjuster.

842 (h) An itemized statement of all compensation received by

843 the public adjuster from any source in connection with the loss.

844 (i) A register of all money received, deposited,

845 disbursed, and withdrawn in connection with a transaction with

846 the insured, including fees, transfers, and disbursements in

847 connection with the loss.

848 Section 10. Section 626.8796, Florida Statutes, is amended

849 to read:

850 626.8796 Public adjuster contracts; disclosure statement;

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CS/CS/HB 1185, Engrossed 2

2023 Legislature

851 fraud statement.—

852 (1) All contracts for public adjuster services must be in  
853 writing in at least 12-point type, be titled "Public Adjuster  
854 Contract," and prominently display the following statement on  
855 the contract in minimum 18-point bold type before the space  
856 reserved in the contract for the signature of the insured:  
857 "Pursuant to s. 817.234, Florida Statutes, any person who, with  
858 the intent to injure, defraud, or deceive an insurer or insured,  
859 prepares, presents, or causes to be presented a proof of loss or  
860 estimate of cost or repair of damaged property in support of a  
861 claim under an insurance policy knowing that the proof of loss  
862 or estimate of claim or repairs contains false, incomplete, or  
863 misleading information concerning any fact or thing material to  
864 the claim commits a felony of the third degree, punishable as  
865 provided in s. 775.082, s. 775.083, or s. 775.084, Florida  
866 Statutes."

867 (2) A public adjuster contract relating to a property and  
868 casualty claim must contain the full name, permanent business  
869 address, phone number, e-mail address, and license number of the  
870 public adjuster; the full name of the public adjusting firm; and  
871 the insured's full name, ~~and~~ street address, phone number, and  
872 e-mail address, together with a brief description of the loss.  
873 The contract must state the percentage of compensation for the  
874 public adjuster's services in minimum 18-point bold type before  
875 the space reserved in the contract for the signature of the

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CS/CS/HB 1185, Engrossed 2

2023 Legislature

876 | insured; the type of claim, including an emergency claim,  
 877 | nonemergency claim, or supplemental claim; the initials of the  
 878 | named insured on each page that does not contain the insured's  
 879 | signature; the signatures of the public adjuster and all named  
 880 | insureds; and the signature date. If all of the named insureds'  
 881 | signatures are not available, the public adjuster must submit an  
 882 | affidavit signed by the available named insureds attesting that  
 883 | they have authority to enter into the contract and settle all  
 884 | claim issues on behalf of the named insureds. An unaltered copy  
 885 | of the executed contract must be remitted to the insured at the  
 886 | time of execution and to the insurer, or the insurer's  
 887 | representative within 7 ~~30~~ days after execution. A public  
 888 | adjusting firm that adjusts claims primarily for commercial  
 889 | entities with operations in more than one state and that does  
 890 | not directly or indirectly perform adjusting services for  
 891 | insurers or individual homeowners is deemed to comply with the  
 892 | requirements of this subsection if, at the time a proof of loss  
 893 | is submitted, the public adjusting firm remits to the insurer an  
 894 | affidavit signed by the public adjuster or public adjuster  
 895 | apprentice that identifies:  
 896 |       (a) The full name, permanent business address, phone  
 897 | number, e-mail address, and license number of the public  
 898 | adjuster or public adjuster apprentice.  
 899 |       (b) The full name of the public adjusting firm.  
 900 |       (c) The insured's full name, ~~and~~ street address, phone

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

901 number, and e-mail address, together with a brief description of  
 902 the loss.

903 (d) An attestation that the compensation for public  
 904 adjusting services will not exceed the limitations provided by  
 905 law.

906 (e) The type of claim, including an emergency claim,  
 907 nonemergency claim, or supplemental claim.

908 (3) The public adjuster shall not receive compensation for  
 909 services provided before the date the insured receives an  
 910 unaltered copy of the executed contract or the date executed  
 911 contract is submitted to the insurer. Proof of receipt by the  
 912 insured and proof of submission to the insurer must be  
 913 maintained by the public adjuster for not less than 5 years.

914 (4) The insured may rescind the contract for public  
 915 adjuster services if the public adjuster has not submitted a  
 916 written estimate to the insurer within 60 days after executing  
 917 the contract, unless the failure to provide the written estimate  
 918 within 60 days is caused by factors beyond the public adjuster's  
 919 control.

920 (5) The cancellation period for failure to provide a  
 921 written estimate terminates on the date the estimate is  
 922 provided.

923 (6) Before the signing of the contract, the public  
 924 adjuster shall provide the insured with a separate disclosure  
 925 document to be signed by the insured, on a form adopted by the

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

926 department, regarding the claim process which accomplishes the  
 927 following:

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

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

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

935 (d) Explains that an insured has a right to initiate  
 936 direct communications with the insured's attorney, the insurer,  
 937 the company adjuster, the insurer's attorney, or any person  
 938 regarding the settlement of the insured's claim.

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

942 (f) Explains that the public adjuster is required to  
 943 provide the insured an unaltered copy of the executed contract  
 944 at the time of execution.

945 (g) Explains that if the contract was entered into based  
 946 on events that are the subject of a declaration of a state of  
 947 emergency by the Governor, an insured or a claimant may cancel  
 948 the public adjuster's contract to adjust a claim without penalty  
 949 or obligation within 30 days after the date of loss or 10 days  
 950 after the date on which the contract is executed, whichever is

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

951 longer.

952 (h) The public adjuster shall provide an unaltered copy of  
 953 the executed disclosure document to the insured at the time of  
 954 execution.

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

957 (8) The department may adopt rules pursuant to ss.  
 958 120.536(1) and 120.54 to implement this section, including rules  
 959 to adopt forms required by this section.

960 Section 11. Section 626.8797, Florida Statutes, is amended  
 961 to read:

962 626.8797 Proof of loss; fraud statement.—All proof-of-loss  
 963 statements must prominently display the following statement in  
 964 minimum 18-point bold type before the space reserved in the  
 965 contract for the signature of the insured: "Pursuant to s.  
 966 817.234, Florida Statutes, any person who, with the intent to  
 967 injure, defraud, or deceive any insurer or insured, prepares,  
 968 presents, or causes to be presented a proof of loss or estimate  
 969 of cost or repair of damaged property in support of a claim  
 970 under an insurance policy knowing that the proof of loss or  
 971 estimate of claim or repairs contains any false, incomplete, or  
 972 misleading information concerning any fact or thing material to  
 973 the claim commits a felony of the third degree, punishable as  
 974 provided in s. 775.082, s. 775.083, or s. 775.084, Florida  
 975 Statutes."

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

976 Section 12. Paragraph (a) of subsection (1) of section  
 977 626.9541, Florida Statutes, is amended to read:

978 626.9541 Unfair methods of competition and unfair or  
 979 deceptive acts or practices defined.—

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

983 (a) *Misrepresentations and false advertising of insurance*  
 984 *policies.*—Knowingly making, issuing, circulating, or causing to  
 985 be made, issued, or circulated, any estimate, illustration,  
 986 circular, statement, sales presentation, omission, comparison,  
 987 or property and casualty certificate of insurance altered after  
 988 being issued, which:

989 1. Misrepresents the benefits, advantages, conditions, or  
 990 terms of any insurance policy.

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

993 3. Makes any false or misleading statements as to the  
 994 dividends or share of surplus previously paid on any insurance  
 995 policy.

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

999 5. Uses any name or title of any insurance policy or class  
 1000 of insurance policies misrepresenting the true nature thereof.

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CS/CS/HB 1185, Engrossed 2

2023 Legislature

1001           6. Is a misrepresentation for the purpose of inducing, or  
 1002 tending to induce, the lapse, forfeiture, exchange, conversion,  
 1003 or surrender of any insurance policy.

1004           7. Is a misrepresentation for the purpose of effecting a  
 1005 pledge or assignment of, or effecting a loan against, any  
 1006 insurance policy.

1007           8. Misrepresents any insurance policy as being shares of  
 1008 stock or misrepresents ownership interest in the company.

1009           9. Uses any advertisement that would mislead or otherwise  
 1010 cause a reasonable person to believe mistakenly that the state  
 1011 or the Federal Government is responsible for the insurance sales  
 1012 activities of any person or stands behind any person's credit or  
 1013 that any person, the state, or the Federal Government guarantees  
 1014 any returns on insurance products or is a source of payment of  
 1015 any insurance obligation of or sold by any person.

1016           10. Fails to disclose a third party that receives  
 1017 royalties, referral fees, or other remuneration for sponsorship,  
 1018 marketing, or use of third-party branding for a policy of health  
 1019 insurance as defined in s. 624.603.

1020           Section 13. Paragraph (c) of subsection (2) of section  
 1021 627.4025, Florida Statutes, is amended, and paragraph (d) is  
 1022 added to that subsection, to read:

1023           627.4025 Residential coverage and hurricane coverage  
 1024 defined.—

1025           (2) As used in policies providing residential coverage:

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CS/CS/HB 1185, Engrossed 2

2023 Legislature

1026 (c) "Hurricane" for purposes of paragraphs (a) and (b)  
 1027 means a storm system that has been declared to be a hurricane by  
 1028 the National Hurricane Center of the National Weather Service.

1029 The duration of the hurricane includes the time period, in  
 1030 Florida:

1031 1. Beginning at the time a ~~hurricane watch or~~ hurricane  
 1032 warning is issued for any part of Florida by the National  
 1033 Hurricane Center of the National Weather Service; and

1034 2. ~~Continuing for the time period during which the~~  
 1035 ~~hurricane conditions exist anywhere in Florida; and~~

1036 3. Ending 72 hours following the termination of the last  
 1037 hurricane watch or hurricane warning issued for any part of  
 1038 Florida by the National Hurricane Center of the National Weather  
 1039 Service.

1040 (d) "Hurricane deductible" means the deductible applicable  
 1041 to loss caused by a hurricane.

1042 Section 14. Paragraph (b) of subsection (1) and paragraph  
 1043 (b) of subsection (2) of section 627.4133, Florida Statutes, are  
 1044 amended, and paragraph (d) is added to subsection (1) and  
 1045 paragraph (c) is added to subsection (2) of that section, to  
 1046 read:

1047 627.4133 Notice of cancellation, nonrenewal, or renewal  
 1048 premium.—

1049 (1) Except as provided in subsection (2):

1050 (b) An insurer issuing a policy providing coverage for

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CS/CS/HB 1185, Engrossed 2

2023 Legislature

1051 property, casualty, except mortgage guaranty, surety, or marine  
1052 insurance, other than motor vehicle insurance subject to s.  
1053 627.728 or s. 627.7281, shall give the first-named insured  
1054 written notice of cancellation or termination other than  
1055 nonrenewal at least 45 days prior to the effective date of the  
1056 cancellation or termination, including in the written notice the  
1057 reason or reasons for the cancellation or termination, except  
1058 that:

1059 1. When cancellation is for nonpayment of premium, at  
1060 least 10 days' written notice of cancellation accompanied by the  
1061 reason therefor shall be given. As used in this subparagraph and  
1062 s. 440.42(3), the term "nonpayment of premium" means failure of  
1063 the named insured to discharge when due any of her or his  
1064 obligations in connection with the payment of premiums on a  
1065 policy or any installment of such premium, whether the premium  
1066 is payable directly to the insurer or its agent or indirectly  
1067 under any premium finance plan or extension of credit, or  
1068 failure to maintain membership in an organization if such  
1069 membership is a condition precedent to insurance coverage.  
1070 "Nonpayment of premium" also means the failure of a financial  
1071 institution to honor an insurance applicant's check after  
1072 delivery to a licensed agent for payment of a premium, even if  
1073 the agent has previously delivered or transferred the premium to  
1074 the insurer. If a dishonored check represents the initial  
1075 premium payment, the contract and all contractual obligations

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CS/CS/HB 1185, Engrossed 2

2023 Legislature

1076 shall be void ab initio unless the nonpayment is cured within  
 1077 the earlier of 5 days after actual notice by certified mail is  
 1078 received by the applicant or 15 days after notice is sent to the  
 1079 applicant by certified mail or registered mail, and if the  
 1080 contract is void, any premium received by the insurer from a  
 1081 third party shall be refunded to that party in full; and

1082         2. When such cancellation or termination occurs during the  
 1083 first 60 ~~90~~ days during which the insurance is in force and the  
 1084 insurance is canceled or terminated for reasons other than  
 1085 nonpayment of premium, at least 20 days' written notice of  
 1086 cancellation or termination accompanied by the reason therefor  
 1087 shall be given except where there has been a material  
 1088 misstatement or misrepresentation or failure to comply with the  
 1089 underwriting requirements established by the insurer.

1090  
 1091 After the policy has been in effect for 60 ~~90~~ days, no such  
 1092 policy shall be canceled by the insurer except when there has  
 1093 been a material misstatement, a nonpayment of premium, a failure  
 1094 to comply with underwriting requirements established by the  
 1095 insurer within 60 ~~90~~ days of the date of effectuation of  
 1096 coverage, or a substantial change in the risk covered by the  
 1097 policy or when the cancellation is for all insureds under such  
 1098 policies for a given class of insureds. This subsection does not  
 1099 apply to individually rated risks having a policy term of less  
 1100 than 90 days.

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CS/CS/HB 1185, Engrossed 2

2023 Legislature

1101           (d) Notwithstanding subparagraph (b), Citizens Property  
 1102 Insurance Corporation in underwriting risks that, prior to the  
 1103 date of the application, were most recently insured by an  
 1104 insurer that has been placed in receivership under chapter 631,  
 1105 may immediately cancel a policy insuring such risk that has been  
 1106 in effect for 90 days or less for material misrepresentation or  
 1107 failure to comply with underwriting requirements established  
 1108 before the effectuation of coverage.

1109           (2) With respect to any personal lines or commercial  
 1110 residential property insurance policy, including, but not  
 1111 limited to, any homeowner, mobile home owner, farmowner,  
 1112 condominium association, condominium unit owner, apartment  
 1113 building, or other policy covering a residential structure or  
 1114 its contents:

1115           (b) The insurer shall give the first-named insured written  
 1116 notice of nonrenewal, cancellation, or termination at least 120  
 1117 days before the effective date of the nonrenewal, cancellation,  
 1118 or termination. The notice must include the reason for the  
 1119 nonrenewal, cancellation, or termination, except that:

1120           1. If cancellation is for nonpayment of premium, at least  
 1121 10 days' written notice of cancellation accompanied by the  
 1122 reason therefor must be given. As used in this subparagraph, the  
 1123 term "nonpayment of premium" means failure of the named insured  
 1124 to discharge when due her or his obligations for paying the  
 1125 premium on a policy or an installment of such premium, whether

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CS/CS/HB 1185, Engrossed 2

2023 Legislature

1126 | the premium is payable directly to the insurer or its agent or  
1127 | indirectly under a premium finance plan or extension of credit,  
1128 | or failure to maintain membership in an organization if such  
1129 | membership is a condition precedent to insurance coverage. The  
1130 | term also means the failure of a financial institution to honor  
1131 | an insurance applicant's check after delivery to a licensed  
1132 | agent for payment of a premium even if the agent has previously  
1133 | delivered or transferred the premium to the insurer. If a  
1134 | dishonored check represents the initial premium payment, the  
1135 | contract and all contractual obligations are void ab initio  
1136 | unless the nonpayment is cured within the earlier of 5 days  
1137 | after actual notice by certified mail is received by the  
1138 | applicant or 15 days after notice is sent to the applicant by  
1139 | certified mail or registered mail. If the contract is void, any  
1140 | premium received by the insurer from a third party must be  
1141 | refunded to that party in full.

1142 |         2. If cancellation or termination occurs during the first  
1143 | 60 ~~90~~ days the insurance is in force and the insurance is  
1144 | canceled or terminated for reasons other than nonpayment of  
1145 | premium, at least 20 days' written notice of cancellation or  
1146 | termination accompanied by the reason therefor must be given  
1147 | unless there has been a material misstatement or  
1148 | misrepresentation or a failure to comply with the underwriting  
1149 | requirements established by the insurer.

1150 |         3. After the policy has been in effect for 60 ~~90~~ days, the

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CS/CS/HB 1185, Engrossed 2

2023 Legislature

1151 policy may not be canceled by the insurer unless there has been  
1152 a material misstatement; a nonpayment of premium; a failure to  
1153 comply, within 60 ~~90~~ days after the date of effectuation of  
1154 coverage, with underwriting requirements established by the  
1155 insurer before the date of effectuation of coverage; or a  
1156 substantial change in the risk covered by the policy or unless  
1157 the cancellation is for all insureds under such policies for a  
1158 given class of insureds. This subparagraph does not apply to  
1159 individually rated risks that have a policy term of less than 90  
1160 days.

1161 4. After a policy or contract has been in effect for more  
1162 than 60 ~~90~~ days, the insurer may not cancel or terminate the  
1163 policy or contract based on credit information available in  
1164 public records.

1165 5. A policy that is nonrenewed by Citizens Property  
1166 Insurance Corporation, pursuant to s. 627.351(6), for a policy  
1167 that has been assumed by an authorized insurer offering  
1168 replacement coverage to the policyholder is exempt from the  
1169 notice requirements of paragraph (a) and this paragraph. In such  
1170 cases, the corporation must give the named insured written  
1171 notice of nonrenewal at least 45 days before the effective date  
1172 of the nonrenewal.

1173 6. Notwithstanding any other provision of law, an insurer  
1174 may cancel or nonrenew a property insurance policy after at  
1175 least 45 days' notice if the office finds that the early

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CS/CS/HB 1185, Engrossed 2

2023 Legislature

1176 cancellation of some or all of the insurer's policies is  
 1177 necessary to protect the best interests of the public or  
 1178 policyholders and the office approves the insurer's plan for  
 1179 early cancellation or nonrenewal of some or all of its policies.  
 1180 The office may base such finding upon the financial condition of  
 1181 the insurer, lack of adequate reinsurance coverage for hurricane  
 1182 risk, or other relevant factors. The office may condition its  
 1183 finding on the consent of the insurer to be placed under  
 1184 administrative supervision pursuant to s. 624.81 or to the  
 1185 appointment of a receiver under chapter 631.

1186 7. A policy covering both a home and a motor vehicle may  
 1187 be nonrenewed for any reason applicable to the property or motor  
 1188 vehicle insurance after providing 90 days' notice.

1189 (c) Notwithstanding subparagraph (b), Citizens Property  
 1190 Insurance Corporation in underwriting risks that, prior to the  
 1191 date of the application, were most recently insured by an  
 1192 insurer that has been placed in receivership under chapter 631,  
 1193 may immediately cancel a policy insuring such risk that has been  
 1194 in effect for 90 days or less for material misrepresentation or  
 1195 failure to comply with underwriting requirements established  
 1196 before the effectuation of coverage.

1197 Section 15. Effective January 1, 2024, section 627.4554,  
 1198 Florida Statutes, is amended to read:

1199 627.4554 Suitability in annuity transactions ~~investments.~~-

1200 (1) PURPOSE.-The purpose of this section is to require

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CS/CS/HB 1185, Engrossed 2

2023 Legislature

1201 agents to act in the best interest of the consumer when making a  
 1202 recommendation of an annuity and to require insurers to  
 1203 establish and maintain a system to supervise so set forth  
 1204 ~~standards and procedures for making recommendations to consumers~~  
 1205 ~~which result in transactions involving annuity products, and to~~  
 1206 ~~establish a system for supervising such recommendations in order~~  
 1207 ~~to ensure~~ that the insurance needs and financial objectives of  
 1208 consumers are effectively ~~appropriately~~ addressed at the time of  
 1209 the transaction.

1210 (2) SCOPE.—This section applies to any sale or  
 1211 recommendation of ~~made to a consumer to purchase, exchange, or~~  
 1212 ~~replace an annuity by an insurer or its agent, and which results~~  
 1213 ~~in the purchase, exchange, or replacement recommended.~~

1214 (3) DEFINITIONS.—As used in this section, the term:

1215 (a) "Agent" means a person or entity required to be  
 1216 licensed under the laws of this state to sell, solicit, or  
 1217 negotiate insurance, including annuities. For purposes of this  
 1218 section, the term includes an insurer when no agent is involved  
 1219 ~~has the same meaning as provided in s. 626.015.~~

1220 (b) "Annuity" means an insurance product under state law  
 1221 which is individually solicited, whether classified as an  
 1222 individual or group annuity.

1223 (c) "Cash compensation" means any discount, concession,  
 1224 fee, service fee, commission, sales charge, loan, override, or  
 1225 cash benefit received by an agent from an insurer or

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CS/CS/HB 1185, Engrossed 2

2023 Legislature

1226 intermediary or directly from the consumer in connection with  
 1227 the recommendation or sale of an annuity.

1228 (d) "Consumer profile information" means information that  
 1229 is reasonably appropriate to determine whether a recommendation  
 1230 addresses the consumer's financial situation, insurance needs,  
 1231 and financial objectives, including, at a minimum, the  
 1232 following:

- 1233 1. Age.
- 1234 2. Annual income.
- 1235 3. Financial situation and needs, including debts and  
 1236 other obligations.
- 1237 4. Financial experience.
- 1238 5. Insurance needs.
- 1239 6. Financial objectives.
- 1240 7. Intended use of the annuity.
- 1241 8. Financial time horizon.
- 1242 9. Existing assets or financial products, including  
 1243 investment, annuity, and insurance holdings.
- 1244 10. Liquidity needs.
- 1245 11. Liquid net worth.
- 1246 12. Risk tolerance, including, but not limited to,  
 1247 willingness to accept nonguaranteed elements in the annuity.
- 1248 13. Financial resources used to fund the annuity.
- 1249 14. Tax status.

1250 (e)-(e) "FINRA" means the Financial Industry Regulatory

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CS/CS/HB 1185, Engrossed 2

2023 Legislature

1251 Authority or a succeeding agency.

1252 (f)~~(d)~~ "Insurer" has the same meaning as provided in s.  
1253 624.03.

1254 (g) "Intermediary" means an entity contracted directly  
1255 with an insurer or with another entity contracted with an  
1256 insurer to facilitate the sale of the insurer's annuities by  
1257 agents.

1258 (h) "Material conflict of interest" means a financial  
1259 interest of the agent in the sale of an annuity which a  
1260 reasonable person would expect to influence the impartiality of  
1261 a recommendation. The term does not include cash compensation or  
1262 noncash compensation.

1263 (i) "Noncash compensation" means any form of compensation  
1264 that is not cash compensation, including, but not limited to,  
1265 health insurance, office rent, office support, and retirement  
1266 benefits.

1267 (j) "Nonguaranteed elements" means the premiums; credited  
1268 interest rates, including any bonus; benefits; values;  
1269 dividends; noninterest-based credits; charges; or elements of  
1270 formulas used to determine any of these, which are subject to  
1271 company discretion and are not guaranteed at issue. An element  
1272 is considered nonguaranteed if any of the underlying  
1273 nonguaranteed elements are used in its calculation.

1274 (k)~~(e)~~ "Recommendation" means advice provided by an  
1275 ~~insurer or its~~ agent to an individual a consumer which was

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

1276 intended to result or does result ~~which would result~~ in a the  
 1277 purchase, an exchange, or a replacement of an annuity in  
 1278 accordance with that advice. The term does not include general  
 1279 communication to the public, generalized customer services,  
 1280 assistance or administrative support, general educational  
 1281 information and tools, prospectuses, or other product and sales  
 1282 material.

1283 (1)-(f) "Replacement" means a transaction in which a new  
 1284 annuity policy or contract is to be purchased and it is known or  
 1285 should be known to the proposing ~~insurer or its~~ agent, or to the  
 1286 proposing insurer whether or not an agent is involved, that by  
 1287 reason of such transaction an existing annuity or other  
 1288 insurance policy has been or is to be any of the following ~~or~~  
 1289 ~~contract will be:~~

1290 1. Lapsed, forfeited, surrendered or partially  
 1291 surrendered, assigned to the replacing insurer, or otherwise  
 1292 terminated;

1293 2. Converted to reduced paid-up insurance, continued as  
 1294 extended term insurance, or otherwise reduced in value due to  
 1295 the use of nonforfeiture benefits or other policy values;

1296 3. Amended so as to effect a reduction in benefits or the  
 1297 term for which coverage would otherwise remain in force or for  
 1298 which benefits would be paid;

1299 4. Reissued with a reduction in cash value; or

1300 5. Used in a financed purchase.

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CS/CS/HB 1185, Engrossed 2

2023 Legislature

1301 (m) "SEC" means the United States Securities and Exchange  
 1302 Commission.

1303 ~~(g) "Suitability information" means information related to~~  
 1304 ~~the consumer which is reasonably appropriate to determine the~~  
 1305 ~~suitability of a recommendation made to the consumer, including~~  
 1306 ~~the following:~~

- 1307 ~~1. Age;~~
- 1308 ~~2. Annual income;~~
- 1309 ~~3. Financial situation and needs, including the financial~~  
 1310 ~~resources used for funding the annuity;~~
- 1311 ~~4. Financial experience;~~
- 1312 ~~5. Financial objectives;~~
- 1313 ~~6. Intended use of the annuity;~~
- 1314 ~~7. Financial time horizon;~~
- 1315 ~~8. Existing assets, including investment and life~~  
 1316 ~~insurance holdings;~~
- 1317 ~~9. Liquidity needs;~~
- 1318 ~~10. Liquid net worth;~~
- 1319 ~~11. Risk tolerance; and~~
- 1320 ~~12. Tax status.~~

1321 (4) EXEMPTIONS.—Unless otherwise specifically included,  
 1322 this section does not apply to transactions involving:

1323 (a) Direct-response solicitations where there is no  
 1324 recommendation based on information collected from the consumer  
 1325 pursuant to this section;

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CS/CS/HB 1185, Engrossed 2

2023 Legislature

- 1326 (b) Contracts used to fund:
- 1327 1. An employee pension or welfare benefit plan that is
- 1328 covered by the federal Employee Retirement and Income Security
- 1329 Act;
- 1330 2. A plan described by s. 401(a), s. 401(k), s. 403(b), s.
- 1331 408(k), or s. 408(p) of the Internal Revenue Code, if
- 1332 established or maintained by an employer;
- 1333 3. A government or church plan defined in s. 414 of the
- 1334 Internal Revenue Code, a government or church welfare benefit
- 1335 plan, or a deferred compensation plan of a state or local
- 1336 government or tax-exempt organization under s. 457 of the
- 1337 Internal Revenue Code; or
- 1338 4. A nonqualified deferred compensation arrangement
- 1339 established or maintained by an employer or plan sponsor;
- 1340 (c)5- Settlements or assumptions of liabilities associated
- 1341 with personal injury litigation or a dispute or claim-resolution
- 1342 process; or
- 1343 (d)6- Formal prepaid funeral contracts.
- 1344 (5) DUTIES OF INSURERS AND AGENTS.—
- 1345 (a) An agent, when making a recommendation of an annuity,
- 1346 shall act in the best interest of the consumer under the
- 1347 circumstances known at the time the recommendation is made,
- 1348 without placing the financial interest of the agent or insurer
- 1349 ahead of the consumer's interest. An agent has acted in the best
- 1350 interest of the consumer if the agent has satisfied the

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

1351 following obligations regarding care, disclosure, conflict of  
1352 interest, and documentation:

1353 1.a. The agent, in making a recommendation, shall exercise  
1354 reasonable diligence, care, and skill to:

1355 (I) Know the financial situation, insurance needs, and  
1356 financial objectives of the customer.

1357 (II) Understand the available options after making a  
1358 reasonable inquiry into options available to the agent.

1359 (III) Have a reasonable basis to believe the recommended  
1360 option effectively addresses the consumer's financial situation,  
1361 insurance needs, and financial objectives over the life of the  
1362 product, as evaluated in light of the consumer profile  
1363 information.

1364 (IV) Communicate the reason or reasons for the  
1365 recommendation.

1366 b. The requirements of sub-subparagraph a. include:

1367 (I) Making reasonable efforts to obtain consumer profile  
1368 information from the consumer before the recommendation of an  
1369 annuity.

1370 (II) Requiring an agent to consider the types of products  
1371 the agent is authorized and licensed to recommend or sell which  
1372 address the consumer's financial situation, insurance needs, and  
1373 financial objectives. This does not require analysis or  
1374 consideration of any products outside the authority and license  
1375 of the agent or other possible alternative products or

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

1376 strategies available in the market at the time of the  
 1377 recommendation. Agents shall be held to standards applicable to  
 1378 agents with similar authority and licensure.

1379 (III) Having a reasonable basis to believe the consumer  
 1380 would benefit from certain features of the annuity, such as  
 1381 annuitization, death or living benefit, or other insurance-  
 1382 related features.

1383 c. The requirements of this subsection do not create a  
 1384 fiduciary obligation or relationship and only create a  
 1385 regulatory obligation as provided in this section.

1386 d. The consumer profile information, characteristics of  
 1387 the insurer, and product costs, rates, benefits, and features  
 1388 are those factors generally relevant in making a determination  
 1389 whether an annuity effectively addresses the consumer's  
 1390 financial situation, insurance needs, and financial objectives,  
 1391 but the level of importance of each factor under the care  
 1392 obligation of this paragraph may vary depending on the facts and  
 1393 circumstances of a particular case. However, each factor may not  
 1394 be considered in isolation.

1395 e. The requirements under sub-subparagraph a. apply to the  
 1396 particular annuity as a whole and the underlying subaccounts to  
 1397 which funds are allocated at the time of purchase or exchange of  
 1398 an annuity, and riders and similar product enhancements, if any.

1399 f. Sub-subparagraph a. does not require that the annuity  
 1400 with the lowest one-time occurrence compensation structure or

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CS/CS/HB 1185, Engrossed 2

2023 Legislature

1401 multiple occurrence compensation structure shall necessarily be  
 1402 recommended.

1403 g. Sub-subparagraph a. does not require the agent to have  
 1404 ongoing monitoring obligations under the care obligation,  
 1405 although such an obligation may be separately owed under the  
 1406 terms of a fiduciary, consulting, investment, advising, or  
 1407 financial planning agreement between the consumer and the agent.

1408 h. In the case of an exchange or replacement of an  
 1409 annuity, the agent shall consider the whole transaction, which  
 1410 includes taking into consideration whether:

1411 (I) The consumer will incur a surrender charge; be subject  
 1412 to the commencement of a new surrender period; lose existing  
 1413 benefits, such as death, living, or other contractual benefits;  
 1414 or be subject to increased fees, investment advisory fees, or  
 1415 charges for riders and similar product enhancements.

1416 (II) The replacing product would substantially benefit the  
 1417 consumer in comparison to the replaced product over the life of  
 1418 the product.

1419 (III) The consumer has had another annuity exchange or  
 1420 replacement and, in particular, an exchange or replacement  
 1421 within the preceding 60 months.

1422 i. This section does not require an agent to obtain any  
 1423 license other than an agent license with the appropriate line of  
 1424 authority to sell, solicit, or negotiate insurance in this  
 1425 state, including, but not limited to, any securities license, in

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

1426 order to fulfill the duties and obligations contained in this  
 1427 section; provided, the agent does not give advice or provide  
 1428 services that are otherwise subject to securities laws or engage  
 1429 in any other activity requiring other professional licenses.

1430 2.a. Before the recommendation or sale of an annuity, the  
 1431 agent shall prominently disclose to the consumer, on a form  
 1432 substantially similar to that posted on the office website as  
 1433 Appendix A, related to an insurance agent disclosure for  
 1434 annuities:

1435 (I) A description of the scope and terms of the  
 1436 relationship with the consumer and the role of the agent in the  
 1437 transaction.

1438 (II) An affirmative statement on whether the agent is  
 1439 licensed and authorized to sell the following products:

- 1440 (A) Fixed annuities.
- 1441 (B) Fixed indexed annuities.
- 1442 (C) Variable annuities.
- 1443 (D) Life insurance.
- 1444 (E) Mutual funds.
- 1445 (F) Stocks and bonds.
- 1446 (G) Certificates of deposit.

1447 (III) An affirmative statement describing the insurers for  
 1448 which the agent is authorized, contracted, or appointed, or  
 1449 otherwise able to sell insurance products, using the following  
 1450 descriptions:

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

1451           (A) From one insurer;  
 1452           (B) From two or more insurers; or  
 1453           (C) From two or more insurers, although primarily  
 1454 contracted with one insurer.  
 1455           (IV) A description of the sources and types of cash  
 1456 compensation and noncash compensation to be received by the  
 1457 agent, including whether the agent is to be compensated for the  
 1458 sale of a recommended annuity by commission as part of premium  
 1459 or other remuneration received from the insurer, intermediary,  
 1460 or other agent, or by fee as a result of a contract for advice  
 1461 or consulting services.  
 1462           (V) A notice of the consumer's right to request additional  
 1463 information regarding cash compensation described in sub-  
 1464 subparagraph b.  
 1465           b. Upon request of the consumer or the consumer's  
 1466 designated representative, the agent shall disclose:  
 1467           (I) A reasonable estimate of the amount of cash  
 1468 compensation to be received by the agent, which may be stated as  
 1469 a range of amounts or percentages.  
 1470           (II) Whether the cash compensation is a one-time or  
 1471 multiple occurrence amount; and if a multiple occurrence amount,  
 1472 the frequency and amount of the occurrence, which may be stated  
 1473 as a range of amounts or percentages. ~~When recommending the~~  
 1474 ~~purchase or exchange of an annuity to a consumer which results~~  
 1475 ~~in an insurance transaction or series of insurance transactions,~~

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

1476 ~~the agent, or the insurer where no agent is involved, must have~~  
 1477 ~~reasonable grounds for believing that the recommendation is~~  
 1478 ~~suitable for the consumer, based on the consumer's suitability~~  
 1479 ~~information, and that there is a reasonable basis to believe all~~  
 1480 ~~of the following:~~

1481 c.1. Before or at the time of the recommendation or sale  
 1482 of an annuity, the agent shall have a reasonable basis to  
 1483 believe the consumer has been reasonably informed of various  
 1484 features of the annuity, such as the potential surrender period  
 1485 and surrender charge; potential tax penalty if the consumer  
 1486 sells, exchanges, surrenders, or annuitizes the annuity;  
 1487 mortality and expense fees; any annual fees; investment advisory  
 1488 fees; potential charges for and features of riders or other  
 1489 options of the annuity; limitations on interest returns;  
 1490 potential changes in nonguaranteed elements of the annuity;  
 1491 insurance and investment components; and market risk.

1492 ~~2. The consumer would benefit from certain features of the~~  
 1493 ~~annuity, such as tax-deferred growth, annuitization, or the~~  
 1494 ~~death or living benefit.~~

1495 3. An agent shall identify and avoid or reasonably manage  
 1496 and disclose material conflicts of interest, including material  
 1497 conflicts of interest related to an ownership interest.

1498 4. An agent shall at the time of the recommendation or  
 1499 sale:

1500 a. Make a written record of any recommendation and the

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CS/CS/HB 1185, Engrossed 2

2023 Legislature

1501 basis for the recommendation, subject to this section.

1502 b. Obtain a consumer-signed statement on a form

1503 substantially similar to that posted on the office website as

1504 Appendix B, related to a consumer's refusal to provide

1505 information, documenting:

1506 (I) A customer's refusal to provide the consumer profile

1507 information, if any.

1508 (II) A customer's understanding of the ramifications of

1509 not providing his or her consumer profile information or

1510 providing insufficient consumer profile information.

1511 c. Obtain a consumer-signed statement on a form

1512 substantially similar to that posted on the office website as

1513 Appendix C, related to a consumer's decision to purchase an

1514 annuity not based on a recommendation, acknowledging the annuity

1515 transaction is not recommended if a customer decides to enter

1516 into an annuity transaction that is not based on the agent's

1517 recommendation.

1518 5. Any requirement applicable to an agent under this

1519 subsection applies to every agent who has exercised material

1520 control or influence in the making of a recommendation and has

1521 received direct compensation as a result of the recommendation

1522 or sale, regardless of whether the agent has had any direct

1523 contact with the consumer. Activities such as providing or

1524 delivering marketing or education materials, product wholesaling

1525 or other back office product support, and general supervision of

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

1526 an agent do not, in and of themselves, constitute material  
 1527 control or influence.

1528 ~~3. The particular annuity as a whole, the underlying~~  
 1529 ~~subaccounts to which funds are allocated at the time of purchase~~  
 1530 ~~or exchange of the annuity, and riders and similar product~~  
 1531 ~~enhancements, if any, are suitable; and, in the case of an~~  
 1532 ~~exchange or replacement, the transaction as a whole is suitable~~  
 1533 ~~for the particular consumer based on his or her suitability~~  
 1534 ~~information.~~

1535 ~~4. In the case of an exchange or replacement of an~~  
 1536 ~~annuity, the exchange or replacement is suitable after~~  
 1537 ~~considering whether the consumer:~~

1538 ~~a. Will incur a surrender charge; be subject to the~~  
 1539 ~~commencement of a new surrender period; lose existing benefits,~~  
 1540 ~~such as death, living, or other contractual benefits; or be~~  
 1541 ~~subject to increased fees, investment advisory fees, or charges~~  
 1542 ~~for riders and similar product enhancements;~~

1543 ~~b. Would benefit from product enhancements and~~  
 1544 ~~improvements; and~~

1545 ~~e. Has had another annuity exchange or replacement,~~  
 1546 ~~including an exchange or replacement within the preceding 36~~  
 1547 ~~months.~~

1548 ~~(b) Before executing a purchase, exchange, or replacement~~  
 1549 ~~of an annuity resulting from a recommendation, an insurer or its~~  
 1550 ~~agent must make reasonable efforts to obtain the consumer's~~

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

1551 ~~suitability information. The information shall be collected on~~  
1552 ~~form DFS-H1-1980, which is hereby incorporated by reference, and~~  
1553 ~~completed and signed by the applicant and agent. Questions~~  
1554 ~~requesting this information must be presented in at least 12-~~  
1555 ~~point type and be sufficiently clear so as to be readily~~  
1556 ~~understandable by both the agent and the consumer. A true and~~  
1557 ~~correct executed copy of the form must be provided by the agent~~  
1558 ~~to the insurer, or to the person or entity that has contracted~~  
1559 ~~with the insurer to perform this function as authorized by this~~  
1560 ~~section, within 10 days after execution of the form, and shall~~  
1561 ~~be provided to the consumer no later than the date of delivery~~  
1562 ~~of the contract or contracts.~~

1563 ~~(c) Except as provided under paragraph (d), an insurer may~~  
1564 ~~not issue an annuity recommended to a consumer unless there is a~~  
1565 ~~reasonable basis to believe the annuity is suitable based on the~~  
1566 ~~consumer's suitability information.~~

1567 ~~(b)1.(d)~~ Except as provided under subparagraph 2., An  
1568 ~~insurer's issuance of an annuity must be reasonable based on all~~  
1569 ~~the circumstances actually known to the insurer at the time the~~  
1570 ~~annuity is issued. However, an insurer or its agent does not~~  
1571 ~~have does not have an obligation to a consumer related to an~~  
1572 ~~annuity transaction under subparagraph (a)1. paragraph (a) or~~  
1573 ~~paragraph (c) if:~~

1574 ~~a.1.~~ A recommendation has not been made;

1575 ~~b.2.~~ A recommendation was made and is later found to have

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

1576 | been based on materially inaccurate information provided by the  
 1577 | consumer;

1578 | ~~c.3.~~ A consumer refuses to provide relevant consumer  
 1579 | profile suitability information and the annuity transaction is  
 1580 | not recommended; or

1581 | d.4. A consumer decides to enter into an annuity  
 1582 | transaction that is not based on a recommendation of the an  
 1583 | ~~insurer or its~~ agent.

1584 | 2. An insurer's issuance of an annuity subject to  
 1585 | subparagraph 1. must be reasonable under all the circumstances  
 1586 | actually known to the insurer at the time the annuity is issued.

1587 | (c)1. Except as permitted under paragraph (b), an insurer  
 1588 | may not issue an annuity recommended to a consumer unless there  
 1589 | is a reasonable basis to believe the annuity would effectively  
 1590 | address the particular consumer's financial situation, insurance  
 1591 | needs, and financial objectives based on the consumer's consumer  
 1592 | profile information.

1593 | ~~(c) At the time of sale, the agent or the agent's~~  
 1594 | ~~representative must:~~

1595 | ~~1. Make a record of any recommendation made to the~~  
 1596 | ~~consumer pursuant to paragraph (a);~~

1597 | ~~2. Obtain the consumer's signed statement documenting his~~  
 1598 | ~~or her refusal to provide suitability information, if~~  
 1599 | ~~applicable; and~~

1600 | ~~3. Obtain the consumer's signed statement acknowledging~~

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

1601 ~~that an annuity transaction is not recommended if he or she~~  
 1602 ~~decides to enter into an annuity transaction that is not based~~  
 1603 ~~on the insurer's or its agent's recommendation, if applicable.~~

1604 ~~(f) Before executing a replacement or exchange of an~~  
 1605 ~~annuity contract resulting from a recommendation, the agent must~~  
 1606 ~~provide on form DFS-HI-1981, which is hereby incorporated by~~  
 1607 ~~reference, information that compares the differences between the~~  
 1608 ~~existing annuity contract and the annuity contract being~~  
 1609 ~~recommended in order to determine the suitability of the~~  
 1610 ~~recommendation and its benefit to the consumer. A true and~~  
 1611 ~~correct executed copy of this form must be provided by the agent~~  
 1612 ~~to the insurer, or to the person or entity that has contracted~~  
 1613 ~~with the insurer to perform this function as authorized by this~~  
 1614 ~~section, within 10 days after execution of the form, and must be~~  
 1615 ~~provided to the consumer no later than the date of delivery of~~  
 1616 ~~the contract or contracts.~~

1617 2.(g) An insurer shall establish and maintain a  
 1618 supervision system that is reasonably designed to achieve the  
 1619 insurer's and its agent's compliance with this section,  
 1620 including, but not limited to, the following:-

1621 1. Such system must include, but is not limited to:-  
 1622 a. The insurer shall establish and maintain Maintaining  
 1623 reasonable procedures to inform its agents of the requirements  
 1624 of this section and incorporating those requirements into  
 1625 relevant agent training manuals.†

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

1626           b. The insurer shall establish and maintain ~~Establishing~~  
 1627 standards for agent product training and shall establish and  
 1628 maintain reasonable procedures to require its agents to comply  
 1629 with the requirements of subsection (6).~~‡~~

1630           c. The insurer shall provide ~~Providing~~ product-specific  
 1631 training and training materials that explain all material  
 1632 features of its annuity products to its agents.~~‡~~

1633           d. The insurer shall establish and maintain ~~Maintaining~~  
 1634 procedures for the review of each recommendation before issuance  
 1635 of an annuity which are designed to ensure that there is a  
 1636 reasonable basis to determine the recommended annuity would  
 1637 effectively address the particular consumer's financial  
 1638 situation, insurance needs, and financial objectives ~~for~~  
 1639 ~~determining that a recommendation is suitable~~. Such review  
 1640 procedures may use a screening system for identifying selected  
 1641 transactions for additional review and may be accomplished  
 1642 electronically or through other means, including, but not  
 1643 limited to, physical review. Such electronic or other system may  
 1644 be designed to require additional review only of those  
 1645 transactions identified for additional review using established  
 1646 selection criteria.~~‡~~

1647           e. The insurer shall establish and maintain ~~Maintaining~~  
 1648 reasonable procedures to detect recommendations that are not in  
 1649 compliance with paragraphs (a), (b), (d), and (e). This may  
 1650 include, but is not limited to, ~~suitable, such as~~ confirmation

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

1651 of consumer profile ~~suitability~~ information, systematic customer  
 1652 surveys, agent and consumer interviews, confirmation letters,  
 1653 agent statements or attestations, and internal monitoring  
 1654 programs. This sub-subparagraph does not prevent an insurer from  
 1655 using sampling procedures or from confirming the consumer  
 1656 profile ~~suitability~~ information after the issuance or delivery  
 1657 of the annuity. ~~;~~ and

1658 f. The insurer shall establish and maintain reasonable  
 1659 procedures to assess, prior to or upon issuance or delivery of  
 1660 an annuity, whether an agent has provided to the consumer the  
 1661 information required to be provided under this subsection.

1662 g. The insurer shall establish and maintain reasonable  
 1663 procedures to identify and address suspicious consumer refusals  
 1664 to provide consumer profile information.

1665 h. The insurer shall establish and maintain reasonable  
 1666 procedures to identify and eliminate any sales contests, sales  
 1667 quotas, bonuses, and noncash compensation that are based on the  
 1668 sales of specific annuities within a limited period of time. The  
 1669 requirements of this sub-subparagraph are not intended to  
 1670 prohibit the receipt of health insurance, office rents, office  
 1671 support, retirement benefits, or other employee benefits by  
 1672 employees, as long as those benefits are not based upon the  
 1673 volume of sales of a specific annuity within a limited period of  
 1674 time.

1675 i.f. The insurer shall annually provide ~~providing~~ a

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CS/CS/HB 1185, Engrossed 2

2023 Legislature

1676 written report to senior managers, including the senior manager  
1677 who is responsible for audit functions, which details a review,  
1678 along with appropriate testing, which is reasonably designed to  
1679 determine the effectiveness of the supervision system, the  
1680 exceptions found, and corrective action taken or recommended, if  
1681 any.

1682 ~~3.2.~~ An insurer is not required to include in its  
1683 supervision system:

1684 a. Agent recommendations to consumers of products other  
1685 than the annuities offered by the insurer; or

1686 b. Consideration of or comparison to options available to  
1687 the agent or compensation relating to those options other than  
1688 annuities or other products offered by the insurer.

1689 ~~4.3.~~ An insurer may contract for performance of a  
1690 function, including maintenance of procedures, required under  
1691 subparagraph 1.

1692 a. An insurer's supervision system under this subsection  
1693 shall include supervision of contractual performance under this  
1694 subsection, which includes, but is ~~If an insurer contracts for~~  
1695 ~~the performance of a function, the insurer must include the~~  
1696 ~~supervision of contractual performance as part of those~~  
1697 ~~procedures listed in subparagraph 1. These include, but are not~~  
1698 limited to:

1699 (I) Monitoring and, as appropriate, conducting audits to  
1700 ensure that the contracted function is properly performed; and

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

1701 (II) Annually obtaining a certification from a senior  
 1702 manager who has responsibility for the contracted function that  
 1703 the manager has a reasonable basis to represent, and does  
 1704 represent, for representing that the function is being properly  
 1705 performed.

1706 b. An insurer is responsible for taking appropriate  
 1707 corrective action and may be subject to sanctions and penalties  
 1708 pursuant to subsection (8) ~~(7)~~ regardless of whether the insurer  
 1709 contracts for performance of a function and regardless of the  
 1710 insurer's compliance with sub-subparagraph a.

1711 ~~(d)(h)~~ Neither an agent nor an insurer shall may not  
 1712 dissuade, or attempt to dissuade, a consumer from:

- 1713 1. Truthfully responding to an insurer's request for
- 1714 confirmation of consumer profile suitability information;
- 1715 2. Filing a complaint; or
- 1716 3. Cooperating with the investigation of a complaint.

1717 ~~(e)1.(i)~~ Recommendations and sales made in compliance with  
 1718 comparable standards shall FINRA requirements pertaining to the  
 1719 suitability and supervision of annuity transactions satisfy the  
 1720 requirements of this section. This applies to all  
 1721 recommendations and FINRA broker-dealer sales of variable  
 1722 annuities made by financial professionals in compliance with  
 1723 business rules, controls, and procedures that satisfy a  
 1724 comparable standard even if such standard would not otherwise  
 1725 apply to the product or recommendation at issue and fixed

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

1726 ~~annuities if the suitability and supervision is similar to those~~  
1727 ~~applied to variable annuity sales.~~ However, this paragraph does  
1728 not limit the ability of the office or the department to  
1729 investigate and enforce, ~~including investigate,~~ the provisions  
1730 ~~of~~ this section.

1731 2. Subparagraph 1. does not limit the insurer's obligation  
1732 to comply with subparagraph (c)1., although the insurer may base  
1733 its analysis on information received from either the financial  
1734 professional or the entity supervising the financial  
1735 professional.

1736 3. For subparagraph 1. this paragraph to apply, an insurer  
1737 must:

1738 a.1. Monitor relevant conduct of the financial  
1739 professional seeking to rely on subparagraph 1. or the entity  
1740 responsible for supervising the financial professional, such as  
1741 the financial professional's broker-dealer or an investment  
1742 adviser registered under federal or state securities law, the  
1743 ~~FINRA member broker-dealer~~ using information collected in the  
1744 normal course of an insurer's business; and

1745 b.2. Provide to the entity responsible for supervising the  
1746 financial professional seeking to rely on subparagraph 1., such  
1747 as the financial professional's broker-dealer or investment  
1748 adviser registered under federal or state securities laws, ~~FINRA~~  
1749 ~~member broker-dealer~~ information and reports that are reasonably  
1750 appropriate to assist such entity ~~the FINRA member broker-dealer~~

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

1751 in maintaining its supervision system.

1752 4. For purposes of this paragraph, the term:

1753 a. "Comparable standards" means:

1754 (I) With respect to broker-dealers and registered

1755 representatives of broker-dealers, applicable SEC and FINRA

1756 rules pertaining to best interest obligations and supervision of

1757 annuity recommendations and sales, including, but not limited

1758 to, Regulation Best Interest, 17 C.F.R. s. 240.151-1, and any

1759 amendments or successor regulations thereto;

1760 (II) With respect to investment advisers registered under

1761 federal or state securities laws or investment adviser

1762 representatives, the fiduciary duties and all other requirements

1763 imposed on such investment advisers or investment adviser

1764 representatives by contract or under the Investment Advisers Act

1765 of 1940 or applicable state securities laws, including, but not

1766 limited to, Form ADV and interpretations; and

1767 (III) With respect to plan fiduciaries or fiduciaries, the

1768 duties, obligations, prohibitions, and all other requirements

1769 attendant to such status under the Employee Retirement Income

1770 Security Act of 1974 or the Internal Revenue Code and any

1771 amendments or successor statutes thereto.

1772 b. "Financial professional" means an agent that is

1773 regulated and acting as:

1774 (I) A broker-dealer registered under federal or state

1775 securities laws or a registered representative of a broker-

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CS/CS/HB 1185, Engrossed 2

2023 Legislature

1776 dealer;

1777 (II) An investment adviser registered under federal or  
1778 state securities laws or an investment adviser representative  
1779 associated with the federal or state registered investment  
1780 adviser; or

1781 (III) A plan fiduciary under s. 3(21) of the Employee  
1782 Retirement Income Security Act of 1974 or fiduciary under s.  
1783 4975(e) (3) of the Internal Revenue Code or any amendments or  
1784 successor statutes thereto.

1785 (6) AGENT TRAINING.—

1786 (a) An agent shall not solicit the sale of an annuity  
1787 product unless the agent has adequate knowledge of the product  
1788 to recommend the annuity and the agent is in compliance with the  
1789 insurer's standards for product training. An agent may rely on  
1790 insurer-provided, product-specific training standards and  
1791 materials to comply with this subsection.

1792 (b)1.a. An agent who engages in the sale of annuity  
1793 products shall complete a one-time 4-hour training course. This  
1794 requirement is not part of an agent's continuing education  
1795 requirement in s. 626.2815; however, if a course provider  
1796 submits and receives approval from the department, the course is  
1797 eligible for continuing education credit pursuant to s.  
1798 626.2815.

1799 b. Agents who hold a life insurance line of authority on  
1800 January 1, 2024, and who desire to sell annuities shall complete

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

1801 the requirements of this subsection by July 1, 2024. Individuals  
 1802 who obtain a life insurance line of authority after January 1,  
 1803 2024, may not engage in the sale of annuities until the annuity  
 1804 training course required under this subsection has been  
 1805 completed.

1806 2. The minimum length of the training required under this  
 1807 subsection is 4 hours.

1808 3. The training required under this subsection shall  
 1809 include information on the following topics:

1810 a. The types of annuities and various classifications of  
 1811 annuities.

1812 b. Identification of the parties to an annuity.

1813 c. How product-specific annuity contract features affect  
 1814 consumers.

1815 d. The application of income taxation of qualified and  
 1816 nonqualified annuities.

1817 e. The primary uses of annuities.

1818 f. The appropriate standard of conduct, sales practices,  
 1819 replacement, and disclosure requirements.

1820 4. Providers of courses intended to comply with this  
 1821 subsection shall cover all topics listed in the prescribed  
 1822 outline and shall not present any marketing information or  
 1823 provide training on sales techniques or provide specific  
 1824 information about a particular insurer's products. Additional  
 1825 topics may be offered in conjunction with and in addition to the

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

1826 | required outline.

1827 |       5. An agent who has completed an annuity training course

1828 | before January 1, 2024, shall, by July 1, 2024, complete either:

1829 |       a. A new 4-hour training course; or

1830 |       b. An additional 1-hour training course on appropriate

1831 | sales practices, replacement, and disclosure requirements under

1832 | this section.

1833 |       6. Annuity training courses may be conducted and completed

1834 | by classroom or self-study methods.

1835 |       7. Providers of annuity training shall issue certificates

1836 | of completion.

1837 |       8. The satisfaction of the training requirements of

1838 | another state that are substantially similar to the provisions

1839 | of this subsection shall be deemed to satisfy the training

1840 | requirements of this subsection in this state.

1841 |       9. The satisfaction of the training requirements of any

1842 | course or courses with components substantially similar to the

1843 | provisions of this subsection shall be deemed to satisfy the

1844 | training requirements of this subsection in this state.

1845 |       10. An insurer shall verify that an agent has completed

1846 | the annuity training course required under this subsection

1847 | before allowing the agent to sell an annuity product for that

1848 | insurer.

1849 |       ~~(7)~~~~(6)~~ RECORDKEEPING.—

1850 |       (a) Insurers and agents must maintain or be able to make

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

1851 available to the office or department records of the information  
 1852 collected from the consumer and other information used in making  
 1853 the recommendations that were the basis for insurance  
 1854 transactions for 5 years after the insurance transaction is  
 1855 completed by the insurer. An insurer may maintain the  
 1856 documentation on behalf of its agent.

1857 (b) Records required to be maintained under this  
 1858 subsection may be maintained in paper, photographic,  
 1859 microprocess, magnetic, mechanical, or electronic media, or by  
 1860 any process that accurately reproduces the actual document.

1861 (8)~~(7)~~ COMPLIANCE MITIGATION; PENALTIES.-

1862 (a) An insurer is responsible for compliance with this  
 1863 section. If a violation occurs because of the action or inaction  
 1864 of the insurer or its agent which results in harm to a consumer,  
 1865 the office may order the insurer to take reasonably appropriate  
 1866 corrective action for the consumer and may impose appropriate  
 1867 penalties and sanctions.

1868 (b) The department may order:

1869 1. An ~~insurance~~ agent to take reasonably appropriate  
 1870 corrective action for a consumer harmed by a violation of this  
 1871 section by the ~~insurance~~ agent, including monetary restitution  
 1872 of penalties or fees incurred by the consumer, and impose  
 1873 appropriate penalties and sanctions.

1874 2. A managing general agency or insurance agency that  
 1875 employs or contracts with an ~~insurance~~ agent to sell or solicit

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

1876 the sale of annuities to consumers to take reasonably  
 1877 appropriate corrective action for a consumer harmed by a  
 1878 violation of this section by the ~~insurance~~ agent.

1879 (c) In addition to any other penalty authorized under  
 1880 chapter 626, the department shall order an insurance agent to  
 1881 pay restitution to a consumer who has been deprived of money by  
 1882 the agent's misappropriation, conversion, or unlawful  
 1883 withholding of moneys belonging to the consumer in the course of  
 1884 a transaction involving annuities. The amount of restitution  
 1885 required to be paid may not exceed the amount misappropriated,  
 1886 converted, or unlawfully withheld. This paragraph does not limit  
 1887 or restrict a person's right to seek other remedies as provided  
 1888 by law.

1889 (d) Any applicable penalty under the Florida Insurance  
 1890 Code for a violation of this section shall be reduced or  
 1891 eliminated according to a schedule adopted by the office or the  
 1892 department, as appropriate, if corrective action for the  
 1893 consumer was taken promptly after a violation was discovered.

1894 (e) A violation of this section does not create or imply a  
 1895 private cause of action.

1896 (9)~~(8)~~ PROHIBITED CHARGES.—An annuity contract issued to a  
 1897 senior consumer age 65 or older may not contain a surrender or  
 1898 deferred sales charge for a withdrawal of money from an annuity  
 1899 exceeding 10 percent of the amount withdrawn. The charge shall  
 1900 be reduced so that no surrender or deferred sales charge exists

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

1901 after the end of the 10th policy year or 10 years after the date  
 1902 of each premium payment if multiple premiums are paid, whichever  
 1903 is later. This subsection does not apply to annuities purchased  
 1904 by an accredited investor, as defined in Regulation D as adopted  
 1905 by the United States Securities and Exchange Commission, or to  
 1906 those annuities specified in paragraph (4) (b).

1907 ~~(10)-(9)~~ RULES.—The department and the commission may adopt  
 1908 rules to administer this section. The department may adopt by  
 1909 rule the forms prescribed in the National Association of  
 1910 Insurance Commissioners Suitability in Annuity Transactions  
 1911 Model Regulation Appendix A - Insurance Agent (Producer)  
 1912 Disclosure for Annuities, Appendix B - Consumer Refusal to  
 1913 Provide Information, and Appendix C - Consumer Decision to  
 1914 Purchase an Annuity Not Based on a Recommendation.

1915  
 1916 Section 16. Paragraph (b) of subsection (8) of section  
 1917 634.041, Florida Statutes, is amended to read:

1918 634.041 Qualifications for license.—To qualify for and  
 1919 hold a license to issue service agreements in this state, a  
 1920 service agreement company must be in compliance with this part,  
 1921 with applicable rules of the commission, with related sections  
 1922 of the Florida Insurance Code, and with its charter powers and  
 1923 must comply with the following:

1924 (8)

1925 (b) A service agreement company does not have to establish

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

1926 and maintain an unearned premium reserve if it secures and  
1927 maintains contractual liability insurance in accordance with the  
1928 following:

1929 1. Coverage of 100 percent of the claim exposure is  
1930 obtained from an insurer approved by the office, which holds a  
1931 certificate of authority under s. 624.401 to do business within  
1932 this state, or secured through a risk retention group, which is  
1933 authorized to do business within this state under s. 627.943 or  
1934 s. 627.944. Such insurer or risk retention group must maintain a  
1935 surplus as regards policyholders of at least \$15 million.

1936 2. If the service agreement company does not meet its  
1937 contractual obligations, the contractual liability insurance  
1938 policy binds its issuer to pay or cause to be paid to the  
1939 service agreement holder all legitimate claims and cancellation  
1940 refunds for all service agreements issued by the service  
1941 agreement company while the policy was in effect. This  
1942 requirement also applies to those service agreements for which  
1943 no premium has been remitted to the insurer.

1944 3. If the issuer of the contractual liability policy is  
1945 fulfilling the service agreements covered by the contractual  
1946 liability policy and the service agreement holder cancels the  
1947 service agreement, the issuer must make a full refund of  
1948 unearned premium to the consumer, subject to the cancellation  
1949 fee provisions of s. 634.121(3). The sales representative and  
1950 agent must refund to the contractual liability policy issuer

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

1951 | their unearned pro rata commission.

1952 |         4. The policy may not be canceled, terminated, or  
 1953 | nonrenewed by the insurer or the service agreement company  
 1954 | unless a 90-day written notice thereof has been given to the  
 1955 | office by the insurer before the date of the cancellation,  
 1956 | termination, or nonrenewal.

1957 |         5. The service agreement company must provide the office  
 1958 | with the claims statistics.

1959 |         6. A policy issued in compliance with this paragraph may  
 1960 | either pay 100 percent of claims as they are incurred, or 100  
 1961 | percent of claims due in the event of the failure of the service  
 1962 | agreement company to pay such claims when due.

1963 |  
 1964 | All funds or premiums remitted to an insurer by a motor vehicle  
 1965 | service agreement company under this part shall remain in the  
 1966 | care, custody, and control of the insurer and shall be counted  
 1967 | as an asset of the insurer; provided, however, this requirement  
 1968 | does not apply when the insurer and the motor vehicle service  
 1969 | agreement company are affiliated companies and members of an  
 1970 | insurance holding company system. If the motor vehicle service  
 1971 | agreement company chooses to comply with this paragraph but also  
 1972 | maintains a reserve to pay claims, such reserve shall only be  
 1973 | considered an asset of the covered motor vehicle service  
 1974 | agreement company and may not be simultaneously counted as an  
 1975 | asset of any other entity.

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

1976 Section 17. Paragraphs (d), (e), and (f) of subsection  
 1977 (17) of section 634.401, Florida Statutes, are amended to read:  
 1978 634.401 Definitions.—As used in this part, the term:  
 1979 (17) "Manufacturer" means any entity or its affiliate  
 1980 which:  
 1981 ~~(d) Maintains outstanding debt obligations, if any, rated~~  
 1982 ~~in the top four rating categories by a recognized rating~~  
 1983 ~~service;~~  
 1984 (d)~~(e)~~ Has and maintains at all times, a minimum net worth  
 1985 of at least \$100 ~~\$10~~ million as evidenced by certified financial  
 1986 statements prepared by an independent certified public  
 1987 accountant in accordance with generally accepted accounting  
 1988 principles; and  
 1989 (e)~~(f)~~ Is authorized to do business in this state.  
 1990 Section 18. Paragraph (a) of subsection (7) of section  
 1991 634.406, Florida Statutes, is amended to read:  
 1992 634.406 Financial requirements.—  
 1993 (7) An association licensed under this part and holding no  
 1994 other license under part I or part II of this chapter is not  
 1995 required to establish an unearned premium reserve or maintain  
 1996 contractual liability insurance and may allow its premiums to  
 1997 exceed the ratio to net assets limitation of this section if the  
 1998 association complies with the following:  
 1999 (a) The association or, if the association is a direct or  
 2000 indirect wholly owned subsidiary of a parent corporation, its

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

2001 parent corporation has, and maintains at all times, a minimum  
 2002 net worth of at least \$100 million and provides the office with  
 2003 the following:

2004 1. A copy of the association's annual audited financial  
 2005 statements or the audited consolidated financial statements of  
 2006 the association's parent corporation, prepared by an independent  
 2007 certified public accountant in accordance with generally  
 2008 accepted accounting principles, which clearly demonstrate the  
 2009 net worth of the association or its parent corporation to be  
 2010 \$100 million and a quarterly written certification to the office  
 2011 that such entity continues to maintain the net worth required  
 2012 under this paragraph.

2013 2. The association's, or its parent corporation's, Form  
 2014 10-K, Form 10-Q, or Form 20-F as filed with the United States  
 2015 Securities and Exchange Commission or such other documents  
 2016 required to be filed with a recognized stock exchange, which  
 2017 shall be provided on a quarterly and annual basis within 10 days  
 2018 after the last date each such report must be filed with the  
 2019 Securities and Exchange Commission, the National Association of  
 2020 Security Dealers Automated Quotation system, or other recognized  
 2021 stock exchange.

2022  
 2023 Failure to timely file the documents required under this  
 2024 paragraph may, at the discretion of the office, subject the  
 2025 association to suspension or revocation of its license under

ENROLLED

CS/CS/HB 1185, Engrossed 2

2023 Legislature

2026 | ~~this part. An association or parent corporation demonstrating~~  
 2027 | ~~compliance with subparagraphs 1. and 2. must maintain~~  
 2028 | ~~outstanding debt obligations, if any, rated in the top four~~  
 2029 | ~~rating categories by a recognized rating service.~~

2030 |       Section 19. Except as otherwise expressly provided in this  
 2031 | act, this act shall take effect July 1, 2023.